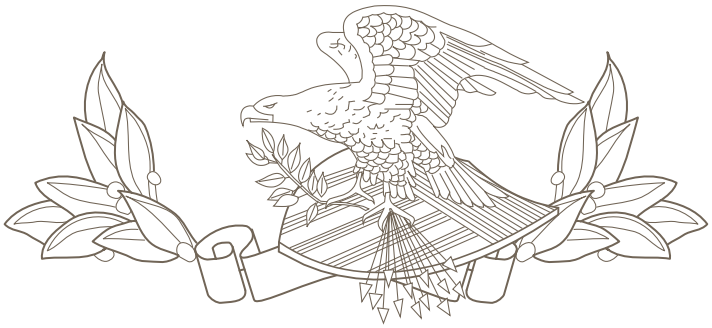


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November 2009







U.S. Department of Energy

Pacific Northwest Electric Power Planning And Conservation Act

Legislative history of the Act to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation

P.L. 96-501, 94 Stat. 2697

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Prepared By
Bonneville Power Administration Library

Portland, Oregon
1981

P.L. 96-501

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PREFACE

The Pacific Northwest Electric Power Planning and Conservation Act became effective when it was signed into law by President Carter on December 5, 1980. This ended a four-year debate over legislation designed to plan and coordinate the region's energy future.

This legislative history is an abbreviated version taken from the larger historical file maintained by the BPA Law Library. It is intended to assist BPA personnel and others who are studying the Northwest Power Act and working on its implementation. The documents included were selected for their value in determining what Congress meant in enacting the statute and to provide the researcher with a starting point for further investigation.

Joan Mortensen

Law Librarian

February 27, 1981

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INTRODUCTION

The Pacific Northwest Electric Power Planning and Conservation Act will help the Pacific Northwest achieve an adequate power supply, hold utility rates lower than they would otherwise be and place maximum reliance on conservation and renewable sources of energy in responding to growing demand for electricity.

The new Act provides the planning and financial tools to deal with these matters more effectively than they can be dealt with under existing power supply arrangements.

The region's hydro resources are no longer sufficient to meet all the electric power needs of the region as they once did. The thermal plants counted on to supplement the region's hydropower resources are running, typically, 5 years or more behind construction schedules, leaving potential deficits of 2,000 to 4,000 average megawatts in any year of the 1980's when streamflows happen to dip near the lowest level of record. That's enough power to supply the annual needs of 2 to 4 cities the size of Seattle. And streamflows have been near record lows in 1973, 1977, and 1979.

This fact sheet opens with a brief history of the development of the region's hydroelectric system, and outlines the evolving problems which led to adoption of the Act. Following the history is an explanation of major provisions of the Act.

Background

The development of the Columbia River system in the Pacific Northwest began in the 1930's under a program of regional cooperation to meet the needs of electric power production, land reclamation, flood control, navigation, recreation, and other river uses.

From the beginning, the Federal Government has played a major role in the development of one of the largest multiple-use river systems in the world. Thirty multi-purpose dams on the Columbia River and its tributaries were built by the U.S. Army Corps of Engineers and the Bureau of Reclamation (now the Water and Power Resources Service). Investor-owned and publicly owned utilities also built a major system of dams and generating facilities. Congress directed the Bonneville Power Administration in the Bonneville Project Act of 1937 to build and operate transmission lines to deliver the power from dams, and to market electricity from Federal generating projects on the river at rates set only high enough to repay the Federal investment over a reasonable period of time.

As demand for power grew, the U.S. and Canadian governments recognized a need for development of dam sites in Canada. The governments of both nations negotiated a treaty in the early 1960's for the cooperative use of dams built by Canada on the upper reaches of the river. The 3 treaty dams, all completed by 1973, provide flood control downstream as well as reservoir storage for production of additional

power at the U.S. dams downstream. By 1980, the treaty dams had enabled U.S. downstream dams to generate enough electricity for a city the size of Seattle for 15 years.

Also in the 1960's, Congress authorized the construction of 3 major powerlines linking the Columbia River hydro projects with power markets in California and the rest of the Pacific Southwest. The interties benefit the Pacific Northwest in several ways. Two major ways are to allow the sale of hydropower from the Columbia when it is not needed here and would otherwise be lost in the form of water spilled over dams without generating electricity and to permit this region to buy power from California when it is needed here during shortages and periods of heavy use. In the first instance, sales of surplus Northwest hydropower to California has saved some 200 million barrels of oil. In the second case, California utilities sold power to Pacific Northwest utilities in the drought years of 1973, 1977, and 1979.

With the dams developed in Canada as well as the United States, the river system provided virtually all the electricity needed by the region until the early 1970's. But by that time, all dam sites on the main stem of the Columbia that were economically feasible and environmentally acceptable were either developed or under development, and the region was looking for other ways to meet electric load growth. Shortages of electricity threatened the region unless thermal generating plants were brought on line in response to increasing demand.

The region's publicly owned utilities and investor-owned utilities turned mainly to coal-fired and nuclear plants to meet growth throughout the Pacific Northwest. Development of such plants was considered the most economic and environmentally acceptable option available at the time. Bonneville helped the utilities respond to these needs by participating in a Hydro-Thermal Power Plan for the continued development of electricity resources in the Pacific Northwest.

Under the plan, BPA agreed to acquire electricity by entering into "net billing" agreements with its publicly owned utility customers. These agreements made it possible for the publicly owned utilities, which owned shares, to sell to BPA all or part of the generating capacity of thermal projects. BPA credited, and continues to credit, the wholesale power bills of these utilities in amounts sufficient to cover the costs of their shares in these plants. BPA then sells the output of these plants, melding the higher costs of this thermal power with the lower costs of hydropower, for the benefit of all customers. The plants were cooperative efforts of both publicly owned and investor-owned utilities, but BPA purchased only the shares of generating capacity owned by publicly owned utilities.

Under the Hydro-Thermal Power Plan (Phase I), Pacific Power & Light Co. and other investor-owned utilities built the Centralia coal-fired plant with the co-ownership of several publicly owned utilities. Portland General Electric Co. built the Trojan nuclear powerplant, with 30 percent co-ownership by Eugene Water and Electric Board (EWEB) covered by a net-billing agreement. And the Washington Public Power Supply System (WPPSS), under net-billing agreements, is building

3 nuclear plants in Washington State, one of which is co-owned with 4 investor-owned utilities. The Hanford N-reactor turbine generator, built by WPPSS, also came on line just prior to the formal initiation of the Hydro-Thermal Power Plan, and is considered a part of the overall effort. BPA became the agent for integrating these resources so the consumers of the region could benefit from the greatest efficiency and lowest costs from operation of the regional electric system.

In spite of the efforts of utilities and BPA to continue developing the region's generating resources in a systematic way, the region continued to lose ground to rapidly growing demands for electricity. The Hydro-Thermal program failed to meet the region's expectations for 2 basic reasons. A revision of regulations by the Internal Revenue Service denied tax exempt status to bonds sold by publicly owned utilities to finance their plants if power from the facilities was sold to BPA, a Federal body. And, BPA's financial ability to participate in net-billing agreements reached its limits far sooner than expected because of the climbing costs of new thermal plants.

In 1973, BPA and the region's utilities initiated a Hydro-Thermal program, Phase II, in which the utilities would finance their own plants without net-billing participation by BPA. Thus, WPPSS nuclear units 4 and 5, now under construction, are not covered by net-billing contracts. However, BPA expected to provide electric load management and power integration services and to supply peaking power and reserves from Federal facilities in order to bring about the most efficient mix of resources possible. BPA's participation in this program was enjoined by a Federal Court, which required that BPA complete an environmental impact statement on BPA's role in the region. Delays in the construction of new plants, costs higher than originally expected, and the realization that the Hydro-Thermal Program could not be adequate made it evident by 1973 that BPA would not be able to sell firm power to investor-owned utilities and still provide first priority to serving "preference customers" as directed by Federal law.

The Bonneville Project Act of 1937 directed that the co-ops and publicly owned utilities of the region be given first call on available Federal resorces. They consequently came to be called "preference customers." Until recently, their legal preference had never been exercised, because there had been enough electricity for everyone. In 1973, when BPA's firm-power contracts with investor-owned utilities expired, BPA could not offer new ones if preference customers were to continue to have first call on Federal resources. So the firm power contracts with the investor-owned utilities were not renewed.

However, BPA continues to sell some peaking power to the private utilities -- power they need to get through periods of heavy use in the winter heating season. BPA also sells "non-firm" power to the investor-owned utilities and utilities outside the region when electricity surplus to the needs of the preference customers is available.

In 1976, BPA's power demand and supply projections showed that Federal power supplies were running short for preference customers, and

that BPA would no longer be able to guarantee preference customers that their load growth could be met beyond 1983. BPA issued a notice of insufficiency to the utilities.

With the investor-owned utilities relying on their own hydro and thermal resources to meet the demand of their customers, and with the prices of hydropower much lower than that of new thermal generation, a devisive struggle for access to limited Federal resources grew. Sixty percent of the residential and farm customers of the region are served by investor-owned utilities. These customers were paying, on average, twice as much for electricity as customers of publicly owned utilities receiving wholesale power from BPA. The City of Portland sued BPA, claiming a right to a share of hydropower resources for its citizens. The State of Oregon passed a law authorizing formation of a statewide public utility -- the Domestic and Rural Power Authority -- to seek service as a preference customer from BPA so that all residential customers of private utilities could receive the rate benefits of Federal resources. Elected officials of other states talked of forming their own statewide public utilities.

Stimulated by rate disparities, the public power movement also experienced a renaissance. A strong public power move to buy out investor-owned utility service areas by means of elections in accordance with State law was revived in Oregon. All votes to form new PUDs failed in the November 1980 elections, but one long inactive PUD, the Columbia Peoples Utility District just west of Portland, won voter approval for issuing bonds to buy out utility properties in Columbia County (however, the margin of passage was so narrow a recount was requested and had not been completed by the time this summary went to press). Meanwhile, planning for more resources to meet demand has been hamstrung by uncertainty over the allocation of low-cost Federal power among competing claimants, existing and new.

The pressures on an electric power supply which had seemed inexhaustible caused the residents of the Pacific Northwest to question the institutions governing the development, sale, and distribution of generating resources. Should new preference agencies be formed to replace private companies in given areas? How would the supply needs of new preference customers be met? Should private utilities undertake new generating projects in a hostile atmosphere of rapidly rising rates and the threatened shift to public power? How would large industrial customers in the region be served: Who ultimately would be responsible for planning and acquiring new resources to avoid impending electricity shortages?

The region continued to work for a cooperative solution that preserved local options while obtaining regional efficiencies of an integrated electric system. Several alternatives were explored, but no agreement was reached. To avoid a court battle over allocation issues, the region turned to Congress for a solution.

Because of the extensive historical involvement of the Federal Goverment in the region's electric power system, Congress addressed these questions. The administrative and legal problems regarding the

allocation of hydropower resources could best be answered by Congress, with the advice of all interested parties, in the law-making process.

After 3 years of deliberation, including many hearings in the region as well as in Washington, D.C., the Congress devised methods for protecting the preference which existing Federal law gives publicly owned utilities while at the same time providing the benefits of Federal hydropower to the residential and farm customers of private utilities.

The Act directs that Bonneville should continue its traditional role of transmitting and marketing power, but also carry out additional responsibilities. Under the Act, BPA must acquire all necessary energy resources to serve utilities who choose to apply to BPA for wholesale power supplies. The Act contains checks and balances to insure that all customers of BPA are treated equitably.

BPA remains accountable to the people of the Pacific Northwest for the actions it takes to meet the needs of residents and industry. By creating a regional planning Council consisting of 2 members from each of the 4 Northwest States to develop a regional plan, Congress provided a regional decisionmaking system. It emphasizes local control of resource development of conservation and renewable resources.

MAJOR PROVISIONS OF THE ACT

Here are the major provisions of the Pacific Northwest Electric Power Planning and Conservation Act:

-- A regional planning Council is formed with representation from each of the states. The Council will draw up a plan for meeting the electrical needs of the region, taking into account the social and economic effects of alternative courses of action. The plan must give highest priority to cost-effective conservation, treating it as a resource preferable to all other means of responding to demand for electricity. Renewable sources of energy must be given next highest priority in the region's power planning, to the extent that they are cost-effective ranking ahead of conventional thermal generating resources. Among thermal options, fuel-efficient methods of producing energy must be given priority.

-- BPA becomes responsible for meeting the loads of customers and managing the regional electrical system to achieve the purposes of the Act relating to fish, system efficiency, and experimental projects. BPA must give priority to cost-effective conservation ad renewable resources in meeting the region's needs. BPA may also purchase the generating capabilities of new thermal projects, but only after determination that they are required in addition to all cost-effective conservation and renewables that can be achieved or developed in time. Such projects must also be found reliable and compatible with the regional electric system. BPA will spread the benefits and the costs of resources among all of its customers through its rates.

-- The supply preference and resulting price advantages to co-ops and publicly owned utilities by Federal law are protected and enhanced. BPA is given the responsibility of meeting the full future requirements of preference customers -- something BPA was not previously authorized to do.

-- The residential and farm customers of investor-owned utilities receive rate relief. The utilities sell to Bonneville, at the average cost of their power, an amount of electric energy equal to their residential and farm loads. Bonneville sells to them, in return, enough energy at BPA standard rates to cover these residential and farm loads. The rate advantages cannot enhance company profits, but must be passed on directly to the customers.

-- Direct service industries receive new 20-year contracts for power from BPA, but at a higher price than they are paying under existing contracts. They will, in effect, pay the cost of rate relief to the residential and farm customers of investor-owned utilities during the first 4 years, and a substantial portion thereafter, which they agreed to do in exchange for assurances of long-term supplies.

-- BPA sells electricity at a rate that reflects the melded cost of Federal hydropower and more expensive thermal resources, conservation, and renewable sources of energy. The Act contains incentives, as well, to encourage conservation and renewables. BPA may credit utilities for their individual actions to implement conservation and renewables.

-- The regional Council establishes a program to protect and enhance the fisheries resources of the Columbia River and to mitigate damage already done to anadromous fish. Funding for the program is to come from BPA rate revenue.

-- All planning for electric resources and fish protection must involve the public. State and local control of land use and water rights is protected under the Act and the decision to allow construction of new resources is left with utilities and state siting authorities.

-- The new regional Council must provide a method for balancing environmental protection and the energy needs of the region. For each new energy resource, the provisions of the National Environmental Policy Act must be complied with.

CHRONOLOGY OF LEGISLATIVE ACTION

95th Congress

March 31, 1977	H.R. 5862 introduced by Mr. Weaver, the Columbia Basin Energy Corporation Act of 1977. Referred jointly to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Public Works and Transportation.
September 9, 1977	S. 2080 introduced by Mr. Jackson (by request), The Pacific Northwest Electric Power Supply and Conservation Act. (Identical bill H.R. 9020.) Referred to Committee on Energy and Natural Resources.
September 9, 1977	H.R. 9020 introduced by Mr. Meeds (by request), The Pacific Northwest Electric Power Supply and Conservation Act, identical to Senate bill S. 2080. Referred jointly to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Ways and Means.
December 5, 1977 6 7 8	Hearings on H.R. 9020, H.R. 9664, and H.R. 5862 held before the House Committee on Interior and Insular Affairs, Spokane, Washington; Boise, Idaho; Eugene, Oregon; Portland, Oregon; and Seattle, Washington.
April 8, 1978	Hearings on S. 2080 held before the Senate Committee on Energy and Natural Resources in Seattle, Washington.
April 15, 1978	Hearings on S. 2080 Held in Portland, Oregon.
May 19, 1978	Hearings on S. 2080 Held in Billings, Montana.
May 30, 1978	Hearings on S. 2080 Held in Boise, Idaho.

96th Congress

August 16, 1978	S. 3418 introduced by Mr. Jackson, The Pacific Northwest Electric Power Planning and Conservation Act. (Identical bill H.R. 13931.) Referred to Committee on Energy and Natural Resources.
August 17, 1978	H.R. 13931 introduced by Mr. Meeds, The Pacific Northwest Electric Power Planning and Conservation Act. (Identical to Senate bill S. 3418.) Referred to Committee on Energy and Natural Resources.
August 24, 1978 25	Hearings on S. 2080 and S. 3418 held in Washington, D.C.

September 19, 1978 27	Hearings on the 13931 held before the House Committee on Interstate and Foreign Commerce in Washington, D.C.
December 11, 1978 13 & 14	Hearings on H.R. 13931 held in Seattle, Washington; Portland, Oregon; and Boise, Idaho.
April 5, 1979	S. 885 introduced by Mr. Jackson, The Pacific Northwest Electric Power Planning and Conservation Act. (Identical bill H.R. 3508.) Referred to the Committee on Energy and Natural Resources.
April 5, 1979	H.R. 3508 introduced by Mr. Ullman, The Pacific Northwest Electric Power Planning and Conservation Act. (Identical to Senate bill S. 885.) Referred jointly to the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs.
April 5, 1979	S. 885 Amendments proposed by Mr. Jackson (by request).
May 21, 1979	H.R. 4159 introduced by Mr. Weaver, the Northwest Renewable Resources Conservation, and Energy Planning Act. Referred jointly to the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs.
May 23, 1979 24	Hearings on S. 885 held before the Senate Energy and Natural Resources Committee in Washington, D.C.
June 26, 1979	S. 885 Amendments proposed by Mr. Packwood.
July 30, 1979	S. 885 reported in Senate Energy and Natural Resources Committee.
July 30, 1979	Hearings on H.R. 3508 and H.R. 9159 held before the House Interstate and Foreign Commerce Committee in Washington, D.C.
July 30, 1979	S. Report 96-272 by Senate Energy and Natural Resources Committee.
August 2, 1979	H.R. 5146 introduced by Mr. Ullman, The Pacific Northwest Electric Power Planning and Conservation Act. Referred jointly to the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs.
August 3, 1979	S. 885 debated and passed the Senate.
September 5, 1979	S. 885 referred jointly to the House Committees on Interstate and Foreign Commerce and Interior and Insular Affairs.

June 26, 1979	S. 885 Amendments proposed by Mr. Packwood.
July 30, 1979	S. 885 reported in Senate Energy and Natural Resources Committee.
July 30, 1979	Hearings on H.R. 3508 and H.R. 9159 held before the House Interstate and Foreign Commerce Committee in Washington, D.C.
July 30. 1979	S. Report 96-272 by Senate Energy and Natural Resources Committee.
August 2, 1979	H.R. 5146 introduced by Mr. Ullman, The Pacific Northwest Electric Power Planning and Conservation Act. Referred jointly to the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs.
August 3, 1979	S. 885 debated and passed the Senate.
September 5, 1979	S. 885 referred jointly to the House Committees on Interstate and Foreign Commerce and Interior and Insular Affairs.
October 19, 1979	Hearings on H.R. 3508 and H.R. 4159 held before the House Committee on Interstate and Foreign Commerce in Washington, D.C.
March 3, 1980	H.R. 6677 introduced by Mr. Swift, The Pacific Northwerst Electric Power Planning and Conservation Act. Referred jointly to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.
May 15, 1980	H. Report 96-976, Part I reported by the Committee on Interstate and Foreign Commerce.
July 24, 1980	S. 885 an Amendment in the nature of a substitute recommended by the Subcommittee on Water and Power Resources.
September 16, 1980	H.R. 8157 introduced by Mr. Swift, The Pacific Northwest Electric Power Planning and Conservation Act. Referred jointly to the Committees on Insular Affairs and Interstate and Foreign Commerce.
September 23, 1980	H. Resolution 791 reported by Mr. Bolling and ordered to be printed.
September 23, 1980	H. Report 96-1368 submitted by Mr. Bolling, Committee on Rules.

September 24, 1980 S. 885 considered in House
29
October 12, 1980
13,
14

November 17, 1980 S. 885 passed House Amended House asked for a conference.

November 19, 1980 S. 885 Senate agreed to House Amendment.

December 5, 1980 President approved the Act as P.L 96-501 but did not issue a statement upon signing.

December 5, 1980 Act is effective on date of enactment.

P.L. 96-501

Public Law 96-501
96th Congress

An Act

To assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

Dec. 5, 1980
[S. 885]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

Pacific Northwest Electric Power Planning and Conservation Act.
16 USC 839 note.

SECTION 1. This Act, together with the following table of contents, may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

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Sec. 10. Savings provisions.
Sec. 11. Effective date.
Sec. 12. Severability.

PURPOSES

16 USC 839.

SEC. 2. The purposes of this Act, together with the provisions of other laws applicable to the Federal Columbia River Power System, are all intended to be construed in a consistent manner. Such purposes are also intended to be construed in a manner consistent with applicable environmental laws. Such purposes are:

(1) to encourage, through the unique opportunity provided by the Federal Columbia River Power System—

(A) conservation and efficiency in the use of electric power, and

(B) the development of renewable resources within the Pacific Northwest;

(2) to assure the Pacific Northwest of an adequate, efficient, economical, and reliable power supply;

(3) to provide for the participation and consultation of the Pacific Northwest States, local governments, consumers, customers, users of the Columbia River System (including Federal and State fish and wildlife agencies and appropriate Indian tribes), and the public at large within the region in—

(A) the development of regional plans and programs related to energy conservation, renewable resources, other resources, and protecting, mitigating, and enhancing fish and wildlife resources,

79-139 O - 81 (337)

(B) facilitating the orderly planning of the region's power system, and

(C) providing environmental quality;

(4) to provide that the customers of the Bonneville Power Administration and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements, including the amortization on a current basis of the Federal investment in the Federal Columbia River Power System;

(5) to insure, subject to the provisions of this Act—

(A) that the authorities and responsibilities of State and local governments, electric utility systems, water management agencies, and other non-Federal entities for the regulation, planning, conservation, supply, distribution, and use of electric power shall be construed to be maintained, and

(B) that Congress intends that this Act not be construed to limit or restrict the ability of customers to take actions in accordance with other applicable provisions of Federal or State law, including, but not limited to, actions to plan, develop, and operate resources and to achieve conservation, without regard to this Act; and

(6) to protect, mitigate and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries, particularly anadromous fish which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other power generating facilities on the Columbia River and its tributaries.

DEFINITIONS

16 USC 839a.

SEC. 3. As used in this Act, the term—

(1) "Acquire" and "acquisition" shall not be construed as authorizing the Administrator to construct, or have ownership of, under this Act or any other law, any electric generating facility.

(2) "Administrator" means the Administrator of the Bonneville Power Administration.

(3) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production, or distribution.

(4)(A) "Cost-effective", when applied to any measure or resource referred to in this Act, means that such measure or resource must be forecast—

(i) to be reliable and available within the time it is needed, and

(ii) to meet or reduce the electric power demand, as determined by the Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof.

(B) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, among other factors,

waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource.

(5) "Consumer" means any end user of electric power.

(6) "Council" means, unless otherwise specifically provided, the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established pursuant to section 4.

(7) "Customer" means anyone who contracts for the purchase of power from the Administrator pursuant to this Act.

(8) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(9) "Electric power" means electric peaking capacity, or electric energy, or both.

(10) "Federal base system resources" means—

(A) the Federal Columbia River Power System hydroelectric projects;

(B) resources acquired by the Administrator under long-term contracts in force on the effective date of this Act; and

(C) resources acquired by the Administrator in an amount necessary to replace reductions in capability of the resources referred to in subparagraphs (A) and (B) of this paragraph.

(11) "Indian tribe" means any Indian tribe or band which is located in whole or in part in the region and which has a governing body which is recognized by the Secretary of the Interior.

(12) "Major resource" means any resource that—

(A) has a planned capability greater than fifty average megawatts, and

(B) if acquired by the Administrator, is acquired for a period of more than five years.

Such term does not include any resource acquired pursuant to section 11(b)(6) of the Federal Columbia River Transmission System Act. 16 USC 838i.

(13) "New large single load" means any load associated with a new facility, an existing facility, or an expansion of an existing facility—

(A) which is not contracted for, or committed to, as determined by the Administrator, by a public body, cooperative, investor-owned utility, or Federal agency customer prior to September 1, 1979, and

(B) which will result in an increase in power requirements of such customer of ten average megawatts or more in any consecutive twelve-month period.

(14) "Pacific Northwest", "region", or "regional" means—

(A) the area consisting of the States of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(B) any contiguous areas, not in excess of seventy-five air miles from the area referred to in subparagraph (A), which are a part of the service area of a rural electric cooperative customer served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without such region.

(15) "Plan" means the Regional Electric Power and Conservation plan (including any amendments thereto) adopted pursuant to this Act and such plan shall apply to actions of the Administrator as specified in this Act.

(16) "Renewable resource" means a resource which utilizes solar, wind, hydro, geothermal, biomass, or similar sources of energy and which either is used for electric power generation or will reduce the electric power requirements of a consumer, including by direct application.

(17) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator (A) from resources or (B) from rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(18) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses, but only the first four hundred horsepower during any monthly billing period of farm irrigation and pumping for any farm.

(19) "Resource" means—

(A) electric power, including the actual or planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

(20) "Secretary" means the Secretary of Energy.

REGIONAL PLANNING AND PARTICIPATION

Pacific Northwest Electric Power and Conservation Planning Council, establishment
16 USC 839b.

SEC. 4. (a)(1) The purposes of this section are to provide for the prompt establishment and effective operation of the Pacific Northwest Electric Power and Conservation Planning Council, to further the purposes of this Act by the Council promptly preparing and adopting (A) a regional conservation and electric power plan and (B) a program to protect, mitigate, and enhance fish and wildlife, and to otherwise expeditiously and effectively carry out the Council's responsibilities and functions under this Act.

(2) To achieve such purposes and facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and with the Bonneville Power Administration, the consent of Congress is given for an agreement described in this paragraph and not in conflict with this Act, pursuant to which—

(A) there shall be established a regional agency known as the "Pacific Northwest Electric Power and Conservation Planning Council" which (i) shall have its offices in the Pacific Northwest, (ii) shall carry out its functions and responsibilities in accordance with the provisions of this Act, (iii) shall continue in force and effect in accordance with the provisions of this Act, and (iv) except as otherwise provided in this Act, shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law; and

(B) two persons from each State may be appointed, subject to the applicable laws of each such State, to undertake the functions and duties of members of the Council.

The State may fill any vacancy occurring prior to the expiration of the term of any member. The appointment of six initial members, subject to applicable State law, by June 30, 1981, by at least three of such States shall constitute an agreement by the States establishing the Council and such agreement is hereby consented to by the Congress. Upon request of the Governors of two of the States, the Secretary shall extend the June 30, 1981, date for six additional months to provide more time for the States to make such appointments.

Members, appointment

Time extension

(3) Except as otherwise provided by State law, each member appointed to the Council shall serve for a term of three years, except that, with respect to members initially appointed, each Governor shall designate one member to serve a term of two years and one member to serve a term of three years. The members of the Council shall select from among themselves a chairman. The members and officers and employees of the Council shall not be deemed to be officers or employees of the United States for any purpose. The Council shall appoint, fix compensation, and assign and delegate duties to such executive and additional personnel as the Council deems necessary to fulfill its functions under this Act, taking into account such information and analyses as are, or are likely to be, available from other sources pursuant to provisions of this Act. The compensation of the members shall be fixed by State law. The compensation of the members and officers shall not exceed the rate prescribed for Federal officers and positions at step 1 of level GS-18 of the General Schedule.

Terms of office

Compensation

45 FR 69201

(4) For the purpose of providing a uniform system of laws, in addition to this Act, applicable to the Council relating to the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Council, advisory committees, disclosure of information, judicial review of Council functions and actions under this Act, and related matters, the Federal laws applicable to such matters in the case of the Bonneville Power Administration shall apply to the Council to the extent appropriate, except that with respect to open meetings, the Federal laws applicable to open meetings in the case of the Federal Energy Regulatory Commission shall apply to the Council to the extent appropriate. In applying the Federal laws applicable to financial disclosure under the preceding sentence, such laws shall be applied to members of the Council without regard to the duration of their service on the Council or the amount of compensation received for such service. No contract, obligation, or other action of the Council shall be construed as an obligation of the United States or an obligation secured by the full faith and credit of the United States. For the purpose of judicial review of any action of the Council or challenging any provision of this Act relating to functions and responsibilities of the Council, notwithstanding any other provision

of law, the courts of the United States shall have exclusive jurisdiction of any such review.

(b)(1) If the Council is not established and its members are not timely appointed in accordance with subsection (a) of this section, or if, at any time after such Council is established and its members are appointed in accordance with subsection (a)—

(A) any provision of this Act relating to the establishment of the Council or to any substantial function or responsibility of the Council (including any function or responsibility under subsection (d) or (h) of this section or under section 6(c) of this Act) is held to be unlawful by a final determination of any Federal court, or

(B) the plan or any program adopted by such Council under this section is held by a final determination of such a court to be ineffective by reason of subsection (a)(2)(B),

the Secretary shall establish the Council pursuant to this subsection as a Federal agency. The Secretary shall promptly publish a notice thereof in the Federal Register and notify the Governors of each of the States referred to in subsection (a) of this section.

Notice, publication in Federal Register.

(2) As soon as practicable, but not more than thirty days after the publication of the notice referred to in paragraph (1) of this subsection, and thereafter within forty-five days after a vacancy occurs, the Governors of the States of Washington, Oregon, Idaho, and Montana may each (under applicable State laws, if any) provide to the Secretary a list of nominations from such State for each of the State's positions to be selected for such Council. The Secretary may extend this time an additional thirty days. The list shall include at least two persons for each such position. The list shall include such information about such nominees as the Secretary may request. The Secretary shall appoint the Council members from each Governor's list of nominations for each State's positions, except that the Secretary may decline to appoint for any reason any of a Governor's nominees for a position and shall so notify the Governor. The Governor may thereafter make successive nominations within forty-five days of receipt of such notice until nominees acceptable to the Secretary are appointed for each position. In the event the Governor of any such State fails to make the required nominations for any State position on such Council within the time specified for such nominations, the Secretary shall select from such State and appoint the Council member or members for such position. The members of the Council shall select from among themselves one member of the Council as Chairman.

Compensation.

(3) The members of the Council established by this subsection who are not employed by the United States or a State shall receive compensation at a rate equal to the rate prescribed for offices and positions at level GS-18 of the General Schedule for each day such members are engaged in the actual performance of duties as members of such Council, except that no such member may be paid more in any calendar year than an officer or employee at step 1 of level GS-18 is paid during such year. Members of such Council shall be considered officers or employees of the United States for purposes of title II of the Ethics in Government Act of 1978 (5 U.S.C. app.) and shall also be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. Such Council may appoint, and assign duties to, an executive director who shall serve at the pleasure of such Council and who shall be compensated at the rate established for GS-18 of the General Schedule. The executive director shall

45 FR 69201.

Compensation.

exercise the powers and duties delegated to such director by such Council, including the power to appoint and fix compensation of additional personnel in accordance with applicable Federal law to carry out the functions and responsibilities of such Council.

Funds, books, papers, documents and equipment, transfer.

(4) When a Council is established under this subsection after a Council was established pursuant to subsection (a) of this section, the Secretary shall provide, to the greatest extent feasible, for the transfer to the Council established by this subsection of all funds, books, papers, documents, equipment, and other matters in order to facilitate the Council's capability to achieve the requirements of subsections (d) and (h) of this section. In order to carry out its functions and responsibilities under this Act expeditiously, the Council shall take into consideration any actions of the Council under subsection (a) and may review, modify, or confirm such actions without further proceedings.

Termination.

(5)(A) At any time beginning one year after the plan referred to in such subsection (d) and the program referred to in such subsection (h) of this section are both finally adopted in accordance with this Act, the Council established pursuant to this subsection shall be terminated by the Secretary 90 days after the Governors of three of the States referred to in this subsection jointly provide for any reason to the Secretary a written request for such termination. Except as provided in subparagraph (B), upon such termination all functions and responsibilities of the Council under this Act shall also terminate.

Transfer of functions.

(B) Upon such termination of the Council, the functions and responsibilities of the Council set forth in subsection (h) of this section shall be transferred to, and continue to be funded and carried out, jointly, by the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service, in the same manner and to the same extent as required by such subsection and in cooperation with the Federal and the region's State fish and wildlife agencies and Indian tribes referred to in subsection (h) of this section and the Secretary shall provide for the transfer to them of all records, books, documents, funds, and personnel of such Council that relate to subsection (h) matters. In order to carry out such functions and responsibilities expeditiously, the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service shall take into consideration any actions of the Council under this subsection, and may review, modify, or confirm such actions without further proceedings. In the event the Council is terminated pursuant to this paragraph, whenever any action of the Administrator requires any approval or other action by the Council, the Administrator may take such action without such approval or action, except that the Administrator may not implement any proposal to acquire a major generating resource or to grant billing credits involving a major generating resource until the expenditure of funds for that purpose is specifically authorized by Act of Congress enacted after such termination.

(c)(1) The provisions of this subsection shall, except as specifically provided in this subsection, apply to the Council established pursuant to either subsection (a) or (b) of this section.

Quorum.

(2) A majority of the members of the Council shall constitute a quorum. Except as otherwise provided specifically in this Act, all actions and decisions of the Council shall be by majority vote of the members present and voting. The plan or any part thereof and any amendment thereto shall not be approved unless such plan or amendment receives the votes of—

(A) a majority of the members appointed to the Council, including the vote of at least one member from each State with members on the Council; or

(B) at least six members of the Council.

Council meeting.

(3) The Council shall meet at the call of the Chairman or upon the request of any three members of the Council. If any member of the Council disagrees with respect to any matter transmitted to any Federal or State official or any other person or wishes to express additional views concerning such matter, such member may submit a statement to accompany such matter setting forth the reasons for such disagreement or views.

Annual work program budget, availability.

(4) The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions and responsibilities under this Act. The Council shall make available to the public a statement of its organization, practices, and procedures, and make available to the public its annual work program budget at the time the President submits his annual budget to Congress.

Personnel detail.

(5) Upon request of the Council established pursuant to subsection (b) of this section, the head of any Federal agency is authorized to detail or assign to the Council, on a reimbursable basis, any of the personnel of such agency to assist the Council in the performance of its functions under this Act.

Offices, equipment and supplies.

(6) At the Council's request, the Administrator of the General Services Administration shall furnish the Council established pursuant to subsection (b) of this section with such offices, equipment, supplies, and services in the same manner and to the same extent as such Administrator is authorized to furnish to any other Federal agency or instrumentality such offices, supplies, equipment, and services.

Information to Congress.

(7) Upon the request of the Congress or any committee thereof, the Council shall promptly provide to the Congress, or to such committee, any record, report, document, material, and other information which is in the possession of the Council.

(8) To obtain such information and advice as the Council determines to be necessary or appropriate to carry out its functions and responsibilities pursuant to this Act, the Council shall, to the greatest extent practicable, solicit engineering, economic, social, environmental, and other technical studies from customers of the Administrator and from other bodies or organizations in the region with particular expertise.

(9) The Administrator and other Federal agencies, to the extent authorized by other provisions of law, shall furnish the Council all information requested by the Council as necessary for performance of its functions, subject to such requirements of law concerning trade secrets and proprietary data as may be applicable.

Compensation and other expenses, payment.

(10)(A) At the request of the Council, the Administrator shall pay from funds available to the Administrator the compensation and other expenses of the Council as are authorized by this Act, including the reimbursement of those States with members on the Council for services and personnel to assist in preparing a plan pursuant to subsection (d) and a program pursuant to subsection (h) of this section, as the Council determines are necessary or appropriate for the performance of its functions and responsibilities. Such payments shall be included by the Administrator in his annual budgets submitted to Congress pursuant to the Federal Columbia River Transmission System Act and shall be subject to the requirements of that Act, including the audit requirements of section 11(d) of such Act. The records, reports, and other documents of the Council shall be availa-

16 USC 838 note.
16 USC 838i.
Records, reports, review.

ble to the Comptroller General for review in connection with such audit or other review and examination by the Comptroller General pursuant to other provisions of law applicable to the Comptroller General. Funds provided by the Administrator for such payments shall not exceed annually an amount equal to 0.02 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded. In order to assist the Council's initial organization, the Administrator after the enactment of this Act shall promptly prepare and propose an amended annual budget to expedite payment for Council activities.

(B) Notwithstanding the limitation contained in the fourth sentence of subparagraph (A) of this paragraph, upon an annual showing by the Council that such limitation will not permit the Council to carry out its functions and responsibilities under this Act the Administrator may raise such limit up to any amount not in excess of 0.10 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded.

Voluntary scientific and advisory committee, establishment

(11) The Council shall establish a voluntary scientific and statistical advisory committee to assist in the development, collection, and evaluation of such statistical, biological, economic, social, environmental, and other scientific information as is relevant to the Council's development and amendment of a regional conservation and electric power plan.

(12) The Council may establish such other voluntary advisory committees as it determines are necessary or appropriate to assist it in carrying out its functions and responsibilities under this Act.

(13) The Council shall ensure that the membership for any advisory committee established or formed pursuant to this section shall, to the extent feasible, include representatives of, and seek the advice of, the Federal, and the various regional, State, local, and Indian Tribal Governments, consumer groups, and customers.

Electric power plan, transmittal to Administrator

(d)(1) Within two years after the Council is established and the members are appointed pursuant to subsection (a) or (b) of this section, the Council shall prepare, adopt, and promptly transmit to the Administrator a regional conservation and electric power plan. The adopted plan, or any portion thereof, may be amended from time to time, and shall be reviewed by the Council not less frequently than once every five years. Prior to such adoption, public hearings shall be held in each Council member's State on the plan or substantial, nontechnical amendments to the plan proposed by the Council for adoption. A public hearing shall also be held in any other State of the region on the plan or amendments thereto, if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. Action of the Council under this subsection concerning such hearings shall be subject to section 553 of title 5, United States Code and such procedure as the Council shall adopt.

Hearings

(2) Following adoption of the plan and any amendment thereto, all actions of the Administrator pursuant to section 6 of this Act shall be consistent with the plan and any amendment thereto, except as otherwise specifically provided in this Act.

(e)(1) The plan shall, as provided in this paragraph, give priority to resources which the Council determines to be cost-effective. Priority shall be given: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources.

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(2) The plan shall set forth a general scheme for implementing conservation measures and developing resources pursuant to section 6 of this Act to reduce or meet the Administrator's obligations with due consideration by the Council for (A) environmental quality, (B) compatibility with the existing regional power system, (C) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, and (D) other criteria which may be set forth in the plan.

(3) To accomplish the priorities established by this subsection, the plan shall include the following elements which shall be set forth in such detail as the Council determines to be appropriate:

(A) an energy conservation program to be implemented under this Act, including, but not limited to, model conservation standards;

(B) recommendation for research and development;

(C) a methodology for determining quantifiable environmental costs and benefits under section 3(4);

(D) a demand forecast of at least twenty years (developed in consultation with the Administrator, the customers, the States, including State agencies with ratemaking authority over electric utilities, and the public, in such manner as the Council deems appropriate) and a forecast of power resources estimated by the Council to be required to meet the Administrator's obligations and the portion of such obligations the Council determines can be met by resources in each of the priority categories referred to in paragraph (1) of this subsection which forecast (i) shall include regional reliability and reserve requirements, (ii) shall take into account the effect, if any, of the requirements of subsection (h) on the availability of resources to the Administrator, and (iii) shall include the approximate amounts of power the Council recommends should be acquired by the Administrator on a long-term basis and may include, to the extent practicable, an estimate of the types of resources from which such power should be acquired;

(E) an analysis of reserve and reliability requirements and cost-effective methods of providing reserves designed to insure adequate electric power at the lowest probable cost;

(F) the program adopted pursuant to subsection (h); and

(G) if the Council recommends surcharges pursuant to subsection (f) of this section, a methodology for calculating such surcharges.

Studies.

(4) The Council, taking into consideration the requirement that it devote its principal efforts to carrying out its responsibilities under subsections (d) and (h) of this section, shall undertake studies of conservation measures reasonably available to direct service industrial customers and other major consumers of electric power within the region and make an analysis of the estimated reduction in energy use which would result from the implementation of such measures as rapidly as possible, consistent with sound business practices. The Council shall consult with such customers and consumers in the conduct of such studies.

Model conservation standards.

(f)(1) Model conservation standards to be included in the plan shall include, but not be limited to, standards applicable to (A) new and existing structures, (B) utility, customer, and governmental conservation programs, and (C) other consumer actions for achieving conservation. Model conservation standards shall reflect geographic and climatic differences within the region and other appropriate considerations, and shall be designed to produce all power savings that are

cost-effective for the region and economically feasible for consumers, taking into account financial assistance made available to consumers under section 6(a) of this Act. These model conservation standards shall be adopted by the Council and included in the plan after consultation, in such manner as the Council deems appropriate, with the Administrator, States, and political subdivisions, customers of the Administrator, and the public.

Surcharge

(2) The Council by a majority vote of the members of the Council is authorized to recommend to the Administrator a surcharge and the Administrator may thereafter impose such a surcharge, in accordance with the methodology provided in the plan, on customers for those portions of their loads within the region that are within States or political subdivisions which have not, or on the Administrator's customers which have not, implemented conservation measures that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such standards. Such surcharges shall be established to recover such additional costs as the Administrator determines will be incurred because such projected energy savings attributable to such conservation measures have not been achieved, but in no case may such surcharges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g)(1) To insure widespread public involvement in the formulation of regional power policies, the Council and Administrator shall maintain comprehensive programs to—

(A) inform the Pacific Northwest public of major regional power issues,

(B) obtain public views concerning major regional power issues, and

(C) secure advice and consultation from the Administrator's customers and others.

(2) In carrying out the provisions of this section, the Council and the Administrator shall—

(A) consult with the Administrator's customers;

(B) include the comments of such customers in the record of the Council's proceedings; and

(C) recognize and not abridge the authorities of State and local governments, electric utility systems, and other non-Federal entities responsible to the people of the Pacific Northwest for the planning, conservation, supply, distribution, and use of electric power and the operation of electric generating facilities.

(3) In the preparation, adoption, and implementation of the plan, the Council and the Administrator shall encourage the cooperation, participation, and assistance of appropriate Federal agencies, State entities, State political subdivisions, and Indian tribes. The Council and the Administrator are authorized to contract, in accordance with applicable law, with such agencies, entities, tribes, and subdivisions individually, in groups, or through associations thereof to (A) investigate possible measures to be included in the plan, (B) provide public involvement and information regarding a proposed plan or amendment thereto, and (C) provide services which will assist in the implementation of the plan. In order to assist in the implementation of the plan, particularly conservation, renewable resource, and fish and wildlife activities, the Administrator, when requested and subject to available funds, may provide technical assistance in establishing conservation, renewable resource, and fish and wildlife objectives by individual States or subdivisions thereof or Indian tribes. Such objectives, if adopted by a State or subdivision thereof or Indian

Contracts

Technical assistance

tribes, may be submitted to the Council and the Administrator for review, and upon approval by the Council, may be incorporated as part of the plan.

(h)(1)(A) The Council shall promptly develop and adopt, pursuant to this subsection, a program to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, on the Columbia River and its tributaries. Because of the unique history, problems, and opportunities presented by the development and operation of hydroelectric facilities on the Columbia River and its tributaries, the program, to the greatest extent possible, shall be designed to deal with that river and its tributaries as a system.

(B) This subsection shall be applicable solely to fish and wildlife, including related spawning grounds and habitat, located on the Columbia River and its tributaries. Nothing in this subsection shall alter, modify, or affect in any way the laws applicable to rivers or river systems, including electric power facilities related thereto, other than the Columbia River and its tributaries, or affect the rights and obligations of any agency, entity, or person under such laws.

(2) The Council shall request, in writing, promptly after the Council is established under either section 4(a) or 4(b) of this Act and prior to the development or review of the plan, or any major revision thereto, from the Federal, and the region's State, fish and wildlife agencies and from the region's appropriate Indian tribes, recommendations for—

(A) measures which can be expected to be implemented by the Administrator, using authorities under this Act and other laws, and other Federal agencies to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project on the Columbia River and its tributaries;

(B) establishing objectives for the development and operation of such projects on the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife; and

(C) fish and wildlife management coordination and research and development (including funding) which, among other things, will assist protection, mitigation, and enhancement of anadromous fish at, and between, the region's hydroelectric dams.

(3) Such agencies and tribes shall have 90 days to respond to such request, unless the Council extends the time for making such recommendations. The Federal, and the region's, water management agencies, and the region's electric power producing agencies, customers, and public may submit recommendations of the type referred to in paragraph (2) of this subsection. All recommendations shall be accompanied by detailed information and data in support of the recommendations.

(4)(A) The Council shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Administrator, to the Federal, and the region's, State fish and wildlife agencies, to the appropriate Indian tribes, to Federal agencies responsible for managing, operating, or regulating hydroelectric facilities located on the Columbia River or its tributaries, and to any customer or other electric utility which owns or operates any such facility. Notice shall also be given to the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Council and shall be available for reproduction at reasonable cost.

(B) The Council shall provide for public participation and comment regarding the recommendations and supporting documents, including an opportunity for written and oral comments, within such reasonable time as the Council deems appropriate. Written and oral comments.

(5) The Council shall develop a program on the basis of such recommendations, supporting documents, and views and information obtained through public comment and participation, and consultation with the agencies, tribes, and customers referred to in subparagraph (A) of paragraph (4). The program shall consist of measures to protect, mitigate, and enhance fish and wildlife affected by the development, operation, and management of such facilities while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. Enhancement measures shall be included in the program to the extent such measures are designed to achieve improved protection and mitigation. Fish and wildlife protection.

(6) The Council shall include in the program measures which it determines, on the basis set forth in paragraph (5), will—

(A) complement the existing and future activities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological objective exist, the alternative with the minimum economic cost;

(D) be consistent with the legal rights of appropriate Indian tribes in the region; and

(E) in the case of anadromous fish—

(i) provide for improved survival of such fish at hydroelectric facilities located on the Columbia River system; and

(ii) provide flows of sufficient quality and quantity between such facilities to improve production, migration, and survival of such fish as necessary to meet sound biological objectives.

(7) The Council shall determine whether each recommendation received is consistent with the purposes of this Act. In the event such recommendations are inconsistent with each other, the Council, in consultation with appropriate entities, shall resolve such inconsistency in the program giving due weight to the recommendations, expertise, and legal rights and responsibilities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes. If the Council does not adopt any recommendation of the fish and wildlife agencies and Indian tribes as part of the program or any other recommendation, it shall explain in writing, as part of the program, the basis for its finding that the adoption of such recommendation would be—

(A) inconsistent with paragraph (5) of this subsection;

(B) inconsistent with paragraph (6) of this subsection; or

(C) less effective than the adopted recommendations for the protection, mitigation, and enhancement of fish and wildlife.

(8) The Council shall consider, in developing and adopting a program pursuant to this subsection, the following principles:

(A) Enhancement measures may be used, in appropriate circumstances, as a means of achieving offsite protection and mitigation with respect to compensation for losses arising from the development and operation of the hydroelectric facilities of the Columbia River and its tributaries as a system.

(B) Consumers of electric power shall bear the cost of measures designed to deal with adverse impacts caused by the development and operation of electric power facilities and programs only.

(C) To the extent the program provides for coordination of its measures with additional measures (including additional enhancement measures to deal with impacts caused by factors other than the development and operation of electric power facilities and programs), such additional measures are to be implemented in accordance with agreements among the appropriate parties providing for the administration and funding of such additional measures.

(D) Monetary costs and electric power losses resulting from the implementation of the program shall be allocated by the Administrator consistent with individual project impacts and system-wide objectives of this subsection.

(9) The Council shall adopt such program or amendments thereto within one year after the time provided for receipt of the recommendations. Such program shall also be included in the plan adopted by the Council under subsection (d).

Fish and wildlife, protection.

(10)(A) The Administrator shall use the Bonneville Power Administration fund and the authorities available to the Administrator under this Act and other laws administered by the Administrator to protect, mitigate, and enhance fish and wildlife to the extent affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries in a manner consistent with the plan, if in existence, the program adopted by the Council under this subsection, and the purposes of this Act. Expenditures of the Administrator pursuant to this paragraph shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(B) The Administrator may make expenditures from such fund which shall be included in the annual or supplementary budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act. Any amounts included in such budget for the construction of capital facilities with an estimated life of greater than 15 years and an estimated cost of at least $1,000,000 shall be funded in the same manner and in accordance with the same procedures as major transmission facilities under the Federal Columbia River Transmission System Act.

16 USC 838 note.

Allocation of funds.

(C) The amounts expended by the Administrator for each activity pursuant to this subsection shall be allocated as appropriate by the Administrator, in consultation with the Corps of Engineers and the Water and Power Resources Service, among the various hydroelectric projects of the Federal Columbia River Power System. Amounts so allocated shall be allocated to the various project purposes in accordance with existing accounting procedures for the Federal Columbia River Power System.

(11)(A) The Administrator and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River or its tributaries shall—

(i) exercise such responsibilities consistent with the purposes of this Act and other applicable laws, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated;

(ii) exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under this subsection. If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate, and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with this subsection.

(B) The Administrator and such Federal agencies shall consult with the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes, and affected project operators in carrying out the provisions of this paragraph and shall, to the greatest extent practicable, coordinate their actions.

Report to congressional committees.

(12)(A) Beginning on October 1 of the first fiscal year after all members to the Council are appointed initially, the Council shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate and to the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs of the House of Representatives. The report shall describe the actions taken and to be taken by the Council under this Act, including this subsection, the effectiveness of the fish and wildlife program, and potential revisions or modifications to the program to be included in the plan when adopted. At least ninety days prior to its submission of such report, the Council shall make available to such fish and wildlife agencies, and tribes, the Administrator and the customers a draft of such report. The Council shall establish procedures for timely comments thereon. The Council shall include as an appendix to such report such comments or a summary thereof.

(B) The Administrator shall keep such committees fully and currently informed of the actions taken and to be taken by the Administrator under this Act, including this subsection.

Review.

(i) The Council may from time to time review the actions of the Administrator pursuant to sections 4 and 6 of this Act to determine whether such actions are consistent with the plan and programs, the extent to which the plan and programs is being implemented, and to assist the Council in preparing amendments to the plan and programs.

(j)(1) The Council may request the Administrator to take an action under section 6 to carry out the Administrator's responsibilities under the plan.

(2) To the greatest extent practicable within ninety days after the Council's request, the Administrator shall respond to the Council in writing specifying—

(A) the means by which the Administrator will undertake the action or any modification thereof requested by the Council, or

(B) the reasons why such action would not be consistent with the plan, or with the Administrator's legal obligations under this Act, or other provisions of law, which the Administrator shall specifically identify.

Hearing.

(3) If the Administrator determines not to undertake the requested action, the Council, within sixty days after notice of the Administrator's determination, may request the Administrator to hold an informal hearing and make a final decision.

Conservation measures and resources, analysis.

(k)(1) Not later than October 1, 1987, or six years after the Council is established under this Act, whichever is later, the Council shall

complete a thorough analysis of conservation measures and conservation resources implemented pursuant to this Act during the five-year period beginning on the date the Council is established under this Act to determine if such measures or resources:

(A) have resulted or are likely to result in costs to consumers in the region greater than the costs of additional generating resources or additional fuel which the Council determines would be necessary in the absence of such measures or resources;

(B) have not been or are likely not to be generally equitable to all consumers in the region; or

(C) have impaired or are likely to impair the ability of the Administrator to carry out his obligations under this Act and other laws, consistent with sound business practices.

(2) The Administrator may determine that section 3(4)(D) shall not apply to any proposed conservation measure or resource if the Administrator finds after receipt of such analysis from the Council that such measure or resource would have any result or effect described in subparagraph (A), (B) or (C) of paragraph (1).

SALE OF POWER

16 USC 839c.

SEC. 5. (a) All power sales under this Act shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937 (16 U.S.C. 832 and following) and, in particular, sections 4 and 5 thereof. Such sales shall be at rates established pursuant to section 7.

16 USC 832c, 832d.

16 USC 832f.

(b)(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 and to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the Region to the extent that such firm power load exceeds—

(A) the capability of such entity's firm peaking and energy resources used in the year prior to the enactment of this Act to serve its firm load in the region, and

(B) such other resources as such entity determines, pursuant to contracts under this Act, will be used to serve its firm load in the region.

In determining the resources which are used to serve a firm load, for purposes of subparagraphs (A) and (B), any resources used to serve a firm load under such subparagraphs shall be treated as continuing to be so used, unless such use is discontinued with the consent of the Administrator, or unless such use is discontinued because of obsolescence, retirement, loss of resource, or loss of contract rights.

(2) Contracts with investor-owned utilities shall provide that the Administrator may reduce his obligations under such contracts in accordance with section 5(a) of the Bonneville Project Act of 1937.

(3) In addition to his authorities to sell electric power under paragraph (1), the Administrator is also authorized to sell electric power to Federal agencies in the region.

(4) Sales under this subsection shall be made only if the public body, cooperative, Federal agency or investor-owned utility complies with the Administrator's standards for service in effect on the effective date of this Act or as subsequently revised.

(5) The Administrator shall include in contracts executed in accordance with this subsection provisions that enable the Administrator to restrict his contractual obligations to meet the loads referred to in this subsection in the future if the Administrator determines, after a

reasonable period of experience under this Act, that the Administrator cannot be assured on a planning basis of acquiring sufficient resources to meet such loads during a specified period of insufficiency. Any such contract with a public body, cooperative, or Federal agency shall specify a reasonable minimum period between a notice of restriction and the earliest date such restriction may be imposed.

(6) Contracts executed in accordance with this subsection with public body, cooperative, and Federal agency customers shall—

(A) provide that the restriction referred to in paragraph (5) shall not be applicable to any such customers until the operating year in which the total of such customers' firm loads to be served by the Administrator equals or exceeds the firm capability of the Federal base system resources;

(B) not permit restrictions which would reduce the total contractual entitlement of such customers to an amount less than the firm capability of the Federal base system resources; and

(C) contain a formula for determining annually, on a uniform basis, each such customer's contractual entitlement to firm power during such a period of restriction, which formula shall not consider customer resources other than those the customer has determined, as of the effective date of this Act, to be used to serve its own firm loads.

The formula referred to in subparagraph (C) shall obligate the Administrator to provide on an annual basis only firm power needed to serve the portion of such customer's firm load in excess of the capability of such customer's own firm resources determined by such customer under paragraph (1) of this subsection to be used to serve its firm load.

Purchase and exchange sale.

(c)(1) Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.

Limitation.

(2) The purchase and exchange sale referred to in paragraph (1) of this subsection with any electric utility shall be limited to an amount not in excess of 50 per centum of such utility's Regional residential load in the year beginning July 1, 1980, such 50 per centum limit increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985, and each year thereafter.

Cost benefits.

(3) The cost benefits, as specified in contracts with the Administrator, of any purchase and exchange sale referred to in paragraph (1) of this subsection which are attributable to any electric utility's residential load within a State shall be passed through directly to such utility's residential loads within such State, except that a State which lies partially within and partially without the region may require that such cost benefits be distributed among all of the utility's residential loads in that State.

Termination.

(4) An electric utility may terminate, upon reasonable terms and conditions agreed to by the Administrator and such utility prior to such termination, its purchase and sale under this subsection if the supplemental rate charge provided for in section 7(b)(3) is applied and the cost of electric power sold to such utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by such utility to the Administrator under this subsection.

(5) Subject to the provisions of sections 4 and 6, in lieu of purchasing any amount of electric power offered by a utility under paragraph (1) of this subsection, the Administrator may acquire an equivalent amount of electric power from other sources to replace power sold to such utility as part of an exchange sale if the cost of such acquisition is less than the cost of purchasing the electric power offered by such utility.

(6) Exchange sales to a utility pursuant to this subsection shall not be restricted below the amounts of electric power acquired by the Administrator from, or on behalf of, such utility pursuant to this subsection.

"Average system cost."

(7) The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. Such average system cost shall not include—

(A) the cost of additional resources in an amount sufficient to serve any new large single load of the utility;

(B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and

(C) any costs of any generating facility which is terminated prior to initial commercial operation.

(d)(1)(A) The Administrator is authorized to sell in accordance with this subsection electric power to existing direct service industrial customers. Such sales shall provide a portion of the Administrator's reserves for firm power loads within the region.

Industrial firm power.

(B) After the effective date of this Act, the Administrator shall offer in accordance with subsection (g) of this section to each existing direct service industrial customer an initial long term contract that provides such customer an amount of power equivalent to that to which such customer is entitled under its contract dated January or April 1975 providing for the sale of "industrial firm power."

(2) The Administrator shall not sell electric power, including reserves, directly to new direct service industrial customers.

(3) The Administrator shall not sell amounts of electric power, including reserves, to existing direct service industrial customers in excess of the amount permitted under paragraph (1) unless the Administrator determines, after a plan has been adopted pursuant to section 4 of this Act, that such proposed sale is consistent with the plan and that—

(A) additional power system reserves are required for the region's firm loads,

(B) the proposed sale would provide a cost-effective method of supplying such reserves,

(C) such loads or loads of similar character cannot provide equivalent operating or planning benefits to the region if served by an electric utility under contractual arrangements providing reserves, and

(D) the Administrator has or can acquire sufficient electric power to serve such loads, and

unless the Council has determined such sale is consistent with the plan. After such determination by the Administrator and by the Council, the Administrator is authorized to offer to existing direct service industrial customers power in such amounts in excess of the

amount permitted under paragraph (1) of this subsection as the Administrator determines to be necessary to provide additional power system reserves to meet the region's firm loads.

Definitions

(4)(A) As used in this section, the term "existing direct service industrial customer" means any direct service industrial customer of the Administrator which has a contract for the purchase of electric power from the Administrator on the effective date of this Act.

(B) The term "new direct service industrial customer" means any industrial entity other than an existing direct service industrial customer.

New contract

(C)(i) Where a new contract is offered in accordance with subsection (g) to any existing direct service industrial customer which has not received electric power prior to the effective date of this Act from the Administrator pursuant to a contract with the Administrator existing on the date of the enactment of this Act, electric power delivered under such new contract shall be conditioned on the Administrator reasonably acquiring, in accordance with this Act and within such estimated period of time (as specified in the contract) as he deems reasonable, sufficient resources to meet, on a planning basis, the load requirement of such customer. Such contract shall also provide that the obligation of the Administrator to acquire such resources to meet such load requirement shall, except as provided in clause (ii) of this subparagraph, apply only to such customer and shall not be sold or exchanged by such customer to any other person.

Contract rights, transfer

(ii) Rights under a contract described in clause (i) of this subparagraph may be transferred by an existing direct service industrial customer referred to in clause (i) to a successor in interest in connection with a reorganization or other transfer of all major assets of such customer. Following such a transfer, such successor in interest (or any other subsequent successor in interest) may also transfer rights under such a contract only in connection with a reorganization or other transfer of all assets of such successor in interest.

(iii) The limitations of clause (i) of this subparagraph shall not apply to any customer referred to in clause (i) whenever the Administrator determines that such customer is receiving electric power pursuant to a contract referred to in such clause (ii).

(e)(1) The contractual entitlement to firm power of any customer from whom, or on whose behalf, the Administrator has acquired electric power pursuant to section 6 may not be restricted below the amount of electric power so acquired from, or on behalf of, such customer. If in any year such customer's requirements are less than such entitlement, any excess of such entitlement shall be first made available to increase the entitlement of other customers of the same class before being available for the entitlement of other customers. For purposes of this paragraph, the following entities shall each constitute a class:

(A) public bodies and cooperatives;
(B) Federal agencies;
(C) direct service industrial; and
(D) investor owned utilities.

(2) Any contractual entitlement to firm power which is based on electric power acquired from, or on behalf of, a customer pursuant to section 6 shall be in addition to any other contractual entitlement to firm power not subject to restriction that such customer may have under this section. For the purposes of this subsection, references to amounts of power acquired by the Administrator pursuant to section 6 shall be deemed to mean the amounts specified in the resource

acquisition contracts exclusive of any amounts recognized in such contracts as replacement for Federal base system resources.

(3) The Administrator shall, consistent with the provisions of this Act, insure that any restrictions upon any particular customer class made pursuant to this subsection and subsection (b) of this section are distributed equitably throughout the region.

(f) The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsections (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator, including the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), and the Act of August 31, 1964 (16 U.S.C. 837-837h).

Long-term contracts.

(g)(1) As soon as practicable within nine months after the effective date of this Act, the Administrator shall commence necessary negotiations for, and offer, initial long-term contracts (within the limitations of the third sentence of section 5(a) of the Bonneville Project Act) simultaneously to—

16 USC 838d.

(A) existing public body and cooperative customers and investor-owned utility customers under subsection (b) of this section;

(B) Federal agency customers under subsection (b) of this section;

(C) electric utility customers under subsection (c) of this section; and

(D) direct service industrial customers under subsection (d)(1).

(2) Each customer offered a contract pursuant to this subsection shall have one year from the date of such offer to accept such contract. Such contract shall be effective as provided in this subsection.

(3) An initial contract with a public body, cooperative or investor-owned electric utility customer or a Federal agency customer pursuant to subsection (b) of this section shall be effective on the date executed by such customer, unless another effective date is otherwise agreed to by the Administrator and the customer.

(4) An initial contract with an electric utility customer pursuant to subsection (c) of this section shall be effective on the date executed by such customer, but no earlier than the first day of the tenth month after the effective date of this Act.

(5) An initial contract with a direct service industrial customer pursuant to subsection (d)(1), shall be effective on the date agreed upon by the Administrator and such customer, but no later than the first day of the tenth month after the effective date of this Act. When such contract is executed, it may for rate purposes be given retroactive effect to such first day.

(6) Initial contracts offered public body, cooperative and Federal agency customers in accordance with this subsection shall provide that during a period of insufficiency declared in accordance with subsection (b) of this section each customer's contractual entitlement shall, to the extent of its requirements on the Administrator, be no less than the amount of firm power received from the Administrator in the year immediately preceding the period of insufficiency.

(7) The Administrator shall be deemed to have sufficient resources for the purpose of entering into the initial contracts specified in paragraph (1) (A) through (D).

CONSERVATION AND RESOURCE ACQUISITION

SEC. 6. (a)(1) The Administrator shall acquire such resources through conservation, implement all such conservation measures, and acquire such renewable resources which are installed by a residential or small commercial consumer to reduce load, as the Administrator determines are consistent with the plan, or if no plan is in effect with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) and, in the case of major resources, in accordance with subsection (c) of this section. Such conservation measures and such resources may include, but are not limited to— 16 USC 839d.

(A) loans and grants to consumers for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application,

(B) technical and financial assistance to, and other cooperation with, the Administrator's customers and governmental authorities to encourage maximum cost-effective voluntary conservation and the attainment of any cost-effective conservation objectives adopted by individual States or subdivisions thereof,

(C) aiding the Administrator's customers and governmental authorities in implementing model conservation standards adopted pursuant to section 4(f), and

(D) conducting demonstration projects to determine the cost effectiveness of conservation measures and direct application of renewable energy resources.

(2) In addition to acquiring electric power pursuant to section 5(c), or on a short-term basis pursuant to section 11(b)(6)(i) of the Federal Columbia River Transmission System Act, the Administrator shall acquire, in accordance with this section, sufficient resources— 16 USC 838i

(A) to meet his contractual obligations that remain after taking into account planned savings from measures provided for in paragraph (1) of this subsection, and

(B) to assist in meeting the requirements of section 4(h) of this Act.

The Administrator shall acquire such resources without considering restrictions which may apply pursuant to section 5(b) of this Act

(b)(1) Except as specifically provided in this section, acquisition of resources under this Act shall be consistent with the plan, as determined by the Administrator.

(2) The Administrator may acquire resources (other than major resources) under this Act which are not consistent with the plan, but which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(3) If no plan is in effect, the Administrator may acquire resources under this Act which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(4) The Administrator shall acquire any non-Federal resources to replace Federal base system resources only in accordance with the provisions of this section. The Administrator shall include in the contracts for the acquisition of any such non-Federal replacement resources provisions which will enable him to ensure that such non-Federal replacement resources are developed and operated in a manner consistent with the considerations specified in section 4(e)(2) of this Act.

(5) Notwithstanding any acquisition of resources pursuant to this section, the Administrator shall not reduce his efforts to achieve

conservation and to acquire renewable resources installed by a residential or small commercial consumer to reduce load, pursuant to subsection (a)(1) of this section.

(c)(1) For each proposal under subsection (a), (b), (f), (h), or (l) of this section to acquire a major resource, to implement a conservation measure which will conserve an amount of electric power equivalent to that of a major resource, to pay or reimburse investigation and preconstruction expenses of the sponsors of a major resource, or to grant billing credits or services involving a major resource, the Administrator shall—

Publication in Federal Register

(A) publish notice of the proposed action in the Federal Register and provide a copy of such notice to the Council, the Governor of each State in which facilities would be constructed or a conservation measure implemented, and the Administrator's customers;

Public hearings

(B) not less than sixty days following publication of such notice, conduct one or more public hearings, presided over by a hearing officer, at which testimony and evidence shall be received, with opportunity for such rebuttal and cross-examination as the hearing officer deems appropriate in the development of an adequate hearing record;

(C) develop a record to assist in evaluating the proposal which shall include the transcript of the public hearings, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator; and

(D) following completion of such hearings, promptly provide to the Council and make public a written decision that includes, in addition to a determination respecting the requirements of subsection (a), (b), (f), (h), (l), or (m) of this section, as appropriate—

(i) if a plan is in effect, a finding that the proposal is either consistent or inconsistent with the plan or, notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligations under this Act, or

(ii) if no plan is in effect, a finding that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or notwithstanding its inconsistency, a finding that it is needed to meet the Administrator's obligations under this Act.

In the case of subsection (f) of this section, such decision shall be treated as satisfying the applicable requirements of this subsection and of subsection (f) of this section, if it includes a finding of probable consistency, based upon the Administrator's evaluation of information available at the time of completion of the hearing under this paragraph. Such decision shall include the reasons for such finding.

(2) Within sixty days of the receipt of the Administrator's decision pursuant to paragraph (1)(D) of this subsection, the Council may determine by a majority vote of all members of the Council, and notify the Administrator—

(A) that the proposal is either consistent or inconsistent with the plan, or

(B) if no plan is in effect, that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(3) The Administrator may not implement any proposal referred to in paragraph (1) that is determined pursuant to paragraph (1) or (2) by either the Administrator or the Council to be inconsistent with the

plan or, if no plan is in effect, with the criteria of section 4(e)(1) and the considerations of section 4(e)(2)—

(A) unless the Administrator finds that, notwithstanding such inconsistency, such resource is needed to meet the Administrator's obligations under this Act, and

(B) until the expenditure of funds for that purpose has been specifically authorized by Act of Congress enacted after the date of the enactment of this Act.

(4) Before the Administrator implements any proposal referred to in paragraph (1) of this subsection, the Administrator shall—

(A) submit to the appropriate committees of the Congress the administrative record of the decision (including any determination by the Council under paragraph (2)) and a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act of 1969,

(B) publish notice of the decision in the Federal Register, and

(C) note the proposal in the Administrator's annual or supplementary budget submittal made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following).

42 USC 4321 note. Publication in Federal Register.

The Administrator may not implement any such proposal until ninety days after the date on which such proposal has been noted in such budget or after the date on which such decision has been published in the Federal Register, whichever is later.

(5) The authority of the Council to make a determination under paragraph (2)(B) if no plan is in effect shall expire on the date two years after the establishment of the Council.

(d) The Administrator is authorized to acquire a resource, other than a major resource, whether or not such resource meets the criteria of section 4(e)(1) and the considerations of section 4(e)(2) but which he determines is an experimental, developmental, demonstration, or pilot project of a type with a potential for providing cost-effective service to the region. The Administrator shall make no obligation for the acquisition of such resource until it is included in the annual budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act.

(e)(1) In order to effectuate the priority given to conservation measures and renewable resources under this Act, the Administrator shall, to the maximum extent practicable, make use of his authorities under this Act to acquire conservation measures and renewable resources, to implement conservation measures, and to provide credits and technical and financial assistance for the development and implementation of such resources and measures (including the funding of, and the securing of debt for, expenses incurred during the investigation and preconstruction of resources, as authorized in subsection (f) of this section).

(2) To the extent conservation measures or acquisition of resources require direct arrangements with consumers, the Administrator shall make maximum practicable use of customers and local entities capable of administering and carrying out such arrangements.

(f)(1) For resources which the Administrator determines may be eligible for acquisition under this section and satisfy the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or, if a plan is in effect, to be consistent with the plan, the Administrator is authorized to enter into agreements with sponsors of—

(A) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource, or

(B) any other resource to provide for the reimbursement of the sponsor's investigation and preconstruction expenses concerning such resource (which expenses shall not include procurement of capital equipment or construction material for such resource).

In the case of any resource referred to in subparagraph (B) of this paragraph, such reimbursement is authorized only if—

(i) such resource is subsequently denied State siting approval or other necessary Federal or State permits, or approvals,

(ii) such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or is not acceptable because of environmental impacts, or

(iii) after such investigation the Administrator determines not to acquire the resource and the sponsor determines not to construct the resource.

(2) The Administrator may exercise the authority of this subsection only after he determines that the failure to do so would result in inequitable hardship to the consumers of such sponsors. The Administrator may provide reimbursement under this subsection only for expenses incurred after the date of the enactment of this Act.

(3) Any agreement under paragraph (1) of this subsection shall provide the Administrator an option to acquire any such resource, including a renewable resource, and shall include such other provisions, as the Administrator deems appropriate, for the Administrator's recovery from such sponsors or any assignee of the sponsors, if such sponsor or assignee continues development of the resource, of any advances made by the Administrator pursuant to such agreement.

(4) The Administrator shall not reimburse any expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after the date of a final denial of application for State siting approval or after the date the Administrator determines that the resource to be inconsistent with the plan or the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator in accordance with applicable law and regulations, may be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

Billing credits

(h)(1) If a customer so requests, the Administrator shall grant billing credits to such customer, and provide services to such customer at rates established for such services, for—

(A) conservation activities independently undertaken or continued after the effective date of this Act by such customer or political subdivision served by such customer which reduce the obligation of the Administrator that would otherwise have existed to acquire other resources under this Act, or

(B) resources constructed, completed, or acquired after the effective date of this Act by a customer, an entity acting on behalf of such customer, or political subdivision served by the customer which reduce the obligation of the Administrator to acquire resources under this Act. Such resources shall be renewable resources or multipurpose projects or other resources which are not inconsistent with the plan or, in the absence of a plan, not

inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(2) The energy and capacity on which a credit under this subsection to a customer is based shall be the amount by which a conservation activity or resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(3) The amount of credits for conservation under this subsection shall be set to credit the customer implementing or continuing the conservation activity for which the credit is granted for the savings resulting from such activity. The rate impact on the Administrator's other customers of granting the credit shall be equal to the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually saved by the activity for which the credit is granted.

(4) For resources other than conservation, the customer shall be credited for net costs actually incurred by such customer, an entity acting on behalf of such customer, or political subdivision served by such customer, in acquiring, constructing, or operating the resource for which the credit is granted. The rate impact to the Administrator's other customers of granting the credit shall be no greater than the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually produced by the resource for which the credit is granted.

(5) Retail rate structures which are voluntarily implemented by the Administrator's customers and which induce conservation or installation of consumer-owned renewable resources shall be considered, for purposes of this subsection, to be (A) conservation activities independently undertaken or carried on by such customers, or (B) customer-owned renewable resources, and shall qualify for billing credits upon the same showing as that required for other conservation or renewable resource activities.

(6) Prior to granting any credit or providing services pursuant to this subsection, the Administrator shall—

(A) comply with the notice provisions of subsection (c) of this section, and include in such notice the methodology the Administrator proposes to use in determining the amount of any such credit;

(B) include the cost of such credit in the Administrator's annual or amended budget submittal to the Congress made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838(j));

(C) require that resources in excess of customer's reasonable load growth shall have been offered to others for ownership, participation or other sponsorship pursuant to subsection (m) of this section, except in the case of conservation, multi-purpose projects uniquely suitable for development by the customer, or renewable resources; and

(D) require that the operators of any generating resource for which a billing credit is to be granted agree to operate such resource in a manner compatible with the planning and operation of the region's power system.

(i) Contracts for the acquisition of resources and for billing credits for major resources, including conservation activities, entered into pursuant to this section shall contain such terms and conditions, applicable after the contract is entered into, as will—

(1) insure timely construction, scheduling, completion, and operation of resources,

(2) insure that the costs of any acquisition are as low as reasonably possible, consistent (A) with sound engineering, operating, and safety practices, and (B) the protection, mitigation, and enhancement of fish and wildlife, including related spawning grounds and habitat affected by the development of such resources, and

(3) insure that the Administrator exercises effective oversight, inspection, audit, and review of all aspects of such construction and operation.

Such contracts shall contain provisions assuring that the Administrator has the authority to approve all costs of, and proposals for, major modifications in construction, scheduling or operations and to assure that the Administrator is provided with such current information as he deems necessary to evaluate such construction and operation.

(j)(1) All contractual and other obligations required to be carried out by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations are not, nor shall they be construed to be, general obligations of the United States, nor are such obligations intended to be or are they secured by the full faith and credit of the United States.

(2) All contracts entered into by the Administrator for the acquisition of resources pursuant to this Act shall require that, in the sale of any obligations, all offerings and promotional material for the sale of such obligations shall include the language contained in the second sentence of paragraph (1) of this subsection. The Administrator shall monitor and enforce such requirement.

(k) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act and the Administrator's obligations to particular customer classes, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

Investigations.

(l)(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the States of Idaho, Montana, Oregon, and Washington if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor, or otherwise develop them. The Administrator shall keep the Council fully and currently informed of such investigations, and seek the Council's advice as to the desirability of pursuing such investigations.

(2) The Administrator is authorized and directed to investigate periodically opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity in the Pacific Northwest and the regions with which such exchanges may occur. The Council shall take into consideration in formulating a plan such investigations.

(3) After the Administrator submits a report to Congress pursuant to paragraph (5) of this subsection, the Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of section 4(e)(1) and the considerations of section 4(e)(2). Such acquisitions shall be in accordance with the provisions of this subsection.

(4) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this subsection with the assistance of other Federal agencies as may be appropriate.

(5) No later than July 1, 1981, the Administrator shall submit to the Congress a report of the results of the investigations undertaken pursuant to this subsection, together with the prospects for obtaining additional resources under the authority granted by this subsection and for reductions in generation or generating capacity through exchanges. Report to Congress.

(m) Except as to resources under construction on the effective date of this Act, the Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest electric utility for ownership, participation, or other sponsorship, but not in excess of the amounts needed to meet such utility's Regional load.

RATES

SEC. 7. (a)(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law. Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act. 16 USC 839e. 16 USC 838g, 838h.

(2) Rates established under this section shall become effective only, except in the case of interim rules as provided in subsection (i)(6), upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission, that such rates— 16 USC 825s.

(A) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs,

(B) are based upon the Administrator's total system costs, and

(C) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

(b)(1) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and loads of electric utilities under section 5(c). Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply such loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates shall recover the cost of additional electric power as needed to supply such loads, first from the electric power acquired by the Administrator under section 5(c) and then from other resources.

(2) After July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under subsection (g) for the costs of conservation,

resource and conservation credits, experimental resources and uncontrollable events, may not exceed in total, as determined by the Administrator, during any year after July 1, 1985, plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, the Administrator assumes that—

(A) the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives;

(B) public body, cooperative, and Federal agency customers were served, during such five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A) of this paragraph;

(C) no purchases or sales by the Administrator as provided in section 5(c) were made during such five-year period;

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under subparagraph (B) of this paragraph) were—

(i) purchased from such customers by the Administrator pursuant to section 6, or

(ii) not committed to load pursuant to section 5(b),

and were the least expensive resources owned or purchased by public bodies or cooperatives; and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator; and

(E) the quantifiable monetary savings, during such five-year period, to public body, cooperative and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D) of this paragraph, and

(ii) reserve benefits as a result of the Administrator's actions under this Act

were not achieved.

(3) Any amounts not charged to public body, cooperative, and Federal agency customers by reason of paragraph (2) of this subsection shall be recovered through supplemental rate charges for all other power sold by the Administrator to all customers. Rates charged public body, cooperative, or Federal agency customers pursuant to this subsection shall not include any costs or benefits of a net revenue surplus or deficiency occurring for the period ending June 30, 1985, to the extent such surplus or deficiency is caused by—

(A) a difference between actual power deliveries and power deliveries projected for the purpose of establishing rates to direct service industrial customers under subsection (c)(1) of this subsection, and

(B) an overrecovery or underrecovery of the net costs incurred by the Administrator under section 5(c) as a result of such difference.

Any such revenue surplus or deficiency incurred shall be recovered from, or repaid to, customers over a reasonable period of time after July 1, 1985, through a supplemental rate charge or credit applied proportionately for all other power sold by the Administrator at rates established under other subsections of this section prior to July 1, 1985.

(4) The term "general requirements" as used in this section means the public body, cooperative or Federal agency customer's electric power purchased from the Administrator under section 5(b) of this Act, exclusive of any new large single load. "General requirements."

(c)(1) The rate or rates applicable to direct service industrial customers shall be established—

(A) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(c) of this Act, based upon the Administrator's projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other customers; and

(B) for the period beginning July 1, 1985, at a level which the Administrator determines to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial consumers in the region.

(2) The determination under paragraph (1)(B) of this subsection shall be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates but shall take into account—

(A) the comparative size and character of the loads served,

(B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and

(C) direct and indirect overhead costs,

all as related to the delivery of power to industrial customers, except that the Administrator's rates during such period shall in no event be less than the rates in effect for the contract year ending on June 30, 1985.

(3) The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d)(1) In order to avoid adverse impacts on retail rates of the Administrator's customers with low system densities, the Administrator shall, to the extent appropriate, apply discounts to the rate or rates for such customers.

(2) In order to avoid adverse impacts of increased rates pursuant to this Act on any direct service industrial customer using raw minerals indigenous to the region as its primary resource, the Administrator, upon request of such customer showing such impacts and after considering the effect of such request on his other obligations under this Act, is authorized, if the Administrator determines that such impacts will be significant, to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region. Such rate shall be established in accordance with this section and shall include such terms and conditions as the Administrator deems appropriate.

(e) Nothing in this Act prohibits the Administrator from establishing, in rate schedules of general application, a uniform rate or rates for sale of peaking capacity or from establishing time-of-day, seasonal rates, or other rate forms.

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(c) of this Act and additional resources which, in the determination of the Administrator, are applicable to such sales.

(g) Except to the extent that the allocation of costs and benefits is governed by provisions of law in effect on the effective date of this Act, or by other provisions of this section, the Administrator shall equitably allocate to power rates, in accordance with generally accepted ratemaking principles and the provisions of this Act, all costs and benefits not otherwise allocated under this section, including, but not limited to, conservation, fish and wildlife measures, uncontrollable events, reserves, the excess costs of experimental resources acquired under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a) of this section), the Administrator shall adjust power rates to include any surcharges arising under section 4(f) of this Act, and shall allocate any revenues from such charges in such manner as the Administrator determines will help achieve the purposes of section 4(f) of this Act.

(i) In establishing rates under this section, the Administrator shall use the following procedures:

Publication in Federal Register.

(1) Notice of the proposed rates shall be published in the Federal Register with a statement of the justification and reasons supporting such rates. Such notice shall include a date for a hearing in accordance with paragraph (2) of this subsection.

(2) One or more hearings shall be conducted as expeditiously as practicable by a hearing officer to develop a full and complete record and to receive public comment in the form of written and oral presentation of views, data, questions, and argument related to such proposed rates. In any such hearing—

(A) any person shall be provided an adequate opportunity by the hearing officer to offer refutation or rebuttal of any material submitted by any other person or the Administrator, and

(B) the hearing officer, in his discretion, shall allow a reasonable opportunity for cross examination, which, as determined by the hearing officer, is not dilatory, in order to develop information and material relevant to any such proposed rate.

(3) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and arguments submitted by persons prior to, or before the close of, hearings shall be made a part of the administrative record.

Publication in Federal Register.

(4) After such a hearing, the Administrator may propose revised rates, publish such proposed rates in the Federal Register, and conduct additional hearings in accordance with this subsection.

(5) The Administrator shall make a final decision establishing a rate or rates based on the record which shall include the hearing transcript, together with exhibits, and such other materials and information as may have been submitted to, or devel-

oped by, the Administrator. The decision shall include a full and complete justification of the final rates pursuant to this section.

(6) The final decision of the Administrator shall become effective on confirmation and approval of such rates by the Federal Energy Regulatory Commission pursuant to subsection (a)(2) of this section. The Commission shall have the authority, in accordance with such procedures, if any, as the Commission shall promptly establish and make effective within one year after the enactment of this Act, to approve the final rate submitted by the Administrator on an interim basis, pending the Commission's final decision in accordance with such subsection. Pending the establishment of such procedures by the Commission, if such procedures are required, the Secretary is authorized to approve such interim rates during such one-year period in accordance with the applicable procedures followed by the Secretary prior to the effective date of this Act. Such interim rates, at the discretion of the Secretary, shall continue in effect until July 1, 1982. Interim rates

(j) All rate schedules adopted, and all power billings rendered, by the Administrator pursuant to this section shall indicate—

(1) the approximate cost contribution of different resource categories to the Administrator's rates for the sale of energy and capacity, and

(2) the cost of resources acquired to meet load growth within the region and the relation of such cost to the average cost of resources available to the Administrator.

(k) Notwithstanding any other provision of this Act, all rates or rate schedules for the sale of nonfirm electric power within the United States, but outside the region, shall be established after the date of this Act by the Administrator in accordance with the procedures of subsection (i) of this section (other than the first sentence of paragraph (6) thereof) and in accordance with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act. Notwithstanding section 201(f) of the Federal Power Act, such rates or rate schedules shall become effective after review by the Federal Energy Regulatory Commission for conformance with the requirements of such Acts and after approval thereof by the Commission. Such review shall be based on the record of proceedings established under subsection (i) of this section. The parties to such proceedings under subsection (i) shall be afforded an opportunity by the Commission for an additional hearing in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act. Rate or rate schedules, establishment

16 USC 832-832*l*
33 USC 642a-709, 16 USC 460d, 825s, 43 USC 390
16 USC 838 note
16 USC 824

(l) In order to further the purposes of this Act and to protect the consumers of the region, the Administrator may negotiate, or establish, rates for electric power sold by the Administrator to any entity not located in the United States which shall be equitable in relation to rates for all electric power which is, or may be, purchased by the Administrator or the Administrator's customers from entities outside the United States. In establishing rates other than by negotiation, the provisions of subsection (i) shall apply. In the case of any negotiation with an entity not located in the United States, the Administrator shall provide public notice of any proposal to negotiate such rates. Such negotiated rates shall be not less than the rates established under this Act for nonfirm power sold within the United States but outside the region. The Administrator shall also afford notice of any rates negotiated pursuant to this subsection. Negotiated rates outside U S Notice

(m)(1) Beginning the first fiscal year after the plan and program required by section 4 (d) and (h) of this Act are finally adopted, the Payments

Administrator may, subject to the provisions of this section, make annual impact aid payments to the appropriate local governments within the region with respect to major transmission facilities of the Administrator, as defined in section 3(c) of the Federal Columbia River Transmission Act—

16 USC 838a.

(A) which are located within the jurisdictional boundaries of such governments,

(B) which are determined by the Administrator to have a substantial impact on such governments, and

(C) where the construction of such facilities, or any modification thereof, is completed after the effective date of this Act, and, in the case of a modification of an existing facility, such modification substantially increases the capacity of such existing transmission facility.

Payment formula.

(2) Payments made under this subsection for any fiscal year shall be determined by the Administrator pursuant to a regionwide, uniform formula to be established by rule in accordance with the procedures set forth in subsection (i) of this section. Such rule shall become effective on its approval, after considering its effect on rates established pursuant to this section, by the Federal Energy Regulatory Commission. In developing such formula, the Administrator shall identify, and take into account, the local governmental services provided to the Administrator concerning such facilities and the associated costs to such governments as the result of such facilities.

(3) Payments made pursuant to this subsection shall be made solely from the fund established by section 11 of the Federal Columbia River Transmission System Act. The provisions of section 13 of such Act, and any appropriations provided to the Administrator under any law, shall not be available for such payments. The authorization of payments under this subsection shall not be construed as an obligation of the United States.

16 USC 838i, 838k.

(4) No payment may be made under this subsection with respect to any land or interests in land owned by the United States within the region and administered by any Federal agency (other than the Administrator), without regard to how the United States obtained ownership thereof, including lands or interests therein acquired or withdrawn by a Federal agency for purposes of such agency and subsequently made available to the Administrator for such facilities.

AMENDMENTS TO EXISTING LAW

16 USC 838i.

SEC. 8. (a) Section 11(b) of the Federal Columbia River Transmission System Act is amended by striking out "or" before "(iii)" in paragraph (6), by striking out the semicolon at the end of such paragraph (6) and inserting in lieu thereof ", 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;".

Ante, p. 2700.

(b) Section 11(b) of the Federal Columbia River Transmission System Act is amended by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(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 USC 838k.

(c) Subsection (b) of section 13 of such Act is amended by striking out "and 11(b)(11)" and inserting in lieu thereof ", 11(b)(11), and 11(b)(12)".

(d)(1) The first sentence of subsection (a) of section 13 of such Act is amended by inserting after the word "system," the following: "to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (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 electric power from a generating facility having a planned capability greater than 50 average megawatts),". 16 USC 838k. *Ante*, p. 2697. *Ante*, p. 2717.

(2) The fourth sentence of such subsection (a) is amended by inserting the following before the period at the end thereof: "issued by Government corporations".

(3) Such subsection (a) is further amended by inserting the following before the period at the end thereof: "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".

(4) Such subsection (a) is further amended by inserting the following after the fourth sentence thereof: "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.". Rate increase. Termination.

(e) Clause (2) of section 1(b) of the Act of August 31, 1964 (78 Stat. 756) is amended to read as follows: "(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.". 16 USC 837. *Ante*, p. 2697.

ADMINISTRATIVE PROVISIONS

SEC. 9. (a) Subject to the provisions of this Act, the Administrator is authorized to contract in accordance with section 2(f) of the Bonne- 16 USC 839f.

ville Project Act of 1937 (16 U.S.C. 832a(f)). Other provisions of law applicable to such contracts on the effective date of this Act shall continue to be applicable.

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), section 302(a) (2) and (3) of the Department of Energy Organization Act, and this Act. The Secretary of Energy, the Council, and the Administrator shall take such steps as are necessary to assure the timely implementation of this Act in a sound and business-like manner. Nothing in this Act shall be construed by the Secretary, the Administrator, or any other official of the Department of Energy to modify, alter, or otherwise affect the requirements and directives expressed by the Congress in section 302(a) (2) and (3) of the Department of Energy Organization Act or the operations of such officials as they existed prior to enactment of this Act.

42 USC 7152.

Contracts outside Pacific Northwest, limitations and conditions.

(c) Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of the Act of August 31, 1964 (16 U.S.C. 837a and 837b) for any contract for the sale, delivery, or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest. In applying such sections for the purposes of this subsection, the term "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and the term "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties imposed upon, the Secretary by sections 5 and 7 of such Act (16 U.S.C. 837e and 837f) shall also apply to the Administrator in connection with resources acquired by the Administrator pursuant to this Act. The Administrator shall, in making any determination, under any contract executed pursuant to section 5, of the electric power requirements of any Pacific Northwest customer, which is a non-Federal entity having its own generation, exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of such Act (16 U.S.C. 837b(d)), any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased. Such amount of energy shall not be excluded, if the Administrator determines that through reasonable measures such amount of energy could not be conserved or otherwise retained for service to regional loads. The Administrator may sell as replacement for any amount of energy so excluded only energy that would otherwise be surplus.

Definitions.

16 USC 837d.

(d) No restrictions contained in subsection (c) shall limit or interfere with the sale, exchange or other disposition of any power by any utility or group thereof from any existing or new non-Federal resource if such sale, exchange or disposition does not increase the amount of firm power the Administrator would be obligated to provide to any customer. In addition to the directives contained in subsections (i)(1)(B) and (i)(3) and subject to:

(1) any contractual obligations of the Administrator,

(2) any other obligations under existing law, and

(3) the availability of capacity in the Federal transmission system,

the Administrator shall provide transmission access, load factoring, storage and other services normally attendant thereto to such utilities and shall not discriminate against any utility or group thereof on the basis of independent development of such resource in providing such services.

(e)(1) For purposes of sections 701 through 706 of title 5, United States Code, the following actions shall be final actions subject to judicial review— Judicial review.

(A) adoption of the plan or amendments thereto by the Council under section 4, adoption of the program by the Council, and any determination by the Council under section 4(h);

(B) sales, exchanges, and purchases of electric power under section 5;

(C) the Administrator's acquisition of resources under section 6;

(D) implementation of conservation measures under section 6;

(E) execution of contracts for assistance to sponsors under section 6(f);

(F) granting of credits under section 6(h);

(G) final rate determinations under section 7; and

(H) any rule prescribed by the Administrator under section (7)(m)(2) of this Act.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with this Act. The scope of review of such actions without a hearing or after a hearing shall be governed by section 706 of title 5, United States Code, except that final determinations regarding rates under section 7 shall be supported by substantial evidence in the rulemaking record required by section 7(i) considered as a whole. The scope of review of an action under section 6(c) shall be governed by section 706 of title 5, United States Code. Nothing in this section shall be construed to require a hearing pursuant to section 554, 556, or 557 of title 5 of the United States Code.

(3) Nothing in this section shall be construed to preclude judicial review of other final actions and decisions by the Council or Administrator.

(4) For purposes of this subsection—

(A) major resources shall be deemed to be acquired upon publication in the Federal Register pursuant to section 6(c)(4)(B);

(B) resources, other than major resources, shall be deemed to be acquired upon execution of the contract therefor;

(C) conservation measures shall be deemed to be implemented upon execution of the contract or grant therefor; and

(D) rate determinations pursuant to section 7 shall be deemed final upon confirmation and approval by the Federal Energy Regulatory Commission.

(5) Suits to challenge the constitutionality of this Act, or any action thereunder, final actions and decisions taken pursuant to this Act by the Administrator or the Council, or the implementation of such final actions, whether brought pursuant to this Act, the Bonneville Project Act, the Act of August 31, 1964 (16 U.S.C. 837-837h), or the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), shall be filed in the United States court of appeals for the region. Such suits shall be filed within ninety days of the time such action or decision is deemed final, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days from Suits. 16 USC 832-832*l*. Notice, publication in Federal Register.

such notice, or be barred. In the case of a challenge of the plan or programs or amendments thereto, such suit shall be filed within sixty days after publication of a notice of such final action in the Federal Register. Such court shall have jurisdiction to hear and determine any suit brought as provided in this section. The plan and program, as finally adopted or portions thereof, or amendments thereto, shall not thereafter be reviewable as a part of any other action under this Act or any other law. Suits challenging any other actions under this Act shall be filed in the appropriate court.

(f) For purposes of enabling the Administrator to acquire resources necessary to meet the firm load of public bodies, cooperatives, and Federal agencies from a governmental unit at a cost no greater than the cost which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a)(1) of the Internal Revenue Code of 1954 shall not be affected by the Administrator's acquisition of such resources if—

26 USC 103.

(1) the Administrator, prior to contracting for such acquisition, certifies to his reasonable belief, that the persons for whom the Administrator is acquiring such resources for sale pursuant to section 5 of this Act are public bodies, cooperatives, and Federal agencies, unless the Administrator also certifies that he is unable to acquire such resources without selling a portion thereof to persons who are not exempt persons (as defined in section 103(b) of such Code), and

(2) based upon such certification, the Secretary of the Treasury determines in accordance with applicable regulations that less than a major portion of the resource is to be furnished to persons who are not exempt persons (as defined in section 103(b) of such Code).

The certification under paragraph (1) shall be made in accordance with this subsection and a procedure and methodology approved by the Secretary of the Treasury. For purposes of this subsection, the term "major portion" shall have the meaning provided by regulations issued by the Secretary of the Treasury.

"Major portion."

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility customer under section 5(c) or 6, the Federal Energy Regulatory Commission shall, in accordance with section 209 of the Federal Power Act (16 U.S.C. 824h)—

(1) convene a joint State board, and

(2) invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h)(1) No "company" (as defined in section 2(a)(2) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(2)), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(3)), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code, if at least 90 per centum of the electricity generated by such company is sold to the Administrator under section 6, and if—

15 USC 79 *et seq.*

(A) the organization of such company is consistent with the policies of section 1 (b) and (c) of the Public Utility Holding Company Act of 1935, as determined by the Securities and Exchange Commission, with the concurrence of the Administrator, at the time of such organization; and

15 USC 79a.

(B) participation in any facilities of such "company" has been offered to public bodies and cooperatives in the region pursuant to section 6(m).

(2) The Administrator shall include in any contract for the acquisition of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource.

(3) In the case of any "company" which meets the requirements of paragraph (1), the Administrator, with the concurrence of such Commission, shall approve all significant contracts entered into by, and between, such "company" and any sponsor company or any subsidiary of such sponsor company which are determined to be consistent with the policies of section 1 (b) and (c) of the Public Utility Holding Company Act of 1935 at the time such contracts are entered into. The Administrator and the Securities and Exchange Commission shall exercise such approval authority within sixty days after receipt of such contracts. Such contracts shall not be effective without such approval.

Contracts, approval.

15 USC 79a.

(4) Paragraph (1) of this subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission, or both, through periodic review, (A) determine at any time that the "company" no longer operates in a manner consistent with the policies of section 1 (b) and (c) of the Public Utility Holding Company Act of 1935 and in accordance with this subsection, and (B) notify the "company" in writing of such preliminary determination. This subsection shall cease to apply to such "company" thirty days after receipt of notification of a final determination thereof. A final determination shall be made only after public notice of the preliminary determination and after a hearing completed not later than sixty days from the date of publication of such notice. Such final determination shall be made within thirty days after the date of completion of such hearing.

Notice; hearing.

(i)(1) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(A) acquire any electric power required by (i) any customer or group of customers to enable them to replace resources determined to serve firm load under section 5(b), or (ii) direct service industrial customers to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power the Administrator is obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting such power; and

(B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

(2) In implementing the provisions of subparagraphs (A) and (B) of paragraph (1), the Administrator may prescribe policies and conditions for the independent acquisition or disposition of electric power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisition or disposition.

Electric power acquisition, policies and conditions.

(3) The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

Report.

(j)(1) The Council, as soon as practicable after the enactment of this Act, shall prepare, in consultation with the Administrator, the customers, appropriate State regulatory bodies, and the public, a report and shall make recommendations with respect to the various retail rate designs which will encourage conservation and efficient use of electric energy and the installation of consumer-owned renewable resources on a cost-effective basis, as well as areas for research and development for possible application to retail utility rates within the region. Studies undertaken pursuant to this subsection shall not affect the responsibilities of any customer or the Administrator which may exist under the Public Utility Regulatory Policies Act of 1978.

16 USC 2601 note.

Functions.

(2) Upon request, and solely on behalf of customers so requesting, the Administrator is authorized to (A) provide assistance in analyzing and developing retail rate structures that will encourage cost-effective conservation and the installation of cost-effective consumer-owned renewable resources; (B) provide estimates of the probable power savings and the probable amount of billing credits under section 6(h) that might be realized by such customers as a result of adopting and implementing such retail rate structures; and (C) solicit additional information and analytical assistance from appropriate State regulatory bodies and the Administrator's other customers.

Conservation and renewable resources, position establishment.

(k) There is hereby established within the administration an executive position for conservation and renewable resources. Such executive shall be appointed by the Administrator and shall be assigned responsibility for conservation and direct-application renewable resource programs (including the administration of financial assistance for such programs). Such position is hereby established in the senior executive service in addition to the number of such positions heretofore established in accordance with other provisions of law applicable to such positions.

SAVINGS PROVISIONS

16 USC 839g.

SEC. 10. (a) Nothing in this Act shall be construed to affect or modify any right of any State or political subdivision thereof or electric utility to—

(1) determine retail electric rates, except as provided by section 5(c)(3);

(2) develop and implement plans and programs for the conservation, development, and use of resources; or

(3) make energy facility siting decisions, including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any customer under any contract existing as of the effective date of this Act.

(c) Nothing in this Act shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(d) If any provision of this Act is found to be unconstitutional, then any contract entered into by the Administrator, prior to such finding and in accordance with such provisions, to sell power, acquire or credit resources, or to reimburse investigation and preconstruction expenses pursuant to section 5, and section 6 (a), (f) or (h) of this Act shall not be affected by such finding.

(e) Nothing in this Act shall be construed to affect or modify any treaty or other right of an Indian tribe.

(f) The reservation under law of electric power primarily for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State is hereby affirmed. Such reservation shall also apply to 50 per centum of any electric power produced at Libby Reregulating Dam if built. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7.

(g) Nothing in this Act shall be construed to affect or modify the right of any State to prohibit utilities regulated by the appropriate State regulatory body from recovering, through their retail rates, costs during any period of resource construction.

Water appropriation.

(h) Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act of any plan or program adopted pursuant to the Act (1) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any groundwater resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, or (3) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

(i) Nothing in this Act shall be construed to affect the validity of any existing license, permit, or certificate issued by any Federal agency pursuant to any other Federal law.

EFFECTIVE DATE

SEC. 11. This Act shall be effective on the date of enactment, or October 1, 1980, whichever is later. For purposes of this Act, the term "date of the enactment of this Act" means such date of enactment or October 1, 1980, whichever is later.

16 USC 839 note.

SEVERABILITY

16 USC 839h

SEC. 12. If any provision of section 4(a) through (c) of this Act or any other provision of this Act or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of section 4 or any other provisions of this Act, nor the application of such provisions to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

Approved December 5, 1980.

LEGISLATIVE HISTORY

HOUSE REPORTS No 96-976, Pt I (Comm on Interstate and Foreign Commerce), and No 96-976, Pt II (Comm on Interior and Insular Affairs)
SENATE REPORT No 96-272 (Comm on Energy and Natural Resources)
CONGRESSIONAL RECORD
Vol 125 (1979) Aug 3, considered and passed Senate
Vol 126 (1980) Sept 24, 29, Nov 12-14, 17, considered and passed House, amended, in lieu of H R 8157
Nov 19, Senate concurred in House amendment

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SECTION BY SECTION ANALYSIS

SECTION-BY-SECTION ANALYSIS [1/]

OF

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Enacted December 5, 1980

Section 1. Short title--the "Pacific Northwest Electric Power Planning and Conservation Act"--and table of contents.

Section 2. Establishes six broad purposes which, together with applicable environmental law and other law applicable to the Federal Columbia River Power System (FCRPS), are intended to be construed in a consistent manner. The purposes are:

(1) to encourage, through the unique opportunity provided by the FCRPS, (a) conservation and efficiency in the use of electric power, and (b) renewable resources development in the Pacific Northwest (PNW);

(2) to assure an adequate, efficient, economical, and reliable regional power supply;

(3) to provide for widespread public, governmental, and FCRPS user participation and consultation in (a) developing effective plans and programs for energy conservation, renewables, other resources, and fish and wildlife protection, mitigation and enhancement, (b) facilitating orderly regional power planning, and (c) providing environmental quality;

(4) to provide that BPA customers and regional ratepayers continue to cover all costs to produce, transmit, and conserve needed resources, including the amortization of the Federal investment in the FCRPS;

(5) to insure, subject to the Act's provisions, that (a) the authorities and responsibilities of State and local governments, electric utilities, water management agencies, and other non-Federal entities for regulation, planning, conservation, supply, distribution, and use of electric power are construed to be maintained, and (b) the ability of customers to plan, develop, and operate resources and to achieve conservation in accordance with other applicable Federal and state law, continues unrestricted; and

(6) to protect, mitigate, and enhance the fish and wildlife, including related spawning grounds and habitat of the Columbia River and tributaries (CR&T), particularly the anadromous fish resource whose well-being depends on suitable environmental conditions which are

1/ This analysis paraphrases the Act and incorporates material from the accompanying reports. It is not a definitive statement of law.

substantially obtainable from the management and operation of the FCRPS and other facilities on the CR&T.

Section 3. Defines terminology used throughout the Act. These are, in part, as follows:

PRELIMINARY DRAFT

(1) "Acquire" or "acquisition" precludes BPA construction or ownership of electric generating facilities;

(2) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution;

(3) "Cost-Effective" is defined in reference to the conservation measures and resources in Sections 4 and 6. A resource or conservation measure is cost effective when it is forecast (1) to be reliable and available within the time it is needed, and (2) it would meet or reduce the electrical power demand, as determined by the Council or Administrator, of the consumers of the customers at an estimated incremental system cost no greater than that of the least cost similarly reliable and available alternative resource or measure.

To determine "system cost," all direct costs over the effective life of a resource or measure are to be estimated by a methodology to be developed by the Administrator, in the absence of a plan, or by the Regional Council as a part of the plan. If applicable, direct costs include distribution and transmission costs to consumers, and, among other factors, waste disposal costs, end-of-cycle costs, fuel costs (including projected fuel cost escalation), and such quantifiable environmental costs and benefits as the Administrator determines are directly attributable to the resource or measure.

Projected realization and plant factors as well as appropriate historical experience with similar measures or resources will also be considered in estimating the amount of power to be saved or generated. Conservation gets a bonus and will be considered cost effective if its costs do not exceed 110 percent of the costs of nonconservation alternatives. However, Section 4(k)(2) provides a mechanism whereby Section 3(4)(D) may be determined by the Administrator to be inapplicable under certain specified conditions following receipt of a Council analysis based on 5-years experience with implementation of conservation under the Act;

(4) "Consumer" is any end user of electric power;

(5) "Council" means the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established by Section 4;

(6) "Customer" is anyone who contracts to purchase power from Bonneville pursuant to the Act;

(7) "Direct service industrial customer" is an industrial customer who contracts to purchase power from Bonneville for direct consumption;

(8) "Electric power" is electric peaking capacity, or electric energy, or both;

(9) "Federal base system resources" include existing and prospective FCRPS hydroelectric projects and project additions, resources already acquired by BPA under existing long term contracts, and future resources that may be acquired (including the capability of "net billed" plants) in accordance with the Act to replace reductions in the capability of hydro facilities and resources acquired under existing contracts;

(10) "Indian tribe" means any Indian tribe or band which is located in whole or in part in the region and which has a governing body recognized by the Secretary of Interior;

(11) "Major resource" is any resource acquired by BPA for a period of more than 5 years with a planned capability exceeding 50 average megawatts. The capability is measured in terms of energy (output), not size (capacity). This definition relates to the Section 6 procedures for resource acquisitions which distinguish between major and non-major resources. Major resources do not include short-term power purchases under other existing law such as Section 11(b)(6) of the Federal Columbia River Transmission System Act which authorizes BPA to make short term acquisitions of any size to meet temporary deficiencies in electric power which BPA is contractually obligated to supply;

(12) "New large single load" is a new single load, an expansion of an existing single load, or an existing single load (e.g. a DSI load) which has not been contracted for, or committed to (as determined by the BPA Administrator) by a public body, cooperative, investor-owned utility, or Federal agency customer of BPA prior to September 1, 1979, and which increases power requirements by 10 average megawatts or more within a period of 12 consecutive months. The term new large single load is used in the rate provisions of Section 7(b)(4), the sales provisions of Section 5(c)(7), and applies to the power exchange contemplated under Section 5(c)(1);

Under Section 7(b), BPA is obligated to sell power at its lowest rate--the "regional rate"--to preference customers to meet their general requirements, i.e., their net requirements exclusive of power to serve new single large loads. Power which BPA is obligated to sell to meet these latter loads will be sold at the Section 7(f) rates--the "new resource" rate--likely to be the marginal cost of power. Under Section 5(c)(1), the region's investor owned utilities (IOU's) are permitted to sell power at their "average system cost" and receive, in return, power at the Section 7(b) rate to serve residential and small farm loads. Section 5(c)(7) specifies that the cost of resources needed to serve new large single loads will be excluded from the determination of the "average system cost" of the IOU's power to be sold to BPA as part of the exchange;

The overall effects are intended to (a) reduce the opportunity for one utility to obtain a disproportionate amount of low-cost power, (b) balance the preference utility and IOU components of the cost equation by excluding new large IOU loads from the determination of average system cost, and (c) create an incentive for DSI's to surrender their existing contracts and accept the new contracts to be offered in accordance with the Act's provisions, in order to avoid being treated as new large single loads when their existing contracts expire and they turn to preference utilities for power which would be priced at a rate considerably higher than the rate for DSI's which sign the new contracts provided for under the Act's provisions;

(13) "Plan" is defined to emphasize that it applies to BPA actions specified in the Act; i.e., the plan and any amendments thereto, in addition to the Act, applies to the actions of the Administrator as specified in the Act. However, the plan does not control the traditional planning, conservation, and operating decisions of utilities and governmental bodies which are reserved to these entities by Section 2(5)(A)(B);

(14) "Renewable resource" is defined because of resource priorities established in Section 4(e)(1) of the Act. Such resources use only regenerative or essentially inexhaustible energy sources for electric power generation or reduction of a customer's electric power requirements, including direct applications by consumers. Solar, wind, hydro, geothermal, biomass, or similar energy sources are identified as renewable;

(15) "Reserves" are the electric power necessary to avert planning or operating shortages involving regional firm power loads. Reserves include (a) rights to interrupt power supplied to customers (e.g., DSI's), and (b) standby generation or other resources, e.g., contracts with another region, that might be used to supply reserves;

(16) "Residential uses" or "residential loads" include all customary residential or apartment, seasonal dwelling, and farm electric loads or uses, but the latter is limited to the first 400 horsepower (cumulative) of farm irrigation and pumping loads during any monthly billing period. This 400-horsepower limit should include virtually all regional family farms and some corporate farms for the purposes of the Section 5(c)(1) power exchange. Large corporate farms that do not qualify will be treated the same as IOU, commercial, and industrial customers; and

(17) "Resource" includes actual or planned electric power capability as well as actual or planned reductions in electric power consumption resulting from direct application of a renewable resource by a consumer, or from a conservation measure. Consequently, for the purpose of making resource acquisitions or extending billing credits under Section 6, conservation can be treated as a resource.

Note: The definition of the terminology, "to protect, mitigate, and enhance" no longer appears in Section 3.

Section 4. Contains the regional planning and public participation provisions of the Act, and matters pertaining to the terms, structure, composition, and duties of the Council.

In Section 4(a), the Congress gives its consent for an agreement between the four states of the region and BPA. Pursuant to this agreement a regional agency, the Pacific Northwest Electric Power and Conservation Council, is to be established. The Council is not to be considered an agency or instrumentality of the United States. Two voting members from each state may be appointed to the Council in accordance with applicable State law. The appointment of six members by at least three states by June 30, 1981, will constitute the agreement among the states to which the Congress is consenting in advance. However, if two Governors request an extension, the Secretary of Energy is required to extend the June 30, 1981, date an additional six months.

Except as otherwise provided by State law, members will serve 3-year terms. However, for the initial appointments, each Governor shall designate one member to serve 2 years, and the other to serve 3 years. The members will select a chairman from among themselves, and appoint, establish salaries for, and assign duties to whatever personnel the members consider necessary. Members' salaries will be set in accordance with State law, except that their compensation cannot exceed the rate established at step one of GS 18 level. For the purpose of providing a uniform system of law, Federal laws applicable to Bonneville in matters such as contracts, conflicts of interest and financial disclosure, open meetings, freedom of information, and judicial review, shall also apply to the Council, to the extent appropriate.

Section 4(b) provides for a "back-up" or "safety net," Federally appointed Council which is primarily a safeguard against the failure of the states to appoint members to a regional council in a timely fashion and against any eventuality in which the establishment, substantial function, or substantial responsibility of the Regional Council is held to be unlawful by final determination of any Federal court, or in which the plan or any program adopted by the Council is inhibited from functioning effectively by virtue of some action at the State level. In such circumstances, the Secretary of Energy shall establish the Council as a Federal Agency, publish a Federal Register notice to that effect, and notify the Governors who would be afforded an opportunity to submit a list of nominations from which the Secretary would appoint the members for each state. Failure to make such nominations in a timely fashion would not preclude the Secretary from appointing the members for any state. Section 4(b)(5)(A) allows the Secretary, upon the request of three states, to terminate the Council after a plan (4(d)) and a fish and wildlife program (4(h)) are adopted in final form.

Upon termination, the Council's fish and wildlife program responsibilities under section 4(h) would be transferred to, funded, and implemented by the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service. In this event, provision is made for the Administrator to take all actions that would otherwise require Council action, except that any proposal to acquire a

major resource or to grant billing credits involving a major resource must be specifically authorized by Act of Congress.

Irrespective of whether the Council is established under 4(a) or 4(b), its principal responsibilities are to prepare, adopt, and participate in the implementation of the Regional Electric Power and Conservation Plan, and amendments, mandated under 4(d) [2/], and promptly develop and adopt a program to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, on the CR&T.

The administrative authorities and obligations of the Council and procedures for establishing the Council's budget and funding are elaborated in detail. The Council may appoint an executive director and other staff, requestpersonnel from other Federal agencies on a reimbursable basis (if the Council is formed pursuant to Section 4(b)), and is directed to the greatest extent practicable to obtain expert and technical studies from BPA customers and other regional organizations, enter into contracts in accordance with provisions of Federal law applicable to BPA, obtain offices and support from GSA, determine its organization, practices and procedures, including its annual work program, make such information available on request to the Congress and the public, and request and receive necessary non-proprietary information from the BPA Administrator and other Federal agencies.

Following enactment, the Administrator is to prepare and submit an amended annual budget to expedite payment for Council activities. Thereafter, the BPA Administrator shall include in the BPA budget the funds necessary for the Council to discharge its responsibilities. The total amount shall not exceed .02 mills times the kilowatthours forecast to be sold by BPA during the year to be funded. However, if the Council makes an annual showing that the .02 mill limitation will not permit the Council to carry out its functions and responsibilities under the Act, the BPA Administrator may increase the limit up to any amount not in excess of 0.10 mills. A raise in 1 year will not automatically be applied in succeeding years.

The Act requires that the Council establish a voluntary scientific and statistical advisory committee. The Act permits the Council to establish other voluntary advisory committees. The Act mandates that the Council ensure that the membership of such committees be representative of, and consult with the Federal, and various regional, state, local and Indian Tribal governments, consumer groups and customers. The Federal Advisory Committee Act would apply, by virtue of Section 4(a)(4).

The Council is directed to prepare and adopt a regional conservation and electric power plan within 2 years of its establishment. Amendments are permitted and the plan must be reviewed no less often than every 5 years.

2/ The plan must be approved by a majority of the Council appointees which includes at least one voting member from each State with members on the Council, or by at least six members of the Council.

Hearings in accordance with 5 U.S.C. 553 must be held, prior to adoption of the plan or substantial, nontechnical amendments, in Washington, Oregon, Idaho, and Montana and in any other State in the region which the plan or amendments might impact through major resource development and acquisition. Except as otherwise specifically provided in the Act, all actions of the BPA Administrator pursuant to Section 6 shall be consistent with the plan and any amendments, once adopted.

In order to ensure that, in meeting his obligations, the BPA Administrator will pursue cost-effective conservation and renewables before other cost-effective conventional resources, the plan must observe the resource priorities specified in Section 4(e)(1) of the Act: (1) conservation, (2) renewable resources, (3) generating resources using waste heat or having high fuel conversion efficiency, and (4) other resources. In each case, priority is to be given to resources determined by the Council to be cost effective.

Section 4(e)(2) requires that the plan must set forth a general scheme for implementing conservation measures and developing resources pursuant to Section 6. In developing the general scheme, the Council must give due consideration to (a) environmental quality, (b) compatibility with the existing regional power systems, (c) protection, mitigation and enhancement of fish and wildlife and related spawning grounds and habitats, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, and (d) other criteria the Council may include in the plan.

To accomplish the priorities established in Section 4(e), Section 4(e)(3) requires that the plan must include, but is not limited to:

(a) an energy conservation program, including model conservation standards;

(b) recommendations for research and development;

(c) a methodology for determining quantifiable environmental costs and benefits directly attributable to conservation measures or resources (see Subsection 3(4));

(d) a regional demand forecast of at least 20 years, and a forecast of power resources the Council estimates (in consultation with BPA, State, customer, and public) are required to meet the BPA Administrator's obligations and the portions of such obligations the Council determines can be met by the resources in each of the priority categories under Section 4(e)(1) [3/];

3/ The forecast is to (a) include regional reliability and reserve require- ments, (b) take into account the effect of the requirements of subsection 4(h) on the availability of resources to the Administrator, and (c) the approximate amounts of power the Council recommends should be acquired by the Administrator on a long-term basis. It may also include an estimate of the types of resources from which such resources should be acquired.

(e) an analysis of reserve and reliability requirements and cost-effective methods of providing reserves to ensure adequate electric power at the lowest probable cost;

(f) the fish and wildlife program adopted pursuant to Section 4(h); and,

(g) if the Council recommends surcharges, based on model conservation standards, a method for calculating them.

The Council is also directed to (a) study conservation measures reasonably available to direct-service industrial customers and other major regional consumers of electric power, and (b) analyze the estimated reduction in energy use which would result from expedited implementation of such measures. The Council is directed to consult with customers and consumers in the conduct of such studies.

Section 4(f) provides considerable guidance on model conservation standards adopted by the Council and included in the plan. Such standards shall include, but not be limited to, new and existing structures, utility, customer, and governmental conservation programs, and other consumer actions to achieve conservation. The standards are to take account of regional geographic and climatic variations and other appropriate considerations, and should be designed to achieve all power savings cost effective for the region and economically feasible for consumers, taking into account financial assistance made available to consumers under Section 6(a). If the Council so recommends, the BPA Administrator may impose surcharges in accordance with the

methodology specified in the plan for failure to implement the standards or similarly effective measures. Such surcharges would recover costs incurred as a result of the failure to realize projected energy savings, but are limited to no less than 10 and no more than 50 percent of the applicable BPA rates for the load(s) or portion(s) thereof involved.

Section 4(g) provides for broad public participation in the development of regional power policies by the Council and the Administrator. Section 4(g)(3) directs the Council and the Administrator to take a variety of measures to encourage State, local government, and Indian tribe cooperation, participation, and assistance in formulating, adopting, and implementing the plan. The Council and BPA Administrator are authorized to contract with such entities to enhance the plan, and the BPA Administrator, upon request and subject to the availability of funds, may provide funding for technical assistance in establishing conservation, renewable resource, and fish and wildlife objectives by such entities. Such objectives, if adopted by such entities, may be submitted to the Council and the Administrator for review, and upon approval by the Council may be incorporated as part of the plan.

Section 4(h)establishes effective procedures and authorities to ensure that Columbia River Basin fish and wildlife resources on the CR&T receive equitable treatment in relation to the power purpose and other

authorized water resource development project purposes. Section 4(h) reflects the amendment prepared by the regional Ad Hoc Fisheries Committee whose intent was to achieve balance among competing uses of the river resource, and to establish an administrative framework for resolving resource conflicts.

The Council is directed to solicit from Federal, and the region's State fish and wildlife agencies and Indian tribes, timely recommendations with supporting information and data on measures to protect, mitigate, and enhance fish and wildlife affected by operation of CR&T hydro facilities, and fish and wildlife R&D which will provide improved passage and enhance survival of anadromous fish at and between the region's hydroelectric dams. On the basis of the recommendations, on which public notice and comment is ensured, the Council shall develop and adopt within one year following the time provided for receipt of recommendations a fish and wildlife protection, mitigation, and enhancement program containing measures which (a) will complement the activities of the Federal and the regions State fish and wildlife agencies and Indian tribes, (b) reflect the best available scientific knowledge, (c) utilize the most economic alternatives where a choice exists between equally effective options to achieve the same sound biological objective, (d) be consistent with the legal rights of region's Indian tribes, (e) provide for improved survival of anadromous fish, and (f) provide flows of sufficient quantity and quality. The financial responsibility of regional power consumers for the Section 4(h) program is limited to the costs of measures designed to deal with the adverse impacts caused by the development and operation of electric power facilities and programs.

The Council is further directed to report annually to the appropriate Congressional committees on past and proposed actions taken pursuant to subsection 4(h) on behalf of fish and wildlife. Interested parties may comment on these reports (the comments are to be incorporated as an appendix). The BPA Administrator is also to keep the committees informed of his actions taken and to be taken under the Act, including actions taken pursuant to Section 4(h).

BPA is to use the BPA fund, its statutory authorities, and other laws administered by the Administrator, to protect, mitigate, and enhance affected fish and wildlife in a manner consistent with the plan, and the Act's overall purposes. Expenditures for this purpose will be included in the Administrator's budgets submitted to Congress. Expenditures budgeted for construction of capital facilities with an estimated life exceeding 15 years and estimated costs of at least $1 million will be funded in the same manner as major transmission facilities, i.e., by a specific Act of Congress.

BPA and other Federal agencies responsible for managing, operating, or regulating Federal and non-Federal hydro facilities on the CR&T are directed to consult with Federal and State agencies with fish and wildlife missions and Indian tribes, as well as to undertake coordinated measures to adequately protect affected fish and wildlife. These responsibilities are to the fullest extent practicable, to be exercised in a manner consistent with the program adopted by the Council.

Section 4(i) provides that the Council may periodically review the Administrator's actions pursuant to Sections 4 and 6 to determine whether the actions are consistent with the plan and programs, and the extent to which the plan and programs are being implemented.

Under Section 4(j), the Council may request the Administrator to take action under Section 6 to carry out the Administrator's responsibilities under the plan. The Administrator is directed to respond within 90 days, if possible, and inform the Council of the means to be used to carry out the request, or the reasons why the requested action is inconsistent with the plan or the Administrator's obligations under the Act or other law. If the Administrator notifies the Council that BPA will not undertake the requested action, the Council is provided 60 days to request the Administrator to hold an informal hearing and then render a final decision.

Finally, Section 4(k) directs the Council to complete by October 1, 1987, or 6 years following the Council's establishment, an analysis of conservation measures and resources implemented under this Act during the 5-year period beginning on the date of the Council's establishment. The analysis is to be designed to determine if the measures and resources (1) have been or are likely to be more costly than additional generating resources or additional fuel which would have been necessary in the absence of such measures or resources, (2) have not been or are likely not to be generally equitable to all regional consumers, or (3) have impaired or are likely to impair the Administrator's ability to carry out his obligations under the Act and other law, consistent with sound business principles. The Administrator may determine that Section 3(4)(D) shall not apply to any proposed conservation measure or resource if, after receipt of the Council's analysis, the Administrator finds that the measure or resource would have the results or effects described above.

Section 5. Contains the power sales provisions of the Act. Section 5(a) states that all power sales under this Act are subject at all times to the preference provisions of the Bonneville Project Act (Project Act). This provision functions in tandem with other provisions of the Act such as Section 5(b)(6) which provides that sales to preference customers cannot be restricted below the full amount of Federal base system power; Section 5(b)(2) which states that the 5-year pullback provisions of the Project Act will apply to all IOU contracts; Section 7(c)(1)(A) which links the rate for preference customers to Federal base system resource costs; and Section 7(b) which contains a rate ceiling for preference customers and thereby assures that their preference with respect to pricing--a concomitant benefit that results from preference as to supply--is guaranteed. In addition, it is important to note that under this Act, BPA would sell no power to the IOU's not first sold by them to BPA. Therefore, such sales to IOU's cannot affect the availability of power for preference customers.

Section 5(b)(1) mandates net requirements contracts for utilities; i.e., the BPA Administrator must offer to sell each requesting preference entity and IOU the firm power each needs beyond its own firm

power resources (defined by Section 5(b)(1)(A) as the firm peaking and energy resources used in the year prior to enactment, plus resources the utility determines, pursuant to contracts under this Act, to dedicate to its regional firm power loads) to serve the firm power loads of its service areas.

In practice, this subsection means that (1) preference utilities, whose current loads are now met entirely by BPA, will receive from BPA all the firm power required to serve their consumers, and (2) IOU's, which already own most resources necessary to meet their existing loads, will receive from BPA firm power needed to supply load growth.

Section 5(b)(2) restates by way of emphasis Section 5(a) of the Bonneville Project Act of 1937. In practice, this subsection ensures that the 5-year pullback provision of IOU contracts will remain a provision of IOU contracts entered into pursuant to this Act.

Section 5(b)(3) authorizes the BPA Administrator to sell electric power to Federal agencies in the region (as BPA does in some cases presently), although they will continue to be nonpreference customers.

Section 5(b)(4) requires that Section 5(b) sales will be made only if customers comply with BPA's service standards. (These are subject to periodic review and revision.)

Section 5(b)(5) requires BPA to continue to include in contracts with utility and Federal agency customers provisions permitting BPA to restrict its obligations to meet the full requirements of such customers during any period of insufficiency. [4/] Contracts with preference customers and Federal agencies must specify a reasonable period between the date of issuance of a Notice of Insufficiency and its effective date. Given the authority to acquire power under this Act, any insufficiency would be limited to the period of time necessary to acquire additional power. Section 5(b)(5) further provides that no such notice of insufficiency may be issued until BPA has had a reasonable period of experience with resource acquisitions pursuant to the Act.

By specifying the minimum amount of power (the entire amount of the Federal base system resources) to which preference customers and Federal agencies are contractually entitled, Section 5(b)(6) ensures compliance with the preference clause and permits customers to plan more effectively to meet their future power needs since they can ascertain the minimum amount of power they will receive as a class in event of insufficiency. Furthermore, Section 5(b)(6)(c) requires that contracts

4/ Insufficiency is a foreseeable inability, on a planning basis, to meet all contractual obligations at some future time; a Notice of Insufficiency is a mechanism to limit the increase of such obligations. A planning insufficiency is distinguished from actual operating shortages which are dealt with by BPA's contractual rights to restrict DSI loads and by curtailment schemes implemented by State and local governments.

shall contain a formula for determining annually, on a uniform basis, each preference or Federal agency customer's contractual entitlement to firm power during a period of restriction.

Section 5(c) provides for power exchanges and power sales between BPA and the IOU's at average system cost. This is intended to provide rate relief to residential and small farm consumers of IOU's. In practice, this will benefit the affected small consumers because the IOU's average system cost will be higher than the Bonneville rate, and the difference between the two costs will be reflected in rates charged the consumers. There are a number of limitations, protections, and requirements:

(1) The amount of power permitted to be exchanged is "ramped in," beginning at 60 percent of the residential load in 1981 and increasing to 100 percent of the residential load in 1985; this ramping is to minimize dramatic rate increases to the DSI's since the costs of the exchange during the first 5 years is charged to the rates applicable to DSI's under Section 7(c)(1)(A);

(2) The cost benefits of the exchange are required to be passed through directly to the residential and small farm consumers involved (although Montana may require the benefits to be distributed among all of the utility's residential and small farm consumers in the State);

(3) A utility may terminate the exchange if the rate ceiling of Section 7(b) is applied and the resulting surcharge makes the exchange uneconomic to the utility;

(4) BPA must sell the needed power to the utility, but BPA may obtain power from another source than the utility if such power is available at lower cost to BPA; and

(5) Since BPA buys exchange power from the utility at "average system cost," a method for developing a formula to calculate "average-system cost" is included. In brief, BPA will determine "average-system cost" on the basis of a methodology BPA develops in consultation with the Council, State regulatory bodies, and BPA customers. The method is subject to FERC review and approval with the aid of the joint State board pursuant to Section 9(g). Three items are excluded from the determination of "average-system cost": (a) the cost of additional resources needed to serve new large single loads; (b) the cost of additional resources needed to serve load growth outside the region (some IOU's serve outside the region as well as in) occurring after the effective date of the Act; and (c) the costs of any generating facility which is terminated prior to initial commercial operation.

Section 5(d) authorizes BPA sales to DSI's with industrial firm power contracts in effect on the date of enactment. Sales to new DSI's are expressly prohibited (5(d)(2)). Sales to existing DSI's are required to continue to provide regional reserves for firm power loads. The amount of power that may be sold to the DSI's under new contracts is limited to the amount of "industrial firm power" to which the DSI's are currently entitled, unless Section 5(d)(3) procedures are followed.

These procedures require a BPA determination that such sales are consistent with the plan and other criteria, unless the Council has determined the sale to be consistent with the plan. Section 5(d)(4)(c) stipulates, that if a new contract is offered to an existing DSI which has not received electric power prior to the effective date of this Act, deliveries are contingent upon the Administrator reasonably acquiring, in accordance with the Act and within a contractually specified time the Administrator deems reasonable, sufficient resources to meet, on a planning basis, the customer's load requirements. The customer is also prohibited from selling or exchanging resources acquired to meet its requirements.

Section 5(e) ensures that customers will not be restricted below the amount of power that they have provided to BPA pursuant to the resource acquisition contracts under Section 6, that customer entitlements are additive in the event of insufficiency, 5/ and that any customer's excess entitlement during a given year of insufficiency shall be made available to other customers of the same class ("public bodies and cooperatives," "Federal agencies," "DSI's" and "IOU's"). Furthermore, restrictions on the entitlements of any class of customers are to be equitably distributed throughout the region to avoid geographic discrimination. In essence, the effect of these provisions is to make each customer responsible for ensuring that BPA has been provided sufficient power to meet that customer's requirements.

Section 5(f) deals with the possibility of incidental or temporary surpluses by providing that any power not needed to meet BPA's obligations under subsections 5(b),(c), or (d) can be sold in accordance with existing law.

Section 5(g) provides that (1) the BPA Administrator shall simultaneously offer initial 20-year power sales contracts to existing customers and utilities within 9 months of enactment; (2) customers have 1 year thereafter to complete negotiations and accept the offer; (3) contracts with preference customers, Federal agencies, and IOU's become effective upon the date of execution unless otherwise agreed; (4) contracts for Section 5(c) power exchanges become effective no earlier than the tenth month after the effective date of the Act; (5) contracts with DSI's become effective no later than the tenth month after the effective date of the Act and may be made retroactive to the effective date of the Act for ratemaking purposes; (6) there will be a "floor" under the power entitlements (i.e., a minimum amount for planning purposes) of individual preference and Federal agency customers in the

5/ An IOU is entitled to the amount of power exchanged under Section 5(c)(1) plus the amount sold to BPA under Section 6; a DSI is entitled to the amount of power not subject to restriction under the terms of its power sales contract authorized under Section 5(d)(1), plus the amount sold to BPA under Section 6. Nonetheless, total entitlements are limited to total load requirements, with any excess individual entitlement offered first to other customers of the same class who may be short.

event of insufficiency during the initial contract period; and (7) the initial Section 5(g) contract offers shall be deemed to be supported by sufficient resources (this is to avoid arguments regarding the validity of the contracts since BPA presently faces a period of declared insufficiency).

Section 6. Contains the conservation and resource acquisition provisions of the Act. Section 6(a)(1) authorizes and directs the BPA Administrator to acquire resources through conservation, implement all conservation measures (some are specified), and acquire renewable resources, installed by residential and small commercial consumers to reduce load, which the Administrator determines are consistent with the plan if in effect, or with the Section 4(e)(1) criteria and Section 4(e)(2) considerations. The Administrator is further authorized and directed to acquire major resources in accordance with Section 6(c). Section 6(a)(2) contains authority for BPA to acquire sufficient resources to meet contract obligations, after taking into account the planned savings from measures contemplated in Section 6(a)(1), and to assist in fulfilling the requirements of Section 4(h).

In acquiring resources under Section 6, the BPA Administrator may not own or construct any generating facilities. Acquisition will be accomplished by contract to pay for (1) the capability or a specific amount of power from a utility's system, or (2) power associated with a generating resource, or a group of resources, or (3) a load reduction associated with a conservation measure.

Section 6(b) defines the procedures to be satisfied prior to making any acquisition. Except as specifically provided elsewhere in this section, acquisitions pursuant to Section 6 are to be consistent with the Section 4 plan, as determined by the Administrator. Section 6(b)(2) authorizes the Administrator to acquire minor resources which are inconsistent with the plan, if the acquisition is consistent with Section 4(e)(1) and (2). Section 6(b)(3) provides that, if no plan is in effect, the acquisition may be made if it is consistent with Section 4(e)(1) and (2). Section 6(b)(4) mandates that the Administrator shall acquire non-Federal resources to replace Federal Base System resources only in accordance with Section 6, and the Administrator is directed to include in the contracts for such replacement resource provisions which ensure that the resources are developed and operated in a manner consistent with Section 4(e)(2). Section 6(b)(5) affirms that, notwithstanding any resource acquisitions pursuant to Section 6, the Administrator must not reduce his efforts to achieve conservation and to acquire renewable resources installed by consumers to reduce load pursuant to Section 6(a)(1).

Section 6(c) establishes procedures applicable to (1) a proposed major resource acquisition, including implementation of any measure which would conserve an amount of power equivalent to that of a major resource; (2) payments or reimbursements for investigations and preconstruction expenses for a major resource; and/or (3) billing credits or services for a major resource.

For each proposal under Subsections 6(a),(b), (f), (h), or (l), the BPA Administrator must (1) publish notice in the Federal Register, with copies to the Council, BPA customers, and, as appropriate, Governor of the State affected, (b) conduct public hearings not less than 60 days following publication, (c) develop an administrative record, and (d) promptly prepare and deliver to the Council and the public a written decision that includes, in addition to a determination respecting the requirements of Subsection 6(a), (b), (f), (h), (l), or (m), as appropriate, a finding that the proposed acquisition is consistent or inconsistent with the plan, or notwithstanding its inconsistency, that the acquisition is needed to meet BPA's obligations under the Act. If no plan is in effect, a finding must be made that the proposed acquisition is either consistent or inconsistent with Section 4(e)(1) and (2), or notwithstanding its inconsistency, that it is needed to meet BPA's obligations. In the case of Subsection 6(f), the written decision will satisfy the 6(c) requirements, if the decision includes a finding of probable consistency, based on BPA's evaluation of information available at the time the hearing is completed.

If either the BPA Administrator or the Council, by majority vote of all members, determines an acquisition would not be consistent, BPA may not proceed until the Administrator determines that, notwithstanding such inconsistency, the resource is needed and until 90 days after the funding for the proposal has been specifically authorized by an Act of Congress. Applicable environmental and other provisions of law would continue to apply.

Section 6(c)(5) states that the authority of the Council to make consistency determinations (see Section 6(c)(2)(B)) expires 2 years following its establishment, if no plan is in effect.

If the Administrator proceeds with any major resource proposal, he must comply with Section 6(c)(4) which prescribes additional procedural requirements: (a) submission of an administrative record of decision to the appropriate Congressional committees; (b) publication of a Federal Register notice of decision; (c) inclusion of the proposal in BPA's budget submittal pursuant to the Transmission Act, and (d) a 90-day waiting period after the budget submittal or the date of publication of the notice (whichever is later) before proceeding with the acquisition.

Section 6(d) authorizes the BPA Administrator to acquire non-major resources of an experimental, developmental, demonstration, or pilot project nature which he determines possesses potential for providing cost-effective service, whether or not Section 4(e)(1) and (2) criteria are met. However, before proceeding, the acquisition must be included in the budget submittal.

Section 6(e) requires that BPA make maximum practicable use of its conservation authorities to give effect to the resource priorities expressed in the Act, and directs BPA to make maximum practicable use of its customers and other local entities in any conservation or resource acquisitions involving direct arrangements with consumers.

Section 6(f) authorizes and establishes relatively complex and detailed procedures for BPA to support sponsors of a resource BPA determines may be eligible for acquisition. In effect, subject to a number of limitations, conditions, and requirements, BPA may fund or reimburse certain investigation and preconstruction expenses the sponsor incurs.

The purpose of this subsection is to indemnify sponsors of resources that should be investigated for possible regional acquisition and benefit. Otherwise, utilities, particularly public bodies, would encounter difficulties as resource sponsors due to the risks involved. In addition, Section 6(f) should reduce the costs of eventual resource acquisitions, stimulate renewable resource investigations, and protect BPA's customers from unwarranted payments to resource sponsors.

Section 6(g) authorizes preparation of joint State-Federal environmental impact statements for resource acquisitions under this Act.

Section 6(h) directs the BPA Administrator to grant billing credits to customers, and provide services at rates established for such services to customers for independent [6/] conservation activities undertaken before or continued after the date of enactment, or by developing renewable or multipurpose resources [7/] after the effective date of the Act. In both cases, the test is whether the conservation measure or resource reduces BPA's obligations to acquire resources that otherwise would have existed.

The amount of the credits are determined by formulas set forth in Section 6(h), and they depend on the type of resource for which the credit is granted. In no case, can the amount be set at a level which results in costs for other customers exceeding the costs those customers would otherwise have incurred had the BPA Administrator acquired the needed resources directly.

Retail rate structures voluntarily adopted by a utility (not limited to rate forms to be studied by the Council under Section 9(i)(1)) which encourage conservation or direct-application renewables shall be considered either as an independent conservation measure or a customer-owned renewable resource, and shall qualify for billing credits.

Before granting any credit, the Administrator must (a) publish notice in the Federal Register, (b) develop and explain in the notice the methodology he proposes to use in determining the amount of the credit, (c) include the costs of the credit in BPA's annual or supplementary budget submittal, (d) require (with some exceptions) that resources in excess of a customer's reasonable load growth shall have been offered to others for ownership, participation, or other sponsorship, pursuant to Section 6(m) and (e) require that the operators of any generating

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6/ "independent" means without BPA assistance; other than plan acquisitions.

7/ "independent resources" means either a renewable resource, a multipurpose project, or a resource that is not inconsistent with the plan.

resource for which a credit is granted operate the resource in a manner compatible with the planning and operation of the regional power system. All major resource credits must follow Section 6(c) procedures.

Section 6(i) requires effective BPA oversight for (1) all resources it acquires, and (2) major resources, including conservation activities, for which billing credits are granted. Resource acquisition and billing credit contracts must contain terms and conditions to assure (1) timely construction, scheduling, completion, and operation of new resources; (2) the lowest costs reasonably possible consistent with sound engineering, operating, and safety practices and, where applicable, with the measures required under Section 4(h) to protect, mitigate, and enhance fish and wildlife including related spawning grounds and habitat affected by the development of such resources; (3) effective oversight, inspection, audit, and review of all aspects of construction and operation; (4) BPA approval for major modifications in construction, scheduling, or operations; and (5) provision of current information to BPA to make its evaluations.

Section 6(j) makes it explicit that the Act does not authorize any form of "Federal guarantee" for bonds sold to finance resource acquisitions. All obligations required of the BPA Administrator under the Act are secured solely by BPA revenues.

Section 6(k) prohibits geographical discrimination in the distribution of Section 6 benefits.

Section 6(l) authorizes and directs BPA to investigate thoroughly (1) opportunities for adding to the region's resources or reducing the region's power costs through accelerated or cooperative development of renewable resources located outside the region, and (2) opportunities for mutually beneficial interregional power exchanges which reduce the need for additional generation or generating capacity in the Pacific Northwest and regions with which such exchanges may occur, and to report to the Congress annually thereon. The Administrator is to keep the Council informed of such investigations and seek the Council's advice as to the desirability of pursuing such investigations. The Council must consider such investigations and opportunities in formulating the plan. Subsection 6(l)(3) authorizes BPA to acquire resources consistent with such investigations and the plan, or, if there is no plan, consistent with Section 4(e)(1) and (2), after the Administrator submits a report to the Congress required under Subsection 6(l)(5). Major resources are to be acquired in accordance with the Section 6(c) procedures.

Section 6(m) requires BPA to determine, prior to making a major resource acquisition, that a reasonable share of the resource to be acquired, or a reasonable equivalent, has been offered to each regional utility for ownership, participation, or other sponsorship. A "reasonable" share cannot exceed the amount a utility needs to meet its regional loads. This subsection works together with Section 5(e), but does not apply to resources already under construction on the effective date of the Act, since ownership shares in such resources have already been determined.

Section 7. Contains the rate directives of the Act. Section 7(a) requires that the BPA Administrator periodically review and set BPA rates in accordance with sound business principles to recover total system costs, including amortization of the Federal investment in the FCRPS. The Federal Energy Regulatory Commission (FERC) shall approve and confirm BPA's periodic rate filings, including BPA rates paid for purchased power. Interim rate approval authority is given to the Secretary of Energy until July 1, 1982.

Section 7(b) establishes the rate for power sold to meet the general requirements of preference customers and Federal agencies, and for sales under the Section 5(c)(1) exchange. This rate will be BPA's lowest firm power rate and is based on the least expensive BPA resources, to the extent these suffice, with more expensive resources added to the regional "pool" as needed. Section 7(b)(2) establishes a rate ceiling for preference customers and Federal agencies which assures that their rates will not exceed what they would have been had BPA not engaged in power sales or purchase transactions with IOU's. Costs that may not be recovered from preference customers are to be recovered from other customers through other rate schedules (see Section 7(b)(3)).

Section 7(c) establishes the rates applicable to the DSI's. Prior to July 1, 1985, the DSI rates will recover the cost of resources required to serve such loads, plus the otherwise unrecovered net costs of the Section 5(c)(1) exchanges to benefit regional residential consumers. After July 1, 1985, the DSI rates must be equitable in relation to the retail industrial rates charged by public bodies and cooperatives to their industrial customers in the region. The method to determine the "equitable" rate will rely on adding a typical retail markup (or margin) to the weighted wholesale cost of power BPA sells to its preference customers for service to their industrial loads. All DSI rates will be adjusted to take into account various factors including the value of power system reserves made available to BPA through its contractual rights to restrict service to such customers. In no case may the DSI rates be less than the rates in effect July 1, 1985.

Section 7(d)(1) requires BPA to apply, to the extent appropriate, discounts to the rates of customers (e.g. small rural co-ops) with low system densities and high distribution costs due to difficult terrain, remote service areas, or other factors. Further, Section 7(d)(2) provides that, in order to avoid adverse impacts on DSI's using raw materials indigenous to the region as their primary resource, the Administrator is authorized to establish a special rate applicable to such customers if all power sold to them may be interrupted, curtailed, or withdrawn to serve regional firm loads.

Section 7(e) clarifies that BPA may establish a uniform rate for the sale of peaking capacity, and that the Act's rate directives govern the amount of revenue BPA must collect from each customer class, not the rate form (e.g., time-differentiated rates remain valid).

Section 7(f) establishes the rate or rates for all other firm power sales in the region, such as to (1) IOU's, apart from sales pursuant to the Section 5(c)(1) exchange, (2) preference customers to meet the

requirements of new large single loads, and (3) all other miscellaneous power sales. The Section 7(f) rate (or rates) has been called the "new resource" rate(s).

In effect, for ratemaking purposes, the costs of all new resources will be added to a rate "pool" for customers eligible to purchase power under this rate, and, if necessary, the least expensive resources can be transferred from the Section 7(f) "pool" into the Section 7(b) "pool" to benefit preference customers and the residential consumers affected by the Section 5(c)(1) exchange.

Section 7(g) provides for the equitable allocation of costs and benefits not otherwise allocated by other provision of law to the various rates consistent with the provisions and directives of this Act and, as appropriate, generally accepted ratemaking principles.

Section 7(h) authorizes and directs BPA to adjust rates if necessary in order to collect additional charges for failure to comply with the Section 4(f) model conservation standards, and to allocate any revenues from such charges in a manner designed to achieve the purpose of Section 4(f).

Section 7(i) sets forth in detail the procedures applicable to BPA ratemaking, provides for confirmation and approval of BPA rates by FERC, and clarifies the authority to approve such rates on an interim basis pending a final decision. Subparagraph (2)(B) provides that, in the hearing officer's discretion, a reasonable opportunity may be given for cross-examination during ratemaking hearings to develop relevant information and material.

Section 7(j) requires BPA to provide information in rate schedules and customer billings on the approximate cost of different power resources. BPA is directed to specifically identify the cost contributions of different resource categories to the rates, and the difference between the cost of new resources required to meet load growth, and the average cost of resources available to BPA.

Section 7(k) reaffirms that all rates for nonfirm power sales within the U.S., but outside the region, are to be established in accordance with the provisions of Section 7(i), the Project Act, the Transmission Act, and the Flood Control Act of 1944, and subject to review, confirmation, and approval by the FERC. The FERC review is to be based on the record of Section 7(i) proceedings and any party may be afforded the right to an additional hearing before the FERC.

Section 7(l) permits BPA to negotiate or establish rates for power sales outside the U.S. at levels which shall be equitable with the rates non-U.S. entities charge regional entities. The BPA rates cannot be less than those charged other U.S. regions for such power. BPA must give notice of proposed negotiations and notice of the rate agreed to as a result of negotiations. However, BPA is not required to disclose its negotiation strategy or its rate proposal in the first Notice. Section 7(i) procedures apply to non-negotiated rates.

A new Section 7(m) authorizes the Administrator to make annual impact aid payments solely from the fund established pursuant to Section 11 of the Transmission Act to appropriate local governments within the region which are substantially impacted by major transmission facilities completed after the effective date of the Act. No payments can be made prior to the first fiscal year following adoption of the plan and program required under Sections 4(d) and (h). All payments shall be determined on the basis of a regionwide, uniform formula to be established by rule in accordance with Section 7(i), and the rule will be effective only when approved by FERC.

Section 8. Contains amendments to existing law. Section 8(a) amends the Transmission Act to provide for short-term acquisitions to meet the Administrators obligations under Section 4(h)(2). Sections 8(b) and 8(c) are technical amendments to the Transmission Act necessitated by this Act. Section 8(e) is a minor amendment to the Pacific Northwest Regional Preference Act so that the definition of "Pacific Northwest" in both Acts is the same. Under the new definition, a cooperative on the boundaries of the region is not excluded from BPA service if it owns generation. This is a potentially beneficial change from the standpoint of any cooperative so situated.

Section 8(d) amends the Transmission Act more substantively to make explicit that the Administrator's borrowing authority does not include authority to borrow for the purpose of acquiring under Section 6 power from any generating facility not utilizing a renewable resource, or from a generating facility utilizing a renewable resource and having a planned capability greater than 50 average megawatts. In addition, since BPA is not permitted to borrow on the open market and is required to borrow from Treasury, the Act specifies that the rate shall be the rate Treasury borrows plus a sufficient markup to raise the total rate to the level of similar bonds sold by other governmental agencies. Section 8(d)(4) authorizes an interest penalty under carefully prescribed circumstances, if the Administrator fails to repay by the end of any fiscal year all amounts projected to be repaid that year under the repayment criteria of the Secretary of Energy, and if the Administrator's failure to do so results from reasons other than a decrease in revenues due to fluctuating streamflows, or other reasons beyond the Administrator's control. The Secretary of the Treasury, in consultation with the Administrator and FERC, also must be satisfied that the Administrator will be able to pay the interest rate, taking into account the Administrator's other obligations.

Finally, Section 8(d) increases the BPA borrowing limit of $1.25 billion to $2.5 billion effective in Fiscal Year 1982. The entire increase is for a revolving fund for conservation and renewable resource loans and grants. The fund is subject to annual appropriations. If such funds are funnelled for this purpose through utilities to consumers, the funds are deemed to be the Administrator's, not State and local government, funds.

Section 9. Contains the provisions applicable to administrative powers. Section 9(a) is a technical provision that integrates the BPA Administrator's contracting authority under this Act with similar

authority under Section 2(f) of the Bonneville Project Act. The provision is intended to eliminate potential conflicts between the statutes in contract matters, and to make explicit that there is no implied repeal of other applicable law.

Section 9(b) specifies that the Administrator shall carry out his functions in accordance with the Act, the Bonneville Project Act, and the Department of Energy Organization Act. The Secretary of Energy, the Council, and the BPA Administrator, are required to implement this Act in a timely fashion, and permit BPA to operate in a sound and businesslike manner. This Section also expressly perpetuates the legislative intent that BPA be a separate and distinct entity.

Section 9(c) ensures, among other things, that, as under present law, all BPA power sales outside the Pacific Northwest must be surplus to the needs of the region. The Act of August 31, 1964, will apply to resources acquired by BPA and its customers.

Section 9(d) exempts from the Section 9(c) restrictions existing and new non-Federal resources if their disposition does not increase the amount of firm power the Administrator would be obligated to provide any customer. This Section also requires the Administrator to provide transmission access, load factoring storage, and other services to non-BPA acquired resources.

Section 9(e)(1) lists eight areas in which specific actions of the Council and BPA are deemed final for purposes of judicial review under 5 U.S.C. 701-706;

Section 9(e)(2) sets forth the scope of review of such actions with or without a hearing. In the case of ratemaking, the test is that of substantial evidence on the rulemaking record considered as a whole. The Act shall not be interpreted to imply that hearings must be held pursuant to 5 U.S.C. 554, 556, and 557;

Section 9(e)(3) clarifies that other final actions and decisions of the Council and BPA are also subject to judicial review;

Section 9(e)(4) establishes when certain actions, including acquisition of resources and implementation of conservation measures, are subject to judicial review, and provides that rate determinations are not final until approved by the FERC; and

Section 9(e)(5) provides for a 90-day and 60-day statute of limitations on judicial review, indicates what courts will entertain judicial review, and provides some finality for the regional energy plan and the fish and wildlife program.

Section 9(f) preserves, but does not extend, the ability of publicly-owned utilities to finance power resources with governmental obligations, the income from which is exempt from Federal taxation as provided in Section 103(a)(1) of the Internal Revenue Code. As long as these resources are developed to meet the firm load of public bodies, cooperatives, and Federal agencies, acquisition of these resources by

the Administrator does not impair the exemption. A two-step procedure will ensure that the exemption is only available for this purpose and is exercised consistent with appropriate procedures approved by Treasury.

Section 9(g) directs the FERC to convene a joint State board to assist the Commission in its review of rates paid by BPA for power from investor-owned utilities.

Section 9(h) provides a limited exemption under the Public Utility Holding Company Act (PUHCA) of 1935, by exempting from the definition of "electric utility company" in that Act any company which owns or operates facilities for the generation of electricity and sells at least 90 percent of such generation to BPA under Section 6. The Securities and Exchange Commission (SEC), with the concurrence of the BPA Administrator, must determine that the organization of such company is consistent with the policies of Section 1(b) of the PUHCA. Participation in any such facilities must be offered to public bodies and cooperative. The Administrator must include in contracts for the purchase of a major resource from that company provisions limiting the amount of equity, if any, in such company to that which the Administrator determines will be consistent with achieving the lowest attainable power cost. All significant contracts entered into by and between that company must be approved by BPA with the SEC's concurrence. These will include all sales, construction, financing, and related contracts at a minimum. The exemption shall continue unless the Administrator or the Securities and Exchange Commission, or both through periodic review, determine that the company no longer operates in a manner consistent with the PUHCA policy. A procedure bringing the company into compliance is provided.

Section 9(i) ratifies by statute BPA's present procedures for assisting customers, particularly the DSI's, in buying and selling non-Federal power such customers require to replace power interrupted by BPA. This Section further provides a limited priority on services for resources under construction on the effective date of this Act, if power from those resources has been offered to and not accepted by BPA within 1 year.

Section 9(j) requires the Council, in consultation with the Administrator, BPA customers, and others, to prepare a report on retail rate structures that encourage cost-effective conservation and consumer-owned renewable resources. The Section also authorizes the Administrator, upon request, to assist any customer in analyzing and developing retail rates structure that encourage such conservation and renewable resources.

Section 9(k) establishes an executive position within BPA for conservation and renewable resources.

Section 10. Savings provisions. Under these provisions, Congress waives preemption of State and local government authorities; clarifies that contracts already in effect between BPA and its customers on the effective date of the Act remain in effect unless the parties agree to substitute new contracts; affirms that this Act does not in any way

affect or modify the preference provisions contained in other Federal laws; and decrees that certain identified contracts entered into by the Administrator to sell power, to acquire or credit resources, or to reimburse investigation and preconstruction expenses, shall not be affected if any provision of this Act is found to be unconstitutional. The savings provision applies to contracts entered into prior to such finding and in accordance with the affected provision. Finally, Congress states that nothing in the Act shall be construed to modify any treaty or other right of an Indian tribe.

Section 10(f) stipulates that 50 percent of the power from Libby Reregulating Dam, if built, is reserved primarily for use in the State of Montana, and affirms the reservation under law of electric power from both the Hungry Horse and Libby Dams for Montana.

Section 10(g) stipulates that the Act in no way affects or modifies the right of any State to prohibit utilities regulated by the appropriate State regulatory body from recovering, through retail rates, costs incurred during any period of resource construction.

Section 10(h) stipulates that nothing in the Act shall be construed to (1) authorize any appropriation of water, (2) affect the rights and jurisdictions of the United States, the states, Indian tribes, or other entities over reparian or ground water resources, (3) affect any interstate compact made by the states, or (4) otherwise alter or establish the rights of the United States, the states, Indian tribes or any person with respect to any water or water-related right.

Section 10(i) stipulates that the Act shall not be construed to affect the validity of any existing license, permit, or certificate issued by any Federal agency pursuant to other Federal law.

Section 12. Severability. If any provision of Section 4(a) through (c) or any other provision of the Act or the application thereof is held invalid, neither Section 4 nor the remainder of the Act, nor the application of such provision, will be affected. Simply stated, this means that, if any part of the enactment is found to be unconstitutional, the remainder of the Act remains valid.

Section 11. The effective date of the bill will be the enactment date or October 1, 1980, whichever is later.

SSKC-0326X

C.R. STATEMENTS, DEC. 1980

reauthorization of the Higher Education Act, a landmark piece of education legislation. As the ranking minority member of our subcommittee, JOHN was constant in his contributions to this bill and many of its provisions bear his own mark, particularly those titles which strengthen the Federal commitment to the neediest of our students and schools. His work on this legislation will long be remembered by his colleagues on the Education and Labor Committee as well as the entire educational community in this Nation Higher education certainly has a friend and advocate in JOHN BUCHANAN

There are many rewards which come from service in this distinguished body. One of them is the establishing of friendships with people like JOHN BUCHANAN I am certain that he will continue his record of devoted public service in whatever future activities he undertakes I wish him all the best in both health and happiness and underscore the pleasure it has been to serve with him ●

TECHNICAL AMENDMENTS TO NORTHWEST PACIFIC POWER BILL

HON. JOHN D. DINGELL
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. DINGELL. Mr Speaker, I think it important to stress that S. 885 is being completely amended by the House The amendment offered by Mr KAZEN, on behalf of both committees, is a complete substitute for S 885 as it passed the Senate It is our hope and expectation that the other body will accept it without change or the need for a conference, although we will ask for a conference for technical reasons

This rewrite was initiated by Mr SWIFT and myself and the subcommittee which I chair and the full Committee on Interstate and Foreign Commerce The Committee on Interior and Insular Affairs further revised it when it reported the bill last August, although it adopted the basic framework of the bill as reported by the Commerce Committee The substitute amendment represents a bipartisan compromise by a majority of the Members of both House committees It was introduced on September 18, 1980, as H R 8157 It is, in my judgment, a much improved and a more workable version than S 885, as passed by the other body.

Two technical or clarifying amendments to H R 8157 which I accepted on behalf of the Commerce Committee were adopted on September 29, 1980, during House floor consideration of S 885 Mr KAZEN accepted them on behalf of the Interior Committee See CONGRESSIONAL RECORD of September 29, 1980, daily issue page H9886 They were to sections 2 and 10

THE FIRST TECHNICAL AMENDMENT TO H R 8157, SECTION 2(6)—PURPOSES

Mr Speaker, the first of the amendments was the addition of the words 'power generating" to section 2(6) of H R 8157 which is now known as the House amendment to S 885

Section 2(6) sets forth one of the several purposes of this bill With this amendment, section 2(6) reads as follows

Sec 2 • • •
Such purposes are

• • • • •

(6) *to protect, mitigate, and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries,* particularly anadromous fish which are of significant importance to the social and economic well being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other *power generating* facilities on the Columbia River and its tributaries (italics supplied)

As one can readily observe these words are added to the clause that begins with the words "particularly anadromous fish". That clause is not a limitation on the beginning portion of the paragraph which states that one of the purposes of the bill is to "protect, mitigate, and enhance the fish and wildlife • • • of the Columbia River and its tributaries". The clause to which the amendment was made does not in any way limit or modify the scope of the fish and wildlife provisions of the bill which apply to power the system, including storage and regulatory dams, and intakes, and outlets on the Columbia River and its tributaries that affect fish or wildlife, or both. It was a technical amendment as noted by the sponsor at page H9886 of the CONGRESSIONAL RECORD of September 29, 1980, daily issue Without this technical amendment, it was feared that the word "facilities" would be too broadly construed to include nonpower related facilities Since it was never the intent of either committee to consider within the ambit of this bill anything but power related facilities, Chairman KAZEN and I gladly accepted this change

SECTION 10(I)—A DISCLAIMER

Mr. Speaker, the second amendment which was also described as technical" or 'clarifying" by its sponsor in the House was to add a disclaimer to the bill which seeks to avoid any construction by the BPA, a court, or others that the bill would affect the validity of any existing Federal license, permit, or certificate In short it is a statement of the clear intent of the bill and the committee that valid licenses, and so forth, remain intact Indeed, the sponsor, Mr SYMMS in explaining the amendment said

It adds language so it is clear that this bill does not affect the validity of any license permit or certificate issued under any other Federal laws

That disclaimer cannot be given a broader construction than its plain words It has no overriding or superior effect, for example, on the provisions of section 4(h) of the bill, such as section 4(h)(11) which is as follows

(11)(A) The Administrator and other Federal agencies responsible for managing operating, or regulating Federal or non Federal hydroelectric facilities located on the Columbia River or its tributaries shall—

(i) exercise such responsibilities consistent with the purposes of this Act and other applicable laws, to adequately protect, mitigate and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated,

(ii) exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under this subsection If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect mitigate, and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses, if any, shall be borne by the Administrator in accordance with this subsection

(B) The Administrator and such Federal agencies shall consult with the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes, and affected project operators in carrying out the provisions of this paragraph and shall, to the greatest extent practicable, coordinate their actions

The directives of this section are applicable to FERC and other Federal agencies. They apply to the exercise of responsibilities by FERC and these other agencies. Those responsibilities include the oversight and administration by FERC of Federal licenses, permits, and certificates, including those applicable to non-Federal power facilities located on the Columbia River and its tributaries.

Acting under the Federal Power Act, FERC issues licenses, permits, and so forth, applicable to non-Federal power projects which contain provisions for their modification Those provisions are derived from such sections of the Federal Power Act as sections 6, 10, and 18 Under those sections, FERC on its own motion or on petition of any person, including the licensee or permittee, may initiate investigations or proceedings concerning the issued Federal license, permit, or certificate FERC's efforts under these provisions were noted by our committee in its report of last May on this bill—see House Report 96-976, supra, page 48

Section 4(h)(11) of the bill supplements the Federal Power Act It makes it clear that when FERC exercises its responsibilities, such as the initiation of such investigations or proceedings, it must do so "consistent with the purposes of this act and other applicable laws, to adequately

protect, mitigate, and enhance fish and wildlife" affected by the covered project or facilities "in a manner that provides equitable treatment for such fish and wildlife* * *". I stress that the directive of section 4(h)(11) applies to FERC, not to a particular license, permit, or certificate, and to how FERC carries out its responsibilities under the law. The objective is that FERC use the authorities of the Federal Power Act to insure that the capabilities of each power project are fully utilized to provide operations that are compatible with the purposes of this legislation and will treat fish and wildlife as a coequal partner with other uses in the management and operation of the hydro projects of the region. The legal basis for initiating proceedings to make, and to make, any changes or modifications in a license, permit, or certificate is the Federal Power Act and the conditions of the license or permit or certificate, as supplemented by this legislation, including this section. Where there is doubt about such legal basis in the case of any particular license, and so forth, section 4(h)(11) is intended to resolve that doubt in favor of making those changes and initiating the proceedings to make such changes.

Section 10(i), on the other hand, is a disclaimer. It states:

(i) Nothing in this Act shall be construed to *affect the validity* of any existing license, permit, or certificate issued by any Federal agency pursuant to any other Federal law (Italics supplied.)

The use of the word "validity" in the amendment made it acceptable to Chairman KAZEN and myself. It is the key word. It expresses the common, but unstated, intent of both committees, namely that the bill not be construed to affect the validity or legal force or effect of any Federal license, permit, or certificate existing on the effective date of this bill. No license, permit, or certificate is in jeopardy by reason of enactment of this bill or any actions thereunder.

However, that is the limit of the meaning or effect of this disclaimer. It does not preclude the modification of any Federal license, permit or certificate—including the terms and conditions thereof—under the Federal Power Act, as supplemented by this bill, including section 4(h)(11). Under this supplemented authority, such a modification may ultimately be required by FERC or a court to protect, mitigate, or enhance fish and wildlife. With or without section 10(i), a Federal agency, such as FERC, may cite this act, particularly section 4(h)(11), as the legal basis for proposing, considering, or imposing such modifications in any pending proceeding or in future proceedings related to such validly existing licenses, permits, or certificates.

EFFECT OF SECTION 4(h)

Mr. Speaker, in developing a fish and wildlife program under this bill, the Council will, as appropriate and based on recommendations received, particularly those of the fish and wildlife agencies and Indian tribes, do so in a manner that seeks to protect, mitigate, and enhance fish and wildlife from future, as well as past, developmental, operational, and management actions associated with hydroelectric systems in the Columbia River and its tributaries. Clearly, the term is not just prospective. Actions of the past often have a lasting effect on the future. To the extent that such actions can be modified, reasonably, they should be, but always with the understanding that the bill cannot and should not undo the power developments of the past. Power and fish and wildlife can and should be compatible. I reiterate the Commerce Committee's understanding of the provision, pages 49, 57:

The Committee recognizes that the Federal agencies and others in the region cannot correct past mistakes merely by enacting a new law, while many such mistakes unfortunately may be uncorrectable, others can clearly be corrected or avoided. Money, a reasonable amount of time, clear regulatory authority, and cooperative participation by the various interests will be needed to protect and rejuvenate the fish and wildlife resources of this region. It is not the Committee's intention to make fish and wildlife superior to power or other recognized needs. But it is the intention of the Committee to treat fish and wildlife as a co-equal partner with other uses in the management and operation of hydro projects of this region.

The Committee also believes that BPA and others in the region, including the so-called 'power interests', concerned with meeting the power needs of the region have in recent times become more concerned about these valuable natural resources. They testified that they are anxious to accommodate fish and wildlife needs. The Committee believes that this is a hopeful sign and that this bill will help to achieve what appears to be a welcome common objective of protecting and enhancing this resource

* * * * *

The objective is to give flexibility to all concerned to devise effective and imaginative measures that are also reasonable and will not result in unreasonable power shortages or loss of power revenues Some power losses, with resultant loss in revenues, may be inevitable at times if these fish and wildlife objectives are to be achieved. Such losses, however, should not be a burden on the consumers of the region. The objective, however, should be to avoid, or at least minimize, losses, while meeting fish and wildlife needs. The Committee does not intend that these provisions be used to subvert the power objectives of this bill.

Finally, in developing the program, the Council and BPA should not slight wildlife needs. The fishery needs are important. Much emphasis in consideration of this legislation was on the anadromous and other fishery resources. However, from the beginning of our consideration of the bill in the House, we have stressed the need to protect, mitigate the adverse effects on, and enhance both fish and wildlife.

SECTION 10(h)—DISCLAIMER

S. 885, as reported by our committee, did not include any provisions concerning water rights or jurisdiction because we did not believe that the bill should or would be construed to affect such rights or jurisdiction. The Interior Committee adopted a very broad water provision—see section 10(f) as printed in House Report 96-976, part II, of September 16, 1980, page 62—which many construed as changing existing water law in a way that was unacceptable to the Interior Department and others. In working out a compromise, the two committees adopted section 10(h) which merely retains the status quo. It has no overriding effect. It is not superior to any other provision in the bill. It is a disclaimer or savings clause designed to placate those who somehow believe—without foundation, I am convinced—that this bill would adversely affect a person's water rights or change the existing jurisdictional situation. While there may in the future be close questions as to the effect of an operational change in flows at the dam on a person's water rights, the bill does not seek to affect adversely such rights. Such changes should be made as appropriate, but in a way that also does not change water rights. I caution, however, that no one give this provision greater meaning than intended. It is a savings clause, and nothing more.

SECTION 6(h)—BILLING CREDITS

This section was changed from the Commerce Committee version—see House Report supra, page 15—by deleting section 6(h)(2), renumbering the subsequent provisions, and rewriting section 6(h)(7) which is now section 6(h)(6). The effect of deleting section 6(h)(2) is to strike the discretionary credits provisions. The changes were adopted by the Interior Committee. Both committees discuss this section extensively in their reports—see Interior report at pages 50-51 and Commerce report at pages 66-67. Except for the discretionary credit discussion in the Commerce report, these comments are quite pertinent.

The provision is a rewrite of the comparable Senate provision of the Senate-passed bill. It is quite different.

As noted earlier, section 6(k) of the bill relates to the distribution of benefits throughout the region. I entered into a colloquy on September 29, 1980, with one of my colleagues concerning this section. That section and the colloquy, however, should not be interpreted too broadly to suggest some discretion on the part of BPA relative to section 6(h). Obviously, the BPA must insure that section 6(h) is fully complied with before granting credits and, as in all mandatory provisions, an administrative officer like BPA exercises some judgment or interpretation in determining such compliance, but that should not be stretched so far as to suggest a broad discretionary grant as was adopted by the Senate in the case of billing credits.

SECTION 5(G)—CONTRACTS

The bill contains broad provisions for contracting Initially, BPA will offer the contracts with such terms and conditions as the BPA believes appropriate under the bill and then negotiations will begin Contracts will be offered consistent with the bill Not all contracts will be identical They must reflect BPA needs, the concerns of the customers and BPA's obligations, and the bill

Mr Speaker, I urge approval of this bill

Finally, Mr Speaker I want to stress that in the 97th Congress and thereafter the Commerce Committee, particularly myself, will be paying close attention to the actions of the Council and the BPA in implementing this legislation I expect the BPA and the Council to adminster this bill fairly, reasonably, effectively, and with expedition. I also expect that the purposes will be achieved, particularly those related to fish and wildlife and conservation

LAWS RELATIVE TO THE PRINTING OF DOCUMENTS

Either House may order the printing of a document not already provided for by law but only when the same shall be accompanied by an estimate from the Public Printer as to the probable cost thereof Any executive department, bureau, board or independent office of the Government submitting reports or documents in response to inquiries from Congress shall submit therewith an estimate of the probable cost of printing the usual number Nothing in this section relating to estimate shall apply to reports or documents not exceeding 50 pages (U S Code title 44, sec 716)

Resolution for printing extra copies when presented to either House, shall be referred immediately to the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate, who in making their report shall give the probable cost of the proposed printing upon the estimate of the Public Printer and no extra copies shall be Printed before such committee has reported (U S Code, title 44, sec 703)

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cost about $80 per acre foot according to Paul Diener, who farms in that area The added water well cost (which would be used only in poor water years) would be $28 06 per acre foot And a water well there would cost $250 000 Depreciation would run $55 per acre and interest $50 per acre

Diener s cost would then be

705 acre feet of water at 14 00	$9 870
345 acre feet at 88 80	30 636
Total	40 506

Related costs would be

(Per acre)

Interest	$50 00
Depreciation	55 00
Labor and equipment	37 85
Repayment	3 23
Total per acre per year	147 08

That per acre total works out to a yearly $43 824 00 Added to the water cost of $40 506 00, that makes Diener s grand total cost for water and related equipment per year $84,330 00, or $281 10 per acre

Diener says however, that he would not normally use a well He would get along on the 2 acre feet which is his allotment from the 1 150 000 acre feet contracted from the Westlands Water District To get along with 2 acre feet Diener has to change his cropping pattern to poorer paying crops Every acre of cotton demands one third acre summerfallow somewhere else Consequently larger farms are needed to offset less income per total acre

So how much is the government subsidy to these two kinds of farmers?

THE SUBSIDY

Water and Power Resources says its cost to deliver water to Westlands is $15 80 an acre foot This is $4 over the present charge of $11 80 per acre foot (adjusted water price for Westlands and Westplains, which both come under the Westlands title)

Presumably this $4 per acre foot would amount to $9 40 an acre yearly or $94 an acre over the 10 years that remain for owners of 'excessive land to get rid of that excess But governmental figures have a tendency to support any contention the secretary of the interior deems to make and few can know whether or not $15 80 per acre foot is a valid figure

Ernst and Ernst Company is among the few sources in a position to judge the validity of that figure Ernst and Ernst is the nationally known accounting firm Westlands hired to review its current water cost figures

The Ernst and Ernst report notes Our effort was directed at performing an objective and independent review of the rate making principles and not an audit of the Bureau s records The purpose was to see if Water and Power Resources records reasonably conformed to generally accepted rate making standards in the utility industry in the U S

It is not out intent to assess [legal questions] or affect them in any way,' the report adds Water and Power Resources techniques to develop cost based rates are, however vastly different from procedures historically employed to establish fixed contract rates, according to Ernst and Ernst

Some unexplained differences

Water and Power Resources says farmers will be charged for costs that have not been incurred and for facilities that are not yet constructed Costs of constructing future facilities account for $5 22 of the $15 80 rate This violates the fundamental concept that rates must be set in such a way that the generation of users who benefit from the facility bear the burden of its cost The cost of Auburn Dam is included in the service s water rate and it can t be constructed for 20 years

No provisions for any credit for prior payment of capital costs were made in calculating the rate By 1977 irrigation contractors (water districts) had contributed $35 million in excess of annual Central Valley Project (CVP) operating costs Approximately $28 million of this is attributable to Westlands Over the next 50 years the government intends to collect this $28 million a second time from Westlands

Cost based rates have been commingled with fixed contract rates for water in a manner that will produce inequitable results among water districts receiving water from the service By 1990 Westlands will have repaid $198 million of the capital costs of the CVP while all other water districts *combined* will have repaid only $25 million And Westlands during all this time will receive less than one sixth of the CVP yield

Payment by water users of operating costs will be disproportionate to benefits received Some water users with lower rates may continue to pay less than operating cost Westlands and other higher rate payers will make up those undercharges with the higher payments they'll be making

The repayment period designated by Water and Power Resources is reduced from the established 50 years to shorter periods for features added later thus inflating operating costs

The lawful interest free element of reclamation project financing as authorized by Congress will be substantially reduced through the advance charging for unincurred capital costs

Theoretical operation cost for the completed 188 mile San Luis Drain is included in the $15 80 rate though only 82 6 miles of drain have been completed

Ernst and Ernst finds that a more accurate rate for Water and Power Resources water would be $9 89 per acre foot in the 600,000-acre Westlands water district

'We believe the current [rate] proposal is not acceptable and if subjected to any federal or state regulatory authority, would be summarily rejected,' the Ernst and Ernst report says

FURTHER TESTIMONY

Another source that has looked into reclamation in the West is Dr J Gordon Milliken, senior research economist Denver Research Institute, University of Denver Milliken was contracted to do an independent research study for Water and Power Resources

To date Milliken found, there has been $8 3 billion invested in reclamation in the 17 western states This capital cost Milliken calculates is repaid in federal state and local taxes every three years These taxes are paid on increased production that can be directly attributed to reclamation

Each year, according to Milliken $2 82 billion is collected in taxes from the improvement reclamation has brought about in the 17 western states Few if any government-financed projects are so productive for everyone

The Central Valley Project figures are just as inspiring In 1978 the value of production due solely to the CVP came to $2 689 3 billion, and from this $418 5 million in taxes was generated Furthermore, 128 000 jobs are the direct result of reclamation here in the state

So what constitutes the subsidy to Westlands farmers?

That they are paying more for their irrigation water than the cost to Water and Power Resources by $2 98 an acre foot? That their products are resulting in 128,000 jobs in agriculture and related industries? Or that federal state and local taxes are paying back the original cost of the CVP every 10 years? And this just from the extra products and services that can be directly attributed to reclamation?

It s difficult if not impossible to see how a subsidy is being paid to anyone involved ●

HELEN GAHAGAN DOUGLAS MEMORIAL SERVICE

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr PHILLIP BURTON Mr Speaker, this past summer a truly great American passed away- Helen Gahagan Douglas On December 2 there will be a memorial service at All Souls Unitarian Church in New York City Although I will not be able to attend, I will be there in spirit along with the many people who were inspired, as I was, by this fine woman ●

INTERPRETATION OF S 885, THE NORTHWEST POWER BILL

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

●Mr SWIFT Mr Speaker, on November 17 by a vote of 284-77 the House suspended the rules and passed S 885, the Northwest reiongal power bill, 2 days later the Senate by unanimous consent accepted the bill in the form passed by the House and cleared the way for the bill to be sent to the President who supports the bill and has indicated he will sign it

The RECORD for the week of November 17 contains many statements interpreting the bill and its provisions Some of these statements appear to conflict with one another, and some have created concern on the part of various interested parties and the press It is possible, although not necessarily likely, that some of these apparent conflicts in the legislative history may even create a bit of confusion in the actual implementation of the Northwest power bill when that bill becomes an act

I think it is important, therefore, to describe for the record the circumstances surrounding final passage of this bill. In doing so, I am mindful of the recent opinion of the U S Court of Appeals for the District of Columbia Circuit, in which Judge Skelly Wright stated

Courts in the past have been able to rely on legislative history for important insights into Congressional intent Without implying that this is no longer the case we note that interest groups who fail to persuade a majority of the Congress to accept particular

statutory language often are able to have inserted in the legislative history of the statute statements favorable to their position, in the hope that they can persuade a court to construe the statutory language in light of these statements. This development underscores the importance of following unambiguous statutory language absent clear contrary evidence of legislative intent. [*National Small Shipments Traffic Conference, Inc.* v. *Civil Aeronautics Board*, 618 F.2d 819 (1980).]

In this particular bill, it was not always possible to adopt unambiguous statutory language, since the bill was already long and its subject matter highly technical and complex. There was even a clear congressional intent to rely on legislative history, particularly report language, in some instances where a definite interpretation of a particularly important provision was agreed upon. Throughout legislative consideration of this bill, however, there was also repeated discussion and concern about the difference between mandatory provisions and discretionary provisions. Therefore, the simplest point to make for the record is that where the bill uses the word "shall", it means "shall", not "may". This in itself should lay to rest some of the concerns that may have been prompted by the Senate's floor discussion of S. 885 on November 19.

More broadly, however, it is important to consider the legislative history in the actual legislative context. There is, for example, no conference report on this bill. There is no conference report because there was no conference. There was no conference not because the Senate was necessarily pleased with every provision of the House-passed bill, but because both House and Senate sponsors of the bill were very well aware that it was imperative for this bill to be signed into law this year. The luxury of a conference that might, at this stage in the session, effectively scuttle the bill, was not something that the sponsors in either House could afford. Nor could we afford to wait until 1981 to begin the legislative process again on this bill, since the crisis this bill seeks to avert—the administrative reallocation of power by the Bonneville Power Administration—would have to take place in 1981 if the bill were not enacted this year.

Under these circumstances, we did attempt in drafting the final form of the bill to consult to the extent possible with the members of the other body most likely to have strong views on this legislation. In addition, staff members from both Houses working on the bill were for a period of weeks in continual contact with one another, as part of the attempt to put in final form a bill acceptable to both Houses. It was precisely because these discussions were fruitful, and because the Senators weighed realistically the risks of a conference and the significance of their remaining concerns, that we were able to advise the Committee on Rules—and later, the whole House—that passage of S. 885 in the form in which it came to the House floor would avoid a conference. And, in fact, a conference was avoided.

What was said in the Senate on November 19 was important primarily because both the House and Senate will oversee the implementation of this act, and the Senate floor discussion helps indicate to those who implement the act the philosophies and sentiments of key Senators who will play a key role in that oversight. But it would be a mistake to attach too much legal significance to the Senate floor discussion on points that appear to be a variance with the unambiguous wording of the statute itself, or with the explanations provided by the reports of the House committees. This is particularly true, for example, on the discussion of mandatory versus discretionary provisions of the bill. The fact remains that the Senate did accept the House version of the bill, which differed from the Senate version. Even the Senate version, however, drew a distinction between mandatory and discretionary billing credits in section 6(h), so this type of distinction was certainly familiar to the Senate.

It would also be a mistake for House sponsors to attempt a point-by-point response to the comments made on the Senate floor. First, no response can change the fact that the Senate accepted the House bill, and that the interpretation of the House bill is available in the House legislative record, which can be consulted with confidence on those provisions that originated or were modified in the House. Second, we should not forget our gratitude to the Senate sponsors for agreeing to accept the House version and to forego a conference, even though the bill was not perfect from their perspective. Finally, now that the legislative battle is over the time has come for cooperation by all Northwest interests, including the region's representatives in Congress, to insure that the bill is implemented in a timely and effective manner in order to deal with the serious energy problems the Northwest faces. We will not achieve cooperation by bickering about relatively small and arcane matters of legislative history.

This bill would not have been possible had not a large number of Members from both Houses worked closely together, despite strongly held and sometimes conflicting views, and continued working together for a period of nearly 4 years. Making the bill work well in practice will require a sustained effort by an even greater number of parties for an even longer period of time. At the moment it is essential to launch that effort in a spirit of mutual respect and support. ●

TRIBUTE TO GEORGE T. FRAZIER

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. ANTHONY. Mr. Speaker, at this time I would like to share with my colleagues my pride in the outstanding achievements of Mr. George T. Frazier from Hope, Ark. Mr. Frazier was recently given the Woodworth Memorial Award by the Independent Insurance Agents of America (IIAA). The Woodworth Memorial Award is the highest honor possible to receive from IIAA and is bestowed when a man of uncommon service and dedication has been found. Thus, this is an occasional, rather than annual, award.

Formerly mayor of Hope, Mr. Frazier is also past president of the Hope Chamber of Commerce and the Hempstead County Industrial Foundation.

He was president and general manager of the Anderson-Frazier Insurance Agency in Hope and has served IIAA both as president and as a member of the executive committee.

Mr. Frazier has also been acclaimed by his own State of Arkansas. In 1974, he received the Award for Exceptional Accomplishment, presented by the Arkansas Chamber of Commerce, for service to his community and to his State. Earlier recognition came in 1967 when he has given the Allan Kennedy Memoral Award by the Arkansas Association of Insurance Agents for outstanding service to his community and the industry.

Mr. Frazier's record is long and meritorius. I am pleased to add my congratulations and thanks to those of IIAA and the numerous other organizations which have honored Mr. Frazier throughout his productive career.●

A UNIFORM NATIONAL POLL CLOSING HOUR

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 1, 1980

● Mr. ASPIN. Mr. Speaker, in 1960, as a result of the widespread use of voting machines, significant election results for the first time were being broadcast before polls had closed in the West. After every election since, there has been an uproar of concern over the possible impact these broadcasts might have had on the outcome. Beginning in 1972, the networks broadcast the results of polls surveying people who had already voted, which added another wrinkle to the issue.

The uproar over the broadcasts has produced two results:

First, at least a half dozen polls and studies relating to voter behavior have

C.R.—SENATE
DEBATE 1980

that requirement has gone through the administrative rulemaking process if the OMB Director ignored the rulemaking process. This seems fair enough

I note, however, that this limitation on OMB's authority is confined to requirements specifically contained in agency rules It does not disturb OMB's authority to block information collection requests issued pursuant to rules, neither is it license to agencies to avoid OMB review of paperkeeping requirements bootstrapped to vague requirements in agency rules.

With this understanding, the amendment is acceptable

Mr. CHILES. Mr President, I move that the amendment be adopted.

The PRESIDING OFFICER The question is on agreeing to the amendment.

The amendment (UP No 1777) was agreed to.

UP AMENDMENT NO 1778

Mr. CHILES. Mr. President, I send to the desk some clarifying amendments that bring the bill into conformation with the agreements that we have made with the respective parties and ask that they be considered en bloc.

The PRESIDING OFFICER Is there objection? Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr CHILES) proposes an unprinted amendment numbered 1778.

Mr. CHILES Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER Without objection, it is so ordered.

The amendments en bloc are as follows:

On page 33, in line 20, strike out "common" and insert "standard and uniform".

On page 34, in line 1, strike out "list" and insert "description".

On pages 36 and 37, strike out subsection (b) of section 3503 and insert the following new subsection:

"(b) There shall be at the head of the office an Administrator who shall be appointed by, and who shall report directly to, the Director The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions The Administrator shall serve as principal adviser to the Director on Federal information policy."

On page 37, strike out subsection (a) of section 3504 and insert the following new subsection.

"(a) The Director shall develop and implement Federal information policies, principles, standards, and guidelines and shall provide direction and oversee the review and approval of information collection requests, the reduction of the paperwork burden, Federal statistical activities, records management activities, privacy of records, interagency sharing of information, and acquisition and use of automatic data processing, telecommunications and other technology for managing information resources The authority under this section shall be exercised consistent with applicable law"

On page 37, in line 16, strike out "establishing uniform" and insert "developing and implementing uniform and consistent".

On page 40, in line 9, strike out "overseeing" and insert "developing and implementing".

On page 41, in line 12, strike out "establishing" and insert "developing and implementing".

On page 41, in line 15 after the word "by", insert "or on behalf of".

On page 41, in line 24, strike out "establishing" and insert "developing and implementing".

On page 45, strike out lines 10 through 16, and insert the following:

"(C) develop a program to (i) enforce Federal information processing standards, particularly software language standards, at all Federal installations, and (ii) revitalize the standards development program established pursuant to section 759(f)(2) of title 40 United States Code, separating it from peripheral technical assistance functions and directing it to the most productive areas."

On page 51, strike out lines 12 through 16, and insert the following "day period because (A) public harm will result if normal clearance procedures are followed or (B) an unanticipated event has occurred and the use of normal clearance procedures will prevent or disrupt the collection of information related to the event or will cause a statutory deadline to be missed, the agency head may request the Director to authorize such collection of information prior to expiration of such sixty-day period The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved shall assign the information"

On page 53 in line 7, strike out "or policy"

On page 54, in line 1, add "authoritative" before "register"

On page 57 in line 3, after the word "practicable" add "the direct budgetary costs of the agencies and"

On page 58 in line 16 strike out "may" and insert "shall"

On page 60 in line 16 strike the words, "affects in any way an existing" and insert "shall be interpreted as increasing or decreasing the".

On page 62, in line 18, strike out "may" and insert "shall", in line 22 strike out "186" and insert "18b", and strike out the last sentence of section 3(a)

On page 63 in line 2 strike out "may delegate, but only" and insert "shall delegate"; in lines 5 and 6, strike out "sections 110 and" and insert "section", in line 7, strike "757 and", and delete the last sentence of section 3(b)

On page 64, in line 13 strike "October 1, 1980" and insert "April 1, 1981"

Wherever found in this bill the "Associate Director" shall be deleted and in lieu thereof "Administrator" shall be inserted

On page 62, line 12

On page 62 lines 18 and 19

On page 63 line 2

On page 64 line 10

Mr CHILES Mr. President, I ask that the amendment be adopted.

The PRESIDING OFFICER The question is on agreeing to the amendment offered by the Senator from Florida (Mr CHILES).

The amendment (UP No 1778) was agreed to.

Mr. CHILES Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr President, I ask unanimous consent that S. 1411 be temporarily set aside to take up the power bill and then we will come back to S 1411.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. JACKSON. Mr. President. I ask the Chair to lay before the Senate a message from the House of Representatives on S. 885.

The PRESIDING OFFICER (Mr. BOREN) laid before the Senate the amendment of the House of Representatives to the bill, S 885, to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes

(The amendment of the House is printed in the RECORD of November 17, 1980, beginning at page H10661)

Mr. JACKSON. Mr President, S 885, the Pacific Northwest Electric Power Planning and Conservation Act, now pending before the Senate is the product of more than 5 years of public debate, hard work, and cooperation among a wide variety of regional interests and bipartisan congressional efforts to develop workable solutions to extremely complex utility planning problems The bill before us is the result of a legislative process of consensus and compromise in which an effort has been made at every stage to accommodate the views of every interest group and every member of the Northwest delegation to the maximum extent possible. The Northwest power bill has been the subject of closer legislative scrutiny than any regional legislation in my memory I believe that the bill has benefited at every stage of the legislative process from the careful attention which has been devoted to every detail and I am proud to be associated with the end product of this process

Reduced to one sentence the heart of the regional power bill is the authority for BPA to acquire from non-Federal entities additional electric power resources, including conservation, to meet the electric needs of Northwest consumers.

Why is it necessary to give this authority to Bonneville instead of relying solely on existing utility systems, public and private, to meet growth needs?

The reason is that we are on the verge of a decade-long legal and administrative battle over the allocation of the large but limited pool of low-cost Federal power. Unless the allocation issue is resolved promptly through legislation, no utility will be able to dependably plan its future

needs and power supply The ultimate division of the limited Federal resource depends on unpredictable variables such as the outcome of the BPA allocation proceeding, legal challenges to that decision, new preference customer formations, and efforts by big industrial users to become customers of preference customers.

The only effective and workable way to resolve this dilemma is to expand the resource pool through BPA purchase authority and to legislatively allocate its costs among customer groups. This eliminates the need to fight over a limited resource and the uncertainty about the outcome of that battle which prevents rational utility planning at present.

The advantages of the regional power bill for the Northwest will be enormous:

First. First and foremost, the region is extraordinarily dependent on electric energy. In the absence of legislation resolving the allocation issue, the whole fabric of the utility industry and the Northwest economy will be in turmoil for a decade.

Second Regional financing of resources through BPA will result in lower resource financing costs, primarily lower interest charges, and reduced equity financing costs, which will likely save the region billions—not millions—of dollars.

Third. Regional financing and priority status for conservation and renewable resources will enable the region to pursue the most aggressive and comprehensive conservation/renewable resource program in the Nation. A recent OTA analysis of the bill supported this conclusion. I ask unanimous consent that a copy of the OTA report be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER Without objection, it is so ordered.

(See exhibit 1)

Mr JACKSON. Fourth The rate provisions of the bill make it possible to immediately extend the economic benefits of low-cost Federal power to consumers served by investor-owned utilities; this is accomplished by raising rates to the aluminum companies At the same time, preference customers rates are limited by a "rate ceiling" to no greater than what they would have been without the bill Preference customers and residential users of electric power are always entitled to the lowest available BPA rate while commercial and industrial consumers generally pay higher rates reflecting new resource costs.

Fifth The utility planning process established by the bill would permit early so that public and government involvement so that public agreement on power needs and the best means of meeting them can be reached before detailed planning for specific resources starts State regulatory, licensing, and siting authorities are fully preserved

The public involvement provisions of the bill merit a special comment The bill requires, through a variety of provisions, for example, sections 2(3), 4(g), 4(c)(8), 6(c), and 7(i), continuing consultation among BPA, the council, and BPA's customers, among others The purpose of these provisions is not simply to require input from the public and from BPA's customers at particular, specified points in the planning and decisionmaking process Rather, the intent is to have such consultation be an ongoing, comprehensive pattern in the conduct by the council and by BPA of all their respective functions. The spirit should be one of cooperation and respect, not one of aloof Government insulated from interested parties by layers of formalism and procedure It may very well prove profitable for the council to institute, for example, the types of informal as well as formal consultation that BPA already undertakes through its customer meetings, so that information, concerns and expertise can all help shape the decisionmaking process from its earliest stages, rather than only at specified, formal stages.

I would like to make one clarifying comment on the Senate report on S 885. Due to a printing error the character of the direct service industry reserves was described in Senate Report 96-272 in a manner which caused some uncertainty and confusion The DSI reserves were correctly described in the House Interior Committee report on S. 885 and as far as I am concerned that report accurately reflects the position of the Senate on this point.

I would like to thank all of my colleagues from the Northwest in the Senate and the House who worked so hard to resolve the extremely difficult political and economic issues associate with this bill In particular, my colleagues on the Senate Energy Committee, Senators CHURCH and MELCHER on the majority side and Senators HATFIELD and MCCLURE on the minority side, deserve praise and appreciation for their tireless efforts in behalf of a bill which addresses the unique needs of their own constituents and the region as a whole

On the House side, Congressman SWIFT has done a remarkable job as a freshman Congressman in shepherding this legislation through the Commerce Committee and the full House Congressman FOLEY has played an indispensable leadership role during consideration of the legislation on the floor of the House. Other members of the delegation have contributed their ideas and efforts at every stage of the process and without their support, passage of the bill would have been impossible.

I would like to extend a special word of appreciation to Congressman JOHN DINGELL whose leadership as chairman of the Energy and Power Subcommittee of the House Commerce Committee was also indispensable. Congressman DINGELL has worked hard to make S 885 the best possible legislation In addition, the ranking minority member of the Energy and Power Subcommittee, Mr. BROWN, provided essential support which was crucial to the bill's success

Mr DINGELL and Mr. LUJAN, ranking minority member of the Water and Power Subcommittee of the House Interior Committee, are to be congratulated for proposing and perfecting the fish and wildlife provisions of the legislation These provisions provide a mechanism for a reasoned and systematic approach to mitigating the damage to fish and wildlife caused by dams on the Columbia River while retaining an adequate, economical and reliable power supply for the region.

Finally, Chairman UDALL of the House Interior Committee, Water and Power Subcommittee Chairman KAZEN and Mr. LUJAN, all provided vital support and assistance during the Interior Committee's consideration of the bill and during consideration of the bill by the full House

I am pleased that we have put behind us the arduous legislative task of designing a new regional power planning program. I will close by noting that the passage of this legislation is merely a beginning. We have established a framework and a mechanism for regional power planning We have created the means for dealing with our serious power planning problems before they become unmanageable Whether this process works will depend on the continued hard work and dedication of the many individuals and groups including utilities, governmental entities, private organizations, and others who have played such a vital role in shaping this bill as it progressed through the legislative process. This will be a formidable task but one which is crucial to the future of the Northwest. I know I speak for my colleagues when I say that we in the Northwest congressional delegation will be following this process closely and we will be available to assist in making this program work whenever possible.

Mr. President, I wish to point out what appear to be typographical errors in the engrossed House bill.

In section 4(h)(4)(A) on page 31, line 21, the comma after the word "regions" should have been stricken and a comma should have been inserted after the word "state."

In section 6(i)(4) on page 52, line 16, the word "that" should have been stricken.

In section 7(a)(2) the word "rules" should have been "rates."

EXHIBIT 1

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, D C , March 20, 1980

Hon HENRY M JACKSON
Chairman, Committee on Energy and Natural Resources, U S Senate, Washington, D C.

DEAR MR CHAIRMAN Following the Senate passage of S 885, the Pacific Northwest Electric Power Planning and Conservation Act you asked me (letter of November 9, 1979) to review and comment on the conservation provisions of that legislation Our analysis is now completed, and I am pleased to transmit it to you We have not reviewed portions other than the conservation provisions of S 885

The concept contained in this bill represents one of the most important conservation ideas produced by the Congress, and I will be pleased to try to provide, within our means, any additional assistance you may request

Sincerely,

JOHN H GIBBONS

OTA ANALYSIS, PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT S 885

CONSERVATION PROVISIONS

The proposed legislation is a unique attempt by the Congress to encourage the Pacific Northwest Region to set a national

standard in determining the wise use of limited resources, protecting the environment insuring equitable distribution of the costs and benefits of power needs and testing the opportunities for shifting onto conservation and renewable resources to provide a stable and sustainable future

S 885 appears to effectively encourage conservation both through technical approaches and behavioral changes in an effort to stretch our energy resources, and provide an opportunity for a significant national experiment in regional cooperation planning and use of renewable resources The legislation reflects a dramatic change from the historical approach used within the region to meet power needs and generation The principal mechanisms of the bill designed to promote conservation—the 110 percent preference calculation the use of billing credits and the imposition of surcharges—should clearly reduce the barriers now inherent in our economic system that often act to restrain desirable conservation measures

One of the principal reasons that utility customers often choose less than optimum conservation investments is that they do not pay the replacement cost of the energy they use Rather they pay the average price for electricity from the utility system and the average price is almost always less than the marginal cost of new electric generating capacity This is especially true for the Pacific Northwest which has enjoyed extraordinarily low-cost power based on federally-financed hydro-electric generating capacity New thermal capacity for the region is several times more costly than the average cost of the existing system Therefore the 110 percent preference billing credits and surcharges allow ways of closing the gap between the price a customer pays and the cost of replacement power In this way conservation can be expected to more nearly reflect its true value to the customer

You inquired what was occuring in other regions and areas that might be comparable to the Pacific Northwest proposal The principal area of comparison is the Tennessee Valley Authority which generates and transmits power for an 80 000 square mile area TVA has initiated an ambitious effort to promote conservation and renewable resources Principal delivery mechanisms are an interest free loan for home audit and weatherization and subsidized placing of solar and wood systems combined with load management and rate analysis TVA's programs are entirely voluntary The aim of the effort is to lower demand throughout the system in response to rising costs of electricity and availability of conservation alternatives If customers do not take advantage of the opportunities TVA has no method for direct financial penalties or rewards to member systems S 885 therefore, would seem a much stronger level to encourage conservation choices in the Northwest

Other regional electric associations i e regional power planning and power pooling areas lack authority to undertake similar initiatives It seems certain however that only regional planning and cooperative action can adequately and fairly develop resources and prevent inequitable distribution of costs and benefits from resource development Some utilities have begun to consider the basic approach embodied in S 885 which is to consider conservation as 'supply This concept is perhaps the most important new idea regarding power and capacity questions of recent years

One way in which regional decisions will be made possible is contained in S 885 which allows the Administrator flexibility to determine acceptable rates of energy use for localities and customers so that both growth areas and mature localities can use energy efficiently without discrimination (It is important to ensure that direct service industrial customers also be expected to meet conservation standards)

Several factors within the Northwest indicate that the new approach can be successful The region has many localities and individuals with a strong commitment to the preservation of environmental quality and the use of renewable resources Both technical expertise and support for these options exist within the population and can presumably be tapped to nurture demonstration projects of the type authorized by the bill Some of the most progressive utility conservation initiatives in the coutry are already part of the regional efforts such as those initiated by Seattle City Light and Pacific Power and Light The expertise in these areas can be shared within the region and across the country Adding the expanded bonding capacity of the Bonneville system to these local efforts will make possible even more dramatic and effective investments in conservation at the local level

It may be that eventually a stronger regional presence and coordinated plan of action will emerge than the present bill envisages In addition to the "model conservation standards" mentioned in the bill, regional analysis will be needed For example region-wide analysis of wind power opportunities could assist all systems in choosing from renewable options

A number of federal programs are now or will shortly be in place which will add to the regional data base and assist the effort The Building Energy Performance Standards (BEPS), which will be sent to the Congress this year will provide a standard for energy efficiency in new construction that the region should be able to use as a model The Residential Conservation Service (RCS) to be implemented next year mandates that most utilities begin offering home energy audits and information on weatherization A regional audit model could be developed that would support the federal effort, take advantage of the knowledge base within the region and provide for a sensitive response to the special climate and construction characteristics of the region Regional analysis could also take advantage of the data now being generated through such programs as the Schools and Hospitals grant program

In view of the need for regional information sharing and cooperation one provision of the bill is unclear The report accompanying the bill (96-272), states in the Section-by-Section analysis that " It is not intended that the Administrator investigate or monitor the conservation activities of compliance with conservation standards of individual performance of his customers and of political subdivisions within the region when the Council has recommended implementation of the standards" (page 25) While there are desirable limits on the role of BPA in investigating the compliance of individuals it will be necessary for some entity to carefully monitor the responses to the energy conservation measures for two reasons First of all such monitoring will be necessary in order to determine whether or not surcharges or credit billings are justified and secondly the region (and the nation) has much to learn from knowing what measures are effective Further learning from the experiments will allow for sound decisions in the future and the importance of such learning cannot be overstated This will apply to technical measures such as home weatherization and load management and nontechnical options such as information programs Good analysis of such data would seem to be a prerequisite of the required updating of the Regional plan and will augment the demonstration work

Careful and concerted regional decision-making is necessary for the country to respond to our rapidly changing energy situation Such decision-making is difficult The conservation portions of the legislation can serve as a unique model for these efforts

Mr. JACKSON. Mr President, I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, we have come to the end of a long and most difficult legislative road. It was frought with obstacles which would have deterred any less dedicated sponsors than those of the bill we now bring up for final consideration

S 885, the so-called Northwest power bill, began with the recognition in the Pacific Northwest that there was certainly a better way to resolve the impendmg problems related to our electric power system than to fight over allocation of the Federal hydropower, to cut off the industries we solicited to locate there, and to continue a piecemeal approach to planning for the development of a power system which is, for the most part, a well-integrated whole From the Pacific coast to the Continental Divide, and from the Canadian border to the California and Nevada borders, we sink or swim together when it comes to electricity.

We turned to a legislative solution because of the unique history of electric power in our region We have an enormous Federal presence there Our solution sought a partnership between the Federal Government—the developer of the Columbia River power system of hydroelectric dams and high-voltage transmission lines—and the existing electric utilities—the developers of the other half of our power generating system and the entities responsible for taking care of our power future Our solution sought the injection of the public's participation, directly and through the Governors of the States, into the power planning process which was once the exclusive domain of utility executives And our solution kept the ratepayers of the region paying all the costs There are no Federal subsidies involved

S 885 was carefully crafted in the Senate to accomplish these ends, and I am pleased that it has emerged from the House with its basic components completely intact The House has, in its inimical fashion, added some 60 pages of verbage to the Senate's 48 in some instances improving the myriad detail and in others deteriorating it, but in all it is the bill we have been working to obtain for nearly 4 years—it is complete It is, indeed, the most important piece of legislation to affect the Pacific Northwest since the 1937 Bonneville Project Act

Recent allegations that the bill represents a great extension of Federal control and involvement leading to nationalization of the region's utilities and a Federal subsidy to the region are completely unfounded The investor-owned utilities in the region have supported the bill in its various forms over the last 4 years in order to prevent socialization of the power industry The cosponsors of the bill have consistently insisted that all costs associated with it are paid entirely by the region The Federal Government, after all tends to control whatever it pays for and this we have sought to avoid

A flurry of slogans about 'guaranteed purchase," melded pricing," 'nationalization" and "subsidy" have confused the actual effect of the bill There are no loan guarantees There are no subsidies All costs are paid by the region without drawing 1 cent of taxpayer money There is no Federal funding of generation All financing to build plants will be done by non-Federal entities, not the Bonneville Power Administration

What the bill does do is extend BPA's current authority to act as marketing agent for Federal power to include non-Federal power In short, it allows Federal and non-Federal power to be pooled and BPA to act as the pool's marketing agent

The pool will not assume obligation for future power supply BPA is given no authority to construct plants All future plants will be built by local utilities The pool can only acquire power from plants owned by others and cannot acquire more power than it has in turn an obligation to supply Thus, the essential utility responsibility remains in the local utilities

The bill limits present Federal authority While BPA is now a part of the Department of Energy with no statutory requirement to confer with local citizens, the bill would subject it to a regional power plan prepared by a State-appointed council and adopted after a rather formidable array of public hearings

The bill is vital to the survival of private enterprise in the Pacific Northwest It turns power responsibilities back to the region, so far as it may constitutionally be done, to be supported financially by the region The bill cannot cost the Federal taxpayer anything

Mr President, I would like to take a few moments to develop some of the detail concerning the points I have just made in order to explain, particularly for the benefit of my Republican colleagues in the Senate the essential conservative support for S 885

The starting point of the Northwest problem which has landed in the lap of Congress is that the Federal Government over the years has built massive generating projects which now represent about one-half of the total generating capability of the region The key factor, therefore, is that the Federal Government is already there, and we must deal with it

The second salient fact is that the Northwest electric power supply was for many years entirely based upon hydroelectric generation projects of which about one-half were built by the Federal Government and one-half were built by non-Federal, local entities I mention this because there is, outside the region, a common assumption that the low cost of power in the Northwest was due to a form of subsidization by the Federal Government in building multipurpose dams

While that was indeed a factor, the fundamental factor was that hydroelectric generation in the period from the thirties to the late sixties was simply the most economic form of generation that could be installed During this period, electric power rates of the investor-owned utilities generating from private facilities were little different from those of the publicly owned utilities generating from public facilities or buying from BPA.

Hydro projects which were environmentally acceptable and economic as compared with the cost of alternative conventional generation at 1969 costs were to be fully built by about 1975. In the late sixties the region's electric utilities and the Bonneville Power Administration determined that the most economic future energy supply would be very large thermal generating plants, coal or nuclear, operated at 'baseload"—in other words, all of the time—with the Federal system providing 'load-factoring"—that is changing the level of generation as the electric load of the region varied from peak in the daytime to low load at night and from peak in the winter to low load in the summer This planning concept was called the "hydrothermal program" and it was put into effect about 1968

The concept, therefore was to treat the entire region as a single electric system with all plants sized, located, built and operated for the benefit of the whole region and not specifically suited to the needs of the particular sponsors of the plant The Northwest has had, by the way, an integrated transmission system since the late forties The hydroplants have been operated in full coordination as though one system since 1964

Between 1968 and about 1972 the principal effort of the region was to get the necessary thermal plants located and the necessary applications for governmental approval in the mill Related to this was the development in the four States of legislation establishing State utility siting councils by which the States would participate in the decision-making process as to where and what kind of generating facilities were to be built

In 1972 we turned to the problem of how to make this mix of thermal baseload and Federal hydroload factoring actually work There are many different aspects of the problem, some of considerable technological complexity For the immediate purpose I use a rather simplified example It was at least theoretically possible for a particular thermal plant to be run for an entire year without serving any needs of its owners, and on the contrary, a particular plant—typically, the one with the highest incremental fuel cost—not to be run at all during a year again without regard to the needs of its owner While contracts could be formed to distribute the burdens and benefits among all the members to meet even this one "simple" problem the contracts would be extraordinarily complicated

In addition, the public agencies, with constitutional inhibitions against "lending of credit,' and Bonneville, with no general purchase authority found themselves without legal capability to execute such contracts We had to have a mechanism to accomplish "pooling" if the basic plan were to operate and we eventually arrived at the very reluctant conclusion that the only viable way to pool was to dump all of the power into BPA and have that agency resell it As the power passes through BPA transmission, it automatically gets "pooled." Thus, BPA in the bill is to be given authority to purchase power on long-term contracts—an authority it does not now have.

Another major problem was that one-third of the aluminum-ingot capacity of the United States secures its necessary power supply directly from Bonneville. The aluminum companies, together with other industries directly served by Bonneville, mostly chemical and rare metals, represent about one-third of the total load of the region Under the law giving preference to public bodies, Bonneville cannot sign a contract with a nonpreference body if it can foresee in the reasonable future that that power will be needed to serve a preference body

BPA, under present law, markets the power generated at the Federal multipurpose dams All these dams built and operated by the Corps of Engineers and the Bureau of Reclamation, have been virtually completed. BPA's power supply is now essentially static The loads of preference agencies continue to grow, and BPA accordingly notified the direct-service industries that their existing contracts would not be renewed when they expired, beginning in 1983 It is in neither the region's interest nor the national interest that one-third of the Nation's aluminum-ingot capacity be shut down. On the other hand, no local utility system has the resources to take on such extraordinary loads The purchase authority given to BPA provides it a means of providing power to the direct-service industries without offending the principles of "preference"

The next problem, also solved by purchase authority, is the one sometimes cited as the principal problem of the area In the absence of a regional bill, BPA will be forced to adopt some policies as to who can buy how much of the limited amount of power that BPA will have available BPA has already promulgated a draft allocation policy to divide up the deficit, and must, in the absence of a bill, adopt a final policy in 1981. Some individual entities must be severely damaged by whatever policy is adopted, since some entities will find what they now have taken away from them That is the nature of allocating a deficiency. To be blunt, there are major areas of disagreement with the draft policy Purchase authority for Bonneville, by eliminating the deficiency, eliminates the need to allocate the deficiency

Another problem solved by purchase authority is a peculiarly regional problem When the hydrothermal program was formulated in 1968, it was anticipated that Bonneville rates would climb around 1975–80 to something around 5 mills per kilowatt-hour, and that generation from new thermal plants might run in the neighborhood of 8 to 10 mills per kilowatt-hour This disparity in bulk power costs was not expected by the utility systems at that time to have any significant effect on retail rate levels The future had a rude surprise.

The 1968 estimate was based upon a projected cost of a nuclear plant of $175 per installed kilowatt of capacity That cost now exceeds $2,000 per kilowatt Plants under construction by the Washington public power supply system are estimated to cost $3,000 per kilowatt, and plants to come on the line after 1990 are estimated at $4,000 per kilowatt The result Because of the preference clause, private utilities were cut off from a supply of Bonneville firm energy in 1973 and, therefore, have had to carry their load growth on the new expensive thermal plants, while BPA will carry the preference agency load growth until 1983, when BPA s present supply runs out

Retail rates of private utilities have been, as a consequence, forced up to a level as much as three times the level of retail rates of adjoining public systems This has created substantial political tension, and has led to a vigorous revival of a movement to place the entire power systems in the Northwest under public ownership In Oregon there were 12 elections to form local public people s utility districts on the ballot in November The major argument against their formation today is that the regional power bill will provide the same benefits, and a new political agency to go into the power business is therefore not required.

If the bill fails, I believe there is no way to prevent the rest of the State of Oregon from becoming a public-power State, and Washington, Idaho and Montana would probably have to follow suit Section 5(c)(3) of the bill provides power to private utilities for their residential loads at exactly the same rate as power sold to preference bodies Since BPA does not have an energy supply, the private utilities supply the energy needed The difference between the cost of power they sell to BPA and the cost of the power they buy back is supplied by the rate power will be sold to the direct-service industries In turn, BPA can sell power to the DSI's only because of purchase authority which is, then, the essential link to achieving rate parity in the region.

It should be clear, now, why the region came to the reluctant conclusion to grant to Bonneville the general authority to purchase power, but it is now necessary to explain why this is not, in fact, a great extension of Federal involvement

First the extension of BPA's current authority is much more narrow than purchase authority sounds BPA is now no more than the marketing agent for power generated at Federal plants with the exception of a net-billing arrangement with the public-system owners of three thermal plants—a device which arose under unusual circumstances not to be repeated Bonneville will in the future, under the bill, also be marketing agent for power generated at non-Federal plants if and to the extent that such power is offered to it by a local utility

The actual operations under the bill may be described with considerable accuracy as BPA acting as agent in operating a power pool for Northwest utilities BPA is the essential agent for this purpose because the use of the Federal system in tandem with baseload plants depends on the enormous storage in the Columbia River system—90 percent of which is controlled by BPA It is this distinction that makes the principles of the bill applicable only to the Pacific Northwest.

Second, Bonneville does not take over the obligation for future power supply. BPA is given no authority to construct. The local utilities will build all future thermal generating plants, as they now do when and where they decide Bonneville cannot purchase the output of a plant unless it can be matched against an existing contractual obligation to supply power Opponents of the bill falsely claim that the bill bails out local utilities which are unable to finance necessary new plants The regional utilities are currently constructing and financing all generating plants that have been licensed and would continue to do so with or without the bill I expect that the money market will regard with some favor a strongly integrated industry, which the bill will allow to happen but this is not the reason this bill was brought to Congress

Bonneville's legal obligation, under the bill to provide a future power supply is limited to the power supplied to it by its customers Under section 5 (b), (c), and (e), if any individual utility fails to supply BPA with enough power, Bonneville can restrict its obligation to that utility to the amount of power so supplied Thus, the essential utility responsibility remains in the local utilities

Third, the bill limits present Federal authority BPA was an agency in the Department of Interior and now in the Department of Energy with no legal requirement that it confer with the States or the local utility systems or the citizens about any of its future power supply plans, nor how it would manage its system, nor even how it would make its rates As a practical matter however particularly since 1960, all of the BPA Administrators have been very conscious of the sensible course of cooperating in future planning and operations With the bill, the future power "plan' will be made by the States—the regional council is appointed exclusively by the States—and BPA must conform with the plan although Congress can authorize a deviation, studies, reports, and advice must be sought from utilities and other regional groups with expertise widespread advisory groups are to be formed, and a rather formidable array of public hearings must precede any decision on a major power or conservation project None of these limits presently exist

There is one area where unquestionably the Administrator is acquiring broadened authority, and that is in conservation Here, too, purchase authority is essential The conservation program will be funded by the power revenues of the Administrator, which under the bill come from the entire region, which means, therefore, that the region's consumers will fund the conservation program of the region If all the wholesale revenues did not flow through BPA, this result would obviously not be possible An important part of this funding is the authority at Bonneville to use $1 250,000,000 of bonding authority to provide for a vigorous conservation program which may include direct loans or grants The bonds, to the extent not paid off by repayment of loans, must be paid, by provision of existing law, solely from power revenues of BPA An effective conservation program in a wholly integrated electric system must cover the entire system, or else the savers merely free up power for nonsavers to use Obviously, if BPA revenues come from only a segment of the region, the conservation program would be confined to that segment, which simply would not work.

A most critical paragraph of the bill to me is the definition of "cost-effective," which will be the test future power resource developments, including conservation resources, must stand The test provided in the bill is the most comprehensive ever mandated in legislation related to powerplant decisionmaking and is biased toward conservation It will compare all incremental costs to the region s power system, including required new transmission of any proposed new resource, with those of any alternative Conservation and end-use applications of renewables will be treated like any power generating resource but in that no transmission costs are associated with them they will have a particular cost advantage Nuclear plant proposals must include all waste storage, fuel cycle and decommissioning costs Proposals must show all environmental costs and benefits that are quantifiable and directly attributable to the resource

Despite the completeness of this test, there is a further recognition that classic economic comparisons omit certain important values, some nonquantifiable, such as the benefit of using less of our Nation's depletable fuels, and intangible environmental and social benefits of employing conservation rather than building large new powerplants In this regard, the cost-effectiveness test contains a proviso that any conservation measure may cost up to 110 percent of that of the least-cost nonconservation resource and still be financed and achieved ahead of the nonconservation resource

Mr President this bill is vital to the Pacific Northwest It discharges an obligation the Federal Government undertook when it built the Columbia River System, and it does so by turning power responsibilities back to the region to be supported financially by the region

Mr President, I should like to restress three particular points First the Northwestern part of the United States, like other parts, is going to face a problem in energy supply in the years ahead It is well known that Bonneville Power Administration has not been able to renew many of its long-term contracts because of its inability to supply the power.

So what we had before us was the chaotic situation of an allocation of a growing shortage of energy The people of Oregon have over the years, chosen in the major part of our State to be

served by investor-owned utilit es The people of Washington, on the other hand, have chosen to be served by, primarily, public-owned utilities

In the Bonneville Project Act, the famous preference clause gives preference to those public distribution agencies over IOU's We could have been involved, therefore, in court battles over the cheaper Federal power We could have had virtually a civil war This bill instead provides for an orderly program for development of additional sources of energy.

Second, what the bill does is to bring the public into a participating role, an effective role to help project the needs and assess the best priorities as to how we are going to develop new sources. That is through the establishment of a planning council made up of representatives of the Governors of the State of the region

Third, it sets up a priority list on resource development In so doing, we are able to establish conservation as resource equivalent to new generating resource and we provide for a 110-percent cost preference for that energy which can be saved by undertaking conservation efforts

The bill also makes more precise the cost effectiveness analysis that must be applied to any source of energy planned for the future In the area of nuclear energy, where I happen to line up with those who are less than enthusiastic about the proliferation of nuclear reactors—in fact, I just do not want to see this happen—we are in this bill providing for the inclusion in any kind of cost analysis the costs of handling waste and disposal of spent fuel out of the reactors and of dismantling those reactors at the end of their 30-year life cycle.

Those are significant breakthroughs Those are pioneering efforts made in this bill

Mr. President, this is vital to the Pacific Northwest This bill has had a rocky road But I think it has demonstrated that all the various distributing agencies, the public utilities, the co-ops, the IOU's, the municipalities, can all come together in a cooperative role to helping to develop a solution to our complex problem A few have fallen off, of course, during the journey of this bill. Where some were once for it, they may be taking a less than enthusiastic position about it now But basically the hardcore of all these various groups have remained the overwhelming number participating in the evolution of this bill

Lastly, Mr. President, I would like to pay particular tribute and give an expression of appreciation to Chairman JACKSON for his courage in one particular part of this bill For many years the people of Oregon have been discriminated against in the rate structure because of our system of distribution This bill sets a uniform rate structure for BPA power sold to any utility for its rural and residential customers This bill will mean, in effect, a saving of $1 billion in the next 10 years for the ratepayers of Oregon, with the revenue slack being made up by the direct-service industrial customers who will get renewed long-term contracts in return for the higher rates that they will pay.

I would also thank the new chairman-to-be of the Senate Energy Committee, Senator MCCLURE of Idaho, who has been very helpful and very fundamentally involved in the development of this bill, and also our colleague from the State of Montana, Senator MELCHER Others, including Senator MAGNUSON, Senator PACKWOOD, and Senator CHURCH have added support along the way. But to the members of the committee who have given leadership to this bill I want to express my deep appreciation, and to the staff of both the majority and minority members of the committee who have been so helpful and persevered so long.

I yield the floor, as the Senator from Florida (Mr CHILES) is very anxious to get back to his bill He yielded the floor to us for handling of this bill in a very brief fashion.

Mr. MELCHER Mr. President, I want it to be known that the bill does have a provision for Bonneville Power to make impact payments to community governments This is sometimes called payment in lieu of taxes In another bill which will be on the Senate calendar, the MOAPA bill, the language is somewhat different I hope that when that bill does come before the Senate, we will be able to have stronger language in it.

Mr MCCLURE. Mr. President, I rise in strong support of S. 885, the Pacific Northwest Electric Power Planning and Conservation Act, as passed by the House of Representatives on November 17, 1980, with an amendment in the nature of a substitute. The House-passed bill, while it contains numerous technical drafting changes to the bill passed by the Senate last year, still retains the essential ingredients necessary for the best interests of the State of Idaho, the Pacific Northwest region, and the support of this Senator

The House-passed bill preserves the organizational essence of our Senate bill with the establishment of a regional council with representatives of each of the Pacific Northwest States The council will have primary responsibility for preparing a regionwide electric power plan, including a related program for fish and wildlife protection, and importantly will review the actions of Pacific Northwest agencies for consistency with the regional plan.

The bill also includes the basic provisions fashioned by the Senate to provide for power exchanges for residential customers of investor-owned utilities, procedures for the acquisition of new power sources, and the basic power allocation system and rate package for the region. Finally, the House bill doubles the existing revolving fund authority available to the Bonneville Power Administration to support the regionwide programs newly established by this bill.

Mr. President, this bill is a necessary and appropriate legislative action to deal with the harsh realities facing the Pacific Northwest region in the decades ahead, regarding the availability, allocation and pricing of the region's Federal hydroelectric power base and needed additions of thermal power for the future growth and development of the region.

In the absence of this legislative action, the region would be reduced to a continuing cycle of lawsuits, customer competition, and interstate conflicts without any formalized mechanism to fashion equitable regionwide remedies.

Many of us who abhor big government generally and the increasing intrusion of the Federal Government into the planning and actions of State and local government and private parties generally, would be opposed to legislation such as the pending bill after more than 5 years of legislative activities relating to this issue, however, it is abundantly clear to this Senator, and I believe to the vast majority of my colleagues in the region, that the only reasonable and responsible solution to this problem is legislation in the form of the pending bill.

I would like to turn now to several important provisions in the House-passed legislation for purposes of developing the Senate understanding of the provisions as legislative history. One of several amendments adopted on the House floor which were offered by my distinguished colleague from Idaho (Mr. SYMMS) adds a new subsection (i) to section 10 of the bill The subsection is a savings clause stating that:

> Nothing in this act shall be construed to affect the validity of any existing licenses, permits, or certificates issued by any Federal agency pursuant to any other Federal law.

It is important to recognize that this savings clause will insure that nothing in this act can or shall be construed to require any Federal agency to modify the terms and conditions of any valid existing Federal license, permit, or certificate. Also, no Federal agency shall have any express or implied authority pursuant to this act or, in any connection between this act and any other laws, to make any such modification of a valid existing Federal license, permit, or certificate.

As a result, a Federal agency cannot cite any provision of this bill as the legal basis for proposing or imposing such a modification in any pending proceedings or any future proceedings related to such existing licenses, permits, and certificates For example, the legal effect of this savings clause would be to prevent any effort under paragraph 4(h)(11) of the bill to impose such modifications and the regulation of non-Federal parties, specifically including regulation by the Federal Energy Regulatory Commission under the Federal Power Act, and other laws applicable to the operation of non-Federal hydroelectric projects and regulation by other agencies of any other facilities which may be subject to this bill.

Consequently, no Federal agency may use the authority in this bill to affect or modify the terms and conditions of licenses, permits or certificates, nor to affect any existing water rights, power rights, or other contract rights which may exist under such terms and conditions for a specific project

Section 6(h) establishes procedures for billing credits as one of the several au-

thorized forms of initiatives for obtaining power or energy conservation under the bill. The language of section 6(h) states that, "If a customer so requests, the Administrator shall grant billing credits to such customer * * *" and then specifies the activities for which billing credits will be available It is the understanding of the Senate that this langage in section 6(h) is merely a technical modification of the companion Senate-passed language which stated.

The administrator is authorized to grant billing credits and provide services to any of his customers

Consequently, the Administrator, pursuant to section 6(h) has the authority to provide such credits and services, but is not obligated mandatorily to take such action. This discretionary authorization is important, because a mandatory obligation on the Administrator would have the unintended effect of modifying de facto the carefully crafted rate structure for the many customers in the region under this bill, merely upon the request of any customer in the region The mandatory obligation also would have the effect thereby of obligating the Federal Government to provide a benefit conditioned only upon a satisfactory request of a customer.

Such an interpretation of the House-passed bill would be fiscally irresponsible and would create utter chaos in the operation of the regional electric power system under the bill Additionally, the several procedural requirements in subsection 6(h) should be construed to provide an essential form of protection to all the region's customers to avoid an unjustified windfall for individual customers

It is particularly important in reviewing subsection 6(h) to correctly apply the specific directions of subsection (k). Subsection (k) requires the Administrator to insure that his exercise of authorities contained throughout section 6 insures that any benefits are distributed equitably throughout the region This subsection is important for each of the authorities contained in section 6, but it is particularly important for those contained in subsection 6(h).

Also, subsection 6(k) reinforces the discretionary authority intended to be placed in the Administrator for subsection 6(h), in that a mandatory obligation under subsection 6(h) would prevent the appropriate exercise of the direction placed on the Administrator by subsection 6(k) I believe it also is important to note in this regard a colloquy which occurred on the House floor on September 29, 1980, which appears at page H9856 of the CONGRESSIONAL RECORD for that date.

Congresman SYMMS, of Idaho ranking minority member of the Subcommittee of Jurisdiction in the House Interior Committee, and Chairman DINGELL of the Jurisdictional Subcommittee in the House Commerce Committee, agreed that the language appearing in subsection (k), insuring that benefits under section 6 "are distributed equitably throughout the region" would not only include "the concept of geographic equity that is, reasonably equal distribution geographically throughout the Pacific Northwest region—but also the concept of equity between classes of customers" The cited colloquy establishes clearly and unambiguously that subsection (k), as it applies to all of section 6, including subsection 6(h), requires the Administrator to use his discretion to insure the equitable distribution of the benefits I have discussed.

Subsection 6(h) in the House bill also includes provision for "conservation activities independently undertaken or continued after the effective date of this act" It is the Senate's understanding that this language is intended to have the same effect as the Senate-passed bill language which includes "independent conservation activities undertaken by such customers * * * after the effective date of this act * * *". Consequently, bill credits can only be granted on the basis of an activity which results in new, additional increments of savings in energy usage beyond any existing conservation activities as of the date of enactment.

Certainly, there is no responsible rationale for granting a benefit for actions already taken to conserve energy prior to the effective date of this act, and any such rationale would effectively involve a windfall benefit for such prior activity The Administrator, therefore, in implementing this subsection, will be required to determine the existence of new additional incremental savings over and above those which otherwise would have occurred from past actions in order to consider any granting of billing credits

Additionally, all of these activities under subsection (h), as well as the other activities in section 6 will be subject to the regional plan and the regional council's reviews for consistency with the plan Certainly, it is our intent that the regional council accurately and properly reflects the comments I have made with regard to subsections 6(h) and 6(k) in fashioning that plan and then reviewing the Administrator's actions for consistency with that plan.

My distinguished colleague from Idaho (Mr. SYMMS) also was successful in amending the purposes of the act in subsection 2(6) to modify the phrase "other facilities on the Columbia River and its tributaries" to read "other power generating facilities on the Columbia River and its tributaries" This particular amendment is essential to insure that this bill and its many provisions related to facilities and fish and wildlife mitigation will exclusively deal with the Federal Columbia River Power System and other power generating facilities on the river and its tributaries and will not in any way affect any other facilities or impoundment structures on the Columbia River or its tributaries in the Pacific Northwest region All this bill addresses are power generating facilities, and no provision or authority under this bill can be construed to cover any other facility or structure in the region

Throughout the bill, the terms "development and operation of any hydroelectric project, development and operation of the hydroelectric facilities; development and operation of electric power facilities and programs, development, operation, and management of such facilities and variations thereof" occur. Quite often these terms are used with regard to the new program under this bill for fish and wildlife protection. It is important to recognize that it is the Senate's understanding of these terms wherever they appear that they shall mean exclusively development, operation, and management actions taken after the date of enactment of this act

There is no intent to develop any program under this bill which would attempt or have the effect of a retroactive application for such development, operation, and management activities taken under the past 50 or 60 years for hydroelectric projects or facilities in the Columbia River Basin, its tributaries and the Pacific Northwest The purely prospective meaning for the cited terms clarifies that the scope in time of actions subject to fish and wildlife protection, enhancement and mitigation under the bill is for future actions only and precludes any retroactive aspect

Certainly, the Senate does not intend that the fisheries provisions under this bill would attempt to restore conditions to those prior to the development and operation of the Pacific Northwest hydroelectric system, nor to compensate any interested party for any alleged losses during such prior development and operation of the system before enactment of this bill

Additionally, significant focus of the House consideration of this bill was on the fisheries issue Very little attention, however, was paid to the details of a wildlife portion of the new program established under this bill It is the Senate's understanding that the primary focus of the new program will be on fisheries protection, enhancement and mitigation and not on any major new initiatives regarding wildlife in the geographic area surrounding hydroelectric projects in the region Consequently, the Administrator and the region council in implementing their respective responsibilities and authorities under this bill should place a primary, if not exclusive, focus on the fisheries aspects of the protection, enhancement, and mitigation provisions in the bill.

It is further important to recognize the overriding significance of subsection 10(h), which deals with water and water-related rights, in the context of the fish and wildlife provisions in this bill. Subsection 10(h) appropriately includes a broad, comprehensive, and overriding savings clause to preclude any appropriation of water and to prevent any legal effect whatsoever with regard to the waters of any river or stream or ground water resource or interstate compact and the existing rights of any legal entity with respect to any water or water-related right. Subsection (h) should and must be carefully and completely observed in the formulation of the plan and program under subsection 4(h) and any other provisions of the bill related to fish and wildlife protection, enhancement, or mitigation.

Subsection 4(k) includes a 7-year sun-

set provision for the 110 percentum incremental system cost advantage for conservation measures established by section 3(4)(D) of the bill Congressman BROWN of Ohio is to be commended for adding this important provision to the bill to insure that the current zeal for conservation measures, which has reached almost mandatory status in some sections of the Pacific Northwest region, does not become a continuously dominant concept in electric power planning, management, and operation within the region unless there is a continuing rationale and justification for a comparative advantage as established in section 3(4)(D).

Additionally, subsection 4(k) will provide a statutory review of the impact effectiveness and ramifications of the 110 per centum advantage in the first 5 years of the bill's implementation While I certainly support responsible energy conservation measures as part of our power planning mix of initiatives, I have concluded that the statutory 110 per centum advantage is ill founded and probably unworkable

Additionally, I am seriously concerned that the full economic growth impacts of the provision for the region will be very negative Consequently, it should be clear that the review and sunset provisions in subsection (k) should be implemented very seriously with an eye to removing the statutory advantage as soon as possible I would hope that the Administrator and the regional council will make every effort as soon as possible to complete such a review and to utilize the authorities contained in subsection (k) to actively remove that advantage in the cost benefit analyses under this bill

Subsection 4(b) includes the so-called safety net provisions which would result in establishing the regional council as a Federal agency in the event that the council is not initially triggered by required State action or a Federal court holds in a final determination the council, or any substantial function or responsibility of the council, to be unlawful or the plan and program to be ineffective This safety net provision was added by the House to deal with the remote possibility that a legal challenge to this act would reach any of those results It is important to emphasize that while the Senate is accepting the safety net provision, it is with the clear understanding that a Federal court would have to declare the council or its major functions under this bill to be unlawful before these provisions would be triggered

Certainly, a mere holding of a single function under this bill to be unlawful should be considered to be de minimis and would not be considered as a "substantial function or responsibility." It is the clear and overwhelming intent of the Congress in this bill that the regional council proceed in accordance with the establishment and operation as provided in section 4 and not as a Federal agency with council members ultimately appointed by the Secretary. The Pacific Northwest region does not need and candidly will not suffer lightly a federally imposed regional planning process with apparent input from Washington acting as a Federal agency.

While the safety net provision gives some security of a continued operation in the event of a court action, there should be no interpretation of the provision which leads to that result unless there is a necessary complete unraveling of the congressionally mandated institutional mechanism incorporated in the regional council

One of the unique tenets of this bill is the regional planning council, which has become more clearly defined as debate has progressed through both bodies of Congress What emerged was an eight-member council consisting of two members from each of the four Northwest States, and appointed, applicable to State law, by the respective Governors The concept of State appointments to the council, which will control and guide the Bonneville Power Administration, assures each State's voice in regional decisionmaking will be heard This concept has survived extensive scrutiny as to its constitutionality, and to that point, I would like to refer to a statement made in the House by the gentleman from Washington, Mr FOLEY.

The Senate-passed S 885 establishing a council with four out of five State-appointed members which would develop a regional plan to guide BPA's authority under the bill The Justice Department later reviewed the Senate bill and found a possible problem in the State appointment scheme Pending the outcome of more detailed legal research on the problem, a federally appointed council was then proposed to and adopted by the House Commerce Committee Federal appointment clearly preserved the council's substantive role without raising doubts about offending the appointments clause of the Constitution When the research indicated that the appointments clause was not applicable to cooperative State-Federal schemes such as the present council, the region united behind a State-appointed council, which would be formed pursuant to an interstate agreement with the consent of the Congress

This revised council scheme was included in the Interior Committee bill and is retained in the reconciled bill before the House The bill, as I have noted, also provides for a federally appointed (safety net) council to be formed if the States do not act to form the council, or in the event the scheme is found to be unconstitutional

Basically, three legal principles bear on this issue

First The purpose of the Appointments Clause is to further the separation of powers and functions of branches of the Federal Government, as the most recent case on the subject makes clear See *Buckley* v *Valeo*, 424 U S 1 at 120–25 (1976) None of the many cases in which the appointments clause has been an issue has involved a State-Federal separation of powers issues (By contrast, S 885 involves both Federal and State authorities and presents no separation of functions issues)

Second Under the commerce clause, Congress has broad latitude to share authority with the States in a variety of ways (Clean Air Act), or to permit extensive State control (See e g , *California* v *U S* 438 U S 645 (1978) (California Water Board may prescribe controls for Federal project as condition of required State permit, or may refuse permit)

Third Congress may specifically authorize interstate agreements which would otherwise encroach on Federal authority *United States Steel* v *Multi-State Tax Commission*, 434 U.S 452 (1978)

In summary the S 885 council is constitutional because the electric power area is one in which Congress may share authority with the States However, council members must be appointed and act pursuant to State authority, as the bill provides, for the scheme to be effective

In addition, the legislative history of S 885 compels explanation of some additional points relating to the relationships between the Northwest utilities and the Bonneville Power Administration

Specifically, one of the purposes of this legislation is to solve the wholesale, to set forth a fair allocation of the benefits of the Northwest's Federal hydroelectric system to all people in the region without regard for the nature of the utility that serves them The bill will preserve the traditional roles, duties, and responsibilities of the region's public and private utilities, State and local governments, and utility commissions.

Neither the council nor the Bonneville Power Administration should supplant or duplicate what the utilities are capable of doing in the Northwest The bill will develop a regulatory and political environment in which the utilities can plan conservation and generating resources and then implement those plans.

The Bonneville Power Administration and the council are charged with the vital responsibility of fostering a firm consensus on the level of and kinds of resources that are necessary and acceptable in the Pacific Northwest. The next decade will be one of power shortages. Effective conservation programs should be put into place quickly to reduce expected demand

Further, the costs and burdens of the shortage, which results from changing regulatory and political requirements and not from the actions of any particular utility or class of utilities, should be distributed fairly across all of the region s ratepayers The bil lis designed to prevent unnecessary bureaucracy, regulation, and redtape

This means that the council and the BPA should use utility company and other experts in the Northwest, rather than creating a staff which will reinvent the wheel The council should review and evaluate proposals for the regional plan made by the parties rather than trying to impose its own schemes on the region The plan itself is contemplated to be broad in scope, not making specific resource choice and site decisions

Pages 46 and 47 of the report of the House Interior Committee clearly explains the need to distinguish between energy and peaking resources so that only the firm energy produced in the peaking use of a resource is committed to loan under section 5(b)(1)(a).

The provisions of section 5(a)(6) regarding restrictions made in the event of insufficiency are subject to the following stipulations· First, the independently owned utilities are not to be restricted to a level below that which they sell to or exchange with BPA; second,

reasonable notice—not less than 5 years—must be made in advance of restriction, and third, notice of restriction cannot be given until there has been a reasonable period of experience under the bill

The fact that public body cooperative, and Federal agency customers may not be made subject to restriction in the event of insufficiency until such time as their combined loads equal or exceed the capability of the Federal base system resources should not obscure the fact that, in order to avoid insufficiency, BPA will need to acquire from or on behalf of such customers sufficient resources to meet the load growth of such customers occurring after passage of this act The bill will not work if these customers fail to provide sufficient resources to meet their own load growth

Subject to the exclusions in section 5 (c) (7), the average system cost methodology worked out by the Bonneville Power Administration should pay the full cost of power exchanged to the BPA, so that customers of independently owned utilities will not be forced to shoulder an extra financial burden

Under the provisions of section 5(g) (1), the Bonneville Power Administration must negotiate contracts with the parties, that is, BPA cannot promulgate terms and conditions on a take-it-or-leave-it basis Further, BPA is to offer the same kind of contract to public and private utilities There is no discrimination on such matters of acquisition of capability versus output In regard to acquisition, the cross-examination procedures under section 6(c)(1) should be limited to issues-of-fact material to the decision about which there is a genuine and substantial controversy

Independently owned utilities and direct service industries are entitled to billing credits on the same basis as public agencies without regard to the fact that the Bonneville Power Administration will be the debtor in initial years before they buy resources from BPA in an amount that offsets what BPA owes under the exchange In short, the net billing credits should be netted against payments under section 5(c) before netting BPA obligations against IOU or DSI obligations

In regards to the Public Utility Holding Company Act First, BPA and the SEC should not both be required to hold hearings and go through formal proceedings Where BPA holds a hearing, for example under section 6(c) the SEC is not also required to hold a hearing to determine if an exemption under the act is justified Second The SEC was retained, despite its objections, in order to lend its expertise in preventing the occurrence of the kinds of abuses that gave rise to the Holding Company Act Consequently, the SEC is expected to review only the same kinds of contracts that it would be expected to review under PUHCA It is not supposed to be retained in new areas for example power contracts The SEC expertise with regard to the relationships between companies does not extend to the nuts and bolts of power issues and operations

I would now like to address some additional facets of the Governor-appointed council that is established by this bill, as it is one of the key cogs to the workability of this legislation Section 4(a)(2) which sets for the State laws relating to the council guarantees the independence of State action relating to functions performed by the State The State laws, therefore, are independent of each other, that is they do not have to be identical, and in fact, probably will not be identical

The council will be established under the provisions of section 4(a)(2)(B), when six initial members have been appointed, without regard to which States are represented by those six appointees Likewise, the 6-month extension procedures set forth in this provision can be requested by any two Governors, without regard to their respective States, or the progress they have made with regard to their council appointments

The council itself can interpret the uniform Federal 'good government" provisions under section 4(a)(4) with discretion In other words, the provisions are flexible, and can be tailored to the particular council structure as the council sees it. The council also has great discretion over the plan itself The courts in reviewing the development of the plan are not intended to second guess the actions of the council The elements of the plan can be done piecemeal, with separate rulemaking procedures for each if the council deems that action appropriate

Finally, in regard to the conservation standards established by the council, practicality and reasonableness are among the considerations in the formation of the standards, and the enforcement measures envisioned by the bill do not include unfettered police powers Those enforcement procedures developed by the council are limited to practical and cooperative efforts between the PBA and the States and political subdivisions, customers, and the public

I would also like to correct an error which was printed in the Senate report on S 885 regarding direct service industry reserves These reserves, discussed in section 5(d), are described accurately, and in some detail, in the House Interior Committee report and I direct attention to that report for its description of the reserves

Mr President, the bill before us today represents a hallmark of legislative initiative and action for my State and my region of the country in seeking to deal effectively and realistically with the serious power problems which face us in the years and decades ahead It is the result of literally thousands of man-hours of work by all of the interest groups within the region, the Administrator and staff of the Bonneville Power Administration, and the Northwest delegation in Congress

I shall attempt to thank all of those who have been so instrumental in the accomplishment which this bill represents But I do wish to thank my colleagues and friends here in the Senate from the Pacific Northwest.

I also wish to acknowledge the important leadership and support provided by the committee's staff director, Dan Dreyfus I also want to express my particular gratitude for the help of Congressman STEVEN SYMMS of Idaho and the staff supporting him, Bill Fay and Gary Ellsworth, and Chuck Trabandt of the Senate Energy Committee, as well as the rest of the House Members and staff who were instrumental in bringing the bill to the Senate today I look forward to working with all of these individuals and many interest groups in the region in the years ahead in attempting to make the promise of this bill into a positive reality for our cherished Pacific Northwest region

Thank you, Mr. President

Mr McCLURE Mr President, I would like to engage the chairman of the Energy Committee, which fashioned S 885 originally, in a brief colloquy to establish the Senate s understanding of certain provisions in the House amendment for purposes of legislative history Subsection 10(1) of the House amendment states that nothing in this act shall be construed to affect the validity of any existing licenses, permits, or certificates issued by any Federal agency pursuant to any other Federal law

Would the Senator agree that this subsection will insure that nothing in this act can or shall be construed to require any Federal agency to modify the terms or conditions of any valid existing Federal license, permit, or certificate?

Mr JACKSON I agree completely and, in fact, no Federal agency shall have any express or implied authority under this act or in any connection between this act and any other law to make any such modification of a valid existing Federal license permits or certificate

Mr McCLURE Would the Senator agree that as a result, a Federal agency cannot cite any provision of this bill as the legal basis for proposing or imposing such a modification in any pending proceedings or any future proceedings relating to such existing licenses, permits, or certificates?

Mr JACKSON Yes, I agree completely For example, the legal effect of this savings clause would be to prevent any effort under paragraph 4(h)(11) of the bill to impose such modifications in the regulation of non-Federal parties, specifically including regulation by the Federal Energy Regulatory Commission under the Federal Power Act and any other laws applicable to the operation of non-Federal hydroelectric projects or other related facilities

Mr McCLURE Would the Senator also agree consequently that no Federal agency may use any authorities in this bill to affect or modify the terms and conditions of such licenses, permits or certificates nor to affect any existing water rights, power rights or other contract rights which may exist under such terms and conditions?

Mr JACKSON Again, I agree completely with that conclusion as a matter of law under this bill

Mr McCLURE I thank the Senator Subsection 6(k) requires the adminis-

trator to insure that any benefits under section 6 "are distributed equitably throughout the region." Would you agree that this concept of equitable distribution throughout the region would not only include the concept of geographic equity—as among various geographic locations or areas of the region—but also the concept of equity between classes of customers under the bill?

Mr. JACKSON. The Senator is correct, and I agree that both geographic equity and equity between classes of customers is intended to be incorporated fully in subsection 6(k).

Mr. McCLURE. Would the Senator also agree that the individual subsections of section 6 and the benefits included in such subsections all are subject to this express direction to the administrator to insure such equitable distribution, so that the administrator must exercise his authority under each such subsection in a discretionary manner consistent with and satisfying subsection 6(k).

Mr. JACKSON. I do agree, and certainly every authority in section 6 involving a benefit must be exercised in a discretionary manner which is consistent with and satisfies the mandatory requirement in subsection 6(k).

Mr. McCLURE. The bill was amended on the House floor to insert the words "power generating" before the word "facilities" in subsection 2(6). Would the Senator agree that the resulting provision now insures that this bill and its many provisions related to facilities and fish and wildlife mitigation will exclusively deal with the Federal Columbia River Power Systems, as defined, and other power generating facilities on the river and its tributaries?

Mr. JACKSON. I agree completely and consequently it is clear that all this bill addresses in its provisions are power generating facilities and no provision or authority under the bill can be construed to cover any other facility or structure in the region.

Mr. McCLURE. I thank the Senator. Finally, subsection 10(h) is a savings clause which preserves and protects all water and water-related rights under the bill. Would the Senator agree that subsection 10(h) is of overriding legal significance in the context of the fish and wildlife provisions of the bill, such that in the event of any legal ambiguity or conflict between subsection 10(h) and such provisions, subsection 10(h) will control the legal result?

Mr. JACKSON. Again, I agree completely with the Senator. I believe it is the full intent of the Senate that the subsection 10(h) savings clause for water and water-related rights shall be legally controlling over all other provisions in this bill, and consequently there should be strict observance of the subsection in the formulation of the plan and program under subsection 4(h) and the implementation generally of this bill.

Mr. McCLURE. I thank the Senator for this colloquy, and I again commend him for his strong leadership in fashioning the bill finally before us. I am convinced that the colloquy will better insure predictable and responsible interpretation and implementation of the bill.

Mr. MAGNUSON. Mr. President, I want to congratulate all of the parties that have worked so hard to make this legislation a reality. Members of the House and Senate, and other elected officials, congressional staff, and representatives of governmental agencies, publicly owned utilities, and public interest groups have all worked countless hours on this bill. I believe that this legislation has been improved over the last 4 years as a result of this process.

This bill establishes a framework for energy planning in the Pacific Northwest; it sets up a regional financing mechanism that gives highest priority to conservation and renewable resources; and it is designed to keep the costs that consumers pay for electricity as low as possible.

Mr. President, the Bonneville Project Act of 1937 has served the people of the Pacific Northwest well. The Federal dams and electrical transmission system have provided low-cost power for the homes and factories in our region. The Federal irrigation systems have helped the region bloom. I am very proud of my support over the years for these Federal investments.

Now it is time for new legislation, to meet the electrical energy needs of the Pacific Northwest for the rest of this century. This bill lays the foundation and provides the structure. But it will be up to all of the people who worked on this legislation to make sure that it holds together. The implementation of the bill will require continued cooperation, innovation, and perspiration.

Again, I want to congratulate all of the people who made this important legislation possible. The chairman of the Energy and Natural Resources Committee, my colleague from Washington (Mr. JACKSON), deserves special recognition for his leadership and his patience. He has been able to craft a workable compromise that meets the concerns of the people of the Pacific Northwest.

Mr. President, I urge the Senate to pass this legislation.

Mr. JACKSON. Mr. President, I move that the Senate concur in the House amendments to S. 885.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PAPERWORK REDUCTION ACT OF 1980

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The question recurs on S. 1411.

Mr. CHILES. Mr. President, I yield to the Senator from North Dakota.

SAFE DRINKING WATER ACT AMENDMENTS

Mr. BURDICK. Mr. President, I move that the Committee on Environment and Public Works be discharged from further consideration of H.R. 8117 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8117) to amend the Safe Drinking Water Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Dakota?

There being no objection, the Senate proceeded to consider the bill.

Mr. BURDICK. Mr. President, H.R. 8117 makes some urgently needed technical amendments in the Safe Drinking Water Act. These amendments change none of the basic and major aspects of this important act but will allow necessary flexibility in its administration so that those goals may eventually be met.

The first section will extend the authority of States to exempt temporarily from interim drinking water regulations those public water supply systems that may be encountering difficulty in achieving compliance with existing timetables. This will be especially important for smaller systems that must undergo more far reaching changes if these standards are to be met.

Section 2 deals with underground injection involved in the recovery and production of oil and gas. The administration has established minimum requirements for the control of such procedures and a State may assume enforcement responsibility by demonstrating it has in place a control program that satisfies these requirements. The amendment here would allow States which have already in place control programs of this sort to demonstrate that capability without having to meet all of the specific regulations that have been proposed. This alternative demonstration will insure an equal degree of protection but will not place a further level of administrative burden on States. Furthermore, there must still be public hearing and comment before the Administrator may accept such an alternative proposal.

Section 3 removes the undeground storage of natural gas from the statutory definition of underground injection. It has already been determined that such storage does not present a threat to safe drinking water, but despite these findings, the possibility of regulation yet exists. This section prevents unnecessary further demand in this area from being placed on a portion of industry that does not ultimately enter the field of circumstances which the act intends to address.

Given the nature of these technical amendments, Mr. President, and the fact that unless we move to adopt them a great deal of needless administrative complication may ensue, I encourage Senators to join with me in seeking pas-

C.R.—HOUSE
DEBATE 1980

The Congress is currently working with the private sector to develop new and profitable export markets. It is the second objective that we are concerned with today. This resolution addresses the unnaturally high trade deficit which currently exists between the United States and Japan. I believe that Japan does share some responsibility for this deficit. While they may be enjoying the short-term benefits of this trade balance, such a deficit only breeds antagonism. This antagonism could lead to protectionist measures against Japanese products. Such a result is certainly unwanted, but it could happen.

The Japanese must understand the inequity of their nontariff trade barriers. If they wish to enjoy the competition of the American markets, then they must permit non-Japanese companies the right to compete in Japanese markets. This is only fair. And that is all that any country can ask for—fair trade.

I have urged my colleagues to support House Concurrent Resolution 376.

Mr SIMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr OBERSTAR. Mr. Speaker, I thank my colleague and commend the gentleman for bringing forth this legislation. It is one that charts America on a course of encouraging foreign language study but ironically, as we take up this legislation, my thoughts go back to that time in 1958 when Sputnik was circling the globe and Vanguard was sputtering on Earth and America took a look at where we stood in educational achievement, in the sciences and in foreign languages, and decided we had failed somewhere along the line and that a major initiative was needed by the Federal Government to spur a national effort in these fields. The National Defense Education Act was born of that experience, including a provision for encouraging foreign language studies. My regret is that I was not in college at that time, or that the legislation had not passed 4 or 6 years earlier so that I could have benefited from the financial assistance it offered needy students, to encourage foreign language studies.

Mr. Speaker, I majored in French in my undergraduate years and have continued to study foreign languages since then and have a very deep and continuing interest in encouraging foreign language studies I have served myself as a translator and interpreter and taught foreign language both in this country and abroad. I strongly feel that whatever we can do in the Congress to encourage foreign language studies we should do. This resolution is a very modest effort We ought to make that effort nonetheless. The United States has fallen behind in developing foreign language capability in the lower grades and in the secondary schools. If current figures are any indication, applications for funds available for foreign language study fellowships have declined by two-thirds since 1972 when legislation was passed to provide such funds I think that is a terrible commentary on our educational system.

We should be the leader, we, a Nation which is in itself a League of Nations and has attracted people from all over the world. We should not neglect our ethnic and linguistic roots and instead ought to capitalize on this great reserve that we have in this country of talent in language ability and be the leaders in the world instead of being one of the laggers in the world of foreign language studies.

Mr. Speaker, I think the gentleman's resolution puts the burden properly where it ought to be, on local education institutions to encourage them to develop foreign language study. I do not share the fears expressed by the gentleman from Ohio (Mr. ASHBROOK). I think this is a proper kind of leadership that the Congress ought to exercise by encouraging the development of foreign language curricula at the local level

Mr. SIMON Mr. Speaker, I thank my colleague from Minnesota, who is a linguist.

● Mr. DERWINSKI. Mr. Speaker, I enthusiastically endorse this resolution to encourage stronger course offerings and requirements in foreign language and international studies in our high schools, colleges and universities.

In order for the United States to conduct a knowledgeable foreign policy and effectively communicate with and analyze the behavior of our allies, our adversaries and the uncommitted nations, we need to improve the language skills of our people. A greater emphasis on language training will also aid our country in competing in world trade.

However, in recent years, while our needs have increased, there has been a serious decline in language training in our school system. I believe it is time for Congress to express our belief that educators at all levels should strengthen and promote the study of foreign languages in our schools Such an effort will contribute to the strength of our country ●

● Mr. HARRIS. Mr. Speaker I am pleased to have cosponsored House Concurrent Resolution 301, a sense-of-Congress resolution urging greater emphasis on foreign language and international studies.

There is just no question that Congress must recognize the need to strengthen course offerings and requirements in foreign language and international studies in the schools, colleges and universities of America.

As a member of the House group studying the state of foreign languages and international studies in the United States, I feel there is an urgent need to pass this resolution We must work to reverse the "dangerous downward drift" in America's foreign language and international studies competence documented in the report of the Presidents Commission on Foreign Language and International Studies. In a summer edition of Higher Education and National Affairs, I read a brief announcement that the CIA is finding a dwindling number of applicants who are proficient in foreign languages and is experiencing difficulty in staffing language-designated positions. This is a sad state of affairs and must be remedied. The resolution we are considering today is only a start, but at least Congress will be demonstrating its interest and responsibility for encouraging foreign language competence as an essential component of our national security Hopefully a resolution with followup enabling legislation will put an end to such ads as the one just described.

We know that America will continue to be faced with political crises around the world whose solutions will definitely require a capacity to understand the language and cultures of other global actors. Let us begin, today, our efforts to strengthen America in this area ●

Mr. SIMON Mr Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore The question is on the motion offered by the gentleman from Illinois (Mr. SIMON) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 301, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: S 885, House Concurrent Resolution 376, House Resolution 633, H R 7873, and H R 3765

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill. S. 885, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore The question is on the motion offered by the gentleman from Texas (Mr. KAZEN) that the House suspend the rules and pass the Senate bill, S. 885, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 264, nays 77, not voting 71, as follows:

[Roll No. 635]

Yeas—284

Addabbo	Goldwater	Natcher
Akaka	Goodling	Nedzi
Alexander	Gore	Nelson
Ambro	Gradison	Nowak
Anderson, Calif.	Gramm	Oakar
	Grassley	Oberstar
Andrews, N.C.	Gray	Obey
Annunzio	Grisham	Panetta
Applegate	Guarini	Pashayan
Archer	Gudger	Patten
Ashbrook	Guyer	Patterson
Badham	Hall, Tex.	Pepper
Bafalis	Hamilton	Perkins
Bailey	Hammer-schmidt	Petri
Baldus		Peyser
Barnard	Hance	Pickle
Bauman	Hanley	Preyer
Beard, Tenn.	Hansen	Price
Benjamin	Harris	Pritchard
Bennett	Harsha	Quayle
Bereuter	Hawkins	Quillen
Biaggi	Heckler	Rahall
Blanchard	Hefner	Railsback
Boggs	Heftel	Regula
Boland	Hightower	Rhodes
Boner	Hillis	Rinaldo
Bonker	Hinson	Ritter
Bouquard	Holland	Robinson
Bowen	Hollenbeck	Roe
Brademas	Holt	Rostenkowski
Breaux	Hopkins	Roth
Brinkley	Horton	Rousselot
Brown, Ohio	Huckaby	Roybal
Broyhill	Hughes	Royer
Buchanan	Hutto	Rudd
Burlison	Hyde	Russo
Butler	Ichord	Sabo
Byron	Ireland	Santini
Campbell	Jeffries	Scheuer
Carney	Jenkins	Schulze
Carter	Johnson, Colo.	Sebelius
Cheney	Jones, N.C.	Shannon
Clausen	Jones, Okla.	Sharp
Clinger	Jones, Tenn.	Shelby
Coelho	Kazen	Skelton
Conable	Kemp	Smith, Iowa
Corcoran	Kogovsek	Smith, Nebr.
Coughlin	LaFalce	Snowe
Courter	Latta	Snyder
Crockett	Leach, Iowa	Solarz
D'Amours	Leach, La.	Solomon
Daniel, R. W.	Leath, Tex.	Spence
Danielson	Lederer	St Germain
Dannemeyer	Lee	Stack
Davis, Mich.	Lent	Staggers
Davis, S.C.	Levitas	Stangeland
de la Garza	Lewis	Stanton
Derrick	Livingston	Steed
Devine	Lloyd	Stenholm
Dickinson	Loeffler	Stewart
Dicks	Long, La.	Stokes
Dingell	Lott	Stratton
Dixon	Lujan	Stump
Dornan	Luken	Swift
Duncan, Oreg.	Lundine	Symms
Duncan, Tenn.	Lungren	Synar
Early	McClory	Tauke
Edwards, Ala.	McCormack	Tauzin
Emery	McDade	Traxler
English	McHugh	Udall
Erdahl	McKay	Ullman
Erlenborn	McKinney	Van Deerlin
Ertel	Marks	Vander Jagt
Evans, Ga.	Marriott	Vanik
Evans, Ind.	Martin	Volkmer
Fary	Mathis	Walgren
Fascell	Matsui	Walker
Ferraro	Mattox	Wampler
Findley	Mavroules	Watkins
Fish	Mazzoli	Waxman
Fisher	Mica	White
Flippo	Michel	Whitley
Florio	Miller, Ohio	Whittaker
Foley	Mineta	Whitten
Ford, Mich.	Moakley	Williams, Mont.
Ford, Tenn.	Moffett	Wirth
Forsythe	Mollohan	Wolff
Fountain	Montgomery	Wright
Fowler	Moore	Wyatt
Frost	Moorhead, Calif.	Wydler
Fuqua		Yatron
Gaydos	Moorhead, Pa.	Young, Alaska
Gephardt	Murphy, Ill.	Young, Fla.
Glaimo	Murtha	Zablocki
Gibbons	Musto	Zeferetti
Glickman	Myers, Ind.	

NAYS—77

Abdnor	Edgar	Maguire
Andrews, N.Dak.	Edwards, Calif.	Markey
	Edwards, Okla.	Marlenee
Aspin	Fazio	Mikulski
AuCoin	Fenwick	Miller, Calif.
Barnes	Gilman	Minish
Bedell	Gingrich	Mitchell, Md.
Bingham	Gonzalez	Mitchell, N.Y.
Bonior	Green	Motti
Brodhead	Hall, Ohio	Murphy, Pa.
Broomfield	Harkin	Paul
Brown, Calif.	Howard	Porter
Burton, John	Hubbard	Ratchford
Carr	Jacobs	Reuss
Cavanaugh	Jeffords	Rosenthal
Chisholm	Johnson, Calif.	Schroeder
Clay	Kastenmeier	Seiberling
Conte	Kildee	Sensenbrenner
Conyers	Kindness	Simon
Daniel, Dan	Kostmayer	Stark
Daschle	Kramer	Studds
Deckard	Lagomarsino	Trible
Derwinski	Lehman	Weaver
Donnelly	Long, Md.	Weiss
Drinan	Lowry	Wolpe
Eckhardt	McDonald	Yates

NOT VOTING—71

Albosta	Dougherty	Rangel
Anderson, Ill.	Downey	Richmond
Anthony	Evans, Del.	Roberts
Ashley	Fithian	Rodino
Atkinson	Frenzel	Rose
Beard, R.I.	Garcia	Satterfield
Bellenson	Ginn	Sawyer
Bethune	Hagedorn	Shumway
Bevill	Holtzman	Shuster
Bolling	Hutchinson	Spellman
Brooks	Jenrette	Stockman
Burgener	Kelly	Taylor
Burton, Phillip	Leland	Thomas
Chappell	McCloskey	Thompson
Cleveland	McEwen	Vento
Coleman	Madigan	Whitehurst
Collins, Ill.	Murphy, N.Y.	Williams, Ohio
Collins, Tex.	Neal	Wilson, Bob
Corman	Nichols	Wilson, C. H.
Cotter	Nolan	Wilson, Tex.
Crane, Daniel	O'Brien	Winn
Crane, Philip	Ottinger	Wylie
Dellums	Pease	Young, Mo.
Dodd	Pursell	

□ 1820

The Clerk announced the following pairs:

On this vote:

Mr. Young of Missouri and Mr. Ginn for, with Mr. Vento against.

Mr. Murphy of New York and Mr. Thompson for, with Mr. Rangel against.

Mr. Corman and Mr. Cotter for, with Mr. Garcia against.

Mrs. Spellman and Mr. Ottinger for, with Mr. Leland against.

Mr. Charles H. Wilson of California and Mr. Neal for, with Mrs. Collins of Illinois against.

Until further notice:

Mr. Ashley with Mr. Cleveland.

Mr. Downey with Mr. Pursell.

Mr. Richmond with Mr. McEwen.

Mr. Rodino with Mr. Bob Wilson.

Mr. Jenrette with Mr. Evans of Delaware.

Mr. Brooks with Mr. McCloskey.

Mr. Phillip Burton with Mr. Collins of Texas.

Mr. Chappell with Mr. Sawyer.

Mr. Atkinson with Mr. Stockman.

Mr. Anthony with Mr. Thomas.

Mr. Fithian with Mr. Daniel B. Crane.

Mr. Rose with Mr. Burgener.

Mr. Bevill with Mr. Dougherty.

Mr. Nichols with Mr. Schuster.

Mr. Pease with Mr. O'Brien.

Mr. Beard of Rhode Island with Mr. Shumway.

Mr. Albosta with Mr. Taylor.

Mr. Bellenson with Mr. Whitehurst.

Mr. Dellums with Mr. Hagedorn.

Mr. Dodd with Mr. Frenzel.

Ms. Holtzman with Mr. Madigan.

Mr. Hutchinson with Mr. Coleman.

Mr. Nolan with Mr. Bethune.

Mr. Charles Wilson of Texas with Philip M. Crane.

Mr. Williams of Ohio with Mr. Winn.

Mr. Satterfield with Mr. Wylie.

Mr. Roberts with Mr. Kelly.

Mr. GRISHAM changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PURSELL. Mr. Speaker, had I been present on Monday, November 17, 1980, for the vote on S. 885 I would have voted "no." I was personally detained due to a family in my district who needed emergency help with their son. I personally believe my assisting the family has saved the son's life.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill, S. 885, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 885, PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendment to the Senate bill, S. 885, the Clerk be authorized to correct punctuation marks, section numbers, and cross references.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 885, PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that the House insist on the House amendment to the Senate Bill S. 885, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

The Chair hears none and, without objection, appoints the following conferees: Messrs. DINGELL, STAGGERS, OTTINGER, SHARP, SWIFT, GORE, UDALL,

KAZEN, WEAVER, CARR, PATTERSON, KOGOVSEK, BROYHILL, BROWN of OHIO, MOORHEAD of CALIFORNIA, CLAUSEN, LUJAN, and SYMMS.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)3 of rule XXVII, the Chair again announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

JAPAN-UNITED STATES TRADE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 376) relative to Japan-United States trade as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 376), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 2, not voting 67, as follows:

[Roll No. 636]

YEAS—363

Abdnor	Butler	Erdahl
Addabbo	Byron	Erlenborn
Akaka	Campbell	Ertel
Alexander	Carney	Evans, Ga.
Ambro	Carr	Evans, Ind.
Anderson, Calif.	Carter	Fary
	Cavanaugh	Fascell
Andrews, N.C.	Cheney	Fazio
Andrews, N Dak.	Chisholm	Fenwick
	Clausen	Ferraro
Annunzio	Clay	Findley
Applegate	Clinger	Fish
Archer	Coelho	Fisher
Ashbrook	Conable	Flippo
Aspin	Conte	Florio
Atkinson	Conyers	Foley
AuCoin	Corcoran	Ford, Mich.
Badham	Coughlin	Ford, Tenn.
Bafalis	Courter	Forsythe
Bailey	Crockett	Fountain
Baldus	D'Amours	Fowler
Barnard	Daniel, Dan	Frost
Barnes	Daniel, R. W.	Fuqua
Bauman	Danielson	Gaydos
Beard, Tenn.	Dannemeyer	Gephardt
Bedell	Daschle	Giaimo
Benjamin	Davis, Mich.	Gibbons
Bennett	Davis, S.C.	Gilman
Bereuter	de la Garza	Gingrich
Biaggi	Deckard	Glickman
Bingham	Derrick	Gonzalez
Blanchard	Derwinski	Goodling
Boggs	Devine	Gore
Boland	Dickinson	Gradison
Boner	Dicks	Gramm
Bonior	Dingell	Grassley
Bonker	Dixon	Gray
Bouquard	Donnelly	Green
Bowen	Dornan	Grisham
Brademas	Drinan	Guarini
Breaux	Duncan, Oreg.	Gudger
Brinkley	Duncan, Tenn.	Guyer
Brodhead	Early	Hall, Ohio
Broomfield	Eckhardt	Hall, Tex.
Brown, Calif.	Edgar	Hamilton
Brown, Ohio	Edwards, Ala.	Hammer-schmidt
Broyhill	Edwards, Calif.	
Buchanan	Edwards, Okla.	Hance
Burlison	Emery	Hanley
Burton, John	English	Hansen
Harkin	Marks	Sabo
Harris	Marlenee	Santini
Harsha	Marriott	Scheuer
Hawkins	Martin	Schroeder
Heckler	Mathis	Schulze
Hefner	Matsui	Sebelius
Heftel	Mattox	Seiberling
Hightower	Mavroules	Sensenbrenner
Hillis	Mazzoli	Shannon
Hinson	Mica	Sharp
Holland	Michel	Shelby
Hollenbeck	Mikulski	Simon
Holt	Miller, Calif.	Skelton
Hopkins	Miller, Ohio	Smith, Iowa
Horton	Mineta	Smith, Nebr
Howard	Minish	Snowe
Hubbard	Mitchell, Md.	Snyder
Huckaby	Mitchell, N.Y.	Solarz
Hughes	Moakley	Solomon
Hutto	Moffett	Spence
Hyde	Mollohan	St Germain
Ichord	Montgomery	Stack
Ireland	Moore	Staggers
Jacobs	Moorhead, Calif.	Stangeland
Jeffords		Stanton
Jeffries	Moorhead, Pa.	Stark
Jenkins	Mottl	Steed
Johnson, Calif.	Murphy, Ill.	Stenholm
Johnson, Colo.	Murphy, Pa.	Stewart
Jones, N.C.	Murtha	Stockman
Jones, Okla.	Musto	Stokes
Jones, Tenn.	Myers, Ind.	Stratton
Kastenmeier	Natcher	Studds
Kazen	Nedzi	Stump
Kemp	Nelson	Swift
Kildee	Nowak	Symms
Kindness	Oakar	Synar
Kogovsek	Oberstar	Tauke
Kostmayer	Obey	Tauzin
Kramer	Ottinger	Traxler
LaFalce	Panetta	Trible
Lagomarsino	Pashayan	Udall
Latta	Patterson	Ullman
Leach, Iowa	Pepper	Van Deerlin
Leach, La.	Perkins	Vander Jagt
Leath, Tex.	Petri	Vanik
Lederer	Peyser	Volkmer
Lee	Pickle	Walgren
Lehman	Porter	Walker
Lent	Preyer	Wampler
Levitas	Price	Watkins
Lewis	Pritchard	Waxman
Livingston	Pursell	Weaver
Lloyd	Quayle	Weiss
Loeffler	Quillen	White
Long, La.	Rahall	Whitley
Long, Md.	Railsback	Whittaker
Lott	Ratchford	Whitten
Lowry	Regula	Williams, Mont
Lujan	Reuss	Wirth
Luken	Rhodes	Wolff
Lundine	Rinaldo	Wolpe
Lungren	Ritter	Wright
McClory	Robinson	Wyatt
McCormack	Roe	Wydler
McDade	Rosenthal	Yates
McDonald	Rostenkowski	Yatron
McEwen	Roth	Young, Alaska
McHugh	Rousselot	Young, Fla.
McKay	Roybal	Zablocki
McKinney	Royer	Zeferetti
Maguire	Rudd	
Markey	Russo	

NAYS—2

Goldwater	Paul

NOT VOTING—67

Albosta	Dougherty	Richmond
Anderson, Ill.	Downey	Roberts
Anthony	Evans, Del.	Rodino
Ashley	Fithian	Rose
Beard, R.I.	Frenzel	Satterfield
Beilenson	Garcia	Sawyer
Bethune	Ginn	Shumway
Bevill	Hagedorn	Shuster
Bolling	Holtzman	Spellman
Brooks	Hutchinson	Taylor
Burgener	Jenrette	Thomas
Burton, Phillip	Kelly	Thompson
Chappell	Leland	Vento
Cleveland	McCloskey	Whitehurst
Coleman	Madigan	Williams, Ohio
Collins, Ill.	Murphy, N.Y.	Wilson, Bob
Collins, Tex.	Neal	Wilson, C. H.
Corman	Nichols	Wilson, Tex.
Cotter	Nolan	Winn
Crane, Daniel	O'Brien	Wylie
Crane, Philip	Patten	Young, Mo.
Dellums	Pease	
Dodd	Rangel	

☐ 1830

The Clerk announced the following pairs:

Mrs Spellman with Mr Bethune
Mr Thompson with Mr Dougherty
Mr Ashley with Mr Sawyer
Mr Fithian with Mr Shumway
Mr Jenrette with Mr Hagedorn
Mr Murphy of New York with Mr Madigan
Mr Neal with Mr Cleveland.
Mr Patton with Mr Coleman
Mr Rangel with Mr Daniel B Crane
Mr Satterfield with Mr McCloskey
Mr Rodino with Mr O'Brien.
Mr Brooks with Mr Wylie.
Mr Albosta with Mr Whitehurst.
Mr Phillip Burton with Mr. Taylor
Mr Chappell with Mr Evans of Delaware.
Mrs Collins of Illinois with Mr Burgener.
Mr Corman with Mr Philip M Crane
Mr Nichols with Mr Hutchinson
Mr Bevill with Mr Kelly.
Mr Williams of Ohio with Mr Bob Wilson.
Mr Charles H. Wilson of California with Mr Thomas.
Mr Young of Maine with Mr. Shuster
Mr. Dodd with Mr Beard of Rhode Island.
Mr Dellums with Mr Beilenson.
Ms Holtzman with Mr. Collins of Texas.
Mr Garcia with Mr Nolan.
Mr Ginn with Mr Leland.
Mr Downey with Mr Roberts
Mr Anthony with Mr Rose
Mr Vento with Mr Charles Wilson of Texas
Mr Pease with Mr. Winn.
Mr Richmond with Mr Frenzel
Mr Cotter with Mr Anderson of Illinois.

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RESOLUTION ON AGE AS A FACTOR IN THE CONSIDERATION OF CANDIDATES FOR FEDERAL JUDGESHIPS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 693.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and agree to the resolution, House Resolution 693.

The question was taken.

Mr. MILLER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 341, nays 19, answered "present" 1, not voting 71, as follows:

[Roll No 637]

YEAS—341

Abdnor	Andrews, N Dak.	Bafalis
Addabbo		Bailey
Akaka	Annunzio	Baldus
Alexander	Archer	Barnard
Ambro	Aspin	Barnes
Anderson, Calif.	Atkinson	Bauman
	AuCoin	Beard, Tenn.
Andrews, N.C.	Badham	Bedell

we close the courthouse door to those who cannot produce $10,000 as a ticket of admission.

Originally enacted to reduce case congestion in the Federal courts, the requirehas lost most of its impact as Congress has passed the many specialized jurisdictional statutes which do not require a jurisdictional amount. In 1976, the 94th Congress took a major step toward eliminating the remaining inequality by passing an amendment to title 28 to provide that no amount in controversy is required in any Federal question case brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity In spite of the fact that the 1976 reform did away with the $10,000 requirement in the most significant category of cases in which it had previously applied, there are still a small number of cases in which the amount in controversy requirement still applies: For example, suits arising under Federal common law, challenges to certain State and local law, and several types of miscellaneous cases Thus, an unfortunate gap still exists in the statutory jurisdiction of the Federal courts

Because of the relatively small number of cases involved, the committee believes that the impact this measure will have on the Federal court caseload will be minimal Further, this bill will relieve the courts from the necessity of resolving the many difficult problems that currently arise in the interpretation of the section 1331 amount in controversy requirement. Professor Wright describes it as a "complicated body of law" and devotes 156 pages of his treatise to this issue By eliminating these questions, this bill will save a substantial amount of valuable court time I urge my colleagues to support this bill.

For the record, I should point out that it is the view of the Committee on the Judiciary that this legislation goes hand in hand with another important Federal jurisdiction reform, that is the elimination of diversity of citizen jurisdiction. Legislation to abolish diversity jurisdiction in Federal courts has passed the House of Representatives on two different occasions and strong support for this much needed reform remains alive I call to the attention of all Members of Congress and the bar the strong bipartisan views included in the House report on S 2357 which addresses this unfinished portion of our court reform agenda.

I had hoped that the gentleman from Illinois (Mr. RAILSBACK) could have been here also to concur in my remarks

Mr KAZEN Mr Speaker, will the gentleman yield to me under his reservation?

Mr. ASHBROOK Mr Speaker, further reserving the right to object, I yield to my colleague from Texas

Mr KAZEN Mr Speaker, do I understand the gentleman from Wisconsin to say that the thing that is involved is the amount and not the diversity issue?

Mr. KASTENMEIER If the gentleman will yield, the gentleman is correct The more controversial question of diversity is not involved here at all

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I think my colleague from Wisconsin (Mr. KASTENMEIER) correctly states the matter and I know there is no controversy on this side.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows

S 2357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Question Jurisdictional Amendments Act of 1980"

SEC 2 (a) Section 1331 of title 28 United States Code, is amended to read as follows

"§ 1331 Federal question

"The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States "

(b) The item relating to section 1331 in the table of sections for chapter 85 of title 28, United States Code, is amended by striking out ", amount in controversy, costs "

SEC 3 (a) Section 23(a) of the Consumer Product Safety Act (15 U S C 2072(a)) is amended—

(1) by striking out "subject to the provisions of section 1331 of title 28, United States Code as to the amount in controversy,", and

(2) by striking out the period at the end thereof and inserting in lieu thereof " *Provided,* That the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, unless such action is brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity "

(b) Section 23 of the Consumer Product Safety Act (15 U S C 2072) is amended by redesignating subsection (b) as subsection (c) and by inserting immediately after subsection (a) the following new subsection

"(b) Except when express provision is made in a statute of the United States, in any case in which the plaintiff is finally adjudged to be entitled to recover less than the sum or value of $10 000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition may impose costs on the plaintiff "

SEC 4 This Act shall apply to any civil action pending on the date of enactment of this Act

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr KASTENMEIER. Mr Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord' votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, as amended.

The Clerk read as follows:

Strike out all after the enacting clause of S 885 and insert the text of H R. 8157 as amended

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1 This Act, together with the following table of contents, may be cited as the 'Pacific Northwest Electric Power Planning and Conservation Act"

TABLE OF CONTENTS

Sec 1 Short title and table of contents
Sec. 2 Purposes
Sec 3 Definitions
Sec 4 Regional planning and participation
Sec 5 Sale of power
Sec 6 Conservation and resource acquisition
Sec 7 Rates
Sec 8 Amendments to existing law
Sec 9 Administrative provisions
Sec 10 Savings provisions
Sec 11 Effective date
Sec 12 Severability

PURPOSES

SEC 2 The purposes of this Act, together with the provisions of other laws applicable to the Federal Columbia River Power System are all intended to be construed in a consistent manner Such purposes are also intended to be construed in a manner consistent with applicable environmental laws Such purposes are

(1) to encourage through the unique opportunity provided by the Federal Columbia River Power System—

(A) conservation and efficiency in the use of electric power, and

(B) the development of renewable resources within the Pacific Northwest

(2) to assure the Pacific Northwest of an adequate efficient, economical, and reliable power supply,

(3) to provide for the participation and consultation of the Pacific Northwest States, local governments, consumers, customers, users of the Columbia River System (including Federal and State fish and wildlife agencies and appropriate Indian tribes), and the public at large within the region in—

(A) the development of regional plans and programs related to energy conservation, renewable resources, other resources, and protecting mitigating, and enhancing fish and wildlife resources,

(B) facilitating the orderly planning of the region's power system, and

(C) providing environmental quality,

(4) to provide that the customers of the

Bonneville Power Administration and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements, including the amortization on a current basis of the Federal investment in the Federal Columbia River Power System,

(5) to insure, subject to the provisions of this Act—

(A) that the authorities and responsibilities of State and local governments, electric utility systems, water management agencies, and other non-Federal entities for the regulation planning conservation, supply, distribution, and use of electric power shall be construed to be maintained, and

(B) that Congress intends that this Act not be construed to limit or restrict the ability of customers to take actions in accordance with other applicable provisions of Federal or State law, including, but not limited to, actions to plan, develop, and operate resources and to achieve conservation, without regard to this Act, and

(6) to protect mitigate and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries, particularly anadromous fish which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other power generating facilities on the Columbia River and its tributaries

DEFINITIONS

SEC 3 As used in this Act, the term—

(1) "Acquire" and "acquisition" shall not be construed as authorizing the Administrator to construct, or have ownership of, under this Act or any other law, any electric generating facility

(2) "Administrator" means the Administrator of the Bonneville Power Administration

(3) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production or distribution

(4)(A) "Cost-effective", when applied to any measure or resource referred to in this Act, means that such measure or resource must be forecast—

(i) to be reliable and available within the time it is needed, and

(ii) to meet or reduce the electric power demand, as determined by the Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof

(B) For purposes of this paragraph, the term 'system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable the cost of distribution and transmission to the consumer and among other factors, waste disposal costs, end-of-cycle costs and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administrator determines on the basis of a methodology developed by the Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource

(5) "Consumer" means any end user of electric power

(6) "Council" means, unless otherwise specifically provided, the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established pursuant to section 4.

(7) "Customer" means anyone who contracts for the purchase of power from the Administrator pursuant to this Act

(8) "Direct service industrial customer' means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption

(9) "Electric power" means electric peaking capacity, or electric energy, or both

(10) "Federal base system resources' means—

(A) the Federal Columbia River Power System hydroelectric projects,

(B) resources acquired by the Administrator under long-term contracts in force on the effective date of this Act, and

(C) resources acquired by the Administrator in an amount necessary to replace reductions in capability of the resources referred to in subparagraphs (A) and (B) of this paragraph

(11) "Indian tribe" means any Indian tribe or band which is located in whole or in part in the region and which has a governing body which is recognized by the Secretary of the Interior

(12) "Major resource" means any resource that—

(A) has a planned capability greater than fifty average megawatts, and

(B) if acquired by the Administrator, is acquired for a period of more than five years Such term does not include any resource acquired pursuant to section 11(b)(6) of the Federal Columbia River Transmission System Act

(13) "New large single load" means any load associated with a new facility, an existing facility, or an expansion of an existing facility—

(A) which is not contracted for or committed to, as determined by the Administrator, by a public body, cooperative, investor-owned utility, or Federal agency customer prior to September 1, 1979, and

(B) which will result in an incerase in power requirements of such customer of ten average megawatts or more in any consecutive twelve-month period

(14) 'Pacific Northwest', "region", or "regional' means—

(A) the area consisting of the States of Oregon, Washington, Idaho, the portion of the State of Montana west of the Continental Divide and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin, and

(B) any contiguous areas, not in excess of seventy-five air miles from the area referred to in subparagraph (A), which are a part of the service area of a rural electric cooperative customer served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without such region

(15) "Plan" means the Regional Electric Power and Conservation plan (including any amendments thereto) adopted pursuant to this Act and such plan shall apply to actions of the Administrator as specified in this Act

(16) "Renewable resources" means a resource which utilizes solar wind hydro geothermal, biomass, or similar sources of energy and which either is used for electric power generation or will reduce the electric power requirements of a consumer, including by direct application

(17) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator (A) from resources or (B) from rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers

(18) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses but only the first four hundred horsepower during any monthly billing period of farm irrigation and pumping for any farm

(19) "Resource" means—

(A) electric power, including the actual or planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure

(20) 'Secretary" means the Secretary of Energy

REGIONAL PLANNING AND PARTICIPATION

SEC 4 (a)(1) The purposes of this section are to provide for the prompt establishment and effective operation of the Pacific Northwest Electric Power and Conservation Planning Council, to further the purposes of this Act by the Council promptly preparing and adopting (A) a regional conservation and electric power plan and (B) a program to protect, mitigate, and enhance fish and wildlife, and to otherwise expeditiously and effectively carry out the Council's responsibilities and functions under this Act

(2) To achieve such purposes and facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and with the Bonneville Power Administration, the consent of Congress is given for an agreement described in this paragraph and not in conflict with this Act, pursuant to which—

(A) there shall be established a regional agency known as the 'Pacific Northwest Electric Power and Conservation Planning Council' which (i) shall have its offices in the Pacific Northwest, (ii) shall carry out its functions and responsibilities in accordance with the provisions of this Act, (iii) shall continue in force and effect in accordance with the provisions of this Act, and (iv) except as otherwise provided in this Act, shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law, and

(B) two persons from each State may be appointed, subject to the applicable laws of each such State to undertake the functions and duties of members of the Council

The State may fill any vacancy occurring prior to the expiration of the term of any member The appointment of six initial members, subject to applicable State law, by June 30, 1981, by at least three of such States shall constitute an agreement by the States establishing the Council and such agreement is hereby consented to by the Congress Upon request of the Governors of two of the States, the Secretary shall extend the June 30, 1981, date for six additional months to provide more time for the State to make such appointments

(3) Except as otherwise provided by State law, each member appointed to the Council shall serve for a term of three years, except that, with respect to members initially appointed, each Governor shall designate one member to serve a term of two years and one member to serve a term of three years The members of the Council shall select from among themselves a chairman The members and officers and employes of the Council shall not be deemed to be officers or employees of the United States for any purpose The Council shall appoint, fix compensation and assign and delegate duties to such executive and additional personnel as the Council

deems necessary to fulfill its functions under this Act taking into account such information and analyses as are, or are likely to be, available from other sources pursuant to provisions of this Act. The compensation of the members shall be fixed by State law. The compensation of the members and officers shall not exceed the rate prescribed for Federal officers and positions at step 1 of level GS–18 of the General Schedule.

(4) For the purpose of providing a uniform system of laws, in addition to this Act, applicable to the Council relating to the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Council, advisory committees, disclosure of information, judicial review of Council functions and actions under this Act, and related matters, the Federal laws applicable to such matters in the case of the Bonneville Power Administration shall apply to the Council to the extent appropriate, except that with respect to open meetings, the Federal laws applicable to open meetings in the case of the Federal Energy Regulatory Commission shall apply to the Council to the extent appropriate. In applying the Federal laws applicable to financial disclosure under the preceding sentence, such laws shall be applied to members of the Council without regard to the duration of their service on the Council or the amount of compensation received for such service. No contract, obligation, or other action of the Council shall be construed as an obligation of the United States or an obligation secured by the full faith and credit of the United States. For the purpose of judicial review of any action of the Council or challenging any provision of this Act relating to functions and responsibilities of the Council, notwithstanding any other provision of law, the courts of the United States shall have exclusive jurisdiction of any such review.

(b)(1) If the Council is not established and its members are not timely appointed in accordance with subsection (a) of this section, or if, at any time after such Council is established and its members are appointed in accordance with subsection (a)—

(A) any provision of this Act relating to the establishment of the Council or to any substantial function or responsibility of the Council (including any function or responsibility under subsection (d) or (h) of this section or under section 6(c) of this Act) is held to be unlawful by a final determination of any Federal court, or

(B) the plan or any program adopted by such Council under this section is held by a final determination of such a court to be ineffective by reason of subsection (a)(2)(B),

the Secretary shall establish the Council pursuant to this subsection as a Federal agency. The Secretary shall promptly publish a notice thereof in the Federal Register and notify the Governors of each of the States referred to in subsection (a) of this section.

(2) As soon as practicable, but not more than thirty days after the publication of the notice referred to in paragraph (1) of this subsection, and thereafter within forty-five days after a vacancy occurs, the Governors of the States of Washington, Oregon, Idaho, and Montana may each (under applicable State laws, if any) provide to the Secretary a list of nominations from such State for each State's positions to be selected for such Council. The Secretary may extend this time an additional thirty days. The list shall include at least two persons for each such position. The list shall include such information about such nominees as the Secretary may request. The Secretary shall appoint the Council members from each Governor's list of nominations for each State's positions, except that the Secretary may decline to appoint for any reason any of a Governor's nominees for a position and shall so notify the Governor. The Governor may thereafter make successive nominations within forty-five days of receipt of such notice until nominees acceptable to the Secretary are appointed for each position. In the event the Governor of any such State fails to make the required nominations for any State position on such Council within the time specified for such nominations, the Secretary shall select from such State and appoint the Council member or members for such position. The members of the Council shall select from among themselves one member of the Council as Chairman.

(3) The members of the Council established by this subsection who are not employed by the United States or a State shall receive compensation at a rate equal to the rate prescribed for offices and positions at level GS–18 of the General Schedule for each day such members are engaged in the actual performance of duties as members of such Council, except that no such member may be paid more in any calendar year than an officer or employee at step 1 of level GS–18 is paid during such year. Members of such Council shall be considered officers or employees of the United States for purposes of title II of the Ethics in Government Act of 1978 (5 U.S.C. app.) and shall also be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. Such Council may appoint, and assign duties to, an executive director who shall serve at the pleasure of such Council and who shall be compensated at the rate established for GS-18 of the General Schedule. The executive director shall exercise the powers and duties delegated to such director by such Council, including the power to appoint and fix compensation of additional personnel in accordance with applicable Federal law to carry out the functions and responsibilities of such Council.

(4) When a Council is established under this subsection after a Council was established pursuant to subsection (a) of this section, the Secretary shall provide, to the greatest extent feasible, for the transfer to the Council established by this subsection of all funds, books, papers, documents, equipment, and other matters in order to facilitate the Council's capability to achieve the requirements of subsections (d) and (h) of this section. In order to carry out its functions and responsibilities under this Act expeditiously, the Council shall take into consideration any actions of the Council under subsection (a) and may review, modify, or confirm such actions without further proceedings.

(5)(A) At any time beginning one year after the plan referred to in such subsection (d) and the program referred to in such subsection (h) of this section are both finally adopted in accordance with this Act, the Council established pursuant to this subsection shall be terminated by the Secretary 90 days after the Governors of three of the States referred to in this subsection jointly provide for any reason to the Secretary a written request for such termination. Except as provided in subparagraph (B), upon such termination all functions and responsibilities of the Council under this Act shall also terminate.

(B) Upon such termination of the Council, the functions and responsibilities of the Council set forth in subsection (h) of this section shall be transferred to, and continue to be funded and carried out, jointly, by the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service, in the same manner and to the same extent as required by such subsection and in cooperation with the Federal and the region's State fish and wildlife agencies and Indian tribes referred to in subsection (h) of this section and the Secretary shall provide for the transfer to them of all records, books, documents, funds, and personnel of such Council that relate to subsection (h) matters. In order to carry out such functions and responsibilities expeditiously, the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service shall take into consideration any actions of the Council under this subsection, and may review, modify, or confirm such actions without further proceedings.

In the event the Council is terminated pursuant to this paragraph, whenever any action of the Administrator requires any approval or other action by the Council, the Administrator may take such action without such approval or action, except that the Administrator may not implement any proposal to acquire a major generating resource or to grant billing credits involving a major generating resource until the expenditure of funds for that purpose is specifically authorized by Act of Congress enacted after such termination.

(c)(1) The provisions of this subsection shall, except as specifically provided in this subsection, apply to the Council established pursuant to either subsection (a) or (b) of this section.

(2) A majority of the members of the Council shall constitute a quorum. Except as otherwise provided specifically in this Act, all actions and decisions of the Council shall be by majority vote of the members present and voting. The plan or any part thereof and any amendment thereto shall not be approved unless such plan or amendment receives the votes of—

(A) a majority of the members appointed to the Council, including the vote of at least one member from each State with members on the Council; or

(B) at least six members of the Council.

(3) The Council shall meet at the call of the Chairman or upon the request of any three members of the Council. If any member of the Council disagrees with respect to any matter transmitted to any Federal or State official or any other person or wishes to express additional views concerning such matter, such member may submit a statement to accompany such matter setting forth the reasons for such disagreement or views.

(4) The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions and responsibilities under this Act. The Council shall make available to the public a statement of its organization, practices, and procedures, and make available to the public its annual work program budget at the time the President submits his annual budget to Congress.

(5) Upon request of the Council established pursuant to subsection (b) of this section, the head of any Federal agency is authorized to detail or assign to the Council, on a reimbursable basis, any of the personnel of such agency to assist the Council in the performance of its functions under this Act.

(6) At the Council's request, the Administrator of the General Services Administration shall furnish the Council established pursuant to subsection (b) of this section with such offices, equipment, supplies, and services in the same manner and to the same extent as such Administrator is authorized to furnish to any other Federal agency or instrumentality such offices, supplies, equipment, and services.

(7) Upon the request of the Congress or any committee thereof, the Council shall promptly provide to the Congress, or to such committee, any record, report, document, material, and other information which is in the possession of the Council.

(8) To obtain such information and advice as the Council determines to be necessary or appropriate to carry out its functions and responsibilities pursuant to this Act, the Council shall, to the greatest extent practicable, solicit engineering, economic, social, environmental, and other technical studies from customers of the Administrator and from other bodies or organizations in the region with particular expertise.

(9) The Administrator and other Federal agencies, to the extent authorized by other provisions of law, shall furnish the Council all information requested by the Council as necessary for performance of its functions, subject to such requirements of law concerning trade secrets and proprietary data as may be applicable.

(10)(A) At the request of the Council, the Administrator shall pay from funds available to the Administrator the compensation and other expenses of the Council as are authorized by this Act, including the reimbursement of those States with members on the Council for services and personnel to assist in preparing a plan pursuant to subsection (d) and a program pursuant to subsection (h) of this section, as the Council determines are necessary or appropriate for the performance of its functions and responsibilities. Such payments shall be included by the Administrator in his annual budgets submitted to Congress pursuant to the Federal Columbia River Transmission System Act and shall be subject to the requirements of that Act, including the audit requirements of section 11(d) of such Act. The records, reports, and other documents of the Council shall be available to the Comptroller General for review in connection with such audit or other review and examination by the Comptroller General pursuant to other provisions of law applicable to the Comptroller General. Funds provided by the Administrator for such payments shall not exceed annually an amount equal to 0.02 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded. In order to assist the Council's initial organization, the Administrator after the enactment of this Act shall promptly prepare and propose an amended annual budget to expedite payment for Council activities.

(B) Notwithstanding the limitation contained in the fourth sentence of subparagraph (A) of this paragraph, upon an annual showing by the Council that such limitation will not permit the Council to carry out its functions and responsibilities under this Act the Administrator may raise such limit up to any amount not in excess of 0.10 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded.

(11) The Council shall establish a voluntary scientific and statistical advisory committee to assist in the development, collection, and evaluation of such statistical, biological, economic, social, environmental, and other scientific information as is relevant to the Council's development and amendment of a regional conservation and electric power plan.

(12) The Council may establish such other voluntary advisory committees as it determines are necessary or appropriate to assist it in carrying out its functions and responsibilities under this Act.

(13) The Council shall ensure that the membership for any advisory committee established or formed pursuant to this section shall, to the extent feasible, include representatives of, and seek the advice of, the Federal, and the various regional, State, local, and Indian Tribal Governments, consumer groups, and customers.

(d)(1) Within two years after the Council is established and the members are appointed pursuant to subsection (a) or (b) of this section, the Council shall prepare, adopt, and promptly transmit to the Administrator a regional conservation and electric power plan. The adopted plan, or any portion thereof, may be amended from time to time, and shall be reviewed by the Council not less frequently than once every five years. Prior to such adoption, public hearings shall be held in each Council member's State on the plan or substantial, nontechnical amendments to the plan proposed by the Council for adoption. A public hearing also be held in any other State of the region on the plan or amendments thereto, if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. Action of the Council under this subsection concerning such hearings shall be subject to section 553 of title 5, United States Code and such procedure as the Council shall adopt.

(2) Following adoption of the plan and any amendment thereto, all actions of the Administrator pursuant to section 6 of this Act shall be consistent with the plan and any amendment thereto, except as otherwise specifically provided in this Act.

(e)(1) The plan shall, as provided in this paragraph, give priority to resources which the Council determines to be cost-effective. Priority shall be given: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources.

(2) The plan shall set forth a general scheme for implementing conservation measures and developing resources pursuant to section 6 of this Act to reduce or meet the Administrator's obligations with due consideration by the Council for (A) environmental quality, (B) compatibility with the existing regional power system, (C) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, and (D) other criteria which may be set forth in the plan.

(3) To accomplish the priorities established by this subsection, the plan shall include the following elements which shall be set forth in such detail as the Council determines to be appropriate:

(A) an energy conservation program to be implemented under this Act, including, but not limited to, model conservation standards;

(B) recommendation for research and development;

(C) a methodology for determining quantifiable environmental costs and benefits under section 3(4);

(D) a demand forecast of at least twenty years (developed in consultation with the Administrator, the customers, the States, including State agencies with ratemaking authority over electric utilities, and the public, in such manner as the Council deems appropriate) and a forecast of power resources estimated by the Council to be required to meet the Administrator's obligations and the portion of such obligations the Council determines can be met by resources in each of the priority categories referred to in paragraph (1) of this subsection which forecast (i) shall include regional reliability and reserve requirements, (ii) shall take into account the effect, if any, of the requirements of subsection (h) on the availability of resources to the Administrator, and (iii) shall include the approximate amounts of power the Council recommends should be acquired by the Administrator on a long-term basis and may include, to the extent practicable, an estimate of the types of resources from which such power should be acquired;

(E) an analysis of reserve and reliability requirements and cost-effective methods of providing reserves designed to insure adequate electric power at the lowest probable cost;

(F) the program adopted pursuant to subsection (h); and

(G) if the Council recommends surcharges pursuant to subsection (f) of this section, a methodology for calculating such surcharges.

(4) The Council, taking into consideration the requirement that it devote its principal efforts to carrying out its responsibilities under subsections (d) and (h) of this section, shall undertake studies of conservation measures reasonably available to direct service industrial customers and other major consumers of electric power within the region and make an analysis of the estimated reduction in energy use which would result from the implementation of such measures as rapidly as possible, consistent with sound business practices. The Council shall consult with such customers and consumers in the conduct of such studies.

(f)(1) Model conservation standards to be included in the plan shall include, but not be limited to, standards applicable to (A) new and existing structures, (B) utility, customer, and governmental conservation programs, and (C) other consumer actions for achieving conservation. Model conservation standards shall reflect geographic and climatic differences within the region and other appropriate considerations, and shall be designed to produce all power savings that are cost-effective for the region and economically feasible for consumers, taking into account financial assistance made available to consumers under section 6(a) of this Act. These model conservation standards shall be adopted by the Council and included in the plan after consultation, in such manner as the Council deems appropriate, with the Administrator, States, and political subdivisions, customers of the Administrator, and the public.

(2) The Council by a majority vote of the members of the Council is authorized to recommend to the Administrator a surcharge and the Administrator may thereafter impose such a surcharge, in accordance with the methodology provided in the plan, on customers for those portions of their loads within the region that are within States or political subdivisions which have not, or on the Administrator's customers which have not, implemented conservation measures that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such standards. Such surcharges shall be established to recover such additional costs as the Administrator determines will be incurred because such projected energy savings attributable to such conservation measures have not been achieved, but in no case may such surcharges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g)(1) To insure widespread public involvement in the formulation of regional power policies, the Council and Administrator shall maintain comprehensive programs to—

(A) inform the Pacific Northwest public of major regional power issues,

(B) obtain public views concerning major regional power issues, and

(C) secure advice and consultation from the Administrator's customers and others.

(2) In carrying out the provisions of this section, the Council and the Administrator shall—

(A) consult with the Administrator's customers;

(B) include the comments of such cus-

tomers in the record of the Council's proceedings; and

(C) recognize and not abridge the authorities of State and local governments, electric utility systems, and other non-Federal entities responsible to the people of the Pacific Northwest for the planning, conservation, supply, distribution, and use of electric power and the operation of electric generating facilities.

(3) In the preparation, adoption, and implementation of the plan, the Council and the Administrator shall encourage the cooperation, participation, and assistance of appropriate Federal agencies, State entities, State political subdivisions, and Indian tribes. The Council and the Administrator are authorized to contract, in accordance with applicable law, with such agencies, entities, tribes, and subdivisions individually, in groups, or through associations thereof to (A) investigate possible measures to be included in the plan, (B) provide public involvement and information regarding a proposed plan or amendment thereto, and (C) provide services which will assist in the implementation of the plan. In order to assist in the implementation of the plan, particularly conservation, renewable resource, and fish and wildlife activities, the Administrator, when requested and subject to available funds, may provide technical assistance in establishing conservation, renewable resource, and fish and wildlife objectives by individual States or subdivisions thereof or Indian tribes. Such objectives, if adopted by a State or subdivision thereof or Indian tribes, may be submitted to the Council and the Administrator for review, and upon approval by the Council, may be incorporated as part of the plan.

(h)(1)(A) The Council shall promptly develop and adopt, pursuant to this subsection, a program to protect, mitigate, and enhance fish and wildlife, including relating spawning grounds and habitat, on the Columbia River and its tributaries. Because of the unique history, problems, and opportunities presented by the development and operation of hydroelectric facilities on the Columbia River and its tributaries, the program, to the greatest extent possible, shall be designed to deal with that river and its tributaries as a system.

(B) This subsection shall be applicable solely to fish and wildlife, including relating spawning grounds and habitat, located on the Columbia River and its tributaries Nothing in this subsection shall alter, modify, or affect in any way the laws applicable to rivers or river systems, including electric power facilities related thereto, other than the Columbia River and its tributaries, or affect the rights and obligations of any agency, entity, or person under such laws.

(2) The Council shall request, in writing, promptly after the Council is established under either section 4(a) or 4(b) of this Act and prior to the development or review of the plan, or any major revision thereto, from the Federal, and the region's State, fish and wildlife agencies and from the region's appropriate Indian tribes, recommendations for—

(A) measures which can be expected to be implemented by the Administrator, using authorities under this Act and other laws, and other Federal agencies to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries;

(B) establishing objectives for the development and operation of such projects of the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife; and

(C) fish and wildlife management coordination and research and development (including funding) which, among other things, will assist protection, mitigation, and enhancement of anadromous fish at, and between, the region's hydroelectric dams.

(3) Such agencies and tribes shall have 90 days to respond to such request, unless the Council extends the time for making such recommendations. The Federal, and the region's water management agencies, and the region's electric power producing agencies, customers, and public may submit recommendations of the type referred to in paragraph (2) of this subsection. All recommendations shall be accompanied by detailed information and data in support of the recommendations.

(4)(A) The Council shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Administrator, to the Federal, and the region's, State fish and wildlife agencies, to the appropriate Indian tribes, to Federal agencies responsible for managing, operating, or regulating hydroelectric facilities located on the Columbia River or its tributaries, and to any customer or other electric utility which owns or operates any such facility. Notice shall also be given to the public. Copies of such recommendations and supporting documents shall be made available for review at the office of the Council and shall be available for reproduction at reasonable cost.

(B) The Council shall provide for public participation and comment regarding the recommendations and supporting documents, including an opportunity for written and oral comments, within such reasonable time as the Council deems appropriate.

(5) The Council shall develop a program on the basis of such recommendations, supporting documents, and views and information obtained through public comment and participation and consultation with the agencies, tribes, and customers referred to in subparagraph (A) of paragraph (4). The program shall consist of measures to protect, mitigate, and enhance fish and wildlife affected by the development, operation, and management of such facilities while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. Enhancement measures shall be included in the program to the extent such measures are designed to achieve improved protection and mitigation.

(6) The Council shall include in the program measures which it determines, on the basis set forth in paragraph (5), will—

(A) complement the existing and future activities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological objective exist, the alternative with the minimum economic cost;

(D) be consistent with the legal rights of appropriate Indian tribes in the region; and

(E) in the case of anadromous fish—

(i) provide for improved survival of such fish at hydroelectric facilities located on the Columbia River system; and

(ii) provide flows of sufficient quality and quantity between such facilities to improve production, migration, and survival of such fish as necessary to meet sound biological objectives.

(7) The Council shall determine whether each recommendation received is consistent with the purposes of this Act. In the event such recommendations are inconsistent with each other, the Council, in consultation with appropriate entities, shall resolve such inconsistency in the program giving due weight to the recommendations, expertise, and legal rights and responsibilities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes. If the Council does not adopt any recommendation of the fish and wildlife agencies and Indian tribes as part of the program or any other recommendation, it shall explain in writing, as part of the program, the basis for its finding that the adoption of such recommendation would be—

(A) inconsistent with paragraph (5) of this subsection;

(B) inconsistent with paragraph (6) of this subsection; or

(C) less effective than the adopted recommendations for the protection, mitigation, and enhancement of fish and wildlife.

(8) The Council shall consider, in developing and adopting a program pursuant to this subsection, the following principles:

(A) Enhancement measures may be used, in appropriate circumstances, as a means of achieving offsite protection and mitigation with respect to compensation for losses arising from the development and operation of the hydroelectric facilities of the Columbia River and its tributaries as a system.

(B) Consumers of electric power shall bear the cost of measures designed to deal with adverse impacts caused by the development and operation of electric power facilities and programs only.

(C) To the extent the program provides for coordination of its measures with additional measures (including additional enhancement measures to deal with impacts caused by factors other than the development and operation of electric power facilities and programs), such additional measures are to be implemented in accordance with agreements among the appropriate parties providing for the administration and funding of such additional measures.

(D) Monetary costs and electric power losses resulting from the implementation of the program shall be allocated by the Administrator consistent with individual project impacts and system-wide objectives of this subsection.

(9) The Council shall adopt such program or amendments thereto within one year after the time provided for receipt of the recommendations. Such program shall also be included in the plan adopted by the Council under subsection (d).

(10)(A) The Administrator shall use the Bonneville Power Administration fund and the authorities available to the Administrator under this Act and other laws administered by the Administrator to protect, mitigate, and enhance fish and wildlife to the extent affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries in a manner consistent with the plan, if in existence, the program adopted by the Council under this subsection, and the purposes of this Act. Expenditures of the Administrator pursuant to this paragraph shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(B) The Administrator may make expenditures from such fund which shall be included in the annual or supplementary budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act. Any amounts included in such budget for the construction of capital facilities with an estimated life of greater than 15 years and an estimated cost of at least $1,000,000 shall be funded in the same manner and in accordance with the same procedures as major transmission facilities under the Federal Columbia River Transmission System Act.

(C) The amounts expended by the Administrator for each activity pursuant to this subsection shall be allocated as appropriate by the Administrator, in consultation with

the Corps of Engineers and the Water and Power Resources Service, among the various hydroelectric projects of the Federal Columbia River Power System. Amounts so allocated shall be allocated to the various project purposes in accordance with existing accounting procedures for the Federal Columbia River Power System.

(11)(A) The Administrator and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River or its tributaries shall—

(i) exercise such responsibilities consistent with the purposes of this Act and other applicable laws, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated;

(ii) exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under this subsection. If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate, and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with this subsection.

(B) The Administrator and such Federal agencies shall consult with the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes, and affected project operators in carrying out the provisions of this paragraph and shall, to the greatest extent practicable, coordinate their actions.

(12)(A) Beginning on October 1 of the first fiscal year after all members to the Council are appointed initially, the Council shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate and to the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs of the House of Representatives. The report shall describe the actions taken and to be taken by the Council under this Act, including this subsection, the effectiveness of the fish and wildlife program, and potential revisions or modifications to the program to be included in the plan when adopted. At least ninety days prior to its submission of such report, the Council shall make available to such fish and wildlife agencies, and tribes, the Administrator and the customers a draft of such report. The Council shall establish procedures for timely comments thereon. The Council shall include as an appendix to such report such comments or a summary thereof.

(B) The Administrator shall keep such committees fully and currently informed of the actions taken and to be taken by the Administrator under this Act, including this subsection.

(i) The Council may from time to time review the actions of the Administrator pursuant to sections 4 and 6 of this Act to determine whether such actions are consistent with the plan and programs, the extent to which the plan and programs are being implemented, and to assist the Council in preparing amendments to the plan and programs.

(j)(1) The Council may request the Administrator to take an action under section 6 to carry out the Administrator's responsibilities under the plan.

(2) To the greatest extent practicable within ninety days after the Council's request, the Administrator shall respond to the Council in writing specifying—

(A) the means by which the Administrator will undertake the action or any modification thereof requested by the Council, or

(B) the reasons why such action would not be consistent with the plan, or with the Administrator's legal obligations under this Act, or other provisions of law, which the Administrator shall specifically identify.

(3) If the Administrator determines not to undertake the requested action, the Council, within sixty days after notice of the Administrator's determination, may request the Administrator to hold an informal hearing and make a final decision.

(k)(1) Not later than October 1, 1987, or six years after the Council is established under this Act, whichever is later, the Council shall complete a thorough analysis of conservation measures and conservation resources implemented pursuant to this Act during the five-year period beginning on the date the Council is established under this Act to determine if such measures or resources:

(A) have resulted or are likely to result in costs to consumers in the region greater than the costs of additional generating resources or additional fuel which the Council determines would be necessary in the absence of such measures or resources;

(B) have not been or are likely not to be generally equitable to all consumers in the region; or

(C) have impaired or are likely to impair the ability of the Administrator to carry out his obligations under this Act and other laws, consistent with sound business practices.

(2) The Administrator may determine that section 3(4)(D) shall not apply to any proposed conservation measure or resource if the Administrator finds after receipt of such analysis from the Council that such measure or resource would have any result or effect described in subparagraph (A), (B), or (C) of paragraph (1).

SALE OF POWER

SEC. 5. (a) All power sales under this Act shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937 (16 U.S.C. 832 and following) and, in particular, sections 4 and 5 thereof. Such sales shall be at rates established pursuant to section 7.

(b)(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 and to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the region to the extent that such firm power load exceeds—

(A) the capability of such entity's firm peaking and energy resources used in the year prior to the enactment of this Act to serve its firm load in the region, and

(B) such other resources as such entity determines, pursuant to contracts under this Act, will be used to serve its firm load in the region.

In determining the resources which are used to serve a firm load, for purposes of subparagraphs (A) and (B), any resources used to serve a firm load under such subparagraphs shall be treated as continuing to be so used, unless such use is discontinued with the consent of the Administrator, or unless such use is discontinued because of obsolescence, retirement, loss of resources, or loss of contract rights.

(2) Contracts with investor-owned utilities shall provide that the Administrator may reduce his obligations under such contracts in accordance with section 5(a) of the Bonneville Project Act of 1937.

(3) In addition to his authorities to sell electric power under paragraph (1), the Administrator is also authorized to sell electric power to Federal agencies in the region.

(4) Sales under this subsection shall be made only if the public body, cooperative, Federal agency or investor-owned utility complies with the Administrator's standards for service in effect on the effective date of this Act or as subsequently revised.

(5) The Administrator shall include in contracts executed in accordance with this subsection provisions that enable the Administrator to restrict his contractual obligations to meet the loads referred to in this subsection in the future if the Administrator determines, after a reasonable period of experience under this Act, that the Administrator cannot be assured on a planning basis of acquiring sufficient resources to meet such loads during a specified period of insufficiency. Any such contract with a public body, cooperative, or Federal agency shall specify a reasonable minimum period between a notice of restriction and the earliest date such restriction may be imposed.

(6) Contracts executed in accordance with this subsection with public body, cooperative, and Federal agency customers shall—

(A) provide that the restriction referred to in paragraph (5) shall not be applicable to any such customers until the operating year in which the total of such customers' firm loads to be served by the Administrator equals or exceeds the firm capability of the Federal base system resources;

(B) not permit restrictions which would reduce the total contractual entitlement of such customers to an amount less than the firm capability of the Federal base system resources; and

(C) contain a formula for determining annually, on a uniform basis, each such customer's contractual entitlement to firm power during such a period of restriction, which formula shall not consider customer resources other than those the customer has determined, as of the effective date of this Act, to be used to serve its own firm loads.

The formula referred to in subparagraph (C) shall obligate the Administrator to provide on an annual basis only firm power needed to serve the portion of such customer's firm load in excess of the capability of such customer's own firm resources determined by such customer under paragraph (1) of this subsection to be used to serve its firm load.

(c)(1) Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.

(2) The purchase and exchange sale referred to in paragraph (1) of this subsection with any electric utility shall be limited to an amount not in excess of 50 per centum of such utility's regional residential load in the year beginning July 1, 1980, such 50 per centum limit increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985, and each year thereafter.

(3) The cost benefits, as specified in contracts with the Administrator, of any purchase and exchange sale referred to in paragraph (1) of this subsection which are attributable to any electric utility's residential load within a State shall be passed through directly to such utility's residential loads within such State, except that a State which lies partially within and partially without the region may require that such cost bene-

fits be distributed among all of the utility's residential loads in that State.

(4) An electric utility may terminate, upon reasonable terms and conditions agreed to by the Administrator and such utility prior to such termination, its purchase and sale under this subsection if the supplemental rate charge provided for in section 7(b)(3) is applied and the cost of electric power sold to such utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by such utility to the Administrator under this subsection.

(5) Subject to the provisions of sections 4 and 6, in lieu of purchasing any amount of electric power offered by a utility under paragraph (1) of this subsection, the Administrator may acquire an equivalent amount of electric power from other sources to replace power sold to such utility as part of an exchange sale if the cost of such acquisition is less than the cost of purchasing the electric power offered by such utility.

(6) Exchange sales to a utility pursuant to this subsection shall not be restricted below the amounts of electric power acquired by the Administrator from, or on behalf of, such utility pursuant to this subsection.

(7) The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. Such average system cost shall not include—

(A) the cost of additional resources in an amount sufficient to serve any new large single load of the utility;

(B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and

(C) any costs of any generating facility which is terminated prior to initial commercial operation.

(d)(1)(A) The Administrator is authorized to sell in accordance with this subsection electric power to existing direct service industrial customers. Such sales shall provide a portion of the Administrator's reserves for firm power loads within the region.

(B) After the effective date of this Act, the Administrator shall offer in accordance with subsection (g) of this section to each existing direct service industrial customer an initial long term contract that provides such customer an amount of power equivalent to that to which such customer is entitled under its contract dated January or April 1975 providing for the sale of "industrial firm power."

(2) The Administrator shall not sell electric power, including reserves, directly to new direct service industrial customers.

(3) The Administrator shall not sell amounts of electric power, including reserves, to existing direct service industrial customers in excess of the amount permitted under paragraph (1) unless the Administrator determines, after a plan has been adopted pursuant to section 4 of this Act, that such proposed sale is consistent with the plan and that—

(A) additional power system reserves are required for the region's firm loads,

(B) the proposed sale would provide a cost-effective method of supplying such reserves,

(C) such loads or loads of similar character cannot provide equivalent operating or planning benefits to the region if served by an electric utility under contractual arrangements providing reserves, and

(D) the Administrator has or can acquire sufficient electric power to serve such loads, and

unless the Council has determined such sale is consistent with the plan. After such determination by the Administrator and by the Council, the Administrator is authorized to offer to existing direct service industrial customers power in such amounts in excess of the amount permitted under paragraph (1) of this subsection as the Administrator determines to be necessary to provide additional power system reserves to meet the region's firm loads.

(4)(A) As used in this section, the term "existing direct service industrial customer" means any direct service industrial customer of the Administrator which has a contract for the purchase of electric power from the Administrator on the effective date of this Act.

(B) The term "new direct service industrial customer" means any industrial entity other than an existing direct service industrial customer.

(C)(i) Where a new contract is offered in accordance with subsection (g) to any existing direct service industrial customer which has not received electric power prior to the effective date of this Act from the Administrator pursuant to a contract with the Administrator existing on the date of the enactment of this Act, electric power delivered under such new contract shall be conditioned on the Administrator reasonably acquiring, in accordance with this Act and within such estimated period of time (as specified in the contract) as he deems reasonable, sufficient resources to meet, on a planning basis, the load requirement of such customer. Such contract shall also provide that the obligation of the Administrator to acquire such resources to meet such load requirement shall, except as provided in clause (ii) of this subparagraph, apply only to such customer and shall not be sold or exchanged by such customer to any other person.

(ii) Rights under a contract described in clause (i) of this subparagraph may be transferred by an existing direct service industrial customer referred to in clause (i) to a successor in interest in connection with a reorganization or other transfer of all major assets of such customer. Following such a transfer, such a successor in interest (or any other subsequent successor in interest) may also transfer rights under such a contract only in connection with a reorganization or other transfer of all assets of such successor in interest.

(iii) The limitations of clause (i) of this subparagraph shall not apply to any customer referred to in clause (i) whenever the Administrator determines that such customer is receiving electric power pursuant to a contract referred to in such clause (ii).

(e)(1) The contractual entitlement to firm power of any customer from whom, or on whose behalf, the Administrator has acquired electric power pursuant to section 6 may not be restricted below the amount of electric power so acquired from, or on behalf of, such customer. If in any year such customer's requirements are less than such entitlement, any excess of such entitlement shall be first made available to increase the entitlement of other customers of the same class before being available for the entitlement of other customers. For purposes of this paragraph, the following entities shall each constitute a class:

(A) public bodies and cooperatives;

(B) Federal agencies;

(C) direct service industrial, and

(D) investor owned facilities.

(2) Any contractual entitlement to firm power which is based on electric power acquired from, or on behalf of, a customer pursuant to section 6 shall be in addition to any other contractual entitlement to firm power not subject to restriction that such customer may have under this section. For the purposes of this subsection, references to amounts of power acquired by the Administrator pursuant to section 6 shall be deemed to mean the amounts specified in the resource acquisition contracts exclusive of any amounts recognized in such contracts as replacement for Federal base system resources.

(3) The Administrator shall, consistent with the provisions of this Act, insure that any restrictions upon any particular customer class made pursuant to this subsection and subsection (b) of this section are distributed equitably throughout the region.

(f) The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsections (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator, including the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), and the Act of August 31, 1964 (16 U.S.C. 837-837h).

(g)(1) As soon as practicable within nine months after the effective date of this Act, the Administrator shall commence necessary negotiations for, and offer, initial long-term contracts (within the limitations of the third sentence of section 5(a) of the Bonneville Project Act) simultaneously to—

(A) existing public body and cooperative customers and investor-owned utility customers under subsection (b) of this section;

(B) Federal agency customers under subsection (b) of this section;

(C) electric utility customers under subsection (c) of this section; and

(D) direct service industrial customers under subsection (d)(1).

(2) Each customer offered a contract pursuant to this subsection shall have one year from the date of such offer to accept such contract. Such contract shall be effective as provided in this subsection.

(3) An initial contract with a public body, cooperative or investor-owned electric utility customer or a Federal agency customer pursuant to subsection (b) of this section shall be effective on the date executed by such customer, unless another effective date is otherwise agreed to by the Administrator and the customer.

(4) An initial contract with an electric utility customer pursuant to subsection (c) of this section shall be effective on the date executed by such customer, but no earlier than the first day of the tenth month after the effective date of this Act.

(5) An initial contract with a direct service industrial customer pursuant to subsection (d)(1) shall be effective on the date agreed upon by the Administrator and such customer, but no later than the first day of the tenth month after the effective date of this Act. When such contract is executed, it may for rate purposes be given retroactive effect to such first day.

(6) Initial contracts offered public body, cooperative and Federal agency customers in accordance with this subsection shall provide that during a period of insufficiency declared in accordance with subsection (b) of this section each customer's contractual entitlement shall, to the extent of its requirements on the Administrator, be no less than the amount of firm power received from the Administrator in the year immediately preceding the period of insufficiency.

(7) The Administrator shall be deemed to have sufficient resources for the purpose of entering into the initial contracts specified in paragraph (1) (A) through (D).

CONSERVATION AND RESOURCE ACQUISITION

SEC 6. (a)(1) The Administrator shall acquire such resources through conservation, implement all such conservation measures, and acquire such renewable resources which are installed by a residential or small commercial consumer to reduce load, as the Administrator determines are consistent with the plan, or if no plan is in effect with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) and, in the case of major resources, in accordance with subsection (c) of this section Such conservation measures and such resources may include, but are not limited to—

(A) loans and grants to consumers for insulation or weatherization, increased system efficiency and waste energy recovery by direct application,

(B) technical and financial assistance to and other cooperation with, the Administrator's customers and governmental authorities to encourage maximum cost-effective voluntary conservation and the attainment of any cost-effective conservation objectives adopted by individual States or subdivisions thereof,

(C) aiding the Administrator's customers and governmental authorities in implementing model conservation standards adopted pursuant to section 4(f), and

(D) conducting demonstration projects to determine the cost effectiveness of conservation measures and direct application of renewable energy resources.

(2) In addition to acquiring electric power pursuant to section 5(c), or on a short-term basis pursuant to section 11(b)(6)(1) of the Federal Columbia River Transmission System Act, the Administrator shall acquire, in accordance with this section, sufficient resources—

(A) to meet his contractual obligations that remain after taking into account planned savings from measures provided for in paragraph (1) of this subsection, and

(B) to assist in meeting the requirements of section 4(h) of this Act.

The Administrator shall acquire such resources without considering restrictions which may apply pursuant to section 5(b) of this Act

(b)(1) Except as specifically provided in this section, acquisition of resources under this Act shall be consistent with the plan, as determined by the Administrator.

(2) The Administrator may acquire resources (other than major resources) under this Act which are not consistent with the plan, but which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(3) If no plan is in effect, the Administrator may acquire resources under this Act which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(4) The Administrator shall acquire any non-Federal resources to replace Federal base system resources only in accordance with the provisions of this section. The Administrator shall include in the contracts for the acquisition of any such non-Federal replacement resources provisions which will enable him to ensure that such non-Federal replacement resources are developed and operated in a manner consistent with the considerations specified in section 4(e)(2) of this Act.

(5) notwithstanding any acquisition of resources pursuant to this section, the Administrator shall not reduce his efforts to achieve conservation and to acquire renewable resources installed by a residential or small commercial consumer to reduce load, pursuant to subsection (a)(1) of this section.

(c)(1) For each proposal under subsection (a), (b), (f), (h), or (l) of this section to acquire a major resource, to implement a conservation measure which will conserve an amount of electric power equivalent to that of a major resource, to pay or reimburse investigation and preconstruction expenses of the sponsors of a major resource, or to grant billing credits or services involving a major resource, the Administrator shall—

(A) publish notice of the proposed action in the Federal Register and provide a copy of such notice to the Council, the Governor of each State in which facilities would be constructed or a conservation measure implemented, and the Administrator's customers,

(B) not less than sixty days following publication of such notice, conduct one or more public hearingss, presided over by a hearing officer, at which testimony and evidence shall be received, with opportunity for such rebuttal and cross-examination as the hearing officer deems appropriate in the development of an adequate hearing record;

(C) develop a record to assist in evaluating the proposal which shall include the transcript of the public hearings, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator; and

(D) following completion of such hearings, promptly provide to the Council and make public a written decision that includes, in addition to a determination respecting the requirements of subsection (a), (b), (f), (h), (l), or (m) of this section, as appropriate—

(i) if a plan is in effect, a finding that the proposal is either consistent or inconsistent with the plan or, notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligations under this Act, or

(ii) if no plan is in effect, a finding that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or notwithstanding its inconsistency, a finding that it is needed to meet the Administrator's obligations under this Act

In the case of subsection (f) of this section such decision shall be treated as satisfying the applicable requirements of this subsection and of subsection (f) of this section, if it includes a finding of probable consistency based upon the Administrator's evaluation of information available at the time of completion of the hearing under this paragraph Such decision shall include the reasons for such finding

(2) Within sixty days of the receipt of the Administrator's decision pursuant to paragraph (1)(D) of this subsection, the Council may determine by a majority vote of all members of the Council, and notify the Administrator—

(A) that the proposal is either consistent or inconsistent with the plan, or

(B) if no plan is in effect, that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(3) The Administrator may not implement any proposal referred to in paragraph (1) that is determined pursuant to paragraph (2) by either the Administrator or the Council to be inconsistent with the plan or, if no plan is in effect, with the criteria of section 4(e)(1) and the considerations of section 4(e)(2)—

(A) unless the Administrator finds that notwithstanding such inconsistency, such resource is needed to meet the Administrator's obligations under this Act, and

(B) until the expenditure of funds for that purpose has been specifically authorized by Act of Congress enacted after the date of the enactment of this Act

(4) Before the Administrator implements any proposal referred to in paragraph (1) of this subsection, the Administrator shall—

(A) submit to the appropriate committees of the Congress the administrative record of the decision (including any determination by the Council under paragraph (2)) and a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act of 1969,

(B) publish notice of the decision in the Federal Register, and

(C) note the proposal in the Administrator's annual or supplementary budget submittal made pursuant to the Federal Columbia River Transmission System Act (16 U S C 838 and following)

The Administrator may not implement any such proposal until ninety days after the date on which such proposal has been noted in such budget or after the date on which such decision has been published in the Federal Register, whichever is later

(5) The authority of the Council to make a determination under paragraph (2)(B) if no plan is in effect shall expire on the date two years after the establishment of the Council

(d) The Administrator is authorized to acquire a resource, other than a major resource whether or not such resource meets the criteria of section 4(e)(1) and the considerations of section 4(e)(2) but which he determines is an experimental, developmental demonstration, or pilot project of a type with a potential for providing cost-effective service to the region The Administrator shall make no obligation for the acquisition of such resource until it is included in the annual budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act

(e)(1) In order to effectuate the priority given to conservation measures and renewable resources under this Act, the Administrator shall, to the maximum extent practicable, make use of his authorities under this Act to acquire conservation measures and renewable resources, to implement conservation measures and to provide credits and technical and financial assistance for the development and implementation of such resources and measures (including the funding of, and the securing of debt for expenses incurred during the investigation and preconstruction of resources, as authorized in subsection (f) of this section)

(2) To the extent conservation measures or acquisition of resources require direct arrangements with consumers, the Administrator shall make maximum practicable use of customers and local entities capable of administering and carrying out such arrangements.

(f)(1) For resources which the Administrator determines may be eligible for acquisition under this section and satisfy the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or, if a plan is in effect, to be consistent with the plan, the Administrator is authorized to enter into agreements with sponsors of —

(A) a renewable resource, other than a major resource to fund or secure debt incurred in the investigation and initial development of such resource, or

(B) any other resource to provide for the reimbursement of the sponsor's investigation and preconstruction expenses concerning such resource (which expenses shall not include procurement of capital equipment or construction material for such resource)

In the case of any resource referred to in subparagraph (B) of this paragraph, such reimbursement is authorized only if—

(i) such resource is subsequently denied State siting approval or other necessary Federal or State permits, or approvals,

(ii) such investigation subsequently demonstrates, as determined by the Adminis-

trator, that such resource does not meet the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or is not acceptable because of environmental impacts, or

(ii) after such investigation the Administrator determines not to acquire the resource and the sponsor determines not to construct the resource

(2) The Administrator may exercise the authority of this subsection only after he determines that the failure to do so would result in inequitable hardship to the consumers of such sponsors The Administrator may provide reimbursement under this subsection only for expenses incurred after the date of the enactment of this Act.

(3) Any agreement under paragraph (1) of this subsection shall provide the Administrator an option to acquire any such resource, including a renewable resource, and shall include such other provisions, as the Administrator deems appropriate, for the Administrator's recovery from such sponsors or any assignee of the sponsors, if such sponsor or assignee continues development of the resource, of any advances made by the Administrator pursuant to such agreement.

(4) The Administrator shall not reimburse any expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after the date of a final denial of application for State siting approval or after the date the Administrator determines that the resource to be inconsistent with the plan or the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator in accordance with applicable law and regulations, may be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h)(1) If a customer so requests, the Administrator shall grant billings credits to such customer, and provide services to such customer at rates established for such services, for—

(A) conservation activities independently undertaken or continued after the effective date of this Act by such customer or political subdivision served by such customer which reduce the obligation of the Administrator that would otherwise have existed to acquire other resources under this Act, or

(B) resources constructed, completed, or acquired after the effective date of this Act by a customer, an entity acting on behalf of such customer, or political subdivision served by the customer which reduce the obligation of the Administrator to acquire resources under this Act Such resources shall be renewable resources or multipurpose projects or other resources which are not inconsistent with the plan or, in the absence of a plan, not inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(2) The energy and capacity on which a credit under this subsection to a customer is based shall be the amount by which a conservation activity or resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(3) The amount of credits for conservation under this subsection shall be set to credit the customer implementing or continuing the conservation activity for which the credit is granted for the savings resulting from such activity. The rate impact on the Administrator's other customers of granting the credit shall be equal to the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually saved by the activity for which the credit is granted

(4) For resources other than conservation, the customer shall be credited for net costs actually incurred by such customer, an entity acting on behalf of such customer, an entity acting on behalf of such customer, or political subdivision served by such customer, in acquiring, constructing or operating the resource for which the credit is granted The rate impact to the Administrator's other customers of granting the credit shall be no greater than the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually produced by the resource for which the credit is granted

(5) Retail rate structures which are voluntarily implemented by the Administrator's customers and which induce conservation or installation of consumer-owned renewable resources shall be considered, for purposes of this subsection, to be (A) conservation activities independently undertaken or carried on by such customers, or (B) customer-owned renewable resources, and shall qualify for billing credits upon the same showing as that required for other conservation or renewable resource activities.

(6) Prior to granting any credit or providing services pursuant to this subsection, the Administrator shall—

(A) comply with the notice provisions of subsection (c) of this section, and include in such notice the methodology the Administrator proposes to use in determining the amount of any such credit,

(B) include the cost of such credit in the Administrator's annual or amended budget submittal to the Congress made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838(j)),

(C) require that resources in excess of customer's reasonable load growth shall have been offered to others for ownership, participation or other sponsorship pursuant to subsection (m) of this section, except in the case of conservation, multi-purpose projects uniquely suitable for development by the customer, or renewable resources, and

(D) require that the operators of any generating resource for which a billing credit is to be granted agree to operate such resource in a manner compatible with the planning and operation of the region's power system

(i) Contracts for the acquisition of resources and for billing credits for major resources including conservation activities, entered into pursuant to this section shall contain such terms and conditions, appplicable after the contract is entered into, as will—

(1) insure timely construction, scheduling, completion, and operation of resources,

(2) insure that the costs of any acquisition are as low as reasonably possible, consistent (A) with sound engineering, operating, and safety practices, and (B) the protection, mitigation, and enhancement of fish and wildlife, including related spawning grounds and habitat affected by the development of such resources, and

(3) insure that the Administrator exercises effective oversight, inspection, audit, and review of all aspects of such construction and operation.

Such contracts shall contain provisions assuring that the Administrator has the authority to approve all costs of, and proposals for, major modifications in construction, scheduling or operations and to assure that the Administrator is provided with such current information as he deems necessary to evaluate such construction and operation

(j)(1) All contractual and other obligations required to be carried out by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations are not, nor shall they be construed to be, general obligations of the United States, nor are such obligations intended to be or are they secured by the full faith and credit of the United States

(2) All contracts entered into by the Administrator for the acquisition of resources pursuant to this Act shall require that, in the sale of any obligations, all offerings and promotional material for the sale of such obligations shall include the language contained in the second sentence of paragraph (1) of this subsection. The Administrator shall monitor and enforce such requirement.

(k) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act and the Administrator's obligations to particular customer classes, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

(l)(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the States of Idaho, Montana, Oregon, and Washington if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor, or otherwise develop them. The Administrator shall keep the Council fully and currently informed of such investigations, and seek the Council's advice as to the desirability of pursuing such investigations.

(2) The Administrator is authorized and directed to investigate periodically opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity in the Pacific Northwest and the regions with which such exchanges may occur. The Council shall take into consideration in formulating a plan such investigations.

(A) After the Administrator submits a report to Congress pursuant to paragraph (5) of this subsection, the Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of section 4(e)(1) and the considerations of section 4(e)(2). Such acquisitions shall be in accordance with the provisions of this subsection.

(4) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this subsection with the assistance of other Federal agencies as may be appropriate

(5) No later than July 1, 1981, the Administrator shall submit to the Congress a report of the results of the investigations undertaken pursuant to this subsection, together with the prospects for obtaining additional resources under the authority granted by this subsection and for reductions in generation or generating capacity through exchanges.

(m) Except as to resources under construction on the effective date of this Act, the Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest electric utility for ownership, participation, or other sponsor-

ship, but not in excess of the amounts needed to meet such utility's Regional load

RATES

SEC 7 (a)(1) The Administrator shall establish and periodically review and revise rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power Such rates shall be established and, as appropriate, revised to recover in accordance with sound business principles the costs associated with the acquisition conservation and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U S C 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act

(2) Rates established under this section shall become effective only, except in the case of interim rules as provided in subsection (i)(6), upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission, that such rates—

(A) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs,

(B) are based upon the Administrator's total system costs, and

(C) insofar as transmission rates are concerned equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system

(b)(1) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body cooperative and Federal agency customers within the Pacific Northwest and loads of electric utilities under section 5(c) Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply such loads until such sales exceed the Federal base system resources Thereafter, such rate or rates shall recover the cost of additional electric power as needed to supply such loads first from the electric power acquired by the Administrator under section 5(c) and then from other resources

(2) After July 1 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers exclusive of amounts charged such customers under subsection (g) for the costs of conservation resource and conservation credits experimental resources and uncontrollable events may not exceed in total, as determined by the Administrator during any year after July 1, 1985 plus the ensuing four years an amount equal to the power costs for general requirements of such customers if the Administrator assumes that—

(A) the public body and cooperative customers general requirements had included during such five-year period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives,

(B) public body, cooperative, and Federal agency customers were served, during such five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A) of this paragraph,

(C) no purchases or sales by the Administrator as provided in section 5(c) were made during such five-year period,

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under subparagraph (B) of this paragraph) were—

(i) purchased from such customers by the Administrator pursuant to section 6, or

(ii) not committed to load pursuant to section 5(b),

and were the least expensive resources owned or purchased by public bodies or cooperatives, and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator, and

(E) the quantifiable monetary savings, during such five-year period, to public body cooperative and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D) of this paragraph, and

(ii) reserve benefits as a result of the Administrator's actions under this Act were not achieved

(3) Any amounts not charged to public body cooperative, and Federal agency customers by reason of paragraph (2) of this subsection shall be recovered through supplemental rate charges for all other power sold by the Administrator to all customers Rates charged public body, cooperative or Federal agency customers pursuant to this subsection shall not include any costs or benefits of a net revenue surplus or deficiency occurring for the period ending June 30, 1985, to the extent such surplus or deficiency is caused by—

(A) a difference between actual power deliveries and power deliveries projected for the purpose of establishing rates to direct service industrial customers under subsection (c)(1) of this subsection, and

(B) an overrecovery or underrecovery of the net costs incurred by the Administrator under section 5(c) as a result of such difference

Any such revenue surplus or deficiency incurred shall be recovered from, or repaid to, customers over a reasonable period of time after July 1, 1985, through a supplemental rate charge or credit applied proportionately for all other power sold by the Administrator at rates established under other subsections of this section prior to July 1 1985

(4) The term "general requirements" as used in this section means the public body, cooperative or Federal agency customer's electric power purchased from the Administrator under section 5(b) of this Act exclusive of any new large single load

(c)(1) The rate or rates applicable to direct service industrial customers shall be established—

(A) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(c) of this Act, based upon the Administrator's projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other customers, and

(B) for the period beginning July 1, 1985, at a level which the Administrator determines to be equitable in relation to the retail rates charged by the Public body and cooperative customers to their industrial consumers in the region

(2) The determination under paragraph (1)(B) of this subsection shall be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates but shall take into account—

(A) the comparative size and character of the loads served,

(B) the relative costs of electric capacity energy transmission, and related delivery facilities provided and other service provisions and

(C) direct and indirect overhead costs,

all as related to the delivery of power to industrial customers except that the Administrator's rates during such period shall in no event be less than the rates in effect for the contract year ending on June 30, 1985

(3) The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers

(d)(1) In order to avoid adverse impacts on retail rates of the Administrator's customers with low system densities, the Administrator shall, to the extent appropriate, apply discounts to the rate or rates for such customers

(2) In order to avoid adverse impacts of increased rates pursuant to this Act on any direct service industrial customer using raw minerals indigenous to the region as its primary resource, the Administrator, upon request of such customer showing such impacts and after considering the effect of such request on his other obligations under this Act is authorized, if the Administrator determines that such impacts will be significant to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region Such rate shall be established in accordance with this section and shall include such terms and conditions as the Administrator deems appropriate

(e) Nothing in this Act prohibits the Administrator from establishing, in rate schedules of general application, a uniform rate or rates for sale of peaking capacity or from establishing time-of-day, seasonal rates, or other rate forms

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(c) of this Act and additional resources which, in the determination of the Administrator, are applicable to such sales

(g) Except to the extent that the allocation of costs and benefits is governed by provisions of law in effect on the effective date of this Act or by other provisions of this section the Administrator shall equitably allocate to power rates, in accordance with generally accepted ratemaking principles and the provisions of this Act, all costs and benefits not otherwise allocated under this section, including but not limited to, conservation fish and wildlife measures, uncontrollable events, reserves, the excess costs of experimental resources acquired under section 6 the cost of credits granted pursuant to section 6 operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a) of this section), the Administrator shall adjust power rates to include any surcharges arising under section 4(f) of this Act, and shall allocate any revenues from such charges in such manner as the Administrator determines will help

achieve the purposes of section 4(f) of this Act.

(i) In establishing rates under this section, the Administrator shall use the following procedures:

(1) Notice of the proposed rates shall be published in the Federal Register with a statement of the justification and reasons supporting such rates. Such notice shall include a date for a hearing in accordance with paragraph (2) of this subsection.

(2) One or more hearings shall be conducted as expeditiously as practicable by a hearing officer to develop a full and complete record and to receive public comment in the form of written and oral presentation of views, data, questions, and argument related to such proposed rates. In any such hearing—

(A) any person shall be provided an adequate opportunity by the hearing officer to offer refutation or rebuttal of any material submitted by any other person or the Administrator, and

(B) the hearing officer, in his discretion, shall allow a reasonable opportunity for cross examination, which, as determined by the hearing officer, is not dilatory, in order to develop information and material relevant to any such proposed rate.

(3) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and arguments submitted by persons prior to, or before the close of, hearings shall be made a part of the administrative record.

(4) After such a hearing, the Administrator may propose revised rates, publish such proposed rates in the Federal Register, and conduct additional hearings in accordance with this subsection.

(5) The Administrator shall make a final decision establishing a rate or rates based on the record which shall include the hearing transcript, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator. The decision shall include a full and complete justification of the final rates pursuant to this section.

(6) The final decision of the Administrator shall become effective on confirmation and approval of such rates by the Federal Energy Regulatory Commission pursuant to subsection (a)(2) of this section. The Commission shall have the authority, in accordance with such procedures, if any, as the Commission shall promptly establish and make effective within one year after the enactment of this Act, to approve the final rate submitted by the Administrator on an interim basis, pending the Commission's final decision in accordance with such subsection. Pending the establishment of such procedures by the Commission, if such procedures are required, the Secretary is authorized to approve such interim rates during such one-year period in accordance with the applicable procedures followed by the Secretary prior to the effective date of this Act. Such interim rates, at the discretion of the Secretary, shall continue in effect until July 1, 1982.

(j) All rate schedules adopted, and all power billings rendered, by the Administrator pursuant to this section shall indicate—

(1) the approximate cost contribution of different resource categories to the Administrator's rates for the sale of energy and capacity, and

(2) the cost of resources acquired to meet load growth within the region and the relation of such cost to the average cost of resources available to the Administrator.

(k) Notwithstanding any other provision of this Act, all rates or rate schedules for the sale of nonfirm electric power within the United States, but outside the region, shall be established after the date of this Act by the Administrator in accordance with the procedures of subsection (i) of this section (other than the first sentence of paragraph (6) thereof) and in accordance with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act. Notwithstanding section 201(f) of the Federal Powers Act, such rates or rate schedules shall become effective after review by the Federal Energy Regulatory Commission for conformance with the requirements of such Acts and after approval thereof by the Commission. Such review shall be based on the record of proceedings established under subsection (i) of this section. The parties to such proceedings under subsection (i) shall be afforded an opportunity by the Commission for an additional hearing in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act.

(l) In order to further the purposes of this Act and to protect the consumers of the region, the Administrator may negotiate, or establish, rates for electric power sold by the Administrator to any entity not located in the United States which shall be equitable in relation to rates for all electric power which is, or may be, purchased by the Administrator or the Administrator's customers from entities outside the United States. In establishing rates other than by negotiation, the provisions of subsection (i) shall apply. In the case of any negotiation with an entity not located in the United States, the Administrator shall provide public notice of any proposal to negotiate such rates. Such negotiated rates shall be not less than the rates established under this Act for nonfirm power sold within the United States but outside the region. The Administrator shall also afford notice of any rates negotiated pursuant to this subsection.

(m)(1) Beginning the first fiscal year after the plan and program required by section 4(d) and (h) of this Act are finally adopted, the Administrator may, subject to the provisions of this section, make annual impact aid payments to the appropriate local governments within the region with respect to major transmission facilities of the Administrator, as defined in section 3(c) of the Federal Columbia River Transmission Act—

(A) which are located within the jurisdictional boundaries of such governments,

(B) which are determined by the Administrator to have a substantial impact on such governments, and

(C) where the construction of such facilities, or any modification thereof, is completed after the effective date of this Act, and, in the case of a modification of an existing facility, such modification substantially increases the capacity of such existing transmission facility.

(2) Payments made under this subsection for any fiscal year shall be determined by the Administrator pursuant to a regionwide, uniform formula to be established by rule in accordance with the procedures set forth in subsection (i) of this section. Such rule shall become effective on its approval, after considering its effect on rates established pursuant to this section, by the Federal Energy Regulatory Commission. In developing such formula, the Administrator shall identify, and take into account, the local governmental services provided to the Administrator concerning such facilities and the associated costs to such governments as the result of such facilities.

(3) Payments made pursuant to this subsection shall be made solely from the fund established by section 11 of the Federal Columbia River Transmission System Act. The provisions of section 13 of such Act, and any appropriations provided to the Administrator under any law, shall not be available for such payments. The authorization of payments under this subsection shall not be construed as an obligation of the United States.

(4) No payment may be made under this subsection with respect to any land or interests in land owned by the United States within the region and administered by any Federal agency (other than the Administrator), without regard to how the United States obtained ownership thereof, including lands or interests therein acquired or withdrawn by a Federal agency for purposes of such agency and subsequently made available to the Administrator for such facilities.

AMENDMENTS TO EXISTING LAW

SEC. 8. (a) Section 11(b) of the Federal Columbia River Transmission System Act is amended by striking out "or" before "(iii)" in paragraph (6), by striking out the semicolon at the end of such paragraph (6) and inserting in lieu thereof ", 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;".

(b) Section 11(b) of the Federal Columbia River Transmission System Act is amended by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12) making such payments, as shall be required to carry out tht purposes and provisions of the Pacific Northwest Electric Power Planning and Conservation Act.".

(c) Subsection (b) of section 13 of such Act is amended by striking out "and 11(b)(11)" and inserting in lieu thereof ", 11(b)(11), and 11(b)(12)".

(d) The first sentence of subsection (a) of section 13 of such Act is amended by inserting after the word "system," the following: "to implement the Administrator's authority pursuant to the Pacific Norhwest Electric Power Planning and Conservation Act (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 electric power from a generating facility having a planning capability greater than 50 average megawatts),".

(2) The fourth sentence of such subsection (a) is amended by inserting the following before the period at the end thereof: "issued by Government corporations".

(3) Such subsection (a) is further amended by inserting the following before the period at the end thereof: "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".

Such subsection (a) is further amended by inserting the following after the fourth sentence thereof: "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 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.".

(e) Clause (2) of section 1(b) of the Act of August 31, 1964 (78 Stat. 756) is amended to read as follows: "(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.".

ADMINISTRATIVE PROVISIONS

SEC. 9. (a) Subject to the provisions of this Act, the Administrator is authorized to contract in accordance with section 2(f) of the Bonneville Project Act of 1937 (16 U.S.C. 832a(f)). Other provisions of law applicable to such contracts on the effective date of this Act shall continue to be applicable.

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), section 302(a)(2) and (3) of the Department of Energy Organization Act, and this Act. The Secretary of Energy, the Council, and the Administrator shall take such steps as are necessary to assure the timely implementation of this Act in a sound and businesslike manner. Nothing in this Act shall be construed by the Secretary, the Administrator, or any other official of the Department of Energy to modify, alter, or otherwise affect the requirements and directives expressed by the Congress in section 302(a)(2) and (3) of the Department of Energy Organization Act or the operations of such officials as they existed prior to enactment of this Act.

(c) Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of the Act of August 31, 1964 (16 U.S.C. 837a and 837b) for any contract for the sale, delivery, or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest. In applying such sections for the purposes of this subsection, the term "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and the term "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties imposed upon, the Secretary by sections 5 and 7 of such Act (16 U.S.C. 837e and 837f) shall also apply to the Administrator in connection with resources acquired by the Administrator pursuant to this Act. The Administrator shall, in making any determination, under any contract executed pursuant to section 5, of the electric power requirements of any Pacific Northwest customer, which is a non-Federal entity having its own generation, exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of such Act (16 U.S.C. 837b(d)), any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased. Such amount of energy shall not be excluded, if the Administrator determines that through reasonable measures such amount of energy could not be conserved or otherwise retained for service to regional loads. The Administrator may sell as replacement for any amount of energy so excluded only energy that would otherwise be surplus.

(d) No restrictions contained in subsection (c) shall limit or interfere with the sale, exchange or other disposition of any power by any utility or group thereof from any existing or new non-Federal resource if such sale, exchange or disposition does not increase the amount of firm power the Administrator would be obligated to provide to any customer. In addition to the directives contained in subsections (1)(1)(B) and (1)(3) and subject to:

(1) any contractual obligations of the Administrator,

(2) any other obligations under existing law, and

(3) the availability of capacity in the Federal transmission system,

the Administrator shall provide transmission access, load factoring, storage and other services normally attendant thereto to such utilities and shall not discriminate against any utility or group thereof on the basis of independent development of such resource in providing such services.

(e)(1) For purposes of sections 701 through 706 of title 5, United States Code, the following actions shall be final actions subject to judicial review—

(A) adoption of the plan or amendments thereto by the Council under section 4, adoption of the program by the Council, and any determination by the Council under section 4(h);

(B) sales, exchanges, and purchases of electric power under section 5;

(C) the Administrator's acquisition of resources under section 6;

(D) implementation of conservation measures under section 6;

(E) execution of contracts for assistance to sponsors under section 6(f);

(F) granting of credits under section 6(h);

(G) final rate determinations under section 7; and

(H) any rule prescribed by the Administrator under subsection 7(m)(2) of this Act.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with this Act. The scope of review of such actions without a hearing or after a hearing shall be governed by section 706 of title 5, United States Code, except that final determinations regarding rates under section 7 shall be supported by substantial evidence in the rulemaking record required by section 7(i) considered as a whole. The scope of review of an action under section 6(c) shall be governed by section 706 of title 5, United States Code. Nothing in this section shall be construed to require a hearing pursuant to section 554, 556, or 557 of title 5 of the United States Code.

(3) Nothing in this section shall be construed to preclude judicial review of other final actions and decisions by the Council or Administrator.

(4) For purposes of this subsection—

(A) major resources shall be deemed to be acquired upon publication in the Federal Register pursuant to section 6(c)(4)(B);

(B) resources, other than major resources, shall be deemed to be acquired upon execution of the contract therefor;

(C) conservation measures shall be deemed to be implemented upon execution of the contract or grant therefor; and

(D) rate determinations pursuant to section 7 shall be deemed final upon confirmation and approval by the Federal Energy Regulatory Commission.

(5) Suits to challenge the constitutionality of this Act, or any action thereunder, final actions and decisions taken pursuant to this Act by the Administrator or the Council, or the implementation of such final actions, whether brought pursuant to this Act, the Bonneville Project Act, the Act of August 31, 1964 (16 U.S.C. 837–837h), or the Federal Columbia River Transmission System Act (16 U.S C. 838 and following), shall be filed in the United States court of appeals for the region. Such suits shall be filed within ninety days of the time such action or decision is deemed final, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days from such notice, or be barred. In the case of a challenge of the plan or programs or amendments thereto, such suit shall be filed within sixty days after publication of a notice of such final action in the Federal Register Such court shall have jurisdiction to hear and determine any suit brought as provided in this section. The plan and program, as finally adopted or portions thereof, or amendments thereto, shall not thereafter be reviewable as a part of any other action under this Act or any other law. Suits challenging any other actions under this Act shall be filed in the appropriate court.

(f) For purposes of enabling the Administrator to acquire resources necessary to meet the firm load of public bodies, cooperatives, and Federal agencies from a governmental unit at a cost no greater than the cost which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a)(1) of the Internal Revenue Code of 1954 shall not be affected by the Administrator's acquisition of such resources if—

(1) the Administrator, prior to contracting for such acquisition, certifies to his reasonable belief, that the persons for whom the administrator is acquiring such resources for sale pursuant to section 5 of this Act are public bodies, cooperatives, and Federal agencies, unless the Administrator also certifies that he is unable to acquire such resources without selling a portion thereof to persons who are not exempt persons (as defined in section 103(b) of such Code), and

(2) based upon such certification, the Secretary of the Treasury determines in accordance with applicable regulations that less than a major portion of the resource is to be furnished to persons who are not exempt persons (as defined in section 103(b) of such Code).

The certification under paragraph (1) shall be made in accordance with this subsection and a procedure and methodology approved by the Secretary of the Treasury. For purposes of this subsection, the term "major portion" shall have the meaning provided by regulations issued by the Secretary of the Treasury.

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility customer under section 5(c) or 6, the Federal Energy Regulatory Commission shall, in accordance with section 209 of the Federal Power Act (16 U.S.C. 824h)—

(1) convene a joint State board, and

(2) invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h)(1) No "company" (as defined in section 2(a)(2) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(2)), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79b(a)(3)), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code, if at least 90 per centum of the electricity generated by such company is sold to the Administrator under section 6, and if—

(A) the organization of such company is consistent with the policies of section 1(b) and (c) of the Public Utility Holding Company Act of 1935, as determined by the Securities and Exchange Commission, with the concurrence of the Administrator, at the time of such organization; and

(B) participation in any facilities of such "company" has been offered to public bodies and cooperatives in the region pursuant to section 6(m).

(2) The Administrator shall include in any contract for the acquisition of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource.

(3) In the case of any "company" which meets the requirements of paragraph (1), the Administrator, with the concurrence of such Commission, shall approve all significant contracts entered into by, and between, such "company" and any sponsor company or any subsidiary of such sponsor company which are determined to be consistent with the policies of section 1(b) and (c) of the Public Utility Holding Company Act of 1935 at the time such contracts are entered into. The Administrator and the Securities and Exchange Commission shall exercise such approval authority within sixty days after receipt of such contracts. Such contracts shall not be effective without such approval.

(4) Paragraph (1) of this subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission, or both, through periodic review, (A) determine at any time that the "company" no longer operates in a manner consistent with the policies of section 1(b) and (c) of the Public Utility Holding Compani Act of 1935 and in accordance with this subsection, and (B) notify the "company" in writing of such preliminary determination. This subsection shall cease to apply to such "company" thirty days after receipt of notification of a final determination thereof. A final determination shall be made only after public notice of the preliminary determination and after a hearing completed not later than sixty days from the date of publication of such notice. Such final determination shall be made within thirty days after the date of completion of such hearing.

(i)(1) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(A) acquire any electric power required by (i) any customer or group of customers to enable them to replace resources determined to serve firm load under section 5(b), or (ii) direct service industrial customers to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power the Administrator is obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting such power; and

(B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

(2) In implementing the provisions of subparagraphs (A) and (B) of paragraph (1), the Administrator may prescribe policies and conditions for the independent acquisition or disposition of electric power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisition or disposition.

(3) The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

(j)(1) The Council, as soon as practicable after the enactment of this Act, shall prepare, in consultation with the Administrator, the customers, appropriate State regulatory bodies, and the public, a report and shall make recommendations with respect to the various retail rate designs which will encourage conservation and efficient use of electric energy and the installation of consumer-owned renewable resources on a cost-effective basis, as well as areas for research and development for possible application to retail utility rates within the region. Studies undertaken pursuant to this subsection shall not affect the responsibilities of any customer or the Administrator which may exist under the Public Utility Regulatory Policies Act of 1978.

(2) Upon request, and solely on behalf of customers so requesting, the Administrator is authorized to (A) provide assistance in analyzing and developing retail rate structures that will encourage cost-effective conservation and the installation of cost-effective consumer-owned renewable resources; (B) provide estimates of the probable power savings and the probable amount of billing credits under section 6(h) that might be realized by such customers as a result of adopting and implementing such retail rate structures; and (C) solicit additional information and analytical assistance from appropriate State regulatory bodies and the Administrator's other customers.

(k) There is hereby established within the administration an executive position for conservation and renewable resources. Such executive shall be appointed by the Administrator and shall be assigned responsibility for conservation and direct-application renewable resource programs (including the administration of financial assistance for such programs). Such position is hereby established in the senior executive service in addition to the number of such positions heretofore established in accordance with other provisions of law applicable to such positions.

SAVINGS PROVISIONS

SEC. 10. (a) Nothing in this Act shall be construed to affect or modify any right of any State or political subdivision thereof or electric utility to—

(1) determine retail electric rates, except as provided by section 5(c)(3);

(2) develop and implement plans and programs for the conservation, development, and use of resources; or

(3) make energy facility siting decisions, including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any customer under any contract existing as of the effective date of this Act.

(c) Nothing in this Act shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(d) If any provision of this Act is found to be unconstitutional, then any contract entered into by the Administrator, prior to such finding and in accordance with such provisions, to sell power, acquire or credit resources, or to reimburse investigation and preconstruction expenses pursuant to section 5, and section 6 (a), (f) or (h) of this Act shall not be affected by such finding.

(e) Nothing in this Act shall be construed to affect or modify any treaty or other right of an Indian tribe.

(f) The reservation under law of electric power primarily for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State is hereby affirmed. Such reservation shall also apply to 50 per centum of any electric power produced at Libby Re-regulating Dam if built. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7.

(g) Nothing in this Act shall be construed to affect or modify the right of any State to prohibit utilities regulated by the appropriate State regulatory body from recovering, through their retail rates, costs during any period of resource construction.

(h) Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act of any plan or program adopted pursuant to the Act (1) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any groundwater resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, or (3) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

(i) Nothing in this Act shall be construed to affect the validity of any existing license, permit, or certificate issued by any Federal agency pursuant to any other Federal law.

EFFECTIVE DATE

SEC. 11. This Act shall be effective on the date of enactment, or October 1, 1980, whichever is later. For purposes of this Act, the term "date of the enactment of this Act" means such date of enactment or October 1, 1980, whichever is later.

SEVERABILITY

SEC. 12. If any provision of section 4(a) through (c) of this Act or any other provision of this Act or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of section 4 or any other provisions of this Act, nor the application of such provisions to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

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The SPEAKER. Is a second demanded?

Mr. SENSENBRENNER Mr. Speaker, I demand a second.

Mr WEAVER Mr. Speaker, I demand a second.

The SPEAKER. The gentleman from Wisconsin from the minority is entitled to the second.

Mr. WEAVER. Mr. Speaker, is the gentleman opposed to the bill? I am opposed to the bill.

The SPEAKER. Is the gentleman from Wisconsin opposed to the bill?

Mr. SENSENBRENNER. I am opposed to the bill.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. KAZEN) will be recognized for 20 minutes, and the gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. KAZEN).

(Mr. KAZEN asked and was given permission to revise and extend his remarks.)

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, the Pacific Northwest is presently facing severe power planning uncertainties because of a pending legal battle among private and public utilities, direct-service industrial customers and the States of Washington, Oregon, Idaho, and Montana over which entities are to be allocated the federally produced hydroelectricity marketed by the Federal Bonneville Power Administration. These uncertainties can only be resolved through enactment of the legislation before us today.

Mr. Speaker, S. 885 will enable the Pacific Northwest to resolve these power planning problems by giving the Bonneville Power Administration the authority to expand its existing supply of energy. This new authority will obviate the need for BPA to divide up the limited supply of Federal power, moot the need for a protracted legal battle, and will allow BPA to: First, meet the full requirements of the publicly owned or "preference" utilities in the region; second, continue to serve its direct-service industrial customers; third, meet the net load growth requirements of the region's investor-owned utilities and, fourth, provide low-cost power to residential and small farm customers of the region's investor-owned utilities. In carrying out this authority, BPA is directed by S. 885 to first utilize resources saved by conservation programs, then renewable resources, and finally, conventional generating resources.

S 885 also includes a variety of measures designed to promote aggressive energy conservation in the region, including a revolving fund account to be used for conservation and renewable resource loans and grants. Finally, Mr. Speaker, S 885 calls for the establishment of an eight-member State-appointed "regional council" which is charged with the responsibility for preparing a regional conservation and energy plan which will contain the priorities and strategy necessary to overcome the energy problems facing the Pacific Northwest and will guide the action of BPA.

Mr Speaker, I regret that we have been forced to place this legislation on today's Suspension Calendar. However, it became clear to us after over 13 hours of consideration of this bill on the floor under the rule that the House equivalent to a filibuster was being waged against this bill and that some of our colleagues were intent on tying up this body indefinitely by offering one amendment after another. The Suspension Calendar is the only way to combat these dilatory tactics.

Mr. Speaker, I strongly believe that S 885 is a good bill and offers the only real solution to the electrical energy problems facing the Pacific Northwest and, consequently, I urge its adoption

Mr Speaker, I yield as much time as he may consume to the gentleman from Washington (Mr. MCCORMACK).

(Mr. McCORMACK asked and was given permission to revise and extend his remarks.)

Mr. McCORMACK. Mr. Speaker, I rise in support of this bill. I want to emphasize this is extraordinarily important legislation to the people of the Northwest; and indirectly to all the people of the Nation However, it is a Northwest bill; and I can understand how Members from other parts of the country may not be up to speed on it, may not have all the facts on it; and I know that from time to time during the rest of the afternoon, you are going to be asked to vote against this bill.

I hope you will remember several very important facts. This bill has the overwhelming support of a vast majority of the people of the Northwest. No matter what the opponents of the bill may say, they are speaking for a tiny minority of antienergy activists in the Northwest. It is important to remember that.

This bill has the support of the governments of the States of Washington, Oregon, Idaho and Montana; the four States involved. Most all of the utilities support it. All the private power companies, and about 95 percent of the public utilities. All of the direct service industries in the Northwest, support this bill It s supported by farmers and farm groups, and by small industry It is supported by all of the Senators of the Northwest.

As I campaigned through my district in this last campaign, the question I was asked more than anything else, wherever I went, was, "How soon are you going to get the Northwest Power Bill passed?

The gentleman who will be representing the Fourth Congressional District—which I lost in this last election—is also supporting this bill. It is important to understand, in spite of all the ghosts and goblins that will be conjured up against it, this does not build power plants, it does not stop them, and it does not negatively impact the rest of the Nation in any way. It does not cost the Federal Government anything It does provide for conservation, and for the protection of fish and wildlife.

This is not a bill that we are proposing just because we like it.

Mr KAZEN Mr. Speaker, I must advise the gentleman in the well that I will take back my time in 30 seconds.

Mr McCORMACK I thank the chairman. Let me conclude by pointing out that this bill has been forced upon us by the circumstance of increased growth and energy consumption in the Northwest This bill is necessary to the Northwest Its passage is essential. Many of us from the Northwest have been comparatively quiet during the dragged out debate of recent days, but this was only to avoid further waste of time. We support the bill, and and I repeat that it has the overwhelming support of the people of the Northwest, and of the Members of Congress from that area.

We urge your support for passage of this bill today.

The SPEAKER The Chair recognizes the gentleman from Wisconsin (Mr SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr WEAVER).

Mr WEAVER. Mr. Speaker, I thank my dear friend from Wisconsin (Mr. SENSENBRENNER) for giving me some time.

The fight is ending. It has lasted almost 4 years. Why was it necessary to put up this great fight against the Northwest power bill? Let me show you some graphs This graph right here is the total indebtedness of all State and local governments in Washington and Oregon Those are school boards, the States, counties, cities, towns, all of the indebtedness of all the governments of Washington and Oregon, $14 billion.

This is the indebtedness for the nuclear projects in the Northwest, estimated at $18 billion. We are going into debt on just these five projects more than the entire indebtedness of all governments, State and local, in Washington and Oregon. This bill portends more of that—billions and billions of dollars more of that. Our fight against this bill has probably saved the Northwest billions of dollars because it has put the spotlight on the utilities and the Bonneville Power Administration, and they will no longer be able to work in the dark, spending billions of our money, without our consent, without a vote of the people. They will have to look over their shoulders now because of our fight This bill is not even needed BPA already has the authority to do conservation. BPA already has the authority to do allocation. In fact, they have promulgated their allocation programing a year ago, so that is not needed What they do need the bill for the proponents do not mention. That is the forced financing of thermal plants. The entire indebtedness of the Oregon GI loan program over 30 years is less than the indebtedness that only one WPPSS project is going to put us in. Further, there is no consensus among the Northwest congressional delegation One-third are opposed to the bill while dozens and dozens of groups oppose it The people have spoken. This Northwest power bill will usurp from the Northwest utilities all control over their own destinies. The Eugene Water & Electric Board, the largest public utility in Ore

gon, is adamantly opposed to the bill because EWEB wants to develop its own energy sources.

□ 1230

Already EWEB has announced four hydroprojects that will develop the energy needed to last them to the year 2000 They are developing other energy sources If this bill passes, it undermines and strips away the incentives for such utilities as EWEB to develop their own energy sources. Instead, it puts it in the hands of the Federal agency that will dominate and control our utility system and consign a Federal bureaucrat to commit every business, every resident, every farm in the Northwest to more billions of dollars of debt.

Already this is the debt they have projected to put us into, $18 billion This represents the debt for which we as a people have not voted on, and there will be no vote of the people—none—on putting us more billions of dollars into debt and bankrupting the Northwest.

The Federal agency directed by the Secretary of Energy from Washington, D C., will dominate our utility industry in the Northwest. Soon after this bill is passed, if it is enacted, other utilities in other sections of the country will come in for the same guarantees. The most dangerous single thing that we can do in energy is to have the Federal Government come in and force us as taxpayers, to buy the horrendous cost systems that the utilities are forcing upon us, billions and billions of dollars, without our consent, without our vote, against our will. We will pay for these plants and projects whether they work or not, whether they are needed or not. Instead, we could be developing on a local level, as Eugene Water & Electric Board wants to do, and is developing its own energy sources But no. No. The heart and soul of this bill is to encumber us with more billions of dollars of debt.

Mr SENSENBRENNER Mr Speaker, I yield 4 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr LUJAN. Mr. Speaker, I concur with the previous remarks of our distinguished subcommittee chairman, the gentleman from Texas, and strongly urge my colleagues on this side of the aisle to support this bill.

Nearly 4 years ago the delegations from the Northwest States brought the attention of Congress to the serious power problem that faced the States of Washington, Oregon, Montana, and Idaho. The allocations of cheap hydropower had been stretched as thinly as they could be stretched and were still unable to cover the foreseeable energy demand. The problem was nothing new to the rest of the country. We were all engrossed in the energy problem.

But what was new to us was the proposition that the four Northwest States could work their problems out between themselves if Congress would only permit the Bonneville Power Administration to work with them in developing the solutions

The mechanism they suggested as the vehicle for such cooperation was cumbersome, detailed, and technical. Over the past 3½ years of committee work, that mechanism has been refined, changed, and fine-tuned. But, more importantly, the work of the Interior and Commerce Committees has resulted in a product that now has the support of virtually all of the competing interests in the Northwest.

And that is the strongest feature of the bill. It addresses a regional problem and provides a regional solution. More importantly, that solution will be paid for by the ratepayers of the Northwest—not by the taxpayers of the rest of the country.

The bill contains no subsidies for the Northwest. It sets no precedent for any other region in the country because the same conditions are not, and could not be, duplicated in any other part of the country. It fully protects the rights of preference customers and sets no precedent for watering down those rights. The decisions to be made on whether or not to build new powerplants, where those plants will be located, what kind of fuel they will use, how the power from them will be allocated and priced—all of these decisions will be made by the people of the Northwest rather than by the Federal Government.

The role of the Federal Government, under this bill, is one of cooperation and coordination—not one of dictation, regulation, and bureaucratic control.

The bill is centered on the use of conservation as the power resource which must be considered before all others. And, for the first time in any power bill that I am aware of, this bill mandates not only the mitigation of fish losses but goes much farther with the requirement that the fish runs on the Columbia River and its tributaries be rebuilt and improved.

The fisheries provisions of the bill are all the more unique by being carried out at the expense of the people of the Northwest rather than of the taxpayers nationally as has been the case with fish mitigation provisions in the past. And they are even more unique by having been agreed upon by all of the competing interests on the river: Commercial fishermen, private power companies, public power companies, Indian tribes, State fish and game departments, Federal Fish and Wildlife agencies and nongovernmental groups of sportsmen and environmentalists. It took hard work and a lot of give and take to arrive at this consensus, and it will require a lot of cooperation on the part of these groups to make that consensus work. The bill provides the mechanism for that cooperation.

In summary, I will stress once again that this is a regional bill addressing a regional problem and providing a regional solution It has been worked out by the people of the Northwest themselves. It reduces, rather than increases, the Federal control over Northwest power decisions It mandates energy conservation as the resource of first resort. It provides a mechanism for rebuilding the dangerously diminished salmon and steelhead runs of the Columbia River and its tributaries. And it does all this completely at the cost of the ratepayers of the Northwest with no burden or obligation to the rest of the taxpayers.

I join the rest of the members of the Interior Committee and the Commerce Committee in urging my colleagues to support the bill.

Mr KAZEN Mr Speaker, I yield 3 minutes to the gentleman from Washington (Mr. DICKS).

(Mr DICKS asked and was given permission to revise and extend his remarks)

Mr. DICKS Mr Speaker, I rise in support of H R. 8157, the Pacific Northwest Electric Power Planning and Conservation Act

It is time to pass this vitally important legislation for the Pacific Northwest region This legislation has been given careful consideration in the committees and on the floor The House, alone, has devoted 5 days to the consideration of this bill The opponents of this legislation have been allowed to have their say. None of their amendments have been accepted by this body.

I strongly urge you to support this vital legislation. The bill enjoys widespread, bipartisan support both within and without the Northwest region. It is needed this year to avert a serious economic and energy crisis that will engulf the Northwest in a potentially explosive reallocation of energy when the Bonneville Power Administration's contracts begin expiring in 1981.

With this legislation, these problems can be averted. This bill embodies a regionally negotiated and supported "peace treaty" by all of the affected parties. It insures a smooth reallocation of power by establishing a regional planning process which permits BPA to sign new utility and industry contracts necessary for the coordinated planning and efficient use of regional resources.

The legislation is not a panacea for all of the Northwest energy problems. However, it does provide the vehicle for establishing an open, coordinated, and comprehensive approach to future electrical power planning in the Northwest.

Enactment of this legislation is vital to our region and I urge you to support it today.

□ 1240

Mr SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Idaho (Mr SYMMS).

(Mr. SYMMS asked and was given permission to revise and extend his remarks.)

Mr. SYMMS Mr. Speaker, I would concur with what the gentleman from Washington (Mr. DICKS) just said.

The legislation is needed now; it cannot wait for the 97th Congress. The primary purpose of the bill is to avert a court-imposed reallocation of the power marketed by the Bonneville Power Administration—one-half of the region's power supply—that will begin next year, if S 885 is not enacted this year. An administrative/judicial reallocation would seriously disrupt power planning and economic development in the Pacific Northwest Failure to solve the Northwest's power problem would also jeopar-

dize our region's ability to sell surplus power to the Pacific Southwest to displace oil-fired generation, and the continued operation of one-third of the Nation's aluminum production.

S. 885 establishes a regional program to plan and develop conservation and additional generation the region needs while maintaining State governmental controls and local utility independence. The program established by the bill is paid for entirely by Bonneville ratepayers. There are no Federal guarantees or appropriations of any kind. The bill simply provides the Pacific Northwest with the framework it needs to solve its power problem on its own, without disadvantaging any other part of the country.

The bill before the House is sound legislation that represents a uniquely acceptable accommodation between a large number of diverse concerns. We urge you to make passage of S. 885 without further amendment a top priority of the Republican leadership in the postelection session.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. AuCoin).

(Mr. AuCOIN asked and was given permission to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, I regret very much that I have to stand and strongly oppose this bill. I regret it because I wanted to be able to support a Northwest regional power bill—a power bill that would be a model for safe, alternative power generation and conservation in the Pacific Northwest.

But, this bill does not in any sense come even close to achieving that. Despite all the happy words Members have heard in 3 days of debate about alternative energy and about conservation, this bill sets up a funding mechanism that provides for easy financing—and a goldplated invitation—for construction of large, capital intensive, environmentally unsound thermal generating plants.

One Northwest utility executive described the impact of this bill very well, although the bill's congressional supporters have tried their best to ignore his prophecy. He said that under the terms of this bill, every nuclear powerplant under construction and those on the drawing boards will be financed and constructed in the Pacific Northwest. It is not often I agree with the utility industry, but on that statement I agree 100 percent.

Given that fact, and given the success of the bill's proponents in using a parliamentary technicality to strike down an amendment that I offered which would have imposed standards of public safety on radioactive wastes that these plants will emit—given those things, it adds up to a bill that imposes an unfair public safety risk on the rate payers and citizens of the Pacific Northwest.

Supporters of this bill have said that nuclear plant construction will only occur after a "sweeping conservation program," squeezes out every single kilowatt possible in energy savings in the Pacific Northwest. That all sounds very, very nice. But I do not believe it. And neither does the General Accounting Office of the U.S. Government, which criticized the BPA's capacity to carry out the "sweeping conservation program" described by the gentleman from Washington (Mr. Dicks) a moment ago.

So, what will be the result of this bill if it is passed today? Would it be a blueprint for creative energy solutions that the bill's high-powered supporters suggest? Not for a moment. On the contrary, this bill is a blueprint for nuclear cooling towers and coal-fired plants throughout the region. This bill is a blueprint for cost overruns in construction. This bill is a blueprint for high electric rates. This bill is a blueprint for the dangerous stockpiling of radioactive wastes these plants will produce—a deadly threat not only today but for generations to come.

The gentleman from the State of Washington (Mr. McCormack) said that all those who oppose this bill represents a "tiny minority of antienergy activists." I want to say to my colleagues that I regard that as an insulting smear of those of us who genuinely are concerned about the kind of energy we harness to meet our region's needs. I am not antienergy; the gentleman from Washington (Mr. Lowry) is not antienergy, the League of Women Voters is not antienergy. We are prosafety, and we have our own ideas about how we can meet our region's energy needs for the future. Those needs have been documented by a number of studies that have been described in the debate leading up to this day.

Mr. Speaker, this bill should be defeated. I urge my colleagues to do so.

Mr. KAZEN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. Markey).

Mr. MARKEY. Mr. Speaker, I rise to speak in opposition to this legislation.

This bill will not encourage energy conservation to the fullest degree. Yet this bill is often touted by its sponsors as a progressive energy conservation measure. As "proof," they point to sections of the bill which provide for loans and grants for conservation, model conservation standards, and renewable resource programs.

The problem is that the bill takes away the one major impetus that encourages energy conservation: financial incentives in a free market reflecting real-world energy costs.

By "melding" high-cost nuclear power plants together with low-cost Federal hydropower and selling them at an averaged rate, the bill robs the individual utility of the financial incentive to save itself—and its ratepayers—money by maximizing the use of existing power sources. If a tiered rate were in effect, rather than a melded rate, utilities would inevitably seek to enhance their energy productivity—that is, to conserve energy by using it more efficiently. But under this bill, a tiered rate is not in effect.

A series of studies makes it clear that energy productivity is the most cost-effective energy future for the Pacific Northwest.

The GAO has reviewed this bill and concluded:

> Some provisions . . . would appear to impede the development of these power sources . . . conservation and renewable energy resources. Average cost pricing—which inhibits conservation and renewable energy projects by masking the true costs of new power supplies—is likely to be continued under pending legislation.

Indeed, this bill does continue this "melded cost" provision.

I urge this House to defeat this bill, which shelters the Northwest utilities from the real-world energy marketplace, and puts Uncle Sam as the financial middleman to this flight from energy reality.

Mr. KAZEN. Mr. Speaker, I yield 1 minute to the chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. Udall).

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. Mr. Speaker, I thank the gentleman for yielding, and I congratulate him on the excellent way he has handled this controversial and very difficult bill.

When it came to our committee, I started out with some misgivings. People in my own home State and in the Southwest region felt that there might be precedents set here that would devalue the preference clause rights that some of us have in other areas, and there were other concerns of that kind. The more I thought of it, the more I understood that one of the great strengths of this country is regionalism and local control of matters.

In the Southwest we have a power system that is nothing like this; it suits our needs. It is a hybrid. In the Tennessee Valley, they went off in another direction and had another hybrid which met their needs. And in the Northeast power area, and it varies from region to region.

But, as this bill has come out, and I have seen the improvements made, many of them suggested by the gentleman from Oregon (Mr. Weaver), I think the thing to do is to give the Northwest area the authority they are seeking in this bill so that they can build an energy future.

I strongly support the bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. Brown).

(Mr. BROWN of Ohio asked and was given permission to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, I support the Pacific Northwest Electric Power Planning and Conservation Act—H.R. 8157—as the necessary solution to the serious and complex electric power deficit in the Pacific Northwest. Mr. Speaker, this House bill should be adopted as our substitute to the Senate-passed bill, S. 885.

The Pacific Northwest Electric Power Planning and Conservation Act is intended to resolve the serious and unique electric power deficit in the Pacific Northwest. This bill is far from perfect, but I believe it is the best compromise of conflicting interests—all of which want

some bill—that the legislative process can draft. In fact, I support the bill with misgivings of my own over some provisions. I recognize, however, that the bill is agreeable to the region and that without this bill the gravity of the problem would only increase. Unabated the power deficit in the Northwest could well result in ruinous litigation and regional economic and legal chaos. Without a certainty of power, one-third of the domestic U.S. production of aluminum may be tempted to move abroad, undermining our attempts to improve our national economy.

For over 40 years the States of Washington, Oregon, Idaho, and Montana have enjoyed abundant and inexpensive hydropower marketed by the Bonneville Power Administration which is the marketing agency for the hydropower generated by Federal generating facilities and the grid by which all power in the region is distributed. Now the growth of the region has surpassed the hydropower supply of that grid. The previous, nonlegislative attempts to meet the growing demands have failed.

The Bonneville Power Administration, created in 1937 to market the hydropower generated by dams built by other Federal agencies, serves three types of customers: Public power agencies, investor-owned utilities, and direct service industries, largely aluminum plants. The rates of these direct service industries will go up sevenfold under the provisions of this bill which will encourage cogeneration of power as well as conservation.

The public agencies were granted a preference right to the hydropower in the original statutes, but never needed to exercise those rights against other Bonneville customers until recently. Because of the power deficit, Bonneville curtailed sales of hydropower to the investor-owned utilities in 1973, and has indefinitely interrupted sales to the direct-service industries over the past 3 years. Neither public nor private utilities are capable—independently—of building enough new supply to overcome the deficit. Moreover, without an equitable system of reallocation there is little hope that the two types of utilities would be able to construct new generation cooperatively. The very existence of some of the investor-owned utilities depends upon an orderly reallocation of power.

Because the residential rates of public agencies are 50 percent of those of the private utilities in Oregon, there is a movement toward creating a new public agency for the State of Oregon. While this may bring some temporary relief to the residential consumers of Oregon's private utilities, it would create such a huge strain on Bonneville's resources that the entire region's power supply would be thrown out of balance and into court.

It is clear that only a new system of allocating the hydropower can arrest the problem, and that only Congress can provide the solution. This bill would reallocate the hydropower into a region-wide power pool, administered by Bonneville, but owned and operated by utilities, so that the cost and production of new thermal generation may be shared among the customers of the region. The bill protects the preference rights of the public agencies, allows the residential consumers of the private utilities to share hydropower rates, and allows a certainty of supply—at a greatly increased rate—to the direct-service industries.

The solution is not flawless. For example, the bill establishes a new regional planning agency to assist Bonneville in coordinating the solution to the power deficit. I am concerned that this council, mandated to consider conservation first and conventional generation last, may succumb to a no-growth philosophy. This would be most unwise, since the region's past inability to build new generation has been a major factor in the present shortage.

I can, however, support the bill because it is the only way new generation will be built in the region and therefore the only way to remedy the deficit.

An additional and important reason I support the bill is that it is tailor-made for the Pacific Northwest. It is neither a precedent nor an experiment for other areas of our country. I will oppose any attempts to change the application of this bill to other Federal power marketing agencies. As a practical matter, the bill is a "negotiated peace treaty" between all the necessary parties from the Pacific Northwest over a very inexpensive power resource. The hydropower system of the Columbia River. While I would love to have this inexpensive electricity in my State of Ohio, that is physically impossible. Not even Congress can move the mountains, the rain, the river, and the dams.

Mr. Speaker, I support H.R. 8157, the House prepared substitute for S. 885. It is not perfect, but it is necessary.

□ 1250

Mr. KAZEN. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. DUNCAN).

(Mr. DUNCAN of Oregon asked and was given permission to revise and extend his remarks.)

Mr. DUNCAN of Oregon. Mr. Speaker, I rise in strong support of this bill and hope that my colleagues will support it as strongly as I do. It has been a strange debate. I want to express my appreciation to the many Members from other parts of the country who have devoted so much time to a regional bill of primary importance to the Pacific Northwest. While it is true that it is of primary importance to the Northwest, it also is of general importance to the entire country.

Because it is the only vehicle that gives us the possibility of generating additional energy which I believe we are going to need in the future to the extent we can add to the production of energy in the Northwest the entire country will benefit.

I do not believe there is a supporter of the bill who cannot look at some specific part of it and say, "No, I do not like that and I would like to have it changed." However, in the spirit of compromise we have accepted those items that we do not like because the overall thrust of the bill is desirable.

Most of the opposition to the bill is expressed in terms of opposition to one or more specific provisions. Only my friend, Mr. WEAVER from Oregon is the one guy who says "I don't like it. I don't want it."

This bill is a compromise incorporating views of almost 200 separate groups and organizations. It is a marvelous example of the democratic system of compromise. It does not have unanimous support but it has a substantial consensus behind it. I would suggest to my colleagues that we have to subordinate our individual preferences and get a bill passed.

Mr. KAZEN. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. FOLEY).

(Mr. FOLEY asked and was given permission to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I rise in strong support of S. 885. The issues of this bill have been debated in two of our major committees and two of the subcommittees of those committees.

This bill has been before the Congress for many years. It is essential to allocate Federal power in the Northwest, either by this legislation or by administrative action which will surely lead to a long decade of bitter litigation.

The bill is supported overwhelmingly by the people of the region. It has no costs, direct or indirect, to any other region of the country. It has no Federal guarantees of any kind which can press upon the taxpayers of any other region of the country.

It is overwhelmingly supported by the congressional delegations of both parties in the House and Senate from the region.

I strongly urge our colleagues to give this bill an overwhelming vote.

Mr. Speaker, like many of the other supporters of this legislation, my reasons for strongly urging the passage of the Northwest power bill are set forth in greater detail in the RECORD of September 29, 1980. But today, with final passage of S. 885 imminent, I want to emphasize a few important points.

This legislation is needed because of a Federal problem—the unavoidable need to reallocate Federal power sold by the Bonneville Power Administration (BPA). Because BPA's power supply is fixed in amount under present law, and because all that power is already allocated under contracts that begin expiring in May 1981, a reallocation of this power by some Federal entity cannot be avoided. The only issue is whether to carry out the necessary reallocation through Federal legislation or to permit the reallocation to be carried out by a Federal administrative agency (BPA) and the Federal courts.

If any of the bill's supporters believed that an administrative and judicial reallocation could be carried out without severe disruption of the Northwest economy and without harmful ripple effects that would be felt throughout the Nation, none of us—none of us—would have undertaken the incredibly arduous effort to pass this bill. But an administrative reallocation, litigated in the Federal

courts for perhaps a decade, simply will not work And this is what makes the legislation necessary.

No opponent of this legislation has ever explained how the crisis of an administrative and judicial reallocation can be avoided except through legislation that grants BPA the authority to acquire additional power resources No opponent has ever been able to show that legislation can be effective for this purpose if BPA's ability to acquire power by purchase—in the same manner that utilities acquire power by purchase—is so limited as to make that new authority meaningless

It is for these reasons, and these reasons alone, that the principal arguments of the bill's opponents have consistently been unable to attract a majority of support in any of the subcommittees and full committees that have devoted so many hours to this bill And it is for these same reasons that the principal arguments of the bill's opponents have failed here on the House floor. Those arguments simply fail to come to grip with the facts, however powerful a grip they may exercise among certain outside groups who have not had to confront—as the Northwest congressional delegation has had to confront—the lack of any alternative that will solve the problem this bill sets out to solve

Both sides have pointed out that this legislation will not in itself create new conventional power generating resources This is true The purpose of the bill is to solve an allocation problem, not a shortage problem When congressional consideration of the forerunners of this bill began nearly 4 years ago, the shortage forecasted for the Northwest as a region was not even so substantial that shortage loomed as a major reason for the bill.

But the simple fact is that until the allocation crisis is solved, the Northwest cannot move effectively, efficiently and in an environmentally sound manner to cure the impending power shortage, which by some estimates is now enormous Because solving the shortage requires cooperation among dozens of diverse Northwest entities, and these entities cannot cooperate effectively so long as they are in court fighting one another on the issue basic to their survival, namely their power supply contracts

It is said that this bill will not prevent litigation That is certainly true There may be litigation over rates, over new resources, and over the meaning of many provisions that have been added to the bill largely in order to reassure the bill's critics But the key point is that litigation under this bill will not include litigation to determine the validity of each entity's new power supply contract

On the contrary, by stating that BPA shall be "deemed" to have sufficient power to enter into all the 20-year power sales contracts mandated by the legislation, the bill specifically ensures that these new contracts will be valid against legal challenge This provision does not "guarantee" actual power deliveries in day-to-day operation, but it does guarantee that whatever litigation occurs on power matters will not be litigation going to the heart of any BPA customer's power sales contract and power allocation—the most important single result of this legislation

It is also said that this bill will not solve all of the Northwest's other power problems That is certainly true also Nothing can prevent the costs of electricity from rising rapidly in the Northwest, for example, since we can no longer meet our growing needs with additional inexpensive firm energy from the Columbia River power system But the bill can, and should, prevent electricity rates from rising as rapidly as they would without the bill

This is the whole purpose of maximizing the integration and efficiency of our diverse regional power system, and of requiring—as this bill does—that conservation, renewable resources, and conventional resources all be compared on a fully costed basis so that the region's needs will be met by the least expensive new resources, with a priority for conservation And this is also the reason why the bill permits BPA to acquire only that amount of power needed to meet the power sales obligations the bill places on BPA—this bill does not authorize BPA to buy power in order to create a regional surplus, which would impose unnecessary costs on the region's ratepayers

It has been said that this bill encourages nuclear power. That is certainly not true The drafters of this bill know very well how controversial nuclear power has become, particularly in the Northwest We have known all along that this bill would also have to pass through two committees of this House that would carefully scrutinize it for any conceivable pronuclear bias And we have never, among ourselves felt the slightest interest in trying to promote nuclear power over other forms of energy

What we needed to do in this bill was not to promote nuclear energy, but to solve the allocation crisis We could not do this without giving BPA authority to purchase additional power resources, other than by the unacceptable means of repealing the preference clause And we could not exclude any potential source of power from this authority and still have the bill be legally effective, since the bill depends upon BPA having a reasonable prospect of being able to acquire whatever additional power resources may be necessary to meet BPA's new obligations.

But what we did—and did with great care, after extensive hearings and consultations both in and out of the region—was to constrain BPA's new authority in a different way by insuring that BPA would not acquire conventional resources unless the need for these resources is established clearly through a regional planning process, and unless these resources are demonstrated to be cost-effective when compared with conservation and renewable resources on a fully costed basis

In other words, no nuclear power will be acquired by BPA under this legislation unless other alternatives are insufficient in amount or more expensive in terms of their full costs It is not the role of this bill to preclude BPA purchase of nuclear power that may turn out in actual practice to be needed by the region and it would not be responsible if the bill had this effect

It has been pointed out that powerplants currently under construction by utilities in the Northwest are suffering substantial cost overruns This is true, and it is a terrible thing. It is something that we hope this bill will help solve, and certainly the bill will not compound the problem In fact, part of the problem with the powerplants currently under construction is precisely that there is no regional entity other than the plant owners with any ability to exercise effective oversight over all aspects of plant design, construction, and operation.

In this bill, we have included the toughest conceivable mandatory authority for effective and thorough BPA oversight—the mistakes of the past cannot afford to be repeated And if any power resource owner refuses to submit to this effective regional oversight mechanism, that resource simply cannot be purchased by BPA—BPA's authority to purchase is contingent upon acceptance by the resource sponsors of the contractual oversight provisions In this manner, the BPA purchase authority cannot be exercised except in conjunction with BPA oversight that is effective

In addition, the regional power and conservation planning council created under this bill will obviously have a keen interest in the effectiveness of these oversight provisions, and the council will be a permanent, continuing feature of all future regional power planning.

But because this bill is designed to solve a power allocation problem, it does not and cannot preempt the responsibilities of individual utilities and State and local governments. On the contrary, the bill abounds with provisions designed to maintain local governmental and utility control The States, for example, will retain complete control over power resource planning, siting, licensing, and construction It will continue to be the responsibility of the States to protect the interests of each State's citizens in the development of power resources and not just through each State's appointees to the regional power and conservation planning council, but directly as well

And it will continue to be the option of each State to refuse, within the limits of applicable existing law, to grant permits to individual power resources or to particular types of power resources These individual State, local, and utility decisions will simply have to be taken into account by the regional council and by BPA, since under this legislation BPA does not acquire any authority to own or to construct power resources on its own, and no State energy facility decisions are preempted

In conclusion, Mr Speaker, the supporters of this bill are well aware that even after the bill's enactment, the Northwest will continue to face a regional power shortage and that regional power resource decisions will continue to be controversial We know that some individuals or groups will inevitably mis-

understand the source of these continuing problems, such as higher power costs, and that some will even blame this new law for problems that have nothing to do with it. For this reason, the safer and easier course politically would be for each of us from the Northwest to oppose this bill, to vote against it if not work againt it, and rely on our colleagues from other regions—to whom this bill owes so much—to pass it for us But we cannot sirk our responsibilities today

We cannot fail to attempt to solve the power allocation problem before it gets totally out of control Our satisfaction—and, we hope, the satisfaction of our many colleagues from other States who have helped us throughout this process—must lie in helping to avert one particular crisis before that crisis become clear to many individuals and groups in the region Reallocation will not now be added to the region's other power problems, and for that reason—and through intelligent use of the new tools this bill grants the region—the region may now have a realistic chance, for the first time in years, of solving its remaining power problems by itself, cooperatively and efficiently.

Mr -KAZEN Mr Speaker, I yield 3 minutes to the gentleman from Washington (Mr SWIFT).

(Mr SWIFT asked and was given permission to revise and extend his remarks)

Mr BONKER Mr Speaker, will the gentleman yield?

Mr. SWIFT I yield to the gentleman from Washington

Mr. BONKER. Mr. Speaker, I would like to correct what has been a recurring theme by those who oppose this bill The bill does not in any way guarantee the construction of nuclear powerplants or the purchase of the output, or in any way assist the development of nuclear power in the Northwest

Indeed, I would argue to the opposite. Two of those five nuclear plants are being constructed in my district Over 2 years ago I called for their closure If I thought this bill in any way favored the construction of nuclear powerplants, I would not support it.

The regional power council will have the authority in the development of the plant to actually instruct the Bonneville Power Administrator to buy out WWPPS 3 and 5, and terminate them.

If my colleagues are against nuclear power, I would argue they would have much greater potential for dealing with that issue through the passage of this bill than presently is the case under the present system.

I thank the gentleman for yielding.

Mr. SWIFT. I thank the gentleman very much for those remarks with which I completely agree.

This is the most difficult kind of bill for Members who are not from our region of the country because it is complex and because they have been assaulted with so many assertions one way or the other.

I think what we have to ask is What is the majority view of the people who represent this region in the Congress of the United States? What are the States themselves doing, as represented by their Governors and Governors-elect?

I think all of those people would agree with these statements First of all, the bill does not do these things It does not involve Federal guarantees, subsidies, or bailouts There is general agreement that it does not federalize the Northwest utilities industries It does not create an energy czar of any kind.

As the gentleman from Washington (Mr BONKER) has ably pointed out, it does not encourage the building of nuclear plants It does not harm other regions

What does it do? I think the broad range of people who support this bill would agree that it does solve the Federal power allocation crisis in the Pacific Northwest. Without this bill the BPA must reallocate all of its power, half the region's total amount of power, next year and administrative reallocation of BPA will be challenged in court and touch off a regional civil war that could last a decade This means disruption for the region and harm to the national economy

So, the first thing the bill does, it solves the Federal power allocation crisis legislatively rather than having it solved administratively and ultimately by the Federal courts. Second, it protects the public power preference clause. It encourages conservation and renewable resources in a specific and enforceable way.

When you talk about conservation—and that is about all we have done in this country, talk about conservation—it is difficult for me to understand why those who talk about it most oppose a bill that will for the first time put some teeth and and some real meaning into all the talk, verbage, and hot air we have had about conservation.

I strongly urge support of this legislation.

Mr. Speaker, here is a brief history of this legislation.

The legislation provides that the administrator shall, upon request, grant billing credits to customers undertaking or continuing independent conservation programs, developing renewable and multipurpose resources suitable for local development, or developing any other resources not inconsistent with the plan and the priorities for resource acquisition in subsections 4(e)(1) and the considerations of 4(e)(2). It is intended that this eligibility be broadly construed to insure the undertaking of local investments which maintain the lowest possible costs of regional resource provision, but which might not be undertaken without billing credits, due to the melding of BPA costs creating an artificially low-cost alternative to individual utility or customer action. The section provides for billing credits once certain procedures have been followed by the administrator.

The term "independently undertaken or continued" as used in this subsection is intended to include all conservation measures and the savings therefrom which would not have occurred without the exercise of substantial local initiative It is the committee's intention that for eligible resources receiving some financial assistance from the administrator, such assistance will be subtracted from the calculation in determining the net credit for that resource Continued conservation eligible for credits is intended to cover savings which accrue from efforts continued after the effective date of this act from programs independently undertaken prior to its passage Eligibility for billing credits for an independently undertaken or continued program is meant to cease if the administrator acts pursuant to the plan to mandate or completely finance the same program

Granting of credits to any customer is intended to recognize the action of any entity in the region taking a conservation or resource development action which reduces the administrator's obligation to acquire resources to supply his customers It is also intended that the benefits of any billing credit should accrue to the customer using the credited resource Contractual resources or participation shares in a jointly owned or operated resource are recognized as creditable resources of the participant, if they are consistent with the other criteria of this subsection.

The size of the credit is intended to give individual utilities the greatest possible incentive for local investments, while preserving for other customers of the administrator rates no higher than they would have paid in the absence of the individual utility's action. This requires establishing an alternative cost the administrator would have been obligated to pay if he had acquired an amount of power from additional resources equal to the amount of power from the credited resource while not adversly affecting the rates of his other customers. To preserve the coupling of financial risks and potential benefits to the investing utility, it is intended that this alternative cost be set at the estimated cost per unit to the administrator of energy, capacity and reserves which he acquires (excluding short-term acquistions as authorized under subsection 11(b)(6) of Public Law 93-454 as amended), or for which credits are granted during the 3-year period bracketing the year in which the credit is first granted It is recognized that the calculation of the per unit credit in any year, except as limited below, will reflect the difference between the rate for incremental sales to the credited customer and the alternative cost at the time the credit was initially granted. This amount is expected to decline over time

The objective of providing the greatest possible investment incentive is constrained in the language of the bill by the requirement that the billing credit for a resource other than conservation be no greater than that resource's total cost, and that, in addition, the rate impact on other BPA customers be no greater over its useful life than if the administrator had been obligated to acquire a like amount of resources at the alternative cost.

Mr Speaker, I would also like to take this opportunity to insure that there is no ambiguity in the meaning of

section 4 of H.R. 8157. In the last few days there have been a few questions raised about the intent of the appointment provisions of section 4(a)(3).

In general terms, section 4 does not create any new authority in the State governments. To make the appointments to the council under section 4, a Governor either has the authority under existing State laws, or must obtain such authority under the State constitution from the legislature. The legislation does not purport to "grant" this authority to the State.

Similarly, section 4 does not remove authority from the States. If the Governor of a State has authority under existing State law to make appointment to a council like the one created under this bill, the legislation does not require the Governor to get new authority from the legislature to make the appointment.

Specifically, if a Governor has now or later obtains authority to appoint a council member to serve at the Governor's pleasure, the provision of 4(a)(3 setting a term of 3 years for council members is not intended to override the Governor determining the term of office of the council member. Similarly, the requirement of 4(a)(3) that the compensation of members is to be fixed by State law does not require the Governor to obtain new authority from the legislature if the Governor already has the authority to set compensation of council members under State law.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr PRITCHARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker how did we get into this fix where we have a bill, a controversial, difficult bill in a Suspension Calendar? My colleagues know that we did not want to bring it up in this manner. We have been forced to do it because an unusual tactic was used, a filibustering tactic, and now we need a two-thirds vote.

I do not have to tell the Members in this Chamber how many difficult measures have barely passed this House. Yet today we have to have a two-thirds vote to get this necessary legislation through.

It has been a long, hard fight. In fact, I think this is a classic case where for over 4 years there have been hearings out there in a district. The Senate produced a bill and many of the criticisms that are floating around this Chamber are criticisms that deal with that original bill But when it came over from the Senate and went into the House, this bill has been greatly improved as it went through two committees. Most of the amendments that have been offered and the arguments were thrashed out carefully in the committees. They were deleted out in the subcommittee and in the full committee. In other words, this bill has been thoroughly worked over.

Now we find that the vast majority of the people in the district and the vast majority of the elected representatives of the district realize that this bill is essential. It is essential to the future well-being of our area.

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I think it has a national import. It means a lot to future production of aluminum which is essential to America. It is essential to the amount of power that we are going to send down to California when we have our surpluses in the Northwest.

We have come through a 4-year process and now we are at a time when we have to have the vote and we have to have a two-thirds vote because of some manipulation here in the Chamber.

Mr. Speaker, I plead with you to allow the Northwest to solve its energy problem without any liability, to the Federal Government. The taxpayers in the other regions will have no liability. We are taking that on. We are saying: Allow us to solve our own problems so that we can have a productive, strong, dynamic economic force in this part of the country.

I plead with you to pass this legislation through. It is good legislation and it is needed now.

Mr. Speaker, I yield back the balance of my time.

Mr. KAZEN Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. DINGELL).

(Mr DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL Mr Speaker this legislation is by no means new to my colleagues in the House. Over two Congresses the two committees have held prolonged and extended hearings on this legislation The defects which were apparent in the legislation at an earlier time have, in my judgment, by the wisdom and the cooperation of the members of the two committees, been removed in their entirety.

Mr. Speaker, I particularly want to pay my commendations to the members of the committees for the outstanding work which they have done, and for the patient work, in presenting this legislation to the House

Mr. Speaker, originally there was some question about the conservation aspect. Conservation of energy is a major aspect of this legislation Conservation and renewables are the first priority to be followed before any action can be taken to enhance power supplies.

The conservation and enhancement of the great migratory fish and wildlife populations of the Pacific Northwest, something of great concern to the sportsmen and conservationists of this Nation, are, for the first time, a matter of urgent priority under this legislation. They are place on a par with other purposes for Federal facilities in this area. If the fish populations of the Pacific Northwest are to be restored to the sportsmen, the Indians and the commercial fishermen, this is the mechanism which will do it.

Mr. Speaker, beyond that, the concerns which have been raised about the Public Utility Holding Company Act and the antitrust laws have now been effectively and satisfactorily dealt with.

Mr. Speaker, let us look at some of the other equally important things. There is no subsidy from the Federal Government to the Pacific Northwest and there is no special treatment of any particular category of users within the Pacific Northwest. Industry is going to pay more to get a reliable supply of power, as will the citizens of the Pacific Northwest, but only that which is necessary.

Mr. Speaker, I want my colleagues to understand why it was that we have been compelled to put this matter on the Suspension Calendar. I say this without criticism of the gentleman from Oregon (Mr. WEAVER) who has opposed this bill so vigorously over the past several weeks.

First of all, the matter has been considered in extenso in two committees over two Congresses. That is 4 years. Hearings have been held by both of those committees in every part of the region. The legislation has been considered on the floor now for 5 days, September 24, 29, November 12, 13, and Friday and now today, during which time the gentleman from Oregon has used his time and the time of the House most generously to oppose this legislation and has compelled the reading of long amendments, as long as 75 pages. None of the gentleman's amendments have been adopted. Most of them have been overwhelmingly rejected Rarely could the gentleman from Oregon even get a sufficient number to stand to get himself a record vote. Occasionally he would get a quorum call prior to the record vote and demand for the record vote and then could not even get a sufficient number of Members to stand to get himself a vote.

The gentleman has one amendment which he said was of urgent importance to him in his consideration. That amendment was not among the hundred or so that were printed in the RECORD, although a similar one was and was never offered on the floor. The gentleman did not even offer this amendment although the gentleman from Texas (Mr. KAZEN) managing the bill offered the gentleman from Oregon (Mr. WEAVER) unanimous consent to have that amendment offered, read and afford the gentleman 5 minutes. The gentleman said "No," he would not support that arrangement; what the gentleman wanted was to have the committee accept that amendment.

It is not the function of this body to stifle debate or to deny Members a full opportunity to be heard. The gentleman from Oregon (Mr. WEAVER) has had an abundant and overly generous opportunity to be heard and the gentleman has done so at the expense of the time of the House, the time of his colleagues and other legislation which is of great importance That is why we have chosen to put this matter on suspension. We have afforded the gentleman opportunity to have his amendments tested. None have achieved the necessary votes. I discern little if any support for the position of the gentleman from Oregon and I would urge my colleagues to vote this legislation through. It is not just in the interest of the Pacific Northwest, it is in the interest of all the country. I who come from another part of the country tell

my colleagues from other parts of the country, we cannot look to our friends of the Pacific Northwest and say, "Your end of the boat is sinking." We are all in this together. I urge the House to pass this legislation.

Mr. Speaker, the bill H.R. 8157, as we have previously indicated, is a compromise between the version of S. 885 reported by the Committee on Interstate and Foreign Commerce on March 15, 1980 and that reported by the Committee on Interior and Insular Affairs on September 16, 1980. That compromise version, together with the amendments adopted on the floor during consideration of S. 885, forms the amendment we adopted today. Many of the provisions of the Interior Committee bill are identical to those of the Commerce Committee bill. Likewise, many provisions of H.R. 8157, of which I am a cosponsor, are identical in substance, at least, to the Commerce Committee bill. Thus, the Commerce Committee's report of May 15, 1980 is still appropriate in many respects as legislative history for this bill (see H. Rept. 96-976, pt. I) as the report of the Interior Committee.

The following is an attempt to identify the principal differences in the bill so that there will be a complete analysis of the bill. It is intended to supplement, not supplant, the Commerce and Interior Committee reports. It also includes some additional comments on provisions that were not changed by the Interior Committee or by H.R. 8157.

SECTION 2—PURPOSES

Mr. Speaker, section 2 of the bill, as indicated in the Commerce Committee report, establishes several broad purposes which must be considered by the Council and BPA in carrying out the provisions of this act. The Commerce Committee report refers to five purposes. This section is expanded in H.R. 8157 to six purposes by reason of the fact that the first purpose in the Commerce Committee bill is broken up into two purposes.

The bill also includes a new preamble to the purposes which is designed to insure that the purposes of this act and the provisions of other laws applicable to the Federal Columbia River power system will be construed in a consistent manner. For example, the fish and wildlife purposes of this legislation are intended to be construed equally with the other purposes applicable to the Columbia River system under other provisions of Federal law. It is clearly intended that no longer will fish and wildlife be given a secondary status by the Bonneville Power Administration (BPA) or other Federal agencies.

SECTION 3—DEFINITIONS

For the most part there are no significant changes in the definitions except in the case of the definition of "new large single load" and the definition of "residential use" or "residential load."

In the case of "new large single load," the definition has been modified, at the urging of the Interior Committee, to eliminate the distinction in the Commerce Committee version between customers with industrial loads and those with other than industrial loads. In addition, the date of September 21, 1979, is applied to both types of loads and the term investor owned utility has been added to the list of Federal agency customers referred to in this provision. With this change, the Mount Tolman project which was referred to in the Commerce Committee report (page 52) would qualify as a committed load as well as two other industries in Idaho and Washington State. As noted by the Commerce Committee (H. Rept. 96-976, part 1, page 51), this is an important definition.

The definition of "residential use" or "residential load" has been changed to refer to 400 horsepower, rather than 200 horsepower, in regard to farm irrigation and pumping loads for any farm. The higher number was adopted by the Interior Committee and is presumed to pick up most, if not all, of the types of farms expected to be covered by the bill. Concern was expressed by the Interior Committee that the 200 figure would leave out approximately 10 percent of the farms that probably should benefit from this proposal, although the increase would likely bring in some large corporate farms.

The term "cost effective" is defined in section 3(4). The definition was not changed by the Interior Committee. In adopting this definition, our committee did not intend that historical experience may be nonexistent or of minimal value. Other factors are relevant.

SECTION 4—REGIONAL PLANNING AND PARTICIPATION

A. THE STATE COUNCIL

Mr. Speaker, this section has been revised substantially from the Commerce Committee version to provide for a State council, and in the event the State council cannot be formed or continue in operation, a Federal council, with provisions for termination of the council.

Under this provision, the Congress gives consent to an agreement pursuant to which there is established a council which will have its offices in the Pacific Northwest. It will carry out its functions and responsibilities in accordance with this act, and except as otherwise provided, it shall not be considered a Federal agency or instrumentality. In addition, the agreement provides that two persons from each State may be appointed, subject to applicable State laws, to be members of the State council. The initial appointment by the Governors of at least six members to the council will constitute acceptance by the States of the agreement and the establishment of the council. Appointment must take place by June 30, 1981, although, upon request of at least two Governors of these States, the Secretary will extend the time for appointment for an additional 6 months.

The council members and the council staff are not intended to be Federal employees. This is important because the council cannot bind the United States in any way, manner, or form, nor will the United States be responsible for any of the acts of the council, including tort claims and contracts or other obligations. The States, not the Federal Government, will fix the compensation of each of the members of the council. In this regard, it is possible that members appointed from one State may have higher or lower compensation than members from another State. The council, however, will establish the compensation for staff personnel. The committee expects the States and the council to be frugal in establishing salaries in order to keep costs reasonable.

Because of the possibility of conflicts of laws between the States, it was not possible to make State laws apply to the operations of the council, except in the case of appointments and salaries. Clearly the provisions of this act apply to the council. The council, according to the agreement above, must abide by all of the provisions of this act. However, there are other provisions of law that should also be applied in a uniform manner. Thus, the bill provides that Federal laws relative to the making of contracts, conflicts of interest, financial disclosure, advisory committees, disclosure of information, judicial review of council functions, and actions under this act, and related matters, apply to the council in the same manner and to the same extent as they apply to the Bonneville Power Administration. Some of these laws would be the Freedom of Information Act, the Federal Advisory Committee Act, the Sunshine Act, the Ethics in Government Act, and related statutes.

As noted, the bill provides that conflict of interest and disclosure laws are applicable to the council. Obviously, since the council members serve on a part-time basis, particularly after the plan and program are developed, some conflict-of-interest laws that apply to Bonneville Power Administration may not be "appropriate" in the case of the members of the council, although they may be appropriate in the case of the staff of the council. For example, the revolving door provisions of law may not be appropriate because the part-time members may also work for a State or municipal agency, an environmental or consumer group, a fish and wildlife group, an Indian organization, or even for a public or private utility or DSI, but the provisions of law, such as 18 U.S.C. 208, which relate to persons not involving themselves in matters where they have a direct financial interest would be appropriate. At the same time, the financial disclosure statement requirements applicable to the Bonneville Power Administrator in the Ethics in Government Act (title 2) would be, and should be, applicable to the members of the council as well as other employees of the council.

These disclosure laws would be applicable regardless of whether or not the members are compensated at a rate of GS-16 or above. Also, the fact that the council members may not serve a 60-day minimum, as required in the Ethics in Government Act, would not preclude the requirement for financial disclosure. In the Advisory Committee Act there is provision for a Federal chairman of advisory committee. Obviously, that is not appropriate in this situation. The word "appropriate" gives the council sufficient latitude to deal with these matters consistent with the intent of Congress as

expressed in this section and these remarks

In the case of open meetings, the laws applicable to the Federal Energy Regulatory Commission which is also a collegiate body would apply to the council Thus, the council, in the case of open meetings must operate in the same manner as FERC. The concept here is to insure that the decisions of the council are made in public and that the records of the council are kept open subject to normal disclosure laws In short, the intent is to apply the sunshine provisions of 5 U S.C. 552b to this council to the greatest extent possible, while recognizing of course, that that law applies primarily to agencies whose members are Presidentially appointed and confirmed by the Senate This is a State council, but the intent is to follow the Federal law in this regard.

The bill also makes it clear that no contract obligation or other action of the State council shall be construed as an obligation of the United States or obligation secured by the full faith and credit of the United States. The council is to be an independent agency which does not have any relationship to the Federal Government, except as specifically provided in the bill. It cannot bind the United States or create a financial obligation insofar as the United States is concerned.

In the case of judicial review of an action by the council or of any effort to challenge any provisions of the act, including its constitutionality, the courts of the United States will have exclusive jurisdiction to entertain suits seeking such review Later in the bill, provision is made for certain actions of the council and the challenging of the constitutionality of this act to be made in the appropriate circuit court of appeals

B THE FEDERAL COUNCIL

Mr Speaker, subsection (b) of section 4 provides a procedure for the establishment of a Federal Council should the State council fail The clear intent of the members of both the Interior and Commerce Committees is to insure that there will be a State council in existence and that it will be permanent, subject to the provisions of this act But we recognize that future events may not allow our intention to be achieved fully Thus we include subsection (b).

If the council is not established, or if its members are not timely appointed by the States, or after the council is established and the members are appointed, if any provision of the act relating to the council or its functions and responsibilities is held to be unlawful by a final determination of any Federal court, or if the plan and program adopted by the council under section 4 is held by such court to be ineffective, the Secretary is required by the law to promptly establish the Council as a Federal agency. Once the Secretary takes the step, he shall give notice to the public and the Governors of each of the States On giving notice of the establishment of the Council, the Secretary must then request nominations from the Governors for membership to the Council in the same way as was provided in the Commerce Committee version of S 855 The Governors are to submit at least two persons for each of the positions that they will nominate The Secretary can accept or reject those nominations If he rejects them, he must give the States a further opportunity to come up with an approved candidate. This process will continue until such time as the council is established.

As in the State council, the members will select from among their own membership the chairman of the Council The Federal Council will be subject to all Federal laws, including the ones mentioned above.

When the Council is established under subsection (b), provision is made for the Secretary to have transferred to this new Council all of the funds, books, papers, documents, equipment, and other matters that have accumulated in the State council. The objectives is to insure easy transition and quick achievement of the requirements of this legislation Indeed, the legislation provides that the Federal Council shall take into consideration actions of the State council and may, in its discretion review, modify, or confirm such actions without further proceedings, subject, of course, to any valid existing rights and consistent with the purposes and provisions of this act.

Provision is made for termination of the Federal Council This can be achieved only after both the plan and program required by section 4 of this act are finally adopted, including any judicial review thereof After 1 year after such adoption, if the Governors of at least three States jointly request the Secretary to terminate the Council the Secretary will do so within 90 days after such request Once the Council is terminated, all of the functions and responsibilities of the Council under this act shall also terminate

We have reference particularly to some of the functions in section 6 of the act which are applicable to the BPA's operations In addition if the Council is terminated in accordance with this procedure, the requirements of subsection (h) of section 4 are intended to be continued and carried out jointly by the Administrator of the BPA, the Secretary of the Interior and the Administrator of the National Marine and Fisheries Service Here again the intent is not to eliminate, or in any way halt, the requirements regarding fish and wildlife established in section 4(h). All records, books, documents, funds, et cetera, applicable to this Council would also be transferred to this tripartate body to allow it to continue the actions that were started by the Federal Council. It is intended, as in the case of the Federal Council, that when such a transfer takes place, the tripartate body would review the actions of the Council and accept, confirm or reject them as promptly as possible without further proceedings, subject, of course, to any valid existing rights.

C GENERAL COMMENTS RE COUNCIL

Subsection (c) of section 4 provides general provisions that are applicable to both kinds of councils except as otherwise provided

As in the Commerce Committee version, the BPA is expected to pay for the operations of the Council, subject to the limitations of the bill In this regard, the State council may utilize the services and personnel of the States in helping them prepare and adopt the plan and program Such services and personnel may require reimbursement to the State for their reasonable cost The Council's funding and expenses as well as all functions of the Council will be subject to scrutiny by the General Accounting Office. GAO review is not intended to be limited to just funding matters but to all of the operations of the Council in the same manner and to the same extent as the GAO reviews operations of Federal agencies

D THE PLAN

The bill provides that once the Council is established and members are appointed, the Council must prepare and adopt a plan for regional conservation electric power The main provisions for the adoption of the plan, including the establishment of priorities, are identical to those adopted by the Commerce Committee and accepted with little change by the Interior Committee.

Provision is made for a study of conservation measures applicable to the DSI's and other major power consumers The sponsors expect the study to be carried out expeditiously, but not at the expense of the plan and program which must take priority.

E FISH AND WILDLIFE

Many of the provisions of H R 8157 relative to fish and wildlife are identical or nearly so to the provisions of the Commerce version, as amended by the Interior Committee The approach taken in the Interior version is somewhat different in that the Commerce version provided for the making of recommendations and the adoption of those recommendations. This bill continues the process of providing for recommendations, but adopts the Interior approach which provides that the council adopt a comprehensive fish and wildlife program, based on the recommendations, for fish and wildlife protection, mitigation and enhancement

It creates a new obligation on the region, the BPA other Federal agencies to protect mitigate and enhance fish and wildlife It is a provision for which I am the chief sponsor It is one that I intend to monitor with great care in the future

I want to stress that this subsection applies to both fish and wildlife It applies to sport, as well as commercial fisheries It applies to migratory birds and resident animals as well

The subsection only applies to the Columbia River and its tributaries, and not to rivers and waterways outside this area, although as the Interior Committee report notes, page 38, the fish and wildlife outside the area will be protected enough by other means To the greatest extent practicable, this fish and wildlife program must deal with the river and its tributaries as a system. However, this is not intended to preclude proposals aimed

at one or more of the facilities that affect fish and wildlife

Once the council is appointed and it begins to function, it must begin immediately to develop and adopt a fish and wildlife program Adoption of the program should not be delayed pending adoption of the plan The program is to be adopted and implemented whether or not the plan is adopted It exists independent of the plan and a part of it as well

The council must send written requests to all of the Federal and the region s State fish and wildlife agencies and the Indian tribes for recommendations relative to fish and wildlife Thus, these requests must go to all the agencies having an interest over these resources.

Such recommendations would be for measures to be implemented by the Administrator and other Federal agencies to protect, mitigate, and enhance fish and wildlife affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries. In implementing these measures, the Administrator would use the authorities under this act and other laws, as well as power revenues in the BPA fund But these recommendations are to apply to other Federal agencies and the non-Federal owners of facilities in the region as well.

There would also be recommendations establishing and implementing objectives for the development and operation of these projects on the Columbia River and its tributaries in a manner that will protect mitigate and enhance fish and wildlife, including recommendations for increased flows at opportune times to enhance fish migration Recommendations for fish and wildlife management coordination and research and development, including funding, which are designed to protect, mitigate and enhance anadromous fish at and between the region's hydroelectric dams are also to be made.

These agencies and tribes would have at least 90 days to respond to the request. Others in this region, including water management agencies and other Federal agencies, the customers of the BPA and the public, may also submit recommendations to the council In commenting on this procedure concerning the recommendations, the Commerce Committee's report states (page 56)

The Committee expects the Council to be reasonable in responding to requests for extensions and that the above entities will act promptly to develop effective recommendations

The recommendations must be accompanied by data to support them The better the data, the more likely it is that the recommendations will receive wide support While the Committee believes it reasonable to expect organizations with fish and wildlife expertise to be able quickly to provide needed support data the Committee also recognizes, and the Council should also that 90 days will not afford an opportunity for extensive studies the acquisition of new data or the development of the best scientific knowledge The data requirement is to enable the Council and others to understand the recommendations The quantity or quality of the data should not serve as a basis for turning down any recommendation

As the council receives these recommendations, it is to give notice thereof and make the recommendations and supporting data available to the public The intent is that the council will provide a convenient place for persons to come in and review these recommendations and accompanying documents Copies, of course can be made of these documents at a reasonable reproduction cost The council is also required to provide for public participation and comment regarding the recommendations The method of public participation whether it be by written or oral comments, is left to the council The objective is to insure a broad opportunity for the public, including the customers of BPA, consumers, environmentalists, Indians, the public in general, and the BPA, to express their views, but without causing delay in adopting the recommendations and the appropriate program.

The bill provides for the development of the program by the council on the basis of the recommendations The council will adopt the program by majority vote of the members of the council. It will consist of measures to protect, mitigate and enhance fish and wildlife. The bill requires measures to be included in the program it determines will meet the criteria or requirements put forth in subsection (h)(6) of the bill These criteria are intended to provide guidance to the council and are not intended to provide a legal basis for challenging the program of the council For example, it is clear that the criterion that the measures be based on, and supported by, the best available scientific knowledge requires a certain amount of judgment by the council with the help of the fish and wildlife agencies in determining whether or not the measures meet this kind of test.

The council shall determine whether the recommendations are consistent with the purposes of the act If the council determines that they are inconsistent with each other, the council, of course, has the obligation to try to resolve any inconsistency, giving due weight to the recommendations themselves, as well as to the expertise and valid legal rights and responsibilities of those who made them, particularly the fish and wildlife agencies and the appropriate Indian tribes Clearly, the council should rely heavily on the fish and wildlife agencies of the State and Federal Governments and not try to become a superfish and wildlife entity Our committee report states in regard to this matter (page 57):

The Committee wants to stress that adoption of these recommendations is not intended to be delayed pending adoption of any plan or revision; the Council should act promptly on all recommendations Also the amendment clearly contemplates that the Council and these entities will, to the greatest extent possible, work together to develop effective and workable recommendations The Council is not asked to rubber-stamp any recommendation However, neither is it expected that the fish and wildlife agencies or Indian tribes shall be required to agree with each other or with the power interests and others in the region to what might be aptly described as 'consensus' recommendations in order to satisfy all interests. Any determination must set forth the reasoning in support of that determination and will be subject to judicial review

The recommendations are clearly required to include as appropriate, a broad range of measures which could, for example, be regulatory or management-type, to "protect, mitigate, and enhance' fish and wildlife and their spawning grounds and habitat The objective is to give flexibility to all concerned to devise effective and imaginative measures that are also reasonable and will not result in unreasonable power shortages or loss of power revenues Some power losses, with resultant loss in revenues, may be inevitable at times if these fish and wildlife objectives are to be achieved Such losses, however, should not be a burden on the consumers of the region The objective, however, should be to avoid, or at least minimize, losses, while meeting fish and wildlife needs The Committee does not intend that these provisions be used to subvert the power objectives of this bill

These comments of the committee are applicable to S. 885, as amended today.

This section also requires the BPA to use BPA funds and its statutory authorities to protect, mitigate, and enhance fish and wildlife in a manner consistent with the adopted plan, if it is in existence, and the program and with the purposes of this legislation. Again it is important to stress that the fish and wildlife program, as well as the recommendations, may well proceed the plan If so, the BPA and others should not delay implementation pending adoption of the plan which will incorporate this program.

Mr. Speaker, subsection (h) also provides a directive to BPA and other Federal agencies responsible for the management and operation or regulation of hydro facilities on the Columbia or its tributaries to adequately protect, mitigate, and enhance for fish and wildlife affected by such facilities in a manner that insures equitable treatment for fish and wildlife with other purposes for which system and facilities are managed and operated or regulated. They must achieve the directive consistent with the purposes of this act and other applicable laws This provision does not replace the other provisions of law, such as FERC's section 10 of the Federal Power Act, but supplements that law and others. This provision is aimed at placing fish and wildlife on a par with these other purposes and providing a means by which these entities will act to protect, mitigate, and enhance fish and wildlife. It is, however, not intended to affect the validity of any existing license, permit, or certificate issued by a Federal agency, such as FERC I particularly refer to the comments of the Interior Committee in its report (page 46) concerning these provisions

Finally, this subsection provides for an annual report to the named committees of Congress relative to the actions taken by the Council or not taken as well as those taken by the Administrator. It also requires that the Administrator keep the Congress fully and currently informed about its activities This is expected to be done at least annually in a BPA report to these committees.

F COUNCIL CHECKS AND BALANCES

Mr Speaker, this section 4 also provides authority for the council to review periodically the actions of the Administrator, not only under this section, but also under section 6, to determine whether the actions are consistent with the plan and program adopted under this section, the extent to which the plan and program is being implemented and to assist the council in preparing amendments or revisions in the plan and program

In addition, this section authorizes the council to request the Administrator to take action under section 6 to carry out the Administrator's responsibilities under the plan When the council makes such a request, it is expected that the BPA will respond within 90-days after the request, although the bill recognizes that such a response may not be possible within that time frame The response should be in writing, and it should indicate how the Administrator will take the action requested or if the BPA does not believe that the action should be taken, it should state the reasons why it is not consistent with the plan or with the Administrator's legal obligations or with other provisions of law. In each case, the Administrator is required to identify the legal obligations or the provisions of law. If BPA decides not to undertake the requested action, either as requested by the council or in some modified form, the council may within 60 days after that determination request the BPA to hold an informal hearing and make a final decision The term 'informal" is intended to mean a 5 U S C. 553-type hearing.

Before proceeding to further discussion of this amendment to S 885, I want to stress that the bill does not reduce or modify any of BPA's obligations under PURPA

SECTION 5—SALE OF POWER

Mr. Speaker, except for minor technical changes and conforming amendments and one substantive change in subsection (d)(4)(C), there are no significant changes in this section.

In regard to subsection (d)(4)(C), an amendment was added to the Commerce Committee version concerning one direct service industrial customer with a contract that has not yet received electric power This is the so-called Alumax provision which has already been discussed during consideration of an amendment by Mr WEAVER concerning this provision.

The provision requires that, in addition to other terms and conditions required by BPA to be included in the contract to carry out this provision and this act fully, as well as other law, the BPA must condition the effectiveness of the contract on BPA acquiring under this act and on a reasonable basis within a reasonable period of time the resources to meet the load requirement. The contract will also limit the ability of the customer to transfer the BPA contract The obligation of BPA to acquire the resources to meet the load applies only to this customer, except as provided in clause (ii) The contract cannot be sold or exchanged to another person. The obligations of BPA under the contract may be transferred by the customer pursuant to a reorganization or other transfer of "all major assets of such customer " The committees expect BPA to examine such transfers closely to insure that they are consistent with the spirit and intent of this provision, as well as the letter of the law. The intent is to protect the existing customer and to permit development of the facility for the benefit of the region and, of course to provide new employment It is not the intent to enrich the customer or permit the customer a new asset for later sale

SECTION 6—CONSERVATION AND RESOURCE ACQUISITION

There have been some technical changes to subsection (a) but no substantive changes, except to make it clear that the Administrator may acquire resources to meet not only his contractual obligations that remain after taking into account planned savings from conservation, but also to assist in meeting the requirements of section 4(h) of the act which relate to fish and wildlife.

There are no significant changes in subsection (b) of the Commerce version.

Section 6(c) sets out procedures for the acquisition of a major resource, the implementation of a conservation measure which will conserve an amount of power equivalent to a major resource, an agreement to pay or reimburse investigations and preconstruction expenses for a major resource and for the granting of billing credits or services involving a major resource For each such proposal, the Administrator must, first, publish a notice with copies to the council and, as appropriate, the Governor of a State as a facility is to be constructed or a conservation measure implemented, second, conduct public hearings; third, construct an administrative record, and fourth, prepare a written decision, including a determination of whether the proposed acquisition is consistent with the plan, or, notwithstanding its consistency with the plan, a finding that it is needed to meet the Administrator's obligations under this act If no plan is in effect, then the Administrator must find that the proposal is either consistent or inconsistent with the criteria of section (4)(e)(1) and the considerations of section (4)(e)(2) and that it is needed to meet the Administrator's obligations under this act. Within 60 days after the Administrator makes his decisions under this act, the council may make similar determinations

If either the Administrator or the council determine that the proposal is not consistent, the Administrator may not proceed unless he finds that notwithstanding the inconsistency, the resource is needed to meet the Administrator's obligations under the act, and until the expenditure of funds for that purpose has been specifically authorized by act of Congress enacted after the date of enactment of this act This provision is to permit an opportunity for the authorizing committees to enact legislation authorizing the funds for such resources in appropriate cases An authorization solely through the appropriations process is also possible.

Thus, the opportunity exists for the appropriate authorizing committees to initiate action to provide an authorization of the expenditure of funds. Nothing in this provision is intended to imply that a further authorization of the resource itself is required That authority is contained in this bill It is the expenditure of funds only that may have to be authorized in the appropriate cases

Mr Speaker, the authority of the council to make determinations, if no plan is in effect will expire 2 years after the establishment of the council. Quite obviously the intent of this termination period is to insure that the council will move rapidly to develop a plan and not rely solely on this authority in this section to make determinations relative to particular resources

The provisions of subsections (d), (e), (f), and (g) are substantially the same as those in the Commerce Committee bill

Subsection (h) includes a new provision concerning the granting of any billing credit or providing services pursuant to this subsection These provisions relate to the notice and other information designed to inform the public about the proposal.

The provisions of subsections (i), (j), (l), and (m) are also identical or nearly so to provisions in the Commerce Committee bill I want to stress subsection (j) is clearly intended to prevent any subsidies

SECTION 7—RATES

Mr Speaker, the provisions of this section are also nearly identical to the similar section in the Commerce Committee bill The only differences are in subsections (d) and (i) and a new subsection added at the end of the section

Subsection (d) adds a new paragraph which relates to the possibility of adverse impacts of increased rates pursuant to this act on any direct service industrial customer which uses raw minerals indigenous to the region as its primary resource In order to avoid such impact, BPA, in its discretion and upon request of the customer showing the impacts, and after considering the effect of the request on other obligations of the BPA, may, if the BPA determines that the impacts will be significant establish a special rate applicable to that customer if all the power sold to the customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region The rate will have to be established in accordance with all the provisions of this section, including subsection (i), and include such terms and conditions as the BPA deems appropriate The authority of the Administrator in this new paragraph is discretionary. It is intended that the BPA and subsequently FERC determine whether the adverse impacts are significant before granting the new rate

Subsection (i) has been amended in several respects The cross-examination provisions are improved The hearing officer has discretion to allow a reasonable opportunity for cross examination as long as the hearing officer determines that it is not dilatory. The objective is to allow for cross examination as long as it is relevant, material, and not dilatory.

Mr. Speaker, the Commerce Committee version provided FERC with authority, in accordance with such procedures as it may establish, to approve proposed final rates as interim rates pending consideration of the final rate. The amendment makes it clear that the Commission must act promptly to establish any required procedures, and make them effective within 1 year after enactment of this act.

The Commission has many responsibilities, and it is short of personnel and funds to carry them all out effectively. However, it is expected that adequate funds and personnel will be provided to the Commission to carry out its functions, not only under this legislation, but under other provisions of law. In order to avoid the possibility that rates would not be established on a timely basis because the Commission has not established these procedures, the bill authorizes the Secretary of Energy to approve such rates on an interim basis during this 1-year period in accordance with the applicable procedure followed by the Secretary at the present time for such interim approvals. The interim rate adopted by the Secretary would, at the discretion of the Secretary, continue in effect until July 1, 1982.

New subsection (n) is added to the bill which provides for impact aid payments to the local governments. It is a modified Interior Committee version. This provision would not come into effect until after the council has adopted a final plan and program as required by section 4 of the act. The BPA may then make annual impact aid payments to the appropriate local governments within the region with respect to the major transmission facilities of BPA. The term "major transmission facilities" is defined in the Federal Columbia River Transmission Act. These facilities must be located within the jurisdictional boundaries of these local governments, be determined by the BPA to have a substantial impact on these governments, and be constructed after the effective date of this act. In the case of the modification of existing facilities, the modification must substantially increase, as determined by BPA, the capacity of the transmission facility.

BPA will have to determine a formula on a uniform, regionwide basis for making payments. This formula is to be established by rule in accordance with the procedures set forth in subsection (i) of this section. The rule will become effective on its approval by FERC after FERC considers its effect on rates otherwise established pursuant to this section. No payments can be made until the rule is adopted. In developing a formula, the Administrator can identify and take into account the local governmental services provided to the BPA concerning the facilities and the associated costs to such governments as a result of such facilities. The intent is to make these payments reflect the services provided by the governments and not any taxes that may have been lost or estimated to have been lost by the communities. This is not a payment-in-lieu-of-taxes provision.

All payments under this subsection must come from the Bonneville revolving fund. No appropriations can be used to make these payments, nor can any of the bonding provisions of the Federal Columbia River Transmission System Act be available for this purpose. Additionally, the authorization of the payments and the payments themselves are not to be construed as an obligation of the United States.

This provision makes it clear that payments are not made for transmission facilities that cross Federal lands, including lands that are acquired or withdrawn by a Federal agency for purposes of transmission agency and subsequently made available to the Administrator for transmission facilities. Payment is only made for lands administered by BPA for these facilities. Originally the lands were acquired, for example, by the Forest Service for Forest Service purposes and subsequently transferred to BPA. There will be no payment for such lands.

SECTION 8—AMENDMENTS TO EXISTING LAW

Mr. Speaker, the new subsection (a) is a technical amendment to the funding provisions of section 11 of the Federal Columbia River Transmission System Act. It merely adds to the list of matters that can be funded under that act. Subsections (b), (c), and (d) (1)–(3) are nearly identical to the Commerce version.

Added to subsection (d) is a new paragraph (4). This new paragraph is designed to protect the general taxpayer and provide a check on the Administrator in incurring obligations pursuant to this act. It provides that beginning in fiscal year 1982, if the BPA fails to make repayments at the end of a fiscal year with a Federal investment in accordance with repayment criteria of the Secretary of Energy, and if the failure is due to reasons other than a decrease in power sale revenues due to fluctuating stream flows or other emergency or other type reasons beyond the control of the Administrator, the Secretary of the Treasury may increase the interest rate applicable to the outstanding bonds issued by BPA during such fiscal year. The increase shall be effective commencing with the fiscal year immediately following the fiscal year during which the failure occurred. The increase shall not exceed 1 percent for each such fiscal year during which the repayments are not in accord with the Secretary of Energy's criteria.

In deciding whether or not to increase the interest rate and deciding what the rate should be, the Secretary of the Treasury would take into account the amounts that BPA has repaid in advance of any repayment criteria. BPA has accelerated its payments. Before establishing the rate increase, Treasury must consult with BPA and FERC and must be satisfied that BPA will be able to pay the increase taking into consideration other obligations. The increase will terminate in the fiscal year in which the payments are back in accordance with the payment criteria.

Subsection (e) is the same as the Commerce and Interior Committee versions.

SECTION 9—ADMINISTRATIVE PROVISION

Subsection (a) has been modified to recognize that Bonneville, in contracting for many of its functions, has established practices and procedures which are not necessarily the same as in all Federal contracts. The provision allows Bonneville to continue to contract under section 2 of the Bonneville Power Act of 1937 subject to the provisions of this act. It also provides that other provisions of law applicable to BPA contracts on the effective date of this act must also continue to be applicable to the contracts hereafter.

Subsection (b) has been modified to insure that the Department of Energy (DOE) and BPA act in a reasonable manner to carry out the provisions of this legislation. The provision is not intended to give either agency a different mandate than that already provided by the Congress in sections 302(a)(2) and (3) of the Department of Energy Organization Act. BPA must recognize that DOE has Department-wide responsibilities that apply to Bonneville. At the same time the DOE, particularly the Chief Financial Officer, the Controller, and the General Counsel, must recognize that Bonneville cannot be delayed in its activities while these officials review contracts, budgets, labor agreements, and other matters. The objectives of this legislation are intended to be carried out effectively and in a timely manner. The Committee on Interstate and Foreign Commerce will conduct close scrutiny of this relationship to insure that this bill is implemented expeditiously, fairly, and with care.

Mr. Speaker, subsection (h) provides a procedure for an exemption from the Public Utility Holding Company Act of 1935 for any company which is organized to own and operate facilities for the generation by such company of power of which at least 90 percent thereof it sold to the BPA and such organization is consistent with the policies of section 1(b) and (c) of the 1935 act, as determined by the SEC and with the concurrence of the BPA, and participation in such facilities of the company has been offered to public bodies and cooperatives in the region. H.R. 8157 is identical to the version adopted first by the Commerce Committee and then by the Interior Committee except for a clarification of the references in section 1 to the act's policies.

As noted in the Commerce Committee report, the committees rejected suggestions by the SEC for a legislative exemption with no further role by the SEC. For example, the bill initially requires the SEC to determine if the organization of the "company" is consistent with section 1(b) and (c) of the 1935 act. Subsection 1(b) lists a broad series of abuses and subsection (c) expresses the policies to correct any such abuses. Another example is the requirement that the SEC concur in BPA approvals of "all significant contracts." Fuel, construction, and financing contracts, as a minimum, will be included in this term. The fact that these contracts are not, by reason of practice or otherwise, now considered by the SEC is not to be the criterion. The SEC must concur in all significant contracts. The BPA and the SEC will have to work out general guidelines, with public impact presumably, as to what con-

tracts should be included within the ambit of this provision. In all of these actions, we expect the SEC to exercise independent judgment, although, in some matters, the SEC should not be required to plow through matters that the BPA has adequately and carefully considered and developed an adequate record, such as in the case of contract concurrences. However, in other instances, such actions under section 9(h)(4), it is expected that SEC act far more independently and not rely on the BPA's actions. All of this is clearly discussed in our committee's report (pages 72–73).

The bill does not prescribe what proceedings should be used by the SEC and the BPA in carrying out these provisions. The agencies should work them out in advance with adequate public input. Obviously, they must be fair and adequate to carry out the intent of the Committees and should not be unnecessarily duplicative.

The provisions of subsection (e) are generally the same as in the Commerce version, however, paragraph 2 has been modified in some respects for technical reasons relative to the scope of the review. It is also revised to make it clear that suits to challenge the constitutionality of the act or any action thereunder and final actions and decisions taken pursuant to the act by either the BPA or the council shall be filed in the U.S. court of appeals for the region. This would include rate matters. Thus, rather than have rates considered de novo in the district courts, they would be considered in the court of appeals. Suits challenging other actions under this act shall be filed in the appropriate court. When a plan and program is finally adopted, portions thereof shall not be reviewable as part of any action under this act or any other law. Subsection (f), (g), (h), (i), (j), and (k) are identical to similar subsections in the Commerce Committee bill.

SECTION 10—SAVINGS PROVISIONS

Subsections (a) through (e) have not been changed.

Subsection (f) was added by the Interior Committee with some modification.

Subsection (g) is a disclaimer. It does not create new law regarding water rights or jurisdiction, but is intended to recite the status quo. The view of both committees is that this bill does not affect valid water rights or the jurisdiction of any entity over water. Additionally it is not a limitation or restriction on any provision of this bill, including the fish and wildlife provisions. Also, as previously observed, this bill does not affect valid permits, licenses, or certificate issued by any Federal agency pursuant to law. Subsection (i) makes this clear.

A recent letter from the GAO and my reply follow:

SUBCOMMITTEE ON ENERGY AND POWER,
Washington, D.C., October 30, 1980.

Hon. ELMER B. STAATS,
Comptroller General of the United States, U.S. General Accounting Office, Washington, D.C.

DEAR MR. STAATS: Thank you for your prompt reply to my request for review by your agency of H.R. 8157, the Pacific Northwest Electric Power Planning and Conservation Act, which is a substitute developed by Chairmen Udall and Staggers and myself and the Ranking Minority Members of the Committee on Interior and Insular Affairs and our Committee.

Your letter which recognizes that this substitute bill substantially carries out the 1979 recommendations of your agency is welcome. It clarifies the views expressed by Mr. J. Dexter Peach, Director of the GAO's Energy and Minerals Division, in an October 1, 1980 letter to the Chairman of the Executive Committee of the Direct Service Industrial Customers of the region. Your staff advises us that Mr. Peach's comments related to H.R. 3508 and other bills which, we agree, did not adequately meet the concerns expressed by the GAO in its 1979 report and other communications. Since H.R. 8157 is the substitute now under consideration on the House Floor, your October 29 comments are far more pertinent and important.

Thank you again for all of the aid provided to our Subcommittee by the GAO during consideration of these bills. We particularly commend Mr. Peach and his excellent staff for their efforts and their critical review of all of the bills and the BPA operations.

Enclosed is a copy of our letter to the Members of the Pacific Northwest delegation, Chairman Udall, and others releasing your October 29 letter.

Sincerely,

JOHN D DINGELL,
Chairman.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., October 29, 1980.

Subject: Comments on Pacific Northwest Electric Power Planning and Conservation Act—H.R. 8157 (EMD-81-28).

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives.

DEAR MR. CHAIRMAN: Your recent request asked us to comment on the Pacific Northwest Electric Power Planning and Conservation Act (H.R. 8157) which is the substitute bill introduced on September 18, 1980 for consideration on the House floor. We previously reviewed certain aspects of an earlier version of this legislation for you and issued a report on our findings.[1] Also, during the last 2 years at the request of other congressmen and under our statutory authority we have reported on a variety of matters related to electric power development in the Pacific Northwest. (See enc. I.)

H.R. 8157, among other things, broadens the Bonneville Power Administration's current authorities to market power from the Federal power system to include authority to encourage conservation and acquire additional power from conventional, renewable, and other resources. It also provides for the protection, mitigation, and enhancement of fish and wildlife resources.

Time limitations and the complexity of the proposed legislation precluded a detailed review of its 103 pages. We evaluated the bill in terms of how it responds in general to the major points raised in our previous reports. Our previous work addressed the need to improve regional power planning, update the charter of the Bonneville Power Administration, control the costs of large conventional powerplants, assure industrial conservation of electricity, and restore the region's anadromous fisheries. Based on our reading of the bill and discussions with knowledgeable Bonneville officials, the comments presented herein show how H.R. 8157 responds to the intent of our previous recommendations. Our comments recognize the fact that the bill grants Bonneville and the proposed regional planning council sufficient discretionary authority to carry out many of the recommendations made in our earlier reports.

REPRESENTATIVE POWER PLANNING BODY

Section 4 of the bill provides for a council (a Pacific Northwest Electric Power and Conservation Planning Council) composed of two appointed members from each of the States of Idaho, Oregon, Montana, and Washington. The responsibilities of the council include promptly preparing and adopting (1) a regional conservation and electric power plan, and (2) a program to protect, mitigate, and enhance fish and wildlife.

The council's responsibilities include preparing a demand forecast, planning to meet that demand, and assuring adequate public participation in the planning process. This is consistent with our previous recommendations.

ELECTRICITY MANAGEMENT PLAN FOR THE REGION

The regional conservation and electric power plan to be prepared by the planning council under section 4 is consistent with the recommendations we have made to develop a comprehensive electricity management plan for the region. The principal components of the plan—including a long-term demand forecast, an energy conservation program, projections of power needs which can be met by various energy sources, and a requirement for public hearings in each State prior to adoption of the plan—are appropriate and necessary. The planning priorities in section 4(e)(1) emphasizing cost-effective conservation, renewable resources, and utilization of waste heat, together with the working definition of "cost-effective" provided in section 3(4), parallel our previous recommendations and should help the region balance power supply and demand at the least cost to consumers.

Section 4(h)(12) requires the regional planning council to submit a detailed annual report to specified committees of the Congress describing all actions taken and planned by the council under the Act. We support this requirement. In addition, section 4(h)(12)(B) requires the Administrator to keep congressional committees informed of his actions under the bill. We support this requirement and believe Bonneville's annual report should include comments on the agency's progress in implementing the regional conservation and electric power plan developed by the council.

RECHARTERING BONNEVILLE TO EMPHASIZE NEW ENERGY PRIORITIES

H.R. 8157 is consistent with our recommendations that Bonneville be charged with the responsibility for working with State and regional interests to conserve electric power, develop renewable energy sources, and increase public involvement in power planning and policymaking. The legislation, section 4(d)(2), would direct Bonneville to emphasize energy conservation and renewable resources because it requires Bonneville's resource acquisition activities to be consistent with the plan adopted by the regional planning council. This requirement will assure that council's planning priorities—first, conservation; second, renewable energy resources; third, waste heat utilization; and finally, conventional powerplants—will become Bonneville's priorities in acquiring resources to meet regional power needs.

In addition, section 4(g)(1) of the bill provides that, to ensure widespread public involvement in formulation of power policies, the regional planning council and the Bonneville Administrator will maintain com-

[1] "Impacts and Implications of the Pacific Northwest Power Bill," EMD-79-105, Sept. 4, 1979.

prehensive programs to inform the public of major regional power issues, obtain public views, and encourage the participation of Federal agencies, State entities, political subdivision, and Indian tribes.

PRICING OF ELECTRICITY

We previously recommended that Bonneville price the electric power it sells so as to show its real value in today's market. We made this recommendation because Bonneville, like most utilities, sells its power at a melded rate based on historical costs. Under the melded pricing approach used by Bonneville, the high costs of new thermal powerplants are merged with the low costs of older hydropower plants and its customers are charged average rates which tend to understate the costs of new power supplies.

While H.R. 8157 does not direct that Bonneville or its customer utilities to use specific rate structures or billing practices to show consumers the cost of new power supplies, it does include many provisions which could ultimately lead to rate reforms. Section 7(e) provides that nothing in the bill prohibits Bonneville's Administrator from establishing peak power rates, time-of-day or seasonal rates, or other rate forms. Further, and more importantly, H.R. 8157 provides a comprehensive set of incentives which could motivate regional utilities to establish voluntarily retail rates encouraging conservation and renewable energy developments.

In section 6(h) the bill authorizes Bonneville's Administrator to grant billing credits for retail rate structures which regional utilities voluntarily implement and which induce conservation or consumer-owned renewable resources. The billing credits so authorized will be equivalent to the cost savings realized by the Administrator as a result of the revised rate structures. This incentive is supported by section 9 of the bill which provides that the regional planning council will prepare, as soon as practical a report and recommendations on various retail rate designs which will encourage cost-effective conservation and consumer-owned renewable resources. Furthermore, section 9(j) authorizes Bonneville's Administrator to (1) assist his customer utilities in analyzing and developing such retail rate structures and (2) estimate for his customers the billing credits they might realize by adopting such rates.

H.R. 8157 contains an array of incentives for Bonneville's customer utilities to establish voluntarily rate structures which will encourage conservation and renewable energy developments by their consumers. These efforts are consistent with the intent of our earlier recommendations.

BONNEVILLE BACKING FOR CONVENTIONAL THERMAL POWERPLANTS

In previous reports and testimony we concluded that Bonneville should be authorized to participate financially in the construction of conventional thermal powerplants only when there is a clear showing that (1) conventional thermal plants are the region's most cost-effective alternative, (2) the region needs more conventional powerplants than those already approved for construction, and (3) regional utilities are incapable of meeting this need without Bonneville sponsorship.

Our review of H.R. 8157 indicates that the planning and review requirements in sections 4, 6, 9, and 10 include regional demand forecasting, cost-effective resource planning, planning criteria emphasizing conservation and renewable resources, and comprehensive reviews prerequisite to major resource acquisitions. The resource priorities established in section 4 would assure that cost-effective conservation and renewable resources would be pursued before thermal powerplants. Similarly, the planning requirements for a regional demand forecast and a resource acquisition plan will enable the planning council to determine whether the region needs more conventional thermal powerplants than those already approved for construction. Thus, the bill authorizes Bonneville to financially participate in conventional powerplants, but only when there is a clear showing that such resources are needed, cost-effective, and appropriate for acquisition. Furthermore, sections 4, 6, 9, and 10 collectively establish a comprehensive set of administrative and judicial procedures to test and validate the propriety of major resource acquisitions consistent with the purposes of the bill. Such procedures include comprehensive public involvement processes for both Bonneville and the council, which include notices, hearings and record development. In addition, there are a number of other review and reporting responsibilities for informing the public and the Congress of proposed acquisition actions and provisions for subsequent judicial review. We support these requirements.

CONTROLLING FINANCIAL RISKS ON LARGE POWERPLANTS

In a previous report we recommended that if the Congress grants Bonneville authority to finance construction of large conventional powerplants, the financial risks to which Bonneville's customers are exposed should be reduced by requiring that Bonneville's contracting and oversight capabilities be strengthened before such authority is exercised, and limiting (1) the extent to which Bonneville can participate in constructing large powerplants, and (2) the construction costs which Bonneville can pass on to its customers.

We made these recommendations because, at the time of our review, Bonneville was not adequately prepared to construct or oversee construction of large generating facilities.

Section 4(e) provides that the regional planning council will undertake studies of conservation measures available to Bonneville's direct service industrial customers and other major consumers of electric power within the region, and estimate the reduction in energy use which would result from the implementation of such measures. Section 4(f) provides that model conservation standards will be included in the regional conservation and electric power plan and that Bonneville's Administrator, if recommended by the regional council, may impose a surcharge on customers who have not achieved energy savings comparable to those obtainable under the model conservation standards.

H.R. 8157 provides that Bonneville, according to the prescribed resource planning criteria, will develop conservation, renewable energy resources, and waste heat utilization before participating in conventional coal-fired or nuclear powerplants. The bill also provides that Bonneville can agree to purchase the actual and planned capability of generating facilities, but cannot construct or own any electric generating facility. Thus, Bonneville can be a sponsor/purchaser, but not a builder/operator; i.e., it will never have direct control over powerplant construction and operation. Bonneville will only have such indirect control over the cost and schedule of plant construction, and the efficiency of plant operation/maintenance, as is provided in its contracts with the regional interests who build and operate such facilities.

We reviewed H.R. 8157 to determine whether the amended bill requires Bonneville to contract for the generating capability of large powerplants in a prudent, risk-reducing manner. The bill provides in section 6(i) that Bonneville's contracts for the acquisition of resources will contain terms and provisions which should ensure timely construction, scheduling, completion, and operation of resources; costs of acquisition which are as low as reasonably possible; and effective oversight, inspection, audit, and review of all aspects of such construction and operation.

Section 6(i) also requires contract provisions that assure the Administrator has (1) authority to approve all costs and proposals for major modifications in construction, scheduling, or operations, and (2) such current information as he considers necessary to evaluate construction and operation. Our review of these provisions indicates that H.R. 8157 clearly intends Bonneville to contract in a prudent manner and to exercise as much control over the construction and operation of the powerplants it sponsors as is feasible.

BONNEVILLE SALES TO DIRECT SERVICE INDUSTRIAL CUSTOMERS

We earlier recommended that the regional power bill be amended to assure that Bonneville's direct service industrial customers would modernize their plants to meet commercial standards for production efficiency. H R. 8157 contains provisions encouraging industrial efficiency and we support them.

We also recommended that Bonneville be required to undertake a thorough analysis to determine the most cost-effective means of providing system reserves and the value of such reserves. This recommendation resulted from our findings that Bonneville had conducted no comprehensive studies to determine whether interrupting industrial power deliveries is the best means of providing system reserves. The study we recommended has been incorporated as a planning requirement in H.R. 8157. Section 4(e) provides that the regional conservation and electric power plan will include "an analysis of reserve and reliability requirements and cost-effective methods of providing reserves designed to ensure adequate electric power at the lowest probable cost."

RESTORATION OF COLUMBIA SYSTEM ANADROMOUS FISHERIES

We reported earlier that the development of hydropower facilities in the Columbia River System was a major factor in the decline of some salmon and steelhead runs to a point of near extinction. We pointed out that the regional power bill could be an effective vehicle for restoring these anadromous fisheries. We recommended that the legislation be amended to—modify existing dams to effectively reduce the mortality of migrating juvenile salmon and steelhead; consolidate the fragmented support of anadromous fisheries into one Federal/State/Indian council funded from power resources with planning and policymaking responsibilities for fisheries restoration; establish minimum stream flows on the main-stream Columbia River system adequate to protect and enhance the anadromous salmon and steelhead fisheries; and require a report to the Congress on actions needed to consolidate and make more effective the efforts of the many Federal agencies relating to the region's anadromous fisheries.

These recommendations are incorporated in the bill. Section 4(h) provides that the regional planning council will promptly develop and adopt, and Federal agencies will implement, a program to protect, mitigate, and enhance fish and wildlife including related spawning grounds and habitat on the Columbia River and its tributaries. The program will be developed after recommendations are received from Federal agencies and from the region's State fish and wildlife agencies, and appropriate Indian tribes, on actions which can be taken to enhance fish and wildlife. Such recommendations by these and other groups and the subsequent plan prepared by the council could help consolidate the fragmented actions of the various fishery agencies. Based on the recommendations, the council will then develop the pro-

gram which will include—improved survival of such fish at hydroelectric facilities located on the Columbia River system, and—flows of sufficient quality ond quantity between such facilities to improve production, migration, and survival of such fish as necessary to meet sound biological objectives.

H.R. 8157 further provides that consumers of electric power will bear the cost of measures designed to deal with adverse impacts caused by the development and operation of electric power facilities and programs. In addition, the regional planning council is required to submit a detailed annual report to the interested committees of the Congress on actions taken and to be taken by the council and on the effectiveness of the fish and wildlife restoration.

SUMMARY

Our brief review showed H.R. 8157 to be a substantial improvement over H.R. 3508, which we reviewed for you in the summer of 1979 H.R. 8157 provides for planning mechanisms, resource priorities, conservation incentives, public involvement goals, and fisheries enhancement provisions which are consistent with the intent of our previous recommendations. Furthermore, we believe that discretionary authority granted to Bonneville and the regional planning council, along with the appropriate staff capability, can help to carry out our earlier recommendations.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Enclosure.

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Report to Charles W. Duncan, Jr., Secretary of Energy, "Oil Savings for Greater Intertie Capacity Between the Pacific Northwest and California," EMD-80-100, Sept. 24, 1980.

● Mr. HANSEN. Mr. Speaker, I plan to vote for S. 885, the Northwest power bill, as an original sponsor of this legislation when it was formulated for consideration and debate purposes. However, this support is given with mixed emotions because the necessity for cooperation is offset to a great degree by apparent dangers which might well materialize.

I cooperated with the formulation of this legislation in the beginning because of its unanimous support among energy sources and have, during the course of the deliberations, made several successful efforts to help soften any obvious adverse effects. My support has been basically because most of the power distributors, private cooperatives and public utilities have joined in promoting the need for legislation of this type to assure an adequate supply to citizens of the Pacific Northwest. Despite my personal reservations that we may be opening the door to the ultimate federalization of power resources in the Snake and Columbia basins, with all the inherent dangers that this encompases, I joined in moving the legislation along.

While there are good and obvious reasons for supporting the bill, I am concerned that the reasons for not doing so must not be overlooked.

First. Any given State may be put at a disadvantage. For example, Idaho, an upstream State, may well stand alone against the combined needs and mutual interests of the downstream States of Oregon and Washington. Even cities within those States have the need and potential capacity to preempt Idaho interests. Generally, Idaho cannot even consistently count on the help of Montana, which is largely not of the same drainage system.

Second. It should be pointed out to those in Idaho who hope to take advantage of shared power and production and other benefits of such a bill that they may instead be damaged by the overriding competition from the growing needs of downstream special interests such as the aluminum industry, because of skewed representation and other pressures. Idaho, or any less-developed State, could be handicapped and possibly locked into a limited or no-growth future.

Third. There is an ever present danger of federalization of the distribution of water and power because of the ominous past interpretations of the equal protection clause in the Constitution. This could make the long-resisted interbasin water transfers an even more realizable goal to those wishing to pursue it.

I support this legislation because I take seriously my role as a Representative, working for the expressed interests of the people I serve. Those interests, with very little exception at the present time, seem to be strongly disposed to have this bill become law. However, my support is given with a serious warning as to the pitfalls I envision. We must be prepared to deal with any resultant problems quickly and effectively as they arise and at whatever level of government necessary. Not to do so may be disastrous for a single State like Idaho, or even all the States involved in any conflict with powerful special interests or if an attempt to submerge States' rights by expedient and unwise federalization begins to materialize.●

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The question is on the motion offered by the gentleman from Texas (Mr. KAZEN) that the House suspend the rules and pass the Senate bill, S. 885, as amended.

The question was taken.

Mr. WEAVER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

UTE MOUNTAIN INDIANS, COLORADO

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8112) to require the Secretary of the Interior to convey a parcel of land located in Colorado and certain mineral interests to the Ute Mountain Ute Tribe and to pay an amount to such tribe for energy development, as amended.

The Clerk read as follows:

H.R. 8112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) within the thirty-day period beginning on the date of the enactment of this Act the Secretary of the Interior shall convey, without consideration, to the Ute Mountain Ute Tribe all right, title, and interest of the United States in and to the parcel of land located in the State of Colorado described in section 3, except the right, title, and interest of the United States in and to any minerals located on or under such parcel of land.

(b) The parcel of land described in section 3 shall not be considered Indian country for any purpose and shall be subject to State and local governmental jurisdiction and taxation.

(c) The Secretary of the Interior shall consult with the Ute Mountain Ute Tribe before the United States does any exploration for, development of, or production of minerals located on or under the parcel of land described in section 3.

SEC. 2 (a) The Secretary of the Interior shall pay to the Ute Mountain Ute Tribe for the development by the tribe of energy sources on lands owned by such tribe, from sums appropriated for such purpose, the sum of $4,000,000 in accordance with an energy development program submitted to the Secretary by the Ute Mountain Ute Tribe and approved by the Secretary.

(b) None of the funds paid by the Secretary to the Ute Mountain Ute Tribe pursuant to this section may be used to pay any attorney or agent for services rendered to the tribe with respect to the parcel of land described in section 3 or to pay any funds directly to any individual member of the tribe. Any person violating this subsecton shall be fined not more than $1,000 for each violation.

SEC. 3 The lands transferred pursuant to section 1 of this Act are the following:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

Township 43 North, Range 3 West

Section 19:
Lot 1,
Lot 2,

Democrat representation in the House next year will be less than 56 percent as a result of the elections.

I hope the Democrat Caucus will think better of this outrageous plan to stack the spending, tax-writing, and rules committees of the House in the next Congress.

□ 1010

THE SPEAKER'S 2-TO-1 RATIO ON IMPORTANT COMMITTEES IS UNFAIR

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, earlier this year, House Republicans sent a letter to the Speaker, pointing out how the majority has shortchanged the minority on committee representation. We contended that, given the ratio of Republicans to Democrats in the House at that time, we should have been allotted 15 more committee slots. Needless to say, our arguments were brushed aside. I am sorry to see that, despite recent quotes from Democratic leaders that they intend to cooperate with the Republican minority in the House, the Speaker has gone on record in favor of retaining a 2-to-1 ratio on the important Committees on Rules, Appropriations, and Ways and Means. I would remind the Speaker that 44 percent of the seats in the House will be occupied by Republicans in the 97th Congress, and we expect to be treated fairly. Stacking the most important committees in favor of a shrinking majority is hardly proceeding in a spirit of cooperation. What happens on this critical question of committee representation may well determine whether the 97th Congress is off to a smooth or a rocky start.

THE LANDSLIDE WENT TO THE PARTY OF IDEAS

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, the 1980 elections are more than a week behind us, and the political analysts are still offering their rationalizations for the Republican landslide. I urge them to seek the answer in the candid statements of some of this Congress Democrats.

Writing in the Washington Post last August, Representative PAUL SIMON of Illinois noted the initiative of the Republicans in proposing new ideas. The Democrats, he said, contented themselves with just holding the fort. He said that while the status quo attitude is in part a normal attitude of the incumbent party, it was more pronounced in this Democratic Party which he saw lacking in a sense of direction or a sense of purpose.

It seems that in 1980, Republicans and Democrats are in agreement on one central theme: Republicans are raising the important issues and working toward practical solutions.

Americans are demanding and begging for a true and radical vision for the 1980's. First, they want a departure from the orthodox range of policies which are causing 13 percent of inflation and unemployment nearing 8 percent.

Second, Americans want to conserve the basic principles of economic and political freedom on which our country was founded and without which we get the sort of mess we are in today.

I contend that the election of Ronald Reagan as President, the return of Republican control to the Senate and the addition of 33 new Republicans in the House reflects the confidence of the American public in the Republican Party to confront, rather than evade, the challenges of the 1980's.

The American electorate gave the Republicans a landslide because Republicans' innovative programs for economic growth without inflation offer a better prospect of success than the well-worn Democratic formula of raising taxes, increasing Government budgets, and trying to boost productivity by giving out subsidies.

In other words, Republicans offer a hopeful country a serious plan to alter things fundamentally.

TAKING A SECOND LOOK AT THE REPUBLICAN LANDSLIDE

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, for the last couple of days and this morning we have been hearing from the other side of the aisle about the so-called Republican or Reagan landslide. That landslide ought to be put into some kind of context. True, on the basis of the electoral college votes there was an overwhelming Reagan victory. But if they examine what happened on the basis of the popular vote, I think that the Republicans ought to take a sober reappraisal of that landslide, and so should the rest of us. Of the popular vote, Mr. Reagan received approximately 50.1 percent, the barest majority, hardly a landslide, hardly a national mandate. It seems to me that the Democratic Party members in Congress ought to stick to our basic philosophical and political positions of providing jobs, of assisting those in distress, and fighting inflation rather than being taken in by the propaganda of the Republicans that the country has voted to go to the political right.

THE HONORABLE GLADYS SPELLMAN

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, as the House returns to session, I personally have to note the missing person of Mrs. GLADYS SPELLMAN, the Congressperson from Maryland. I have known Mrs. SPELLMAN for many, many years. I know of her sense of community, of her deep involvement in all community affairs. I know of her contribution to regional matters, the pioneering she did in the development of Metro, the wisdom that she brought to the development of regional cooperation through the Council of Governments. Serving with her in the House, I also know of the grasp she had of national problems and national affairs, especially as they affected people. They were always on her mind in a very person-oriented way.

I know mostly, though, of GLADYS SPELLMAN'S effect on her colleagues. She had a very special wisdom with respect to relationships of all people. She had a very special effect on everyone she came in contact with in this House. I think that this House and this country, and certainly her community, need GLADYS SPELLMAN'S leadership and contributions very badly. I look forward to her early return to this House of Representatives. I certainly pray and join with my other colleagues in prayer for her early return. GLADYS is a truly remarkable person, and this country needs her services.

THE WORLD WEATHER PROGRAM PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Science and Technology:

(For message, see proceedings of the Senate of today, November 14, 1980.)

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. KAZEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 885)to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill, S. 885, with Mr. GONZALEZ (Chairman pro tempore) in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, November 13, 1980, all time for debate under the 5-minute rule had expired, and pending was an amendment

in the nature of a substitute offered by the gentleman from Oregon (Mr. WEAVER) to the text of the bill H R 8157, which was being considered as an original text and was open to amendment at any point.

AMENDMENT OFFERED BY MR WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment

The CHAIRMAN pro tempore. Was the amendment printed in the RECORD?

Mr. WEAVER. Yes, it was, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr WEAVER: Page 23, line 15, strike "section 553" and insert therefor "section 554".

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

Mr. WEAVER. Mr. Chairman, this amendment has to do with a hearing process. It is very important that the public be involved in the decisions that we make in this bill, because the amounts of money that we are going to spend are staggering. Already the Northwest has gone into debt, has been put into debt by $5 billion, and this has been estimated by the authorities to reach $18 billion. So I would like to make an announcement, Mr. Chairman. The announcement is this, that we can resolve this issue for this bill very quickly and very hurriedly upon the adoption of one amendment. This amendment I have drafted, and it would not take unanimous consent to offer it, but there would be no debate on it. The amendment is this· It simply requires an election in each of the four States involved—Washington, Oregon, Idaho, and Montana—an election by the people in each State prior to the acquisition of any major resoure; in other words, prior to the Bonneville's underwriting the bonds that would be sold to pay for this resource.

Let me read a letter that I have written and hope to get all the Northwest Members to sign:

The Pacific Northwest has a long and strong tradition of allowing the voters to decide whether or not to sell bonds and go into debt to finance public services Presently the largest such debt issue in our history is comprised by the bonds being sold by the Washington Public Power Supply System to finance construction of thermal plants This debt is estimated now to reach $18 billion.

I may point out here that no voter has ever voted our consent to go into this debt.

□ 1020

The letter goes on.

We believe the people should decide whether or not to go into such debt and, therefore, urge that you encourage the appropriate language be placed in the Northwest power bill to allow a vote of the people in the States of Washington, Oregon, Idaho, and Montana on further issuance of debt instruments undertaken through the purchase authority granted the Bonneville Power Administration by the bill.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, a point of order. The gentleman is not addressing himself to the amendment. Mr. Chairman, that is not dealing with the amendment.

Mr WEAVER. Mr. Chairman, I am discussing now that the amendment deals with the public review process.

Mr. DINGELL. Mr. Chairman, regular order.

Mr. WEAVER. As part of the public review process——

Mr. DINGELL. Mr Chairman, may we have regular order?

The CHAIRMAN pro tempore The gentleman must discuss the pending amendment.

Mr. WEAVER. I am discussing the present amendment, Mr. Chairman. It has to do with the public review process

Mr. DINGELL. Mr. Chairman, may we have regular order?

The CHAIRMAN pro tempore. The gentleman is recognized to complete his 5-minute presentation, but only on the pending amendment.

Mr. WEAVER. So this amendment should go further than the present amendment that I am now offering and have an election in which three of the four States must vote in a majority in order to go into this debt for any further issuance of bonds underwritten by the Bonneville Power Administrator.

So, Mr Chairman, I just simply say to the Members and the proponents of the bill, if they wish to resolve this issue right now——

POINT OF ORDER

Mr. DINGELL Mr. Chairman, I call again for the regular order. The gentleman is not addressing the amendment.

Mr. WEAVER. Mr. Chairman, the hearing processes in the bill are inadequate. My amendment deals with the public review process I am saying that this amendment is a good amendment. We should even go further and have elections in the various States. We should go further than my amendment that I have offered here and have elections.

Mr. DINGELL. Mr. Chairman, I call again for the regular order.

Mr. WEAVER. Mr. Chairman, may we have a ruling on that point of order, please? Am I out of order?

The CHAIRMAN pro tempore. The gentleman must be reminded once again that he must adhere to debate relevant to the pending amendment.

Mr. WEAVER. Mr. Chairman, I am discussing the hearing process and the public review, which is my amendment.

The CHAIRMAN pro tempore If the gentleman will permit, the Chair is trying to let the gentleman complete the half a minute he has, but his remarks must be relevant to the substance of his amendment which has to do with the administrative hearing process, and the gentleman should not talk about a referendum amendment which he may offer.

Will the gentleman please continue?

Mr WEAVER. Mr. Chairman, I simply say that we can resolve this issue if we allow the people to vote before we go into any more of this billions and billions and billions of dollars of debt.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The CHAIRMAN pro tempore. Does the gentleman insist upon his point of order?

Mr. DINGELL. I do not, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman is recognized for 5 minutes.

(Mr DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL Mr Chairman, with all respect to my good friend from Oregon—and I certainly have great fondness for him—he has made an amendment here which lies before the House which calls for very complex hearings procedures for the approval of the council's conservation and power plan. The hearings required under 553 of the Administrative Procedures Act are both fair and expeditious. They have been used many times and under many statutes. They afford an ample opportunity for full public input So for that reason, if expeditious consideration of questions like fish and wildlife, conservation, allocation and power, and that sort of thing, is desired, then the amendment of the gentleman from Oregon should be rejected because his amendment would unduly prolong a hearing process and would substitute a lengthy and complex process for one which is simple and expeditious but which at the same time affords all parties full opportunity to be heard.

I would urge my colleagues to avoid the costs, to avoid the time, and the waste and the enormous increase in inflationary effects of prolonged hearings in proceedings which will unduly delay the contemplation of the whole matter.

Mr. Chairman, the House has been considering S 885 on the floor for 5 days now—September 24 and 29 and November 12 and 13 and today—including 2 hours of general debate.

More than a dozen amendments have been offered, including a pending substitute, the reading of which we were required to suffer through for several hours. All of the amendments which were also considered in two committees have been defeated—one by a margin of over 150 votes. Included in this list of defeated amendments are several that raised major issues of concern to the bill's opponents They are the two-tier ratemaking approach, the elimination of private utilities from the power sale provisions of the bill, the construction work-in-progess amendment, and the output-versus-capability amendment. Another amendment that would preclude cetain actions under the bill until a permanent nuclear waste storage program is established is, in my judgment and that of the Office of the Parliamentarian, nongermane because it seeks to tie a national program to a regional bill

The distinguished gentleman from Washington quoted a recent news article indicating that the opponents had printed amendments, and would offer them, amounting to 15 hours of floor time With votes on some of these, this could be extended well beyond 15 hours.

Mr Chairman, we are all anxious to adjourn There is much work to be done. Ample time has been provided in the

House and in the committees for the opponents to amend this bill which enjoys broad bipartisan support, as well as broad support from many citizen and other interest groups of the Pacific Northwest and elsewhere. The House has consistently rejected those efforts and supported the compromise version of the two committees, which itself reflects provisions offered in committee by the opponents and accepted. Clearly, we should not continue this arduous process. We should not be asked to debate another 15 or more hours over many proposed amendments that are so clearly intended to be dilatory, rather than substantial. The House should not permit the twisting of the rules to enable the opponents to run the clock hoping the bill will be killed by the process It is a bad precedent. The Members' rights must be protected under the rules But we should not allow any abuse of the rules in the exercise of this right. It is time to vote.

Yesterday, Chairman STAGGERS asked the Speaker to place the bill on the Suspension Calendar in the form of H.R. 8157 with all the perfecting amendments adopted by the House to date. I support that request, as do, I know, many of my colleagues from both sides of the aisle. We have spent more time on this bill without a final vote than on revenue sharing and other major appropriation and authorization bills. No further time is needed.

I urge all to vote to suspend the rules and pass S 885

Mr. SYMMS Mr. Chairman, will the gentleman yield?

Mr. DINGELL I yield to my friend, the gentleman from Idaho, who I understand is also in opposition to the amendment.

(Mr. SYMMS asked and was given permission to revise and extend his remarks)

Mr. SYMMS. I thank the gentleman for yielding, and I rise in opposition to the amendment.

In addition to the comments of the gentleman from Michigan which I agree with, I would say that this amendment has been thoroughly discussed, this bill has been thoroughly discussed, Mr. Chairman. We have worked on this bill for not a matter of hours now, but a matter of days

As one who has long been a Member who has advocated minority views, I entirely sympathize with anyone who wants the opportunity to have a fair forum to present his views. I believe, as Thomas Jefferson did, that parliamentary procedure is designed to protect the minority against oppressive action by the majority. However, I also believe Jefferson was right when he said procedure is designed to allow a real majority to always prevail.

We have come to this point in considering the Northwest power bill (S. 885). The real majority, which consists of an overwhelming bipartisan coalition, wants this bill. So far, we have consumed parts of 3 days of this House on this bill. In every instance the opponents have been defeated by better than a 2-to-1 margin or have not even been able to muster enough support for a recorded vote In summary, time is short. The will of the House and Senate is clear. The Northwest power bill must be enacted.

I urge the leadership to take whatever action is necessary—including scheduling the bill on the next Suspension Calendar, to carry out the will of the House and the people. Tactics which are purely dilatory were never sanctioned by Jefferson nor by me.

I believe that opponents of this bill have been given more than enough time to express their views and those views have been rejected time and time again.

The time has come for the bipartisan majority in support of this bill to work its will, that is passage of S. 885, the Northwest power bill.

Mr. DINGELL. I thank the gentleman.

Mr. Chairman, I urge the House to reject this amendment as being dilatory and not in the best interest of the legislation.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WEAVER Mr. Chairman, I demand a recorded vote, and pending that, I make a point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1030

The CHAIRMAN pro tempore. A quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No 634]

Albosta	Beard, Tenn	Brown, Calif
Alexander	Benjamin	Brown, Ohio
Ambro	Bennett	Broyhill
Anderson, Calif	Bereuter	Buchanan
Andrews, N Dak	Bethune	Burgener
Annunzio	Blanchard	Burton, John
Anthony	Boggs	Butler
Applegate	Boland	Campbell
Aspin	Bonker	Carney
Atkinson	Bonior	Carr
AuCoin	Bouquard	Carter
Badham	Bowen	Cavanaugh
Bailey	Brademas	Chappell
Baldus	Breaux	Cheney
Barnes	Brinkley	Chisholm
Bauman	Brodhead	Clausen
	Brooks	Clay
	Broomfield	Clinger
Coelho	Hopkins	Preyer
Collins, Tex.	Horton	Price
Conable	Howard	Pritchard
Conte	Hubbard	Pursell
Conyers	Huckaby	Quayle
Corcoran	Hughes	Rahall
Coughlin	Hutchinson	Railsback
Courter	Hutto	Ratchford
Crane, Daniel	Hyde	Regula
Crockett	Ichord	Reuss
Daniel, Dan	Ireland	Rhodes
Daniel, R W.	Jacobs	Rinaldo
Danielson	Jeffords	Robinson
Dannemeyer	Jeffries	Rodino
Daschle	Jenkins	Roe
Davis Mich.	Johnson, Calif.	Rose
Davis S C.	Jones, N C.	Rosenthal
Derwinski	Jones, Okla.	Rostenkowski
Devine	Jones, Tenn	Roth
Dickinson	Kastenmeier	Roybal
Dicks	Kazen	Royer
Dingell	Kildee	Rudd
Dixon	Kindness	Russo
Donnelly	Kogovsek	Sabo
Dornan	Kostmayer	Sawyer
Dougherty	Lagomarsino	Schroeder
Drinan	Latta	Schulze
Duncan, Oreg.	Leach, Iowa	Sebelius
Duncan, Tenn	Leath Tex.	Seiberling
Early	Lehman	Sensenbrenner
Eckhardt	Leland	Shannon
Edgar	Levitas	Sharp
Edwards, Calif	Lewis	Shelby
Edwards, Okla	Livingston	Shuster
Emery	Lloyd	Simon
English	Loeffler	Skelton
Erdahl	Long, La	Smith, Iowa
Erlenborn	Long, Md.	Smith, Nebr
Ertel	Lott	Snowe
Evans Del	Lowry	Snyder
Evans, Ind	Lujan	Solarz
Fary	Luken	Solomon
Fascell	Lundine	Spence
Fazio	Lungren	Stack
Fenwick	McClory	Stangeland
Findley	McCormack	Steed
Fish	McHugh	Stenholm
Fisher	Maguire	Stewart
Flippo	Markey	Stockman
Florio	Marriott	Stokes
Foley	Martin	Stratton
Ford, Mich.	Matsui	Studds
Ford, Tenn.	Mattox	Stump
Forsythe	Mavroules	Swift
Fountain	Mazzoli	Symms
Fowler	Mica	Synar
Frost	Michel	Tauke
Gaydos	Mikulski	Tauzin
Gilman	Miller, Ohio	Taylor
Gingrich	Mitchell, N Y.	Traxler
Glickman	Moakley	Trible
Goldwater	Montgomery	Udall
Gonzalez	Moore	Ullman
Gore	Moorhead, Calif	Vander Jagt
Gradison	Mottl	Vanik
Gramm	Murphy, Ill.	Walgren
Grassley	Murphy, Pa.	Walker
Gray	Murtha	Wampler
Green	Musto	Watkins
Grisham	Myers, Ind.	Weaver
Guarini	Natcher	Weiss
Gudger	Nelson	White
Guyer	Nichols	Whitehurst
Hagedorn	Nowak	Whitley
Hall, Tex.	Oakar	Whittaker
Hamilton	Oberstar	Whitten
Hammer-schmidt	Obey	Williams Ohio
Hance	Ottinger	Wilson Tex
Hansen	Panetta	Wolpe
Harkin	Pashayan	Wright
Harris	Patten	Wyatt
Hawkins	Patterson	Yates
Hefner	Paul	Yatron
Hightower	Perkins	Young Fla
Hinson	Petri	Zablocki
Hollenbeck	Pickle	Zeferetti
Holt	Porter	

□ 1040

The CHAIRMAN Three hundred and twelve Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. WEAVER Mr Chairman, I withdraw my request for a recorded vote

So the amendment was rejected.

Mr WEAVER. Mr. Chairman, I ask unanimous consent that I be allowed to speak for 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon.

Mr. DICKS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

□ 1100

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: Page 11, lines 24–25, strike "appointed" and insert "elected";

Page 12, line 2, after "Council.", insert "All references in this Act to the appointment of the members of such Council shall be deemed to mean the election of the members of such Council under applicable state law.".

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. Mr. Chairman, the rules provides that the gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes if his amendment has been printed in the RECORD. Is that correct?

The CHAIRMAN. That is correct.

Mr. DINGELL. That rule requires, as I understand it, that the amendment printed in the RECORD and the amendment which is offered be identical in every word and particular. Is that correct?

The CHAIRMAN. That is correct.

Mr. DINGELL. And unless the words of the amendment as printed in the RECORD and the amendment as offered by the gentleman from Oregon are identical in every particular, the gentleman does not get 5 minutes as provided by the rule.

Is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. DINGELL. Mr. Chairman, then I ask a further parliamentary inquiry.

Mr. Chairman, the question then is, Is this amendment identical to that which was printed in the RECORD? If the copy which has been made available to me is the one which was offered, it is not identical, and the gentleman is not entitled to his 5 minutes.

The CHAIRMAN. Well, the Chair has the word of the gentleman from Oregon that it is identical.

Mr. WEAVER. It is in the RECORD.

Mr. DINGELL. A further parliamentary inquiry.

I observe that the copy of the amendment made available to me is at page 59, line 18.

Mr. WEAVER. That is not it.

Mr. DINGELL. Very well.

Mr. Chairman, I have no further parliamentary inquiries.

The CHAIRMAN. The gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes in support of his amendment.

Mr. WEAVER. Mr. Chairman, I have an important announcement to make to the committee.

Mr. DINGELL. Mr. Chairman, I call for regular order.

The gentleman from Oregon has been recognized for 5 minutes under the rule.

Mr. WEAVER. Mr. Chairman, it has to do with this amendment.

Mr. DINGELL. Mr. Chairman, I call for regular order.

The CHAIRMAN. The gentleman from Oregon (Mr. WEAVER) may proceed, but direct his attention to the amendment before the committee.

Mr. WEAVER. Mr. Chairman, the amendment has to do with the election of the council members by each State. That is the amendment.

Now the council members are appointed by the Governors. This amendment has to do with the election of the council members by each State.

What I would like to say to the Members of the House is that we can resolve——

Mr. DINGELL. Mr. Chairman, I call for regular order. The gentleman has been recognized for 5 minutes on his amendment.

Mr, WEAVER. Mr. Chairman, this amendment dealing with an election in each State as it does may help us resolve this issue of the Northwest power bill immediately. I am prepared, that if a certain amendment is adopted, to go to a vote immediately on final passage, and this amendment has to do with the election of the council.

Mr. DINGELL. Mr. Chairman, I call for regular order.

The CHAIRMAN. The gentleman is still speaking to his pending amendment.

Mr. DINGELL. The gentleman was recognized for 5 minutes on his amendment.

The CHAIRMAN. The gentleman from Oregon is still at the moment discussing the amendment before the Committee.

Mr. WEAVER. This amendment deals with the election of the council members in the bill. That is what this amendment does. Right now the council would be nominated by the Governors. This amendment has to do with the election by each State of their council members.

So, therefore, the key here is the election, and we are prepared to resolve this issue of this Northwest power bill immediately, and that would be by accepting this amendment together with another amendment dealing with election authorizing the purchase authority. That amendment does not change the substance of the bill in any way, shape, or form, whatsoever, no substantive change is made in the bill of any kind; it just requires an election by the council members. And if we adopted another amendment having election in each State authorizing the purchase authority, I would be prepared to have final resolution of this bill immediately. I still would not like the bill. It contains provisions that are horrendous in my estimation, but at least the bill would be up to the people. They could decide in a manner set by State law.

POINT OF ORDER

Mr. KAZEN. Mr. Chairman, I raise the point of order that the gentleman is not speaking on the amendment pending before the Committee.

Mr. WEAVER. May I read the amendment, Mr. Chairman?

Mr. KAZEN. I know what the amendment says, Mr. Chairman. He has already referred himself to the amendment, but now he goes over and beyond that saying, "If another amendment * * *" and he proceeds to say what that other amendment is.

I submit that it is not properly before the Committee.

The CHAIRMAN. The Chair will advise the gentleman from Oregon that he must limit his remarks to the amendment pending before the Committee.

Mr. WEAVER. The amendment says that the "council shall be deemed to mean the election of the members of such council," and the amendment says that the council members shall be elected.

Now that is what I am after, letting the people speak in each State, because we are going into debt. This council could put us into debt by billions of dollars. Presently, the debt that we are being put under is $18 billion.

Right now, with five projects already underwritten by the BPA, or three of them and two by others, $18 billion, and this council will be making further decisions to put us into further horrendous debt without any voice of the people, without their consent, without their having the approval.

And so, therefore, I urge that the council members be elected and would hope that even the acquisition be up to the people, too, and if that would happen, this issue could be resolved immediately I say to the House, immediately.

□ 1110

Mr. DINGELL. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

Mr. Chairman, I will not take the full 5 minutes because the House has been much put upon by a series of amendments, while we are told that if this matter is disposed of by accepting one amendment from the gentleman from Oregon (Mr. WEAVER) we can have a quick vote. I do not think any of us were elected to submit to that kind of behavior by any Member of this body.

Mr. Chairman, I rise in opposition to the amendment. It would require members of the council to be elected in accordance with State laws. The idea is unworkable. It is unlikely that the States have laws relating to an election of this kind of a council at this time and I doubt if any have the ability or statutes for setting a date for such election prior to June 30, 1981, or within 6 months thereafter.

It would insure the Federal Council would be established, which is something that the States are trying to prevent. Governors are elected officials. Governors are responsive to their peoples and they will be responsible to their people if they fail to appoint well qualified people to insure a broad base of representation.

We have vested in the Governors of the several States under the bill before my colleagues proper discretion to deal with the matters and I believe that they will exercise that power wisely by appointing qualified people, probably ex-

peditiously, and they will certainly do so more speedily so the council may commence its endeavors at an early time.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I want to join in opposition to this amendment. I am sure that the sponsors of the legislation, the people in the Northwest, would be opposed to this amendment, too. I think it is important to recognize that this is just one more dilatory tactic trying to stretch out the time and wear the patience of the Members out.

I think it is important to also remember that there are dozens and dozens, if not hundreds, of councils and commissions that are appointed through Federal every year to carry out the business of Government. To suggest that we start electing them is really nothing but a frivolous suggestion. I hope the Members will recognize it as nothing but a frivolous suggestion and vote down this amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my good friend from Ohio.

Mr. BROWN of Ohio. I think it should be pointed out that the regional planning council to which the gentleman from Oregon (Mr. WEAVER) seeks election of the members is an advisory board speaking on behalf of the Governors of the States in the region to the Administrator of the Bonnevillie Power Authority. Each member must be appointed subject to State law and, of course, both the Governors and the State legislators who determined that State law are elected officials.

Moreover, the various public utilities commissions of the States with their elected officers are not superseded by the advisory planning council. The planning council is merely an advisory unit. They are elected for a 3-year term. They are not necessarily in any way partisan.

The Governors are, of course, elected on a partisan ballot but they are there to work with other States, to set up a regional approach to this problem.

It seems to me inappropriate if they are to consider the concerns of other regions that they be elected in that way and so I, too, oppose the amendment of the gentleman from Oregon (Mr. WEAVER).

Mr. KAZEN. Mr. Chairman, will the gentleman yield to me?

Mr. DINGELL. I am delighted to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I have asked for the gentleman to yield to me because the amendment the gentleman from Oregon is talking about intrigues me. Do I understand that the gentleman would want unanimous consent in order to offer his amendment?

Mr. WEAVER. And to speak on it.

Mr. KAZEN. And to speak on it.

Mr. WEAVER. Yes.

Mr. KAZEN. And then let the will of the Congress be done? If the Committee votes it up, it is in? If the Committee votes it out, it is out? And we will then proceed with the bill?

Mr. DINGELL. Then we would proceed immediately to a vote so that we can end this rather unfortunate procedure.

Mr. WEAVER. Will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. WEAVER. Upon adoption by this House of the amendment we will proceed immediately.

Mr. KAZEN. In other words, if the gentleman will continue to yield, in other words, what the gentleman is saying is unless his amendment is adopted he is not going to stop harassing the Committee.

POINT OF ORDER

Mr. WEAVER. Mr. Chairman, I make a point of order. I believe the language used by the gentleman is out of order.

Mr. BROWN of Ohio. If the gentleman will yield, I have to say that the harassment is not just to the Committee but to the whole House and I think that this is the most outrageous procedure or proposal that I have heard of in my time in Congress, that if this House will vote something one of the Members wants then he will cease offering amendments. I must say that I think this is outrageous.

POINT OF ORDER

Mr. WEAVER. Mr. Chairman, point of order. Is the gentleman addressing the amendment? Are you addressing the amendment?

The CHAIRMAN. The gentleman from Oregon insists on his second point of order. The debate must relate to the pending amendment.

The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. AUCOIN

Mr. AUCOIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. AUCOIN: On page 69, after line 17, insert:

(n)(1) The Administrator may not acquire any resource derived from a new nuclear generating facility until such time as the Nuclear Regulatory Commission has licensed the operation of a permanent storage facility for high level nuclear waste and spent fuel from commercial nuclear generating facilities.

(2) For purposes of this subsection, the term "new nuclear generating facility" shall not include any nuclear generating facility for which a construction permit was issued by the Nuclear Regulatory Commission before the date of enactment of this Act.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Michigan reserves a point of order.

Is the amendment printed in the RECORD?

Mr. AUCOIN. Mr. Chairman, the amendment is printed in the RECORD.

The CHAIRMAN. The gentleman from Oregon is recognized for 5 minutes in support of his statement.

Mr. AUCOIN. Mr. Chairman, throughout the debate on the Northwest power bill we have heard it said that this is a bill to provide several means of generation of energy for this region. No one has denied that. Some would argue as to what kinds of power would be given priority and the greatest impetus under the terms of the bill as it now stands. I happen to think that the greatest impetus would be given to the construction of nuclear powerplants. Some disagree with me. Some say the greatest impetus would be given to conservation and alternative forms of energy.

I thank the Chairman for calling the Committee to order because throughout the consideration of this bill Members have had difficulty focusing on what is a regional issue. I would say to my colleagues who do not reside in the Northwest that a lot of people in the Northwest are going to be affected by the terms of this bill. We would like very much to have your attention because the ratepayers of this region will have to live with the consequences of what my colleagues are about to do on this bill.

□ 1120

We ask only for your attention long enough to let us work our will on this piece of legislation. The amendment I offer would simply say that of all the forms of energy that would be made possible in the Pacific Northwest under the financing terms of this bill, one of them is nuclear power. This amendment would not place a moratorium on the development of nuclear powerplants; it would simply lay down some rules for the construction of these plants. It would say as a minimum public safety safeguard that no nuclear powerplants will be constructed under the financing terms of this bill unless a condition is met, a minimal condition, that condition being the existence of a national licensing system for the permanent storage of the wastes that these plants produce.

I think it is extremely important to add to this bill such a condition in terms of the public safety of the people and the ratepayers of the region. I would say to my colleagues that in the last 30 years since we began to build and operate nuclear powerplants, we have accumulated 70 million gallons of high-level liquid wastes and 6,000 tons of spent fuel. Wastes today from our commercial reactors are now being held in temporary storage facilities on site at the reactors that are being operated.

According to the industry and the Department of Energy, some reactors will run out of these kinds of storage spaces and will have to shut down beginning in the year 1983. I do not know how any reasonable person can say that that is an acceptable set of circumstances. The people of the Pacific Northwest have rendered an opinion on this question. In the last election, a ballot measure was proposed that laid down provisions almost identical to the amendment I offer to my colleagues today; and the people of Oregon approved the amendment. They said they want nuclear safety to come before nuclear plant construction. I do not think that is such an unreasonable request.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding. I want to comemnd the gentleman for what I believe to be a fine, constructive, and reasonable amendment.

As the sponsor of this amendment, Mr. AuCoin has just indicated, the people of the State of Oregon have recently voted to require that a permanent waste storage facility be available before any more nuclear plants are licensed in their State. I believe we should not force the people of the State of Oregon to pay for the construction or power of facilities which have been opposed by those citizens. The possibility of the defeat of such State and local initiatives and the granting of preferred status to one region of our country are the primary reasons why I have supported several amendments to this legislation.

I know the people of my area are also concerned about the lack of any permanent disposal facility to deal with the vast amounts of nuclear waste being generated. I believe it is essential that we resolve such safety problems before taking actions which contribute to the magnitude of these present and potential problems.

(Mr. JEFFORDS asked and was given permission to revise and extend his remarks.)

Mr. AuCOIN. I certainly thank my friend from Vermont. I appreciate his contribution on this issue as well as on other issues.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Oregon.

Mr. WEAVER. I want to commend my colleague for speaking for the voice of the people of Oregon so strongly.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to my friend from California.

Mr. JOHN L. BURTON. I would support the gentleman's amendment because our subcommittee of the Committee on Government Operations spent a long time clearing the ability of the State of Washington to store some hazardous wastes. Without the restrictions we put on it, the State of Washington could have ended up having this poisonous material get into the water supply of that State; and if our committee had not put strong restrictions on it, they would not have gotten that location that was desired by everybody in the State of Washington delegation save one, so I think the gentleman's point makes a lot of sense.

Mr. AuCOIN. I thank the gentleman for his comments.

I want to make one additional point and then I will yield to whoever else would like to have me yield.

Some people will argue that this question of nuclear waste storage is a national problem and, therefore, should not be attached in any way to a regional bill. I want to just suggest to my colleagues that that is an unacceptable argument. It really misses the most salient point involved here. It is true that the policy questions dealing with a national system of storage of these wastes does come and must come from Washington, D.C., and from the Federal agencies. So, in that sense, true, it is a national question. But I want to suggest to my colleagues that if there is a leak in the temporary storage pools in which these wastes are being stored, such as at the Trojan Nuclear Plant in my congressional district, it has long since at that point ceased being a national cosmic theoretical issue. It is a neighborhood problem, it is a community problem for the residents around the Trojan Nuclear Plant in Columbia County in the State of Oregon, the people that I represent.

If you call that an esoteric national issue, you have some explaining to do to the people of Columbia County; and for that reason, I urge my colleagues to accept the amendment that simply says fine, if we choose to go ahead and build nuclear plants we will do so, but only after a minimal standard of public safety has been met first; and that is a permanent storage system for the wastes that these plants emit.

POINT OF ORDER

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. DINGELL) insist upon his point of order?

Mr. DINGELL. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, the bill before us establishes a planning council. It provides for a planning council. It provides for a program for conservation and for a fish and wildlife program. It provides for the sale of power. It provides for the establishing of rates, and it provides for the acquisition of resources to produce power.

Nowhere in the bill does the bill deal with atomic energy as such or with the storage of either spent nuclear fuels or nuclear wastes. The amendment would add a condition to the bill prohibiting the BPA from acquiring any resource derived from nuclear generation until the Nuclear Regulatory Commission licenses operation of a permanent storage facility for nuclear wastes and spent fuel.

That I believe would be the addition of a national program for dealing with spent nuclear fuel and nuclear waste to be added to a regional program to be administered by the BPA. This would impose burdens on an agency entirely different from those which are either set up in the bill, which be your State and regional planning councils, or the Bonneville Power Authority. In other words, the agency which would do this, under law, would be the Nuclear Regulatory Commission which is an agency not anywhere mentioned in the bill.

Essentially, the proposal is an attempt, indirectly, to amend the Atomic Energy Act and to deal with the question of spent fuel and nuclear waste on a nationwide basis as opposed to simply dealing with the question of power management as is provided in the bill; and I call to the attention of the Chair that the bill is regional in character; the amendment is national in character; the bill deals with power management. The amendment deals with nuclear waste, its storage and the establishment of a nationwide program for the storage and so forth of nuclear waste.

I would point out the language of the amendment says:

The Administrator may not acquire any resource derived from a new nuclear fuel generating facility—

This is not a nuclear fuel generating facility which would be present within the Bonnevile Power Authority service area, but it is sufficiently general to cover any nuclear generating facility in the United States.

Then it goes on and it says:

Until such time as the Nuclear Regulatory Commission—

Which is not mentioned in the legislation—

has licensed the operation of a permanent storage facility for high-level nuclear waste and spent fuel from commercial nuclear generating facilities.

These nuclear generating facilities are not within the Bonneville Power market area but are anywhere in the United States. And it could include those in the Northeast, the Southeast, the Southwest, in Alaska, or in Hawaii—none of them within the area served. The amendment is much more broad than the bill and deals with quite different matters.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

The CHAIRMAN pro tempore. The Chair controls the time. Does the gentleman from Ohio wish to be heard on the point of order?

□ 1130

Mr. BROWN of Ohio. Mr. Chairman, I would like to be heard on the point of order, but I would like to exchange a view with the gentleman from Michigan to reinforce the point of order.

Mr. JOHN L. BURTON. Regular order, Mr. Chairman.

The CHAIRMAN. There is no colloquy on a point of order.

Mr. BROWN of Ohio. Mr. Chairman, I would be happy to speak on the point of order, to reinforce the position of the gentleman from Michigan.

There is an electrical power generation in-tie between the Southwestern part of the United States, that is, California, Utah, and Arizona, and that area, and the Northwestern part of the United States. This bill has an impact on the Northwest. Some of the power generated in that Southwestern in-tie is of a nuclear sort, and so the impact of this attempted amendment would be to impact, as the gentleman from Michigan points to, the generation of power in other parts of the United States and, therefore, I think is inappropriate from the standpoint of its germaneness, for that reason.

The CHAIRMAN. Does the gentleman from Oregon (Mr. AuCoin) wish to be heard on the point of order?

Mr. AuCOIN. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I am somewhat surprised to hear suggestions in defending the point of order that the people of the Pacific Northwest ought to be inflicted with a burden of building

additional nuclear powerplants without safeguards. It is the people in the region who will have to live with the consequences of cooling towers in the Pacific Northwest.

I think it is unfortunate that Members have argued that they ought to take those risks simply to shift the power southward or to any other region of the country.

But more to the point of order, Mr. Chairman, no one can rationally argue that the whole cycle of activities that is involved in nuclear power operation and construction can be separated out and considered alone. The storage of radioactive waste from the nuclear plants is just as much a part, an intrinsic part, of the whole process as the construction of the plant. It is a part of the same procedure, the whole life cycle of the plants, and, therefore, cannot be excluded and separated out, and it cannot be held that, somehow, that is not germane to the construction of plants, because the construction produces the result, that result, being waste. That waste has to be dealt with.

I would also make the point that the amendment does not require a contingency action on the part of this House or the Congress. The NRC is responsible for any plant that is constructed, nuclear powerplant that is constructed in this region. It is so under current law. So the NRC is very much affected by the thrust of this legislation by the terms of the legislation.

It may be that there is no specific reference to nuclear power in the bill. But no one has denied for a moment in the debate or informal discussions about the bill that nuclear powerplants cannot be constructed or will not be constructed under the terms of this bill. So this business about the amendment referring to the NRC regulatory agency, I think, Mr. Chairman, is a red herring.

I would further say that the amendment poses no contingency upon the House because existing law gives the Nuclear Regulatory Commission licensing and regulatory authority pursuant to chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954. Among those powers are the licensing and regulatory authorities to operate facilities used primarily for the receipt and storage of high-level radioactive waste resulting from activities licensed under the Atomic Energy Act of 1954.

So no additional act of Congress is necessary, nor does this amendment require any additional act of Congress, because of the authorities already granted to the NRC. And my amendment simply says that, until that authority is used, either on the agency's own part or by further direction from the Congress, no additional nuclear powerplants will be constructed in the Pacific Northwest.

Now, Mr. Chairman, I regret that there are those who would try to kill this amendment by a technicality, but I would say that I do not think the point of order stands for the reasons I have stated.

Mr. KAZEN. Mr. Chairman, I rise in support of the point of order and to say that, under the terms of the amendment, there is additional responsibility placed on the NRC and the agencies within the province of this bill. By his own words, the author of the amendment has said that NRC has that authority, but under his amendment they will cease to have the authority to license and regulate. They will be told, "You cannot license any nuclear powerplant unless you have got a permanent storage for the waste." And, therefore, I submit that it does provide for additional duties and, therefore, would be nongermane to the bill.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. JOHN L. BURTON. I would like to speak in opposition to the point of order.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Chairman, I do not believe that the statement of the distinguished gentleman from Texas saying that the NRC cannot license nuclear powerplants without safeguarding the people by dealing with the hazardous waste that is involved is a horrendous task placed on the NRC. I think that the point of order should be overruled. And I think that the bill is the biggest rape and ripoff of the public that I have ever seen in my life.

Mr. AUCOIN. Mr. Chairman, could I be heard on one additional point?

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. Mr. Chairman, my friend from Texas, the subcommittee chairman, for whom I have a great deal of respect, has, I think, confused, momentarily, the difference between an amendment that would force the Nuclear Regulatory Commission to take an action as opposed to imposing on the Nuclear Regulatory Commission a new responsibility.

There is no new responsibility being imposed on the agency by this amendment. It does require action by the agency under the authority already granted to it by the Atomic Energy Act of 1954.

I would state to the Chair and to my friend, the gentleman from Texas, that the authority already existing exists under Public Law 93–438, title II. And for that reason I do not believe his argument stands.

The CHAIRMAN. The Chair is prepared to rule.

In the opinion of the Chair, the amendment offered by the gentleman from Oregon would impose a contingency which is not solely related to the issue of purchase and transmission of power in the Northwest region and which addresses potentially new NRC licensing authority for all Government and privately owned storage facilities on a national basis.

The Chair would cite, specifically, chapter 28 of Deschler's Procedures, section 24.15:

An amendment delaying the effectiveness of a bill pending the enactment of other legislation and requiring actions by committees and agencies not involved in the administration of the program affected by the bill was ruled out as not germane.

On that basis, the Chair is constrained to sustain the point of order.

Mr. KAZEN. Mr. Chairman, it now becomes obvious that we will not be able to finish this bill today because of the vast number of amendments which the gentleman from Oregon is prepared to offer. I therefore, Mr. Chairman, instead of subjecting the Committee to staying here all day on this type of procedure, move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. McHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, had come to no resolution thereon.

□ 1140

APPROVAL OF PROTOCOL TO THE TRADE AGREEMENT RELATING TO CUSTOMS VALUATION

Mr. VANIK. Mr. Speaker, pursuant to section 151(f) of Public Law 93–618, the Trade Act of 1974, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7942) to approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be equally divided and controlled between the gentleman from Louisiana (Mr. MOORE) and myself.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7942, with Mr. OBERSTAR in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Pursuant to section 151(d) of Public Law 93–618, no amendments are in order, and the bill shall not be read for amendment.

Pursuant to section 151(f) of Public Law 93–618 and the order of the House agreed to earlier today, the gentleman from Ohio (Mr. VANIK) will be recog-

am confident that all my colleagues agree that this historic ship should be saved from the scrap heap, and that this transfer should be delayed no longer.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. KAZEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 885), with Mr. MCHUGH in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, November 12, 1980, all time for debate under the 5-minute rule had expired, and pending was an amendment in the nature of a substitute offered by the gentleman from Oregon (Mr. WEAVER) to the text of H.R. 8157, which was being considered as original text and was open to amendment at any point.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment, which is numbered 65.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: page 100, line 10, after "positions." insert:

"(1) The authorities granted and the programs established by this Act, insofar as they exceed those existing the day before the date of enactment of this Act, shall cease to be effective on the date five years after the date of enactment of this Act, unless the Congress by joint resolution reauthorizes such authorities and programs before such date."

The CHAIRMAN. The Chair would inquire of the gentleman if his amendment has been printed in the RECORD.

Mr. WEAVER. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes.

Mr. WEAVER. Mr. Chairman, the amendment that I am offering here now is a sunset amendment. It would require the Congress to reauthorize the Government programs in the bill after 5 years. I take the occasion of offering this sunset amendment because, having just come from the revenue-sharing debate and hearing many Members say that they wanted Government off their backs, wanted to get away from Federal Government-directed programs, I wanted the Members to know that central to this bill is the creation of a new Federal bureaucracy, central to this bill is the authorization of enormous new powers to an existing Federal agency, the Bonneville Power Administration, a division of the Department of Energy. And we all know how successful the Department of Energy is. We all know what a grand job the Department of Energy has done in solving this Nation's energy problems. And here we are, we are going to give the entire decisionmaking process of the Northwest energy system over to the Department of Energy. That is what this bill does.

The bill was actually written by employees of the Bonneville Power Administration. Federal bureaucrats, contrary to law, wrote this bill. They then went around and got other entities in the energy system, they gave them little goodies here and little goodies there, because what they had in mind was building a new Tennessee Valley Authority in the Northwest, with enormous new powers to the Federal Government and their agency. And so I believe, if we are going to create this new agency, put Government on our backs, expand the authority of the Department of Energy, if we are going to do that, we should at least have sunset legislation built in.

Now, I can assure the Members that the statement made by my distinguished colleague from Washington State, MIKE LOWRY, who opposes this bill very strongly, before we went off to campaign for election, he said that the proponents of this bill are obviously good and distinguished and decent people, they are well meaning, but Congressman LOWRY said that what they intend to happen, what they hope to happen, is actually going to be hamstrung by this bill.

□ 1700

The bill will create the opportunity for lawsuits. Every decision made by the Bonneville Power Administrator, this Federal bureaucrat, will be subject to many lawsuits, and it will hamstring any power development in the Northwest. Now, if we do not have a bill—if we do not have a bill, then such utilities as the Eugene Water & Electric Board, which is adamantly opposed to this bill, this utility will be able to go out and develop its own power sources. The Eugene Water & Electric Board, the largest public utility in Oregon, has already announced in the last 2 weeks four new hydro projects that they alone will develop for all the energy demand there, load growth needs, to the year 2000.

As a matter of fact, EWEB, as we call it, is now selling electricity to California on a firm base. They sell 20 megawatts firm base load power to Pasadena because they went out and delivered power. If we pass this bill creating a new Federal agency, giving vast new powers to the Department of Energy over the utility system, it is the death knell of Eugene Water & Electric Board, EWEB, the chairman of which is the owner of a drug store chain in Oregon and a very fine and distinguished conservative Republican, a person who is very much for nuclear power and who adamantly opposes this bill because he knows it will destroy his local utility's incentive to produce new power.

So, therefore, what we are going to do is to drudge our power system into the hands of a bureaucracy, hamstring it with this bureaucracy, with centralized decisionmaking and with centralized planning, the marketing system being destroyed, free enterprise being destroyed, and we are going to solve our energy problems that way.

I ask my colleagues to say no. So, therefore let us put in a sunset legislation so that when the people of the Northwest wake up to find out what has happened to them if indeed this bill is enacted, and they want to get rid of it, we can just simply let it die at the end of 5 years, because I can assure everyone here that at the end of 5 years, if this bill is passed, the people of the Northwest will rise up to overthrow the chains of bondage that this bill will put them into, putting them into the hands of the Secretary of Energy, the Department of Energy, and they will want it done. I urge adoption of the sunset legislation.

The CHAIRMAN. Does the gentleman from Michigan insist upon his point of order?

Mr. DINGELL. I do not, Mr. Chairman.

Mr. SWIFT. Mr. Chairman, I rise in opposition to the amendment.

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

Mr. SWIFT. Mr. Chairman, I rise in opposition to the amendment and in support of the bill. I think that it is important that we understand what is going on here. In the Seattle Post Intelligencer this morning, the gentleman from Oregon (Mr. WEAVER) is quoted as saying, "I still have 15 hours worth of amendments."

Clearly he is an opponent of the bill. An attempt is being made here to use the rules of the House to simply run us out of time.

Mr. WEAVER. Regular order, Mr. Chairman. He is not addressing the amendment.

Mr. SWIFT. And, the amendment that the gentleman raised is clearly a part of the effort that he is making to do that, because this amendment is a gutter. It kills the bill. What it says is that after 5 years Congress must reauthorize, and yet the basic purpose of the bill is to get utilities and DSI's to enter into contracts, in some instances long-term contracts, that they simply could not possibly enter into if the authorizing legislation were to disappear in 5 years.

In other words, this amendment kills the bill. It does not simply give Congress the authority to reexamine the legislation. It makes the legislation itself virtually inoperable.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I would be happy to yield.

Mr. McCORMACK. Mr. Chairman, I want to thank the gentleman for his remarks, and I want to rise to agree with him. The genius of the entire Bonneville Power Administration, Mr. Chairman, is long-term contracts at uniform rates to serve the entire Northwest area. If we were to put any kind of a 5-year limit upon it, the effect would be to not only legally limit the potential for long-term contracts, but it would put a damper on the development of the Northwest and the use of the power that we need for our area.

I hope the Members of the House will recognize that this amendment is just one of a series of amendments that have just one purpose; that is, to stall long enough to kill the bill. I hope that we will all reject this and the other amendments.

We did not bring this bill out on the floor because we wanted to have fun. It is a bill that is necessary for the Northwest. It is a lot of work. I have nothing but the highest praise for all the people who worked on it, to help build support for it, but it is important to recognize the basis of the bill is essential for the Northwest, and we should all now reject these amendments, which are nothing but harassment, and we should then pass the bill.

Mr. SWIFT. I thank the gentleman for his remarks.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, this amendment should be seen for what it clearly is. This would affect contracts. This would assure that any contract could not be issued for more than 5 years. It may be an unintended consequence, but it means that contracts which might otherwise be issued for long term to provide a measure of stability to people in the Pacific Northwest could not be issued but for short periods.

In addition to that, Mr. Chairman, the amendment has the further defect of sunsetting the entire bill, prejudicing the length of time during which important questions like the fish and wildlife and conservation benefits could be in effect. I believe that is extremely dangerous and bad, and I urge my colleagues to reject the amendment as being not in the broad interests of the legislation or of the country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: Page 54, line 20, after "Act." insert a new subsection, renumbering accordingly:

(b) In making any payment to a utility for the acquisition of a resource under section 6(a)(2) or for the exchange of power under section 5(C), the Administrator shall exclude the costs of construction work in progress;

The CHAIRMAN. The Chair would inquire if this amendment is printed in the RECORD.

Mr. WEAVER. It is, Mr. Chairman.

The CHAIRMAN. The gentleman from Oregon is recognized for 5 minutes in support of his amendment.

Mr. WEAVER. Mr. Chairman, the State of Oregon, the people of Oregon, have stated not to allow construction work in progress cost to go into their utility bills, and I offer this on behalf of the people of Oregon.

Let me explain to the House, to the Members, why this is so important in this bill. Let me explain to all of us what is happening in the Northwest today and why construction work in progress is so important.

Today, they are constructing five thermal plants by the Washington Public Power Supply System and the State Municipal Authority. There is no responsibility for checking the costs of these plants because they use the same technique to finance them as is in this bill. Therefore, the cost overruns have been over $10 billion. This is the case for the few States in the Northwest, that the cost overruns are going to be over $10 billion. The figures I cite are the official figures by WPPS given to the bonding authorities when they go out and sell their bonds.

The $18 billion figure presently for the five plants, if my colleagues understood the implications of this for the ratepayers of the Northwest, for the businesses, for the timber industry, for the small businesses, for agriculture, for the residents, what it is going to do to our electric bills, and will possibly bankrupt many utilities. The costs are horrendous and staggering, so much so that bonding authorities in New York City are beginning to tell WPPS that they can no longer handle the sale of our bonds.

□ 1710

An internal memo by the WPPS states that they are so frightened that their bonds cannot be sold. The last issue a couple of weeks ago was at 10.63 percent. That is for a tax-free municipal bond. With the bonding people saying they were not sure they could sell any more, Washington State had to withdraw its bond issue. This is the State of Washington last week with the bonding authority saying they had saturated the market in the State of Washington.

WPPS is now looking to go out in the short-term paper market to finance these plants.

I was a builder for 20 years. My job was to finance real estate and construction projects. I know that when you borrow short for long-term projects you are inviting bankruptcy. It is the most dangerous single thing that you can do. So, is it any wonder that this internal memo of WPPS is considering canceling two of the nuclear plants that are in mid-construction? They are so frightened that they will not be able to pay for them. So, therefore, the costs of construction work in progress, the interest alone this year will be around $400 million and the plants are years away from completion. Consider that. We built Trojan Nuclear for $400 million. We built one nuclear plant and it is selling fairly inexpensive electricity. But the interest payments on these bonds alone are going to be $400 million in this year and they are years away from completion. The drain on the people of the Northwest is going to be staggering.

The managers of the construction do not care because they have an unlimited blank check because the Government, Bonneville Power, is underwriting them. That is the danger of getting the Government involved in something like this.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. Let me say to my dear friend that I am really sorry, but I have liimted time.

That is the danger that we have here with this blank check provided by the Department of Energy, that we do not watch these cost overruns and that WPPS is building these plants with $10 billion cost overruns; with $400 million in interest going out alone in the coming year, $600 million after that, $800 million a year after that, with billions going out from then on, we simply cannot afford this. To give them more blank checks is the most dangerous thing we can do.

So the people of Oregon have spoken. They have spoken and they have said, "We do not want the costs of construction work in progress to go on our utility bills."

So I am sure that all our Oregon people will want to make sure that this amendment goes into this bill which simply says that any project under this bill cannot charge construction work in progress.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my good friend from New Mexico, Mr. LUJAN, because his counsel is wise. I yield to my good friend at this particular point.

Mr. LUJAN. I thank the gentleman for yielding.

I just want to point out that this is Federal ratemaking at its worst. It mandates what can be and cannot be in the rate. It has always been our practice or the practice of the Federal Government to leave those utility regulations up to each individual State. Some have cost of work in progress allowed into the rate and some do not. Here we are taking away that prerogative that the various State regulatory agencies would have.

Mr. DINGELL. I thank the gentleman. I would like to concur in his comments.

Mr. Chairman, this amendment provides that in making any payment to a utility, or the acquisition of a resource under section 6 of the bill or for the exchange of power under section 5, the BPA shall exclude the cost of construction work in progress. A similar amendment was included in the Interior Committee's version of S. 885. However, when the matter was examined, we became

concerned as to what is meant by the term "construction work in progress."

This is a term with many meanings in various States. Indeed, it is not always based on any statute or regulation, but is part of a policy of a Public Utility Regulatory Commission. In short, there is no uniformity between States.

However, the thrust of the amendment seems to be aimed at insuring that in States where the "construction work in progress costs" are excluded, States would continue to be able to exclude them and not have this legislation override that State requirement. Thus, a provision was added to section 10 of the bill which states—

Nothing in this Act shall be construed to affect or modify the right of any state to prohibit utilities regulated by the appropriate State regulatory body from recovering, through their retail rates, the cost during any period of resource construction.

We believe that this amendment adequately meets the problem suggested by the gentleman, without causing confusion and doubt as to the meaning of the amendment.

In this regard, we think that the amendment is defective in that it fails to define what is meant by the term "construction work in progress." I reiterate that that term can have many different meanings to different people and different States. For example, does it permit payment of interest, but not capital costs? What period of construction would be covered by this provision? Does it include the operation of the plant for testing purposes? Does it mean just the physical construction of the plant.

To date, the Federal Government has not weighed in on either side of the CWIP issue. As you know, reasonable arguments lie on both sides of this issue. It is not a regional issue; it is a national issue. I feel strongly that it is poor precedent to include language such as this in the bill because it would tend to tilt the issue in one direction to the detriment of those who believe it should be tilted in another direction. It is a matter that needs further consideration by our committee, possibly in the next Congress.

I urge rejection of the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my good friend, the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. I think this flies in the face of the saving clause that is already written into the legislation on page 101 which suggests that the right of the State utility regulatory commissions be preserved inviolate. The amendment offered by the gentleman from Oregon (Mr. WEAVER), it seems to me, is a very bad precedent in this regard. I am not sure how it will be interpreted with reference to the language on page 101 of the bill, but I am also opposed strongly to the language offered in his amendment.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment which is numbered 66.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: Page 100, line 10, after "positions." insert:

"(1) No rule and regulation promulgated by the Administrator or the Council pursuant to this Act shall become effective until the Congress, by concurrent resolution, has approved such rule and regulation: *Provided*, That any such rule or regulation shall be considered approved by the Congress if no action has been taken by the Congress regarding such rule or regulation within 60 days after such rule or regulation has been promulgated. For the purpose of determining the 60 days referred to in the previous sentence, only days on which both Houses of Congress are in session shall be included."

The CHAIRMAN. The Chair would inquire if this amendment is also printed in the RECORD.

Mr. WEAVER. It is, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. WEAVER. Mr. Chairman, the amendment that I have just offered is the simple amendment which correlates with the sunset amendment previously which would have the Congress have the authority to approve the rules and regulations that will be issued under this bill.

We have had many such amendments offered to bills in the past. I have been informed, I cannot say for certain, that the regulations for this bill are already written in such haste for the Bonneville Power Administration to get into effect their vast new powers given them under this bill, and that they will be slammed into the Federal Register within a day or two or whatever the rule is, after the enactment of this act, indeed if it is enacted.

Commenting on the fact that we should take a look at the rules and regulations because they will be numerous and they will hamstring the various people who want to develop energy in the Northwest, commenting on that and commenting on a previous amendment for construction work in progress, I noted that my dear, wonderful friend from New Mexico (Mr. LUJAN) and my friend from Michigan (Mr. DINGELL) said that the construction work in progress would take away the rights of the State to decide that issue. Good heavens, this whole bill, that is what it is about.

It takes away from every utility, every State, and everyone else the right to decide anything. In the bill resides a provision, and do not let us overlook it, that allows the Bonneville Power Administrator to act even inconsistent with the plan put up by the council appointed by the governors. It is right there in the bill. It is a very important clause, too. I tried to take it out in committee, and they did not want that taken out because, of course, they want that Bonneville Power Administrator to get in there and act without a plan or inconsistent with a plan and bankrupt the Northwest. That is what they are after.

So what we are doing here with this bill is taking away the ability of the States and the local utilities to have any incentive or freedom of motion. That is what this bill is all about, to centralize the power-making authority in the Bonneville Power Administration.

□ 1720

Mr. Chairman, I cannot but reflect upon the comments of my dear and wonderful friends who are so concerned these States might not have the right to make their own decisions if my construction-work-in-progress amendment had passed.

May I comment Oregon voted not to have construction-work-in-progress costs reflected in their electric bills? This bill takes that away. I say to my dear friend from Michigan, the distinguished chairman of the Committee on Interstate and Foreign Commerce, this bill takes away the vote of the people of Oregon because it would require against the wishes of the people, construction-work-in-progress costs to be reflected in Oregon bills if there are bills in other States such as Washington. Therefore, our will in Oregon is absolutely flattened by this bill.

I beseech Oregon people to protest this degradation of the will of Oregon.

Mr. Chairman, I can only but read, also, from a newspaper story quoting the very distinguished Senator from Washington State about the cost overruns. This is referring to Government underwriting of these projects:

Senator Jackson said: "Investors love that arrangement because the bonds are thus guaranteed by the government and no matter how many bonds must be sold to build the power plant the government is committed to backing those bonds. Therefore, power plant builders are able to spend unlimited amounts of money."

Mr. Chairman, the foregoing is quoted from the Aberdeen Daily World. He is surely right because there is $10 billion in cost overruns in these plants already. $10 billion. Can you imagine?

Mr. Chairman, look at this advertisement for the bonds of the Washington Public Power Supply System. Six percent, it says. It is almost double that now, 10.6 percent, meaning our utility bills are going to double and double again in the Northwest.

It says on the bottom of this advertisement that the United States of America Department of the Interior has purchased the entire capability of the project.

Mr. Chairman, the bill does eliminate the direct Federal guarantee but when these utilities begin going bankrupt because people cannot pay the higher electric bill, is the Federal Government going to allow Bonneville to go default?

Mr. Chairman, I think we should look at the rules and regulations issued by Bonneville before they go into effect.

Mr. KAZEN. Mr. Chairman, I move to strike the last word and I rise in opposition to this amendment.

Mr. Chairman, the gentleman from Oregon (Mr. WEAVER) proceeds to argue and debate another amendment, one that has already been defeated. Be that as it may, let me follow with the gentleman's line and show the gentleman that in the bill itself—I call attention to page 101, line 24, which states:

Nothing in this act shall be construed to affect or modify the right of any State to prohibit utilities regulated by the appropri-

ate State regulatory body from recovering through their retail rates, costs during any period of resource construction.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. No, not at this time. The gentleman would yield to no one else during his time.

Mr. DINGELL. Mr. Chairman, will the gentleman yield to me?

Mr. KAZEN. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman from Texas.

Mr. Chairman, I join the gentleman from Texas in opposition to the amendment. What the gentleman's amendment would do would be to require every rule or regulation that would be issued pursuant to this statute to be reviewed by the Congress. Now, there will probably be some rules and regulations. This is a State council. Interestingly enough, this now puts the Federal Congress in the business of approving or rejecting each and every action taken by a State council. There is no procedure which is established for disapproval in the bill. It raises constitutional questions, and I believe the amendment is only designed to prevent the implementation of the legislation.

I thank the gentleman for yielding.

Mr. KAZEN. Mr. Chairman, I agree with what the gentleman has said and I concur therewith. Furthermore, this provision is particularly unnecessary in this bill since Congress would retain extensive authority to review the programs the bill would establish.

Mr. Chairman, funding requests and programs of the council would be reviewed annually by Congress under the Transmission Act on a programmatic basis. All resource acquisitions and all expenditures by the Administrator under the funds established in the Transmission Act would be reviewed, all major resource proposals would be submitted to the Congress at least 90 days before implementation, and expenditure authority for any such proposal determined to be inconsistent with the plan would have to be specifically authorized by the Congress. Therefore the amendment of the gentleman is entirely unnecessary, because those provisions are already in the bill.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman for yielding. I do not know whether to be flattered or pleased that I was not included in the list of friends of the gentleman from Oregon earlier. Perhaps as the evening wears on "flattered" would be a more appropriate word.

The purpose of this whole piece of legislation is to provide for local representation on the council. The council has that purpose and the Administrator to bring about a central authority for administering the projects undertaken and the work being done by the various utilities, and I would have to say that the amendment offered by the gentleman undermines the whole purpose of the bill to give that local control and to see that it is adequately administered, as we have tried to do in the bill in carefully balancing the legislation so there is full representation.

I have to say I wonder at the logic that says we should take all of these issues back here to the Congress so that they can be resolved. The very purpose of our bill was to try to see that the issues could be resolved in the northwestern part of the country.

I might say to the gentleman from Oregon that in my part of the country we have combined several States into a working region where there is cooperation between the public and the private power people. There is cooperation between the rural electric authorities in the construction of and generation of power. It seems the pattern of this bill is in that tradition which is used all over the country.

Mr. Chairman, I hate to see us suggest all these things should be resolved at the Federal level. I am sure anyone as locally oriented as the gentleman from Oregon would understand that.

Mr. KAZEN. Mr. Chairman, I thank the gentleman from Ohio for his contribution.

Mr. Chairman, I urge defeat of this amendment.

Mr. WEAVER. Mr. Chairman, will the gentleman yield so I can respond to my name being mentioned?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. LOWRY

Mr. LOWRY. Mr. Chairman, I offer an amendment which, under the rule, has been printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. LOWRY: Page 10, lines 15–17, strike "(A) electric power," and all that follows and insert in lieu thereof: "electric power, electric power output of generating facilities, programs and measures to conserve electric power, renewable energy technologies, and programs and measures to utilize renewable technologies, or".

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

Mr. LOWRY. Mr. Chairman, this amendment is an amendment to strike from the present legislation what is known as the guaranteed purchase clause.

□ 1730

The Northwest power bill has been basically billed by its supporters as a planning act, and a coordinating act.

There is another part of the bill that I think is a serious mistake, and it is called guaranteed purchase. The amendment I offer strikes the guaranteed purchase part of the Northwest power bill.

As the Northwest power bill is now written, EPA is authorized to write a contract on behalf of the ratepayers of the four States of the Northwest that guarantees through purchase of energy to pay the cost of future energy plants regardles of cost overruns and regardless of whether those plants even work.

In other words, through congressional action, we are removing from the shoulders of the utilities the financial responsibility of making that decision and through contract by a Federal agency, the BPA, we are shifting that responsibility to the shoulders of the ratepayers of the Northwest.

Now, many people have talked to me about this bill, and they say, "We have never heard that," because this bill is said to be a coordinating and a planning bill.

This amendment, which is known as the Lowry amendment, was very eloquently spoken to in support yesterday by the gentleman from Oklahoma (Mr. EDWARDS). I had many requests from Members from both sides of the aisle who wanted to speak for this amendment, because they think this precedent of a Federal agency providing this type of a contract is a serious mistake, and it is. The gentleman from Ohio (Mr. ASHLEY), the gentleman from Illinois (Mr. PHILIP M. CRANE), the gentleman from New York (Mr. KEMP), many people wanted to speak for this. Many others support this amendment including the American League of Women Voters, the National Taxpayers Union, the Machinists Union, and many others who do not believe that the Federal Government ought to be participating this way.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. LOWRY. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman for yielding.

It strikes me as curious that there is a notion which has gone through this body that the overwhelming majority of people who live in the Pacific Northwest are solidly and completely behind this bill, maybe with the exception of a person in Oregon and a person in Washington State, who somehow or other have happened to gain membership in this body.

I want the Members to know that folks in eastern Montana—I do not represent it, but my good colleague from the other side of the aisle does—are overwhelmingly opposed to this bill. Folks in western Montana, where I live, many, many of them are opposed to this bill, and one of the reasons that folks in western Montana are opposed to it, those who are, is because they think that the point the gentleman from Washington makes is correct, that this bill is terribly flawed, because it commits the credit of the ratepayers in the region to secure the financing necessary for all new powerplants, and that includes powerplants built by the public utilities as well as those built by the private utilities.

Now, that means, my friends, that the consumers of the Pacific Northwest will underwrite the construction of all plants despite the cost overruns, despite the fact that the plants may never be completed, despite the dry holes. The constituents in Montana and the other States are going to have to underwrite the cost of those plants whether or not they are ever built.

My constituents think that is a flaw in this bill. I must say I agree with them.

I thank the gentleman for yielding.

Mr. LOWRY. I thank the gentleman for his comments.

I urge strongly the adoption of the Lowry amendment to correct this.

Mr. LUJAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment would limit BPA purchase to "actual output" only; that is, power instead of permitting purchases of plant capability; that is, the right to receive all of the power the plant produces in return for paying all of the plant's costs.

REASONS TO DEFEAT THE AMENDMENT

First. This amendment would kill the bill by making it impossible for the bill to work in practice.

Second. The amendment was considered and rejected by overwhelming margins by the Interior Committee, the Commerce Committee, the Subcommittee on Water and Power, and the Subcommittee on Energy and Power.

Third. The amendment would prevent the legislation from working by making it impossible for BPA to acquire resources. No entity would be willing or able to develop a resource to sell to BPA at cost, while retaining the risks for itself and its ratepayers, since the resource would be for BPA and regional needs. The costs and risks of new resources—and conservation measures—must be borne by those who receive the benefits—the ratepayers in the region.

Fourth. Purchase of plant capability is the universal practice in the utility industry, as the General Accounting Office confirmed in its written report to the Commerce Committee (see page 39 of the House Commerce Committee report). No utility in the country could acquire resources on a long-term basis at cost if faced with the restricted under this amendment. The Western Area Power Administration (WAPA) and Southern California Edison purchased shares of the capability of the Navaho plant, for example.

Fifth. The bill requires BPA to acquire resources at the lowest cost. If the entity selling power to BPA retains all of the risks of dry-holes, cost overruns and delays, the price BPA would have to pay for the power would have to be substantially higher. Authority (but not a mandate) to purchase resource capability is a form of regional self-insurance. Costs are significantly reduced by spreading the risks as widely as possible (the regional risks spreading achieved through the bill is still significantly less than the spreading achieved by large utilities in other parts of the country, however).

Sixth. If BPA had authority to build or own powerplants—as other utilities and TVA do—then BPA and its customers obviously would be responsible for all the costs and risks of every resource. Granting BPA authority to purchase plant capability was the preferred alternative to achieve regional risk spreading without creating another TVA.

Seventh. Conservation, renewable resources, and other new technologies present the greatest risks of not producing or saving power at expected costs. Purchase of capability encourages these types of resources significantly. Restricting BPA purchase authority to actual output or savings would discourage development of conservation, renewable resources, and other new technologies.

Eighth. It has been argued that purchase of plant capability represents a "blank check" and removes incentives for responsible utility and construction practices. This is incorrect for the following reasons:

Section 6(i) requires BPA to exercise effective oversight over all aspects of construction and operation.

BPA's customers have a strong incentive to insure that construction and operation is prudent and reasonable.

Builders and plant operators remain liable for negligence and breach of contract. Purchase of plant capability does not prevent BPA from including in its contracts incentives and penalties to insure responsible practices.

To the extent there is a problem, it applies to all utilities that have a right to pass on costs and receive a reasonable rate of return on prudent investments. The problem is not unique to BPA purchase of capability; nor is it made worse by the bill.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for yielding.

It has been said if one cannot defeat capital punishment, one can always vote against the appropriation for the rope.

What we have here is a situation where, unable to kill the portion of the bill that guarantees the right of BPA to purchase, they are arranging it so that no one would be willing to sell.

In other words, what this amendment will do would say that if the BPA Administrator went to, say, the city of Seattle, and said, "Would you build a facility we need," and the mayor of Seattle were to say, "Yes, I would be happy to do that," incidentally who assumes the risk? The consumers of the region get the benefits, but who assumes the risk? And the BPA Administrator would have to say, "We adopted the Lowry amendment, and therefore the ratepayers only of the service area in the city of Seattle will have to assume the dry hole risk even though the people throughout the region get the benefit."

If you were the mayor of Seattle, what would you say to that? I assume you would say, "No way." In other words, this kills the bill through the backdoor.

Mr. LUJAN. Absolutely correct.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Washington.

Mr. McCORMACK. I want to rise in opposition to the amendment and agree with the comment made by the gentleman and the gentleman from Washington (Mr. SWIFT).

The point is this, that in any construction of any powerplant, whatever entity decides to build it has to have a guarantee of sale. It does not matter whether they are talking about Bonneville in the Northwest or some individual private utility someplace else in the country. Before they can sell bonds to build the plant, to finance it, they have to have a guarantee of sale, and that guarantee of sale carries with it the obligation to pay for the plant.

We have established Bonneville, Oreg., to do that in the Northwest. That is what Bonneville is. It is that agency. If it is going to be the agency to do it, then Bonneville and all the people in it have to assume the risk.

I might say we are building strawmen to kick down here with this amendment. I do not believe there is any significant risk. I think the important thing is what the bill does is set up a simple management system, an orderly system, that must exist in order for us to succeed.

For that reason, I join the gentleman in his opposition to the amendment.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

I think it is also important to remember that the regional power council will establish the energy program and must meet the statutory task for placing the first emphasis on energy conservation to be followed by renewable resources and only then in thermogeneration.

□ 1740

So I think the Regional Council can apply that cost-effective test in making their decisions and they must be consistent with the energy plan.

Also, if the Lowry amendment is adopted, it would prevent the BPA administrator from buying the output and capacity of renewable energy resources. If we want to place our emphasis on renewable energy resources, we ought to defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. LOWRY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LOWRY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 632]

Albosta	Badham	Bingham
Alexander	Bafalis	Blanchard
Anderson, Calif.	Bailey	Boggs
	Baldus	Boland
Andrews, N.C.	Barnard	Boner
Andrews, N.Dak.	Barnes	Bonior
	Bauman	Bonker
Annunzio	Beard, Tenn.	Bouquard
Applegate	Benjamin	Bowen
Ashley	Bennett	Brademas
Aspin	Bereuter	Breaux
Atkinson	Bethune	Brinkley
AuCoin	Biaggi	Brodhead

Brooks	Hall, Tex.	Oberstar
Brown, Calif.	Hamilton	Ottinger
Brown, Ohio	Hammer-schmidt	Panetta
Broyhill	Hance	Pashayan
Buchanan	Harkin	Paul
Burgener	Harris	Perkins
Burton, John	Hawkins	Petri
Burton, Phillip	Hefner	Pickle
Butler	Hightower	Porter
Campbell	Hinson	Preyer
Carney	Holland	Pritchard
Carter	Holt	Pursell
Cavanaugh	Hopkins	Quayle
Chappell	Horton	Rahall
Cheney	Howard	Railsback
Chisholm	Hubbard	Rangel
Clausen	Huckaby	Ratchford
Clinger	Hughes	Regula
Coelho	Hutchinson	Reuss
Collins, Tex.	Hutto	Rhodes
Conte	Hyde	Rinaldo
Conyers	Ichord	Robinson
Courter	Jacobs	Rodino
Crane, Daniel	Jeffords	Roe
Crockett	Jeffries	Rose
Daniel, R. W.	Jenkins	Rostenkowski
Danielson	Johnson, Calif.	Roth
Dannemeyer	Jones, N.C.	Rousselot
Daschle	Jones, Okla.	Roybal
Davis, Mich.	Jones, Tenn.	Royer
Deckard	Kastenmeier	Rudd
Derrick	Kazen	Russo
Derwinski	Kildee	Sabo
Devine	Kindness	Sawyer
Dickinson	Kogovsek	Schroeder
Dicks	Kostmayer	Schulze
Dingell	Kramer	Sebelius
Dixon	LaFalce	Sensenbrenner
Donnelly	Lagomarsino	Shannon
Dornan	Latta	Sharp
Dougherty	Leach, Iowa	Shelby
Downey	Leath, Tex.	Shuster
Drinan	Lederer	Simon
Duncan, Oreg.	Lee	Skelton
Duncan, Tenn.	Lehman	Smith, Iowa
Early	Leland	Smith, Nebr.
Eckhardt	Levitas	Snowe
Edgar	Lewis	Snyder
Edwards, Calif.	Livingston	Solarz
Edwards, Okla.	Lloyd	Solomon
Emery	Loeffler	Spence
English	Long, La.	Stack
Erdahl	Long, Md.	Stangeland
Erlenborn	Lott	Stenholm
Ertel	Lowry	Stewart
Evans, Del.	Lujan	Stratton
Evans, Ga.	Luken	Studds
Evans, Ind.	Lundine	Stump
Fary	Lungren	Swift
Fascell	McClory	Synar
Fazio	McHugh	Tauke
Fenwick	McKinney	Tauzin
Ferraro	Maguire	Taylor
Findley	Markey	Traxler
Fisher	Marks	Trible
Flippo	Marriott	Udall
Florio	Martin	Ullman
Foley	Matsui	Vander Jagt
Ford, Tenn.	Mattox	Vanik
Forsythe	Mavroules	Volkmer
Fountain	Mica	Walgren
Fowler	Michel	Walker
Fuqua	Mikulski	Wampler
Garcia	Miller, Calif.	Watkins
Gaydos	Miller, Ohio	Weaver
Gephardt	Mineta	Weiss
Gilman	Minish	White
Gingrich	Mitchell, Md.	Whitehurst
Glickman	Mitchell, N.Y.	Whitley
Goldwater	Moakley	Whittaker
Gonzalez	Moffett	Whitten
Gore	Mollohan	Williams, Mont.
Gradison	Montgomery	Williams, Ohio
Gramm	Moore	Wilson, Tex.
Grassley	Moorhead, Calif.	Wirth
Gray	Mottl	Wolpe
Green	Murphy, Pa.	Wyatt
Grisham	Myers, Ind.	Yatron
Guarini	Natcher	Young, Fla.
Gudger	Nelson	Young, Mo.
Guyer	Oakar	Zablocki
Hagedorn		Zeferetti

☐ 1800

The CHAIRMAN. Three hundred and eleven Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Washington (Mr. LOWRY) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 93, noes 245, answered "present" 1, not voting 93 as follows:

[Roll No. 633]

AYES—93

Andrews, N.Dak.	Edwards, Okla.	Markey
Anthony	Erlenborn	Matsui
Aspin	Evans, Del.	Mavroules
AuCoin	Evans, Ind.	Miller, Calif.
Barnes	Fazio	Moffett
Bennett	Fenwick	Mottl
Bingham	Ferraro	Oakar
Bonior	Fish	Oberstar
Brodhead	Ford, Tenn.	Ottinger
Brown, Calif.	Garcia	Paul
Burton, John	Gilman	Ratchford
Burton, Phillip	Gingrich	Reuss
Carr	Gradison	Rodino
Cavanaugh	Gray	Rosenthal
Chisholm	Green	Roybal
Clay	Harkin	Russo
Conte	Harris	Sabo
Conyers	Harsha	Scheuer
Crockett	Howard	Schroeder
Danielson	Jeffords	Selberling
Daschle	Johnson, Calif.	Shannon
Deckard	Jones, Okla.	Simon
Derwinski	Kastenmeier	Studds
Dixon	Kildee	Synar
Donnelly	Kindness	Vanik
Downey	Kostmayer	Weaver
Drinan	LaFalce	Weiss
Early	Leland	Williams, Mont.
Eckhardt	Long, Md.	Wirth
Edgar	Lowry	Wolpe
Edwards, Calif.	McKinney	
	Maguire	

NOES—245

Albosta	Dingell	Ichord
Alexander	Dornan	Ireland
Anderson, Calif.	Dougherty	Jacobs
Andrews, N.C.	Duncan, Oreg.	Jeffries
Annunzio	Duncan, Tenn.	Jenkins
Applegate	Emery	Jones, N.C.
Ashley	English	Jones, Tenn.
Atkinson	Erdahl	Kazen
Badham	Ertel	Kogovsek
Bafalis	Evans, Ga.	Kramer
Bailey	Fary	Lagomarsino
Baldus	Fascell	Latta
Barnard	Findley	Leach, Iowa
Bauman	Fisher	Leath, Tex.
Beard, Tenn.	Flippo	Lederer
Benjamin	Florio	Lee
Bereuter	Foley	Lehman
Bethune	Ford, Mich.	Levitas
Biaggi	Forsythe	Lewis
Blanchard	Fountain	Livingston
Boggs	Fowler	Lloyd
Boland	Frost	Loeffler
Boner	Fuqua	Long, La.
Bonker	Gaydos	Lott
Bouquard	Gephardt	Lujan
Bowen	Gibbons	Luken
Brademas	Glickman	Lundine
Breaux	Goldwater	Lungren
Brinkley	Gonzalez	McClory
Brooks	Gore	McCormack
Brown, Ohio	Gramm	McDonald
Broyhill	Grassley	McHugh
Buchanan	Grisham	Marks
Burgener	Guarini	Marriott
Butler	Gudger	Martin
Campbell	Guyer	Matsui
Carney	Hagedorn	Mattox
Carter	Hall, Tex.	Mavroules
Chappell	Hamilton	Mazzoli
Cheney	Hammer-schmidt	Mica
Clausen	Hance	Michel
Clinger	Hawkins	Mikulski
Coelho	Heckler	Miller, Ohio
Collins, Tex.	Hefner	Mineta
Coughlin	Hightower	Minish
Courter	Hinson	Mitchell, N.Y.
Crane, Daniel	Holland	Moakley
D'Amours	Holt	Mollohan
Daniel, Dan	Hopkins	Montgomery
Daniel, R. W.	Horton	Moore
Dannemeyer	Hubbard	Moorhead, Calif.
Davis, Mich.	Huckaby	Moorhead, Pa.
Derrick	Hughes	Murphy, Ill.
Devine	Hutchinson	Murphy, Pa.
Dickinson	Hutto	Myers, Ind.
Dicks	Hyde	Natcher
		Nelson
Nowak	Santini	Taylor
Panetta	Satterfield	Traxler
Pashayan	Sawyer	Trible
Pepper	Schulze	Udall
Perkins	Sebelius	Ullman
Petri	Sensenbrenner	Vander Jagt
Pickle	Sharp	Volkmer
Porter	Shelby	Walgren
Preyer	Shuster	Walker
Pritchard	Skelton	Wampler
Pursell	Smith, Iowa	Watkins
Quayle	Smith, Nebr.	White
Rahall	Snowe	Whitehurst
Railsback	Snyder	Whitley
Rangel	Solarz	Whittaker
Regula	Solomon	Whitten
Rhodes	Spence	Williams, Ohio
Rinaldo	Stangeland	Wilson, Tex.
Robinson	Stenholm	Wright
Roe	Stewart	Wyatt
Rose	Stratton	Yatron
Rostenkowski	Stump	Young, Fla.
Roth	Swift	Young, Mo.
Rousselot	Symms	Zablocki
Royer	Tauke	Zeferetti
Rudd	Tauzin	

ANSWERED "PRESENT"—1

Stack

NOT VOTING—93

Abdnor	Ginn	Patten
Addabbo	Goodling	Patterson
Akaka	Hall, Ohio	Pease
Ambro	Hanley	Peyser
Anderson, Ill.	Hansen	Price
Archer	Heftel	Quillen
Ashbrook	Hillis	Richmond
Beard, R.I.	Hollenbeck	Ritter
Bedell	Holtzman	Roberts
Bellenson	Jenrette	Shumway
Bevill	Johnson, Colo.	Spellman
Bolling	Kelly	St Germain
Broomfield	Kemp	Staggers
Burlison	Leach, La.	Stanton
Byron	Lent	Stark
Cleveland	McCloskey	Steed
Coleman	McDade	Stockman
Collins, Ill.	McEwen	Stokes
Conable	McKay	Thomas
Corcoran	Madigan	Thompson
Corman	Marlenee	Van Deerlin
Cotter	Mitchell, Md.	Vento
Crane, Philip	Murphy, N.Y.	Waxman
Davis, S.C.	Murtha	Wilson, Bob
de la Garza	Musto	Wilson, C. H.
Dellums	Neal	Winn
Dodd	Nedzi	Wolff
Edwards, Ala.	Nichols	Wydler
Fithian	Nolan	Wylie
Frenzel	O'Brien	Yates
Giaimo	Obey	Young, Alaska

Mr. DASCHLE changed his vote from "no" to "aye."

Mr. McDONALD changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BAUMAN. Mr. Chairman, I ask unanimous consent that I be permitted to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BAUMAN. I just wanted to ask the gentleman from Texas (Mr. KAZEN) a question. The rumor is going around that this bill will be brought up tomorrow at 10 o'clock and we will stay on it for *x* number of hours. Then if it is not finished, it will come up on suspension on Monday. My question is if that is the case, why not just put it on suspension Monday and avoid the business of bringing it up tomorrow? Perhaps my information is wrong.

Mr. KAZEN. If the gentleman will yield, the gentleman from Texas is not advised. I had not heard that.

Mr. BAUMAN. Really?

Mr. KAZEN. That is correct.

Mr. BAUMAN. Everybody on this side knows about it. Has the gentleman checked with anybody over there?

Mr. KAZEN. I am just handling the bill. Whenever the leadership says it is scheduled, I am going to handle it. I will be here whenever it is scheduled.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio if he has something.

Mr. BROWN of Ohio. I think we have something in a procedural problem here, just as a personal observation. This bill has been approved by two committees of the House.

Mr. KAZEN. If the gentleman will yield, that is correct.

Mr. BROWN of Ohio. It has the support on both sides of the aisle of the vast majority of those committees, and I understand that while individual Members may have some slight modifications that they would like to make in adjustment on the bill—and I do not want to deny people the opportunity to express themselves—this bill clearly is a finely balanced piece of legislation.

□ 1810

If we start making major changes, we will probably kill the bill. Maybe that is desirable, maybe it is not, in the minds of other people. But the thing that I find really a problem is whether or not we are providing, by all of this extensive amendment effort, particularly when those amendments do not muster more than just a corporal's guard of support, we are into the Senate thing of filibuster. Now, I would like to recommend to somebody that we try to avoid that process.

Mr. DINGELL. Mr. Chairman, will the gentleman from Maryland yield?

Mr. BAUMAN. I just want to say to the gentleman from Ohio, and to the other Members, I, too, am concerned about the eventual disposition of this bill. But if the plan is to bring it up tomorrow for 4 or 5 hours of amendments, and then to put it on suspension Monday, when we already have 29 other suspension bills, it seems to me that we might as well skip tomorrow and go straight to Monday.

I yield to the gentleman from Michigan.

Mr. DINGELL. First of all, there is no plan to put this bill on suspension. We are trying very hard to give the gentleman from Oregon an opportunity to present his amendments, such of them as might be meaningful, to the House, and we are trying to afford him an opportunity to protect the rights, not of the minority in the sense of Republicans or Democrats, but just a very small minority of Members who are apparently irreconcilably opposed to the bill.

Mr. WEAVER. Mr. Chairman, what is the order?

Mr. DINGELL. The reason that request has been made—and a request has been made to put this on suspension—is that if the process of delay persists, we will be able to obviate the need for the continuing consideration of badly drawn amendments which merit no support and which achieve no support in the House.

Mr. WEAVER. Mr. Chairman, may I speak also?

Mr. DINGELL. That is the reason that this has been done. It is my hope that we can still give the gentleman an opportunity to be heard on meaningful amendments. Now, he said he has got 15 hours of amendments. I think that shortly the House is going to be tired of listening to those 15 hours of amendments, which number something on the order of 100 in the RECORD as published.

Mr. BAUMAN. So we will continue tomorrow with more amendments all day on this bill?

Mr. DINGELL. Well, at a given point I think the Committee is going to come to the conclusion that the behavior here is dilatory.

Now, the gentleman from Oregon has tied the House up for days, and he has said that he has got 15 more hours of amendments which are published in the RECORD.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I have to say that, on the basis of the amount of the amendments that he has published in the RECORD, it is quite conceivable that he can tie the House up for 15 hours.

Now, I will tell the gentleman, if he will permit, when it looks like he is really trying to do that and the House has lost patience, I think those of us who are managing the bill on both sides of the aisle will then try to choose a more sensible course, which will probably be suspension.

Mr. BAUMAN. Mr. Chairman, in fairness to the gentleman from Oregon whose name has been mentioned, I did want to observe before I yield to him that the gentleman from Michigan claims to know what is going to happen to this bill, and that in itself is a quality of leadership. Perhaps he should consider presenting himself to his caucus in some fashion.

I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman from Maryland for yielding.

Mr. Chairman, I, too, have heard the rumor that it would be brought up under suspension, and certainly that would cut off all debate and would dispense with this bill promptly. My amendments are not dilatory. The amendment we just denied here is probably going to cost the Northwest $10 to $20 billion, something our economy cannot afford. Therefore, I feel my amendments are essential.

Mr. BAUMAN. Mr. Chairman, if I may reclaim my time——

The CHAIRMAN. The time of the gentleman has expired.

Mr. KAZEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. MCHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply and for other purposes, had come to no resolution thereon.

FIFTH ANNUAL REPORT OF THE U.S. NUCLEAR REGULATORY COMMISSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs and to the Committee on Interstate and Foreign Commerce:

(For message, see proceedings of the Senate of today, November 13, 1980.)

FIVE-YEAR PLAN FOR THE NATIONAL CLIMATE PROGRAM AS PREPARED BY DEPARTMENT OF COMMERCE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

(For message, see proceedings of the Senate of today, November 13, 1980.)

THE 18TH ANNUAL REPORT ON EMPLOYMENT, AND OCCUPATIONAL REQUIREMENTS, AND TRAINING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today, November 13, 1980.)

THIRD ANNUAL REPORT COVERING ENERGY CONSERVATION ACTIVITIES UNDERTAKEN BY FEDERAL AGENCIES DURING FISCAL YEAR 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

(For message, see proceedings of the Senate of today, November 13, 1980.)

THE 1979 ANNUAL REPORT OF ACTIVITIES CONDUCTED ON BEHALF OF HANDICAPPED PERSONS UNDER THE REHABILITATION ACT OF 1973—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message

main products here in the lame duck session. So I do not wish to create undue problems.

Mr. GIAIMO. Would the gentleman repeat his question?,

Mr ROUSSELOT. My question is, Does an objection really create substantial problems for the gentleman?

Mr. GIAIMO. Well, I believe that it does. I believe that it would be easier if the gentleman did not object and if we could get this filed tomorrow and proceed to consideration of this matter.

Mr. ROUSSELOT. Further reserving the right to object, I think the reason we do so is that we want to be sure, that we have adequate time to review the documents that will be forthcoming from the Budget Committee to explain what the budget resolution does. We have heard and seen a great deal on the news media about the 2-percent cut, where those cuts are, where they are proposed, will we have adequate time on this side of the aisle to see the printed documents? When will those be ready?

Mr. GIAIMO. The resolution that they voted out of the committee yesterday is available to the minority. They have voted on it. They voted against it, but they were there. They voted on it. They know what is included in it. When they are printed, I suspect, will be by tomorrow.

Mr. ROUSSELOT. Further reserving the right to object, I am talking about the committee reports.

Mr. GIAIMO. Yes.

Mr. ROUSSELOT. When does the gentleman think those will be printed and ready?

Mr. GIAIMO. I understand it has already been filed in the RECORD. It is available. The resolution is in the RECORD today.

Mr. ROUSSELOT. The gentleman is filing the committee report today in the RECORD?

Mr. GIAIMO. The resolution is in the RECORD today. The committee prints will be ready tomorrow.

Mr. ROUSSELOT. For all Members?

Mr. GIAIMO. Well, I assume for all Members if they are able to read.

Mr ROUSSELOT Well, I can assure the gentleman everybody on this side can read.

Mr. GIAIMO. I am sure.

Mr. ROUSSELOT. I am not trying to be facetious or funny. There is a genuine concern that Members should have the advantage of reading the report. Many times we do not always have adequate time to read and understand what we are voting on. We just want to be sure all Members have read it. It is an important part of the process. The gentleman knows that. We just want to be sure we have protected Members. I am still trying to find out, did the gentleman have a chance to discuss this with our minority leader, the gentleman from Arizona (Mr. RHODES)?

Mr. GIAIMO No, I have not discussed it with the gentleman from Arizona (Mr. RHODES), but I have discussed it with the minority on the committee.

Mr. ROUSSELOT. Could the gentleman give us a little more time? Will the gentleman withdraw the unanimous-consent request, and we will talk it over a little more so that we know what is going on?

Mr. GIAIMO. Fine.

Mr. ROUSSELOT Thank you.

Mr. GIAIMO Mr. Speaker, I withdraw my unanimous-consent request.

The SPEAKER pro tempore. The unanimous-consent request is withdrawn.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr KAZEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—years 347, nays 5, answered "present" 4, not voting 76, as follows:

[Roll No 624]

YEAS—347

Abdnor	Bouquard	Courter
Addabbo	Bowen	Crane, Daniel
Albosta	Brademas	Crockett
Alexander	Brinkley	D'Amours
Anderson, Calif	Brodhead	Daniel, Dan
Andrews, N C.	Brooks	Daniel, R W
Andrews, N Dak	Broomfield	Danielson
Annunzio	Brown, Calif.	Daschle
Anthony	Brown, Ohio	Davis, Mich.
Applegate	Broyhill	de la Garza
Archer	Buchanan	Derrick
Ashbrook	Burgener	Devine
Ashley	Burton, John	Dickinson
Atkinson	Burton, Phillip	Dicks
AuCoin	Butler	Dingell
Badham	Campbell	Dixon
Bafalis	Carney	Donnelly
Bailey	Carr	Dornan
Baldus	Carter	Dougherty
Barnard	Cavanaugh	Downey
Barnes	Chappell	Drinan
Beard, Tenn.	Cheney	Duncan, Tenn
Benjamin	Clausen	Early
Bennett	Clay	Edwards Ala
Bereuter	Cleveland	Edwards, Calif
Bethune	Clinger	Edwards, Okla
Biaggi	Coelho	Emery
Bingham	Collins, Ill	English
Blanchard	Collins, Tex.	Erdahl
Boggs	Conable	Ertel
Boland	Conte	Evans, Del
Boner	Conyers	Evans, Ind
Bonior	Corcoran	Fary
Bonker	Corman	Fascell
	Cotter	Fazio
	Coughlin	Fenwick
	Crane, Philip	Ferraro
	Daniel, Dan	Findley
	Daniel, R W	Fish
	Danielson	Fisher
	Daschle	Flippo
	Davis, Mich.	Florio
	de la Garza	Foley
	Derrick	Ford, Mich.
	Devine	Ford, Tenn.
	Dickinson	Forsythe
	Dicks	Fountain
	Dingell	Fowler
	Dixon	Fuqua
	Donnelly	Garcia
	Dornan	Gaydos
	Dougherty	Gephardt
	Downey	Giaimo
	Drinan	Gibbons
	Duncan, Tenn	Gilman
	Early	Glickman
	Edwards Ala	Gonzalez
	Edwards, Calif	Goodling
	Edwards, Okla	Gore
	Emery	Gradison
	English	Gramm
	Erdahl	Grassley
	Ertel	Gray
	Evans, Del	Green
	Evans, Ind	Grisham
	Fary	Guarini
	Fascell	Gudger
	Fazio	Guyer
	Fenwick	Hagedorn
	Ferraro	Hall, Tex.
	Findley	Hamilton
	Fish	Hammer-schmidt
	Fisher	Hance
	Flippo	Hansen
	Florio	Harkin
	Foley	Harris
	Ford, Mich.	Harsha
	Ford, Tenn.	Hawkins
	Forsythe	Hefner
	Fountain	Hightower
	Fowler	Hillis
	Fuqua	Hinson
	Garcia	Holland
	Gaydos	Hollenbeck
	Gephardt	Holt
	Giaimo	Hopkins
	Gibbons	Horton
	Gilman	Howard
	Glickman	Hubbard
	Gonzalez	Huckaby
	Goodling	Hughes
	Gore	Hutchinson
	Gradison	Hutto
	Gramm	Hyde
	Grassley	Ichord
	Gray	Ireland
	Green	Jacobs
	Grisham	Jeffords
	Guarini	Jeffries
	Gudger	Johnson, Calif.
	Guyer	Jones, N C.
	Hagedorn	Jones Okla
	Hall, Tex.	Jones Tenn
	Hamilton	Kastenmeier
	Hammer-schmidt	Kazen
	Hance	Kelly
	Hansen	Kemp
	Harkin	Kildee
	Harris	Kindness
	Harsha	Kogovsek
	Hawkins	LaFalce
	Hefner	Lagomarsino
	Hightower	Latta
	Hillis	Leach, Iowa
	Hinson	Leach, La.
	Holland	Leath Tex.
	Hollenbeck	
	Holt	
	Hopkins	
	Horton	
	Howard	
	Hubbard	
	Huckaby	
	Hughes	
	Hutchinson	
	Hutto	
	Hyde	
	Ichord	
	Ireland	
	Jacobs	
	Jeffords	
	Jeffries	
	Johnson, Calif.	
	Jones, N C.	
	Jones Okla	
	Jones Tenn	
	Kastenmeier	
	Kazen	
	Kelly	
	Kemp	
	Kildee	
	Kindness	
	Kogovsek	
	LaFalce	
	Lagomarsino	
	Latta	
	Leach, Iowa	
	Leach, La.	
	Leath Tex.	
	Lederer	Rodino
	Lee	Roe
	Lehman	Rose
	Levitas	Rosenthal
	Lewis	Rostenkowski
	Livingston	Roth
	Loeffler	Rousselot
	Long, La.	Roybal
	Long, Md	Royer
	Lott	Russo
	Lowry	Sabo
	Lujan	Santini
	Luken	Sawyer
	Lundine	Scheuer
	Lungren	Schroeder
	McClory	Schulze
	McCormack	Sebelius
	McHugh	Seiberling
	McKay	Sensenbrenner
	McKinney	Shannon
	Maguire	Sharp
	Markey	Shelby
	Marks	Shuster
	Marriott	Simon
	Martin	Skelton
	Matsui	Smith, Iowa
	Mattox	Smith, Nebr
	Mavroules	Snowe
	Mazzoli	Snyder
	Mica	Solarz
	Michel	Solomon
	Mikulski	Spence
	Miller, Calif.	Stack
	Miller, Ohio	Staggers
	Mineta	Stangeland
	Minish	Stark
	Mitchell, N Y.	Steed
	Moakley	Stenholm
	Moffett	Stratton
	Mollohan	Studds
	Montgomery	Stump
	Moore	Swift
	Moorhead, Calif.	Symms
	Mottl	Synar
	Murphy, Pa.	Tauke
	Murtha	Tauzin
	Musto	Taylor
	Myers, Ind.	Traxler
	Natcher	Trible
	Nelson	Udall
	Nichols	Ullman
	Nowak	Vander Jagt
	Oakar	Vanik
	Oberstar	Volkmer
	Obey	Walgren
	Panetta	Walker
	Pashayan	Wampler
	Patten	Watkins
	Paul	Waxman
	Pepper	Weaver
	Perkins	Weiss
	Petri	White
	Peyser	Whitehurst
	Pickle	Whitley
	Porter	Whittaker
	Preyer	Whitten
	Price	Williams, Mont
	Pritchard	Williams, Ohio
	Pursell	Wilson, Tex.
	Quayle	Wirth
	Quillen	Wolff
	Rahall	Wolpe
	Railsback	Wright
	Rangel	Wyatt
	Ratchford	Wydler
	Regula	Yates
	Reuss	Yatron
	Rhodes	Young, Alaska
	Rinaldo	Young, Fla
	Robinson	Young, Mo
		Zeferetti

NAYS—5

Bauman	Lloyd	Wilson, Bob
Edgar	Mitchell, Md.	

ANSWERED "PRESENT"—4

Duncan, Oreg.	Kramer	Roberts
Kostmayer		

NOT VOTING—76

Akaka	Byron	Erlenborn
Ambro	Chisholm	Evans, Ga
Anderson, Ill.	Coleman	Fithian
Aspin	Crane, Philip	Frenzel
Beard, R.I.	Dannemeyer	Frost
Bedell	Davis, S C.	Gingrich
Bellenson	Deckard	Ginn
Bevill	Dellums	Goldwater
Bolling	Derwinski	Hall, Ohio
Breaux	Dodd	Hanley
Burlison	Eckhardt	Heckler

Heftel	Murphy, Ill.	St Germain
Holtzman	Murphy, N.Y.	Stanton
Jenkins	Neal	Stewart
Jeanette	Nedzi	Stockman
Johnson, Colo.	Nolan	Stokes
Leland	O'Brien	Thomas
Lent	Ottinger	Thompson
McCloskey	Patterson	Van Deerlin
McDade	Pease	Vento
McDonald	Richmond	Wilson, C. H.
McEwen	Ritter	Winn
Madigan	Rudd	Wylie
Marlenee	Satterfield	Zablocki
Mathis	Shumway	
Moorhead, Pa.	Spellman	

□ 1530

Mr. MARKEY changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill, S. 885, with Mr. MCHUGH in the chair.

The Clerk read the title of the bill.

□ 1540

The CHAIRMAN. When the Committee of the Whole House rose on Monday, September 29, pending was an amendment in the nature of a substitute offered by the gentleman from Oregon (Mr. WEAVER) to the text of the bill, H.R. 8157, which was being considered as an original text, and was open to amendment at any point.

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we once again take up the northwest power bill after the election, and I wanted to review briefly with Members what this bill is about. First, let me say that this bill has been in the works for 4 years. One of the essential parts that has always been said about the bill is that it must represent a consensus in the Northwest. It is a regional bill. Even though it has broad national implications, it is, nevertheless, restricted to the Bonneville Power Administration marketing area so, therefore, consensus was essential and necessary for this bill to be brought into effect.

No consensus exists, Mr. Chairman. Three of the newly elected Congressmen, Congressman AUCOIN, myself, and Congressman-elect Wyden from Portland oppose the bill in its present form.

The four public utilities in Oregon oppose the bill strongly. The Eugene Water & Electric Board, my home utility and the largest public utility in Oregon, adamantly and strongly opposes the bill. Let me tell you why the Eugene Water & Electric Board opposes this bill. The Eugene Water & Electric Board is one of the most aggressive utilities in the Nation in developing its own energy sources. Only in the last week it has announced four new hydro projects that will meet its low growth needs for many years. The Eugene Water & Electric Board is also developing other projects—geothermal, wood waste, and many other forms of energy and will meet its needs. It is actually selling surplus electricity now to California.

Under this bill, that initiative by the Eugene Water & Electric Board would be destroyed. This bill would destroy the initiative of such utilities as the Eugene Water & Electric Board to develop their own energy sources. It creates a new Federal bureaucracy, a new Federal agency, and empowers an existing Federal bureaucracy—the Bonneville Power Administration—with vast new powers to mandate any project that this Federal agency decided upon on every utility in the Northwest. The reason that they want to do this is to finance staggeringly expensive new projects that they cannot finance themselves.

The bill creates an entirely new bureaucracy and empowers an existing Federal bureaucracy with vast new powers to mandate on every utility in the Northwest the costs and the burden of any new project they decide upon. There are consortia developing in the Northwest to create new energy. That is fine. Several utilities have announced construction plans for three new nuclear plants. They may do that without a bill. The proponents of the legislation say it is a conservation bill. They say that renewable resources will be developed by the bill. That can all be done without a bill.

The Bonneville Power Administration has the authority to do the conservation programs without a bill.

What this bill is all about is simply to empower the Bonneville Power Administration to mandate to all utilities whatever this Federal bureaucrat decides upon.

□ 1550

Now, my utility says, "Look, we can meet our load growth much cheaper, much more effectively, without having this mandate. Do not destroy our initiative. Please do not destroy our utility. Let us do our job."

And so I will be offering an amendment. I call the Members attention to this critical amendment that I will be offering. It is called freedom of choice. It is a very simple, very brief amendment. It simply allows any utility in the Bonneville region to decide whether or not to invest in any project the Bonneville Power Administrator decides on. That is all.

Mr. BONKER. Mr. Chairman, will the gentleman yield for a moment?

Mr. WEAVER. I yield to the gentleman from Washington.

Mr. BONKER. As I understand it, the gentleman's amendment, which he terms the freedom of choice, would enable a utility to opt out of the program. But it is my understanding that, under the existing provisions of S. 885 that is before this body, the utilities already have the right and the opportunity to opt out of the program or, indeed, if their own energy program is incompatible with the regional energy plan that is adopted by the council, they can opt out.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. WEAVER) has expired.

(By unanimous consent, Mr. WEAVER was allowed to proceed for 3 additional minutes.)

Mr. WEAVER. Mr. Chairman, may I say to the gentleman that they would lose, then, all of the hydroelectricity allotment from Bonneville.

May I ask the gentleman—he has many utility districts in his congressional district—would any of them say, "We do not want any more hydroelectricity from Bonneville"?

Mr. BONKER. All of the public utilities in my district, as the gentleman knows, support this legislation.

Mr. WEAVER. I ask the gentleman: Would they say, "We do not want any more electricity"?

Mr. BONKER. I think the preference requirements of the Bonneville Act——

Mr. WEAVER. Would the gentleman answer my question? Would any of the utilities in his district say, "No, we do not want Bonneville cheap hydroelectricity"?

Mr. BONKER. I think that, under the existing provisions of this act, the utilities will opt in the program because they realize the benefits are there.

Mr. WEAVER. May I ask the gentleman this, then, Why not, then, if that is the case, support my freedom of choice amendment that the Eugene Water and Electric Board so strongly desires and allow a utility to say whether or not they will participate in any given project? Is that not a decent thing to do?

Mr. BONKER. Well, I am all for doing decent things.

Mr. WEAVER. Is that not a decent thing to do?

Mr. BONKER. The utilities already have the opportunity to opt out of the program, so the amendment is not necessary.

Mr. WEAVER. Then why would not the gentleman support my amendment?

Mr. BONKER. The utilities already have the opportunity to opt out.

Mr. WEAVER. Why would the gentleman not support my amendment, then?

Mr. BONKER. Because the gentleman realizes that this bill represents a very delicate balance, and if we start adding amendments at this stage, it will force a conference which will do in the bill.

Mr. WEAVER. I will tell the gentleman that the bill started with 19 pages, went to 40 pages, went to 80 pages, is now 103 pages. And so I say to the gentleman that there have been many amendments in the bill, dozens and dozens of them. But I can only tell the gentleman that my freedom of choice amendment simply does this:

It allows any individual utility to decide whether or not to invest in any given project by the Bonneville Power Administrator, and that amendment would continue the initiative and the incentive for utilities to develop their own energy sources. It is only on any specific project. And so with that amendment, the bill then becomes tolerable. The bill becomes tolerable with that amendment because it does not destroy individual initiative.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I simply want to ask the gentleman a couple of questions to see just where we are with this bill.

Am I correct in my recollection that the

gentleman now has pending a substitute to the entire bill?

Mr. WEAVER. That is correct.

Mr. LUJAN. And this amendment that the gentleman is offering is now an amendment to the substitute that the gentleman offered; is that correct?

Mr. WEAVER. No.

First, let me say that I have lost my glasses and, therefore, I hear the friendly and wonderful voice of my dear friend, the gentleman from New Mexico, but I cannot see him. I assume that that fine, outstanding Member is the person I am addressing. And I say to my distinguished friend from New Mexico that I have not offered an amendment yet. I moved to strike the last word I will be offering several amendments. They will be, however, to the bill before the House, not to the substitute.

Mr. LUJAN. We do not, then, have an amendment in the nature of a substitute that has been offered already?

Mr. WEAVER. There is such, and it is pending; but you can also at the same time offer amendments to the original bill. And my amendments will be to the original bill.

Mr. LUJAN All right. Now, let me ask the gentleman, for clarification: During committee, the gentleman had a great number of amendments Is it still the intention of the gentleman to offer in the neighborhood of 50 to 75 amendments?

Mr WEAVER We will be selecting only the most important fundamental amendments and offering those at this time.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. WEAVER) has again expired.

(On request of Mr LUJAN and by unanimous consent, Mr. WEAVER was allowed to proceed for 2 additional minutes)

Mr. WEAVER. The basis on which I will select the amendments to offer is this The bill, as it stands now, if enacted into law, would probably seriously undermine the economy of the Northwest. It would cost us tens of thousands of jobs. take purchasing power out of the Northwest. It would literally devastate, over the next generation, our economy. So, therefore, I will select those amendments that try to keep our economy on something of an even keel. There are amendments that will be good, important as a matter of fact, for the proper working of this bill, if enacted; but I will select only those amendments that are essential in order to keep the bill from destroying our livelihood in the Northwest.

Mr. LUJAN. If the gentleman would continue to yield, could the gentleman give us some kind of an idea as to how many amendments the gentleman will offer during the course of the consideration of the bill?

Mr. WEAVER. I would be delighted to.

Mr. LUJAN. Just a rough idea. A ballpark figure would be fine.

Mr. WEAVER. I would be delighted to.

This bill was on the schedule. But when we came this morning, we were told that it would not be brought up until next week. So we did other work instead of sitting down and preparing our floor situation, thinking that we had a number of days to go. So we have not done that work yet of sorting out exactly which amendments are essential to preserve the economy of the Northwest.

Mr. LUJAN. So the gentleman does not know how many?

Mr. WEAVER. Not yet; I will pare it to the bone, I will say to my friend. Only those that are absolutely essential to preserve the economy of the Northwest. That will be the sole criteria. There are other amendments that would very much help the workings of the bill. But we will just weed them out, weed as many amendments out, on the basis that, yes, they are good for the bill, but they would not really preserve the economy of the Northwest; we will keep only those amendments that will keep the livelihoods in the Northwest that this bill will destroy.

☐ 1600

Mr. LUJAN If the gentleman will continue to yield, would it be within the realm of possibility that we would finish this bill today?

Mr. WEAVER. I have no idea of what time we are going out, so I could not tell the gentleman. I have no idea what time for debate will be

Mr. EDWARDS of Oklahoma Mr. Chairman, I move to strike the last word.

(Mr FDWARDS of Oklahoma asked and was given permission to revise and extend his remarks)

Mr. EDWARDS of Oklahoma. Mr Chairman, Mr. LOWRY has an amendment to this bill which would modify the provision authorizing the Bonneville Power Administration to enter into contracts with utilities—both public and private—which are constructing new powerplants or acquiring other energy resources. By the terms of these contracts the BPA will agree to purchase all or part of the potential output of these plants, thus underwriting their financing whether or not these plants ever operate, operate below capacity, or are constructed at an unreasonable cost.

It sets a dangerous precedent for BPA to assume the risk of financing all or part of the cost of a new powerplant or other energy resource Either these new plants are necessary and the utilities in the region will build them themselves, without BPA participation, or they are not necessary and the utilities should not build them. There is no reason to supplant or distort this basic marketplace decision. If the utility or utilities responsible for constructing and operating the plant cannot obtain the necessary financing or do not wish to build a plant without BPA participation, the plant should not be built

Rate disparities in the Northwest are in the process of being reduced and are a result of a large number of factors other than wholesale power rates. At present there is a lot of competition among utilities. This competition is healthy and should be encouraged, rather than discouraged.

None who favors cutting back on the powers of the Department of Energy should support this guranteed purchase provision, which represents yet one more step toward Government intrusion into energy production. BPA is a marketing agency and should not be given powers—such as financial participation in the construction of new powerplants—which are appropriate only for a utility.

The Lowry amendment would allow BPA to make long-term purchases of surplus power, but not to participate in the financing of new plants as if it were just another utility. This is all that the proponents of the bill can reasonably demand, without setting a dangerous precedent for the Nation.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I will be glad to yield.

Mr. LUJAN. Let me ask the gentleman just one question. What happens if, say, the Public Service Co. of Oklahoma in the gentleman's State, if that is the name of the private utility there, builds a powerplant and it did not work? Would the rate payers of Oklahoma still have to pay that charge or not?

Mr. EDWARDS of Oklahoma. If the utility in Oklahoma goes ahead and makes the decision to build the powerplant and it does not work, there is a financial failure, the company would absorb the loss unless the Corporation Commission of the State of Oklahoma allowed them to pass that cost on.

Mr LUJAN I thank the gentleman.

AMENDMENTS OFFERED BY MR DINGELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. DINGELL Mr. Chairman, I offer a series of technical amendments to the amendment in the nature of a substitute, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr DINGELL to the amendment in the nature of a substitute Page 2, line 4, strike out the period and closing quotation marks and insert in lieu thereof closing quotation marks followed by a period.

Page 13, line 5, before the period insert "of the General Schedule".

Page 14, line 2, strike out the comma and insert in lieu thereof a dash

Page 18, line 1, after the period insert. 'In order to carry out such functions and responsibilities expeditiously, the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service shall take into consideration any actions of the Council under this subsection, and may review, modify, or confirm such actions without further proceedings.".

Page 19, line 23, after "Services" insert "Administration".

Page 21, line 3, strike out "or" and substitute "and".

Page 24, after "habitat" insert a comma

Page 30, line 24, after "(B)" insert "establishing".

Page 31, line 2, strike out the comma and insert in lieu thereof a semicolon

Page 38, line 1, strike out "losses" and insert in lieu thereof "losses".

Page 38, line 24, after "shall" insert "establish procedures for timely comments thereon The Council shall".

Page 39, line 1, strike out "Administrator" and substitute "Administrator".

Page 39, line 14, strike out the comma

Page 49, in lines 13 and 14, strike out "(ii)" and substitute "(1)".

Page 49, line 15, strike out "admistrator" and substitute "Administrator".

Page 55, line 22, strike out "subsections" and insert in lieu thereof "subsection".

Page 69, line 16, strike out "but in excess" and insert in lieu thereof "but not in excess".

Page 70, line 11, strike out "interior" and substitute "interim".

Page 73, strike out lines 19 and 20 and insert in lieu thereof the following: "istrator's action under this Act were not achieved."

Page 74, line 9, after "overrecovery" insert "or".

Page 79, strike out the comma after "before" and insert a coma after "of".

Page 80, line 16, strike out "such enactment" and substitute "the effective date of this Act".

Page 82, line 16, strike out "sections" and insert in lieu thereof "section".

Page 88, line 2, strike out "sections" and insert in lieu thereof "section".

Page 88, line 9, strike out "energy" and insert in lieu thereof "Energy".

Page 88, beginning in line 10, strike out "sections" and insert in lieu thereof "section".

Page 89, line 14, strike out "837(b)(d))," and insert in lieu thereof "837b(d)),".

Page 90, line 19, strike out "for" and insert in lieu thereof "For".

Page 91, in lines 2, 6, and 8, strike out the comma and insert in lieu thereof a semicolon.

Page 91, line 12, strike out "section" and insert in lieu thereof "subsection".

Page 94, line 23, strike out the comma and insert in lieu thereof a dash.

Page 94, line 24, after "board" insert a comma.

Page 99, line 18, strike out "cost effective" and insert in lieu thereof "cost-effective"

Page 103, line 2, strike out "or"

Mr. DINGELL (during the reading) Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with and that they be printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, copies of these amendments have at an earlier time been made available to my colleagues on both sides of the aisle. They correct the printing that was done in the Government Printing Office wherein words were dropped and commas were inserted that did not belong; wherein one section which was in one part of the bill should have been in another part of the bill; where there are misspellings; where words were failed to be capitalized; eliminating a comma; striking out certain numbering which was incorrectly done in the Government Printing Office; changing words like "subsections" to "subsection" and from the plural to the singular; adding "in lieu of but not in excess"; the words "not in excess" in lieu thereof; striking out the word "interior" and putting in the word "interim"; and inserting some additional language to complete a sentence; putting in certain other words which were dropped or which were incorrectly placed in the legislation; inserting commas and putting a hyphen in the words "cost and effective" so as to convert it to one word; and striking the disjunctive, "or". I urge adoption of the amendment.

Also at this time I want to state my understanding that the term "existing direct-service industrial customer" does not mean to include a plant that is presently served by a utility but which is owned by a company that also owns other facilities that are served as direct-service industrial customers. For example, Crown Zellerbach has a plant served by the Clatskanie PUD, a utility, in Oregon, and a different plant at Port Townsend, Wash., which is a direct-service industrial customer facility. It is also my understanding that the bill is not meant to permit BPA to serve, or to begin to serve, the Crown Zellerbach plant in Oregon as a direct-service industrial customer.

The bill does not authorize service by BPA to any new DSI's, and that term would preclude BPA service to an industrial facility that is presently served by a utility such as the Crown Zellerbach plant served by the Clatskanie PUD.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Michigan (Mr. DINGELL) to the amendment in the nature of a substitute offered by the gentleman from Oregon (Mr. WEAVER).

The amendments to the amendment in the nature of a substitute were agreed to.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: Page 48, line 23, after "customer" insert "and, notwithstanding any provision of section 7, such electric power shall be sold at a price that reflects the full cost of acquiring such power plus the appropriate administrative costs of the Administrator".

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. DINGELL) reserves a point of order.

Mr. WEAVER. Mr. Chairman, this bill now, being 103 pages, is riddled with things that are in it to give various entities a real nice situation, all of them at the expense of the small business, farm, and residential ratepayers of the Northwest. One of these, and one of the most flagrant, is a provision in here that would allow bonneville to write a new 20-year contract with Alumax Aluminum Co. for a plant that is not built yet—a 20-year contract for a plant that is not built yet—and the amount of electricity reserved for Alumax is 320 megawatts. That is almost enough to serve my entire congressional district—my entire congressional district—and Alumax would get it at a much cheaper rate than my residents will pay for it, my small businesses will pay for it.

Now, when I tell the Members that Aluminax is half-owned by the Japanese, and therefore my constituents will be subsidizing the Japanese, perhaps that will not mean anything to them, but it does mean something to my constituents. Their electric bills are already high and going higher, and they do not like the idea of their electrical bills going even higher than they are so that some Japanese company can benefit.

Also, the reservation of 320 megawatts takes that much electricity out of the Northwest pool, so I would like to ask the chairman and the sponsors of the bill if they would not mind responding to a question. Would Chairman KAZEN mind responding to a question?

Mr. KAZEN. I will try to answer the gentleman's question.

Mr. WEAVER. It has been said that the reason for this bill is that there is a shortage of electricity in the Northwest. Now, if that is the case, how can we justify setting aside 320 megawatts of electricity for an aluminum company half-owned by the Japanese, that is not built yet? If there is a shortage, how can we do that?

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I would be delighted to yield.

Mr. BROWN of Ohio. I would just say to the gentleman that I thought I heard him in the well a minute ago—my ears may have deceived me because it is awfully hard to hear in the Chamber sometimes—that he was concerned about jobs for the people in his area.

Mr. WEAVER. Right.

Mr. BROWN of Ohio. I would think an aluminum company building a plant in his area would provide some jobs.

□ 1610

Mr. WEAVER. Mr. Chairman, may I say to my dear friend, the gentleman from Ohio, that the lumber industry is the main industry in our Northwest, and that the number of jobs—and they have done a study of this—created by the same amount of electricity would be something like 20 times the number of jobs for the same amount of electricity.

May I also make one further point for the gentleman? I want the gentleman to get this point. We would have to build, in order to supply this electricity to this plant, a billion-and-a-half-dollar generating facility. My constituents' purchasing power would be drained to pay this billion and a half dollars, and, therefore, the number of jobs created will be decreased by thousands because the purchasing-power in my constituents will not be there to buy the goods from the local industry. And also may I say that the timber industry could use the same electricity and create 20 times the number of jobs.

Does that answer the gentleman's question?

Mr. BROWN of Ohio. Not really very well. May I proceed?

Mr. WEAVER. Go ahead. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, I know that there are such things as aluminum boats and wooden boats, but it occurs to me there are uses for aluminum that may not be preferable to wood. It seems to me that wood and aluminum are both industries that provide work and jobs.

Mr. WEAVER. Mr. Chairman, let me ask the gentleman a question.

Mr. BROWN of Ohio. Certainly.

Mr. WEAVER. Would the gentleman allow a corporation to come in or would he want a corporation to come into his district, a corporation that is owned by the Japanese or owned by a foreign company, that was going to raise the electric rates of his constituents?

Mr. BROWN of Ohio. It is funny that the gentleman should ask. I have a Japanese firm that has made a rather substantial investment in my district to build motorcycles, and just yesterday or

the day before it announced that it will have the ground-breaking started on a 2,000-job automobile plant that will cost $200 million to build. The name of the company is Honda. It is, at the last report, Japanese, and it will provide jobs for people in my district. I think that is commendable, and that is why I find the gentleman's attitude so peculiar.

Mr. WEAVER. I think that is wonderful.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. WEAVER) has expired.

Mr. WEAVER. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. DINGELL. Mr. Chairman, reserving the right to object, we have a very limited amount of time at our disposal, and, therefore, I must object.

The CHAIRMAN. Objection is heard.

Mr. WEAVER. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for an additional 4 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. DINGELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. WEAVER. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for an additional 3 minutes.

The CHAIRMAN. Is there objection to the request of the gentelman from Oregon?

Mr. DINGELL. Mr. Chairman, reserving the right to object, I simply want to announce to the House that I will be compelled, in view of the time constraints, to object to such requests after this because I want to insure that the proceedings of the House are expedited. I will allow the gentleman to have this additional time, but I will object to all further unanimous-consent requests for extension of time. I observe that we have had 2 hours of general debate and many hours to consider amendments prior to the recess, as well as today.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. The gentleman from Oregon (Mr. WEAVER) is recognized for 3 additional minutes.

Mr. WEAVER. Mr. Chairman, I would like to explain this further to my friend, the gentleman from Ohio (Mr. BROWN).

I will ask the gentleman, does he understand what my amendment provides? Perhaps the gentleman does not understand the amendment. My amendment only says that this company can come in and build the plant; they can get their contract, but they pay the going rate for electricity. I just do not want my constituents to subsidize them. I do not think the gentleman's constituents are going to subsidize the Honda plant in his district.

My only objection is to a subsidy of $1.5 billion that my constituents will have to pay. If the gentleman's company pays the going rate for new electricity production, my amendment only says they shall also pay for that.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. WEAVER. Yes, I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I am under the impression that part of the objective of this bill was to assure that we get in the Northwestern part of the United States, where, in spite of the population-limiting aspects of the gentleman's home State where there is a need for electric power, new electricity that would be used for the development of industry.

Mr. WEAVER. Absolutely.

Mr. BROWN of Ohio. And I understood that one of the industrial uses of that electricity is for the aluminum industry because the aluminum industry had a clear choice as to whether or not it was going to build the facilities in the Northwestern part of the United States or in some other part of the United States.

Mr. WEAVER. Mr. Chairman, I have a limited amount of time, and I will not yield further.

Let me say to the gentleman that we have 11 aluminum plants in the Northwest. We have a vital industry that produces a vital product, and these plants already produce one-third of the aluminum in the United States. This is one plant.

The only thing my amendment asks is that they pay the going rate for electricity. That is all we are asking. If they build the plant—and they can under the bill—with the amount of jobs at stake, if there is a shortage of electricity in the Northwest, how can we afford to set aside 320 megawatts for a Japanese-owned firm and let them get their electricity cheap while my constituents and everybody else's constituents must pay this $1½ billion in order to build a new plant?

Mr. Chairman, I plead with the gentleman. This is incredible.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, let me ask the gentleman, is the project in question in his district?

Mr. WEAVER. No. It has been bandied about in various areas, but it affects the electricity rates in my district very directly.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. WEAVER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. What about the Hanna nickel plant?

Mr. WEAVER. That is in my district. I am very proud of that plant.

Mr. BROWN of Ohio. Will they be paying lower rates? Will the Hanna Nickel plant be paying lower rates?

Mr. WEAVER. They will pay the going rate. It will be the going rate for the direct service industries.

Mr. BROWN of Ohio. They are subsidized, however?

Mr. WEAVER. Oh, yes. Yes, they are highly subsidized.

Mr. BROWN of Ohio. I see. Could the gentleman explain to me what the distinction is?

Mr. WEAVER. This is a new plant. It has not even been built yet.

Mr. BROWN of Ohio. But it will bring in jobs?

Mr. WEAVER. No, it will hurt jobs. The gentleman should understand that we can produce 20 times the number of jobs with the same electricity, and that is 20 times the number of jobs with the same capital.

Mr. BROWN of Ohio. Mr. Chairman, I think the gentleman will find that the result would be different than he anticipates.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The Chair will inquire first, does the gentleman from Michigan (Mr. DINGELL) continue to reserve his point of order?

Mr. DINGELL. I do not reserve the point of order, Mr. Chairman.

The CHAIRMAN. The gentleman withdraws his point of order.

The gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes in opposition to the amendment.

Mr. DINGELL. Mr. Chairman, I know that the gentleman from Oregon (Mr. WEAVER) offers this amendment in good faith, but I must observe that the amendment is a bad one.

First of all, the amendment purports to do something which in fact it does not. It purports to protect jobs. In point of fact, it will prevent the construction of a plant.

As written, section 5(e) is the provision that forces all BPA customers to take responsibility for making available to BPA enough power to meet their own load growth. Section 5(e) provides that if BPA at some point lacks sufficient power to meet its obligations, it must "allocate" its available power by providing back to each customer the amount of power the customer has sold to BPA. Thus, "you get what you put in" during insufficiency.

If a customer has sold to BPA more than enough power to meet its own load, that customer will have during insufficiency an "excess" entitlement. Section 5(e) provides that excess entitlements shall be distributed by BPA first among customers of the same class—publics, privates, Federal agencies and DSI's.

The amendment would eliminate the DSI's as a class, so that the excess entitlement of any DSI would not be made available first to other DSI's.

Section 5(e) deals with the return of power BPA buys from a customer, not the "sharing" of power BPA sells to a customer. This section does not permit other DSI's to "share" power that BPA is obligated to provide to Alumax. It deals only with the return of power purchased from a customer (and even then, only during periods of insufficiency).

It is already illegal for the Alumax power to be sold to any other DSI or group of DIS's. Under the Bonneville Project Act, such a sale would immedi-

ately and automatically void the Alumax contract thus cutting off the power

The only effect of the amendment would therefore be to discourage the DSI's from selling power to BPA since the power would not be returned to the DSI's as a class if BPA became insufficient In other words, the amendment would be a disincentive for the DSI s to begin coming forward with power themselves

I urge rejection of the amendment

Mr KAZEN. Mr. Chairman, will the gentleman yield?

Mr DINGELL. I yield to the gentleman from Texas.

Mr KAZEN Mr Chairman I thank the gentleman for yielding

Mr Chairman, the fact of the matter is that Alumax already has a contract?

Mr DINGELL. That is correct They do

Mr KAZEN And they do not need this legislation. But as soon as the environmental impact statement is completed and the plant is built, by bringing them under this legislation, they will at that time pay a much higher rate than they would pay under the existing contract

Mr DINGELL. The gentleman is correct

Mr KAZEN Therefore, I do not see what the gentleman is talking about in this amendment

Now, in our subcommittee the gentleman from Oregon offered an amendment which we accepted that allowed the Hanna Nickel Co a lower rate than what the gentleman is asking for over and above and beyond what this bill actually provides I do not think that is right

Mr WEAVER Mr. Chairman, will the gentleman yield?

Mr DINGELL. I cannot yield to the gentleman from Oregon (Mr WEAVER), but I do yield to my good friend, the gentleman from Oregon (Mr ULLMAN)

Mr ULLMAN. Mr Chairman I thank the gentleman for yielding.

I want to add my words of strong opposition to this amendment The Alumax Co does have a legitimate contract The committee has worked out a very equitable provision whereby service to that company will be delayed until the power is available, but that service ought to be delivered at the same rate and on the same basis as the other service industries in the Pacific Northwest That is the only way it is feasible That is the only way it is fair and equitable That is the only way they could get into business competing with the other firms

□ 1620

Therefore, I strongly oppose this amendment It is one that ought not to be passed I want the committee to support the compromise bill that has been worked out so carefully by the chairmen of the two committees involved

Mr DINGELL. Mr. Chairman I do, again, urge my colleagues to reject the amendment offered by the gentleman from Oregon (Mr. WEAVER) It is a bad amendment.

Mr LOWRY Mr Chairman, I move to strike the last word

Mr Chairman, I was going to speak on this amendment until there was objection when the gentleman from Oregon (Mr WEAVER) was trying to answer questions about this amendment

Since there was objection to the gentleman from Oregon being able to try to answer some questions, I asked for this time

It is my understanding that the Alumax contract is for a potential future plant that may or may not ever be built The contract will expire sometime in the future, approximately 1988–90 The legislation before us, if it is not amended, would in effect allow the renewal of that contract The Weaver amendment will change the status of that to a much more equitable position for the other ratepayers of the Northwest and that is why I support this amendment

Mr KAZEN Mr Chairman, will the gentleman yield?

Mr LOWRY I yield to the gentleman from Texas

Mr KAZEN That is like any other contract

Relative to the very first statement the gentleman made, I am not aware of any amendments that the gentleman offered to my subcommittee that were not considered by my subcommittee Does the gentleman speak of my subcommittee of the Committee on Interior and Insular Affairs?

Mr LOWRY I would say to the subcommittee chairman that we have numerous amendments we tried to have considered Some were considered I am not on that committee and I am not on the subcommittee of the Committee on Interstate and Foreign Commerce

Mr KAZEN Let me just tell the gentleman that I am not aware of any attempts made by the gentleman in the well to have any of the gentleman's amendments considered, and if they came forth I am sure my subcommittee considered them

Mr LOWRY I can tell the gentleman there were a number that came up and there were a number that were considered There were other efforts made.

I am here on the Alumax amendment in which a nonexisting business is going to be allocated approximately 320 megawatts when the entire city of Eugene uses maybe 250 megawatts That is very bad for job potential in the Northwest.

Mr KAZEN Will the gentleman yield?

Mr LOWRY I do yield to the gentleman from Texas

Mr KAZEN That contract is in existence now

Mr LOWRY That contract will expire without this legislation in approximately 1988 and the reason the aluminum companies and the OSI's have been before us to get this legislation is because those contracts will be expiring

I yield to the gentleman who did not have an opportunity to speak before

Mr WEAVER I would say to the gentleman, in the first place the Bonneville Power Administration can raise the rates on existing contracts You do not need a new law or a new contract to raise the rates on them They can do that now.

What my amendment does it simple. It says, if you want to build the Alumax aluminum plant, build it, but pay the rate of cost for electricity that it will cost the ratepayers to build at that time. Gentleman, that sounds fair to me Why should my constituents subsidize this? It sounds fair to me Why give this company the cheapest electricity in the Nation and my constituents and the constituents of the gentlemen from Washington, Messrs LOWRY, SWIFT and DICKS and the constituents of others will have to pay $1 5 billion to produce the electricity for this plant That $1 5 billion is going to come out of the capital the purchasing power and the wherewithal of the people of the Northwest It is therefore, going to drain jobs, capital and other things from the Northwest because the amount of jobs created by this aluminum company will be infinitesimal compared to the capital loss

Mr LOWRY Mr Chairman, I would like to take back my time to speak in favor of the amendment before us That is why I took this time I would urge adoption of this amendment by the gentleman from Oregon

Mr BROWN of Ohio Mr Chairman, will the gentleman in the well yield?

Mr LOWRY I yield to the gentleman from Ohio

Mr BROWN of Ohio Am I wrong or did I miss a point somewhere Is not the Hanna Nickel operation subsidized under this current arrangement?

Mr LOWRY I cannot answer that question I was not working on that.

Mr BROWN of Ohio Perhaps I could inquire of the chairman of the subcommittee

Mr LOWRY Are they in existence now?

Mr WEAVER Mr Chairman, I can answer the question Will the gentleman yield?

Mr LOWRY I yield to the gentleman from Oregon

Mr WEAVER There are 11 aluminum companies and five or six other direct service industries, large timber companies, a chemical, and a nickel mine The only nickel mine in the United States, the only one, the only producer of nickel in the entire country is in my district I am very proud of that We must for strategic purposes produce nickel but it gives no better deal than any of the other direct service industries

The CHAIRMAN The question is on the amendment offered by the gentleman from Oregon (Mr WEAVER)

The amendment was rejected

Mr LUJAN Mr Chairman I move to strike the last word

Mr Chairman we have previously been told there will be numerous amendments offered in an effort to delay this legislation until we finally call the bill off It is my impression there will be an attempt to defeat this legislation by means of offering amendments

Mr Chairman, this one amendment took 45 minutes I believe we ought to consider the legislation in a fair way rather than by killing it by offering amendments

Of course the gentleman from Oregon has a number of amendments in the

RECORD already and he will not be precluded from presenting them.

Mr. Chairman, I would ask unanimous consent that we set a time certain for the consideration of this bill and all amendments thereto of 5:30 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. AUCOIN. Mr. Chairman, I reserve the right to object.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, a point of order.

Is there a unanimous-consent request presently before the House?

The CHAIRMAN. The gentleman from New Mexico (Mr. LUJAN) has asked unanimous consent that all debate on the bill and all amendments thereto terminate at 5:30. The gentleman from Oregon (Mr. AUCOIN) has reserved the right to object.

Mr. DINGELL. Mr. Chairman, I withdraw my point of order.

Mr. AUCOIN. Mr. Chairman, I have heard the argument made, once again, that there are those who would try to kill this bill by overloading it with amendments and drag out the clock.

As a Member of this body who has amendments of his own, I want to say to the gentleman who seeks to limit debate that there are those of us who care deeply about the outcome of this legislation who live within the region affected by this legislation, who have amendments to offer and do not look upon their amendments as in any way being dilatory—but representing instead their own deeply held views and the concerns of a very large number of their constituents.

Mr. Chairman, I would not want it to be understood by the Members of this body that just because there happened to be a number of amendments—there are a number of amendments—that that represents a dilatory tactic. This bill happens to be the most controversial the Northwest has ever seen.

It should be no surprise to the gentleman from New Mexico (Mr. LUJAN), even though the gentleman lives a long way from the Pacific Northwest, that such a bill would spawn a large number of amendments. Many of these amendments could have been offered in the committee and a number of them were.

□ 1630

Some of them were successful. Some of them have come to light since then. But that does not mean that Members who offer them are dilatory. It means the Members who offer them are concerned as their constituents are concerned.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding.

I have repeatedly heard the comment made that any tactic at all, any legislative way of defeating this bill would be taken, and that is the reason that I was trying to ask unanimous consent. I am not wedded to the 5:30 time. I would just like to see some time set so that we could move on ahead.

As the gentleman knows, we are not going to be here forever. We are going to be here just a short time, and there is a lot of legislation to be considered.

Could we come to an agreement on the time?

Mr. AUCOIN. If I may reclaim my time, I understand the point the gentleman is making. But I think our colleagues need also to understand that a number of us who have amendments, who have been looking forward to the opportunity of offering them, who have looked forward to the opportunity of resolving the outcome of this legislation, were caught quite by surprise, as I think some of the proponents were, in the bringing up of the bill today. And, therefore, to seek an early closure of debate on amendments offered to this bill, would do a severe injustice to those of us who have these amendments who are not in any sense trying to be dilatory, but are very concerned about the outcome of the legislation.

Mr. LUJAN. If the gentleman will yield further, it does not preclude any Member from offering amendments. The gentleman from Oregon, for example, has a great number of amendments already in the RECORD, and even if we have a limitation of time, all of those amendments can be offered.

Mr. AUCOIN. I would say to the gentleman, I have been in this body now approximately 6 years. I have seen too many occasions in which amendments have to be, because of time limitations, considered with 30 seconds on each side. And as a resident of the Pacific Northwest, I do not want to see the debate on the pending amendments to this bill being considered under such an absurd situation. That would be the effect in my judgment of the limitation the gentleman seeks. And so, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. LUJAN. Mr. Chairman, I move that all debate on the bill and the amendment in the nature of a substitute and all amendments there to cease at 5:30.

The CHAIRMAN. The question is on the motion offered by the gentleman from New Mexico.

The question was taken, and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WEAVER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. WEAVER. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The pending business is the demand of the gentleman from Oregon (Mr. WEAVER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 95, not voting 92, as follows:

[Roll No. 625]

AYES—245

Abdnor	Fowler	Nelson
Addabbo	Frost	Nichols
Albosta	Fuqua	Nowak
Alexander	Gaydos	Oakar
Andrews, N.C.	Gephardt	Oberstar
Andrews, N Dak.	Giaimo	Obey
	Gibbons	Pashayan
Annunzio	Glickman	Patten
Archer	Gonzalez	Pepper
Ashbrook	Goodling	Perkins
Aspin	Gore	Peyser
Atkinson	Gradison	Pickle
Badham	Gray	Porter
Bafalis	Guarini	Preyer
Bailey	Gudger	Price
Baldus	Guyer	Pritchard
Barnard	Hagedorn	Quayle
Beard, Tenn.	Hall, Tex.	Quillen
Benjamin	Hamilton	Rahall
Bereuter	Hance	Railsback
Biaggi	Heckler	Rangel
Blanchard	Hefner	Rhodes
Boner	Hightower	Roberts
Bonior	Hillis	Robinson
Bonker	Hinson	Roe
Bouquard	Holland	Rose
Bowen	Holt	Rostenkowski
Brademas	Horton	Roth
Brinkley	Howard	Rousselot
Brooks	Hubbard	Royer
Brown, Ohio	Huckaby	Santini
Broyhill	Hutchinson	Sawyer
Burgener	Hutto	Scheuer
Butler	Hyde	Sebelius
Campbell	Ichord	Sharp
Carter	Ireland	Shelby
Cavanaugh	Jeffries	Shuster
Chappell	Jenkins	Simon
Cheney	Johnson, Calif.	Skelton
Clausen	Jones, N.C.	Smith, Iowa
Clinger	Jones, Okla.	Smith, Nebr
Coelho	Jones, Tenn.	Snowe
Collins, Ill.	Kazen	Snyder
Collins, Tex.	Kogovsek	Solarz
Conable	LaFalce	Solomon
Conyers	Lagomarsino	Spence
Corcoran	Latta	Stack
Corman	Leach, La.	Staggers
Cotter	Leath, Tex.	Stangeland
Courter	Lederer	Steed
Daniel, Dan	Lee	Stenholm
Daniel, R. W.	Lehman	Stewart
Davis, Mich.	Levitas	Stockman
de la Garza	Lewis	Stratton
Deckard	Livingston	Stump
Derrick	Loeffler	Swift
Devine	Long, La.	Symms
Dickinson	Long, Md.	Tauke
Dicks	Lott	Taylor
Dingell	Lujan	Traxler
Dixon	Luken	Trible
Dougherty	McClory	Udall
Drinan	McCormack	Ullman
Duncan, Oreg.	McKay	Vander Jagt
Duncan, Tenn.	McKinney	Vanik
Edwards, Ala.	Marks	Walgren
Emery	Marriott	Watkins
English	Martin	White
Erdahl	Mattox	Whitehurst
Ertel	Mavroules	Whitley
Evans, Ga.	Mica	Whittaker
Evans, Ind.	Michel	Whitten
Fary	Mikulski	Williams, Ohio
Fascell	Moakley	Wilson, Bob
Ferraro	Mollohan	Wilson, Tex.
Findley	Montgomery	Wolff
Flippo	Moorhead, Calif.	Wright
Florio		Wyatt
Foley	Moorhead, Pa.	Young, Alaska
Ford, Mich.	Murphy, Pa.	Young, Mo
Ford, Tenn.	Murtha	Zeferetti
Forsythe	Musto	
Fountain	Natcher	

NOES—95

Ambro	Brown, Calif.	Derwinski
Anderson, Calif.	Burton, John	Donnelly
	Burton, Phillip	Dornan
Anthony	Carney	Early
Ashley	Carr	Eckhardt
AuCoin	Clay	Edwards, Calif.
Barnes	Cleveland	Edwards, Okla
Bauman	Conte	Evans, Del
Bennett	Coughlin	Fazio
Bethune	D'Amours	Fenwick
Bingham	Danielson	Fish
Boland	Daschle	Fisher

Garcia	McHugh	Roybal
Gilman	Markey	Satterfield
Gramm	Matsui	Schroeder
Green	Mazzoli	Seiberling
Hammer-schmidt	Miller, Ohio	Sensenbrenner
Harkin	Mineta	Shannon
Harris	Minish	Studds
Hawkins	Mitchell, Md.	Tauzin
Hollenbeck	Mitchell, N.Y.	Volkmer
Hughes	Moore	Walker
Jacobs	Mottl	Wampler
Jeffords	Myers, Ind.	Weaver
Kastenmeier	Panetta	Weiss
Kelly	Paul	Williams, Mont.
Kemp	Petri	Wirth
Kildee	Ratchford	Wolpe
Kostmayer	Regula	Yates
Leach, Iowa	Reuss	Yatron
Lowry	Rinaldo	Young, Fla.
Lungren	Rodino	
	Rosenthal	

NOT VOTING—92

Akaka	Goldwater	Nedzi
Anderson, Ill.	Grassley	Nolan
Applegate	Grisham	O'Brien
Beard, R.I.	Hall, Ohio	Ottinger
Bedell	Hanley	Patterson
Bellenson	Hansen	Pease
Bevill	Harsha	Pursell
Boggs	Heftel	Richmond
Bolling	Holtzman	Ritter
Breaux	Hopkins	Rudd
Brodhead	Jenrette	Russo
Broomfield	Johnson, Colo.	Sabo
Buchanan	Kindness	Schulze
Burlison	Kramer	Shumway
Byron	Leland	Spellman
Chisholm	Lent	St Germain
Coleman	Lloyd	Stanton
Crane, Daniel	Lundine	Stark
Crane, Philip	McCloskey	Stokes
Crockett	McDade	Synar
Dannemeyer	McDonald	Thomas
Davis, S.C.	McEwen	Thompson
Dellums	Madigan	Van Deerlin
Dodd	Maguire	Vento
Downey	Marlenee	Waxman
Edgar	Mathis	Wilson, C. H.
Erlenborn	Miller, Calif.	Winn
Fithian	Moffett	Wydler
Frenzel	Murphy, Ill.	Wylie
Gingrich	Murphy, N.Y.	Zablocki
Ginn	Neal	

□ 1650

Mr. MATSUI and Mr. EDWARDS of California changed their vote from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 3 minutes each, unless the Member has an amendment printed in the RECORD, in which case he or she is protected. The Chair would like to recognize first the Members who do not have amendments printed in the RECORD.

Are there any Members whom the Chair announced who do not have amendments printed in the RECORD?

If not, the Chair will, therefore, go down the list.

The Chair recognizes the gentleman from Washington (Mr. LOWRY).

Mr. LOWRY. Mr. Chairman, we have before us today on this first day that we have come back from the election break perhaps the most important and definitely the most controversial legislation in the four States of the Northwest.

Mr. Chairman, we were hopeful this morning that this legislation before us would not be up before next Monday. There are many of us from the Northwest that have extreme concerns over this legislation as it now stands and wanted to support the legislation but cannot without significant amendments needed to correct it. We would like to have had more time to present those amendments. We have not. The committee leadership has limited debate less than 2 hours into consideration.

I think this is a very bad procedure in this House and I greatly ask the Members to look at those amendments that we badly need so those of us in the Northwest can support this bill. But we cannot if we cannot improve the legislation through amendment.

□ 1700

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. AUCOIN).

(By unanimous consent, Mr. WEAVER yielded his time to Mr. AUCOIN.)

(Mr. AUCOIN asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. Mr. Chairman, I appreciate the Chair's calling the House to order because that is one of the points I want to make. Throughout the discussion on the bill today the Chair has tried—many times in vain—to call the Members' attention to a bill of great consequence to the people of the Pacific Northwest.

Of course, we can all understand why the Chair is having difficulty getting the Members' attention. This is the first day we have been in session since the election. There is a lot on the minds of the Members of this body right now—many things well beyond the scope and the substance of the Pacific Northwest power bill.

I would bet that the gentlemen having a conversation in the back of the Chamber at this very moment are not fully familiar with the pending amendments to the bill at this particular moment. Yet a number of amendments that are about to be offered have a fundamental impact on the people and the ratepayers of the Pacific Northwest. And, likewise, the Members standing in the back of the Chamber over in this corner—we have been trying to get their attention, as they would be trying to get our attention if they had a bill of such consequence to their districts.

This bill is the most important piece of energy legislation ever proposed in the Pacific Northwest. The day may come when other Members will have a piece of legislation that affects their region just as severely and just as significantly as this piece of legislation affects our region. I hope that they will have a chance, if that ever should happen to them, to offer amendments under a better set of circumstances than we have been given.

The CHAIRMAN. Will the gentleman from Oregon kindly suspend?

Will the gentlemen in the rear of the Chamber and to the right of the Chair kindly take their seats and cease conversation? The gentleman from Oregon has correctly pointed out that he is entitled to be heard.

The Chair recognizes the gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. I thank the Chairman. I would just say to my colleagues, many of whom I have seen stand where I stand today and argue for legislation of great consequence to their own regions, that I hope if they are placed in the situation that a number of us in the Pacific Northwest are in today, they will have an opportunity to work their will through amendments in a far better way than we have been afforded.

This bill has been brought to the floor the first day of the session. It is a regional bill and, therefore, it is not apt to be paid complete attention to by the Members, given the tumultuous events of the last few days. Without much ability to prepare, we have come to the floor and tried to be in a position to offer amendments that are very important to our districts. That is enough of a problem, but the trouble now is that we have a time limit of 5:30 and a number of Members are going to find themselves with extreme difficulty in trying to offer amendments that will perfect the legislation.

Why is this legislation so important to the Northwest? For a number of reasons. For one thing, this Member happens to feel very strongly about the impetus I think the bill would give for the construction of nuclear powerplants. Many of you agree with the construction of nuclear powerplants. I do, too, under a certain set of circumstances, but that set of circumstances does not exist in this legislation. I have amendments that would try to address themselves to that.

But more importantly, the bill, if it is not amended, would provide fairly easy financing for the construction of these plants throughout the Pacific Northwest, and I think that represents an unfair environmental price for the rate-payers and the citizens of the Northwest, considering the unanswered questions of waste storage, operational plant safety, and all the rest. But more importantly, this bill as it currently exists—Mr. Chairman, could I have order, please?

The CHAIRMAN. The Chair will remind the Members that we are operating under a time limitation, and the Members are entitled to be heard. Will the gentlemen in the rear of the Chamber kindly cease conversation.

The Chair recognizes the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, the legislation as it stands, unamended, provides easy financing for the construction of these plants. That construction carries an environmental price that many people in my district, and in fact a majority of the voters in Oregon, were very concerned about in the last general election, and for that reason they approved a referendum that would put some restrictions on the construction of nuclear plants.

Beyond that the bill provides a funding mechanism that gives carte blanche to cost overruns. There are three plants in the Pacific Northwest now financed under a net billing arrangement by the BPA. That is a mechanism similar to what the guaranteed purchase authority would offer to an untold number of fu-

ture nuclear plants if this bill is passed unamended.

It is interesting to see what has happened to the costs of three of those plants already under construction, not all of which are completed at this time. It was originally estimated that those plants would cost something like $4 billion. Today because of the net billing arrangement, the cost overruns have come to four times that original estimated cost—four times. We are talking about $16 billion. You know who pays the cost for those cost overruns. The price is paid by the rate-payers of the Pacific Northwest. And those plants are not even complete yet. I think that is a damning indictment of the operation and the procedure under which we are operating here. I hope the Member will bear that in mind as we consider this legislation.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. MURTHA) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

(By unanimous consent Mr. DICKS yielded his time to Mr. SWIFT.)

The CHAIRMAN. The Chair recognizes the gentleman from Washington Mr. SWIFT).

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

Mr. SWIFT. Mr. Chairman, largely because we have not wanted to be a part of extending this debate beyond the time that is necessary, a number of us who are strong supporters of this bill from the Pacific Northwest have not been speaking this afternoon, but lest we leave the impression that there is little support for this in the Northwest, I would like to clarify to all of my colleagues that it is quite to the contrary. The word "consensus" does not mean unanimity, and nobody to my knowledge has ever claimed there was unanimity of support for this bill in the Pacific Northwest. We are westerners. We rarely are unanimous on anything. It would be a hard time to get a unanimous vote to welcome in the dawn in the Pacific Northwest.

☐ 1710

But there is consensus. Both Senators from Oregon, both Senators from Washington and the Senator-elect from Washington, both Senators from Idaho and the Senator-elect from Idaho, Congressman DUNCAN, Congressman ULLMAN, and the Member-elect from that district support the bill. TOM FOLEY, MIKE MCCORMACK and the Member-elect from that district support the bill. I support the bill. DON BONKER supports the bill. JOEL PRITCHARD supports the bill. NORM DICKS supports the bill. The gentleman from Idaho (Mr. SYMMS) supports the bill and will have the privilege, apparently, of supporting it in both houses. That, gentlemen, is consensus.

I can name some others. The mayor of Seattle, the city of Seattle, the Eugene, Oreg., Chamber of Commerce, and others. But there is consensus. Let there be no mistake about that.

As to adequate consideration of the various issues raised by this particularly complex bill, let me point to the action that has taken place in the committees of this Congress. This is a terribly complex bill. The energy situation in the Pacific Northwest is complex. But this bill has innumerable hearings, and it had a long markup before the Energy and Power Subcommittee of Commerce, at which many of the issues which are now being raised as amendments were heard.

It had full markup before the full Committee of Commerce, at which many of these issues were raised and settled. And I might point out that it was in these particular sets of markups in Commerce at which the bill was substantially improved over the early version of the bill which I could not support in that form, which the gentleman from Washington (Mr. BONKER) could not support in that form, which a number of others of us could not support in that form.

Now, there are two ways you can go. If you do not like the way a bill is, you can try to kill it or you can try to improve it. And some of us took the latter, more positive approach, and we improved it enormously. And then it went to Water and Power in Interior, where there were additional refinements that further improved the bill, and yet more of the arguments that were contained in the amendments that have been noticed were heard. Some were adopted. Many, in all of those places. And in the full Committee on Interior and Insular Affairs, again there was an opportunity to raise these issues, and in many instances they were adopted; in many, many instances the people who had studied this, had looked into it with care, who understood the issue being raised and understood the problem the bill tries to solve and understood the bill, voted them down. Not even close. By wide margins.

The bill was reported out of all four of those forums of this body by substantially wide margins. So there is consensus in the region. There is a tremendous desire to avoid the chaos that is going to occur in the Pacific Northwest if we do not have a balanced and rational, planned method of being able to deal with our own energy problems.

This Congress has studied this bill with care, and the forums before which it has gone have studied it with care and have improved it and have passed it out overwhelmingly. We now arrive at a point where, as the Members will recall, just a few days before we went into recess for the election, we met filibuster by amendment. It is not supposed to happen in the House, but in fact if you abuse the rules of the House, you can hold the floor forever.

Today we had an hour and, I believe, 45 minutes during which we were able to consider two amendments. And so now we have limited debate because this bill has been seriously and deeply and fairly considered by the major institutions of this House, because there is a regional consensus this bill is essential, and because we have limited time now in which to work. And I urge my colleagues to support this bill.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. When the gentleman discussed a consensus, he mentioned the political figures. But is it not also true that there are a great number of interests in the Northwest, agriculture, fishing, industrial, electrical producers, including the publics and including the privates, that are substantially in accord that this bill is essential if we are going to be able to solve our energy production requirements in the Northwest?

Mr. SWIFT. The gentleman is correct.

The CHAIRMAN. The Chair now recognizes the gentleman from Massachusetts (Mr. MARKEY) for 3 minutes.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MARKEY: Page 27, line 10, strike "may" an insert therefor "shall".

Mr. DINGELL. Mr. Chairman, reserving a point of order—I do not know whether I will pursue it or not—I have not seen the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves a point of order.

The Chair will inquire of the gentleman from Massachusetts if this amendment was printed in the RECORD.

Mr. MARKEY. Mr. Chairman, this amendment was printed in the RECORD under the name of the gentleman from Oregon (Mr. WEAVER).

The CHAIRMAN. The gentleman from Massachusetts (Mr. MARKEY) is recognized for 5 minutes in support of his amendment.

Mr. DINGELL. Mr. Chairman, I still reserve a point of order.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves a point of order.

The gentleman from Massachusetts (Mr. MARKEY) is recognized for 5 minutes in support of his amendment.

Mr. MARKEY. Did the chair say 5 minutes?

The CHAIRMAN. For 5 minutes.

Mr. MARKEY. Mr. Chairman, I rise to offer an amendment to the Pacific Northwest Electric Power Planning and Conservation Act. My amendment is pro-

posed so that the House can make certain that this bill is unambiguous in its commitment to energy conservation.

I want to make certain that this commitment is strong, that it is more than rhetorical, more than just words.

The amendment is quite simple. On page 27 of the amendment in the nature of a substitute (the text of H.R. 8157) to S. 885, I propose that we strike the word "may" and insert therefor the word "shall."

The CHAIRMAN. Will the gentleman suspend for just a moment, please?

The Chair would like to advise the gentleman that the Chair was incorrect originally, and the gentleman from Massachusetts (Mr. MARKEY) has 3 minutes under the rule in support of his amendment.

Mr. MARKEY. I thank the Chair.

Mr. Chairman, if my amendment is adopted, the language of this bill would declare that the Administrator of the Bonneville Power Administration must impose monetary sanctions on utilities or direct-service-industries which fail to implement the conservation measures to achieve recommended energy savings. In its present version, the bill leaves such sanctions at the discretion of the Administrator. The bill does not say that the Administrator "shall" levy the rate surcharge, only that he "may" do so.

If we are to guarantee that this legislation accomplishes the goals proposed in section 2 of the bill—"to encourage * * * conservation and efficiency in the use of electric power" as the top energy priority for the Pacific Northwest region—we need to make certain that shortfalls in achieving these goals are met with more than a slap on the wrist from the BPA bureaucracy.

Section 4 of this bill sets forth the provisions for "regional planning and participation" under the terms of this legislation. It establishes a regional agency known as the "Pacific Northwest Electric Power and Conservation Planning Council," to achieve the purposes of the legislation and facilitate cooperation among the four affected States—Idaho, Montana, Oregon, and Washington. Two persons from each State may be appointed to serve as members of the Council.

Within 2 years after the Council is established, the Council is directed by this bill to adopt and transmit to the Administrator a regional conservation and electric power plan, which may be amended by the Council from time to time and must be thoroughly reviewed by the Council at lease once every 5 years.

According to the language of section 4—beginning on page 23, line 22—the regional plan shall give priority to resources judged by the Council to be cost-effective. "Priority shall be given: first, to Conservation," according to the bill, and accordingly the plan's energy conservation program shall include so-called model conservation standards.

These model conservation standards are described on page 26, beginning on line 17. The standards in question are not "performance" standards but "code" standards.

For example, it is expected that the model standards to be proposed by the Council would set forth recommended insulation efficiencies for ceiling and wall insulation, both for new and existing structures. The model standards would apply to utility, direct-service-industry, and governmental conservation programs, as well as to ratepayer actions to achieve conservation. Geographic and climatic differences within the region shall be respected by these model standards.

In the words of section 4, page 26, beginning on line 24, the model standards "shall be designed to produce all power savings that are cost-effective for the region and economically feasible for consumers, taking into account financial assistance made available to consumers under section 6(a) of this Act."

Model standards are a vital element in this legislation to make certain that the bill accomplishes its ostensible goals: To put energy conservation and renewable power sources ahead of costly and time-consuming BPA investments in nuclear powerplants. The city of Portland, Oreg.—well known for the effectiveness of its energy savings in the past decade—has urged that these model standards be a strong part of this bill.

If the utilities or direct-service-industries within the region fail—in the judgment of the BPA Administrator—to implement conservation measures that achieve energy savings comparable to those which would be obtained under the model standards, the Council by a majority vote may recommend to the Administrator a rate surcharge to recover for BPA such additional costs as will be incurred because such energy savings have not been achieved. This language is already in the bill on page 27.

My amendment proposes that if the Council votes to recommend a monetary penalty, the Administration should be required to levy it up on the affected utility or industry.

My amendment will put real teeth into the requirement that the Pacific Northwest save energy—the cheapest, fastest, safest way to provide more energy—before going to costlier and slower sources of new power.

The surcharge will come on top of the rate already paid by the utility or industrial customer to BPA for the power to be provided under the terms of this legislation. As the bill already provides, in no case may such surcharges be less than 10 percentum or more than 50 percentum of the Administrator's applicable rates for such load or portion thereof.

I believe that the delegates representing the four affected States—serving as members of the Council—should expect that their recommendations for penalties will be made to stick. But under the language of the bill before us, the Administrator can choose to ignore this recommendation. If my amendment is adopted, this will no longer be the case.

If we mean what we say in this bill—to put energy conservation first and foremost—adoption of my amendment will strengthen this commitment and improve this bill accordingly.

Thank you.

□ 1720

The CHAIRMAN pro tempore. Does the gentleman from Michigan insist upon his point of order?

Mr. DINGELL. I do not, Mr. Chairman, but I ask unanimous consent to address the committee for 1 minute of the 3 in opposition to the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. DINGELL) for 1 minute.

Mr. DINGELL. Mr. Chairman, the amendment here would change the permissive authority for BPA to impose surcharges on customers on recommendation of the council. This change would raise constitutional problems because the council is a State agency. Under the amendment, if the council recommended a surcharge, BPA would have no course but to impose it. A State agency cannot, under the Constitution, require a Federal agency to take action of this nature. The provision would change that so that we would clearly have then an unconstitutional and undesirable result.

While it is desirable, I believe the BPA should impose surcharges where it deems it appropriate under the criterion of the section, and the BPA should nevertheless have authority to make that determination.

The constitutional consequences of this amendment are far too dangerous. While I agree with the gentleman from Massachusetts that such a recommendation should certainly be heeded by BPA, I do not feel that we should tie its hands or impose upon this agency the kind of unconstitutional consequences that are inherent in the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Massachusetts (Mr. MARKEY) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

□ 1730

AMENDMENT OFFERED BY MR WEAVER

Mr WEAVER. Mr. Chairman, I offer an amendment that is at the desk and is numbered 54.

Mr DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves a point of order against the amendment

The Clerk will report the amendment

The Clerk read as follows'

Amendment offered by Mr WEAVER

Page 71 line 1, after "(1)" insert '(A) ,

Page 71, line 1, strike out "a rate or ,

Page 71, line 5, strike out "Such rate or rates shall" and all that follows down through page 71, line 12 and substitute

(B) The rates of general application established under this paragraph for electric power sold to meet such general requirements and loads under section 5(c) shall consist of the following separate rates—

(i) A rate which shall recover both (I) the costs of that portion of the Federal base system resources needed to serve such general requirements and loads and (II) the costs of the electric power acquired by the Administrator under section 5(c) to serve such general requirements and loads

(ii) Separate rates which shall recover the costs of any additional electric power acquired by the Administrator from sources other than the sources referred to in clause (i) in order to serve such general requirements and loads under section 5(c)

(C) The rates under clause (ii) of paragraph (B) shall consist of the following separate rates—

(i) A rate for that amount of additional electric power referred to in clause (ii) of subparagraph (B) which is initially purchased by the Administrator in the first ten year period during which any such additional elctric power is purchased by the Administrator for purposes of sales referred to in such clause (ii)

(ii) Separate rates for that amount of additional electric power referred to in clause (ii) of subparagraph (B) which is initially purchased in each succeeding ten year period during which any such additional electric power is purchased by the Administrator for purposes of sales referred to in such clause (ii).

(D) The rates established pursuant to subparagraph (B)(ii) for any electric power acquired by the Administrator from a new resource shall recover the full costs of such new resource over its useful life

(E)(i) The Administrator shall annually allocate the electric power sold at the rate established under clause (i) of subparagraph (B) to the customers referred to in subparagraph (A), including public bodies and cooperatives formed after the date of the enactment of this Act which initially become customers of the Administrator after such date

(ii) In the case of the public body cooperative and Federal agency customers such allocation shall be in proportion to general requirements of each such customer except that the allocation shall be adjusted to give equitable consideration to differing rates of population growth, employment and irrigated acreage

(iii) In the case of the customers acquiring electric power pursuant to section 5(c) such allocation shall be adjusted on the basis of population growth and irrigated acreage

(F) Each separate rate required pursuant to this subparagraph shall be separately stated on a billing provided to the customer for purposes of periodically notifying the customer of the charges for electric power purchased subject to each such rate

(G) Whenever the rates charged to public body, cooperative, and Federal agency customers are modified by reason of the limitation contained in paragraph (2), such modified rates shall be established, where practicable, as separate rates charged according to the rate structure described in subparagraphs (B) and (C), and where not practicable according to a rate structure which the Administrator determines will maintain the effects of such separate rates and will carry out the purposes of subparagraphs (B) and (C) "

Page 80, strike "(j) All ' and all that follows down through line 4 on page 81

The CHAIRMAN. The Chair will inquire of the gentleman from Oregon (Mr. WEAVER) if this amendment was printed in the RECORD

Mr. WEAVER Yes, it was, Mr. Chairman.

The CHAIRMAN. The gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes in support of his amendment

Mr. WEAVER Mr. Chairman, this amendment embodies what is perhaps the single most important element in our entire energy policy.

Ronald Reagan's energy adviser during the campaign, Dr Mitchell of Michigan, said this was the single most important thing that we could do in energy. This amendment was written by the city of Seattle utility, one of the largest utilities in the world The amendment is technically sound

What it does is simply this It prices electricity at its cost. In other words, what we have today is a distorted price of electricity, of energy, so that the price signals sent to people are distorted They do not get the message, and, therefore, they do not use electricity wisely.

The effect of this amendment in the Northwest would be to sell the hydro power in effect at roughly its cost—this is to the utilities on a wholesale basis from Bonneville—and then sell any new additional generation at its cost so that the utility would get the price signal

The important thing here is that any new energy source would be competitive It would compete in the mraketplace This is the single most important market function that we have in our economic system

Mr Chairman, let me give the Members an example In the Northwest we have millions on tons of wood waste that we burn in our forests There are millions of tons of that waste in Oregon forests, enough to heat three-quarters of all the homes in Oregon Yet we are not using that in energy for the simple reason that the way the utilities or Bonneville operate with electricity, they take the cheap hydro power and the expensive thermal power and average them, meld them together.

So, therefore, even though the wood waste electricity is cheaper than the thermal electricity, the price is averaged The Roseburg Lumber Co, one of the largest lumber companies in the world, now produces the electricity at about half the cost of that which is extracted from the thermal plants under construction Yet the price given to the utilities by Bonneville is melded or is averaged, so, therefore, it is below, because it has all that cheap hydro worked into it, the cost of the wood waste

So we go on letting them build these enormously expensive thermal plants, and we are wasting energy sources that are much cheaper It is crazy

Yes, of course it is crazy, and that is why we have inflation. That is why we have stagflation, because we waste things that we could be using and because of the distortions in the marketplace

This amendment written by the city of Seattle utility simply says that we will burn the hydro power at its cost to the utility and then use the last increment of whatever new energy they are producing at its cost So if somebody wants to come in and compete with wood waste or new hydro or coal or solar or anything else, they will be competing with the true cost of the energy generated

That is the market system. That is what Ronald Reagan's advisor believes Ronald Reagan believes that this is essential to bring sanity to our energy system

Therefore, this amendment would frankly make this bill a bill that makes sense It would make sense if we could just do this, because the melded price of electricity is the single most detrimental thing in this Nation to solving our electrical energy problem It is the single most detrimental thing we know of

Therefore, if we simply did this one thing, it would create enormous amounts of new energy from things that we waste today It would bring commonsense to the marketplace for electricity It would even aid in conservation, because a person would not be saving the melded price he would be saving the higher cost, and, therefore, we would have a greater incentive to conserve.

So, Mr Chairman, I ask the Members in the name of sanity and commonsense and for the marketplace to adopt this technically sound amendment The General Accounting Office has looked it over, and they say the two-tiered grade pricing would provide utility customers with more accurate price signals than they presently receive Bonneville s melded rate

Mr SWIFT Mr Chairman, I rise in opposition to the amendment

(Mr SWIFT asked and was given permission to revise and extend his remarks)

The CHAIRMAN Before the gentleman proceeds, the Chair will inquire, does the gentleman from Michigan (Mr DINGELL) insist on his point of order?

Mr DINGELL Mr Chairman, I do not insist on my point of order

The CHAIRMAN The point of order is withdrawn

The gentleman from Washington (Mr SWIFT) is recognized for 5 minutes.

□ 1740

Mr SWIFT Mr Chairman, earlier I said that when something in a bill seems inadequate you have two choices, you can oppose it or fix it We caught on to this particular problem a long time ago and fixed it a long time ago. The problem

is how do you provide economic incentive for conservation in this bill?

The proposal that they are making is a two-tier rate which will not work. The reason it will not work is that it makes perfect integral logic as a retail pricing strategy but it is being applied on a wholesale level where it will not work.

We had before the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce a witness from the environmental defense fund, a Dr. Zack Willy. I asked him specifically about this kind of approach at the wholesale level.

He said:

There are a number of problems. One of the problems is lag in pricing signals to investment planners and utilities. There is a long lag time particularly in nuclear and coal plants, 8 to 10 years. So the problem is investment in those plants are not regulated by prices from the market.

That witness used another example. He said what is really wrong with it is it is like a long narrow room where you have the furnace at one end and the thermostat at the other. By the time the heat from the furnace gets to the regulating device you are already overheated.

Multitier pricing at the wholesale level will not work.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding, Mr. Chairman.

The sponsor of the amendment made reference to the city of Seattle, the original drafter of this amendment.

Mr. Chairman, I think it is important that our colleagues know that the city of Seattle wrote us a letter earlier stating that they felt it important that the bill include one of wo means of dealing with conservation, either the multitier wholesale rate structures or through a meaningful billing credit mechanism. They concluded that the letter is the way we should go which is in place in the bill. The result of this is the city of Seattle, the mayor, Charlie Royer, strongly supports the provision of conservation rate credits in the bill which would make unnecessary the amendment offered by the gentleman from Oregon.

Mr. SWIFT. Mr. Chairman, I thank the gentleman from Washington. What the gentleman says is absolutely accurate and further, the General Accounting Office has indicated the mechanism which we have included in the bill will, in fact, be an effective means of sending a price signal at the wholesale level to encourage conservation. It is a billing credit which permits anyone, any utility, to apply, after it has found the conservation means or renewal resources, to apply for a credit that comes right off the top of the wholesale bill which can be passed on to their consumers.

Mr. LUJAN. Mr. Chairman, will the gentleman yield.

Mr. SWIFT. I will be happy to yield.

Mr. LUJAN. There is one question that the gentleman has not addressed that causes me some concern. It is a provision that applies to the entire country. That is on the preference clause it seems to me there are some requirements that are being put into this that might affect the rest of the country and put some precedence in there, that those rates, you could have different rates depending on population, a population growth, employment, irrigated acreage, and, if we get it started in this particular piece of legislation, then we are going to be seeing exceptions to the preference clause in all other allocations.

Mr. SWIFT. Mr. Chairman, the gentleman is absolutely correct. That is one of the reasons that the city of Seattle has supported the billing credit, that it achieves the end, which is to send an economic signal for conservation without endangering the preference clause at all.

I, therefore, suggest to the supporters of the amendment that I totally agree with the ultimate goal they are trying to achieve. We agreed so much that long before the bill had gotten to the subcommittee we had already taken care of it.

The bill provides those very important economic incentives for an effective and meaningful conservation program without detriment to the public power preference clause.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was rejected.

Mr. KAZEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. McHUGH, Chairman of the Committe of the Whole House on the State of the Union, reported that that Committee, **having had under consideration the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River power system to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, had come to no resolution thereon.**

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OF 1979

Mr. UDALL. Mr. Speaker, I ask unanimous consent that it shall be in order to consider, without intervening motion, on today, or any day thereafter, a motion to concur in the Senate amendment to the bill (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the national park, national wildlife refuge, national forest, national wild and scenic rivers, and for other purposes, in the House, that debate on said motion shall continue not exceed 1 hour, to be equally divided and controlled by myself and the gentleman from Alaska (Mr. YOUNG) and that the previous question shall be considered as ordered without intervening motion on said motion to final adoption.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves that the House concur in the amendment of the Senate.

The SPEAKER. The gentleman from Arizona (Mr. UDALL) is recognized for 30 minutes and the gentleman from Alaska (Mr. YOUNG) is recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the leadership and the Members indulging us in this very important matter at this hour. This is probably one of the most far-reaching and important conservation and resource decisions in our Nation's history. I have personally been involved in this for more than 8 years now, going back to the old Alaska Native claims bill.

We are now in a situation where we have to decide whether we want to go ahead with the Senate bill because realistically that is our only legislative option, or whether we want to come back next year and start all over.

Today and on previous days there has been a good spirit of accommodation and compromise and I think we are ready to pass this bill tonight and get this part of the job done.

I want to emphasize that in my own mind this is a basic beginning, but it falls far short of the kind of bill that we wanted as we proceeded in this Congress and it falls short of what the House did in 1978. Nonetheless, given the realities of the situation I think this is an acceptable beginning and I want everyone to understand that throughout the rest of this session and in the new Congress I will be working to improve some of the things that were in the bill when it left the House and did not survive in the Senate. I do believe the prudent thing to do at this time is to adopt the Senate amendment and clear this bill with the White House for final action.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. SEIBERLING) Mr. Speaker, the gentleman from Ohio has been instrumental in carrying a share of the burden in the course of preparing this legislation.

Mr. SEIBERLING. Mr. Speaker, I think the gentleman from Arizona has put it very well. The situation we are in is a practical one. The Senate version of the Alaska lands bill does fall short of what the House passed both in this Congress and in the preceding one. However, I would say that it probably represents about 85 percent of what we had hoped to achieve when we passed the House bill.

Mr. Speaker, I certainly agree with the

would do much to encourage public demonstrations of such patriotic feelings and would give Americans an excellent chance to show just how proud they are of the United States and of what it represents.

(Mr. ANDERSON of California asked and was given permission to revise and extend his remarks.)

● Mr. RHODES. Mr. Speaker, House Joint Resolution 511 designates the third week in February as National Patriotism Week. The purpose of this resolution is to provide our young citizens with a special opportunity to increase their understanding of the principles of freedom and democracy, and the love of country that all Americans should cherish and nurture.

The resolution would encourage, but not require, primary and secondary schools to use an appropriate curriculum for patriotism week and there are numerous private organizations which have already committed themselves to assist during this week. The programs encouraged by this resolution will be much more effective and can have greater impact during the school year when young people are gathered together in an academic atmosphere.

Designation of a National Patriotism Week was first suggested to me by Miss Lori Cox of Scottsdale, Ariz., when she was a high school student in my district. Lori has voiced the view that there is an absence of an organized, positive effort to nurture the budding patriotism of school children and that a National Patriotism Week would correct this situation.

I think you will agree that this measure provides for an excellent opportunity for young Americans to express publicly their pride and faith in our great country. I urge my colleagues to support this resolution.●

● Mr. DERWINSKI. Mr. Speaker, I rise in support of Senate Joint Resolution 82 to designate the third Monday in February 1981 as "National Patriotism Week."

It gives me a great deal of pleasure and a sincere sense of pride to support a resolution to set aside a week which would reestablish pride, understanding, appreciation, and patriotism for this great Nation.

This resolution would encourage our schools and numerous private organizations to promote and examine the true meaning of patriotism. It would allow time for young Americans to join in patriotic events as part of their total education, as well as a week that would serve as a rallying point for all Americans to reflect a renewed confidence in our country, its principles, and its future.

I ask my colleagues to join me in supporting a resolution which would encourage our schools in the study of the Pledge of Allegiance, national anthem, our symbols, mottos, heroes, and the accomplishments of this great country.●

Mr. ANDERSON of California. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 82

Whereas the freedom known in this country was won through great sacrifice and long tribulation; and

Whereas similar sacrifices have been made by the citizenry of the United States to extend liberty and well-being to other nations of the world; and

Whereas it is altogether fitting and proper to recognize such great freedoms, and to honor so great a nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week commencing with the third Monday in February of each year is hereby designated as "National Patriotism Week.

SEC. 2. The President is authorized and requested to issue annually a proclamation—

(1) calling upon the people of the United States to commemorate National Patriotism Week with appropriate celebrations and observances;

(2) encouraging primary and secondary schools to adopt an appropriate curriculum for that week including such elements as the study of the Pledge of Allegiance and the national anthem, national symbols, seals, and mottos, and national monuments, heroes, and accomplishments; and

(3) requesting each Federal agency to recognize such week by taking such action as it may deem appropriate.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 1, line 4, strike out "each year" and insert "1981" in lieu thereof.

Page 1, line 7, strike out "annually".

The amendment was agreed to.

TITLE AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. GARCIA: Amend the title to read as follows:

To designate the week commencing with the third Monday in February of 1981 as "National Patriotism Week".

The title amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar joint resolution (H.J. Res. 511) was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. KAZEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN).

The question was taken and the Speaker announced that the ayes appeared to have it.

Mr. WEAVER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 321, nays 3, answered "present" 2, not voting 106, as follows:

[Roll No. 595]

YEAS—321

Addabbo	Courter	Gudger
Alexander	Crane, Daniel	Guyer
Anderson, Calif.	Crane, Philip	Hagedorn
Andrews, N.C.	D'Amours	Hall, Ohio
Andrews, N.Dak.	Daniel, Dan	Hall, Tex.
Annunzio	Daniel, R. W.	Hamilton
Anthony	Danielson	Hammer-schmidt
Archer	Dannemeyer	Hance
Ashbrook	Davis, Mich.	Hanley
Ashley	de la Garza	Hansen
Aspin	Dellums	Harris
AuCoin	Derwinski	Harsha
Badham	Devine	Hawkins
Bailey	Dicks	Heckler
Baldus	Dingell	Hefner
Barnard	Dixon	Hillis
Barnes	Donnelly	Hinson
Bauman	Dornan	Holt
Beard, R.I.	Duncan, Oreg.	Hopkins
Beard, Tenn.	Duncan, Tenn.	Horton
Bedell	Early	Howard
Bellenson	Edgar	Hubbard
Benjamin	Edwards, Ala.	Huckaby
Bennett	Edwards, Calif.	Hughes
Bereuter	Edwards, Okla.	Hutchinson
Bethune	Emery	Hyde
Bevill	English	Ireland
Bingham	Erdahl	Jacobs
Blanchard	Erlenborn	Jeffords
Boiling	Ertel	Jenkins
Boner	Evans, Del.	Johnson, Calif.
Bonior	Evans, Ga.	Jones, N.C.
Bouquard	Evans, Ind.	Jones, Okla.
Bowen	Fary	Jones, Tenn.
Breaux	Fascell	Kastenmeier
Brinkley	Fazio	Kazen
Brodhead	Fenwick	Kelly
Brooks	Findley	Kemp
Broomfield	Fisher	Kildee
Brown, Calif.	Fithian	Kindness
Brovhill	Flippo	Kogovsek
Burton, John	Florio	Kostmayer
Butler	Foley	Kramer
Byron	Ford, Tenn.	Lagomarsino
Carney	Forsythe	Latta
Carter	Fountain	Leach, Iowa
Chappell	Fowler	Leath, Tex.
Cheney	Frenzel	Lederer
Clausen	Garcia	Lee
Cleveland	Gephardt	Lehman
Clinger	Gibbons	Leland
Coelho	Gilman	Lent
Coleman	Gingrich	Levitas
Collins, Tex.	Ginn	Livingston
Conable	Glickman	Loeffler
Conte	Gonzalez	Long, Md.
Convers	Goodling	Lowry
Corcoran	Gore	Lujan
Corman	Gradison	Luken
Cotter	Gramm	Lungren
Coughlin	Gray	McCormack
	Green	McDade
	Guarini	

McEwen	Peyser	Stanton
McHugh	Pickle	Steed
McKay	Porter	Stenholm
McKinney	Price	Stewart
Madigan	Pritchard	Stockman
Maguire	Pursell	Stokes
Markey	Quillen	Stratton
Marlenee	Rahall	Studds
Marriott	Railsback	Stump
Martin	Rangel	Swift
Matsui	Ratchford	Symms
Mavroules	Regula	Synar
Mazzoli	Reuss	Tauke
Mica	Rhodes	Tauzin
Michel	Rinaldo	Taylor
Mikulski	Ritter	Udall
Miller, Ohio	Robinson	Ullman
Mineta	Roe	Van Deerlin
Minish	Rosenthal	Vander Jagt
Mitchell, N.Y.	Rostenkowski	Vanik
Moakley	Roybal	Vento
Mollohan	Royer	Volkmer
Montgomery	Rudd	Walgren
Moore	Sabo	Walker
Moorhead, Calif.	Sawyer	Wampler
	Scheuer	Watkins
Moorhead, Pa.	Schroeder	Waxman
Motti	Schulze	Weiss
Murtha	Sebelius	White
Musto	Sensenbrener	Whitley
Myers, Ind.	Sharp	Whittaker
Natcher	Shelby	Whitten
Neal	Shumway	Williams, Mont.
Nedzi	Shuster	Wilson, Tex.
Nelson	Skelton	Wolff
Nichols	Smith, Iowa	Wyatt
Nowak	Smith, Nebr.	Wylie
O'Brien	Snowe	Yates
Oberstar	Snyder	Yatron
Obey	Solarz	Young, Alaska
Panetta	Solomon	Young, Fla.
Pashayan	Spellman	Young, Mo.
Patten	Spence	Zablocki
Patterson	St Germain	Zeferetti
Perkins	Stack	
Petri	Stangeland	

NAYS—3

Mitchell, Md.	Weaver	Wilson, Bob

ANSWERED "PRESENT"—2

Bonker	Ottinger

NOT VOTING—106

Abdnor	Frost	Myers, Pa.
Akaka	Fuqua	Nolan
Albosta	Gaydos	Oakar
Ambro	Glaimo	Paul
Anderson, Ill.	Goldwater	Pease
Applegate	Grassley	Pepper
Atkinson	Grisham	Preyer
Bafalis	Harkin	Quayle
Biaggi	Heftel	Richmond
Boggs	Hightower	Roberts
Boland	Holland	Rodino
Brademas	Hollenbeck	Rose
Brown, Ohio	Holtzman	Roth
Buchanan	Hutto	Rousselot
Burgener	Ichord	Russo
Burlison	Jeffries	Santini
Burton, Phillip	Jenrette	Satterfield
Campbell	Johnson, Colo.	Selberling
Carr	LaFalce	Shamon
Cavanaugh	Leach, La.	Simon
Chisholm	Lewis	Staggers
Clay	Lloyd	Stark
Collins, Ill.	Long, La.	Thomas
Daschle	Lott	Thompson
Davis, S.C.	Lundine	Traxler
Deckard	McClory	Trible
Derrick	McCloskey	Whitehurst
Dickinson	McDonald	Williams, Ohio
Dodd	Marks	Wilson, C. H.
Dornan	Mathis	Winn
Dougherty	Mattox	Wirth
Downey	Miller, Calif.	Wolpe
Eckhardt	Moffett	Wright
Ferraro	Murphy, Ill.	Wydler
Fish	Murphy, N.Y.	
Ford, Mich.	Murphy, Pa.	

□ 1250

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill, S. 885, with Mr. McHUGH in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. When the Committee rose on Wednesday, September 24, 1980, the first reading of the bill had been dispensed with.

The gentleman from Texas (Mr. KAZEN) will be recognized for 30 minutes; the gentleman from New Mexico (Mr. LUJAN) will be recognized for 30 minutes; the gentleman from Michigan (Mr. DINGELL) will be recognized for 30 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. KAZEN asked and was given permission to revise and extend his remarks.)

Mr. KAZEN. Mr. Chairman, I rise on behalf of myself and the Committee on Interior and Insular Affairs in support of S. 885—the Pacific Northwest Electric Power Planning and Conservation Act—and urge its favorable consideration by this Committee and the House.

Mr. Chairman, the subject matter addressed by S. 885—the electrical energy problems of the Pacific Northwest—has been under consideration by the Congress for nearly 3 years. Beginning in December 1977 when the subcommittee I now chair—the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs—conducted 5 days of hearings in the Pacific Northwest on similar legislation, the committees of Congress with jurisdiction over this legislation have held a total of 26 hearings on this legislation. Through these hearings, the Congress has had the opportunity to hear the views of literally hundreds of individuals on this topic, including the views of representatives from every conceivable organization and group.

Based on the lengthy record developed pursuant to these hearings, the Senate Committee on Energy and Natural Resources reported an amended version of S. 885 in July of last year and on August 3, 1979, the bill passed the Senate. S. 885 was subsequently jointly referred to both the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce. The Committee on Interstate and Foreign Commerce reported S. 885 with an amendment in the nature of a substitute on March 19, 1980, and on September 4, 1980, the Committee on Interior and Insular Affairs also reported S. 885 with an amendment in the nature of a substitute.

Although the two versions of S. 885 reported by our committees were very similar, they were not identical. Consequently, our committees worked closely together for the past 2 weeks to reconcile the differences between the bills and came up with a proposed substitute which we feel represents a consensus between the two committees. This substitute, which was introduced as H.R. 8157, has been made in order as an amendment in the nature of a substitute to S. 885 and will be considered an original bill for the purpose of amendment.

Mr. Chairman, I will not at this time describe in detail the background and need for this legislation. I will leave this task to the many members of the Pacific Northwest delegation who have strongly supported this legislative effort over the past 3 years and who are much more familiar with the electrical energy problems facing the Pacific Northwest than I. However, I will say, in summary, that the Pacific Northwest is presently facing severe power planning uncertainties because of a pending legal battle among private and public utilities, direct-service industrial customers and the States of Washington, Oregon, Idaho, and Montana over which entities are to be allocated the federally produced hydroelectricity marketed by the Federal Bonneville Power Administration and that these uncertainties can only be resolved through enactment of Federal legislation.

Mr. Chairman, the proposed substitute—like the two versions of S. 885 reported by our committees—will solve the Pacific Northwest's pending allocation problem by granting BPA the authority to expand its existing supply of energy. This new authority will obviate the need for BPA to divide up the limited supply of Federal power, moot the need for a protracted legal battle, and will allow BPA to: First, meet the full requirements of the publicly owned or "preference" utilities in the region; second, continue to serve its direct-service industrial customers; third, meet the net load growth requirements of the region's investor-owned utilities; and, fourth, provide low-cost power to residential and small farm customers of the region's investor-owned utilities. In carrying out this authority, BPA is directed to first utilize resources saved by conservation programs, then renewable resources, and finally, conventional generating resources.

The proposed substitute also will promote conservation in the region since it calls for the implementation of a region-wide conservation program backed by a special $1¼ billion revolving fund account to be used for conservation and renewable resource loans and grants. In addition, the substitute requires the establishment of model conservation standards for the region and calls for the imposition of surcharges on power sold by BPA to those areas and customers who do not implement comparable standards.

Finally, to insure that utilities have an incentive to undertake independent conservation programs, the proposed substitute contains provisions requiring BPA to grant credits to conserving utilities and their customers equal in dollar amount to the full cost savings that result from BPA not having to acquire additional resources.

Mr. Chairman, the substitute we are recommending also provides a mechanism to solve the energy planning problems of the Pacific Northwest by providing for an eight-member State-appointed "regional council" similar to that which is contained in the Interior and Insular Affairs Committee version of

S. 885. This council will prepare and periodically update a regional energy plan after extensive public consultation, input and hearings. This plan will contain the priorities and strategy necessary to overcome the energy problems facing the Pacific Northwest and will guide the actions of the Bonneville Power Administration.

Mr. Chairman, S. 885 and the proposed substitute our committees are recommending are certainly not without controversy. However, I believe that this legislation offers the only real solution to the Pacific Northwest's electrical energy problems, and consequently, I would hope that my colleagues could support it.

□ 1300

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I will be delighted too yield to my colleague from Oregon.

(Mr. ULLMAN asked and was given permission to revise and extend his remarks.)

Mr. ULLMAN. Mr. Chairman, I want to commend the distinguished gentleman from Texas (Mr. KAZEN). He has spent unending hours, days, and weeks on this bill and has done it diligently.

I also want to commend the gentleman from Michigan (Mr. DINGELL) and the gentleman from Washington (Mr. SWIFT) from the Committee on Interstate and Foreign Commerce. This has been a two-committee operation, very tedious and very difficult.

I want to commend the statement of the gentleman in the well, Mr. KAZEN.

Mr. Chairman, for reasons which members of the Pacific Northwest's delegation have outlined on numerous occasions during committee deliberations on S. 885, enactment of this legislation is of paramount importance to our region. Passage of this bill would clear the way for an open, deliberate, and coordinated approach to planning a secure energy future for our States. Absent such a regional solution, the Northwest is certain to confront severe energy shortages, prolonged litigation, and economic chaos.

Moreover, it is crucial that the House act expeditiously on this bill, for the primary problem which it is meant to obviate—the administrative reallocation of Bonneville's low-cost hydropower—will commence next year when its contracts with its utility and industrial customers begin to expire. Without the grant of resource purchase authority which S. 885 would confer upon Bonneville, it will be powerless to sign the new contracts necessary to the coordinated planning and efficient use of regional energy resources; the insuing legal battles over rights to Federal-system power would make a legislative solution impossible. Congressional passage this year is, therefore, imperative.

I represent a State, Mr. Chairman, which prides itself on its progressive and innovative energy tradition. Oregonians have taken the national lead in exploring the potential of solar, geothermal, wind, and hydroelectric energy; in maximizing the role of individual and small-scale efforts to evolve energy applications appropriate for agriculture and industry; and in attempting to make energy development consistent with the preservation and enhancement of our valuable natural resources. It is an outlook which I share and which I have advocated in my legislative efforts in Congress.

The legislation now before this body is a major step toward these goals.

It would establish perhaps the strongest conservation and renewable resource provisions ever initiated by Congress, making the acquisition of nonthermal resources its top priority and setting up a regionally-financed multibillion dollar fund and an array of utility-based incentives to encourage their development.

It would create a representative public planning process enabling the Northwest to chart its energy future on a long-range basis, insuring that all interests are thoroughly considered and that our region's resources are utilized efficiently.

It would provide for a comprehensive program to protect the quality of the Columbia River system's fisheries and wildlife, and permits the use of Bonneville's revenues and bonding authority to put this plan into effect.

And, importantly, S. 885 would provide much-needed rate relief for the residential and small farm customers of private utilities. These ratepayers, now disproportionately burdened by the enormous costs incurred in adding new generating capability over the past decade, would be able to share equally with public utility customers in the benefits of the Northwest's low-cost Federal system power.

The need for this bill is real and immediate. Although I intend to rise in support for an amendment which my colleague from Oregon, LES AUCOIN, will offer on the issue of nuclear waste, I remain absolutely firm in my commitment to this solution to the pressing energy problems facing Oregon and the Pacific Northwest. I urge the House to approve this vitally necessary legislation.

Mr. Chairman, at this point in the RECORD I would like to insert additional remarks pertaining to the tax and other financial aspects of this bill.

Every Northwest member is well aware of how poorly understood this bill remains even among some of the citizens of the Northwest itself. For this reason, we are particularly fortunate to have had among our colleagues Mr. SWIFT of Washington, who has performed superbly under difficult conditions to rewrite this bill so that the bill does its job without creating risks of harm to the Northwest or to any other region. And we are indebted, as a region, for the constant hard work and attention that this bill has received from so many Members from other regions, who had made a determined effort to understand it and to improve it.

In particular, I want to thank Mr. DINGELL, Mr. BROWN of Ohio; and Mr. SHARP of the Committee on Interstate and Foreign Commerce; Mr. UDALL, Mr. CLAUSEN, Mr. KAZEN, and Mr. LUJAN of the Committee on Interior and Insular Affairs; and Mr. BOLLING and the other members of the Committee on Rules, as well as the leadership on both sides of the aisles and the many members of the two committees that favorably reported this bill by such overwhelming margins.

We are proud that the bill has been worked out in a manner that will bring hundreds of millions of dollars of needed rate relief to the people of Oregon and other Northwest States. We are even more pleased that this feat can be accomplished without any financial or other harm to other regions, and with the agreement of all classes of customers of the Bonneville Power Administration.

Our major disappointment is that this bill—which is basically simple in concept, but which has so many necessary details—has been so badly misunderstood, misinterpreted and misrepresented.

Mr. SWIFT and others will describe the conservation and power supply features of the bill. But it seems appropriate for me to say a few words about the financial aspects of the bill that deal with taxes, borrowing, and interest rates. These are some of the areas where confusion still seems to exist, whether by accident or by design. The members and staff of the Committee on Ways and Means have worked closely with both the Commerce Committee and the Interior Committee on the financial provisions of the bill. There is nothing in these provisions as a precedent for other legislation.

1. NO FEDERAL GUARANTEES, SUBSIDIES OR BAILOUTS

BPA is a self-financed agency under the terms of the Federal Columbia River Transmission System Act of 1974. This means that BPA receives no appropriations. It is required by law to cover its full costs through its own revenues derived from the sale of power and other services. These costs that must be covered include the amortization of the Federal investment in our region's hydroelectric facilities, and the repayment, with interest, of all BPA borrowing from the Treasury.

The United States of America does not stand behind BPA's obligations. No holder of any bond secured by an obligation of BPA has any recourse against the United States of America, the Treasury or the taxpayer. BPA alone must meet these obligations, and BPA's rates cannot be approved by FERC unless they are sufficient to meet these obligations. These requirements, and the lack of any Federal guarantees, are made explicit in sections 6(j) and 7(a) of S. 885, even though they are also explicit in the Federal Columbia River Transmission System Act.

To the extent that the ratepayers of the Northwest will receive financing benefits under this bill, they will do so only because the bill permits the region itself to create an effective financing arrangement at regional risk and expense. The pool of regional ratepayers who provide this security will still be smaller than the number of ratepayers served by single, large utilities or groups of utilities in other parts of the country.

This bill does not authorize BPA to become another TVA. It does not grant BPA the authority to own or to build powerplants. It does not create BPA as

the monopoly supplier of power at the wholesale level for an entire region. The only bill that would have done this—the Columbia Valley Authority bill—has been dead for more than 30 years. No one seeks to revive it now, because the Northwest has since developed a highly pluralistic, although electrically integrated, regional power supply system, with more than 120 utilities, BPA and the unique direct-service industries.

2. BORROWING AUTHORITY

BPA is not permitted to sell its bonds in the open market. If it could, it might be able to obtain more favorable interest rates. But by law, BPA may borrow only by selling its bonds to the Treasury. Treasury in turn sells bonds to raise the needed funds, and charges BPA an interest rate equal to Treasury's own interest rate plus a markup to cover Treasury's costs. In effect, Treasury earns a "profit" on all BPA borrowings.

Under present law BPA may only borrow for the purpose of constructing transmission lines. Under this bill, these purposes remain limited. The only additional purposes for which BPA will now be able to borrow are: First, to finance conservation and direct-application renewable resources; second, to carry out its new fish and wildlife duties; and third, to purchase power from very small generating facilities, which, because of the small (50 megawatt) size limit, excludes conventional coal or nuclear plants.

The limitation on BPA's borrowing authority for power purchased under this act from a generating facility was added in order to satisfy a concern of the Treasury Department. Treasury said that if BPA could borrow for power purchases under this act, an implication of some sort of Federal guarantee or Federal financial support might result. In my opinion, this concern was not well founded—BPA ratepayers are still obligated to repay all BPA borrowing, so borrowing is really just another cost of BPA as a self-financed agency. But the provision was nonetheless amended to provide the limitation sought, with the exception that borrowing for conservation and very small resources is still permitted. This exception is necessary because, as a practical matter, there are resources that must be financed through direct borrowing and because BPA has no ability to borrow except by selling bonds to the Treasury.

The bill also increases BPA's borrowing limit, but $1.25 billion of this amount, the entire amount of the increase, is to be earmarked for a special revolving account within the BPA fund to finance conservation and certain renewable resources. This is not an increase in appropriated funds, since BPA receives no appropriated funds. It is simply a means for the ratepayers of the Northwest, at their own expense, to create the financing arrangement they need to give full effect to the provisions of this bill that require BPA and the region to rely first upon cost-effective conservation and renewable resources in meeting the region's future power needs. Without this account, that priority might be impossible to carry out. Until the new account becomes effective, starting with the next fiscal year, BPA will have to continue financing conservation and related efforts out of its limited existing borrowing authority.

3. INTEREST RATE

As explained above, the Treasury Department and not the bond market determines BPA's interest rate, since BPA is not permitted to sell its bonds on the open market. The Federal Columbia River Transmission System Act instructed Treasury to set BPA's rate at a level that covered Treasury's own costs and that was equal to the rate for "similar bonds." To BPA and some Members of Congress, the phrase "similar bonds" meant bonds issued by Government corporations. Treasury interpreted the phrase, and continues to interpret it, as meaning triple-A rate private utility bonds.

The House has before it an amendment, rejected in committee, to restore the Treasury interpretation. This amendment should be rejected. First, it produces a higher rate than that paid by any other self-financed agency that borrows from the Treasury. Other agencies, such as TVA and the REA, pay the lower Federal financing bank (FFB) rate. The other power marketing agencies, such as the Western Area Power Administration (WAPA), pay an even lower rate by relying on appropriated funds. Second, the triple-A private utility rate bears no relationship to the rate that BPA could enjoy if BPA were permitted to sell its bonds in the open market. The BPA rate would be close to the rate enjoyed by TVA, if not actually equal to it. Third, there are simply so few triple-A rate private utility bonds in existence that the present Treasury practice is basically arbitrary and unfair.

The Senate bill permitted BPA to borrow at the FFB rate. This would still return a profit to the Treasury, and yet still save the ratepayers of the Northwest millions of dollars each year over Treasury's present practice. But the present House version of the bill does not specify the FFB rate. It simply insures that the words "similar bonds" will now mean bonds issued by Government corporations. In my opinion, this interest rate is still too high—the lower FFB rate would be more proper. But this is a small price for the Northwest to pay in order to pass this legislation and avert a regional economic crisis.

Under no circumstances, however, can the triple-A utility rate be justified. I urge all Members to reject the amendment on this point. Once the facts are understood, the effect of the amendment would simply be a spiteful one.

4. INTEREST RATE PENALTY

The bill now contains a provision permitting Treasury, under certain circumstances, to charge BPA a 1-percent interest rate penalty if BPA's repayment of its obligations to Treasury are delayed and BPA had the means available of making repayment on a timely basis. There is before the House an amendment, which should be rejected, raising this penalty to 2.5 percent and requiring that Treasury ignore the reasons for the late payment.

At present, BPA is ahead of its total repayment obligations. But BPA has no ability to insure that its repayments will be on time in any particular year. BPA's revenues primarily come from sales of hydroelectric power. BPA's total revenues, therefore, fluctuate significantly from year to year, since power sales fluctuate depending on fluctuating streamflow conditions. BPA must base its rates on average water conditions to avoid an over-collection or and undercollection. And BPA must repay to Treasury all the money that remains each year after BPA's current costs are recovered. This means that BPA roughly half the time will pay Treasury more money, earlier, than repayment criteria require; in other years, BPA cannot help paying less. On average, however, BPA will pay just the right amount, since tis rates are set to recover the right amount under average water conditions.

At present, FERC does not permit BPA to include in its rates any "allowance for contingencies," even in order to insure timely repayment to the Treasury. And Treasury does charge BPA added interest as a penalty for any late payment. Thus it would be totally unfair to adopt an amendment that penalizes BPA and its customers for conditions over which they have no control, and which fails to recognize that BPA is likely to make an early, advance repayment just as frequently as it makes a late payment.

The 2.5-percent interest rate penalty suggested by the amendment is purely punitive. It bears no relationship whatever to the interest rate penalty that would be imposed by the market for any delayed repayment, if BPA could sell its bonds in the market. By contrast, the interest rate penalty provisions in H.R. 8157 do attempt to duplicate what the open market would do under those circumstances.

It is a quite major concession for the Northwest to consent to an interest rate penalty at all, given the special circumstances that limit BPA's ability to control its annual payments to the Treasury. To impose a mechanical, punitive and purely arbitrary penalty on top of the one provided in H.R. 8157 would be a form of unfairness that no Member could ever accept for his or her own region, and one that cannot be accepted for the Pacific Northwest.

5. TAX-EXEMPT FINANCING

The provisions relating to "tax exempt" financing by public bodies are particularly important to my committee. Staff of my committee and the Joint Committee on Taxation and I have assisted in and monitored the development of the provisions of section 9(f).

This bill preserves, but does not extend, the tax-exempt financing privileges of State and local governments in the Northwest, including those of public-owned utilities. This provision happens to be essential to the working of the bill. It is expected that the total amount of tax-exempt bonds issued by Northwest entities under this legislation will actually be less than the amount that would occur without the bill. The reason for this is not only that the total costs of a less efficient, less integrated regional

power system would be higher than the total costs of an efficient and well integrated system. The reason is also that this bill will spare the region a bitter and protracted public-private power war, during which literally hundreds of millions (if not billions) of dollars of tax-exempt bonds would be issued to finance the condemnation of private utility systems. This would increase the costs of the distribution system for Northwest ratepayers, as well as increasing total tax-exempt bond financing.

While some public takeovers of private power distribution systems will still occur in the Northwest in coming years, particularly because new public power systems will enjoy greater benefits with the bill than without it, the extent of such takeovers is likely to be more limited than without the bill for a simple reason: The ratepayers of IOU's will be able to enjoy the cost advantages of BPA power without having to incur the cost disadvantages of condemning and paying for private power distribution facilities.

The public and private utilities served by BPA will continue to have load growth after the effective date of this act. The provisions of the bill, particularly section 5(e), place upon each utility the fundamental responsibility of providing for its own load growth. The means available to each utility will be independent conservation and resource efforts, encourage by section 6(h), and the development of resources, including conservation, for sale to BPA.

Only if each utility in the region provides to BPA enough resources to meet its net demand on BPA will BPA have sufficient power. If BPA has insufficient power, section 5(e) in effect allocates the available power BPA has purchased by requiring that it be returned to those who have sold it to the agency. Thus all load growth from the effective date of the act of the publicly-owned utilities, as well as any power needed to meet current deficits and bring BPA into load/resource balance, must be met by new resources, including conservation. It is these resources that may continue to be financed with tax-exempt financing. (The supply and rate protections afforded perference customers of BPA have no bearing on this point.)

Mr. KAZEN. Let me publicly thank the gentleman from Oregon (Mr. ULLMAN) for the tremendous support that he have given my committee and the advice and the consultations that he has given us. They have been very, very helpful and I am hoping that today is the day that the gentleman and all of the Northwest delegation in the Congress have been waiting for, and hopeful it will be a successful day.

Mr. ULLMAN. I thank the gentleman.

Mr. LUJAN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. LUJAN asked and was given permission to revise and extend his remarks.)

Mr. LUJAN. Mr. Chairman, I support the bill reported by the Interior Committee and I will strongly support the substitute bill which we have worked out with the Interstate and Foreign Commerce Committee. My remarks apply to both bills.

It is important to remember that the bill addresses a regional problem that affects only the States of Washington, Oregon, and the western portions of Idaho and Montana, with very small peripheral effects on two or three other States that buy surplus power from the Northwest.

The job of both committees to whom the bill was referred was to bring out a bill that provides a regional answer to this regional problem, and to make certain that none of the other States will have to pay, in any way, for that regional solution.

We have done that. The bill before us—and the substitute which will be offered and which I will support—applies only to the Northwest. It provides a mechanism to resolve a critical power problem at no cost to the Treasury.

It establishes no precedents for any other State.

It fully protects and reaffirms all of the rights of the States in the management of their own resources.

It permits the orderly development of new energy sources in the Northwest, with heavy priority on conservation as the first major resource to be used.

It provides for the rebuilding of the salmon and steelhead runs that have been damaged by hydro development on the Columbia River, with the cost to be paid by the rate-payers in the Northwest, not by U.S. taxpayers.

While creating a mechanism for the acquisition and allocation of power by Bonneville Power Administration within the region, the bill carefully limits the authority of the BPA administrator. It does not create anything resembling an "energy czar."

We retained the restrictions in current law which prohibit BPA from building or owning power generating plants. BPA can contract for power from powerplants built by others; it can buy power from whatever sources it can find; it can transmit that power to where it is needed in the region, and it can sell that power to customers throughout the Northwest; but it cannot get into the business of generating its own power in competition with public and private utilities.

The bill fully protects the preference clause of the Bonneville Project Act of 1937, thus assuring the publicly owned utilities and other preference customers their full share of power.

It requires BPA to pay all of its bills from its revenues, as in the past. And that includes BPA's obligation to amortize on a timely basis the Federal investments in hydropower dams in the Northwest.

Every single thing that Bonneville is authorized to do in this act must be paid for by the power consumers of the Northwest, and by nobody else.

That, in a nutshell is the nature of this bill.

The need for such a bill has been made clear by the very able Member who has already spoken. It is clear that a bill is necessary, if we are to avoid a chaotic situation in the Northwest. In our hearings in Portland 4 years ago, Gov. Dixie Lee Ray predicted a "civil war" between the Northwest States over the allocations of the federally produced power. This bill provides a mechanism for making those allocations in an orderly fashion according to priorities which place the preference customers at the head of the line.

Mr. Chairman, I will add only that this bill has followed a long and torturous path to get to this floor today. Because it affects so many widely-divergent interests in the Northwest, it was necessary to achieve some sort of consensus among those interests, including the four States involved.

Six or seven years ago such a consensus would have been unthinkable. Each of the interest groups involved—public utilities, private utilities, direct service industries, fishermen, Indian tribes, and various State and municipal governments—each of these interests was prepared to defend its own turf.

But the nature of the emergency that looms ahead, as the industrial power contracts begin to expire and the full impact of the power shortage hits the Northwest, has forced these divergent interests to cooperate and work together in a spirit of give and take. The result has been a consensus among these interests as to what is needed and how it will work. The bill reflects that consensus. As with any broad agreement reached between many competing interests, there are a few companies and individuals who disagree with the outcome. But the remarkable thing is that the vast majority of the people most directly affected agree with and support the bill of the 14 Members of the congressional delegations from those States, 2 oppose any bill, 2 support with amendments and 10 support this bill.

One of the touchiest problems involved in the bill is the problem of fish enhancement. How do we choose between using a given flow of water to produce badly-needed power and using the same flow to maintain adequate stream flow for fish runs. That question was a wedge dividing, on the one hand, the public and private power companies and their customers, and on the other hand the commercial and sport fishermen, the Indian tribes and environmental groups.

It would have taken the wisdom of Solomon for our committee to have worked out an answer that would be satisfactory to all. During our committee deliberations, I took personal responsibility to insure that the provisions in the bill for the protection, mitigation and enhancement of fish and wildlife were both effective and balanced. I was aided in this effort by an ad hoc committee of representatives from each of the affected groups in the Northwest. After weeks of discussion and negotiation this committee arrived at proposed language that was acceptable to nearly every power interest and nearly every fish and wildlife interest group in the region. It was very gratifying to me to be able to offer that language as amendments in committee markup and to have the committee adopt those amendments without opposition.

I am even further gratified to see that same language, with only a few modifica-

tions incorporated into H.R. 8157, which is a reconciliation between the Commerce and Interior reported bills. It is fortunate that the similarity of the provisions of H.R. 8157 will allow the explanations in the report of the Interior Committee (H. Rept. No. 96-976, part II) to be used to interpret and guide the implementation of these important provisions.

The changes incorporated into the reconciled bill generally represent improvements. These changes will, for instance, be likely to reduce the amount of litigation surrounding the fish and wildlife program.

Another important change raises the level at which the Administrator must show specific capital facilities as separate line items in his budgets submitted to Congress to capital facilities having a life of greater than 15 years and an estimated cost of at least $1,000,000. This will reduce the complexity of the Administrator's budget submittals. It has been mistakenly assumed by some that this change might influence electric power rates in the region. The Administrator must (under this language as well as the Interior version) to the extent practicable use bonding authority under section 13 of the Federal Columbia River Transmission System Act to insure that costs of such facilities are collected from ratepayers over the life of such facilities.

The issuance of bonds for such facilities is consistent both with the Administrator's existing directive to set rates as low as possible consisent with sound business principles and with the intent of subsection 4(h) of this act to protect, mitigate and enhance fish and wildlife while assuring an adequate, efficient, economical and reliable power supply.

The concept that protection, mitigation and enhancement of fish and wildlife while assuring an adequate, efficient, economical and reliable power supply is the most basic principle in developing the program. It is particularly important that this concept be recognized whenever a program is developed that is likely to be implemented before a plan is developed or amended. Important elements of achieving this balance are the principles for the council to consider in paragraph 4(h)(8) and the directive to the Administrator in subparagraph 4(h)(10)(A). These concepts are not mutually exclusive as they might initially appear, rather they are complementary considerations which will insure that the program will not call for duplication of measures already being implemented to protect, mitigate or enhance fish and wildlife.

Similarly, if in the development of the program the recommendations make clear that a certain measure should be revised or replaced, subparagraph 4(h)(10)(A) will not act to force retention of the existing measure. Rather, the funding for that measure should to the extent possible be transferred to the more effective measure recognized by the program.

Water management agencies and other Federal agencies with responsibility for managing, operating, or regulating Federal and non-Federal facilities which might affect fish and wildlife on the Columbia River and its tributaries carry out their responsibilities pursuant to other laws. To maximize the protection, mitigation and enhancement of fish and wildlife, the council will need to recognize constraints imposed by other laws applicable to such agencies when determining the relative effectiveness of adopting recommendations. The council, therefore, should encourage the participation and obtain the advice of these agencies in its adoption of the plan and program.

If the parties most directly concerned, and most directly affected by this bill are satisfied with those provisions, and if those provisions affect no one else outside the Northwest, I see no reason at all for this body to change the terms of the agreement that represents such a broad concensus. For that reason, I will strongly oppose any amendments that would erode or change the conditions that have been agreed upon and that are incorporated in the language of this bill.

Mr. Chairman, I remind my colleagues again that this is a regional solution to a regional problem, with no effect or cost whatsoever to the U.S. taxpayers. It is a solution that the vast majority of the people affected have asked for, and it has the support of the vast majority of the congressional delegation of the States affected.

I urge your support for the bill, and I urge you to join us in opposing the many amendments that will be offered here, just as they were offered in subcommittee and in full committee. Those amendments received a full hearing, full debate, careful consideration and many, many hours of committee deliberation. They were found wanting in subcommittee, they were found wanting in full committee, and they have not changed a bit since then.

This is a bill whose time has come, and we should pass it, intact, without further delay.

□ 1310

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield to me?

Mr. LUJAN. I yield to the gentleman from California.

(Mr. CLAUSEN asked and was given permission to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Chairman, I rise to associate myself with the remarks that have been made by the gentleman in the well and to commend the gentleman, Mr. LUJAN, and the chairman, the gentleman from Texas (Mr. KAZEN), and all the members of the committee who worked long and diligently on this legislation.

Mr. Chairman, I rise in support of S. 885, the so-called Northwest power bill and also the bill that will be offered in the form of a substitute as amended by the text of H.R. 8157 which represents the combined efforts of the majority and minority members of both the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce to reconcile differences between reported versions of the bill.

The reconciled bill represents a legislative product which enjoys an extraordinary degree of support, not only among a broad bipartisan spectrum of Members (Messrs. STAGGERS, UDALL, CLAUSEN, DINGELL, KAZEN, BROWN, FOLEY, and ULLMAN) but also among widely varying interests in the region, including public and private utilities, industry, Indian tribes, fish and wildlife agencies, consumers, and local government.

This consensus has resulted from the recognition by the region that its unique problems in the planning and fulfillment of electric power needs for the future can best be resolved through a coordinated effort.

This legislation, which will come in the form of a reconciled bill, does provide a legislative framework which we believe was needed because of the involvement of the Federal Government, through the Bonneville Power Administration, in transmitting and selling electrical power in the region.

Unfortunately, the once abundant and cheap hydroelectrical power generated from Federal projects in the Northwest no longer meets the demands of the customers it is required to serve. BPA is therefore forced to decide how that cheap power is to be allocated. That could result in protracted litigation and chaos.

This legislation will avoid that result by a legislative allocation of the Federal power, while providing an orderly process for future planning which retains important local controls and the opportunity to participate.

In addition, the bill achieves an agreement on environmental, conservation and renewable resource objectives some of which would not have been possible without the bill.

Key features of the compromise bill include:

First. A fair method for allocating the Federal hydroelectric power available in the region;

Second. A formula for equalizing rates among customers utilizing Federal and non-Federal power;

Third. Protection of "preference" users of power;

Fourth. Assurance to existing direct service industries of a continued supply of power, although at much higher rates;

Fifth. Emphasis on conservative measures and renewable resources as priority methods to meet future needs;

Sixth. A State council consisting of two members from Washington, Oregon, Idaho, and Montana which will provide a plan for meeting the region's electrical power needs;

Seventh. A program to protect the fish and wildlife, particularly the salmon located on the Columbia River System; and

Eighth. Protections for water rights of State, Federal, Indians and other entities.

In summary, I support this legislation because it is necessary for the region, supported by the majority of the interests affected, and of long term benefit to the Nation. The bill provides a solution to the unique power problems of the Northwest which has been carefully worked out to balance and coordinate competing interests in a fair and equitable manner.

I urge my colleagues to join me in support of this bill.

Mr. LUJAN. I thank the gentleman for his support. The gentleman was very much involved in the deliberations and hearings on this bill. The gentleman knows what is in the bill and it is certainly gratifying that the gentleman has been such an interested participant in the legislation.

□ 1320

Mr. KAZEN. Mr. Chairman, at this time I want to yield some time to a member of the Northwest delegation, a member of my subcommittee, a man who has been very diligent in attending these hearings, and is of course very interested and has made a tremendous contribution my colleague from Oregon (Mr. WEAVER). I yield 7 minutes to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, first I would like to commend the subcommittee chairman, Mr. KAZEN, who has worked long and hard—as has been said—on this bill, and given it the attention that it required. We have held 27 hearings, I believe, on this bill many of them in the Northwest, at which time the public, the people of the Northwest, again and again and again protested this bill.

There are civic groups, peoples' groups, such as the League of Women Voters; such as the Oregon Grange, who came in and said that this bill will be the worst bill possible for the economy of the Northwest and for our livelihoods.

But continuing, Mr. Chairman, the bill is being pushed through by the powerful Bonneville Power lobby. This is an awesome power in the Northwest. Bonneville Power is and was the Federal marketing agency of the hydroelectricity from the dams built by the Corps of Engineers and numerous Federal agencies in the Columbia River system. That is all it has been, is a marketing agency. However, consolidated around Bonneville has been a corps of very powerful entities, and these entities now are bent on expanding the Bonneville from a marketing agency into a huge Federal bureaucracy; into nationalizing the utilities of the Northwest, and this, for the reasons I am about to describe, must be stopped.

Mr. Chairman, the Northwest regional energy bill is an issue I have anguished over long and hard. Virtually alone, for many, many years in opposition to certain fundamental provisions of the bill, I have asked myself again and again, is my course right, because on an issue of such fundamental importance I agonized over every step of the way to determine whether the course I took to oppose these fundamental provisions was correct. Again and again I have asked for studies from the GAO, from the BPA; I have constantly rechecked my facts, investigated my assumptions, and after these, Mr. Chairman, these studies have only served to deepen my suspicions.

Enactment of the bill would be disastrous for the economy, the livelihood, for jobs and business in the Northwest. Gradually, the consensus in the Northwest for this bill has come apart. Day by day, more groups, the ones that I have mentioned, such as the League of Women Voters, the Gray Panthers, the Elder Citizens Coalition of Washington—dozens and dozens of State legislators throughout the Northwest and many, many others have come out in opposition. They have been joined by several significant Northwest publicly owned utilities, including my own utility, the largest public utility in Oregon, the Eugene Water and Electric Board. I will have more to say on the Eugene Water and Electric Board later because their opposition is key to what is wrong with the bill; for this bill will destroy this vigorous, aggressive utility, and they know it.

I received a telegram this morning, and I quote:

EUGENE, OREG.,
September 26, 1980.

Hon. JIM WEAVER,
Longworth, HOB,
Capitol Hill, D.C.

DEAR CONGRESSMAN: This is to advise you that the Eugene Water and Electric Board is still very much opposed to HR 8157 and urges that any further House action cease.

This telegram have been sent to other congressmen including Congressman Foley.

KEITH PARKS,
General Manager, Eugene Water and Electric Board.

I would like to point out that Mr. Parks is an extremely conservative, lifelong Republican, and has always been involved in the development of nuclear power. He knows that this bill will destroy this aggressive, vigorous utility; destroy any initiative they have to develop resources simply because it makes the Federal Government the great father for us all, and as we know very clearly, what has happened to those public utilities that have not developed their own power, they want to continue to receive power from the Federal Government so that they do not have to do anything.

Now, we are going to take all the utilities of the Northwest, including the private utilities, including the stockholder-owned utilities, and make them subserviant to the Federal Government. The Federal Government will provide, under the bill, all our power requirements and there will be socialization and centralization at a time when we need vigorous initiative in the grassroots.

It is particularly significant for those who say that the public utilities in the Northwest support this bill to know that the Public Power Council—that is, all the public utilities of the Northwest, and there are about 110 of them—they are on record for the bill.

But in fact they re-elected to their executive board the very members who are most opposed to this bill.

Mr. LOWRY. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Washington.

Mr. LOWRY. Mr. Speaker, I thank the gentleman for yielding. As a member of the Northwest delegation, I am going to ask for my own time, but I want to commend the gentleman from Oregon for the courage he has had on this bill.

I want to point out also that there are some things that I do not agree with him on in this bill—quite a few things—but the gentleman has had courage under a lot of fire, to pursue his convictions toward a better energy policy, and I want to commend him.

Mr. WEAVER. I want to thank the gentleman from Washington. May I point out to the committee that the gentleman from Washington far exceeds me in any courage, for he is from the State of Washington, and I am in awe of him and his courage. I thank him from the bottom of my heart for what his efforts have been on this bill.

But, I want to say that it is particularly significant that the Public Power Council, which is on record as being for the bill, some of us feel that they have been blackmailed into being for the bill. Some of us think that perhaps Bonneville in its awesome power of being able to deliver or not deliver power, Bonneville has gone into these public utilities and said, "If you don't support the bill we will cut you off."

I do not know that that is true. I know many public utility people have told me that that has happened to them.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. LUJAN. Mr. Chairman, I yield 5 minutes, to the gentleman from Washington (Mr. PRITCHARD).

(Mr. PRITCHARD asked and was given permission to revise and extend his remarks.)

Mr. PRITCHARD. Mr. Chairman, I rise in strong support of this measure. S. 885 is the most important piece of legislation in the Northwest in my 8 years as a Member of this body. In fact, from a regional perspective, it may be the most important legislation for the next 20 years.

For decades, the electrical energy situation in the Northwest has been the envy of the Nation. Blessed with natural resources perfectly suited for hydroelectric development, the Federal Government teamed up with the region in the depression era to harness the power of the Columbia River—power that brought growth, development, and jobs.

But now, the region has entered a new era. Its energy needs have outgrown the supply of cheap hydroelectric power. Aggressive conservation as well as new resources will be necessary in order for the supply of electricity to meet the growing demand. Already, substantial power deficits are being forecasted if there are low water years in the 1980's. The region is being hamstrung in its efforts to avert the shortages by the terms of the existing relationships between the Bonneville Power Administration and the various classes of its customers—public utilities, private utilities, and direct service industrial customers. The terms under which BPA and their customers interrelate with the region's power supply are governed by contracts written back in the previous era of abundance.

Beginning next year, the first of these contracts will expire. BPA has already served notice that it will not be able to renew contracts on the preexisting terms—they simply will not have the power to meet the requirements of both the public utilities who are its prefer-

ence customers, and its industrial customers, primarily the six aluminum companies who produce 30 percent of the Nation's aluminum needs. BPA is in the midst of developing a plan to allocate the existing power it has—a plan which, if implemented, will surely be challenged and tied up in the courts for years. Lengthy court battles over how much of the Federal resources each user group will receive will snarl up the region's cloudy energy picture even further.

The Pacific Northwest Electric Power Planning and Conservation Act is designed to resolve both the problems which I have mentioned—the allocation of the Federal resources as well as the restructuring of the relationship between BPA and its customers in a manner which will allow them to meet the region's future electrical needs.

The legislative allocation embodied in this bill represents an equitable distribution of resources to the various user groups. The fact that 107 of the region's 113 public utilities, all the private utilities, the direct service industries and BPA have agreed to the allocation provisions of the bill is evidence of its broad support.

The Northwest power bill will greatly expand the role of the region's citizens and public officials in determining their future electrical energy needs and how they should be met. The regional council established under the bill will not only draw up the plan detailing what the region's needs will be, it will have the authority to make sure Bonneville adheres to the plan.

The bill also sets as a matter of policy two important things: First, it treats energy conservation as a resource, making it the top priority in meeting the region's energy needs. I know of no other legislation which carries such a strong mandate for implementing conservation.

Second, the bill sets strict standards for protection and mitigation of the salmon resources in the Columbia River. As a member of the Merchant Marine and Fisheries Committee, I am keenly aware of the damage caused to the river's salmon fishery by past hydroelectric development. I strongly believe the fish and wildlife provisions of this bill will assure that in the future the river will be operated in a manner which produces a more equitable balance between fish and power interests.

It is important to keep in mind the fact that this bill will be the impetus for solving the region's power problems at no cost to the Federal Treasury. There are no appropriations, no guarantees, and no loans in this bill. Just as in the past, the region's ratepayers will pay the entire cost of present and future resources.

The Pacific Northwest is truly a region at the crossroads in regard to its electrical energy future. Without this bill, our future is an uncertain one—filled with the likelihood of a "civil war" over who gets how much of a pie that's too small. With this legislation, we can solve an allocation problem, chart our own course, meet our energy needs, pay our own way, grow as a region, and continue to contribute to the health of this Nation.

I urge your support for this legislation.

□ 1330

Mr. DINGELL. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, the Pacific Northwest Electric Power Planning and Conservation Act is vitally needed in order to solve an electric power planning problem that, absent such a solution, is virtually certain to cause disruption in that region. The committee has given this bill the most careful consideration. We have explored every issue in depth and shaped the provisions of the bill. We have held hearings in the region and here in Washington, D.C. Unlike earlier versions which I strongly opposed, it represents a sound and rational solution to the impending crisis facing that region. I strongly urge your support.

The bill grants expanded authority to the Bonneville Power Administrator to acquire additional power on a long-term basis, but with significant and important safeguards. This authority will enable the Administrator to sign new contracts with his customers. Absent this authority, a regional dispute over access to existing low-cost power under current law will leave electric power planning in chaos.

This bill does not establish the Administrator as an "energy czar" but, rather, by providing for a public planning council, it permits coordinated electric power planning with wide input by the public. The council has more than planning authority; it acts as a check on the Administrator.

The bill requires that cost-effective conservation and renewables be implemented or acquired as a priority over other resources. This does not preclude the acquisition of conventional resources, but assures that conservation, which is especially appropriate to this region will be adequately pursued.

At the same time, the bill is neutral on whether, and to what extent, conventional resources will be developed in the region. It does not encourage or discourage them.

The bill involves no Federal payments or guarantees. It leaves the region entirely responsible for financing its power needs. BPA does not receive appropriations, and the Treasury does not stand behind or guarantee any BPA obligations.

The rate provisions of this bill are fair and equitable. They protect the rights of preference customers to lower cost Federal-based resources. They provide that the Administrator's direct service industrial customers will pay substantially higher rates. These rates permit the residential customers of investor-owned utilities to share in the economic benefits of the Federal-based resource system. It provides for billing credits which do two things: First, they allow utilities to plan for their own needs; and second, they permit these utilities to receive correct signals as to the cost of power at the margin and thus precludes the need for any two-tiered rate system.

The bill contains provisions relative to fish and wildlife on the Columbia River and its tributaries. These provisions will assure that the power-planning decisions fish and wildlife concerns are adequately met. Fish and wildlife, for the first time in this region, will be treated on a par with power and other purposes.

The bill obliges the Administrator to offer full requirements contracts to the region's investor-owned utilities. However, only power that is surplus to the Administrator's existing responsibilities or power that is developed by these utilities may be provided pursuant to this obligation. These contracts will not disadvantage the Administrator's other customers and provide no special benefit to these companies' stockholders. In order to enable these customers to join together in a generating subsidy to develop the power needed for this purpose. a limited exemption from the Public Utility Holding Act is provided, an exemption endorsed by the Securities and Exchange Commission.

This bill does not represent a precedent for other regions of the country. It is a solution uniquely suitable to this region. Electric power rates in this area of the country are low and, in the near future, will probably remain lower than those rates paid by ratepayers elsewhere, but this should not obscure the serious problem facing this region, where the Federal Government markets over hal of the electric power. The solution reflected in this legislation protects the existing authorities and privileges of the States, the utilities, the localities, and the rest of the nation while, at the same time, providing a mechanism through which this region can itself resolve its electric power crisis.

Before closing, I want to express my appreciation for the hard work and great assistance our committees received from many of our colleagues on both sides of the aisle, from both within and outside the region. Their help and expertise and that of their staff was essential to our consideration of this legislation. I particularly want to commend Congressman SWIFT, who is the chief sponsor of the Commerce-Interior compromise, and Congressmen FOLEY, BONKER, DUNCAN of Oregon, DICKS, ULLMAN, MCCORMACK, SYMMS, and PRITCHARD for their untiring efforts to bring this bill to the floor today. Chairmen STAGGERS and UDALL and Chairman KAREN, as well as Congressman BROWN of Ohio, Congressmen SHARP, CLAUSEN, and LUJAN, all of whom have no constituents in the region, also provided significant assistance in shaping this legislation in a way that is helpful to the region, and not harmful to other parts of the Nation.

I want also to thank Senators JACKSON, HATFIELD, MAGNUSON, CHURCH, MCCLURE, and their staff for the cooperation we have received from the other body.

I want to thank the Administrator of the BPA for the technical assistance we have received from him and his staff, particularly, Mr. Larry Hittle, who has spent long hours on the technical aspects of this legislation for our committee. Dr. Terry Holubitz of Pacific Fisheries Commission and Mr. Bruce Miser, public power counsel, as well as others in the region have also been helpful to us.

Last, I also want to express the deep appreciation on behalf of myself and Chairman UDALL to the staff of our committee and that of the Interior Committee for the work that has been done in preparing this legislation, as well as the staff of the House legislative counsel. I particularly want to call attention not only to the professional staff of the committee, but also to the administrative staff of both committees and the administrative staff of the legislative counsel who worked long hours on the legislation.

Mr. MOORHEAD of California. Mr. Chairman, I yield myself such time as I may consume.

(Mr. MOORHEAD of California asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD of California. Mr. Chairman, I support the Pacific Northwest Electric Power Planning and Conservation Act (H.R. 8157) as the necessary solution to the serious and complex electric power deficit in the Pacific Northwest. Mr. Chairman, this House bill should be adopted as our substitute to the Senate-passed bill, S. 885.

The Pacific Northwest Electric Power Planning and Conservation Act is intended to resolve the serious and unique electric power deficit in the Pacific Northwest. This bill is far from perfect. In fact, I support the bill with misgivings over some provisions. I recognize, however, that the bill is agreeable to the region and that, without this bill, the gravity of the problem would only increase. Unabated, the power deficit in the Northwest could well result in ruinous litigation and regional chaos. Without a certainty of power, one-third of the domestic production of aluminum may be endangered, undermining our attempts to improve our national economy.

For over 40 years, the States of Washington, Oregon, Idaho, and Montana have enjoyed abundant and inexpensive hydropower marketed by the Bonneville Power Administration. Now the growth of the region has surpassed its hydropower supply. The previous, nonlegislative attempts to meet the growing demand have failed.

The Bonneville Power Administration, created in 1937 to market the hydropower generated by dams built by other Federal agencies, serves three types of customers: public power agencies, investor-owned utilities, and direct service industries, largely aluminum plants.

The public agencies were granted a preference right to the hydropower in the original statutes, but never needed to exercise those rights against other Bonneville customers until recently. Because of the power deficit, Bonneville curtailed sales of hydropower to the investor-owned utilities in 1973, and has indefinitely interrupted sales to the direct-service industries over the past 3 years. Neither public nor private utilities are capable of independently building enough new supply to overcome the deficit. Moreover, without an equitable system of reallocation there is little hope that the two types of utilities would be able to construct new generation cooperatively. The very existence of some of the investor-owned utilities depends upon an orderly reallocation of power.

Because the residential rates of public agencies are 50 percent of those of the private utilities in Oregon, there is a movement toward creating a new public agency for the State of Oregon. While this may bring some temporary relief to the residential consumers of Oregon's private utilities, it would create such a huge strain on Bonneville's resources that the entire region's power supply would be thrown out of balance and into court.

It is clear that only a new system of allocating the hydropower can arrest the problem, and that only Congress can provide the solution. This bill would reallocate the hydropower into a regionwide power pool, administered by Bonneville but owned and operated by utilities, so that the cost and production of new thermal generation may be shared among the customers of the region. The bill protects the preference rights of the public agencies, allows the residential consumers of the private utilities to share hydropower rates, and allows a certainty of supply—at a greatly increased rate—to the direct-service industries.

The solution is not flawless. For example, the bill establishes a new regional planning agency to assist Bonneville in coordinating the solution to the power deficit. I am concerned that this council, mandated to consider conservation first and conventional generation last, may succumb to a no-growth philosophy. This would be most unwise, since the region's past inability to build new generation has been a major factor in the present shortage.

I can, however, support the bill, because it is the only way new generation will be built in the region and therefore the only way to remedy the deficit. Without this bill there is the clear and present danger that disruptive battles will erupt in the Northwest over Federal power allocations. Federal power accounts for 50 percent of the electricity generated in the Northwest. There is no need to subject consumers in the Northwest to a regional war over BPA hydropower. As H.R. 8157 is presently drafted, California consumers will also benefit from the bill. Californians will be protected from unreasonable, predatory BPA rates for surplus hydro. Additionally, Californians will be assured that interregional exchanges of power will help reduce California utility bills as a result of expensive oil-fired generation displaced by surplus hydropower.

H.R. 8157 has received widespread support in the Northwest, in part because the legislation is a well-crafted compromise that is accepted by public power, private power, and direct service industries. Any amendments that would have the effect of upsetting the balance of this legislation should be rejected if we want to pass H.R. 8157. There is no doubt in my mind that this legislation will have an impact on the entire West. I think it will have a positive impact. I think it will promote a reasonable degree of economic growth. I think it is a fair and just allocation of Federal hydropower. I urge an "aye" vote.

It is essential to me and the people of California that provisions that are now in this legislation remain in the bill:

First. Reaffirm that all rates or rate schedules proposed by the BPA Administrator for the sale of nonfirm energy outside of the region but within the United States shall become effective only after substantive review by the Federal Energy Regulatory Commission for conformance with the requirements of the Bonneville Project Act, the Flood Control Act of 1944 and the Federal Columbia River Transmission System Act. In performing its review, the Commission shall afford any party to the proceedings an opportunity for a hearing to be conducted in accordance with the procedure established by the Commission for ratemaking under the Federal Power Act. FERC acts not as an appellate court in reviewing these rates but as a forum with a mandate for a de novo review; and

Second. Authorize and direct the BPA Administrator to periodically investigate opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity, with emphasis upon reduction of oil-fired generation, in the Pacific Northwest and the regions with which such exchanges may occur, that is, California. The council is required to consider such investigations and interregional exchanges in formulating the regional conservation and electric power plan. The BPA Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of the bill.

Demands on hydropower, if we assume and anticipate a reasonable degree of economic growth, and we do, will steadily increase. Consequently, it seems necessary to permit BPA to acquire non-Federal sources of power in sufficient amounts for it to meet its customers' requirements and its obligations to areas outside of the region.

The Pacific Northwest has paid, and does pay, some of the lowest power rates in the Nation.

Cheap Federal hydropower is the reason for this special privilege that the Northwest enjoys. Unfortunately, like the ungrateful servant in the parable contained in Mathew 18:23–25, the Bonneville Power Administration has not been as charitable as it should be in the pricing of Federal surplus hydro to areas outside of the region like the Southwest. BPA has proposed a surplus hydro rate to FERC that would amount to a 500-percent increase in surplus rates for California consumers, many of which are customers of California public power companies. This outrageous, unconscionable, and predatory rate actually works to penalize utilities outside of the region as they attempt to displace oil fired generation.

I believe this rate structure violates national energy policy. The Bonneville Power Administration has attempted to justify its rate increase for surplus hydro on the grounds that OPEC has substantially increased its price for oil. I believe this method of operation to be highly

objectionable as far as a Federal agency is concerned. We ask BPA to side with U.S. consumers, not OPEC. The California congressional delegation reacted to the increase in a unified voice of protest as the following letter to Energy Secretary Duncan demonstrates:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 24, 1979.

Hon. CHARLES W. DUNCAN, Jr.,
Secretary of the Department of Energy, Washington, D.C.

DEAR MR. SECRETARY: The purpose of this letter is to express our concern relative to the Bonneville Power Administration (BPA) proposed 1979 wholesale power rate increase. We strongly object to the proposed schedule for surplus hydroelectric energy sold to California utilities (Schedule H-6 Wholesale Nonfirm Energy Rate).

BPA's proposal will result in a 90-percent increase in their revenues. The increase to California utilities purchasing surplus hydro energy, however, will be approximately 500 percent. This excessive rate increase for California utilities subsidizes rates for firm energy in the Pacific northwest where rates are among the lowest in the country. (Rates to California utilities for non-firm surplus energy will be approximately 300 percent higher than rates for firm energy in the Pacific northwest.)

Of particular concern to us is the fact that proposed rates for surplus hydro are not based on the cost of providing energy, but rather on the value of the energy to the purchasers. Furthermore, the proposed rate schedule for surplus hydro does not provide a rate but rather a flexible formula which will result in different rates to different customers for the same energy. The charges under the proposed schedule will rise automatically as fuel prices escalate without any increase in costs to BPA.

We are enclosing a copy of the comments of the cities of Burbank, Glendale, Los Angeles, and Pasadena, California; Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company, on the proposed H-6 rate. We believe that these comments clearly show that the proposed rate offered by this Federal agency will result in unjustified increases in prices to consumers in California and is entirely inconsistent with national energy policy.

We urge that the proposed rate schedule for surplus hydroelectric energy be disapproved.

Sincerely,

Carlos J. Moorhead, S. I. Hayakawa, William M. Thomas, Daniel E. Lungren, Robert E. Badham, Pete N. McCloskey, John H. Rousselot, Tony Coelho, Bill Royer, Bob Wilson, Charles Pashayan, Jr., R. K. Dornan, Robert J. Lagomarsino.

Jerry Lewis, William E. Dannemeyer, Don H. Clausen, Clair W. Burgener, George E. Danielson, Henry A. Waxman, Norman D. Shumway, James C. Corman, Wayne Grisham, Barry M. Goldwater, Jr., Augustus F. Hawkins, Julian C. Dixon, George E. Brown, Jr., Vic Fazio.

George Miller, Glenn M. Anderson, Edward R. Roybal, Pete Stark, Phillip Burton, Ronald V. Dellums, Charles H. Wilson, Jerry M. Patterson, Lionel Van Deerlin, Harold Johnson, John L. Burton, Norman Y. Mineta, Anthony C. Beilenson, Robert J. Matsui, Don Edwards.

As a result of this unjustifiable BPA surplus hydro rate increase, S. 885 contains provisions that I have previously described, the intent of which are not only to prevent the imposition of predatory and unreasonable rates but to provide for mutually beneficial interregional exchanges of power as well. Consequently, I believe S. 885, properly administered, can be a very constructive step forward for the West.

□ 1340

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Oregon.

Mr. AuCOIN. I appreciate the gentleman yielding.

Mr. Chairman, I understood the gentleman to say that without this bill and, more specifically, without "new generation capacity"—and I assume he meant coal and nuclear—the region's needs could not be met.

Mr. MOORHEAD of California. Yes.

Mr. AuCOIN. I wonder if the gentleman is familiar with the Department of Energy study released only a few weeks ago, which concluded that if we followed an alternative scenario, no new coal or nuclear plants would be needed through 1995 in order to meet the region's needs. Is the gentleman familiar with that study?

Mr. MOORHEAD of California. The testimony that we had was that, in the drier years, in the years in which there is not as much hydro power, there are serious problems that we may have long before that time; and representing the people of California, we are very much interested in the surplus that comes into the system, especially in those times of the year when such nonfirm power cannot be utilized in the Pacific Northwest. We need that nonfirm power in California to meet our present needs, to reduce California utility bills by displacing high cost oil fired generation of electricity. It is in the national interest to reduce oil imports.

I feel that this bill is good for the Northwest, and I also feel that it has some benefits to our State which has been using hydro power from Bonneville to help pay for that dam over a long number of years.

Mr. AuCOIN. Will the gentleman yield again?

Mr. MOORHEAD of California. I will be happy to yield to the gentleman.

Mr. AuCOIN. I appreciate the gentleman's yielding.

Mr. Chairman, I will take no more of the gentleman's time other than to say that the study I am citing, sponsored by the Department of Energy, which is not a "no-growth agency" indicates that generation of electricity ample for the region's needs and quite ample for California is available by means other than those provided for in this bill.

Mr. MOORHEAD of California. Right now it is not ample.

Mr. AuCOIN. I am not arguing about "volume," I am arguing about the "way" we produce needed energy. The kind of generation the gentleman spoke of and the kind of generation that I think the bill favors is not necessary.

Mr. MOORHEAD of California. I can assure the gentleman that right now it is not ample. The amount of energy that we have gotten throughout this year has been much reduced from what it has been in other years. There is a problem. It would not matter what the Department of Energy would say about it, they cannot wipe out by words a problem that is there. The problem is present.

Mr. SWIFT. Mr. Chairman, I yield myself 5 minutes.

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

Mr. SWIFT. Mr. Chairman, I rise to support passage of S. 885 (as amended by H.R. 8157). My remarks include a brief description of the purpose of the bill, its legislative history, its individual sections, and additional points of clarification.

NEED AND PURPOSE

This is not a bill to build powerplants. It is a bill to solve a power allocation problem. This problem is a Federal problem, and a Federal decision is unavoidable. The only choice is whether that Federal decision takes the form of Federal legislation, or whether it takes the form of a Federal administrative decision, which will be litigated in the Federal courts.

The Federal problem is this: All power marketed by the Bonneville Power Administration (BPA) must be reallocated next year. This power represents half the power in the Pacific Northwest. Under present law, reallocation is unavoidable because all of BPA's power sales contracts are beginning to expire. BPA's supply is far too small to meet the Northwest's total needs, but it is sufficiently large and sufficiently inexpensive that any BPA decision on reallocation will be contested in court for years. This is the bitter, disruptive "regional civil war" this bill seeks to avoid.

The bill avoids the administrative reallocation problem by authorizing BPA to add to its power supply so that it can meet the needs of all its customer classes. The bill does so under power supply and rate provisions that are acceptable to all classes of BPA customers, and that fully protect the preference rights of public bodies and cooperatives.

The method by which BPA will add to its supplies under this bill is twofold: Through conservation and through the purchase (acquisition) of power from non-Federal entities. The bill does not authorize BPA to build or to own power generating facilities; it does not make BPA another TVA. And since BPA is a wholly self-financed agency under the terms of the Federal Columbia River Transmission System Act, the costs of BPA's actions and the responsibility for BPA's obligations under this act will remain squarely on the shoulders of BPA's own customers, not on the U.S. Treasury or the U.S. taxpayers. BPA does not receive any appropriations. It is required by law to recover all its costs through its rates.

Most of the bill consists of provisions to insure that BPA does not and cannot abuse this new authority being granted to it. These protections are well-stated in the reports of both the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs (Rept. 96-976, parts I and II). They will also appear more clearly in my explanation of the bill's sections.

LEGISLATIVE HISTORY

H.R. 8157 is a reconciliation of the two somewhat different versions of S. 885 reported favorably by the Commerce and Interior Committees. Those versions were themselves based on H.R. 6677, a bill that I introduced earlier this year and that made very significant changes in S. 885 as passed by the Senate in August 1979. The Senate version was adopted unanimously by the Senate Energy Committee and passed by unanimous consent in the Senate. Those in the House who worked so hard to prepare H.R. 8157 believe that if S. 885 is now passed in this form, no conference with the Senate will be necessary.

The bill in its present form is far different from the Senate version and from earlier versions in both Houses in earlier Congresses. But it is also the result of an unprecedented number of days of hearings, both here and in the region, and of ceaseless efforts by the entire Northwest delegation and many, many Members from other regions. We are particularly indebted to Mr. DINGELL, Mr. UDALL, Mr. BROWN of Ohio, Mr. CLAUSEN, Mr. KAZEN, Mr. LUJAN, and Mr. SHARP, to name only a very few of the Members who have contributed to the great improvement of this bill.

WHAT THE PACIFIC NORTHWEST POWER BILL DOES NOT DO

The basic concept of this bill is simple: It permits BPA to avoid the need for an administrative reallocation of power by giving BPA the means to reduce loads and to acquire resources so that it should be able to meet the needs of all classes of customers. But because the bill necessarily involves many details, primarily to insure that BPA's authorities cannot be abused, some confusion about the legislation persists. Therefore, before describing what the bill does, it may be helpful to indicate precisely what the bill does not do.

First. The bill does not involve Federal guarantees, subsidies or bailouts: All costs will be borne by BPA's customers. BPA does not receive appropriations. It is a wholly self-financed agency required by law to recover all its costs through its rates. The United States does not stand behind BPA's obligations, and those obligations are not secured by the full faith and credit of the United States. See section 6(j).

Second. The bill does not create another TVA: The bill does not authorize BPA to own or to build any powerplants. It does not authorize or contemplate that BPA will become the monopoly power supplier in the region. On the contrary, it specifically encourages continuation of the pluralistic nature of the Northwest power industry.

Third. The bill does not "federalize" the Northwest utility industry: Each BPA customer will remain responsible for providing (to BPA or independently) enough power to meet its load growth. No utility has any "guarantee" that its full requirements will be met if it fails to meet its own responsibility for its own load growth (see sections 5(b)(5) and 5(e)). Any utility may "go it alone" to the extent it wishes, and independent utility action on conservation and self-owned generation is directly encouraged with full marginal cost pricing signals (see section 6(h)).

Fourth. The bill does not create an "energy czar": The Senate version of the bill provoked strong reaction in the region because it granted the BPA Administrator so much authority, including authority to veto the region power plan developed by the State-appointed regional council. But the present version of the bill provides no such unfettered or dominant authority to BPA. Instead, it authorizes a State-appointed council to develop and adopt the regional power plan that will chart out the region's energy future, and it contains provisions that, as a practical matter, make it very difficult for the Administrator to take actions that are not consistent with the plan.

Fifth. The bill does not build powerplants of any kind: This is a bill to solve a power allocation problem, not a bill to build powerplants. All the State and local and Federal laws that apply to powerplant siting and licensing today—including all environmental laws, all zoning laws, and all local election laws—will continue to apply without modification, amendment or preemption. In addition, the States will retain all their existing authority to regulate the rates and profits of the utilities subject to their jurisdiction, as well as gaining a voice in the Federal review of utility matters that otherwise would be subject to Federal jurisdiction exclusively.

Sixth. The bill does not give the wrong "price signals": The criticism that this bill fails to give proper price signals is simply not supportable if one reads the actual provisions of the bill itself, instead of articles written about it. At the regional level, the level at which the BPA makes its choices about resources, the bill requires that all resources—including conservation—must be compared on a full marginal cost basis (see section 3(4)).

At the utility level, the bill provides a precise marginal cost price signal in the form of a billing credit under section 6(h)—the amount of the credit, which is available to utilities for independent conservation efforts and resource programs that reduce BPA's obligation to acquire power, is calculated directly on current marginal cost. The multitier rate proposals, by contrast, purport to correct the signal of "melded" rates only by substituting another rate that is a "meld", not true marginal cost. And at the consumer level—the only level where power is used, and the only level where it can be saved in response to price signals—the bill now, through one of my amendments, gives a marginal cost billing credit to utilities that voluntarily implement retail rate structures designed to encourage consumer conservation and the installation by consumers of direct-application renewable resources that reduce load.

The bill also requires, as part of BPA's mandated pursuit of all cost-effective conservation, that BPA must make available sufficient financial assistance to consumers to enable them to comply—on a financially cost-effective basis to themselves—with model conservation standards that the bill requires to be established at a level that is cost-effective for the region. The implementation of these standards is aided by provisions in the bill for rate surcharges, themselves based on true marginal cost, on BPA customers who fail to achieve the conservation savings available through the standards; each customer is free to achieve these savings in any way it wishes, but the savings to be obtained do reflect what is cost-effective under a true marginal cost test.

Seventh. The bill does not harm other regions: Mr. DINGELL, Mr. UDALL, Mr. CLAUSEN, Mr. BROWN of Ohio, Mr. KAZEN, Mr. LUJAN, Mr. SHARP, and all the other members from other regions on the two committees that overwhelmingly supported this bill would not have voted for it and worked for it if any other region could conceivably have been harmed by it. And as a result, the bill is filled with provisions to insure that no such harm can result, either as a financial impact felt in other regions or as an unwelcome precedent.

Eighth. The bill does not violate the preference clause: The bill has been heavily amended to insure full protection of the traditional preference rights of public bodies and cooperatives. The Public Power Council, the National Rural Electric Cooperative Association, and the American Public Power Association are in full agreement that the bill in its present form protects preference. And contrary to what some critics have alleged, the bill does not enlarge the class of preference customers to include investor-owned utilities or the consumers served by IOU's; neither the power supplies nor the power costs of the IOU's or their customers are protected in the manner provided for preference customers.

WHAT THE PACIFIC NORTHWEST POWER BILL DOES DO

First. The bill solves the Federal power allocation crisis: This crisis is a Federal crisis; a Federal decision cannot be avoided. A Federal legislative decision, instead of a Federal administrative decision, can prevent 10 years of disruptive lawsuits. The allocation provisions of this bill are acceptable to all classes of BPA customers, and they can be carried out without cost to anyone other than BPA customers. Failure to enact this "legislative peace treaty" could touch off a regional "war" whose adverse consequences would eventually be felt nationwide.

Second. The bill encourages conservation and renewable resources: These to me are its more important and most gratifying improvements. The bill sets forth a comprehensive regional power planning approach that gives priority to conservation and renewable resources, and also provides the regional financing mechanism necessary to assure their successful development. While all utilities are granted direct financial incentives to make independent conservation and renewable resource decisions, no utility need continue to be discouraged

from such efforts by the "pioneer's penalty" for these currently unconventional resources. I feel safe in predicting that other regions will eventually choose to import from the Northwest new conservation and renewable resource technologies that would not have been developed, or developed as quickly and cheaply, if this bill had not been enacted.

Third. The bill lets the Northwest States guide BPA's actions: Rarely does the Congress step back from increased federalization, but in this bill it is the Northwest States that will, for the first time, be given an opportunity and a mechanism for guiding BPA's exercise of its new authorities. This is fitting, because a regional, integrated approach is clearly needed, and this is a field in which both the States and the Federal Government have traditionally operated, although not with the degree of full cooperation at all times that will now be possible. The regional power plan, drafted by the regional council, will be the map of the region's future energy path.

Fourth. The bill helps the Northwest solve its power shortage: So long as our power allocation problem remains unsolved, our regional power shortage will grow worse. This bill solves the allocation problem. It also lets the integrated electric power system of the region resume its coordinated, cooperative path of development, with continued high efficiency. Finally, the bill gives the region the tools it needs—and that it must use at its own expense—to solve the power shortage through reductions in load and, if needed, additional generation.

Fifth. The bill helps reduce consumption of imported oil in California and the Southwest: If the Northwest is in load/resource balance, it is able to sell to Southwestern utilities and their customers each year amounts of seasonally surplus nonfirm power that cannot be used or stored in the Pacific Northwest. This is not power that can or should be used to serve Northwest loads, because in many years it is not available at all, and in other years its availability fluctuates wildly. On average, however, it serves to displace some 15 to 20 million barrels a year of oil consumption in the Southwest, producing benefits to both regions and to national energy policy goals. The continued availability of this power is jeopardized as the Northwest slips into worse power deficits. Thanks to amendments by Mr. CLAUSEN, Mr. MOORHEAD, and Mr. LAGOMARSINO, the bill now continues the possibility of mutually beneficial power transactions between our two regions, while at the same time assuring Northwesterners that BPA will not sell outside the region any power that is not temporarily surplus to Northwest needs. Neither region can be harmed; both can benefit.

Sixth. The bill balances power production and fish and wildlife protection: Mr. DINGELL drafted the fish and wildlife provisions that prompted a historic series of meetings between fish agencies and power interests in the Pacific Northwest. The goal was to develop a mechanism for the drafting and implementation of a comprehensive program for the protection, mitigation, and enhancement of fish and wildlife affected by the hydroelectric facilities on the Columbia River and its tributaries. This was an extraordinarily difficult and delicate task, and one whose successful completion would not have been possible without the full-time effort of Mr. DINGELL and his able staff. As a result, the bill now contains fish and wildlife provisions that meet the two key tests: First, the provisions are satisfactory to both fish and power interests in the Northwest; second, they are carefully written to avoid any cause for renewed concern by either fish or power interests in other regions. Because these provisions meet these two tests, they represent legislative craftsmanship at its very best, and our region owes a particular debt of gratitude not only to Mr. DINGELL, but also to Mr. LUJAN and other members of Interior Committee who succeeded in perfecting these provisions.

SUMMARY SECTION-BY-SECTION ANALYSIS

Most sections of H.R. 8157 are identical or nearly identical with the common provisions of S. 885 as reported by the Interior Committee and the Commerce Committee, respectively. The relevant legislative history in terms of section-by-section analysis can in most cases therefore be found in the reports of the two committees (Rept. No. 96-976, parts I and II). For this reason, I will here provide only a brief guide to what the bill's sections contain.

BRIEF SUMMARY OF S. 885 (H.R. 8157) BY PRINCIPAL SECTIONS

Section 1 (Short Title).

Section 2 (Purposes). The purposes of the Act include encouraging conservation and renewable resources, assuring the Northwest an adequate power supply, providing public and governmental participation in regional power planning, retaining local control over (and regional financial responsibility for) the region's power system and facilities, and protecting fish and wildlife affected by dams on the Columbia River system.

Section 3 (Definitions). The definition of statutory terms make clear, among other points, that the Bonneville Power Administration (BPA) will not be authorized to own or build any generating facilities, and that all power resources acquired by BPA from non-Federal sources must be evaluated on the basis of full marginal cost comparisons.

Section 4 (Regional Planning and Participation). The first subsections establish the regional planning and participation process to guide BPA's exercise of its conservation and power resource acquisition authorities. An eight-member regional council (two members from each Northwest state) will write and adopt both a regional conservation and power plan and a program for the protection, mitigation and enhancement of fish and wildlife on the Columbia River and its tributaries. If this state-appointed council fails for any reason, a "backup" council is to be appointed by the Secretary of Energy from names submitted by the Governors.

The regional council's principal duties are to draft the regional plan and the fish/wildlife program, to modify these from time to time (with full public participation), and to review BPA's conservation and resource acquisition decisions for consistency with the regional plan.

Section 5 (Sale of Power).

BPA is to offer new power sales contracts to all requesting utilities in the region and to BPA's existing direct-service industries (DSIs). Subsection (a) insures that all sales are subject to the preference clause of the Bonneville Project Act of 1937. Subsection (c) permits utilities to exchange with BPA an amount of power equal to their residential and small farm loads, and requires the cost benefits of such exchanges to be passed through directly to consumers. The minimum contractual entitlement to power of each BPA customer class during any period of insufficiency is also specified in this section.

Section 6 (Conservation and Resource Acquisition).

BPA is authorized to implement conservation and to acquire resources needed to meet its power sales obligations. Special procedures are established for major resource decisions. BPA is required by section 6(h) to grant billing credits to utilities that undertake independent conservation or resource programs, in order to encourage independence from BPA. Section 6(j) makes clear that all BPA costs must be paid by BPA's own customers, and that the United States of America does not provide any guarantee or security for BPA's obligations (BPA is already a self-financed agency, required by law to recover all its costs through it rates).

Section 7 (Rates).

Along with section 5, this section sets forth the basic power allocation system and "rate package" of the bill, which is common to all versions of the bill and represents a regional consensus on the division of future power supplies and power costs. The lowest BPA rate will remain available for public bodies and cooperatives and exchanges for the bnefit of residential and small farm customers. Section 7(b) contains a "rate ceiling" for preference utilities, to insure that these entities continue to receive the cost benefits of their preference rights to federal power supplies.

Section 8 (Amendments to Existing Law).

This section contains technical amendments to the Federal Columbia River Transmission System Act of 1974 (BPA's self-financing statute) to permit this new Act to be implemented. In addition, it establishes BPA's borrowing rate and permits Treasury to penalize BPA under certain circumstances for any delayed repayment of BPA borrowing. (BPA is not permitted to borrow for resource acquisition purposes, except conservation and small renewabels.) This section also creates, through an increase in the existing BPA fund, a conservation revolving fund of $1.25 billion (all recoverable from BPA's rates).

Section 9 (Administrative Provisions).

BPA may well sell outside the Northwest only power that is surplus, but individual utilities remain free to sell power as they wish. Tax-exempt financing by state and local governments (including publicly-owned utilities) is preserved but not extended. Terms and conditions are established for SEC and BPA approval of generating companies able to sell power to BPA without running afoul of the Public Utility Holding Company Act. Provisions for judicial review are also set forth in this section.

Section 10 (Savings Provisions).

All existing rights, authorities, jurisdictions and claims of state and local governments, Indian tribes and BPA customers are preserved. These include state control over facility siting and licensing. The reservation of power to Montana from certain dams is recognized, and appropriations of water under the authority of this Act are disclaimed.

Section 11 (Effective Date)—Section 12 (Severability).

ADDITIONAL POINTS ON SPECIFIC PROVISIONS OF THE BILL

There are some specific provisions of the bill that warrant additional comment, beyond the general descriptions given above and the material available through the Com-

mittee reports. I wish to touch briefly on a few of these.

1. The regional council. The eight-member state-appointed regional council set forth in the initial subsections of section 4 represents the culmination of literally years of discussion and debate in the region and in Congress. This is the only form of regional council ever discussed that proved acceptable to all of the diverse governmental interests that had to be accommodated, and to all classes of BPA customer as well. With this form of council now written into the bill, and by agreement, we have successfully navigated our way around the shoals that wrecked the Columbia Valley Authority legislation thirty years ago.

The reason for this particular form of regional power planning mechanism is that in the electric power field in the Pacific Northwest, the roles and jurisdictioins and traditional authorities of the states and the federal government are inextricably intertwined. Neither can take action without the cooperation of the other in matters of traditional concern and authority. Thus a system that integrates the state and federal authorities, while respecting constitutional boundaries, is the only one appropriate to this highly integrated state/federal/utility power system. For example, while BPA markets power from federal resources and owns most of the major transmission lines in the region, some of BPA's existing resources and virtually all of BPA's new resources are and will be non-federal resources, and large segments of the integrated transmission system are also non-federal. The states also regulate the energy facility siting decision process for the non-federal resources BPA will acquire, as well as regulating the investor-owned utilities who are BPA's customers and who, under the bill, will also sell power to BPA from existing as well as from new resources.

A year ago, evaluating a different Council in the Senate bill, and perhaps without a full understanding of the relationship of the states and the federal government in Northwest power matters, the Justice Department in a brief memorandum expressed the cautionary view that care should be taken to avoid violating the Appointments Clause of the U.S. Constitution in the design of this regional council. Heading this concern, the two Committees have carefully provided for a council that will not run afoul of this or other constitutional provisions. The interstate arrangement now contemplated by the bill is the type expressly permitted under the Constitution; it is a state-federal arrangement consented to by the Congress and perfectly appropriate for the tasks it will perform. The Appointments Clause may well regulate the separation of functions and powers assigned by the Constitution to different branches of the federal government, but it is not inconsistent with the very different area of federal-state arrangements agreed to by the Congress and dealing with areas of traditional state authority and competence, nor can the Appointments Clause be inconsistent with the interstate compact clause of the Constitution. Congress clearly may consent to the type of arrangement contemplated here, and that arrangement can function in the manner the bill sets forth.

The "backup" or "safety net" federally-appointed council also provided for in section 4 is primarily a safeguard against the failure of the states to make the requisite appointments to the Council, and against other actions or legal restrictions at the state level that might prevent formation or continuation of the Council. But these provisions work equally well to assure a smooth functioning of the regional planning mechanism in the unlikely event of a judicial decision that prevents the state-appointed council from performing substantially all of its functions.

2. Conservation and resource acquisition. Section 6 requires BPA to meet its contract obligations to its customers by acquiring sufficient resources, including conservation. The bill requires in section 6(a) that all cost-effective conservation and direct-application renewable resources be implemented or acquired by BPA; this obligation is a continuing one, regardless of other resource obligations. After planned savings from such measures and resources are taken into account, the remaining obligations are to be met through BPA's acquisition of resources. (The amount of these obligations may, of course, be reduced by independent customer action to achieve conservation or develop resources, as under section 6(h).)

The conservation directives of section 6(a) breathe real life into the model conservation standards to be established under section 4(f). These standards are required to be set at a level that is cost-effective for the region and economically feasible for consumers taking into account financial assistance made available under section 6(a). This means the standards themselves will be based on marginal cost, and that the Administrator will make available the financial assistance that will ensure these standards are attained. Without this provision, the economically feasible level of conservation for consumers would be less, and therefore not cost-effective for the region.

The resource acquisition scheme of the bill permits BPA to act with relatively little procedural difficulty on proposals that are consistent with the Council's regional plan. Since the plan must observe the criteria of section 4(e)(1) and the considerations of section 4(e)(2), including the cost-effectiveness test and the specified resource priorities—conservation first, renewable second, other resources last—this means, in effect, that a BPA proposal that is consistent with the plan is one that BPA and the Council agree is also consistent with the requirements of the Act. (Before a plan is in effect, and during the two years specified for the plan's development and adoption, the Council's normal ability to review certain BPA proposals for consistency with the plan is augmented by authority to review such proposals for consistency with the criteria and considerations of sections 4(e)(1) and (2).) Only if the Council or BPA finds a proposal to be inconsistent with the plan (or, in the initial two years, with sections 4(e)(1) and 4(e)(2) is there a need for additional Congressional review. This Congressional review does not in itself affect BPA's authorities under this Act, but it provides a means of scrutinizing the proposal and subjecting it to additional hearings, since in effect the Council and BPA will have disagreed about BPA's obligations or the requirements of the Act.

It is important to note that the Council's ability to review proposed BPA actions on consistency grounds does *not* mean that a state-appointed council will in itself control the existence or non-existence of statutory authority in a federal agency, BPA. Instead, BPA will remain authorized to act, but will not be permitted by the Congress to implement its proposed action until specific approval of expenditures for that action has been gained in an Act of Congress.

It is equally important to note that when the Appropriations Committees do grant this type statutory spending approval—and we do not contemplate that BPA will seek it, or need to seek it, very often—the Congressional action will not consist of "legislating on an appropriations bill", nor will it be subject to a point of order. This is the special type of budgetary review over BPA as a self-financed government agency and its major proposed actions practiced under the Federal Columbia River Transmission System Act and the Government Corporation Control Act procedures. Under this procedure major transmission system additions BPA cannot implement major transmission proposals until expenditures for that purpose are specifically proposed in an appropriations act. This is the procedure already authorized by Congress because BPA receives no appropriations and would otherwise be authorized to begin construction without formal expenditure authority.

3. Resource investigation and preconstruction funding. This provision, section 6(f), permits BPA to enter into agreements under which, following the investigation and preconstruction stages, BPA may later reimburse (and in some cases, initially fund) certain expenses of the resource sponsor in the event that the resource is later terminated. I want to emphasize that this provision is prospective in nature; it does not permit BPA to go back and enter into an agreement to "bail out" any terminated resource or resource whose termination is clearly imminent. The purpose of the provision is to reduce costs, remove pressures from state siting bodies, promote renewable resource development by non-utility sponsors, and ensure that resource proposals receive an early public airing when public opinion may still result in plans being changed without huge costs.

This authority may be exercised only in instances where the Administrator determines that failure to do so would result in "inequitable hardship" to consumers served by the resource sponsor. This would be the case, for example, if the resource is contemplated to be one sold to BPA to meet BPA's obligations to its customers, and hence a potential regional resource, rather than a resource that the sponsor is contemplating will be used independently of BPA and solely for its own needs or for sale outside the mechanisms of this bill. The ratepayers of a single utility should not be saddled with the cost of resource intended for regional availability and use, even though as a practical matter the preliminary site investigation and feasibility studies will often be carried out by a single utility acting, at that stage, alone.

I should note that this provision was narrowed considerably in the Commerce Committee through an amendment of Mr. GORE, and that the protections against retroactive agreements to "bail out" failed resources are fully retained in the present bill.

4. BPA oversight. As the bill has developed, BPA's oversight responsibilities under section 6(i) for resources acquired or granted billing credits has been broadened considerably. This is, in general, a very healthy development, because all parties recognize that BPA's past oversight authority for resources already being acquired has proven inadequate. These extensive new oversight provisions have prompted some concern that BPA may lose sight of its other responsibilities while attempting to fulfill its responsibilities under section 6(i), which is, of course, not the intent at all. BPA needs to develop the staff expertise to exercise its oversight, audit and review responsibilities without unnecessarily hindering or adding to the cost of resource development. And of course BPA's responsibility in this area does not displace the responsibility of the resource sponsor to properly schedule, construct and operate the resource. All contracts for resources acquisitions and billing credits should contain specific provisions, effective for the life of the resource, that achieve this balance, which necessarily will vary somewhat from case to case.

5. Interim rate approval. It will be im-

portant under the bill, as it is today, that BPA's final rates can become effective on an interim basis pending ultimate approval and confirmation by FERC. This is particularly true, given that the new rate provisions of the Act are different from past rates of BPA and must be implemented very rapidly, on a timetable that the Act will set forth. The bill now provided FERC reasonable options to assure that BPA rates can become effective on a timely basis. Section 7(i) permits interim rate approval by FERC, and, if interim rate procedures are required, mandates that FERC adopt such procedures within one year. (Such procedures are not required under the Administrative Procedures Act.) In the alternative, the Secretary of Energy may, as he does today, grant the interim approval for the period until July 1, 1982, pending interim or final approval of these rates by FERC. What matters, given the need for new rates and for BPA to meet its repayment obligations, is that interim approval be granted quickly.

6. Borrowing rate penalty. Section 8(c)(4) was added to the legislation to provide a reasonable incentive for BPA to maintain a rate structure adequate to meet all of its financial obligations including the timely repayment of the capital costs of the Federal Columbia River Power System. The provision recognizes that BPA's revenues and expenses are subject to wide variations due to conditions beyond its control (low streamflows, project breakdowns, etc.) by excluding repayment deficiencies caused by those conditions. The provision does give the Treasury Department the ability to add up to a 1 percent penalty if BPA is dilatory in taking action to adequately increase its rates to cover reasonably forecasted increases in operating costs. To extend this provision to cover interest penalties for unexpected conditions without giving BPA the right to establish a contingency fund would be unfair to BPA and its ratepayers.

It was for this purpose, incidentally, that the term "current basis" was added to section 2(3) of the current bill.

7. BPA contracting and expenditure authority. Section 9(a) extends Bonneville's existing special contracting authorities (and related expenditure authorities) contained in Section 2(f) of the Bonneville Project Act to include the new contract and expenditure responsibilities provided in this legislation. In 1945 Interior Secretary Ickes in supporting the inclusion of Section 2(f) in the Bonneville Project Act, recognized that Bonneville is not engaged in an "ordinary government . . . regulating enterprise." Rather Bonneville, then and even more so now, operates and functions as an integral part of the region's power system. When Congress amended Section 2(f) into the Bonneville Project Act in 1945, it recognized the need for Bonneville to have the ability to employ business principles and methods not ordinarily applicable to governmental agencies. The Comptroller General in reviewing this unique authority and its application summarized the intent of Congress as "enabling the (Bonneville Power) Administrator to conduct the business of Bonneville with a freedom similar to that which has been conferred on public corporations carrying on similar or comparable activities." The amendment to Section 9(a) applies this important legislative principle into Bonneville's future contracts (and related expenditures) under this Act as well as the Bonneville Project Act, the Federal Columbia River Transmission System Act and other related statutes, while continuing in effect the laws currently applicable to BPA contracting and expenditures.

8. Preservation of Bonneville's status as a "separate and distinct" entity within the Department of Energy. Section 9(b) has been amended to make clear that the statutory requirements and directives in Section 302 (a)(2) and (3) of the Department of Energy Organization Act, the Federal Columbia River Transmission System Act, and the Bonneville Project Act as well as the legislative history and background related to those Acts will continue to govern the relationship of BPA and the Department of Energy. Section 302(a)(2) of the Organization Act requires that "The Bonneville Power Administration . . . shall be preserved as a separate and distinct organizational entity within the Department" (of Energy). This section also requires that the functions of BPA transferred to the Department "shall be exercised by the Secretary acting by and through the Administrator."

Congress clearly intended than as it does now that BPA continue to function as an independent bureau within the Department of Energy as it previously operated when BPA was part of the Department of Interior. The Senate Committee on Governmental Affairs in reporting on this Act stated:

"It is the intent of the Committee that these relationships not be disturbed by this Act. As the responsibilities of BPA have grown over the years, the organization structure has been tailored to meet those responsibilities. The Administrator must continue to have the flexibility to manage the organization so as to be able to cope with future expression and directions in the public interest. The independent bureau status of BPA within the Department of Energy will preserve this flexibility."

When the Organization Act was considered by the House, Congressman Meeds offered an amendment to Section 302 (which was adopted and is part of the Act) to further strengthen the "separate and distinct nature of BPA and other PMA's within the Department. In his Floor statement, which is an important part of the legislative history in support of this amendment, Mr. Meeds states:

"The Bonneville Power Administration provides an excellent example of the extent of present regional administration. Since its creation in 1937, the Bonneville Power Administration has always exercised independent responsibility over such matters as the administration of its budget, local labor relations, the procurement of legal services, construction contracts, power supply contracts, claim settlements, selection of technical expertise and utilization of local administrative skills. As a result of such regional interaction, the Bonneville Power Administration has been able to meet the constantly changing power needs of the Pacific Northwest.

"Mr. Chairman, I would like to stress that it is absolutely imperative that Bonneville Power Administration, along with the other three Federal power marketing agencies and the Bureau of Reclamation, be allowed to continue to exercise independent responsibility over such matters. Without the authority to make independent decisions based on regional needs, the effectiveness of the regional entities is jeopardized. I believe this amendment will prevent this."

Other laws relating to Bonneville also demonstrated the intent of Congress that BPA be operated with the requisite autonomy to assure its programs are implemented successfully. Both the Federal Columbia Power Transmission System Act of 1974 and the Bonneville Project Act of 1937 assign the broad statutory responsibilities directly to the Bonneville Power Administrator. In Section 2(f) of the Bonneville Project Act and in the Transmission System Act Congress recognized the businesslike nature of BPA's responsibilities by giving BPA broad contracting authority and self-financing authority. Further BPA's budget and accounting procedures were made subject to the Government Corporation Control Act to give BPA the autonomy and flexibility of its day-to-day decisions and operations similar to a private corporation.

The executive branch indicated to the Congress its intent to provide Bonneville appropriate operating flexibility to effectively carry out the expanded responsibilities Bonneville received in the Transmission Act. Just prior to enactment of the Transmission Act, the executive branch assured the Congress Bonneville would be directly provided a separate annual planning allowance and personnel ceiling by the Office of Management and Budget. This assurance was first communicated to the Congress in the form of an exchange of letters between Frank G. Zarb, then Associate Director of the Office of Management and Budget, and John C. Whitaker, then Under Secretary of the Interior Department which were placed in the Congressional Record. These understandings were reaffirmed in an August 2, 1977, letter from James R. Schlesinger, then Assistant to the President, to Senator Henry M. Jackson which stated, "It is our intent to preserve existing arrangements regarding BPA, and we will consult you should major changes in such arrangements be proposed in the future."

If BPA is to successfully implement the Pacific Northwest Electric Power Planning and Conservation Act, it must continue to act as a "separate and distinct" organization within the DOE. It is our intent to preserve BPA's ability to efficiently manage and discharge its independent responsibility under law over matters such as procurement for materials, equipment, services and construction, power management activities, including conservation, preparation and administration of BPA's budget and management of BPA financial matters, rulemaking claims settlements, selection and utilization of administrative technical and legal expertise, the acquisition of real property and the management of environmental matters. We have amended Section 9(b) to leave no ambiguity as to the intent of Congress with regard to this matter.

9. Tax exempt financing provision. Section 9(f) was included in the legislation to assure regional publicly owned utilities that they can continue to sue "tax exempt" bonds to finance projects to meet the load growth of public bodies, cooperatives and Federal agencies in the region. The provision now included in the Act limits and does not extend the ability of regional publicly owned utilities to finance projects with "tax exempt" bonds. Further, I am convinced that the enactment of this legislation will result in less "tax exempt" securities being sold by Pacific Northwest publicly owned utilities than would otherwise occur without legislation.

Since the loads of publicly owned utility systems are projected to grow substantially in the next 2 decades, BPA is expected to purchase power capability from resources owned by these systems to avoid power shortages or "insufficiency" under the terms of new power sales contracts authorized by the Act. BPA is a non-exempt person under current IRS regulations. Therefore, the tax exempt status of publicly owned utility systems would have been jeopardized by such a sale to BPA without the provisions of Section 9(f) even though BPA's purchase was for the purpose of meeting the load growth of publicly owned utility systems after the date of enactment.

The Commerce Committee included provisions in this section that will keep this provision and the proceeds of the tax exempt bonds from being used to finance generation to meet the forecasted load growth of investory owned utilities, except in circumstances when the Administrator finds a needed project financed by publicly owned utilities cannot be acquired by BPA without a portion of the power being resold to meet the forecasted loads of investor owned utilities or direct industrial customers.

Since the arrangements for purchase by BPA are normally completed many years prior to the actual completion and operation of a

resource, it is also probably that the loads actually served by BPA will vary from the estimates upon which the arrangements are based. The provisions of this section are not intended to limit the operation of resources financed with tax exempt bonds once they are constructed. Instead, if the loads of public bodies, cooperatives and Federal agencies are lower than forecast, BPA's future purchases of new resources for the benefit of the loads of public bodies, cooperatives, and Federal agencies should be modified accordingly.

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho (Mr. SYMMS).

(Mr. SYMMS asked and was given permission to revise and extend his remarks.)

□ 1350

Mr. SYMMS. Mr. Chairman, I wish to join my colleagues from the Pacific Northwest and from both parties in support of S. 885, the Pacific Northwest regional power bill.

What we are witnessing today is a remarkable event: Not only are Members from both sides of the aisle rising in support of this vital legislation, this bill is also strongly supported by groups that for decades have opposed one another. Public power and private power both support this bill. All four Pacific Northwest States support this bill, despite a long and sometimes bitter history of interstate disputes over power, fish, and water. Business and labor together support this bill.

These diverse groups have joined together for a common purpose for one reason: Because this bill is needed. That this bill should enjoy such widespread support is even more remarkable considering that this is an election year, that energy is probably the most divisive issue in the Nation, and that the problem this bill is intended to avert occurs next year—Congress is averting a problem, rather than waiting to respond to it.

The problem this bill averts is a Federal problem. The Bonneville Power Administration is a Federal agency. It markets Federal power from the Federal Columbia River Power System. BPA's power sales contracts begin to expire next year. All this power must be reallocated by a Federal decision. This Federal decision will either be made by Congress, or it will be made by a Federal agency—the Bonneville Power Administration—and by Federal courts. The Northwest's problem definitely is not a problem that the States or private parties can resolve on their own.

If this inevitable Federal decision is made by BPA and by the Federal courts rather than by Congress the Pacific Northwest may well be paralyzed. The BPA power supply is large and relatively low-cost. Any administrative and judicial reallocation will set off what has aptly been described as a "regional civil war" over the BPA power supply. Regardless how this war turns out, the Pacific Northwest will be the big loser. While the battle over BPA power is being waged no utility or electricity consumer can plan its future. Future power development in the region—and the Nation's power problem—will be seriously harmed.

Some of my colleagues from other parts of the country have told me "But this is only a regional problem; Congress has more pressing national problems to deal with, especially at this late date in the session." I admit, it is primarily a regional problem—but it is a regional problem caused by the Federal Government that requires a Federal solution. And it is a regional problem with important national implications.

The Pacific Northwest exports significan amounts of seasonally surplus nonfirm power to the Pacific Southwest—enough power to displace an average of 10 to 15 million barrels of oil-fired generation a year. Unless this bill is enacted, the Northwest power problem may become so serious that the Northwest has no choice but to use this power in the region. This would significantly increase power costs in California and the Nation's dependence on imported oil.

One-third of the Nation's aluminum production is located in the Northwest. Unless this bill is enacted, continued operation of this vital industry is seriously jeopardized.

Most important, the Pacific Northwest currently is fortunate to have one of the healthiest economies in the country. Unless this bill is enacted, the future health of our region is in grave doubt. No segment of the national economy can be really healthy when an important region like the Pacific Northwest is ailing, as it almost certainly would be without this bill.

Some of my colleagues have expressed other concerns about this legislation. I have to admit that I too had serious reservations about earlier versions of this legislation. The bill before the House has been revised, however, to resolve these concerns:

First, there can be no question that there are absolutely no "Federal guarantees." The Bonneville Power Administration is an entirely self-financed agency. All costs are paid by BPA ratepayers—this bill involves absolutely no appropriations or cost to U.S. taxpayers.

Second, there can be no question about "federalizing" the Northwest utility industry. Northwest utilities certainly do not believe that this bill nationalizes them. These utilities have fully participated in the formation of this legislation and fully support it precisely because they believe that it protects local utility control and responsibility. It is true, however, that without this bill the continued survival of local utilities may be in jeopardy.

Finally, there can be no question but that the bill is needed. This legislation has taken more than 5 years to get to the House floor. During this period and before, our region attempted literally every method to arrive at a solution to the Northwest's power problem without coming back to Washington. All these attempts failed because the Northwest's problem is a Federal problem that demands a Federal solution. There literally are no solutions except this legislation.

I want to make it clear that this bill is not a panacea. With or without the bill there will be power shortages in the Northwest, unless streamflows are abnormally high. With or without the bill, power costs in the region will rise significantly. This bill does not solve all the Northwest's problems, but it does solve the fundamental problem of how to reallocate the existing supply of relatively low-cost BPA power. Unless and until this problem is solved, none of the other power problems facing our region can be solved. Certainly, until the region decides how to reallocate the existing supply of BPA power it cannot decide how to plan and develop the additional resources the region may need in the future.

Mr. Chairman, I would like to conclude my remarks by emphasizing to my colleagues why this bill is so important to the Northwest and to Idaho: S. 885 brings tens of millions of dollars of rate benefits to Idaho's residential consumers and farmers. It brings lower costs for new power resources for all Idaho electricity consumers. It protects Idaho's growing rural electric cooperatives from paying a disproportionate share of the region's power costs, while preserving their preference to the BPA power supply. And it gives Idaho an equal seat at the regional energy table and an equal voice in planning the Northwest's energy future.

Idahoans have long been known for their independence, their reluctance to take handouts from the Federal Government, and their staunch opposition to so-called "Government solutions" that call for more Federal money, more bureaucracy and more regulation from Washington without producing any more energy. But this bill does none of these things. The people of the Northwest and of Idaho will be significantly better off with this legislation than without it, because this legislation gives our region the tools it needs to solve its energy problems by itself.

I am pleased to join my colleagues on both sides of the aisle in support of S. 885. I urge you to join with us.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Washington.

Mr. DICKS. The gentleman, of course, has been a staunch supporter of the free enterprise system. It was said earlier that this bill would somehow nationalize the private energy utilities of the far Northwest. That is not the gentleman's understanding?

Mr. SYMMS. No; as a matter of fact, my opinion about this bill is that we have a problem of over half of the power or about half of it in the Pacific Northwest which is produced by BPA or is in the BPA network, and we have to come up with a system of how to allocate it out. That is really what this bill is about.

Then, as future growth comes, if we do not grow an apple you cannot divide it up. So we have to plan for the future. This will get this one step done.

Mr. DICKS. Private utilities, all of which support this legislation in the Pacific Northwest, they would not be supporting this bill if it nationalized them, would they?

Mr. SYMMS. No, I would not think so. In fact, some of the private utilities in the State of Washington and Oregon are concerned that without the bill, that

they are in more jeopardy than they are with the bill because they may be gobbled up because of a differential that is too great in price and would cause more problems. I think it is essential for the preservation of our present system, and it is really an allocation bill to help solve this problem. We have got all parties together. I think we should move ahead with it.

Mr. DICKS. I thank the gentleman.

Mr. SYMMS. Mr. Chairman, I would like to engage in a colloquy with the gentleman from Michigan (Mr. DINGELL).

The colloquy, Mr. Chairman, is on subsection k on page 67 relating to the billing credits.

Is it the gentleman's understanding that the language on lines 22 and 23 which seeks to insure that billing credits "are distributed equitably throughout the region." would not only include the concept of geographic equity but also the concept of equity between classes of customers?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

The gentleman is correct. He has raised a point that is of great importance, and I join the gentleman in that interpretation.

Mr. SYMMS. I thank the gentleman.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman for yielding.

As to the colloquy the gentleman just had with the gentleman from Washington (Mr. DICKS) about the free enterprise system, and nothing he said in this bill had anything to do with nationalization or private utilities getting their needs met, may I point out that on page 41 of the bill it says:

> Whenever requested the Administrator shall offer to sell to each requesting investor-owned utility electric power to meet the firm power load of such investor-owned utility in the region to the extent that such firm power load exceeds.

And so forth.

□ 1400

Mr. SYMMS. Mr. Chairman, I yield to the gentleman from New Mexico.

Mr. LUJAN. Did not the Bonneville Act of 1937 provide that? That is not a new section of this bill. I ask the gentleman, does the gentleman know, does he understand, that that provision has been there from the beginning of time? This is nothing new. This is just a reiteration of the policy that has existed since the 1930's. What is new about that?

Mr. SYMMS. Mr. Chairman, I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, I yield myself two minutes.

Mr. Chairman, over most of my years serving on the Interior Committee, the problems of Bonneville and the Great Northwest have come before us from time to time.

Frankly, when we began work in our committee 3 or 4 years ago on this subject of this present legislation, I had some concerns. I want to thank the gentleman from Texas who chairs our subcommittee who did a remarkable job in providing an extensive hearing base so that we could finally act on this legislation in this Congress.

Mr. Chairman, the Committee on Interior and Insular Affairs has been actively involved in the process of developing legislation to resolve the energy problems of the Pacific Northwest for over 3 years. This process began in late 1977 when our Subcommittee on Water and Power Resources held its first field hearings in the region. The committee's interest in this legislation has been continuous since then, and, as a result of numerous additional hearings both here and in the region, the committee has heard from hundreds of individuals, groups and representatives of the region on this topic.

The record developed by the committee demonstrates the difficulty of resolving the issues of resource allocation and regional planning. The issue of how best to allocate existing and future resources and the mechanisms proposed to accomplish this allocation have been the subject of lengthy and heated debate.

There are some people in the region and on the Interior Committee who feel that this legislation is not needed. There are many who believe that the methods authorized by this legislation are significant departures from established Federal policy and will serve as a precedent for Federal power marketing agencies in other parts of the country. The issue has been controversial from the beginning. Nevertheless, the Interior Committee and the Commerce Committee have come to grips with many of the hard questions presented by this bill and have produced bills that reflect considerable thought and legislative judgment.

As you are aware, the Interior Committee and the Commerce Committee reported bills that differed frim each other in several significant areas. For the past week, both sides have worked long, hard hours to reconcile these two versions in a manner that would be acceptable to all. The resulting substitute preserves those sections that are the backbone of the bill: A strong emphasis on conservation and renewable resources as a means of dealing with the region's growing power demands, a State council that works hand-in-hand with the BPA Administrator to develop a comprehensive plan for resource acquisitions, a program for the reconciliation of the sometimes competing interests of fish and wildlife and power generation.

As is inevitable in the reconciliation process, compromises were made. Some of the amendments incorporated in the Interior reported bill were modified, as were some sections of the Commerce reported bill. I think however, that the efforts made to produce a substitute acceptable to all were successful. I congratulate my colleagues on the Interior Committee for the time and work they put into the consideration of this bill in committee and for their contributions to the reconciliation. I also congratulate the members of the Commerce Committee for their efforts to reach a middle ground.

I want to say, Mr. Chairman, that the fears and misgivings that I have had have been largely eliminated through the long process of hearings and markup.

I was concerned about the lack of unity in the Northwest for a long time. We had too many bitter public and private power fights in the West over the years.

I was concerned about whether this legislation would set a precedent for my own part of the Rocky Mountains.

I have come to the conclusion that this is good legislation in its broad outline. There may be an amendment or two that I would support if we have a large amount of amendments offered; but basically I am for the thrust of this legislation as developed by the Interior Committee and the Commerce Committee and the reconciliation vehicle we put together to take up and cover some of these points.

I think one of the things that finally occurred to me as we went through the process of working on this legislation was that we are a big and diverse country. Different regions need different solutions. The Northwest with its great Columbia River has an asset that many of us envy. We have envied it a little bit too much sometimes and made our friends nervous up in the Northwest; but a solution that might be appropriate in the Northwest might not be appropriate in the Southwest.

So this bill is kind of a hybrid. It creates sort of a hybrid. The kind of power arrangements we have in the Southwest are a hybrid. The great Tennessee Valley Authority which was put together in the thirties and forties was an unusual different kind of concept crafted to fit the needs, and the resources, and the assets of that part of our country.

So I intend to support the legislation. I hope we can act on it quickly and get a result for the Northwest that they can give with and build upon.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

Mr. UDALL. Mr. Chairman, I yield myself one more minute.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, I appreciate the gentleman yielding, because both of us come from sections of the country outside the region affected by the bill and both of us have ended up supporting this legislation.

I just want to indicate that I think it is in the national interest for us to approve the efforts that are being made here by the people from the Northwest to solve their own problems. That is really what we are doing, giving approval to an arrangement that has been fought out by many different concerns in the Northwest.

I think it is very important to realize that we are doing this without creating an expense for the rest of us from other parts of the country. There are those

who have tried to raise the allegation, I think it is a very false one, that somehow we are disadvantaging the other regions of the country by approving this arrangement. That is not the case and I am sure when we get into the amendments we will be able to make that clear to our colleagues.

I would urge our colleagues who have not had the same opportunity and pain that we had of going through this bill to be willing when amendments come up to try to understand the full nature of the arrangements of this bill, because it is kind of easy to pull out one little part and decide "well, maybe we don't like that part of the bill."

You have to understand how the parts fit together in this bill.

Mr. UDALL. Mr. Chairman, I thank the gentleman and I thank him for his great contribution in developing this legislation.

Mr. Chairman, I would yield 3 minutes to the gentleman from Washington (Mr. McCORMACK).

(Mr. McCORMACK asked and was given permission to revise and extend his remarks.)

Mr. McCORMACK. Mr. Chairman, I rise in support of the bill.

I want, first, to commend the gentleman from Texas (Mr. KAZEN), the subcommittee chairman of the Interior Committee, the gentleman from Michigan (Mr. DINGELL); the gentleman from Arizona (Mr. UDALL); the gentleman from California (Mr. CLAUSEN); the gentleman from California (Mr. MOORHEAD); the gentleman from California (Mr. BROWN); the gentleman from Ohio (Mr. BROWN); the gentleman from West Virginia (Mr. STAGGERS); the gentleman from Indiana (Mr. SHARP); the gentleman from New Mexico (Mr. LUJAN), and particularly the gentleman from Washington (Mr. SWIFT) and all the members of the Northwest delegation who worked so hard on this bill. It has been a team effort.

It is important to review several basic facts when thinking about the bill. The first is the question on why we have the bill before us at all.

This bill is here, not because we simply wished to change things. We did not go out of our way to make all this work for ourselves. We are forced by the circumstances of growth in the Northwest, and the differences among the various States, and between the private and public power systems, to make these changes in the existing law. The bill is here because the existing laws that govern the operations of the Bonneville Power Administration will, in the very near future, prevent the Bonneville Power Administration from serving its purpose: to distribute power to all its preference customers and to deliver surplus power to the investor-owned utilities and the direct service industries.

It has recently been suggested that we can get along with less power. The only way we can get along with less power in the Northwest is by dramatically lowering the standards of living of our citizens, and drastically raising the rate of unemployment. It is important to remember that fact. No responsible person would advocate that course of action. The growth and the changes in Washington, in Idaho and Oregon, and in western Montana, combined with the restraints under the existing law, make this bill inevitable.

Now, frankly, when I was first presented with the problems associated with this bill, I thought it could not be done. I repeatedly said, "If you put all the facts and all the needs into a computer and push the button, all the computer does is go 'tilt'." You cannot do it.

I think the bill is somewhat of a miracle. This compromise version takes the best of the Senate version, S. 885, and the best of the versions reported to this House by the Committees on the Interior and Commerce. It is a carefully crafted response to the energy problems of the Northwest and deserves the favorable consideration of this body.

The Northwest is an isolated region with respect to electric energy production. It produces mostly hydroelectricity from the Columbia River and Snake River systems, providing 40 percent of the Nation's hydroelectric potential. It is isolated in the sense that you do not deliver electric energy more than about 400 miles without having direct current tie lines, as we have from BPA down to California, but it is isolated. It is similar in that sense to TVA and the Missouri Valley Authority and others.

It is also important to recognize that no region of this country will be affected by this bill as far as its power laws are concerned. In fact, the rest of the country will be positively benefited by the bill as it permits the Northwest to continue to increase its production of important metals, such as aluminum, and to expand its exports, all of which contribute to a favorable balance of payments.

Remember that the Bonneville Power Administration does exist. The States do exist with their different systems. The PUD's and the investor-owned utilities do exist. Population and industrial growth, with predicted power shortages do exist. And unnecessary strains and chaos will inevitably result unless we pass the legislation.

This legislation is supported by the State governments, by all the private power companies, by almost all the public power utilities, by the direct service industries, and overwhelmingly by the people of the Northwest. It is a most conservative and carefully prepared bill.

I hope that the members of the committee and the House will support the bill overwhelmingly and oppose all amendments to it.

Mr. SWIFT. Mr. Chairman, I yield 2 minutes for purposes of debate only to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, just to clarify the colloquy we had before, again this bill has something startlingly new and radical in which it mandates that the Bonneville Power Administration offer to any requesting investor-owned utility electric power to meet the firm power load of such investor-owned utility.

□ 1410

That is a real revolutionary, radical thing. It is brand new. It is not in the previous Bonneville legislation. If it is, I say to the gentleman, then he ought to back my amendment to make sure that it is not.

Mr. DICKS. The gentleman knows ever since 1937 and the enactment of the BPA Act, there are requirements contracts for private power companies only if the power was surplus to the public utilities' needs and requirements. So there is nothing new about this.

Mr. WEAVER. No. It is brand new.

Mr. DICKS. I would say if it is brand new, it is brand new only in the gentleman's view.

Mr. WEAVER. If the gentleman does not mind, I would take back my time to say that this is a brand new, radical provision of law.

To those who feel that there is not much opposition to the Northwest energy bill in the Northwest, may I read a list of entities that oppose the bill. First there are several national organizations that oppose it. Among them are the National Taxpayers Union. The National Taxpayers Union says, and this is a letter signed September 24, 1980, it says:

> Our organization is firmly opposed to any expansion of the use of Federal loan guarantees to deal with the problem.

Then it goes on to say that even though the Bonneville Power Administration's authorities are restrained, they feel that this is fundamentally a Federal guarantee. I will get into that later in the debate.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. LUJAN. I will yield the gentleman 2 additional minutes.

Mr. WEAVER. The local people in the Northwest opposing this are as follows:

ORGANIZATIONS WHICH ARE OPPOSED TO MAJOR PROVISIONS OF THE NORTHWEST POWER BILL

Washington State Democratic Party.
Oregon State Democratic Party.
Montana State Democratic Party.
Oregon State Grange.
International Communications Workers of America.
Retail Clerks Union.
Northern Plains Resource Council.
Greenpeace.
Environmental Information Center (MT).
Oregon Environmental Council.
Washington Environmental Council.
Idaho Conservation League.
Clearwater Conservation Council (ID).
Seattle Teachers' Association.
Interim Committee on Environment & Energy, Oregon House of Representatives.
Oregon International Longshoremen and Warehousemen's Union Pensioner's Association.
Elder Citizen Coalition of Washington.
People's Organization for Washington's Energy Resources.
Southwest Oregon Community Action Committee.
Idaho Citizens Coalition.
Oregon Fair Share.
Ratepayers Union (OR).
Oregonians for Utility Reform.
People for Public Power.
Keep Public Power Alive.
Solar Oregon Lobby.
Washington PIRG.
Oregon PIRG.
Citizens for a Solar Washington.
Gray Panthers.
Mid-West Electric Consumers Association.

Arizona Municipal Power Users Association.
Committee on Power for the Southwest.
Ohio Municipal Electric Users Association.
ElectriCities of North Carolina.
Northeast Public Power Association.
International Association of Machinists.
League of Women Voters.
Audubon Society.
Natural Resources Defense Council.
Environmental Policy Center.
Congresswatch.
Friends of the Earth.
Sierra Club.
Izaak Walton League.
Environmental Action.
Solar Lobby.
Western Organization of Resource Councils.
National Wildlife Federation.

I would like to comment on solving a problem. Remember, if we do have a problem in the Northwest, there is not one kilowatt of electricity in this bill, not one, until at least 1995, just 15 years, so it cannot solve, obviously, a single problem in the Northwest for 15 years. We know that. That is just a categorical absolute. We know that. To say that it solves our power problems is incorrect.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I am delighted to yield if the gentleman will give me more time.

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

Mr. SWIFT. Mr. Chairman, I now yield 3 minutes to the gentleman from Oregon (Mr. AuCoin) for purposes of debate only.

(Mr. AuCOIN asked and was given permission to revise and extend his remarks.)

Mr. AuCOIN. Mr. Chairman, I will be brief because I know we want to get on with the amending of the bill. I want to make but two or three points.

First, it has just been said that shortages are guaranteed in the Pacific Northwest Region unless this bill is passed—unamended. I disagree with that statement. I commend to my colleagues' attention the report I mentioned earlier, sponsored by the Department of Energy, contracted to the Natural Resources Defense Council of San Francisco, Calif., dated August of 1980, which indicates that that statement is not accurate. The report recognizes the region's energy needs, but provides an "alternative scenario" which would meet the region's energy needs at least through the year 1995 without requiring either coal or nuclear generation.

It was also stated on the floor by a colleague—and I want to say at this point that all of the proponents of the bill I know of, and I know of no exception, are Members with whom I have worked and for whom I have great respect, and with whom I feel sad to be standing in disagreement—it was stated by one of the proponents that the bill encourages no particular form of power generation. My reading of the bill leads me to a different conclusion. My reading of the bill suggests that a "guaranteed purchase authority" applied to the generation "capacity" of plants is not essential for conservation and renewable energy but is a clear invitation for easy financing for large, capital intensive thermal plants—nuclear plants in particular—which I think contradicts the statement that was made.

Mr. DINGELL. Mr. Chairman, will the gentleman from Oregon yield?

Mr. AuCOIN. I will yield when I have finished my statement. I have but 3 minutes.

Mr. DINGELL. The gentleman is making legislative history and, in my view, he is making very bad legislative history. I would like to disagree with the gentleman.

The CHAIRMAN. The gentleman from Oregon has the time.

Mr. AuCOIN. It has also been stated that the bill will not cost the Federal taxpayers a dime and that is clearly true. The same colleague who made that statement said it will be the region ratepayers who will foot the bill. I would not agree more.

The problem is that if we encourage the construction of large capital intensive plants, which this bill will, at the expense of less expensive energy from cogeneration, conservation, renewable sources of energy, we will inflict rates on the people of the region that are far greater than needs to be the case. And those rates will finance a technology—nuclear power—which has major unanswered safety questions, which means the people lose two ways.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. AuCOIN. I will expand my views under the 5-minute rule. I appreciate the gentleman yielding.

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. Bonker) for purposes of debate only.

(Mr. BONKER asked and was given permission to revise and extend his remarks.)

Mr. BONKER. Mr. Chairman, this bill is a culmination of years of work on the part of many people in the Northwest, particularly the Northwest delegation. I think the record should show that I opposed the first two attempts to introduce a bill on this subject; the so-called PNUCC bill in 1977 and the revised version of that bill in 1977 were unacceptable.

I supported this bill only if two sections were to become acceptable, to include a strong and independent public council and for strong fishery language.

I believe that this bill meets the test on both counts.

I would also like to take this opportunity to thank those Members outside of the region, the gentleman from Michigan (Mr. Dingell), the gentleman from Texas (Mr. Kazen), and the gentleman from Indian (Mr. Sharp) for their efforts to help perfect this bill.

As my colleagues know and as we have heard from the sponsors, this legislation is needed to avert an immenent and possibly disruptive battle over power allocation in the Northwest. If this bill is not enacted this year the power sell contracts at the Bonneville Power Administration will begin to expire immediately and the BPA will be unable to renew them.

Now, I do not know if there will be something of a civil war in the Northwest if this Congress does nothing on allocation, but if we do not enact a bill then we are going to face uncertainties, problems, and suits. This bill clearly is intended to deal with some of those problems.

For the first time, the region has a chance to address these problems in a comprehensive manner and it permits our region to plan for its energy future rationally and cooperatively and with the full voice from the States and with an emphasis on conservation.

□ 1420

If I thought for one moment that this legislation would promote nuclear power or in any way slight conservation in any way, I would not support it.

Indeed, the bill contains the strongest conservation program and priority of any legislation that has ever received serious consideration by this Congress.

The bill treats conservation as a resource—and gives it top priority for the region's future. It provides for a special $1.25 billion revolving fund—paid for by BPA customers—to help achieve cost-effective conservation. And it gives utilities rate credits for their own independent conservation efforts.

In short, for the first time, we have a program that will look to save kilowatts as the No. 1 priority, rather than generate new ones. This bill is not a mandate for the building of nuclear plants, as its opponents have suggested. Just the opposite is true.

Throughout consideration of S. 885, I have been concerned principally about two issues. First of all, that we have in place a regional council, a public council, that will be involved in the development of an energy program and, secondly, a strong fisheries provision.

It establishes an eight-member regional planning council, which has authority to draw up a regional plan—the blueprint for our energy future.

Currently, the Northwest lacks any regional planning body in power matters; the States have no voice in BPA decisions and do not coordinate with one another in energy matters.

And finally, this legislation deals with the problem of the tremendous fish mortality that occurs at each of the hydroelectric facilities on the Columbia River.

Today, nearly 15 percent of each fish run is susceptible to loss at each dam, when water availability is not sufficient to generate power and facilitate fish passage. That translates into literally millions of salmon and steelhead losses each year.

The language in this bill—if interpreted according to the historical development and record of this legislation—will insure that power needs and fish needs are considered equally in the allocation of available water resources. That is the intent of Congress.

In closing, it should be emphasized that this bill is vital to our region. The legislation enjoys an exceptionally widespread backing from the diverse interests in the Pacific Northwest. I urge your support for this legislation.

(Mr. BONKER asked and was given permission to revise and extend his remarks.)

Mr. KAZEN. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. DICKS) for purposes of debate only.

(Mr. DICKS asked and was given permission to revise and extend his remarks.)

Mr. CHAIRMAN. I rise in support of (S. 885), the Pacific Northwest Power Planning and Conservation Act. This piece of legislation is critical for the Pacific Northwest and I urge all of my esteemed colleagues to support it today.

Mr. Chairman, I cannot emphasize enough now vitally important this legislation is to the economy and welfare of the residents of the Pacific Northwest region. The entire region is tied to the electrical power output of the Bonneville Power Administration. All of this power is presently under contract. However, these contracts begin expiring in 1981, at which time a reallocation of this Federal power will ensure.

With this legislation, the potentially explosive reallocation problems can be resolved. This bill embodies a regionally negotiated and supported "peace treaty" by all of the affected parties. It insures a smooth reallocation of power by establishing a regional planning process permitting the BPA to expand its resource base, and thereby to sign the new utility and industry contracts necessary for the coordinated planning and efficient use of regional energy resources.

Without this legislation, the BPA will begin the administrative reallocation of its Federal-system power next year, which will result in complicated and prolonged litigation, as all Northwest power consumers vie for a portion of these lower-cost resources.

The Northwest power bill will prevent these problems from occurring. It will enable the Northwest to work together as a region to solve potential future energy shortages and to satisfy the energy requirements of our region.

Under the bill, the Northwest States would join into a regional planning council. The council would make a comprehensive plan for BPA to follow, including a 20-year forecast of regional needs, and develop a general scheme for meeting regional needs from conservation, as well as renewable resources.

This legislation makes conservation and renewable resources the top priorities for BPA acquisition, and includes the strongest conservation and renewable resources programs of any energy legislation that has been seriously considered by Congress.

All costs under this legislation will be borne entirely by the Bonneville Power Administration's customers. BPA is a totally self-financed agency. The legislation contains no Federal guarantees, no subsidies, and no increase in Federal spending. It also fully protects all other regions of the country, and permits the Northwest to continue the interregional power exchanges that help reduce consumption of imported oil in the Southwest.

This legislation is strongly supported by all four of the Northwest States, local government units, and virtually all of BPA's many utility and industrial customers.

Unfortunately, the days of inexpensive hydropower in the Northwest region are over. Our region faces critical energy shortages in the very near future. We need this legislation now so that an effective and coordinated plan can be put into effect to deal with these near-term energy problems.

This bill is not a panacea for all of the Northwest energy problems. However, it does provide the vehicle for establishing an open, coordinated, and comprehensive approach to future electrical power planning in the Northwest.

Enactment of this legislation is vital to our region and I urge my colleagues to support it today.

Thank you.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield to me?

Mr. DICKS. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I would not agree with the gentleman more. I long have advocated a financing mechanism for conservation and for alternative energy generation strategies. But the gentleman also knows within this bill there is an open invitation for using that selfsame financing mechanism for the construction of nuclear powerplants, without safeguards.

Mr. DICKS. Mr. Chairman, I will reclaim my time at this point.

This is only if we have used all of the conservation alternatives available in the Pacific Northwest, even though they are 10 percent more expensive and, secondly, if we have used all of the alternative energy sources available in the Pacific Northwest. Those things have to be done first. Then I would say it would only be responsible debt.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the bill provides no money for Bonneville to construct anything. I want the legislative history on this point eminently clear: It provides no preference for nuclear over conventional power and no preference for any kind of power generation.

Mr. DICKS. Mr. Chairman, the gentleman from Michigan is absolutely correct. All this bill does is allow BPA to purchase the output, and only after this regional council we have established approves it as part of our original plant.

I think the point here that has to be made over and over again is that for the first time in the country we have a chance to test out the theory of conservation. We have the answer to test out those alternatives.

My friend, the gentleman from Washington (Mr. BONKER), I can think of no one in the Northwest who has been more diligent in their efforts to develop conservation and alternative energy resources. I think the gentleman's support of this legislation indicates that we have come a long, long way from the original versions of this bill in putting those priorities first. It is now time to come to the point of decision. This is not a perfect world. We cannot have every single thing we want. Sometimes legislation is the art of the possible. I think this bill today represents a good, solid compromise that is supported by all the private utilities, by 110 out of 116 public utilities, by most of the responsible business groups in the Pacific Northwest, and I urge my friends in the House to support this legislation with the broad coalition of people who have supported it. It is now time to pass this bill, and I hope that the House will do it in a prompt and expeditious fashion.

Mr. LOWRY. Mr. Chairman, I thank the gentleman for yielding.

I first want to sincerely compliment the dedicated efforts by the Members from our Northwest delegation on the legislation now before us. I know from many hours of personal discussion with those Members from the Northwest who support this legislation that they do so with the sincere belief that S. 885 is an improvement on our important energy problems. The problem is the bill as now written simply is not. The bill that we have before us, if not substantially amended, will result in less conservation than were we to have no bill at all.

At the same time the bill we have before us, if not amended, will result in additional procedural roadblocks to new energy resource development. The end result will be that with less conservation and more roadblocks to development we will have less energy. We will have exactly the energy shortfall that the well-meaning proponents of this bill want to avoid.

The gentleman from Oregon (Mr. WEAVER) mentioned many of the people in the Northwest region who are opposed to this bill. In addition, I think you will find by the time we come to vote on final passage that a third of the Members of the Northwest delegation will be voting against this bill.

You have been told that a consensus exists in the Northwest for this bill. If this is accurate then tell me why a third of the Members of this body from the Northwest are in opposition to this bill as it is now written. The reason why is because, despite the claims of its proponents, the bill does not represent a thoughtful, prudent solution to our energy problems. On the contrary the bill will extend and make more likely an energy shortage in the Northwest.

Mr. KAZEN. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. LOWRY) for purposes of debate only.

There is an answer to the energy problems of the Northwest, Mr. Chairman. This body can and should amend those portions of this bill which would continue this Nation's past errors of discouraging energy conservation and renewable energy development. Let us remove from this bill the open ended contract authority known as "purchase guarantee." The "guarantee purchase" provisions in S. 885, and in the substitute text H.R. 8157, would allow the Bonneville Power Administration to make the same mistake it made when it

agreed to underwrite the financing of three nuclear plants being built by the Washington Public Power Supply System, called WPPSS for short. The "net-billing" agreements between WPPSS and BPA have obligated the ratepayers for billions of dollars in cost overruns. Cost overruns which are in excess of 400 percent higher than the original estimated costs of the plants. Let us not repeat that mistake by allowing this legislation to go unamended.

Others have called for passage of this bill without amending its flaws. That would be a serious energy policy mistake. I urge my colleagues to give serious consideration to amendments offered in good faith to correct this controversial legislation.

Let us remove from this bill the open ended contract authority known as purchase guarantee. The guaranteed purchase provisions in S. 885 as now written is far too similar to present "net billing" language now in force between BPA and the Washington Public Power Supply System (WPPSS) that obligates ratepayers for billions of dollars of cost overruns in excess of 400 percent higher than original estimated costs. Let us not repeat that mistake.

Others have called for passage of this bill without amendment. That would be a serious energy mistake. I urge my colleagues to give serious consideration to these good faith amendments offered to correct this important legislation.

☐ 1430

Mr. WEAVER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 596]

Abdnor	Bouquard	Dannemeyer
Addabbo	Bowen	Daschle
Akaka	Breaux	Davis, Mich.
Albosta	Brinkley	Davis, S.C.
Alexander	Brodhead	de la Garza
Anderson, Calif.	Brooks	Dellums
Andrews, N.C.	Broomfield	Derwinski
Andrews, N.Dak.	Brown, Calif.	Devine
Annunzio	Broyhill	Dicks
Anthony	Burlison	Dingell
Ashbrook	Burton, John	Dixon
Ashley	Burton, Phillip	Donnelly
Atkinson	Butler	Dougherty
AuCoin	Byron	Duncan, Oreg.
Badham	Campbell	Duncan, Tenn.
Bafalis	Carney	Early
Bailey	Carr	Edgar
Baldus	Carter	Edwards, Ala.
Barnard	Chappell	Edwards, Calif.
Bauman	Clausen	Edwards, Okla.
Beard, Tenn.	Cleveland	Emery
Bedell	Clinger	English
Bellenson	Coleman	Erdahl
Benjamin	Collins, Tex.	Erlenborn
Bennett	Conable	Ertel
Bereuter	Conte	Evans, Del.
Bethune	Conyers	Evans, Ind.
Bevill	Corcoran	Fary
Bingham	Corman	Fascell
Blanchard	Cotter	Fazio
Boggs	Coughlin	Fenwick
Bolling	Courter	Findley
Bonar	Crane, Daniel	Fisher
Bonior	Crane, Philip	Fithian
Bonker	Daniel, Dan	Flippo
	Daniel, R. W.	Florio
	Danielson	Foley
Ford, Mich.	Loeffler	Rostenkowski
Ford, Tenn.	Long, La.	Roybal
Forsythe	Long, Md.	Royer
Fountain	Lowry	Rudd
Frenzel	Lujan	Russo
Garcia	Luken	Sabo
Gaydos	Lungren	Sawyer
Gephardt	McClory	Schroeder
Gibbons	McCloskey	Schulze
Gilman	McCormack	Sebelius
Gingrich	McDade	Seiberling
Ginn	McEwen	Sensenbrenner
Glickman	McHugh	Sharp
Goldwater	McKay	Shelby
Gonzalez	Madigan	Shumway
Goodling	Markey	Shuster
Gore	Marks	Simon
Gradison	Marlenee	Skelton
Gramm	Marriott	Smith, Iowa
Gray	Martin	Smith, Nebr.
Green	Matsui	Snowe
Grisham	Mavroules	Snyder
Guarini	Mazzoli	Solarz
Gudger	Mica	Solomon
Guyer	Michel	Spellman
Hagedorn	Mikulski	Spence
Hall, Ohio	Miller, Ohio	Stack
Hall, Tex.	Mineta	Staggers
Hamilton	Minish	Stangeland
Hammer-schmidt	Mitchell, Md.	Stanton
Hanley	Mitchell, N.Y.	Steed
Hansen	Moakley	Stenholm
Harris	Mollohan	Stewart
Hawkins	Montgomery	Stockman
Heckler	Moore	Stokes
Hefner	Moorhead, Calif.	Stratton
Hightower	Moorhead, Pa.	Studds
Hillis	Mottl	Stump
Hinson	Murphy, Pa.	Swift
Holland	Murtha	Symms
Holt	Musto	Synar
Hopkins	Myers, Ind.	Tauke
Horton	Natcher	Tauzin
Howard	Nelson	Taylor
Hubbard	Nichols	Traxler
Hughes	Nowak	Udall
Hutchinson	O'Brien	Van Deerlin
Hutto	Oakar	Vander Jagt
Hyde	Oberstar	Vanik
Ichord	Obey	Vento
Ireland	Panetta	Volkmer
Jacobs	Pashayan	Walgren
Jeffords	Patten	Walker
Jenkins	Patterson	Wampler
Johnson, Calif.	Pease	Watkins
Jones, Tenn.	Perkins	Weaver
Kastenmeier	Petri	Weiss
Kazen	Peyser	White
Kemp	Pickle	Whitley
Kildee	Porter	Whittaker
Kindness	Price	Whitten
Kogovsek	Pritchard	Williams, Mont.
Kostmayer	Pursell	Wilson, Bob
Kramer	Quillen	Wirth
LaFalce	Rahall	Wolff
Lagomarsino	Railsback	Wyatt
Latta	Rangel	Wylie
Leach, Iowa	Ratchford	Yates
Leath, Tex.	Regula	Yatron
Lederer	Rhodes	Young, Alaska
Lee	Rinaldo	Young, Fla.
Lehman	Ritter	Young, Mo.
Leland	Robinson	Zablocki
Lent	Roe	Zeferetti
Levitas	Rosenthal	

☐ 1440

The CHAIRMAN. Three hundred and thirty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Chair recognizes the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. WEAVER).

☐ 1450

Mr. WEAVER. Mr. Chairman, I take this 1 minute—and I thank the gentleman from California for that 1 minute—simply to tell the Membership why I am so adamantly opposed to this bill.

Mr. Chairman, the Eugene Water and Electric Board, the largest public utility in Oregon, my home utility, is adamantly opposed to this bill. I have a telegram here this morning saying:

DEAR CONGRESSMAN: This is to advise you that the Eugene Water and Electric Board is still very much opposed to H.R. 8157 and urges that any further House action cease.

This is a utility whose chairman is an arch Republican, pronuclear person, and the reason that they oppose it is because they believe it will destroy their utility and destroy local initiative. They are one of the most aggressive, vigorous local utilities in getting and developing their own energy sources.

Mr. LOWRY. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I yield 2 minute for the purpose of debate only to the gentleman from Tennessee (Mr. GORE).

(Mr. GORE asked and was given permission to revise and extend his remarks.)

Mr. GORE. Mr. Chairman, I would like to begin by complimenting my colleague, the gentleman from Washington (Mr. SWIFT), for the way that he has handled this legislation both in committee and here on the floor. It is virtually unbelievable that a new Member of this body could have done the job that he has done on this legislation, and he is to be congratulated for it.

I speak as a representative from the Tennessee Valley Authority region. I think you will find on the final vote, Mr. Chairman, that we from the TVA area are unanimous in support of this legislation. There has long been an historic alliance between the TVA region and the Northwest region on issues related to this topic. We treasure and respect that long alliance and we also respect the work that has been done on this particular legislation.

The situation which has led to this bill is very simple. Cheap hydroelectric power is gone. The new power is very expensive. And there is a venemous dispute that has been raging in the Northwest about how to allocate the cheaper power. This bill resolves that dispute in a way that the majority of the people in the region support. I think we ought to ratify the settlement that they have arrived at. It puts a priority on conservation, it protects the concerns associated with public power, it facilitates planning in the region by resolving this dispute and, Mr. Chairman, there is no alternative to this bill. It has received a lot of attention over a long period of time. It is a good bill. I urge every Member of this body to support the legislation.

Mr. SWIFT. Mr. Chairman, I yield myself 6 minutes.

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

Mr. SWIFT. Mr. Chairman, if horses had feathers, we would be knee deep in them right now. We have heard that this is a deeply flawed bill. Horsefeathers. This bill has been worked on by the Senate committee which perfected an excellent basic mechanism. It was improved vastly by the House Commerce Commit-

tee, and it was improved even more by the House Interior Committee. This is one of the most carefully crafted bills that will come before this Congress.

We have heard that there will be inadequate conservation. Horsefeathers. Conservation is given the primary emphasis in this legislation.

We have heard that there is broad opposition to the bill. I presume we could get into an ad hominem argument of supporters and opponents by the pound. But at the desk will be available for the rest of the day a list of all of the supporters of the legislation, and you can make your own judgments.

We have heard that this will nationalize private utilities. My friends, that is horsefeathers. Why would there be support from private utilities for legislation that would nationalize them? Well, that is not quite what the people who say that mean. What they really mean is that what it is going to do is mean that BPA will provide all of the energy that any private utility needs in excess of what it is using at the present time. Horsefeathers. The portion of the legislation that was read upon this floor a while ago, the suggestion—I believe I quote—"expanding BPA from a marketing agency to a huge Federal bureaucracy to nationalize the public utilities," is another example of the horsefeathers that are flying around this Chamber, because the bill clearly provides that Bonneville can only supply energy to a private utility in time of insufficiency in that amount that that utility has sold to Bonneville in the first place.

Any utility in the Pacific Northwest that simply goes to sleep upon passage of this bill and expects Bonneville to supply all of its energy is going to wake up in the morning very, very empty of electricity. The bill does not work that way.

We hear there are Federal guarantees. That is one of the oldest horsefeathers that we have heard on this bill from the beginning. There is no Federal guarantee in this legislation whatever.

We have heard that it will encourage the building of thermal plants. It will discourage the building of thermal plants until you have squeezed the waste out of the system in the Pacific Northwest, and that is the only way that is going to be able to happen.

We have heard that this is the creation of a new TVA. Horsefeathers. The TVA today has the power, the authority to go out and build generating facilities. BPA does not have that today; it will not have it under this bill. It only gets additional authority to go out and purchase electricity from the existing utilities in the Pacific Northwest.

We have heard that it is going to create an energy czar. Horsefeathers. It establishes a State-appointed council that will for the first time overview, have oversight and keep an eye on the Bonneville power administrator.

We have heard it is a violation of the preference clause. It is not. Horsefeathers. What the bill does is to let the people of the Pacific Northwest solve their own problems before that serious problem becomes an energy crisis. It encourages conservation. It provides real oversight of the BPA and a sound regionwide and coordinated planning process for the first time. It establishes a balance between power and fishery needs in the Columbia. It is a rational, balanced solution, one of the most carefully conceived and effective pieces of legislation to come before this Congress.

I urge my colleagues to support this bill, oppose the amendments that are clearly designed to destroy it.

As you walk on the floor, you will have to wade through the horsefeathers. But do not let them blow up in your face and cloud your vision. This is a sound bill supported by some of the most respected Members of this body: The gentleman from Oregon (Mr. ULLMAN), the gentleman from Oregon (Mr. DUNCAN), the gentleman from Washington (Mr. FOLEY), the gentleman from Washington (Mr. MCCORMACK), the gentleman from Washington (Mr. BONKER), the gentleman from Washington (Mr. DICKS), the gentleman from Washington (Mr. PRITCHARD), the gentleman from Idaho (Mr. SYMMS)—all from the region. And from outside of the region: The gentleman from Arizona (Mr UDALL), the gentleman from Michigan (Mr. DINGELL), the gentleman from Ohio (Mr. BROWN), the gentleman from California (Mr. CLAUSEN), the gentleman from New Mexico (Mr. LUJAN), the gentleman from Texas (Mr. KAZEN), the gentleman from Indiana (Mr. SHARP).

They have worked closely on this bill. They understand it and they support it. It was reported out of both subcommittees and both full committees with overwhelming support by the people who have had the opportunity to study it and understand it in detail.

I urge the Members to back these legislators and your committees in passing this bill and let the Pacific Northwest solve its own problem.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Washintgon.

(Mr. FOLEY asked and was given permission to revise and extend his remarks.)

Mr. FOLEY. Mr. Chairman, I want to rise in strong support of the bill and associate myself with the remarks of the gentleman. I urge my colleagues to support the bill.

The CHAIRMAN. The Chair advises that the gentleman from Washington (Mr. SWIFT) has 3 minutes remaining, the gentleman from California (Mr. MOORHEAD) has 20 minutes remaining, and the gentleman from New Mexico (Mr. LUJAN) has 5 minutes remaining.

Mr. YOUNG of Alaska. Mr. Chairman, today, after nearly 5 years of consideration, the House of Representatives will vote on a very important piece of legislation to the Pacific Northwest, the Pacific Northwest Electric Power Planning and Conservation Act.

I commend my colleagues on the Interior and Insular Affairs Committee for their efforts to produce a bill which addresses the power problems facing the Pacific Northwest. I say with confidence that the bill before us proposes a workable solution to a problem unique to Pacific Northwest region.

The Pacific Northwest Electric Power Planning and Conservation Act clarifies the role, responsibility and activity of the Bonneville Power Administration (BPA). In addition, this bill provides a mechanism whereby State and local interests may be voiced. Finally, this legislation adequately protects the valuable fisheries resource in the Columbia River and its tributaries.

I must once again emphasize that this bill proposes a unique solution to a unique problem that in no way should be interpreted as setting a precedent for other geographic regions of the United States. I urge my colleagues to support passage of this measure.●

● Mr. OTTINGER. Mr. Chairman, I must rise to oppose this bill. I value the concept of regional power planning; I cannot, however, support a precedent which could erode the preference clause for federally financed power projects and encourage nuclear power over conservation by authorizing the melding of Federal hydropower and private nuclear plant rates. Furthermore, this legislation operates to the detriment of the conservation incentives, so deceptively touted as one of the redeeming features of this bill.

As chairman of the Subcommittee on Energy Development and Applications and ranking majority member of the Energy and Power Subcommittee, which have originated much of the legislation to encourage conservation of power resources, I can tell you that conservation is exactly what this bill does not achieve, despite its deceptive appearance.

The criteria set forth in the Pacific Northwest Electric Power Planning and Conservation Act are admirable. The legislation appears to give priority status to conservation, renewable resources, waste-to-energy resources and then conventional sources of power. But unfortunately, no more than lip service is paid to the priorities established in the legislation.

Conventional sources of power may be acquired without adherence to conservation objectives if the Bonneville Power Administration says that it needs new generation to fulfill contracts that it would not have undertaken in the first place—without the Northwest regional power bill.

The plan to be submitted by the council must include a demand forecast of at least 20 years and a forecast of needed power resources. Although this plan must include model conservation standards, the council is not required to project anticipated demand reduction achieved through conservation in hard numerical terms.

The council may recommend surcharges to BPA customers who fail to implement conservation measures. This should be mandatory.

Another major defect of this legislation is the provision for blending private nuclear power rates with low hydropower costs. An amendment supported by many Northwest members during consideration by the Interior Committee would have established two-tier rates for power purchases by utilities, a salutory provision. Under the present bill however, the price of new generation

which promises to be five or six times greater than Federal hydroelectric power in the region, will be blended together.

Thus, the incentive for conservation and innovative generation is greatly diminished because the cost of new generation is hidden. Were a utility forced to make the choice between implementing effective conservation measures or purchasing additional power at its true cost, it would choose conservation. This provision also gives an unwarranted subsidy to the nuclear power contemplated as the new regional power source.

Although the legislation sets forth mandatory billing credits to be awarded to utilities which have implemented effective conservation measures or alternative generation, we have to remember we are talking about some 116 publicly owned utilities which do not have the resources to prove that conservation measures have achieved savings. This will benefit Puget Power, and perhaps Seattle City Light, but will do nothing for the many small public utilities.

Perhaps the most deceptive section of this bill is that which promises public utilities will pay no more for their power with the legislation than they would have without it, thus apparently protecting the preference clause.

However, the Northwest hydropower pie, like any pie, is only going to go around the table so far. The 10,000 megawatts of Federal power in the region will no longer go in sole preference to the public utilities, but will go to direct service industries—in this case the aluminum industry, and to private utilities. We are talking about melding penny-hydroelectric power into the price of a pie which will now contain 12-cent nuclear power in much greater quantities so that BPA can meet the contracts it makes under this legislation.

This is a major preference abrogation that can be duplicated anywhere in the country by establishment of similar regional arrangements. The Federal Government will then be in the undesirable position of subsidizing investor-owned utilities everywhere.

Another problem with this legislation is that it will take power away from public utility districts and put it into the hands of the Federal Government. The many small public utilities in the Northwest now have the ability to band together and purchase new generating capacity, if needed.

Under this legislation, they will no longer have this ability. Instead, the public utilities which are entitled to federally generated power in the first place will only be allowed to use the Federal power if they accept every single action taken by the council and the BPA.

This legislation also provides an exemption to the Public Utility Holding Company Act of 1935 by exempting from the definition of "electric utility company" in the act any company which owns or operates facilities for the generation of electricity to be sold directly, or indirectly, to BPA. In effect, this is a repetition of the Price Anderson Act which limits the liability of nuclear plant owners. In this bill, we are not only providing the utilities an edge in the bond market, but we are in turn affording them exemption from liability for the performance of those plants. With the poor track record of the infamous Washington Public Power Supply System, it is highly unlikely that such an exemption is going to improve plant construction and ultimately, safety.

Let me assure you that defeat of this measure does not, as you have been told, spell imminent power blackouts for the Pacific Northwest. The BPA, which has demonstrated a flair for consistently miscalculating power demand, maintains that the region simply cannot survive without vast increases in generation capacity. A study commissioned recently by the Department of Energy states that the region can meet its electrical load through 1995—even without two of five nuclear power plants under construction; and without two 700-megawatt coal plants currently planned.

Let me also remind you that this is a region which consumes per capita twice the national average of electricity. These utilities, both public and private, therefore, have enormous opportunities to avoid the construction facilitated by this legislation with vast insulation programs to reduce electrical consumption. Seattle City Light is a living example of what can be done in this region to achieve conservation of resources.

Lastly, the Northwest already has the cheapest power rates in the United States because of the BPA hydropower. To extend these advantages, and, the advantages of BPA's low borrowing rates to all the region's private and public utilities will give the Northwest an unfair federally subsidized advantage in attracting business from every other section of the country—and this region least needs the help.

Just compare Washington State's average monthly utility bill, for use of 750 kilowatt hours of electricity which totals $11.46 to New York State's average monthly utility bill for residential consumers which totals $44.64. In my own district of Westchester County, the aver-monthly utility bill is $63.19. Or, compare the average industrial bill for 300 kilowatts of demand and usage of 60,000 kilowatt hours.

In Washington State the average industrial monthly bill is $898, compared to an average of $4,758 for the same amount of electricity in New York State. The Northwest deserves a Federal power subsidy at the expense of the rest of the nation?

I strongly urge defeat of this legislation.●

● Mr. DUNCAN of Oregon. Mr. Chairman, I do not believe I exaggerate when I say that the legislation we are considering today is among the most important I have spoken for in my entire legislative career. The bill is not, as its opponents have charged, a Federal bailout of the Pacific Northwest. It is not a case of one part of the country being asked to subsidize the energy costs of another. It is a bill that enables a region to work together and to plan ahead to meet future energy needs. And if we had had the foresight to do this type of planning on a national basis in 1973, when we were first made painfully aware that our energy sources are not boundless, this country would not be faced with the skyrocketing energy prices confronting us today.

The facts are simply these: The Pacific Northwest will soon have a shortage of power. There is some dissension on how soon it will be, but the day is certainly coming—we have faced some shortages already. And there will be a tremendous struggle among public utilities, private utilities and industry for what hydroelectric power Bonneville has to sell—a struggle that will result in endless litigation. Without an assured source of energy, industries will be forced to close down or move elsewhere, and people will be without jobs. This has already happened. In the past year, a number of factories have been forced to cut back and lay off workers because of energy shortages.

This bill very simply provides legislative allocation of BPA power with full protection of the public preference clause. It allows the Bonneville Power Administration to buy whatever additional power it needs to meet the energy requirements of the region. It is required to give top priority to conservation and renewable sources. It is allowed to purchase thermal energy only as a last resort. The bill provides that public utilities will continue to get preferential treatment. BPA is allowed to spread the risks in developing new energy sources equitably among its customers as is common practice. The bill corrects the problem of rate disparities between public and private utilities. And the bill requires no Federal subsidies or funding of any kind.

The minority of groups and individuals who oppose the bill have been very vocal and they would have you believe that the Pacific Northwest is divided over the legislation. But most of you, I believe, have seen a list of organizations supporting the bill—groups as diverse as public and private utilities, labor unions, Common Cause, and industry. They say that politics makes strange bedfellows. I would contend that a potential energy crisis can lead to even more strange alliances.

My friends, I leave you with this thought. This is not some half-baked scheme concocted to bail out a careless region that has let its energy problems creep up. We have been working on this plan for more than 8 years and have had input from every sector of society that will be affected. For once, we have the opportunity not to react to a crisis that is out of hand, but to plan ahead to avoid a crisis that need not be.

It is a Northwest regional power bill, it is true, but it is a bill for all America. To the extent that the Northwest can generate additional energy, it helps to solve the energy problem of the United States, and so long as we are importing one barrel of oil from around the world we have a problem and we need additional sources of domestic energy. This bill gives us—the Northwest and the United States—an opportunity to do so.

I urge your support of this bill.●

● Mr. FOLEY. Mr. Chairman, I rise in support of H.R. 8157, the substitute Northwest power bill. This legislation is absolutely essential for the Pacific

Northwest. And it is absolutely essential that we enact it this year.

There may be some disagreement about the size and urgency of the power shortage in the Northwest today. But there is no disagreement—and there can be no disagreement—that if this bill is not enacted, the Bonneville Power Administration next year, in calendar year 1981, will have no choice but to reallocate its fixed supply of Federal power. This Federal decision—how to reallocate Federal power—cannot be postponed. It cannot be avoided. It cannot be made by anyone other than a Federal entity either the Congress or the Bonneville Power Administrator or a Federal judge.

In other words, the issue is whether an important region of the United States, and its economy, will be virtually paralyzed by electric power planning uncertainty for a decade or more. Only Congress can prevent this, and only by acting now.

Every Northwest Member is well aware of how difficult the bill is to explain and understand. For this reason, we are particularly fortunate to have had among our colleagues Mr. SWIFT of Washington, who has performed superbly under very difficult conditions to rewrite this bill so that the bill does its job without creating risks of harm to the Northwest or to any other region. And we are indebted, for the constant hard work and attention that this bill has received from so many Members from other regions, who had made a determined effort to understand it and to improve it. In particular, I want to thank Mr. DINGELL, Mr. BROWN of Ohio, and Mr. SHARP of the Committee on Interstate and Foreign Commerce; Mr. UDALL, Mr. CLAUSEN, Mr. KAZEN, and Mr. LUJAN of the Committee on Interior and Insular Affairs; and Mr. BOLLING and the other members of the Committee on Rules; as well as the leadership on both sides of the aisles and the many members of the two committees that favorably reported this bill by such overwhelming margins.

The gestation of this bill has been an arduous, occasionally contentious, process of reaching a broad-based regional consensus on each of its major components. Reaching such a consensus on the regional planning section has been one of the most difficult tasks in the 4 years of work on the bill. The energy planning provisions of section 4 adopted by the Interior Committee and refined in H.R. 8157 represent a carefully negotiated regional solution to a heated debate regarding size, composition, duties and method of appointment of the planning council which will guide the new authority granted BPA in the bill. The solution is the only one that can be accepted by all major Northwest interests, although it is not the solution preferred by any one of us.

Some sought a proportionally representative council with broad jurisdiction. The Governors of the four Northwest States and the Senate proposed a small council with narrow jurisdiction. But the version adopted by the Interior Committee at our mutual request is a solution we all can accept.

For the past year, we struggled to find this uniquely acceptable formula which would meet three common objectives: First, regional control over the Northwest's energy future; second, balance among contending forces on energy issues; and third, State involvement in regional energy planning. Regional control, particularly in the face of the greatly enhanced position this bill creates for BPA, has been the most important objective.

There is unanimous feeling in the region that the best planning effort is one which comes from within the region itself rather than being imposed from the outside. The task here has been to develop a council capable of exercising policy guidance over BPA, without having to create another Federal agency which would act as merely a bureaucratic counterweight to Bonneville.

The difficulty in reaching accord on this section of the bill dramatized the need to balance the many forces contending to influence regional energy issues.

Clearly, there are two many such forces for all to be directly represented on the regional council and the legislation itself could not even pretend to settle traditional regional contentions. We resolved to provide a forum for their resolution.

Finally, because the region is electrically integrated and interdependent, but geographically far-flung and politically balkanized at present, State involvement in regional energy planning has come to be viewed as key to its ultimate success.

We recognize that since we absolutely do not want to make BPA over into a TVA, the States must be pulled into a regional body with a regional perspective in order for a comprehensive regional planning effort to have any chance of success. The development of the regional planning provisions of this bill has been a learning process for all of us, regardless of how certain we may once have been on the particular proposals we favored originally. To all of us in the Northwest, the fact that we now agree is a major political development in the region, if not a minor miracle.

The heart of the regional planning provisions, the council's role relative to BPA has become much more clearly defined as the bill progressed. Instead of a mere planning body, or a mere advisory body, it now has a mix of mandatory and discretionary oversight functions and control. It has also become a nascent independent body, potentially an enormous force in the future of the region. As a result, despite the fears of those familiar with the bill only as originally introduced, the BPA administrator will not be a "czar" under this bill.

Unlike the Senate bill (State-appointed members, one from each State plus the BPA administrator), the Commerce Committee bill provided a larger, weighted and federally-appointed council. But both bills, to varying degrees, embraced the new role for the council. The reconciliation has had to await constitutional research, and agreement on first, council size; second, representation; third, method of appointment; and fourth, acceptable "backup" or "safety net" provisions.

The council, in the bill before us today, retains the substantive role of the council contained in the Commerce bill. The compromise on size to an eight member council accommodates the views on equal representation and the need for a larger, necessarily more diverse body.

Lengthy discussion and analysis convinced us that State appointments will make the council more responsive, and potentially more decisive. The region will not be able to lay blame on "outsiders."

Recognizing that the legislation cannot compel State appointments or prevent the possibility of State withdrawals, the bill contains a federally appointed "backup" council provisions—perhaps the single most difficult provision negotiated.

This provision would also come into play if all our constitutional research proves wrong or unpersuasive. We are confident, however, that the State-appointed council will not fail for constitutional infirmity and I will take a moment to summarize the research which has been done on this subject.

The Senate-passed S. 885 establishing a council with four out of five State-appointed members which would develop a regional plan to guide BPA's authority under the bill. The Justice Department later reviewed the Senate bill and found a possible problem in the State appointment scheme. Pending the outcome of more detailed legal research on the problem, a federally appointed council was then proposed to and adopted by the House Commerce Committee. Federal appointment clearly preserved the council's substantive role without raising doubts about offending the appointments clause of the Constitution. When the research indicated that the appointments clause was not applicable to cooperative State-Federal schemes such as the present council, the region united behind a State-appointed council, which would be formed pursuant to an interstate agreement with the consent of the Congress.

This revised council scheme was included in the Interior Committee bill and is retained in the reconciled bill before the House. The bill, as I have noted, also provides for a federally appointed ("safety net") council to be formed if the States do not act to form the council, or in the event the scheme is found to be unconstitutional.

Basically, three legal principles bear on this issue:

First. The purpose of the Appointments Clause is to further the separation of powers and functions of branches of the Federal Government, as the most recent case on the subject makes clear. See *Buckley* v. *Valeo*, 424 U.S. 1 at 120–25 (1976). None of the many cases in which the appointments clause has been an issue has involved a State-Federal separation of powers issues. (By contrast, S. 885 involves both Federal and State authorities and presents no separation of functions issues.)

Second. Under the commerce clause, Congress has broad latitude to share authority with the States in a variety of ways (Clean Air Act); or to permit extensive State control (See, e.g., *California* v. *U.S.*, 438 U.S. 645 (1978) (California Water Board may prescribe controls for Federal project as condition of required State permit, or may refuse permit).

Third. Congress may specifically authorize interstate agreements which would otherwise encroach on Federal authority. *United States Steel* v. *Multi-State Tax Commission*, 434 U.S. 452 (1978).

In summary, the S. 885 council is constitutional because the electric power area is one in which Congress may share authority with the States. However, council members must be appointed and act pursuant to State authority, as the bill provides, for the scheme to be effective.

In conclusion, I want to thank the distinguished chairman and ranking minority members of the two committees for bearing with us while we resolved for ourselves the difficult issues addressed in the bill. These issues and what this bill does and does not do are addressed in the attached summary of the bill. I commend these provisions, as well as the bill as a whole, to my colleagues and urge your support. The committees and House generally have been gracious in allowing us to fashion these provisions in a manner which is uniquely acceptable to all of us. And for that patience and understanding, we are grateful.

THE NORTHWEST REGIONAL POWER BILL, S. 885

A. What the Bill Does Not Do:

1. The bill does not authorize a federal agency (the Bonneville Power Administration) to build or own any electric generating facilities. BPA is not like TVA.

2. The bill does not involve federal guarantees, subsidies or "bailouts". All costs will be borne by BPA's own customers, including the repayment, with interest, of all BPA borrowing. (BPA is not authorized to borrow for the purpose of buying power from generating facilities.) BPA is a wholly self-financed agency; it does not receive appropriations; the United States of America does not stand behind BPA's obligations. (See § 6(j).)

3. The bill does not "nationalize" or "federalize" the Northwest utility industry. Under the bill, each BPA customer remains responsible for providing sufficient power to meet its own needs; customers that fail to do so will not be able to meet their own loads if BPA experiences a period of insufficiency. (See § 5(e).)

4. The bill does not create the BPA Administrator as an "energy czar". Instead, it creates a state-appointed council to provide regional planning and regional oversight for BPA's new authorities. And it retains Congressional oversight that BPA must annually undergo, despite being a self-financed agency.

5. The bill is not a bill to build nuclear plants, or any other kind of power plants. It is a bill to solve an allocation problem—the unavoidable reallocation of federal power. And it gives top priority, effectively and enforceably, to conservation and renewable resources in meeting the Northwest's future power needs. (The bill preserves all environmental and siting laws.)

6. The bill does not give improper "price signals". On the contrary, its carefully designed provisions insure that marginal cost pricing will guide (a) BPA, (b) utilities and (c) consumers.

7. The bill does not harm other regions. It has been written specifically to avoid any adverse impacts on other regions. (If the bill is not passed, other regions may suffer the impacts of the disruption of the Northwest's economy.)

B. Why the Bill is Needed:

1. BPA supplys 50 percent of the Northwest's power. This power supply cannot be increased under existing law. The entire amount is already committed by contract to utilities and industries who are BPA customers. All these contracts expire between 1981 and 1994. All of BPA's limited power supply must therefore be reallocated. If the reallocation is made by BPA (beginning next year), it will be the object of a decade of divisive law suits. If the reallocation is instead made by Congress, through this bill, it cannot be litigated and the region's divisiveness on power matters will be combined to less disruptive disputes.

2. The Northwest already suffers a severe power planning shortage. This shortage will grow worse if the region is plunged into a battle over power allocations. Besides the direct impact of a worsened shortage on the Northwest economy, the shortage will also harm California and the Southwest and the nation's policy of reducing oil imports, since the shortage will "dry up" sales of seasonally surplus non-firm power to the Southwest. (Such sales traditionally save some 15–20 million barrels of imported oil each year.)

3 The Northwest currently lacks any mechanism for regionwide conservation or regional development of renewable resources. Both are needed to help reduce the region's power shortage. Both are uniquely suited to the region, because both can be integrated efficiently with the large hydroelectric system on the Columbia River. The bill makes possible for the first time, a regionwide mechanism for financing and developing these "unconventional" resources, and statutorily mandates that cost-effective conservation and renewable resources must be the top priority resources for the region's future. (Significantly, because of unique circumstances in the Northwest, this is supported by the region's utilities and industries.)

4. The Northwest lacks any regional planning body in power matters, even though it is completely integrated from an electrical standpoint. The states have no voice in BPA decisions, and do not coordinate with one another in energy matters. The bill sets up a regional power and conservation planning council, with members appointed by the four governors, to oversee and guide BPA's decisions and to draft a regional power and conservation plan.

5. The construction of more than 30 dams on the Columbia River was carried out in a manner that has harmed the region's salmon and steelhead. Under present law, there is no mechanism for developing or implementing a comprehensive program for the Columbia River fishery affected by power development, given the many power projects and many conflicting jurisdictions involved. The bill now contains fish provisions to restore a balance on the River; these provisions, originally offered by Rep. Dingell, were modified in the Interior Committee so that neither fisheries nor power interests in other regions will be adversely affected, either directly or by way of any precedent. Both fish and power interests in the Northwest now support these provisions.

C. How the Bill Meets These Needs:

1. The bill solves the BPA power reallocation problem by (a) authorizing BPA to acquire power from non-federal sources if needed to meet BPA customer loads, so that the need to reallocate is eliminated, and (b) specifying directly how much power each class of BPA customer is to receive, and at what cost. (The bulk of the bill consists of protections to insure that BPA's new authority is used first for conservation and renewables, and to insure effective regional and Congressional control to prevent any abuse of this new authority.) The bill's allocation system is the heart of the regionally-negotiated "peace" settlement, and is supported by all classes of BPA customers.

2. The bill does not solve the power shortage problem. It was never intended to do so. What it does is to help the region solve the power shortage problem itself, (a) by laying the allocation battle to rest, (b) by creating a regional mechanism for the region itself to finance and implement conservation and other power resources, and (c) by encouraging independent conservation and resource programs on the part of individual utilities, so that they will be able to meet their loads in the manner they wish.

3. The bill solves the regional planning problem by permitting the states to enter into a cooperative planning arrangement with BPA through formation of the 8-member regional council. This council will have sole responsibility for adopting a regional power and conservation program (section 4(e)) and a fish and wildlife program (section 4(h)) for the Columbia River system. In effect, though not in name, this is an interstate compact worked out in agreement with the federal government.

4. The bill deals with the current lack of mechanisms for achieving regional conservation with a thorough-going conservation system. The bill treats conservation as a resource, and requires BPA to implement it (and even "purchase" it) whenever it is less costly than other resources. BPA is to use a special revolving fund of $1.25 bill (paid for by BPA customers) to make available the financing needed to help consumers achieve a level of conservation that is cost-effective for the region. Special rate credits are provided to utilities for independent conservation efforts, including voluntary implementation of retail rate structures that encourage conservation, and model conservation, and model conservation standards are to be implemented region-wide (with wholesale surcharges on BPA's sales to utilities as an incentive to achieve compliance, if necessary). Finally, with the entire financial backing of the region behind conservation and "unconventional" renewable resources, these resources can be financed more easily and developed more quickly: there will be no "pioneer's penalty" for the innovating utility.

D. Floor Amendments:

The bill has benefited from numerous amendments made by the Commerce and Interior Committees. These include amendments to insure that public power's traditional preference to available federal power supplies is preserved, and that other regions cannot be harmed by the bill. But both Committee have rejected certain amendments whose effect would be not to improve the bill, but to kill it (or to force it to a House-Senate conference, with the hope that this will kill it).

Since these harmful amendments have been debated fully in both committees (some are explained in the committee reports), there are specific "issue papers" already available on each. These papers can be provided upon request ●

Mr. LUJAN. Mr. Chairman, I yield back the balance of my time.

Mr. MOORHEAD of California. Mr. Chairman, I yield back the balance of my time.

Mr. SWIFT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

□ 1500

Pursuant to the rule, the text of H.R. 8157 shall be considered as an original

bill for the purpose of amendment in lieu of the amendments recommended by the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce now printed in the bill and said substitute shall be considered as having been read.

The Clerk will designate the amendment.

The bill reads as follows:

H.R. 3157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act."

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.
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Sec. 11. Effective date.
Sec. 12. Severability.

PURPOSES

SEC. 2. The purposes of this Act, together with the provisions of other laws applicable to the Federal Columbia River Power System, are intended to be construed in a consistent manner. Such purposes are also intended to be construed in a manner consistent with applicable environmental laws. Such purposes are:

(1) to encourage, through the unique opportunity provided by the Federal Columbia River Power System—

(A) conservation and efficiency in the use of electric power, and

(B) the development of renewable resources within the Pacific Northwest;

(2) to assure the Pacific Northwest of an adequate, efficient, economical, and reliable power supply;

(3) to provide for the participation and consultation of the Pacific Northwest States, local governments, consumers, customers, users of the Columbia River System (including Federal and State fish and wildlife agencies and appropriate Indian tribes), and the public at large within the region in—

(A) the development of regional plans and programs related to energy conservation, renewable resources, other resources, and protecting, mitigating, and enchancing fish and wildlife resources;

(B) facilitating the orderly planning of the region's power system, and

(C) providing environmental quality;

(4) to provide that the customers of the Bonneville Power Administration and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements, including the amortization on a current basis of the Federal investment in the Federal Columbia River Power System;

(5) to insure, subject to the provisions of this Act—

(A) that the authorities and responsibilities of State and local governments, electric utility systems, water management agencies, and other non-Federal entities for the regulation, planning, conservation, supply, distribution, and use of electric power shall be construed to be maintained, and

(B) that Congress intends that this Act not be construed to limit or restrict the ability of customers to take actions in accordance with other applicable provisions of Federal or State law, including, but not limited to, actions to plan, develop, and operate resources and to achieve conservation, without regard to this Act; and

(6) to protect, mitigate and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries, particularly anadromous fish which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other facilities on the Columbia River and its tributaries.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Acquire" and "acquisition" shall not be construed as authorizing the Administrator to construct, or have ownership of, under this Act or any other law, any electric generating facility.

(2) "Administrator" means the Administrator of the Bonneville Power Administration.

(3) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production, or distribution.

(4)(A) "Cost-effective", when applied to any measure or resource referred to in this Act, means that such measure or resource must be forecast—

(i) to be reliable and available within the time it is needed, and

(ii) to meet or reduce the electric power demand, as determined by the Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof.

(B) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource.

(5) "Consumer" means any end user of electric power.

(6) "Council" means, unless otherwise specifically provided, the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established pursuant to section 4.

(7) "Customer" means anyone who contracts for the purchase of power from the Administrator pursuant to this Act.

(8) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(9) "Electric power" means electric peaking capacity, or electric energy, or both.

(10) "Federal base system resources" means—

(A) the Federal Columbia River Power System hydroelectric projects;

(B) resources acquired by the Administrator under long-term contracts in force on the effective date of this Act; and

(C) resources acquired by the Administrator in an amount necessary to replace reductions in capability of the resources referred to in subparagraphs (A) and (B) of this paragraph.

(11) "Indian tribe" means any Indian tribe or band which is located in whole or in part in the region and which has a governing body which is recognized by the Secretary of the Interior.

(12) "Major resource" means any resource that—

(A) has a planned capability greater than fifty average megawatts, and

(B) if acquired by the Administrator, is acquired for a period of more than five years.

Such term does not include any resource acquired pursuant to section 11(b)(6) of the Federal Columbia River Transmission System Act.

(13) "New large single load" means any load associated with a new facility, an existing facility, or an expansion of an existing facility—

(A) which is not contracted for, or committed to, as determined by the Administrator, by a public body, cooperative, investor-owned utility, or Federal agency customer prior to September 1, 1979, and

(B) which will result in an increase in power requirements of such customer of ten average megawatts or more in any consecutive twelve-month period.

(14) "Pacific Northwest", "region", or "regional" means—

(A) the area consisting of the States of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(B) any contiguous areas, not in excess of seventy-five air miles from the area referred to in subparagraph (A), which are a part of the service area of a rural electric cooperative customer served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without such region.

(15) "Plan" means the Regional Electric Power and Conservation plan (including any amendments thereto) adopted pursuant to this Act and such plan shall apply to actions of the Administrator as specified in this Act.

(16) "Renewable resource" means a resource which utilizes solar, wind, hydro, geothermal, biomass, or similar sources of energy and which either is used for electric power generation or will reduce the electric power requirements of a consumer, including by direct application.

(17) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator (A) from resources or (B) from rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(18) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses, but only the first four hundred

horsepower during any monthly billing period of farm irrigation and pumping for any farm.

(19) "Resource" means—

(A) electric power, including the actual planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

(20) "Secretary" means the Secretary of Energy.

REGIONAL PLANNING AND PARTICIPATION

SEC. 4. (a)(1) The purposes of this section are to provide for the prompt establishment and effective operation of the Pacific Northwest Electric Power and Conservation Planning Council to further the purposes of this Act by the Council promptly preparing and adopting (A) a regional conservation and electric power plan and (B) a program to protect, mitigate, and enhance fish and wildlife and to otherwise expeditiously and effectively carry out the Council's responsibilities and functions under this Act.

(2) To achieve such purposes and facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and with the Bonneville Power Administration, the consent of Congress is given for an agreement described in this paragraph and not in conflict with this Act, pursuant to which—

(A) there shall be established a regional agency known as the "Pacific Northwest Electric Power and Conservation Planning Council" which (i) shall have its offices in the Pacific Northwest, (ii) shall carry out its functions and responsibilities in accordance with the provisions of this Act, (iii) shall continue in force and effect in accordance with the provisions of this Act, and (iv) except as otherwise provided in this Act, shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law; and

(B) two persons from each State may be appointed, subject to the applicable laws of each such State, to undertake the functions and duties of members of the Council. The State may fill any vacancy occurring prior to the expiration of the term of any member. The appointment of six initial members, subject to applicable State law, by June 30, 1981, by at least three of such States shall constitute an agreement by the States establishing the Council and such agreement is hereby consented to by the Congress. Upon request of the Governors of two of the States, the Secretary shall extend the June 30, 1981, date for six additional months to provide more time for the States to make such appointments.

(3) Except as otherwise provided by State law, each member appointed to the Council shall serve for a term of three years, except that, with respect to members initially appointed, each Governor shall designate one member to serve a term of two years and one member to serve a term of three years. The members of the Council shall select from among themselves a chairman. The members and officers and employees of the Council shall not be deemed to be officers or employees of the United States for any purpose. The Council shall appoint, fix compensation, and assign and delegate duties to such executive and additional personnel as the Council deems necessary to fulfill its functions under this Act, taking into account such information and analyses as are, or are likely to be, available from other sources pursuant to provisions of this Act. The compensation of the members shall be fixed by State law. The compensation of the members and officers shall not exceed the rate prescribed for Federal officers and positions at step 1 of level GS-18.

(4) For the purpose of providing a uniform system of laws, in addition to this Act, applicable to the Council relating to the making of contracts, conflicts-of-interest and financial disclosure, open meetings of the Council, advisory committees, disclosure of information, judicial review of Council functions and actions under this Act, and related matters, the Federal laws applicable to such matters in the case of the Bonneville Power Administration shall apply to the Council to the extent appropriate. No contract, obligation, or other action of the Council shall be construed as an obligation of the United States or an obligation secured by the full faith and credit of the United States. For the purpose of judicial review of any action of the Council or challenging any provision of this Act relating to functions and responsibilities of the Council, notwithstanding any other provision of law, the courts of the United States shall have exclusive jurisdiction of any such review.

(b)(1) If the Council is not established and its members are not timely appointed in accordance with subsection (a) of this section, or if, at any time after such Council is established and its members are appointed in accordance with subsection (a),

(A) any provision of this Act relating to the establishment of the Council or to any substantial function or responsibility of the Council (including any function or responsibility under subsection (d) or (h) of this section or under section 6(c) of this Act) is held to be unlawful by a final determination of any Federal court, or

(B) the plan or any program adopted by such Council under this section is held by a final determination of such a court to be ineffective by reason of subsection (a)(2)(B),

the Secretary shall establish the Council pursuant to this subsection as a Federal agency. The Secretary shall promptly publish a notice thereof in the Federal Register and notify the Governors of each of the States referred to in subsection (a) of this section.

(2) As soon as practicable, but not more than thirty days after the publication of the notice referred to in paragraph (1) of this subsection, and thereafter within forty-five days after a vacancy occurs, the Governors of the States of Washington, Oregon, Idaho, and Montana may each (under applicable State laws, if any) provide to the Secretary a list of nominations from such State for each of the State's positions to be selected for such Council. The Secretary may extend this time an additional thirty days. The list shall include at least two persons for each such position. The list shall include such information about such nominees as the Secretary may request. The Secretary shall appoint the Council members from each Governor's list of nominations for each State's positions, except that the Secretary may decline to appoint for any reason any of a Governor's nominees for a position and shall so notify the Governor. The Governor may thereafter make successive nominations within forty-five days of receipt of such notice until nominees acceptable to the Secretary are appointed for each position. In the event the Governor of any such State fails to make the required nominations for any State position on such Council within the time specified for such nominations, the Secretary shall select from such State and appoint the Council member or members for such position. The members of the Council shall select from among themselves one member of the Council as Chairman.

(3) The members of the Council established by this subsection who are not employed by the United States or a State shall receive compensation at a rate equal to the rate prescribed for offices and positions at level GS-18 of the General Schedule for each day such members are engaged in the actual performance of duties as members of such Council, except that no such member may be paid more in any calendar year than an officer or employee at step 1 of level GS-18 is paid during such year. Members of such Council shall be considered officers or employees of the United States for purposes of title II of the Ethics in Government Act of 1978 (5 U.S.C. app.) and shall also be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. Such Council may appoint, and assign duties to, an executive director who shall serve at the pleasure of such Council and who shall be compensated at the rate established for GS-18 of the General Schedule. The executive director shall exercise the powers and duties delegated to such director by such Council, including the power to appoint and fix compensation of additional personnel in accordance with applicable Federal law to carry out the functions and responsibilities of such Council.

(4) When a Council is established under this subsection after a Council was established pursuant to subsection (a) of this section, the Secretary shall provide, to the greatest extent feasible, for the transfer to the Council established by this subsection of all funds, books, papers, documents, equipment, and other matters in order to facilitate the Council's capability to achieve the requirements of subsections (d) and (h) of this section. In order to carry out its functions and responsibilities under this Act expeditiously, the Council shall take into consideration any actions of the Council under subsection (a) and may review, modify, or confirm such actions without further proceedings.

(5)(A) At any time beginning one year after the plan referred to in such subsection (d) and the program referred to in such subsection (h) of this section are both finally adopted in accordance with this Act, the Council established pursuant to this subsection shall be terminated by the Secretary 90 days after the Governors of three of the States referred to in this subsection jointly provide for any reason to the Secretary a written request for such termination. Except as provided in subparagraph (B), upon such termination all functions and responsibilities of the Council under this Act shall also terminate.

(B) Upon such termination of the Council, the functions and responsibilities of the Council set forth in subsection (h) of this section shall be transferred to, and continue to be funded and carried out, jointly, by the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service, in the same manner and to the same extent as required by such subsection and in cooperation with the Federal and the region's State fish and wildlife agencies and Indian tribes referred to in subsection (h) of this section and the Secretary shall provide for the transfer to them of all records, books, documents, funds, and personnel of such Council that relate to subsection (h) matters. In the event the Council is terminated pursuant to this paragraph, whenever any action of the Administrator requires any approval or other action by the Council, the Administrator may take such action without such approval or action, except that the Administrator may not implement any proposal to acquire a major generating resource or to grant billing credits involving a major generating resource until the expenditure of funds for that purpose is specifically authorized by Act of Congress enacted after such termination.

(c)(1) The provisions of this subsection shall, except as specifically provided in this subsection, apply to the Council established

pursuant to either subsection (a) or (b) of this section.

(2) A majority of the members of the Council shall constitute a quorum. Except as otherwise provided specifically in this Act, all actions and decisions of the Council shall be by majority vote of the members present and voting. The plan or any part thereof and any amendment thereto shall not be approved unless such plan or amendment receives the votes of—

(A) a majority of the members appointed to the Council, including the vote of at least one member from each State with members on the Council; or

(B) at least six members of the Council.

(3) The Council shall meet at the call of the Chairman or upon the request of any three members of the Council. If any member of the Council disagrees with respect to any matter transmitted to any Federal or State official or any other person or wishes to express additional views concerning such matter, such member may submit a statement to accompany such matter setting forth the reasons for such disagreement or views.

(4) The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions and responsibilities under this Act. The Council shall make available to the public a statement of its organization, practices, and procedures, and make available to the public its annual work program budget at the time the President submits his annual budget to Congress.

(5) Upon request of the Council established pursuant to subsection (b) of this section, the head of any Federal agency is authorized to detail or assign to the Council, on a reimbursable basis, any of the personnel of such agency to assist the Council in the performance of its functions under this Act.

(6) At the Council's request, the Administrator of the General Services shall furnish the Council established pursuant to subsection (b) of this section with such offices, equipment, supplies, and services in the same manner and to the same extent as such Administrator is authorized to furnish to any other Federal agency or instrumentality such offices, supplies, equipment, and services.

(7) Upon the request of the Congress or any committee thereof, the Council shall promptly provide to the Congress, or to such committee, any record, report, document, material, and other information which is in the possession of the Council.

(8) To obtain such information and advice as the Council determines to be necessary or appropriate to carry out its functions and responsibilities pursuant to this Act, the Council shall, to the greatest extent practicable, solicit engineering, economic, social, environmental, and other technical studies from customers of the Administrator and from other bodies or organizations in the region with particular expertise.

(9) The Administrator and other Federal agencies, to the extent authorized by other provisions of law, shall furnish the Council all information requested by the Council as necessary for performance of its functions, subject to such requirements of law concerning trade secrets and proprietary data as may be applicable.

(10)(A) At the request of the Council, the Administrator shall pay from funds available to the Administrator the compensation and other expenses of the Council as are authorized by this Act, including the reimbursement of those States with members on the Council for services and personnel to assist in preparing a plan pursuant to subsection (d) or a program pursuant to subsection (h) of this section, as the Council determines are necessary or appropriate for the performance of its functions and responsibilities. Such payments shall be included by the Administrator in his annual budgets submitted to Congress pursuant to the Federal Columbia River Transmission System Act and shall be subject to the requirements of that Act, including the audit requirements of section 11(d) of such Act. The records, reports, and other documents of the Council shall be available to the Comptroller General for review in connection with such audit or other review and examination by the Comptroller General pursuant to other provisions of law applicable to the Comptroller General. Funds provided by the Administrator for such payments shall not exceed annually an amount equal to 0.02 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded. In order to assist the Council's initial organization, the Administrator after the enactment of this Act shall promptly prepare and propose an amended annual budget to expedite payment for Council activities.

(B) Notwithstanding the limitation contained in the fourth sentence of subparagraph (A) of this paragraph, upon an annual showing by the Council that such limitation will not permit the Council to carry out its functions and responsibilities under this Act the Administrator may raise such limit up to any amount not in excess of 0.10 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded.

(11) The Council shall establish a voluntary scientific and statistical advisory committee to assist in the development, collection, and evaluation of such statistical, biological, economic, social, environmental, and other scientific information as is relevant to the Council's development and amendment of a regional conservation and electric power plan.

(12) The Council may establish such other voluntary advisory committees as it determines are necessary or appropriate to assist it in carrying out its functions and responsibilities under this Act.

(13) The Council shall ensure that the membership for any advisory committee established or formed pursuant to this section shall, to the extent feasible, include representatives of, and seek the advice of, the Federal, and the various regional, State, local, and Indian Tribal Governments, consumer groups, and customers.

(d)(1) Within two years after the Council is established and the members are appointed pursuant to subsection (a) or (b) of this section, the Council shall prepare, adopt, and promptly transmit to the Administrator a regional conservation and electric power plan. The adopted plan, or any portion thereof, may be amended from time to time, and shall be reviewed by the Council not less frequently than once every five years. Prior to such adoption, public hearings shall be held in each Council member's State on the plan or substantial, nontechnical amendments to the plan proposed by the Council for adoption. A public hearing shall also be held in any other State of the region on the plan or amendments thereto, if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. Action of the Council under this subsection concerning such hearings shall be subject to section 553 of title 5, United States Code and such procedure as the Council shall adopt.

(2) Following adoption of the plan and any amendment thereto, all actions of the Administrator pursuant to section 6 of this Act shall be consistent with the plan and any amendment thereto, except as otherwise specifically provided in this Act.

(e)(1) The plan shall, as provided in this paragraph, give priority to resources which the Council determines to be cost-effective. Priority shall be given: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources.

(2) The plan shall set forth a general scheme for implementing conservation measures and developing resources pursuant to section 6 of this Act to reduce or meet the Administrator's obligations with due consideration by the Council for (A) environmental quality, (B) compatibility with the existing regional power system, (C) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, and (D) other criteria which may be set forth in the plan.

(3) To accomplish the priorities established by this subsection, the plan shall include the following elements which shall be set forth in such detail as the Council determines to be appropriate:

(A) an energy conservation program to be implemented under this Act, including, but not limited to, model conservation standards;

(B) recommendation for research and development;

(C) a methodology for determining quantifiable environmental costs and benefits under section 3(4);

(D) a demand forecast of at least twenty years (developed in consultation with the Administrator, the customers, the States, including State agencies with ratemaking authority over electric utilities, and the public, in such manner as the Council deems appropriate) and a forecast of power resources estimated by the Council to be required to meet the Administrator's obligations and the portion of such obligations the Council determines can be met by resources in each of the priority categories referred to in paragraph (1) of this subsection which forecast (i) shall include regional reliability and reserve requirements, (ii) shall take into account the effect, if any, of the requirements of subsection (h) on the availability of resources to the Administrator, and (iii) shall include the approximate amounts of power the Council recommends should be acquired by the Administrator on a long-term basis and may include, to the extent practicable, an estimate of the types of resources from which such power should be acquired;

(E) an analysis of reserve and reliability requirements and cost-effective methods of providing reserves designed to insure adequate electric power at the lowest probable cost;

(F) the program adopted pursuant to subsection (h); and

(G) if the Council recommends surcharges pursuant to subsection (f) of this section, a methodology for calculating such surcharges.

(4) The Council, taking into consideration the requirement that it devote its principal efforts to carrying out its responsibilities under subsections (d) and (h) of this section, shall undertake studies of conservation measures reasonably available to direct service industrial customers and other major consumers of electric power within the region and make an analysis of the estimated reduction in energy use which would result from the implementation of such measures as rapidly as possible, consistent with sound business practices. The Council shall consult with such customers and consumers in the conduct of such studies.

(f)(1) Model conservation standards to be included in the plan shall include, but not be limited to, standards applicable to (A) new and existing structures, (B) utility, customer, and governmental conservation

programs, and (C) other consumer actions for achieving conservation. Model conservation standards shall reflect geographic and climatic differences within the region and other appropriate considerations, and shall be designed to produce all power savings that are cost-effective for the region and economically feasible for consumers, taking into account financial assistance made available to consumers under section 6(a) of this Act. These model conservation standards shall be adopted by the Council and included in the plan after consultation, in such manner as the Council deems appropriate, with the Administrator, States, and political subdivisions, customers of the Administrator, and the public.

(2) The Council by a majority vote of the members of the Council is authorized to recommend to the Administrator a surcharge and the Administrator may thereafter impose such a surcharge, in accordance with the methodology provided in the plan, on customers for those portions of their loads within the region that are within States or political subdivisions which have not, or on the Administrator's customers which have not, implemented conservation measures that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such standards. Such surcharges shall be established to recover such additional costs as the Administrator determines will be incurred because such projected energy savings attributable to such conservation measures have not been achieved, but in no case may such surcharges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g)(1) To insure widespread public involvement in the formulation of regional power policies, the Council and Administrator shall maintain comprehensive programs to—

(A) inform the Pacific Northwest public of major regional power issues,

(B) obtain public views concerning major regional power issues, and

(C) secure advice and consultation from the Administrator's customers and others.

(2) In carrying out the provisions of this section, the Council and the Administrator shall—

(A) consult with the Administrator's customer's;

(B) include the comments of such customers in the record of the Council's proceedings; and.

(C) recognize and not abridge the authorities of State and local governments, electric utility systems, and other non-Federal entities responsible to the people of the Pacific Northwest for the planning, conservation, supply, distribution, and use of electric power and the operation of electric generating facilities.

(3) In the preparation, adoption, and implementation of the plan, the Council and the Administrator shall encourage the cooperation, participation, and assistance of appropriate Federal agencies, State entities, State political subdivisions, and Indian tribes. The Council and the Administrator are authorized to contract, in accordance with applicable law, with such agencies, entities, tribes, and subdivisions individually, in groups, or through associations thereof to (A) investigate possible measures to be included in the plan, (B) provide public involvement and information regarding a proposed plan or amendment thereto, and (C) provide services which will assist in the implementation of the plan. In order to assist in the implementation of the plan, particularly conservation, renewable resource, and fish and wildlife activities, the Administrator, when requested and subject to available funds, may provide technical assistance in establishing conservation, renewable resource, and fish and wildlife objectives by individual States or subdivisions thereof or Indian tribes. Such objectives, if adopted by a State or subdivision thereof or Indian tribes, may be submitted to the Council and the Administrator for review, and upon approval by the Council, may be incorporated as part of the plan.

(h)(1)(A) The Council shall promptly develop and adopt, pursuant to this subsection, a program to protect, mitigate, and enhance fish and wildlife, including relating spawning grounds and habitat, on the Columbia River and its tributarities. Because of the unique history, problems, and opportunities presented by the development and operation of hydroelectric facilities on the Columbia River and its tributaries, the program, to the greatest extent possible, shall be designed to deal with that river and its tributaries as a system.

(B) This subsection shall be applicable solely to fish and wildlife, including relating spawning grounds and habitat, located on the Columbia River and its tributaries. Nothing in this subsection shall alter, modify, or affect in any way the laws applicable to rivers or river systems, including electric power facilities related thereto, other than the Columbia River and its tributaries, or affect the rights and obligations of any agency, entity, or person under such laws.

(2) The Council shall request in writing, promptly after the Council is established under either section 4(a) or 4(b) of this Act and prior to the development or review of the plan, or any major revision thereto, from the Federal, and the region's State, fish and wildlife agencies and from the region's appropriate Indian tribes, recommendations for—

(A) measures which can be expected to be implemented by the Administrator, using authorities under this Act and other laws, and other Federal agencies to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries.

(B) objectives for the development and operation of such projects of the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife, and

(C) fish and wildlife management coordination and research and development (including funding) which among other things, will assist protection, mitigation, and enhancement of anadromous fish at, and between, the region's hydroelectric dams.

(3) Such agencies and tribes shall have 90 days to respond to such request, unless the Council extends the time for making such recommendations. The Federal, and the region's water management agencies, and the region's electric power producing agencies, customers, and public may submit recommendations of the type referred to in paragraph (2) of this subsection. All recommendations shall be accompanied by detailed information and data in support of the recommendations.

(4)(A) The Council shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Administrator, to the Federal, and the region's, State fish and wildlife agencies, to the appropriate Indian tribes, to Federal agencies responsible for managing, operating, or regulating hydroelectric facilities located on the Columbia River or its tributaries, and to any customer or other electric utility which owns or operates any such facility. Notice shall also be given to the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Council and shall be available for reproduction at reasonable cost.

(B) The Council shall provide for public participation and comment regarding the recommendations and supporting documents, including an opportunity for written and oral comments, within such reasonable time as the Council deems appropriate.

(5) The Council shall develop a program on the basis of such recommendations, supporting documents, and views and information obtained through public comment and participation, and consultation with the agencies, tribes, and customers referred to in subparagraph (A) of paragraph (4). The program shall consist of measures to protect, mitigate, and enhance fish and wildlife affected by the development, operation, and management of such facilities while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. Enhancement measures shall be included in the program to the extent such measures are designed to achieve improved protection and mitigation.

(6) The Council shall include in the program measures which it determines, on the basis set forth in paragraph (5), will—

(A) complement the existing and future activities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological objective exist, the alternative with the minimum economic cost;

(D) be conisstent with the legal rights of appropriate Indian tribes in the region; and

(E) in the case of anadromous fish—

(i) provide for improved survival of such fish at hydroelectric facilities located on the Columbia River system; and

(ii) provide flows of sufficient quality and quantity between such facilities to improve production, migration, and survival of such fish as necessary to meet sound biological objectives.

(7) The Council shall determine whether each recommendation received is consistent with the purposes of this Act. In the event such recommendations are inconsistent with each other, the Council, in consultation with appropriate entites, shall resolve such inconsistency in the program giving due weight to the recommendations, expertise, and legal rights and responsibilities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes. If the Council does not adopt any recommendation of the fish and wildlife agencies and Indian tribes as part of the program or any other recommendation, it shall explain in writing, as part of the program, the basis for its finding that the adoption of such recommendation would be—

(A) inconsistent with paragraph (5) of this subsection;

(B) inconsistent with paragraph (6) of this subsection; or

(C) less effective than the adopted recommendations for the protection, mitigation, and enhancement of fish and wildlife.

(8) The Council shall consider, in developing and adopting a program pursuant to this subsection, the following principles:

(A) Enhancement measeures may be used, in appropriate circumstances, as a means of achieving off-site protection and mitigation with respect to compensation for losses arising from the development and operation of the hydroelectric facilities of the Columbia River and its tributaries as a system.

(B) Consumers of electric power shall bear the cost of measures designed to deal with adverse impacts caused by the development and operation of electric power facilities and programs only.

(C) To the extent the program provides for coordination of its measures with additional measures (including additional enhance-

ment measures to deal with impacts caused by factors other than the development and operation of electric power facilities and programs), such additional measures are to be implemented in accordance with agreements among the appropriate parties providing for the administration and funding of such additional measures.

(D) Monetary costs and electric power losses resulting from the implementation of the program shall be allocated by the Administrator consistent with individual project impacts and system-wide objectives of this subsection.

(9) The Council shall adopt such program or amendments thereto within one year after the time provided for receipt of the recommendations. Such program shall also be included in the plan adopted by the Council under subsection (d).

(10)(A) The Administrator shall use the Bonneville Power Administration fund and the authorities available to the Administrator under this Act and other laws administered by the Administrator to protect, mitigate, and enhance fish and wildlife to the extent affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries in a manner consistent with the plan, if in existence, the program adopted by the Council under this subsection, and the purposes of this Act. Expenditures of the Administrator pursuant to this paragraph shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(B) The Administrator may make expenditures from such fund which shall be included in the annual or supplementary budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act. Any amounts included in such budget for the construction of capital facilities with an estimated life of greater than 15 years and an estimated cost of at least $1,000,000 shall be funded in the same manner and in accordance with the same procedures as major transmission facilities under the Federal Columbia River Transmission System Act.

(C) The amounts expended by the Administrator for each activity pursuant to this subsection shall be allocated as appropriate by the Administrator, in consultation with the Corps of Engineers and the Water and Power Resources Service, among the various hydroelectric projects of the Federal Columbia River Power System. Amounts so allocated shall be allocated to the various project purposes in accordance with existing accounting procedures for the Federal Columbia River Power System.

(11)(A) The Administrator and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River or its tributaries shall—

(i) exercise such responsibilities consistent with the purposes of this Act and other applicable laws, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated;

(ii) exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under this subsection. If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate, and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with this subsection.

(B) The Administrator and such Federal agencies shall consult with the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes, and affected project operators in carrying out the provisions of this paragraph and shall, to the greatest extent practicable, coordinate their actions.

(12)(A) Beginning on October 1 of the first fiscal year after all members to the Council are appointed initially, the Council shall submit annually a detailed report to the Commitee on Energy and Natural Resources of the Senate and to the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs of the House of Representatives. The report shall describe the actions taken and to be taken by the Council under this Act, including this subsection, the effectiveness of the fish and wildlife program, and potential revisions or modifications to the program to be included in the plan when adopted. At least ninety days prior to its submission of such report, the Council shall make available to such fish and wildlife agencies, and tribes, the Administrator and the customers a draft of such report. The Council shall include as an appendix to such report such comments or a summary thereof.

(B) The Administrator shall keep such committees fully and currently informed of the actions taken and to be taken by the Administrator under this Act, including this subsection.

(i) The Council may from time to time review the actions of the Administrator pursuant to sections 4 and 6 of this Act to determine whether such actions are consistent with the plan and programs, the extent to which the plan and programs is being implemented, and to assist the Council in preparing amendments to the plan and programs.

(j)(1) The Council may request the Administrator to take an action under section 6 to carry out the Administrator's responsibilities under the plan.

(2) To the greatest extent practicable, within ninety days after the Council's request, the Administrator shall respond to the Council in writing specifying—

(A) the means by which the Administrator will undertake the action or any modification thereof requested by the Council, or

(B) the reasons why such action would not be consistent with the plan, or with the Administrator's legal obligations under this Act, or other provisions of law, which the Administrator shall specifically identify.

(3) If the Administrator determines not to undertake the requested action, the Council, within sixty days after notice of the Administrator's determination, may request the Administrator to hold an informal hearing and make a final decision.

(k)(1) Not later than October 1, 1987, or six years after the Council is established under this Act, whichever is later, the Council shall complete a thorough analysis of conservation measures and conservation resources implemented pursuant to this Act during the five-year period beginning on the date the Council is established under this Act to determine if such measures or resources:

(A) have resulted or are likely to result in costs to consumers in the region greater than the costs of additional generating resources or additional fuel which the Council determines would be necessary in the absence of such measures or resources;

(B) have not been or are likely not to be generally equitable to all consumers in the region; or

(C) have impaired or are likely to impair the ability of the Administrator to carry out his obligations under this Act and other laws, consistent with sound business practices.

(2) The Administrator may determine that section 3(4)(D) shall not apply to any proposed conservation measure or resource if the Administrator finds after receipt of such analysis from the Council that such measure or resource would have any result or effect described in subparagraph (A), (B) or (C) of paragraph (1).

SALE OF POWER

SEC. 5. (a) All power sales under this Act shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937 (16 U.S.C. 832 and following) and, in particular, sections 4 and 5 thereof. Such sales shall be at rates established pursuant to section 7.

(b)(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 and to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the Region to the extent that such firm power load exceeds—

(A) the capability of such entity's firm peaking and energy resources used in the year prior to the enactment of this Act to serve its firm load in the region, and

(B) such other resources as such entity determines, pursuant to contracts under this Act, will be used to serve its firm load in the region.

In determining the resources which are used to serve a firm load, for purposes of subparagraphs (A) and (B), any resources used to serve a firm load under such subparagraphs shall be treated as continuing to be so used, unless such use is discontinued with the consent of the Administrator, or unless such use is discontinued because of obsolescence, retirement, loss of resource, or loss of contract rights.

(2) Contracts with investor-owned utilities shall provide that the Administrator may reduce his obligations under such contracts in accordance with section 5(a) of the Bonneville Project Act of 1937.

(3) In addition to his authorities to sell electric power under paragraph (1), the Administrator is also authorized to sell electric power to Federal agencies in the region.

(4) Sales under this subsection shall be made only if the public body, cooperative, Federal agency or investor-owned utility complies with the Administrator's standards for service in effect on the effective date of this Act or as subsequently revised.

(5) The Administrator shall include in contracts executed in accordance with this subsection provisions that enable the Administrator to restrict his contractual obligations to meet the loads referred to in this subsection in the future if the Administrator determines, after a reasonable period of experience under this Act, that the Administrator cannot be assured on a planning basis of acquiring sufficient resources to meet such loads during a specified period of insufficiency. Any such contract with a public body, cooperative, or Federal agency shall specify a reasonable minimum period between a notice of restriction and the earliest date such restriction may be imposed.

(6) Contracts executed in accordance with this subsection with public body, cooperative, and Federal agency customers shall—

(A) provide that the restriction referred to in paragraph (5) shall not be applicable to any such customers until the operating year in which the total of such customers' firm loads to be served by the Administrator equals or exceeds the firm capability of the Federal base system resources;

(B) not permit restrictions which would reduce the total contractual entitlement of

such customers to an amount less than the firm capability of the Federal base system resources; and

(C) contain a formula for determining annually, on a uniform basis, each such customer's contractual entitlement to firm power during such a period of restriction, which formula shall not consider customer resources other than those the customer has determined, as of the effective date of this Act, to be used to serve its own firm loads. The formula referred to in subparagraph (C) shall obligate the Administrator to provide on an annual basis only firm power needed to serve the portion of such customer's firm load in excess of the capability of such customer's own firm resources determined by such customer under paragraph (1) of this subsection to be used to serve its firm load.

(c)(1) Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.

(2) The purchase and exchange sale referred to in paragraph (1) of this subsection with any electric utility shall be limited to an amount not in excess of 50 per centum of such utility's Regional residential load in the year beginning July 1, 1980, such 50 per centum limit increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985, and each year thereafter.

(3) The cost benefits, as specified in contracts with the Administrator, of any purchase and exchange sale referred to in paragraph (1) of this subsection which are attributable to any electric utility's residential load within a State shall be passed through directly to such utility's residential loads within such State, except that a State which lies partially within and partially without the region may require that such cost benefits be distributed among all of the utility's residential loads in that State.

(4) An electric utility may terminate, upon reasonable terms and conditions agreed to by the Administrator and such utility prior to such termination, its purchase and sale under this subsection if the supplemental rate charge provided for in section 7(b)(3) is applied and the cost of electric power sold to such utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by such utility to the Administrator under this subsection.

(5) Subject to the provisions of sections 4 and 6, in lieu of purchasing any amount of electric power offered by a utility under paragraph (1) of this subsection, the Administrator may acquire an equivalent amount of electric power from other sources to replace power sold to such utility as part of an exchange sale if the cost of such acquisition is less than the cost of purchasing the electric power offered by such utility.

(6) Exchange sales to utility pursuant to this subsection shall not be restricted below the amounts of electric power acquired by the Administrator from, or on behalf of, such utility pursuant to this subsection.

(7) The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. Such average system cost shall not include—

(A) the cost of additional resources in an amount sufficient to serve any new large single load of the utility;

(B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and

(C) any costs of any generating facility which is terminated prior to initial commercial operation.

(d)(1)(A) The Administrator is authorized to sell in accordance with this subsection electric power to existing direct service industrial customers. Such sales shall provide a portion of the Administrator's reserves for firm power loads within the region.

(B) After the effective date of this Act, the Administrator shall offer in accordance with subsection (g) of this section to each existing direct service industrial customer an initial long term contract that provides such customer an amount of power equivalent to that which such customer is entitled under its contract dated January or April 1975 providing for the sale of "industrial firm power."

(2) The Administrator shall not sell electric power, including reserves, directly to new direct service industrial customers.

(3) The Administrator shall not sell amounts of electric power, including reserves, to existing direct service industrial customers in excess of the amount permitted under paragraph (1) unless the Administrator determines, after a plan has been adopted pursuant to section 4 of this Act, that such proposed sale is consistent with the plan and that—

(A) additional power system reserves are required for the region's firm loads,

(B) the proposed sale would provide a cost-effective method of supplying such reserves,

(C) such loads or loads of similar character cannot provide equivalent operating or planning benefits to the region if served by an electric utility under contractual arrangements providing reserves, and

(D) the Administrator has or can acquire sufficient electric power to serve such loads, and

unless the Council has determined such sale is consistent with the plan. After such determination by the Administrator and by the Council, the Administrator is authorized to offer to existing direct service industrial customers power in such amounts in excess of the amount permitted under paragraph (1) of this subsection as the Administrator determines to be necessary to provide additional power system reserves to meet the region's firm loads.

(4)(A) As used in this section, the term "existing direct service industrial customer" means any direct service industrial customer of the Administrator which has a contract for the purchase of electric power from the Administrator on the effective date of this Act.

(B) The term "new direct service industrial customer" means any industrial entity other than an existing direct service industrial customer.

(C)(i) Where a new contract is offered in accordance with subsection (g) to any existing direct service industrial customer which has not received electric power prior to the effective date of this Act from the Administrator pursuant to a contract with the Administrator existing on the date of the enactment of this Act, electric power delivered under such new contract shall be conditioned on the Administrator reasonably acquiring, in accordance with this Act and within such estimated period of time (as specified in the contract) as he deems reasonable, sufficient resources to meet, on a planning basis, the load requirement of such customer. Such contract shall also provide that the obligation of the Administrator to acquire such resources to meet such load requirement shall, except as provided in clause (ii) of this subparagraph, apply only to such customers and shall not be sold or exchanged by such customer to any other person.

(ii) Rights under a contract described in clause (i) of this subparagraph may be transferred by an existing direct service industrial customer referred to in clause (i) to a successor in interest in connection with a reorganization or other transfer of all major assets of such customer. Following such a transfer, such successor in interest (or any other subsequent successor in interest) may also transfer rights under such a contract only in connection with a reorganization or other transfer of all assets of such successor in interest.

(iii) The limitations of clause (ii) of this subparagraph shall not apply to any customer referred to in clause (ii) whenever the administrator determines that such customer is receiving electric power pursuant to a contract referred to in such clause (ii).

(e)(1) The contractual entitlement to firm power of any customer from whom, or on whose behalf, the Administrator has acquired electric power pursuant to section 6 may not be restricted below the amount of electric power so acquired from, or on behalf of, such customer. If in any year such customer's requirements are less than such entitlement, any excess of such entitlement shall be first made available to increase the entitlement of other customers of the same class before being available for the entitlement of other customers. For purposes of this paragraph, the following entities shall each constitute a class:

(A) public bodies and cooperatives;

(B) Federal agencies;

(C) direct service industrial; and

(D) investor owned utilities.

(2) Any contractual entitlement to firm power which is based on electric power acquired from, or on behalf of, a customer pursuant to section 6 shall be in addition to any other contractual entitlement to firm power not subject to restriction that such customer may have under this section. For the purposes of this subsection, references to amounts of power acquired by the Administrator pursuant to section 6 shall be deemed to mean the amounts specified in the resource acquisition contracts exclusive of any amounts recognized in such contracts as replacement for Federal base system resources.

(3) The Administrator shall, consistent with the provisions of this Act, insure that any restrictions upon any particular customer class made pursuant to this subsection and subsection (b) of this section are distributed equitably throughout the region.

(f) The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsections (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator, including the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), and the Act of August 31, 1964 (16 U.S.C. 837–837h).

(g)(1) As soon as practicable within nine months after the effective date of this Act, the Administrator shall commence necessary negotiations for, and offer, initial long-term contracts (within the limitations of the third sentence of section 5(a) of the Bonneville Project Act) simultaneously to—

(A) existing public body and cooperative customers and investor-owned utility customers under subsection (b) of this section;

(B) Federal agency customers under subsection (b) of this section;

(C) electric utility customers under subsection (c) of this section; and

(D) direct service industrial customers under subsection (d)(1).

(2) Each customer offered a contract pursuant to this subsection shall have one year from the date of such offer to accept such contract. Such contract shall be effective as provided in this subsection.

(3) An initial contract with a public body, cooperative or investor-owned electric utility customer or a Federal agency customer pursuant to subsection (b) of this section shall be effective on the date executed by such customer, unless another effective date is otherwise agreed to by the Administrator and the customer.

(4) An initial contract with an electric utility customer pursuant to subsection (c) of this section shall be effective on the date executed by such customer, but no earlier than the first day of the tenth month after the effective date of this Act.

(5) An initial contract with a direct service industrial customer pursuant to subsection (d)(1), shall be effective on the date agreed upon by the Administrator and such customer, but no later than the first day of the tenth month after the effective date of this Act. When such contract is executed, it may for rate purposes be given retroactive effect to such first day.

(6) Initial contracts offered public body, cooperative and Federal agency customers in accordance with this subsection shall provide that during a period of insufficiency declared in accordance with subsection (b) of this section each customer's contractual entitlement shall, to the extent of its requirements on the Administrator, be no less than the amount of firm power received from the Administrator in the year immediately preceding the period of insufficiency.

(7) The Administrator shall be deemed to have sufficient resources for the purpose of entering into the initial contracts specified in paragraph (1)(A) through (D).

CONSERVATION AND RESOURCE ACQUISITION

SEC. 6. (a)(1) The Administrator shall acquire such resources through conservation, implement all such conservation measures, and acquire such renewable resources which are installed by a residential or small commercial consumer to reduce load, as the Administrator determines are consistent with the plan, or if no plan is in effect with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) and, in the case of major resources, in accordance with subsection (c) of this section. Such conservation measures and such resources may include, but are not limited to—

(A) loans and grants to consumers for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application.

(B) technical and financial assistance to, and other cooperation with, the Administrator's customers and governmental authorities to encourage maximum cost-effective voluntary conservation and the attainment of any cost-effective conservation objectives adopted by individual States or subdivisions thereof,

(C) aiding the Administrator's customers and governmental authorities in implementing model conservation standards adopted pursuant to section 4(f), and

(D) conducting demonstration projects to determine the cost effectiveness of conservation measures and direct application of renewable energy resources.

(2) In addition to acquiring electric power pursuant to section 5(c), or on a short-term basis pursuant to section 11(b)(6)(1) of the Federal Columbia River Transmission System Act, the Administrator shall acquire, in accordance with this section, sufficient resources—

(A) to meet his contractual obligations that remain after taking into account planned savings from measures provided for in paragraph (1) of this subsection, and

(B) to assist in meeting the requirements of section 4(h) of this Act.

The Administrator shall acquire such resources without considering restrictions which may apply pursuant to section 5(b) of this Act.

(b)(1) Except as specifically provided in this section, acquisition of resources under this Act shall be consistent with the plan, as determined by the Administrator.

(2) The Administrator may acquire resources (other than major resources) under this Act which are not consistent with the plan, but which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(3) If no plan is in effect, the Administrator may acquire resources under this Act which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(4) The Administrator shall acquire any non-Federal resources to replace Federal base system resources only in accordance with the provisions of this section. The Administrator shall include in the contracts for the acquisition of any such non-Federal replacement resources provisions which will enable him to ensure that such non-Federal replacement resources are developed and operated in a manner consistent with the considerations specified in section 4(e)(2) of this Act.

(5) Notwithstanding any acquisition of resources pursuant to this section, the Administrator shall not reduce his efforts to achieve conservation and to acquire renewable resources installed by a residential or small commercial consumer to reduce load, pursuant to subsection (a)(1) of this section.

(c)(1) For each proposal under subsections (a), (b), (f), (h), or (l) of this section to acquire a major resource, to implement a conservation measure which will conserve an amount of electric power equivalent to that of a major resource, to pay or reimburse investigation and preconstruction expenses of the sponsors of a major resource, or to grant billing credits or services involving a major resource, the Administrator shall—

(A) publish notice of the proposed action in the Federal Register and provide a copy of such notice to the Council, the Governor of each State in which facilities would be constructed or a conservation measure implemented, and the Administrator's customers;

(B) not less than sixty days following publication of such notice, conduct one or more public hearings, presided over by a hearing officer, at which testimony and evidence shall be received, with opportunity for such rebuttal and cross-examination as the hearing officer deems appropriate in the development of an adequate hearing record;

(C) develop a record to assist in evaluating the proposal which shall include the transcript of the public hearings, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator, and

(D) following completion of such hearings, promptly provide to the Council and make public a written decision that includes, in addition to a determination respecting the requirements of subsection (a), (b), (f), (h), (l), or (m) of this section, as appropriate—

(i) if a plan is in effect, a finding that the proposal is either consistent or inconsistent with the plan or, notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligations under this Act, or

(ii) if no plan is in effect, a finding that the proposal is either consistent or inconsistent with the criteria of section (4)(e)(1) and the considerations of section 4(e)(2) of this Act or notwithstanding its inconsistency, a finding that it is needed to meet the Administrator's obligations under this Act.

In the case of subsection (f) of this section, such decision shall be treated as satisfying the applicable requirements of this subsection and of subsection (f) of this section, if it includes a finding of probable consistency, based upon the Administrator's evaluation of information available at the time of completion of the hearing under this paragraph. Such decision shall include the reasons for such finding.

(2) Within sixty days of the receipt of the Administrator's decision pursuant to paragraph (1)(D) of this subsection, the Council may determine by a majority vote of all members of the Council, and notify the Administrator—

(A) that the proposal is either consistent or inconsistent with the plan, or

(B) if no plan is in effect, that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(3) The Administrator may not implement any proposal referred to in paragraph (1) that is determined pursuant to paragraph (2) by either the Administrator or the Council to be inconsistent with the plan or, if no plan is in effect, with the criteria of section 4(e)(1) and the considerations of section 4(e)(2)—

(A) unless the Administrator finds that, nothwithstanding such inconsistency, such resource is needed to meet the Administrator's obligations under this Act, and

(B) until the expenditure of funds for that purpose has been specifically authorized by Act of Congress enacted after the date of the enactment of this Act.

(4) Before the Administrator implements any proposal referred to in paragraph (1) of this subsection, the Administrator shall—

(A) submit to the appropriate committees of the Congress the administrative record of the decision (including any determination by the Council under paragraph (2)) and a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act of 1969,

(B) publish notice of the decision in the Federal Register, and

(C) note the proposal in the Administrator's annual or supplementary budget submittal made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following).

The Administrator may not implement any such proposal until ninety days after the date on which such proposal has been noted in such budget or after the date on which such decision has been published in the Federal Register, whichever is later.

(5) The authority of the Council to make a determination under paragraph (2)(B) if no plan is in effect shall expire on the date two years after the establishment of the Council.

(d) The Administrator is authorized to acquire a resource, other than a major resource, whether or not such resource meets the criteria of section 4(e)(1) and the considerations of section 4(e)(2) but which he determines is an experimental, developmental, demonstration, or pilot project of a type with a potential for providing cost-effective service to the region. The Administrator shall make no obligation for the acquisition of such resource until it is included in the annual budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act.

(e)(1) In order to effectuate the priority given to conservation measures and renewable resources under this Act, the Administrator shall, to the maximum extent practicable, make use of his authorities under this Act to acquire conservation measures

and renewable resources, to implement conservation measures, and to provide credits and technical and financial assistance for the development and implementation of such resources and measures (including the funding of, and the securing of debt for, expenses incurred during the investigation and preconstruction of resources, as authorized in subsection (f) of this section).

(2) To the extent conservation measures or acquisition of resources require direct arrangements with consumers, the Administrator shall make maximum practicable use of customers and local entities capable of administering and carrying out such arrangements.

(f)(1) For resources which the Administrator determines may be eligible for acquisition under this section and satisfy the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or, if a plan is in effect, to be consistent with the plan, the Administrator is authorized to enter into agreements with sponsors of—

(A) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource, or

(B) any other resource to provide for the reimbursement of the sponsor's investigation and preconstruction expenses concerning such resource (which expenses shall not include procurement of capital equipment or construction material for such resource).

In the case of any resource referred to in subparagraph (B) of this paragraph, such reimbursement is authorized only if—

(i) such resource is subsequently denied State siting approval or other necessary Federal or State permits, or approvals,

(ii) such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or is not acceptable because of environmental impacts, or

(iii) after such investigation the Administrator determines not to acquire the resource and the sponsor determines not to construct the resource.

(2) The Administrator may exercise the authority of this subsection only after he determines that the failure to do so would result in inequitable hardship to the consumers of such sponsors. The Administrator may provide reimbursement under this subsection only for expenses incurred after the date of the enactment of this Act.

(3) Any agreement under paragraph (1) of this subsection shall provide the Administrator an option to acquire any such resource, including a renewable resource, and shall include such other provisions, as the Administrator deems appropriate, for the Administrator's recovery from such sponsors or any assignee of the sponsors, if such sponsor or assignee continues development of the resource, of any advances made by the Administrator pursuant to such agreement.

(4) The Administrator shall not reimburse any expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after the date of a final denial of application for State siting approval or after the date the Administrator determines that the resource to be inconsistent with the plan or the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator in accordance with applicable law and regulations, may be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h)(1) If a customer so requests, the Administrator shall grant billing credits to such customers, and provide services to such customer at rates established for such services, for—

(A) conservation activities independently undertaken or continued after the effective date of this Act by such customer or political subdivision served by such customer which reduce the obligation of the Administrator that would otherwise have existed to acquire other resources under this Act, or

(B) resources constructed, completed, or acquired after the effective date of this Act, by a customer, an entity acting on behalf of such customer, or political subdivision served by the customer which reduce the obligation of the Administrator to acquire resources under this Act. Such resources shall be renewable resources or multipurpose projects or other resources which are not inconsistent with the plan or, in the absence of a plan, not inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(2) The energy and capacity on which a credit under this subsection to a customer is based shall be the amount by which a conservation activity or resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(3) The amount of credits for conservation under this subsection shall be set to credit the customer implementing or continuing the conservation activitity for which the credit is granted for the savings resulting from such activity. The rate impact on the Administrator's other customers of granting the credit shall be equal to the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually saved by the activity for which the credit is granted.

(4) For resources other than conservation, the customer shall be credited for net costs actually incurred by such customer, an entity acting on behalf of such customer, or political subdivision served by such customer, in acquiring, constructing, or operating the resource for which the credit is granted. The rate impact to the Administrator's other customers of granting the credit shall be no greater than the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually produced by the resource for which the credit is granted.

(5) Retail rate structures which are voluntarily implemented by the Administrator's customers and which induce conservation or installation of consumer-owned renewable resources shall be considered, for purposes of this subsection, to be (A) conservation activities independently undertaken or carried on by such customers, or (B) customer-owned renewable resources, and shall qualify for billing credits upon the same showing as that required for other conservation or renewable resource activities.

(6) Prior to granting any credit or providing services pursuant to this subsection, the Administrator shall—

(A) comply with the notice provisions of subsection (c) of this section, and include in such notice the methodology the Administrator proposes to use in determining the amount of any such credit;

(B) include the cost of such credit in the Administrator's annual or amended budget submittal to the Congress made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838(j));

(C) require that resources in excess of customer's reasonable load growth shall have been offered to others for ownership, participation or other sponsorship pursuant to subsection (m) of this section, except in the case of conservation, multi-purpose project uniquely suitable for development by the customer, or renewable resources; and

(D) require that the operators of any generating resource for which a billing credit is to be granted agree to operate such resource in a manner compatible with the planning and operation of the region's power system.

(i) Contracts for the acquisition of resources and for billing credits for major resources, including conservation activities entered into pursuant to this section shall contain such terms and conditions, applicable after the contract is entered into, as will—

(1) insure timely construction, scheduling, completion, and operation of resources,

(2) insure that the costs of any acquisition are as low as reasonably possible, and safety practices, and (B) the protection, mitigation, and enhancement of fish and wildlife, including related spawning grounds and habitat affected by the development of such resources, and

(3) insure that the Administrator exercises effective oversight, inspection, audit, and review of all aspects of such construction and operation.

Such contracts shall contain provisions assuring that the Administrator has the authority to approve all costs of, and proposals for, major modifications in construction, scheduling or operations and to assure that the Administrator is provided with such current information as he deems necessary to evaluate such construction and operation.

(j)(1) All contractural and other obligations required to be carried out by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations are not, nor shall they be construed to be, general obligations of the United States, nor are such obligations intended to be or are they secured by the full faith and credit of the United States.

(2) All contracts entered into by the Administrator for the acquisition of resources pursuant to this Act shall require that, in the sale of any obligations, all offerings and promotional material for the sale of such obligations shall include the langauge contained in the second sentence of paragraph (1) of this subsection. The Administrator shall monitor and enforce such requirement.

(k) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act and the Administrator's obligations to particular customer classes, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

(l)(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the States of Idaho, Montana, Oregon, and Washington if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor, or otherwise develop them. The Administrator shall keep the Council fully and currently informed of such investigations, and seek the Council's advice as to the desirability of pursuing such investigations.

(2) The Administrator is authorized and

directed to investigate periodically opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity in the Pacific Northwest and the regions with which such exchanges may occur. The Council shall take into consideration in formulating a plan such investigations.

(3) After the Administrator submits a report to Congress pursuant to paragraph (5) of this subsection, the Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of section 4(e)(1) and the considerations of section 4(e)(2). Such acquisitions shall be in accordance with the provisions of this subsection.

(4) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this subsection with the assistance of other Federal agencies as may be appropriate.

(5) No later than July 1, 1981, the Administrator shall submit to the Congress a report of the results of the investigations undertaken pursuant to this subsection, together with the prospects for obtaining additional resources under the authority granted by this subsection and for reductions in generation or generating capacity through exchanges.

(m) Except as to resources under construction on the effective date of this Act, the Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest electric utility for ownership, participation, or other sponsorship, but in excess of the amounts needed to meet such utility's Regional load.

RATES

SEC. 7. (a)(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law. Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act.

(2) Rates established under this section shall become effective only, except in the case of interior rules as provided in subsection (i)(6), upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission, that such rates—

(A) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs,

(B) are based upon the Administrator's total system costs, and

(C) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

(b)(1) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and loads of electric utilities under section 5(c). Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply such loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates shall recover the cost of additional electric power as needed to supply such loads, first from the electric power acquired by the Administrator under section 5(c) and then from other resources.

(2) After July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under subsection (g) for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, may not exceed in total, as determined by the Administrator, during any year after July 1, 1985, plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, the Administrator assumes that—

(A) the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives;

(B) public body, cooperative, and Federal agency customers were served, during such five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A) of this paragraph;

(C) no purchases or sales by the Administrator as provided in section 5(c) were made during such five-year period;

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under subparagraph (B) of this paragraph) were—

(i) purchased from such customers by the Administrator pursuant to section 6, or

(ii) not committed to load pursuant to section 5(b),

and were the least expensive resources owned or purchased by public bodies or cooperatives; and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator; and

(E) the quantifiable monetary savings, during such five-year period, to public body, cooperative and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D) of this paragraph, and

(ii) reserve benefits as a result of the Administrator's actions under this Act were not achieved.

(3) Any amounts not charged to public body, cooperative, and Federal agency customers by reason of paragraph (2) of this subsection shall be recovered through supplemental rate charges for all other power sold by the Administrator to all customers. Rates charged public body, cooperative, or Federal agency customers pursuant to this subsection shall not include any cost or benefits of a net revenue surplus or deficiency occurring for the period ending June 30, 1985, to the extent such surplus or deficiency is caused by—

(A) a difference between actual power deliveries and power deliveries projected for the purpose of establishing rates to direct service industrial customers under subsection (c)(1) of this subsection, and

(B) an overrecovery underrecovery of the net costs incurred by the Administrator under section 5(c) as a result of such difference.

Any such revenue surplus or deficiency incurred shall be recovered from, or repaid to, customers over a reasonable period of time after July 1, 1985, through a supplemental rate charge or credit applied proportionately for all other power sold by the Administrator at rates established under other subsections of this section prior to July 1, 1985.

(4) The term "general requirements" as used in this section means the public body, cooperative or Federal agency customer's electric power purchased from the Administrator under section 5(b) of this Act, exclusive of any new large single load.

(c)(1) The rate or rates applicable to direct service industrial customers shall be established—

(A) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(c) of this Act, based upon the Administrator's projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other customers; and

(B) for the period beginning July 1, 1985, at a level which the Administrator determines to be equitable in relation to the retail rates charged by the Public body and cooperative customers to their industrial consumers in the region.

(2) The determination under paragraph (1)(B) of this subsection shall be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates but shall take into account—

(A) the comparative size and character of the loads served,

(B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and

(C) direct and indirect overhead costs,

all as related to the delivery of power to industrial customers, except that the Administrator's rates during such period shall in no event be less than the rates in effect for the contract year ending on June 30, 1985.

(3) The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d)(1) In order to avoid adverse impacts on retail rates of the Administrator's customers with low system densities, the Administrator shall, to the extent appropriate, apply discounts to the rate or rates for such customers.

(2) In order to avoid adverse impacts of increased rates pursuant to this Act on any direct service industrial customer using raw minerals indigenous to the region as its primary resource, the Administrator, upon request of such customer showing such impacts and after considering the effect of such request on his other obligations under this Act, is authorized, if the Administrator determines that such impacts will be significant, to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region. Such rate shall be established in accordance with this section and shall include such terms and conditions as the Administrator deems appropriate.

(e) Nothing in this Act prohibits the Administrator from establishing, in rate schedules of general application, a uniform rate or rates for sale of peaking capacity or from establishing time-of-day, seasonal rates, or other rate forms.

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(c) of this Act and additional resources which, in the determination of the Administrator, are applicable to such sales.

(g) Except to the extent that the allocation of cost and benefits is governed by provisions of law in effect on the effective date of this Act, or by other provisions of this section, the Administrator shall equitably allocate to power rates, in accordance with generally accepted ratemaking principles and the provisions of this Act, all costs and benefits not otherwise allocated under this section, including, but not limited to, conservation, fish and wildlife measures, uncontrollable events, reserves, the excess costs of experimental resources acquired under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a) of this section), the Administrator shall adjust power rates to include any surcharges arising under section 4(f) of this Act, and shall allocate any revenues from such charges in such manner as the Administrator determines will help achieve the purposes of section 4(f) of this Act.

(i) In establishing rates under this section, the Administrator shall use the following procedures:

(1) Notice of the proposed rates shall be published in the Federal Register with a statement of the justification and reasons supporting such rates. Such notice shall include a date for a hearing in accordance with paragraph (2) of this subsection.

(2) One or more hearings shall be conducted as expeditiously as practicable by a hearing officer to develop a full and complete record and to receive public comment in the form of written and oral presentation of views, data, questions, and argument related to such proposed rates. In any such hearing—

(A) any person shall be provided an adequate opportunity by the hearing officer to offer refutation or rebuttal of any material submitted by any other person or the Administrator, and

(B) the hearing officer, in his discretion, shall allow a reasonable opportunity for cross examination, which, as determined by the hearing officer, is not dilatory, in order to develop information and material relevant to any such proposed rate.

(3) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and arguments submitted by persons prior to, or before, the close of hearings shall be made a part of the administrative record.

(4) After such a hearing, the Administrator may propose revised rates, publish such proposed rates in the Federal Register, and conduct additional hearings in accordance with this subsection.

(5) The Administrator shall make a final decision establishing a rate or rates based on the record which shall include the hearing transcript, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator. The decision shall include a full and complete justification of the final rates pursuant to this section.

(6) The final decision of the Administrator shall become effective on confirmation and approval of such rates by the Federal Energy Regulatory Commission pursuant to subsection (a)(2) of this section. The Commission shall have the authority, in accordance with such procedures, if any, as the Commission shall promptly establish and make effective within one year after the enactment of this Act, to approve the final rate submitted by the Administrator on an interim basis, pending the Commission's final decision in accordance with such subsection. Pending the establishment of such procedures by the Commission, if such procedures are required, the Secretary is authorized to approve such interim rates during such one-year period in accordance with the applicable procedures followed by the Secretary prior to such enactment. Such interim rates, at the discretion of the Secretary, shall continue in effect until July 1, 1982.

(j) All rate schedules adopted, and all power billings rendered, by the Administrator pursuant to this section shall indicate—

(1) the approximate cost contribution of different resource categories to the Administrator's rates for the sale of energy and capacity, and

(2) the cost of resources acquired to meet load growth within the region and the relation of such cost to the average cost of resources available to the Administrator.

(k) Notwithstanding any other provision of this Act, all rates or rate schedules for the sale of nonfirm electric power within the United States, but outside the region, shall be established after the date of this Act by the Administrator in accordance with the procedures of subsection (i) of this section (other than the first sentence of paragraph (6) thereof) and in accordance with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act. Notwithstanding section 201(f) of the Federal Power Act, such rates or rate schedules shall become effective after review by the Federal Energy Regulatory Commission for conformance with the requirements of such Acts and after approval thereof by the Commission. Such review shall be based on the record of proceedings established under subsection (i) of this section. The parties to such proceedings under subsection (i) shall be afforded an opportunity by the Commission for an additional hearing in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act.

(l) In order to further the purposes of this Act and to protect the consumers of the region, the Administrator may negotiate, or establish, rates for electric power sold by the Administrator to any entity not located in the United States which shall be equitable in relation to rates for all electric power which is, or may be, purchased by the Administrator or the Administrator's customers from entities outside the United States. In establishing rates other than by negotiation, the provisions of subsection (i) shall apply. In the case of any negotiation with an entity not located in the United States, the Administrator shall provide public notice of any proposal to negotiate such rates. Such negotiated rates shall be not less than the rates established under this Act for nonfirm power sold within the United States but outside the region. The Administrator shall also afford notice of any rates negotiated pursuant to this subsection.

(m)(1) Beginning the first fiscal year after the plan and program required by sections 4(d) and (h) of this Act are finally adopted, the Administrator may, subject to the provisions of this section, make annual impact aid payments to the appropriate local governments within the region with respect to major transmission facilities of the Administrator, as defined in section 3(c) of the Federal Columbia River Transmission Act—

(A) which are located within the jurisdictional boundaries of such governments,

(B) which are determined by the Administrator to have a substantial impact o such governments, and

(C) where the construction of such facili ties, or any modification thereof, is com pleted after the effective date of this Ac and, in the case of a modification of a existing facility, such modification substan tially increases the capacity of such existin transmission facility.

(2) Payments made under this subsectio for any fiscal year shall be determined b the Administrator pursuant to a regionwide uniform formula to be established by rul in accordance with the procedures set forth in subsection (i) of this section. Such rul shall become effective on its approval, afte considering its effect on rates establishe pursuant to this section, by the Federal En ergy Regulatory Commission. In develop ing such formula, the Administrator shal identify, and take into account, the loca governmental services provided to the Ad ministrator concerning such facilities an the associated costs to such governments a the result of such facilities.

(3) Payments made pursuant to this subsection shall be made solely from the fun established by section 11 of the Federal Columbia River Transmission System Act. The provisions of section 13 of such Act, and any appropriations provided to the Administrator under any law, shall not be available for such payments. The authorization of payments under this subsection shall not be construed as an obligation of the United States.

(4) No payment may be made under this subsection with respect to any land or interests in land owned by the United States within the region and administered by any Federal agency (other than the Administrator), without regard to how the United States obtained ownership thereof, including lands or interests therein acquired or withdrawn by a Federal agency for purposes of such agency and subsequently made available to the Administrator for such facilities.

AMENDMENTS TO EXISTING LAW

SEC. 8. (a) Section 11(b) of the Federal Columbia River Transmission System Act is amended by striking out "or" before "(iii)" in paragraph (6), by striking out the semicolon at the end of such paragraph (6) and inserting in lieu thereof ", 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;".

(b) Section 11(b) of the Federal Columbia River Transmission System Act is amended by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(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.".

(c) Subsection (b) of section 13 of such Act is amended by striking out "and 11(b)(11)" and inserting in lieu thereof ", 11(b)(11), and 11(b)(12)".

(d) The first sentence of subsection (a) of section 13 of such Act is amended by inserting after the word "system," the following: "to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (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 electric power from a generating facility having a planned capability greater than 50 average megawatts),".

(2) The fourth sentence of such subsection (a) is amended by inserting the fol-

lowing before the period at the end thereof: "issued by Government corporations".

(3) Such subsection (a) is further amended by inserting the following before the period at the end thereof: "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".

(4) Such subsection (a) is further amended by inserting the following after the fourth sentence thereof: "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:"

(c) Clause (2) of section 1(b) of the Act of August 31, 1964 (78 Stat. 756) is amended to read as follows: "(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.".

ADMINISTRATIVE PROVISIONS

SEC. 9. (a) Subject to the provisions of this Act, the Administrator is authorized to contract in accordance with section 2(f) of the Bonneville Project Act of 1937 (16 U.S.C. 832a(f)). Other provisions of law applicable to such contracts on the effective date of this Act shall continue to be applicable.

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), sections 302(a)(2) and (3) of the Department of Energy Organization Act, and this Act. The Secretary of Energy, the Council, and the Administrator shall take such steps as are necessary to assure the timely implementation of this Act in a sound and businesslike manner. Nothing in this Act shall be construed by the Secretary, the Administrator, or any other official of the Department of Energy to modify, alter, or otherwise affect the requirements and directives expressed by the Congress in sections 302(a)(2) and (3) of the Department of Energy Organization Act or the operations of such officials as they existed prior to enactment of this Act.

(c) Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of the Act of August 31, 1964 (16 U.S.C. 837a and 837b) for any contract for the sale, delivery, or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest. In applying such sections for the purposes of this subsection, the term "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and the term "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties imposed upon, the Secretary by sections 5 and 7 of such Act (16 U.S.C. 837e and 837f) shall also apply to the Administrator in connection with resources acquired by the Administrator pursuant to this Act. The Administrator shall, in making any determination, under any contract executed pursuant to section 5, of the electric power requirements of any Pacific Northwest customer, which is a non-Federal entity having its own generation, exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of such Act (16 U.S.C. 837(b)(d)), any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased. Such amount of energy shall not be excluded, if the Administrator determines that through reasonable measures such amount of energy could not be conserved or otherwise retained for service to regional loads. The Administrator may sell as replacement for any amount of energy so excluded only energy that would otherwise be surplus.

(d) No restrictions contained in subsection (c) shall limit or interfere with the sale, exchange or other disposition of any power by any utility or group thereof from any existing or new non-Federal resource if such sale, exchange or disposition does not increase the amount of firm power the Administrator would be obligated to provide to any customer. In addition to the directives contained in subsections (1)(1)(B) and (1)(3) and subject to:

(1) any contractual obligations of the Administrator,

(2) any other obligations under existing law, and

(3) the availability of capacity in the Federal transmission system,

the Administrator shall provide transmission access, load factoring, storage and other services normally attendant thereto to such utilities and shall not discriminate against any utility or group thereof on the basis of independent development of such resource in providing such services.

(e)(1) for purposes of sections 701 through 706 of title 5, United States Code, the following actions shall be final actions subject to judicial review—

(A) adoption of the plan or amendments thereto by the Council under section 4, adoption of the program by the Council, and any determination by the Council under section 4(h);

(B) sales, exchanges, and purchases of electric power under section 5,

(C) the Administrator's acquisition of resources under section 6;

(D) implementation of conservation measures under section 6,

(E) execution of contracts for assistance to sponsors under section 6(f),

(F) granting of credits under section 6(h);

(G) final rate determinations under section 7; and

(H) any rule prescribed by the Administrator under section (m)(2) of this Act.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with this Act. The scope of review of such actions without a hearing or after a hearing shall be governed by section 706 of title 5, United States Code, except that final determinations regarding rates under section 7 shall be supported by substantial evidence in the rulemaking record required by section 7(i) considered as a whole. The scope of review of an action under section 6(c) shall be governed by section 706 of title 5, United States Code. Nothing in this section shall be construed to require a hearing pursuant to section 554, 556, or 557 of title 5 of the United States Code.

(3) Nothing in this section shall be construed to preclude judicial review of other final actions and decisions by the Council or Administrator.

(4) For purposes of this subsection—

(A) major resources shall be deemed to be acquired upon publication in the Federal Register pursuant to section 6(c)(4)(B);

(B) resources, other than major resources, shall be deemed to be acquired upon execution of the contract therefor;

(C) conservation measures shall be deemed to be implemented upon execution of the contract or grant therefor; and

(D) rate determinations pursuant to section 7 shall be deemed final upon confirmation and approval by the Federal Energy Regulatory Commission.

(5) Suits to challenge the constitutionality of this Act, or any action thereunder, final actions and decisions taken pursuant to this Act by the Administrator or the Council, or the implementation of such final actions, whether brought pursuant to this Act, the Bonneville Project Act, the Act of August 31, 1964 (16 U.S.C. 837–837h), or the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), shall be filed in the United States court of appeals for the region. Such suits shall be filed within ninety days of the time such action or decision is deemed final, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days from such notice, or be barred. In the case of a challenge of the plan or programs or amendments thereto, such suit shall be filed within sixty days after publication of a notice of such final action in the Federal Register. Such court shall have jurisdiction to hear and determine any suit brought as provided in this section. The plan and program, as finally adopted or portions thereof, or amendments thereto, shall not thereafter be reviewable as a part of any other action under this Act or any other law. Suits challenging any other actions under this Act shall be filed in the appropriate court.

(f) For purposes of enabling the Administrator to acquire resources necessary to meet the firm load of public bodies, cooperatives, and Federal agencies from a governmental unit at a cost no greater than the cost which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a)(1) of the Internal Revenue Code of 1954 shall not be affected by the Administrator's acquisition of such resources if—

(1) the Administrator, prior to contracting for such acquisition, certifies to his reasonable belief, that the persons for whom the administrator is acquiring such resources for sale pursuant to section 5 of this Act are public bodies, cooperatives, and Federal agencies, unless the Administrator also certifies that he is unable to acquire such resources without selling a portion thereof to persons who are not exempt persons (as defined in section 103(b) of such Code), and

(2) based upon such certification, the Secretary of the Treasury determines in accordance with applicable regulations that less than a major portion of the resources is to be furnished to persons who are not exempt persons (as defined in section 103(b) of such Code).

The certification under paragraph (1) shall be made in accordance with this subsection and a procedure and methodology approved by the Secretary of the Treasury. For purposes of this subsection, the term "major portion" shall have the meaning provided by regulations issued by the Secretary of the Treasury.

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility customer under section 5(c) or 6, the Federal Energy Regulatory Commission shall, in accordance with section 209 of the Federal Power Act (16 U.S.C. 824h),

(1) convene a joint State board and

(2) invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h)(1) No "company" (as defined in section 2(a)(2) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(2)), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79(a)(3)), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code, if at least 90 per centum of the electricity generated by such company is sold to the Administrator under section 6, and if—

(A) the organization of such company is consistent with the policies of section 1(b) and (c) of the Public Utility Holding Company Act of 1935, as determined by the Securities and Exchange Commission, with the concurrence of the Administrator, at the time of such organization; and

(B) participation in any facilities of such "company" has been offered to public bodies and cooperatives in the region pursuant to section 6(m).

(2) The Administrator shall include in any contract for the acquisition of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource.

(3) In the case of any "company" which meets the requirements of paragraph (1), the Administrator, with the concurrence of such Commission, shall approve all significant contracts entered into by, and between, such "company" and any sponsor company or any subsidiary of such sponsor company which are determined to be consistent with the policies of section 1(b) and (c) of the Public Utility Holding Company Act of 1935 at the time such contracts are entered into. The Administrator and the Securities and Exchange Commission shall exercise such approval authority within sixty days after receipt of such contracts. Such contracts shall not be effective without such approval.

(4) Paragraph (1) of this subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission, or both, through periodic review, (A) determine at any time that the "company" no longer operates in a manner consistent with the policies of section 1(b) and (c) of the Public Utility Holding Company Act of 1935 and in accordance with this subsection, and (B) notify the "company" in writing of such preliminary determination. This subsection shall cease to apply to such "company" thirty days after receipt of notification of a final determination thereof. A final determination shall be made only after public notice of the preliminary determination and after a hearing completed not later than sixty days from the date of publication of such notice. Such final determination shall be made within thirty days after the date of completion of such hearing.

(i)(1) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(A) acquire any electric power required by (i) any customer or group of customers to enable them to replace resources determined to serve firm load under section 5(b), or (ii) direct service industrial customers to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power the Administrator is obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting such power; and

(B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

(2) In implementing the provisions of subparagraphs (A) and (B) of paragraph (1), the Administrator may prescribe policies and conditions for the independent acquisition or disposition of electric power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisition or disposition.

(3) The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

(j)(1) The Council, as soon as practicable after the enactment of this Act, shall prepare, in consultation with the Administrator, the customers, appropriate State regulatory bodies, and the public, a report and shall make recommendations with respect to the various retail rate designs which will encourage conservation and efficient use of electric energy and the installation of consumer-owned renewable resources on a cost-effective basis, as well as areas for research and development for possible application to retail utility rates within the region. Studies undertaken pursuant to this subsection shall not affect the responsibilities of any customer or the Administrator which may exist under the Public Utility Regulatory Policies Act of 1978.

(2) Upon request, and solely on behalf of customers so requesting, the Administrator is authorized to (A) provide assistance in analyzing and developing retail rate structures that will encourage cost-effective conservation and the installation of cost/effective consumer-owned renewable resources; (B) provide estimates of the probable power savings and the probable amount of billing credits under section 6(h) that might be realized by such customers as a result of adopting and implementing such retail rate structures; and (C) solicit additional information and analytical assistance from appropriate State regulatory bodies and the Administrator's other customers.

(k) There is hereby established within the administration an executive position for conservation and renewable resources. Such executive shall be appointed by the Administrator and shall be assigned responsibility for conservation and direct-application renewable resource programs (including the administration of financial assistance for such programs). Such position is hereby established in the senior executive service in addition to the number of such positions heretofore established in accordance with other provisions of law applicable to such positions.

SAVINGS PROVISIONS

SEC. 10. (a) Nothing in this Act shall be construed to affect or modify any right of any State or political subdivision thereof or electric utility to—

(1) determine retail electric rates, except as provided by section 5(c)(3);

(2) develop and implement plans and programs for the conservation, development, and use of resources; or

(3) make energy facility siting decisions, including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any customer under any contract existing as of the effective date of this Act.

(c) Nothing in this Act shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(d) If any provision of this Act is found to be unconstitutional, then any contract entered into by the Administrator, prior to such finding and in accordance with such provisions, to sell power, acquire or credit resources, or to reimburse investigation and preconstruction expenses pursuant to section 5, and section 6 (a), (f) or (h) of this Act shall not be affected by such finding.

(e) Nothing in this Act shall be construed to affect or modify any treaty or other right of an Indian tribe.

(f) The reservation under law of electric power primarily for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State is hereby affirmed. Such reservation shall also apply to 50 per centum of any electric power produced at Libby Reregulating Dam if built. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7.

(g) Nothing in this Act shall be construed to affect or modify the right of any State to prohibit utilities regulated by the appropriate State regulatory body from recovering, through their retail rates, costs during any period of resource construction.

(h) Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act of any plan

or program adopted pursuant to the Act (1) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any groundwater resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, or (3) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

EFFECTIVE DATE

SEC. 11. This Act shall be effective on the date of enactment, or October 1, 1980, whichever is later. For purposes of this Act, the term "date of the enactment of this Act" means such date of enactment or October 1, 1980, whichever is later.

SEVERABILITY

SEC. 12. If any provision of section 4 (a) through (c) of this Act or any other provision of this Act or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of section 4 or of this Act, nor the application of such provisions to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

Mr. DINGELL. Mr. Chairman, reserving a point of order, I reserve the right to object to the reading of the amendment.

Mr. WEAVER. Mr. Chairman, I have a substitute at the desk.

The CHAIRMAN. The Clerk has simply designated the amendment provided for in the rule.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WEAVER

Mr. WEAVER. Mr Chairman, I offer an amendment in the nature of a substitute.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The Clerk will report the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. WEAVER: Page 1, strike all after the enacting clause and insert in lieu thereof:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Columbia Basin Energy Corporation Act of 1980".

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.
Sec. 3. Purpose and creation.
Sec. 4. Directors.
Sec. 5. Officers and employees.
Sec. 6. Corporate powers.
Sec. 7. Board duties and powers.
Sec. 8. Distribution of electricity; preference to public bodies and cooperatives.
Sec. 9. Limitation of sale, delivery, and exchange of electric energy and electric peaking capacity for use outside Pacific Northwest.
Sec. 10. Contract terms and conditions for use of electric energy outside Pacific Northwest.
Sec. 11. Contract limitations and conditions for use of electric energy and peaking capacity of plants in other marketing areas for use within Pacific Northwest.
Sec. 12. Exchange contracts.
Sec. 13. Transmission lines for other electric energy; rates.
Sec. 14. Purchaser priority on Pacific Northwest power; amendment of existing contracts and new contracts to include priority provisions.
Sec. 15. Transmission lines between Pacific Northwest and Pacific Southwest.
Sec. 16. Provisions not applicable to Canyon Ferry project or benefits and exchanges under treaty between Canada and United States.
Sec. 17. Contracts for sale of electricity.
Sec. 18. Conservation; advance of funds, alternate energy resources.
Sec. 19. Purchase; pooling; sale.
Sec. 20. Rate schedules; progressive pricing to assure basic supply of energy and encourage energy conservation.
Sec. 21. Rates; elements of charges.
Sec. 22. Columbia Basin Energy Corporation Administration fund.
Sec. 23. Investment of excess funds.
Sec. 24. Bonds.
Sec. 25. Deposit of receipts; authorization of appropriations.
Sec. 26. Authority of Administrator.
Sec. 27. Purchase of supplies and services.
Sec. 28. Miscellaneous Administrative provisions.
Sec. 29. Participation by State and local government in the Pacific Northwest.
Sec. 30. Transitional and savings provisions.
Sec. 31. Incidental transfers.
Sec. 32. Repeal of other laws.
Sec. 33. Effective date.
Sec. 34. Separability of provisions.

DEFINITIONS

SEC. 2. As used in this Act:

(a) The term "Pacific Northwest" means (1) the region consisting of the States of Oregon and Washington, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming within the Columbia drainage basin and the State of Idaho as the Board may determine to be within the marketing area of the Federal Columbia River power system, and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (A) no generating facilities, and (B) a distribution system from which it serves both within and without said region.

(b) The term "surplus energy" means electric energy generated at electric plants in the Pacific Northwest which would otherwise be wasted because of the lack of a market therefor in the Pacific Northwest at any established rates.

(c) The term "surplus peaking capacity" means electric peaking capacity at electric plants in the Pacific Northwest for which there is no demand in the Pacific Northwest at any established rate.

(d) The term "non-Federal utility" means any utility not owned by the United States, including any entity (1) which such a utility owns or controls, in whole or in part, or is controlled by, (2) which is controlled by those controlling such utility, or (3) of which such utility is a member.

(e) The term "energy requirements of any Pacific Northwest customer" means the full requirements for electric energy of (1) any purchaser from the United States for direct consumption in the Pacific Northwest, and (2) any non-Federal utility in that region in excess of (i) the electric energy available for its own use from its generating plants in the Pacific Northwest, and (ii) any additional energy available for use in the Pacific Northwest which, under a then existing contract, the utility (A) can obtain at no higher incremental cost than the rate charged by the United States, or (B) is required to accept.

(f) The term "public body", or "public bodies", means States, public power districts, counties, and municipalities, including agencies or subdivisions of any thereof.

(g) The term "cooperatve", or "cooperatives", means any form of non-profit-making organization or organizations of citizens supplying, or which may be created to supply, members with any kind of goods, commodities, or services, as nearly as possible at cost.

(h) The term "Secretary" means the Secretary of Energy.

(i) The term "Corporation" means the Columbia Basin Energy Corporation established under this Act.

(j) The term "cooperating utility" means any entity, public or private, that generates electric energy and sells all such energy and all energy acquired from sources other than the Corporation to the Corporation to the extent and for the purposes described in this Act.

(k) The term "cost-effective conservation" means producing energy savings at a cost which does not exceed the cost of building alternative new generation to otherwise serve the load and which produces a reliability of future energy savings comparable to the reliability of future energy production from new generation.

(l) Terms not defined herein shall, unless the context requires otherwise, have the meaning given them in the March 1949 Glossary of Important Power and Rate Terms prepared under the supervision of the Federal Power Commission.

PURPOSE AND CREATION

SEC. 3. For the purpose of—

(1) maintaining and operating the properties owned by the Unted States and used for the generation of electric energy in the Pacific Northwest;

(2) serving the national public interest by having the Columbia Basin water and power system perform the function of a regional pilot program for development of improved methods of energy conservation, marketing, generation, and transmission;

(3) maximizing the potential of the unique feature of the Pacific Northwest water and power system which provides massive and controllable storage of electric energy in the form of water behind its dams and in its reservoirs by storing excess power coming from the sun, the wind, nuclear and fossil fuels in the form of water to be used when demand is critical;

(4) maximizing the potential of energy conservation and energy cost effectiveness by balancing the demand for electric energy with the supply of electric energy;

(5) giving full recognition to the financial contribution made and being made by the energy consumer in the Pacific Northwest by paying for the cost of operation and amortization of the capital investment made by the United States; and

(6) providing the energy consumer of the Pacific Northwest a greater voice in the operation and management of the Columbia Basin electric energy system.

There is created a body corporate by the name of the "Columbia Basin Energy Corporation". The Board of Directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from date of the first meeting of the Board.

DIRECTORS

SEC. 4. (a) The Board of Directors of the Corporation (hereinafter referred to as the "Board") shall be composed of five members, two to be appointed by the President and one each to be elected, in a manner to be determined by the laws of the respective States, by the people of Washington, the people of Oregon, and jointly by the people of Idaho and Montana.

(b) The first Board shall take office January 1, 1978. Members appointed by the President or elected by the various States shall serve until the dates set forth in subsection (c).

(c) Except for the first Board the term of office for each member shall be four years and begin as follows:

(1) first Presidential appointee, January 1, 1978;

(2) member elected by the people of Washington, January 1, 1979;

(3) member elected by the people of Oregon, January 1, 1979;

(4) second Presidential appointee, January 1, 1980; and

(5) member elected jointly by the people of Idaho and Montana, January 1, 1981.

(d) Any vacancy in the Board shall be filled by appointment made by the President. Any member appointed to fill a vacancy in the Board occurring prior to the expiration of the term for which his predecessor was appointed or elected shall serve for the remainder of such term. Members of the first Board, appointed to fill vacancies occurring due to the various States failing to elect a member, shall serve until thirty days after a State or States have elected such a member.

(e) The President shall designate the Chairman. All other officials, agents, and employees shall be designated and selected subject to the authority of the Board.

(f) Vacancies in the Board, so long as there shall be three members in office, shall not impair the powers of the Board to execute the functions of the Corporation, and three of the members in office shall constitute a quorum for the transaction of the business of the Board.

(g) Each of the members of the Board shall be a citizen of the United States. The compensation of each member of the Board shall be paid by the Corporation as current expenses. Each member of the Board in addition to his salary shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses) incurred by them in the performance of the duties vested in the Board by this Act.

(h) No director shall have financial interest in any public utility corporation engaged in the business of distributing and selling power to the public or in any business entity purchasing power directly from the Corporation.

(i) The Board shall direct the exercise of all the powers of the Corporation.

(j) All members of the Board shall be persons who profess a belief in the feasibility and wisdom of this Act.

(k) Any member of said Board may be removed from office at any time by a concurrent resolution of the Senate and the House of Representatives.

OFFICERS AND EMPLOYEES

SEC. 5. (a) IN GENERAL.—(1) The Board shall without regard to the provisions of civil service laws applicable to officers and employees of the United States, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation, define their duties, require bonds of such of them as the Board may designate, and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the Board may be removed in the discretion of the Board.

(2) All contracts to which the Corporation is a party and which require the employment of laborers and mechanics in the construction, alteration, maintenance, or repair of buildings, dams, locks, or other projects shall contain a provision that not less than the prevailing rate of wages for work of a similar nature prevailing in the vicinity shall be paid to such laborers or mechanics.

(3) In the event any dispute arises as to what are the prevailing rates of wages, the question shall be referred to the Secretary of Labor for determination, and his decision shall be final. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employers and employees.

(4) Where such work as is described in the two preceding paragraphs is done directly by the Corporation the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract.

(5) Insofar as applicable, the benefits of the Federal Employee's Compensation Act, shall extend to persons given employment under the provisions of this Act.

(b) NONPOLITICAL APPOINTMENT.—In the appointment of officials and the selection of employees for said Corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. Any member of said Board who is found by the President of the United States to be guilty of a violation of this section shall be removed from office by the President of the United States, and any appointee of said Board who is found by the Board to be guilty of a violation of this section shall be removed from office by said Board.

CORPORATE POWERS

SEC. 6. Except as otherwise specifically provided in this Act, the Corporation:

(a) Shall have succession in its corporate name.

(b) May sue and be sued in its corporate name.

(c) May adopt and use a corporate seal, which shall be judicially noticed.

(d) May make contracts, as herein authorized.

(e) May adopt, amend, and repeal bylaws.

(f) May purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal property held by it.

(g) Shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation.

(h) Except for acquisition of generating facilities and retail distribution systems shall have power in the name of the United States of America to exercise the right of eminent domain, and in the purchase of any real estate or the acquisition of real estate by condemnation proceedings, the title to such real estate shall be taken in the name of the United States of America, and thereupon all such real estate shall be entrusted to the Corporation as the agent of the United States to accomplish the purposes of this Act.

(i) Shall have power to acquire real estate for the construction of dams, reservoirs, transmission lines, powerhouses, generating facilities, and such other structures and facilities authorized by this Act, and in the event that the owner or owners of such property shall fail and refuse to sell to the Corporation at a price deemed fair and reasonable by the Board, then the Corporation may proceed to exercise the right of eminent domain, and except for generating facilities and retail distribution systems to condemn all property that it deems necessary for carrying out the purposes of this Act, and all such condemnation proceedings shall be had pursuant to the provisions and requirements hereinafter specified, with reference to any and all condemnation proceedings: *Provided*, That nothing contained herein or elsewhere in this Act shall be construed to deprive the Corporation of the rights conferred by sections 258a to 258e of title 40 of the United States Code.

(k) Subject to the provision of section 7, shall have power to acquire or construct electric generating facilities, power structures, transmission lines, facilities for pooling and storing electric energy, fish hatcheries, channels for fish migration, and incidental works including facilities for research and development of electric energy; to unite the various power installations into one or more systems by transmission lines; expend funds for recreational facilities compatible with the generation of electric energy and the environment.

(l) Shall have power to expend funds for conservation of energy including but not limited to insulation and weatherization of facilities owned by users of electric energy.

(m) Shall have power to expend funds for electric energy generating and energy conserving devices using, among others, solar, wind, geothermal, and tidal energy. Such devices may be installed with facilities or on the property owned by either the Corporation, cooperating utilities or retail consumers of electric energy.

(n) Shall have power in the name of the United States—

(1) to convey by deed, lease, or otherwise, any real property in the possession of or under the control of the Corporation to any person or persons, for the purpose of recreation or use as a summer residence, or for the operation on such premises of pleasure resorts for boating, fishing, bathing, or any similar purpose;

(2) to convey by deed, lease, or otherwise, the possession and control of any such real property to any corporation, partnership, person, or persons for the purpose of erecting thereon docks and buildings for shipping purposes or the manufacture or storage thereon of products for the purpose of trading or shipping in transportation: *Provided*, That no transfer authorized herein shall be made without the approval of Congress.

(3) to transfer any part of the possession and control of the real estate in possession of and under the control of said Corporation to any other department, agency, or instrumentality of the United States: *Provided, however*, That no land shall be conveyed, leased, or transferred, upon which is located any permanent dam or electric powerplant, heretofore or hereafter built by or for the United States or for the corporation: *And provided further*, That no transfer authorized herein in paragraph (1) or (2) except leases for terms of less than twenty years, shall be made without the approval of the President of the United States, if the property to be conveyed exceeds $500 in value; and

(4) to convey by warranty deed, or otherwise, lands, easements, and rights-of-way to States, counties, municipalities, school districts, railroad companies, telephone, telegraph, water, and power companies, where any such conveyance is necessary in order to replace any such lands, easements, or rights-of-way to be flooded or destroyed as the result of the construction of any dam or reservoir or electric generation facility now under construction by the Corporation, or subsequently authorized by Congress, and easements and rights-of-way upon which are located transmission or distribution lines.

(o) Shall have power to aid and assist in the readjustment of the population displaced by the construction of dams, the acquisition of reservoir areas, the protection of watersheds, the acquisition of rights-of-way, and other necessary acquisitions of land, in order to effectuate the purposes of this Act; and may cooperate with Federal, State, and local agencies to that end.

(p) Shall have power to purchase and pool electric energy generated by any non-Federal facility.

BOARD DUTIES AND POWERS

SEC. 7. Except as otherwise specifically provided in this Act, the Board:

(a) Shall be held responsible for keeping the supply of electric energy in balance with the demand for such energy in the Pacific Northwest and where it is in the public interest, in terms of cost effectiveness and

the ability of consumers to afford energy, to keep the demand for electric energy in balance with the supply. Reducing the demand for energy shall be given as much consideration as increasing the supply of energy. For every commitment of funds and every expenditure for new facilities the Board shall give full consideration to each of the following alternatives and the cost involved with each in accomplishing a balance between the supply of and demand for electric energy:

(1) insulation and weatherization;
(2) conservation devices;
(3) solar space and water heating;
(4) other energy saving activity;
(5) generation of electric energy through the use of—
(A) hydro,
(B) nuclear,
(C) solar,
(D) wind,
(E) geothermal,
(F) fossil fuels,
(G) organic fuels,
(H) tidal, and
(I) other generating efforts.

The Board shall commit funds and make expenditures only for facilities which accomplish a balance between the supply of and demand for electric energy at the most economical cost.

(b) Shall agree to purchase electric energy generated by facilities whose construction began after the effective date of this Act only if the Board gave prior approval for the construction of such facility. Such approval for construction shall not be given unless the cost efficiency provisions of subsection (a) of this section have been met.

(c) Shall not require a cooperating utility to sell to the Corporation electric energy which is to be marketed within the service area of the utility and which is generated by facilities owned by it, which were constructed and become operable after the effective date of this Act and the production cost of such electric energy is less than the sale price of energy sold by the Corporation as defined in section 19(3)(B) and section 20 of this Act.

(d) Shall dispose of electric energy generated or purchased by the Corporation as provided in this Act. In order to use all electric energy that can be generated, purchased, and marketed and to provide reasonable outlets therefor, and to prevent the monopolization thereof by limited groups, the Board is authorized and directed to provide, construct, operate, maintain, and improve such electric transmission lines and substations, and facilities and structures appurtenant thereto, as to finds necessary, desirable, or appropriate for the purpose of—

(1) integrating and transmitting electric energy within the Pacific Northwest to existing and potential markets;

(2) providing service to utility and industrial customers of the Corporation;

(3) providing interregional transmission facilities for the interchange of electric energy between the Corporation sytem and other Federal and non-Federal systems;

(4) maintaining the electrical stability and electrical reliability of the Federal system: *Provided, however,* That the Corporation shall not construct any transmission facilities outside the Pacific Northwest, excepting customer service facilities within any continguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (A) no generating facilities, and (B) a distribution system from which it serves both within and without said region.

(e) The Board is authorized to, and at the request of the President or the Secretary shall, establish, maintain, and operate laboratories and experimental plants, and undertake experiments for the purpose of conserving electric energy and for developing and generating electric energy by methods and from sources in addition to hydroelectric, including, but not limited to solar, wind, and geothermal, so that energy may be supplied and used in the most economical manner and at the highest standard of efficiency.

(f) Subject to the provisions of section 8, the Board shall make available to all utilities on a fair and nondiscriminatory basis, any capacity in the Federal transmission system which it determines to be in excess of the capacity required to transmit electric power generated or acquired by the United States.

(g) The Board shall, as provided in this Act, set the policy for the acquisition, sale, and disposition of electric energy purchased and generated by the Corporation not required for the operation of dams and locks at Corporation facilities and navigation facilities employed in connection therewith. In establishing rates for the sale of electric energy the Board is directed, in addition to the provisions of sections 19 and 20, to incorporate into the rates, after making certain that sufficient electric energy at the lowest cost feasible has been provided for minimum life essential to all resident consumers, incentives for the conservation of electric energy.

(h) The Board may request the assistance and advice of any officer, agent, or employee of any executive department or of any independent office of the United States, to enable the Corporation the better to carry out its powers successfully, and as far as practicable shall utilize the services of such officers, agents, and employees, and the President shall, if in his opinion the public interest, service, or economy so require, direct that such assistance, advice, and service be rendered to the Corporation, and any individual that may be by the President directed to render such assistance, advice, and service shall be thereafter subject to the orders, rules, and regulations of the Board: *Provided,* That any invention or discovery made by virtue and incidental to such service by an employee of the Government of the United States serving under this section, or by any employee of the Corporation, together with any patents which may be granted thereon, shall be the sole and exclusive property of the Corporation, which is authorized to grant such licenses thereunder as shall be authorized by the Board: *Provided further,* That the Board may pay to such inventor such sum from the income from sale of licenses as it may deem proper.

(i) The administration of the Corporation's powers and responsibilities given to the Board by this Act shall be assigned to the Administrator. The Administrator shall be responsible to the Board and serves subject to removal by the Board. The principal office of the Corporation shall be established in the Columbia Basin area.

(j) The Board is directed to hold public hearings prior to making a Board decision regarding:

(1) The construction of generating facilities by the Corporation or approval of generating facilities to be constructed by a cooperating utility costing more than $100,000. Such hearings shall be held in the city of the central office of the Corporation and in the largest city of the county in which the facility is to be constructed.

(2) The conservation activity described in section 18.

(3) The conservation percentage described in section 20.

(4) Such other policy decisions pending before the Board deemed to affect substantially the public interest. The Board shall give notice of each public hearing in a newspaper of general circulation in the locality where the hearing is to be held at least one-month prior to the scheduled hearing date. For the purpose of such hearing, the Board may administer oaths, subpena witnesses, or written or printed materials, compel attendance of witnesses, or production of materials, and take evidence including but not limited to site inspections of the land to be affected. A verbatim transcript and complete record of each public hearing shall be ordered by the Board.

(k) The Board shall make such policy, perform such acts and promulgate such rules and regulations as it may deem necessary to perform the provisions and intent of this Act.

DISTRIBUTION OF ELECTRICITY; PREFERENCE TO PUBLIC BODIES AND COOPERATIVES

SEC. 8. (a) In order to insure that the facilities for the generation of electric energy by the Corporation shall be operated for the benefit of the general public, and particularly of domestic and rural consumers, the Board shall at all times, in disposing of electric energy generated at said project, give preference and priority to public bodies and cooperatives.

(b) In the event there shall be conflicting or competing applications for an allocation of electric energy between any public body or cooperative primarily serving residential customers on the one hand and a private agency of any character on the other, the application of such public body or cooperative shall be granted.

(c) An application by any public body or cooperative established to primarily serve residential customers for an allocation of electric energy shall not be denied, or another application competing or in conflict therewith be granted, to any private corporation, company, agency, or person, on the ground that any proposed bond or other security issue of any such public body or cooperative, the sale of which is necessary to enable such prospective purchaser to enter into the public business of selling and distributing the electric energy proposed to be purchased, has not been authorized or marketed, until after a reasonable time, to be determined by the Board, has been afforded such public body or cooperative to have such bond or other security issue authorized or marketed.

(d) It is declared to be the policy of the Congress, as expressed in this Act, to preserve the said preferential status of the public bodies and cooperatives herein referred to, and to give the people of the States within economic transmission distance of the Corporation system reasonable opportunity and time to hold any election or elections or take any action necessary to create such public bodies and cooperatives as the laws of such States authorize and permit, and to afford such public bodies or cooperatives reasonable time and opportunity to take any action necessary to authorize the issuance of bonds or to arrange other financing necessary to construct or acquire necessary and desirable electric distribution facilities, and in all other respects legally to become qualified purchasers and distributors of electric energy available under this Act.

LIMITATIONS OF SALE, DELIVERY, AND EXCHANGE OF ELECTRIC ENERGY AND ELECTRIC PEAKING CAPACITY FOR USE OUTSIDE PACIFIC NORTHWEST

SEC. 9. Subject to the provisions of this Act, the sale, delivery, and exchange of electric energy generated at, and peaking capacity of, electric plants in the Pacific Northwest for use outside the Pacific Northwest shall be limited to surplus energy and surplus peaking capacity. At least thirty days prior to the execution of any contract for the sale, delivery, or exchange of surplus energy or surplus peaking capacity for use outside the Pacific Northwest, the Secretary shall give the then customers of the Corporation writ-

ten notice that negotiations for such a contract are pending, and thereafter, at any customer's request, make available for its inspection current drafts of the proposed contract.

CONTRACT TERMS AND CONDITIONS FOR USE OF ELECTRIC ENERGY OUTSIDE PACIFIC NORTHWEST

SEC. 10. (a) Any contract for the sale or exchange of surplus energy for use outside the Pacific Northwest, or as replacement, directly or indirectly, within the Pacific Northwest for electric energy delivered for use outside that region by a non-Federal utility, shall provide that the Secretary, after giving the purchaser notice not in excess of sixty days, will not deliver electric energy under such contract whenever it can reasonably be foreseen that such delivery would impair his ability to meet, either at or after the time of such delivery, the energy requirements of any Pacific Northwest customer. The purchaser shall obligate himself not to take delivery of or use any such energy to supply any load under such conditions that discontinuance of deliveries from the Pacific Northwest in sixty days would cause undue hardship to the purchaser or in his territory, and, further, the purchaser shall acknowledge full responsibility if any such hardship occurs. Deliveries by a non-Federal utility from its generating plants in the Pacific Northwest for use on its own distribution system in an area outside but contiguous to the Pacific Northwest (not including any extension of its outside service area by merger or acquisition after August 31, 1964) shall not be deemed deliveries by such utility for use outside the Pacific Northwest.

(b) Electric energy generated at electric plants in the Pacific Northwest which can be conserved, for which there is no immediate demand in the Pacific Northwest at any established rate, but for which the Secretary determines there may be a demand in meeting the future requirements of the Pacific Northwest, may be delivered for use outside that region only on a provisional basis under contracts providing that if the Secretary determines at a subsequent time that, by virtue of prior deliveries under such contract, the Secretary is or will be unable to meet the energy requirements of any Pacific Northwest customer, the purchaser will return the full amount of energy delivered to him, or such portion or portions thereof as may be required, at such time or times as may be specified by the Secretary, except that the Secretary shall not require return during the purchaser's daily peak periods. The Secretary shall require the return of the energy provisionally delivered hereunder, to such extent and at such times, as may be necessary to meet demands at any established rate for use within the Pacific Northwest.

(c) Any contract for the disposition of surplus peaking capacity shall provide that (1) the Secretary may terminate the contract upon notice not in excess of sixty months, and (2) the purchaser shall advance or return the energy necessary to supply the peaking capacity, except that the Secretary shall not require such advance or return during the purchaser's daily peak periods. The Secretary may contract for the sale of such energy to the purchaser, in lieu of its return, under the conditions prescribed in subsection (a) of this section.

(d) The Secretray, in making any determination of the energy requirements of any Pacific Northwest customer which is a non-Federal utility having electric generating facilities, shall exclude any amounts of electric energy generated in the Pacific Northwest and disposed of outside the Pacific Northwest by the utility which, through reasonable measures, could have been conserved or otherwise kept available for the utility's own needs in the Pacific Northwest. The Secretary may sell the utility as a replacement therefor only what would otherwise be surplus energy.

CONTRACT LIMITATIONS AND CONDITIONS FOR USE OF ELECTRIC ENERGY AND PEAKING CAPACITY OF PLANTS IN OTHER MARKETING AREAS FOR USE WITHIN PACIFIC NORTHWEST

SEC. 11. Any contract of the Secretary for the sale or exchange of electric energy generated at, or peaking capacity of, electric plants in marketing areas outside the Pacific Northwest for use within the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 9 and 10 of this Act for any contract for the sale or exchange of electric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest.

EXCHANGE CONTRACTS

SEC. 12. Without regard to the limitations specified in sections 9 and 10 of this Act, the Secretary may enter into contracts for the exchange with areas other than the Pacific Northwest of (1) surplus energy during the Pacific Northwest storage refill period, (2) any electric energy during the Pacific Northwest storage refill period which will be returned to the Pacific Northwest in equal amounts during the same Pacific Northwest refill period or the succeeding storage drawdown period, (3) any electric energy which will be returned to the Pacific Northwest in equal amounts during the same Pacific Northwest storage drawdown period, (4) electric peaking capacity, or (5) surplus peaking capacity for energy. All benefits from such exchanges, including resulting increases of firm power, shall be shared equitably by the areas involved, having regard to the secondary energy and other contributions made by each.

TRANSMISSION LINES FOR OTHER ELECTRIC ENERGY; RATES

SEC. 13. Any capacity in Federal transmission lines connecting, either by themselves or with non-Federal lines, a generating plant in the Pacific Northwest or Canada with the other area or with any other area outside the Pacific Northwest, which is not required for the transmission of Federal energy or the energy described in section 16 of this Act, may be made available as a carrier for transmission of other electric energy between such areas. The transmission of other electric energy shall be at equitable rates determined by the Secretary, but such rates shall be subject to equitable adjustment at appropriate intervals not less frequently than once in every five years as agreed to by the parties. No contract for the transmission of non-Federal energy on a firm basis shall be affected by any increase, subsequent to the execution of such contract, in the requirements for transmission of Federal energy, the energy described in section 16 of this Act, or other electric energy.

PURCHASER PRIORITY ON PACIFIC NORTHWEST POWER; AMENDMENT OF EXISTING CONTRACTS AND NEW CONTRACTS TO INCLUDE PRIORITY PROVISIONS

SEC. 14. The Secretary shall offer to amend, without imposing any other requirements as a condition to such amendment, all existing contracts for the sale or exchange of electric power generated at electric plants in the Pacific Northwest to include, and shall include new contracts, provisions giving the purchaser priority on electric power generated at such plants in conformity with the provisions of this Act.

TRANSMISSION LINES BETWEEN PACIFIC NORTHWEST AND PACIFIC SOUTHWEST

SEC. 15. No electric transmission lines or related facilities shall be constructed by any Federal agency outside the Pacific Northwest for the purpose of transmitting electric energy between the Pacific Northwest and Pacific Southwest, nor shall any arrangement for transmission capacity be executed by any Federal agency for the purpose of financing such lines and related facilities to be constructed by non-Federal entities, except those lines and facilities recommended for Federal construction in the Report of the Secretary of the Interior submitted to Congress on June 24, 1964, as supplemented on July 27, 1964, or as hereafter specifically authorized by Congress: *Provided*, That, except with respect to electric transmission lines and related facilities for the purpose of transmitting electric energy between the two regions above mentioned, nothing herein shall be construed as expanding or diminishing in any way the present authority of the Secretary to construct transmission lines to market power and energy.

PROVISIONS NOT APPLICABLE TO CANYON FERRY PROJECT OR BENEFITS AND EXCHANGES UNDER TREATY BETWEEN CANADA AND THE UNITED STATES

SEC. 16. The provisions of this Act shall not be applicable to (1) the Canyon Ferry project and (2), except as provided in section 13 of this Act, downstream power benefits to which Canada is entitled under the treaty between Canada and the United States relating to the cooperative development of the water resources of the Columbia River Basin, signed at Washington, January 17, 1961, nor to energy or capacity disposed of to Canada in any exchange pursuant to paragraph 1 or 2 of article VIII thereof. Nothing in this Act shall be construed to modify the geographical preference of power users in the State of Montana which is established by the Hungry Horse Dam Act (Act of June 4, 1944, 58 Stat. 270).

CONTRACTS FOR SALE OF ELECTRICITY

SEC. 17. (a) Subject to the provisions of this Act and to such rate schedules as the Secretary may approve, as provided in this Act, the Board shall negotiate and enter into contracts for the sale at wholesale of electric energy, either for resale or direct consumption, to public bodies and cooperatives and to private agencies and persons and for the disposition of electric energy to Federal agencies. Contracts for the sale of electric energy to any private person or agency other than a privately owned public utility engaged in selling electric energy to the general public, shall contain a provision forbidding such private purchaser to resell any of such electric energy so purchased to any private utility or agency engaged in the sale of electric energy to the general public, and requiring the immediate cancelnig of such contract of sale in the event of violation of such provision. Contracts entered into under this subsection shall be binding in accordance with the terms thereof and shall be effective for such period or periods, including renewals or extensions, as may be provided therein, not exceeding in the aggregate years from the respective dates from the making of such contracts.

(b) Contracts entered into with direct industrial customers of utilities or the Corporation for rate II power as defined in sections 19 and 20 of this Act shall be limited to one year so as to assure an adequate supply of such rate II power for the residential and nonresidential customers of any purchaser engaged in the business of selling electric energy to the public.

(c) Contracts entered into under this subsection shall contain—

(1) such provisions as the Board determines necessary for the equitable adjustment of rates at appropriate intervals, not less frequently than once in every five years;

(2) such provisions as the Board determines necessary for adjustment in the allocation of electric energy and the rates due to

acts of God, natural disaster, acts of war, severe climatic changes affecting the demand for and supply of electric energy, affecting the supply of water for the varied needs of such water, and such other events beyond the immediate control of the Board causing a severe shortage of the supply of electric energy to meet the normal demand for such energy. Upon determining that emergency measures are rdequired the Board shall allocate the available supply of electric energy to all users throughout the Pacific Northwest on a reasonable and equitable basis consistent with the general public interest; and

(3) the provisions described in sections 18, 19, and 20 of this Act.

(d) Contracts entered into with any utility engaged in the sale of electric energy to the general public shall contain such terms and conditions, including among other things stipulations concerning resale and resale rates by any such utility, as the Board may deem necessary, desirable or appropriate to effectuate the purposes of this Act and to insure that resale by such utility to the ultimate consumer shall be at rates which are reasonable and nondiscriminatory. Such contracts shall also require such utility to keep on file in the office of the Corporation a schedule of all its rates and charges to the public for electric energy and such alterations and changes therein as may be put into effect by such utility.

(e) The Board is authorized to enter into contracts with public or private power systems for the mutual exchange of unused excess power upon suitable exchange terms for the purpose of economical operation or of providing emergency or breakdown relief.

CONSERVATION, ADVANCE OF FUNDS; ALTERNATE ENERGY RESOURCES

SEC. 18. (a) Any agreement for the purchase of electric energy from the Corporation and any agreement to transport energy over Corporation transmission lines signed after the effective date of this Act shall include a conservation clause to accomplish the provisions described in this section; and the Corporation shall initiate and seek amendment to every existing contract for the sale of energy or for the use of transmission lines to add a conservation clause to accomplish the provisions described herein:

(b) Within ten years of the date of the agreement or date of amendment to a contract every structure regularly accessible to the public and every residence within the service area of the purchaser is to be insulated, weatherized, and provided with conservation devices for the purpose of reducing the demand for electric energy to the extent deemed economically feasible.

(c) The Corporation shall encourage the use of alternate forms of energy, including but not limited to wind, solar, and geothermal, in neighborhood and individual residence facilities to relieve the requirement to transport electric energy over great distances, and reduce the demand for energy from central multimegawatt powerplants. Such neighborhood and individual residence energy facilities shall include those directly generating electric energy as well as those reducing the demand on electric energy such as space heating and water heating through the utilization of geothermal and solar energy.

(d) The purchaser will agree to administer such conservation activity within the service area by:

(1) Coordinating such activity with the appropriate units of State or local government.

(2) Forwarding funds advanced by the Corporation for grants for conservation activity to the appropriate units of State or local government.

(e) Expenditure of funds for the purposes described in this section shall be subjecetd to the criteria described in section 7 (a) of this Act.

(f) The Corporation will provide the funds for such energy conservation activity with 100 per centum of the installation cost available in direct grants. Additional costs accruing to the Corporation due to conseration activity shall not be reflected in the rate charge made to consumers of electric energy whose residence or structure did not require a conservation grant.

PURCHASE, POOLING, SALE

SEC. 19. For the purpose of providing relative uniformity of rates within classes of electric energy consumption the Corporation shall—

(1) except as provided in section 7 (b) and (c) of this Act, purchase all the energy generated or acquired by cooperating utilities; in determining the purchase price consideration shall be made for costs of development, operation, debt amortization, and a reasonable margin of profit for the generation, handling, and transmission of elctric energy sold to the Corporation;

(2) pool the energy produced and purhased by the Corporation;

(3) sell such energy to purchasers in the following three prices categories:

(A) Rate I Power—low cost, residential conservation power as described in section 20(b).

(B) Rate II Power—all the electric energy produced by facilities constructed and operable prior to January 1, , except for the energy allocated to rate I power.

(C) Rate III Power—all the electric energy produced by facilities constructed and operable after December 31, .

RATE SCHEDULES; PROGRESSIVE PRICING TO ASSURE BASIC SUPPLY OF ENERGY AND ENCOURAGE ENERGY CONSERVATION

SEC. 20. (a) Schedules of rates and charges for electric energy produced by the Corporation and sold to purchasers as in this Act provided shall be prepared by the Board and become effective upon confirmation and approval thereof by the Federal Energy Regulatory Commission, such rate schedules may be modified from time to time by the Board and shall be fixed and established with a view to encouraging the widest possible diversified use of electric energy and the conservation of energy.

(b) In establishing rate schedules for sale of electric energy, preferential (lower) rates shall be given to residents, including farm residents, of housing, whether owner occupied or rented, including nursing homes, hospitals, schools and school dormitories, and residential care facilities in order to provide each resident a minimal amount of energy having the lowest cost of production. In determining the preferential rate schedule the Board shall—

(1) determine the average annual consumption of electric energy for residential housing over the first three years of the last five years prior to a residential consumption determination by the Board sold by—

(A) all utilities to all resident users in the Pacific Northwest;

(B) each utility to all resident users within the service area of the utility;

(2) determine a "conservation percentage to be a percentage between 29 per centum and 81 per centum of the total annual average residential consumption determined in subsection (b)(1) of this section. In making this determination the Board shall select a per centum great enough to provide sufficient electric energy to meet the essential life needs of residents after strict conservation practices and improvements have been applied to residential housing and low enough to maximize the incentive to conserve electric energy by triggering a progressively higher rate to meet the demand for additional energy. Periodically, at least every two years, the Board shall review the conservation percentage and make changes to meet the criteria set forth in this subsection. The Board may determine a separate conservation percentage for each utility to give recognition for temporary or permanent extremes in the need for energy due to climate or to reward utilities whose consumers have demonstrated cost-effective conservation;

(3) apply the conservation percentage to the total annual average residential consumption in the Pacific Northwest to determine the amount of electric energy to be allocated for rate I power. Apply the amount allocated for rate I power to the costs of an equal amount of power generated or acquired by the Corporation with the lowest cost of acquisition or generation including operation and debt amortization to provide a unit cost per kilowatt hour for rate I power;

(4) provide each purchasing utility with its conservation percentage amount of residential energy as determined in this section, but, in any event, no less than per centum of the amount consumed for residential purposes in 1972 at a rate I power price determined by the provisions of this section;

(5) require the purchasing utility to resell such rate I power to resident users only and in accordance with regulations adopted by the Board. In promulgating regulations for this purpose the Board shall require allocating the same amount of rate I power to resident consumers—

(A) with similar basic housing structure to meet essential life needs,

(B) using the same type of energy to provide heating of the structure.

No consideration shall be given to historic individual user consumption of electric energy;

(6) allocate residential housing cosumption for a newly created entity through examination of the history of residential housing consumption in the service area taken over by the new entity;

(7) In setting the price for reselling rate I power to the resident consumer in addition to the Corporation selling price (including cost of transmission) additions may be made for operating costs and debt amortization for wheeling and distributing such energy to the residential consumer plus a reasonable allowance for profit as determined by the laws for rate setting enacted by the respective States in the Pacific Northwest.

(c) The remaining energy available from generation facilities constructed and operable before January 1, (rate II power), shall be sold at a price that includes all the remaining costs of energy production and transmission not included in establishing the price for rate I power. In allocating rate II power first priority shall be given to meet the remaining demand for residential housing. Second priority of such energy shall be given to meet electric energy needs of nonresidential consumers of utilities providing service to both residential and nonresidential consumers. The balance of such energy shall by made available to direct industrial consumers of the Corporation.

(d) The rate charged for electric energy produced from facilities constructed and operable after December 31, (rate III power), shall include all the cost of energy production from such facilities. Energy demands of consumers not met by rate II power shall be provided by rate III power.

(e) 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.

RATES; ELEMENTS OF CHARGES

SEC. 21. Rate schedules shall be drawn having full regard for the recovery of the costs

of producing, pooling, and transmitting such electric energy, including amortization of capital and conservation investment over a reasonable period of years.

FUND

SEC. 22. (a) There is hereby established in the Treasury of the United States a Columbia Basin Energy Corporation Administration Fund (hereinafter referred to as the "fund"). The fund shall consist of (1) all receipts, collections, and recoveries of the Corporation in cash from all sources, including trust funds, (2) all proceeds derived from the sale of bonds by the Board, (3) any appropriations made by the Congress for the fund, and (4) the following which are hereby transferred to the Corporation: (A) all moneys in the Bonneville Power Administration Fund established by the Federal Columbia River Transmission System Act of October 18, 1974, (B) 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 Corporation, acting by and through the Board, as authorized in this Act and other Acts relating to the Columbia Basin Energy Corporation 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 Corporation.

(b) The Board may make expenditures from the fund, which shall have been included in the 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 approriate to carry out the duties imposed upon the Corporation pursuant to law, including but not limited to—

(1) construction, acquisition, and replacement of (A) the transmission system, generating facilities, conservation activity facilities including facilities and structures appurtenant thereto, and (B) additions and improvements thereto authorized by this Act;

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

(3) electrical research, development, experimentation test, and investigation related to construction, operation, and maintenace of 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;

(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 24 of this Act, 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 Corporation; and

(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 membership.

(c) Moneys heretofore or hereafter appropriated shall be used only for the purposes for which appropriated, and moneys received by the Corporation in trust shall be used only for carrying out such trust. The provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.) shall be applicable to the Corporation in the same manner as they are applied to the wholly owned Government corporations named in section 101 of such Act (31 U.S.C. 846), but nothing in the proviso of section 850 of title 31, United States Code, shall be construed as affecting the powers granted in subsection (a)(11) of this section and in sections 2(f), 10(b), and 12(a) of the Bonneville Project Act (16 U.S.C. 832 et seq.).

(d) Notwithstanding the provisions of sections 105 and 106 of the Government Corporation Act, the financial transactions of the Corporation 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 six and one-half months following the end of the fiscal year covered by the audit.

INVESTMENT OF EXCESS FUNDS

SEC. 23. (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 Secretary of the Treasury may mutually agree.

BONDS

SEC. 24. (a) The Board 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 Corporation bonds, notes, and other evidences of indebtedness (in the Act collectively referred to as "bonds") to assist in financing the construction, acquisition, and replaceemnt of facilities, conservation activity, the transmission system, 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 Board. Such bonds shall bear interest at a rate determined by the Secretary of the Treasury 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. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $2,500,000,000.

(b) The principal of, premiums, if any, and interest on such bonds shall be payable solely from the Corporation's net proceeds as hereinafter defined. "Net proceeds" shall mean for the purposes of this section the remainder of the Corporation's gross receipts from all sources after first deducting trust funds and the costs listed in section 21(b)(2) through 21(b)(7) and 21(b)(11), and shall include reserve or other funds created from such receipts.

(c) The Secretary of the Treasury shall purchase forth with any bonds issued by the Corporation under this Act and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the bonds issued by the Corporation under this Act. The Secretary of the Treasury may, at any time, sell any of the bonds acquired by him under this Act. All redemptions, purchases, and sales by the Secretary of the Treasury of such bonds shall be treated as public debt transactions of the United States.

DEPOSIT OF RECEIPTS; AUTHORIZATION OF APPROPRIATIONS

SEC. 25. All receipts from transmission and sale of electric energy by the Corporation shall be covered into the Treasury of the United States to the credit of miscellaneous receipts, save and except that the Treasury shall set up and maintain from such receipts a continuing fund of $500,000, to the credit of the Corporation and subject to check by the Administrator to defray emergency expenses and to insure continuous operation. There is authorized to be appropriated from time to time, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act, including installation of equipment and machinery for the generation of electric energy and facilities for its transmission and sale.

AUTHORITY OF ADMINISTRATOR

SEC. 26. (a) The Administrator is authorized to determine, settle, compromise, and pay claims and demands against the United States which are not in excess of $1,000 and are presented to the Administrator in writing within one year from the date of accrual thereof, for any losses, injuries, or damages to persons or property, or for the death of persons, resulting from acts or omissions of employees acting within the scope of their employment pursuant to this Act. The Administrator is also authorized to determine, compromise, and settle any claims and demands of the United States for any loses, injuries, or damages to property under the Corporation's control, against other persons or public or private corporations. The Administrator's determination, compromise, settlement, or payment of any of the claims referred to in this subsection shall be final and conclusive upon all officers of the Government, notwithstanding the provisions of any other Act to the contrary. When claims presented to the Administrator under this subsection arise, in whole or in part, out of any damage done to private property, the Administrator may repair all or any part of such damage in lieu of making such payments.

(b) The Corporation may, in the name of the United States, under the supervision of the Attorney General, bring such suits at law or in equity as in his judgment may be necessary to carry out the purposes of this Act; and it shall be represented in the prosecution and defense of all litigation, affecting the status or operation of the Corporation by the United States attorneys for the districts, respectively, in which such litigation may arise, or by such attorney or attorneys as the Attorney General may designate as author-

ized by law, in conjunction with the regularly employed attorneys of the Corporation.

PURCHASE OF SUPPLIES AND SERVICES

SEC. 27. Notwithstanding any other provision of law, all purchases and contracts made by the Administrator for supplies or for services except for personal services, shall be made after advertising, in such manner and at such times, sufficiently in advance of opening bids, as the Administrator shall determine to be adequate to insure notice and opportunity for competition. Such advertisement shall not be required, however, when (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $1,000,000; in which cases such purchases or procurement of services may be made in the open market in the manner common among businessmen. In comparing bids and in making awards, the Administrator may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, and ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

SEC. 28. (a) The Administrator, subject to the requirements of the Federal Power Act, shall keep complete and accurate accounts of operations, including all funds expended and received in connection with transmission, conservation, purchase, and sale of electric energy by the Corporation, and in the maintenance of such accounts appropriate obligations shall be established for annual and sick leave of absence as earned. The Administrator shall, after the close of each fiscal year, obtain an independent commercial-type audit of such accounts. The forms, systems, and procedures prescribed by the Comptroller General for the Administrator's approoriation and fund accounting shall be in accordance with the requirements of the Federal Power Act with respect to accounts of electric operations of public utilities and the regulations of the Federal Energy Regulatory Commission pursuant thereto.

PARTICIPATION BY STATE AND LOCAL GOVERNMENT IN THE PACIFIC NORTHWEST

SEC. 29. Adoption of ordinances by units of local government and enactment of laws by States may be needed to fully implement the purposes and provisions of this Act. Ordinances may be required to provide sufficient local government administration to adequately provide residences and other structures with energy conservation activity described in section 18. Laws may be needed—

(1) to permit lower rates for residential consumers compared to nonresidential consumers;

(2) to provide incentives through the rates for less consumption rather than greater consumption of electric energy; and

(3) to provide for the election of the State's member on the Board.

Units of local government and the States may determine not to adopt such ordinances or enact such laws. The Board shall communicate the need for such ordinances and laws. The Board may determine not to provide rate I power to such areas whose laws or ordinances are not consistent with this Act.

TRANSITIONAL AND SAVINGS PROVISIONS

SEC. 30. (a) On the date of the first meeting of the Board of the Corporation the properties owned by the United States and used for the generation of electric energy in the Pacific Northwest are transferred to the Corporation.

(b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Corporation, other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) This Act shall not affect any proceeding pending, at the time this Act takes effect, before any department or agency (or component thereof) regarding functions which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions, and to the same extent, that such proceeding could have been discontinued if this Act had not been enacted.

(d) Except as provided in subsection (f) of this section—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the agency, functions of which are transferred by this Act shall abate by reason of the enactment of this Act. No cause of action by or against the agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(f) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Corporation, or any official, then such suit shall be continued as if this Act had not been enacted, with the Corporation or official as the case may be, substituted.

(g) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred or delegated by this Act shall apply to the performance of those functions by the Corporation, or any officer, or component of the Corporation.

(h) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other law to any department or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Corporation, Board, or other office or officers in which this Act invests such functions.

(i) Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this Act or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish or terminate his authority to delegate, redelegate, or terminate any delegations of function.

(j) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

INCIDENTAL TRANSFERS

SEC. 31. The Director of the Office of Management and Budget is authorized and directed to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions which are transferred by or which revert under this Act as the Director deems necessary and appropriate to accomplish the intent and purpose of this Act.

EFFECTIVE DATE

SEC. 32. Except with respect to sections 3, 4, 5, and 6 the effective date of this Act is January 1, 1978. Sections 3, 4, 5, and 6 shall take effect on the date of the enactment of this Act.

SEPARABILITY OF PROVISIONS

SEC. 33. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Mr. LUJAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. WEAVER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk continued the reading of the amendment in the nature of a substitute.

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Mr. DINGELL (during the reading). Mr. Chairman, in view of the time constraints on the Committee and the House, in view of the vast amount of business to be done before the House is able to recess to go home to campaign, in view of the fact that there are a very large number of bills pending, some 30 bills in number pending tomorrow and a large number of other pieces of legislation backed up behind this, and to help my good friend, the gentleman from Oregon (Mr. WEAVER), and in order to expedite the business of the House and to dispense with further reading of this rather ponderous work, I ask unanimous consent that further

reading of the amendment in the nature of a substitute be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. WEAVER. Reserving the right to object, Mr. Chairman, I do so to stipulate that it is important that Members know this bill. Unfortunately, I was unable to get this substitute in the RECORD and, therefore, it is very important that Members have a chance to listen to it being read so that we know what we are voting on.

Therefore, Mr. Chairman, I object to the request of the gentleman from Michigan.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the amendment in the nature of a substitute.

Mr. KAZEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD, due to the fact that I am sure the gentleman from Oregon is anxious to vote on his substitute and the fact that the House may agree to take his substitute. I just want to save the gentleman some time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. WEAVER. Reserving the right to object, Mr. Chairman, I would like to point out to my distinguished chairman that substitutes are not voted on until the rest of the bill is perfected and, therefore, it will be a while before we vote on it.

Mr. KAZEN. Under the gentleman's reservation of objection, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, is the gentleman really serious about getting a vote on this substitute?

Mr. WEAVER. We certainly will vote.

Mr. KAZEN. Is the gentleman really for his own substitute?

Mr. WEAVER. May I make a statement on that?

Mr. KAZEN. Yes, certainly.

Mr. WEAVER. I would be glad to.

Mr. Chairman, the original bill is a TVA but all of the bad aspects of TVA. It nationalizes our utilities in the Northwest but only in a half-backwards way. What this substitute does is to go whole hog and make it a TVA in the Northwest and, therefore, I support the substitute I have offered way before the bill that we have before us.

Mr. KAZEN. Let me suggest to the gentleman then that we can get along with it because he may have a good substitute here, and it is time for everybody to vote on it. But if we continue this way, the gentleman may not get a chance to vote on it. What we want to do is to accommodate the gentleman.

Mr. WEAVER. Mr. Chairman, I object.

Mr. KAZEN. Does the gentleman want to have it read or voted on? Which is it?

Mr. WEAVER. Mr. Chairman, I object.

Mr. KAZEN. The gentleman wants it read or not voted on.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the amendment in the nature of a substitute.

□ 1610

Mr. DINGELL (during the reading). Mr. Chairman, as I have observed, we have a vast amount of business pressing the House. We have 30 bills on suspension, 25 or 30 other bills remaining to be enacted, and in the next little bit we have to consider a continuing resolution so the business of the Government does not close down.

So, in order to save the time of the Committee, the time of the House, and, of course, the time of the gentleman from Oregon so we can get a vote on his amendment, I ask unanimous consent that further reading of the amendment be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. WEAVER. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the amendment in the nature of a substitute.

Mr. DINGELL (during the reading). Mr. Chairman, I have a unanimous-consent request.

Mr. Chairman, we have now been reading this amendment in excess of 45 minutes. I note that this is a bill that was first introduced by the gentleman from Oregon in 1977, and it has been laying around since. I am sure many Members are familiar with it.

So for that reason, I believe that we can dispense with the further reading of this.

I ask unanimous consent that further reading of the amendment be dispensed with and the gentleman be recognized in an orderly fashion.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. WEAVER. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the amendment in the nature of a substitute.

□ 1620

Mr. LUJAN (during the reading). Mr. Chairman, we only have about four or five more pages to read of this amendment. In view of the fact that it is 4:25 o'clock and we are in our last week before the recess, I would ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, I have read this bill three or four times late at night in order to get to sleep. This is the best part we are getting to now. I think maybe we should read it all. This is really the good part.

Mr. LUJAN. Well, I can sympathize with the gentleman, if the gentleman would yield.

Mr. WEAVER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment in the nature of a substitute.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) continue to press his point of order?

Mr. DINGELL. Mr. Chairman, I am prepared to insist on the point of order at this time.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. DINGELL. Mr. Chairman, the bill before us is one which arranges to deal with the Pacific Northwest power problems through giving certain power to the administrator of BPA, by arranging for the backing of the funding of construction by use of the rate of all the facilities in the area. It sets up a council relating to the planning for energy and for commercial fisheries and it deals with the use of conservation as a mechanism for substituting for the production of new power.

□ 1630

The gentleman's amendment, on the other hand, is violative of the rule of germaneness because it sets up a mechanism which goes beyond and is not related to the fundamental purpose of the legislation and which, in going toward the fundamental purpose of the legislation, uses mechanisms not authorized and not contemplated and not of the some character as the functions of the basic legislation.

The amendment offered by the gentleman is different in a number of noteworthy sections. For one thing, it sets up a corporation which would be appointed with the board of directors, two to be appointed by the President and a number of others to be appointed by the several States. Apart from the constitutional questions that this raises, the proposal would have a board which would essentially be a corporate body, there being no corporation in the legislation which is before the Committee at this time but, rather, only an advisory council. This board would have sweeping powers roughly equivalent to those of the Tennessee Valley Authority and which are, therefore, much more sweeping in character. The board would be able to function without regard to the civil service laws at page 10 section 5.

Furthermore, the legislation confers upon the Secretary of Labor the power to determine wage rates and so forth, and compensation, something which is not included in the legislation before us, Mr. Chairman.

Furthermore, it provides for removal of board members by a prescribed mechanism and requires that the activities of the board be nonpolitical in character. It provides for the acquisition of generating facilities, retail distribution systems, and affords to the board the right of eminent domain, something which is not included in the legislation before us.

It also affords the board the power to acquire real estate for the construction

of dams, reservoirs, transmission lines, power houses, generating facilities and such other structures and facilities authorized by this act. It authorizes condemnation proceedings and so forth against existing generating facilities and, as I read, it and as against just the other facilities.

It also affords the board the power to construct generating facilities, power structures, transmission lines, facilities for pooling and storage of energy, fish hatcheries, channels for fish migration and, incidentally, works for including facilities for research on development of electrical energy to unite the reservoir power installations into one or more systems by transmission lines, to extend funds for recreational facilities compatible with the generation of electric energy and the environment, none of which are present in the legislation before the committee as reported by the Rules Committee.

Equally, Mr. Chairman, the proposal goes beyond this and deals with contracting authority. If you will read, it also has a lengthy section relating to transmission between the Pacific Northwest and the Pacific Southwest, none of which is in the basic legislation before the Committee.

Then it authorizes at page 33 the allocation of electric energy amongst the users throughout the Pacific Northwest, something which is not present in the basic legislation. And the corporation is empowered at page 35 to encourage the use of alternate forms of energy, including but not limited to solar and so forth, and which is not embodied in the basic legislation before you.

Mr. Chairman, if you will deal with it you will find that there is a lengthy section relating to claims and the settlement of claims at page 49 which is not embodied in the legislation before the body.

So since, Mr. Chairman, the legislation has gone in such a sweeping fashion, using mechanisms totally beyond the contemplation and totally different than the basic mechanisms afforded to the House, then I do insist on my point of order.

The CHAIRMAN. Does the gentleman from Texas (Mr. KAZEN) wish to be heard on the point of order?

Mr. KAZEN. Mr. Chairman, another point, let me also say the amendment is not germane to the bill in that it sets up a Government corporation, a Government corporation, and none is provided for in the basic legislation. Therefore, it is not germane to the main legislation.

The CHAIRMAN. Does the gentleman from Oregon wish to be heard?

Mr. WEAVER. I do, Mr. Chairman.

I want first to thank my dear friend from Michigan (Mr. DINGELL) for taking the time to explain the substitute and I appreciate that very much.

He said that my substitute sets up a corporation. Indeed it does. The bill before us sets up a council in which one provision is appointed by the Secretary of Energy, that is the so-called fallback provision, but, nevertheless, it is in the bill that the council, which, by the way, is not an advisory council, it has vast powers, vast powers, to approve the plan and projects, is nominated by the Secretary of Energy, and mine is nominated by the President. So the rule says that the fundamental purpose of the amendment must be the same. I maintain the fundamental purpose of the amendment is the same because both the bill and the substitute are trying to solve the energy problems by creating a mechanism, energy problems in the Northwest, by creating a mechanism.

Mine sets up the Columbia Basin Authority which is quite similar to the TVA. I think my substitute is very bad, you understand. It is just that the bill is much worse. It sets up a halfway TVA.

I support very strongly something else. But if you are going to have a TVA, I offer my substitute, Mr. Chairman, as a complete TVA.

The CHAIRMAN. The Chair is prepared to rule.

The Chair would cite section 798(b) of the House Rules and Manual relating to the fundamental purpose as a test of germaneness which says in part:

> The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. Thus for a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute seeking to achieve the same result was held germane where it was shown that the methods contemplated were closely related and that additional provisions not contained in the original bill were merely incidental conditions or exceptions which were related to the fundamental purpose of the bill.

The Chair would further cite chapter 28, section 2.22 of Deschler's Procedure, and I quote:

> The test of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole and is not necessarily determined by the content of an incidental portion of the amendment which, if offered separately, might not be germane to the portion of the bill to which offered.

Finally the Chair would note on page 209 in Cannon's Procedure in the 75th Congress, that to a proposal to create a bureau to administer a program a substitute was held germane which established a board rather than a bureau to administer program.

The bill under consideration utilizes the Bonneville Power Administration and a planning council, while the amendment creates a corporation.

Therefore, on the basis of the precedents cited, the Chair would overrule the point of order.

The gentleman from Oregon is recognized for 5 minutes in support of his amendment in the nature of a substitute.

□ 1640

Mr. WEAVER. Mr. Chairman, I offer this substitute because if we are going to create a TVA, let us go whole hog and really create a TVA. Why are all these provisions in a bill that has gotten to be 103 pages long? Because every time as interest group comes up and asks for something, they put another provision in the bill until this bill is riddled, just riddled, with special deals. That is why the sponsors of the bill only talk about a few of the provisions of the bill because this bill is so riddled on every page with special deals for special interests, they do not want anybody to know about those special deals. One said that the main reason for this bill was conservation.

I think my friends in the Congress know that I have been one of the strongest supporters of conservation programs that Congress has seen from my opening day here. The conservation provisions, by the way, in the original bill are taken from my other Northwest energy bill, and I appreciate that, but the core of this bill is still the kind of Government control that we cannot tolerate in the Northwest.

If conservation were the true purpose of the bill, if that were the case, the financing mechanisms, the purchase authority, are not needed. They are cost effective and can be done locally. Indeed, no bill is needed if you say conservation is the main purpose of the bill, because Bonneville Power Administration has all the authority for conservation it needs.

Indeed, they already have 12 public utilities in which they have been allowed to make any loan at no interest for conservation, so all the authority the Bonneville Power needs for conservation is there. You do not need this kind of financing for conservation. You do not need this kind of financing for small renewable projects. No, no, that is all, as I think one Member said, bull feathers. What we need in this country today is to enhance the efficiency with which we use energy. That is the core.

Obviously, we are not doing a very good job today, but what this bill does is continue the present kinds of energy productivity and efficiency that have got us into the inflation-unemployment situation that we face today. How does it do this? This bill distorts prices because it melds them and averages the various prices of energy and, therefore, does not reflect the true market costs of new energy forms. It separates management of construction projects with the agency that pays for them, a thing that has already got us into a great deal of trouble with the five plants being built now at cost overruns of 100 and 700 percent, by the way, $17.3 billion in costs, greater per capita debt in the Northwest than the national debt.

It provides a Federal agency to guarantee to buy the electricity capacity, whether a plant works or not, but a Federal agency guarantees the requirements of a private utility. If you were a private utility and the Federal Government said, we will take care of you, are they going to use intiative? Are they going to go out and produce and struggle to do the things necessary to be efficient and productive? No, they can go to the Bahamas and go to bed.

The Federal Government under this bill takes care of them. It says the Federal Government will meet all their energy needs, the private utilities. That is the main provision of the bill. I will be offering an amendment to take that provision out also. If somebody disagrees with that, they will want to vote for my amendment.

I was a builder for 20 years, and if I had this blank check for financing, good Lord, what would be the cost of the projects? But no, the people I built for were very cost-conscious and I was very cost-conscious and, therefore, I made sure we stayed in line.

Summing up, already the Bonneville Power Administration has announced a $92 million palace they are going to build for their new bureaucracy that is created under this bill. It was announced last week—a $92 million huge building in Portland, Oreg., for the bureaucracy that will be housed under this bill. This bill is one of the worst bills I have ever seen come to the Congress in my time here, and it should be defeated, and I hope it will be.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYMMS: On page 4, line 22, insert between the words "other" and "facilities", the words "power generating".

Page 102, following line 16, insert the following new subsection:

"(i) Nothing in this Act shall be construed to affect the validity of any existing license, permit or certificate issued by any Federal agency pursuant to any other Federal law."

Mr. SYMMS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho.

Mr. WEAVER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk concluded reading the amendment.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry. This is an amendment to H.R. 8157; is that correct?

Mr. SYMMS. This is an amendment to H.R. 8157.

The CHAIRMAN. The Chair recognizes the gentleman from Idaho (Mr. SYMMS) in support of his amendment.

Mr. DINGELL. Mr. Chairman, if the gentleman from Idaho will yield, I am very happy to accept the amendment. The distinguished gentleman from Idaho has discussed it with us over here. I find it acceptable.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman.

Mr. KAZEN. I thank the gentleman for yielding. As far as the Committee on Interior and Insular Affairs is concerned, we will accept the amendment. The gentleman has discussed it with us and we accept it.

Mr. SYMMS. I thank the gentleman very much.

Mr. WEAVER. Mr. Chairman, I rise in support of the amendment. I do so for the purpose of asking the gentleman from Idaho, my dear friend, to tell us what the amendment does.

Mr. SYMMS. If the gentleman will yield, the amendment is self-explanatory. I will say to the gentleman from Oregon it is simply an amendment to clarify, and it is a technical amendment just to clarify the intent of this language in the bill.

Mr. WEAVER. What language does it clarify?

Mr. SYMMS. As I said, at line 16 insert the following new subsection:

Nothing in this Act shall be construed to affect the validity of any existing license, permit or certificate issued by any Federal agency pursuant to any other Federal law.

Mr. WEAVER. What is the gentleman trying to do with this amendment?

Mr. MOORHEAD of California. Mr. Chairman, if the gentleman will yield, on behalf of the Committee on Interstate and Foreign Commerce on the minority side, we will be happy to accept the amendment.

Mr. SYMMS. Mr. Chairman, I have cleared this with the minority members on the Committee on Interior and Insular Affairs. They also accept this amendment. Primarily it is a clarifying amendment to the intent of the bill.

I yield back the remainder of my time.

Mr. SYMMS. To clarify the language of the bill.

Mr. WEAVER. What is the existing language to do?

Mr. SYMMS. It adds language so it is clear that this bill does not affect the validity of any license, permit or certificate issued under any other Federal laws.

Mr. WEAVER. What is the meaning of the language that the gentleman is amending?

Mr. SYMMS. It just applies to H.R. 8157 on the clarification of the intent of the purposes section of the bill. The gentleman can read it.

Mr. WEAVER. Go ahead. I yield to the gentleman for the purpose of telling us what language he is amending and what does it mean.

Mr. SYMMS. I think it is self-explanatory. The gentleman can read it. It says:

The Federal Columbia River power system and other power generating facilities on the Columbia River and its tributaries.

That is as clear as I can make the bill.

Mr. WEAVER. I am sorry, I am not able yet to understand the basis for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 13, line 8, strike out "and" and substitute a comma.

Page 13, line 14, before the period insert: ", except that with respect to open meetings, the Federal laws applicable to open meetings in the case of the Federal Energy Regulatory Commission shall apply to the Council to the extent appropriate. In applying the Federal laws applicable to financial disclosure under the preceding sentence, such laws shall be applied to members of the Council without regard to the duration of their service on the Council or the amount of compensation received for such service.".

□ 1650

Mr. DINGELL. Mr. Chairman, I am happy to yield to the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I am happy to tell the gentleman that as far as we on the Committee on Interior and Insular Affairs are concerned we accept the amendment.

Mr. DINGELL. I thank the gentleman. Mr. Chairman, I yield back the balance of my time.

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would ask the distinguished chairman of the Subcommittee on Energy and Power of the Committee Interstate and Foreign Commerce to explain the amendment, what it does.

Mr. DINGELL. If the gentleman would yield, the amendment does two things. The amendment makes the laws that would apply to FERC with regard to open meetings, apply to the council to the fullest extent appropriate because this is a collegial body, and it also sees to it that the financial disclosure laws apply to the council. That is the purpose of it.

Mr. WEAVER. There are two provisions in the bill now. One has the Governors nominate the council. Then there is the so-called backup provision that, if that is shown or determined by the courts to be unconstitutional, that the backup says the Secretary of Energy will appoint members of the council.

Mr. DINGELL. This does not deal with the nature of the appointments. It simply deals with the responsibilities and it deals with the State council.

Mr. WEAVER. Does it affect that ability to amend further that part of the bill?

Mr. DINGELL. It does not.

Mr. WEAVER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

PERFECTING AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. WEAVER: Page 21, line 17, strike "0.02" and insert therefor "0.01".

Mr. LUJAN. Mr. Chairman, is that one of the amendments that was published? We are having difficulty finding it.

Mr. WEAVER. Mr. Chairman, that appeared in the CONGRESSIONAL RECORD of September 23, 1980.

Mr. DINGELL. Mr. Chairman, a parliamentary inquiry. Is this a serious amendment or is this amendment dilatory in character?

The CHAIRMAN. The Chair will advise the gentleman from Michigan that is not a parliamentary inquiry.

The gentleman from Oregon is recognized for 5 minutes in support of his amendment.

Mr. WEAVER. Mr. Chairman, I believe this to be a very, very important amendment as are every one of my 72 amendments.

Mr. Chairman, what this amendment does is cut in half the amount of money appropriated, in effect, for running the bureaucracy we are creating under this bill, something I would assume many Members would be interested in supporting.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I will be happy to yield to the gentleman from New Mexico.

Mr. LUJAN. The amendment refers to 0.02 to 0.019. That appears to me to be one-tenth of 1 percent. What are we talking about in terms of money?

Mr. WEAVER. The gentleman will forgive me, it is not printed in the RECORD in exactly this form. It is 0.01——

Mr. LUJAN. What does that mean in terms of dollars that the gentleman speaks of? It seems like a very minuscule amount that is offered for the purpose of taking up a little time. I am just wondering what does that mean?

Mr. WEAVER. I can tell the gentleman it is a difference of $10 million.

Now, in the Northwest—it may not be in New Mexico—in the Northwest about $10 million out of the rate payers' pocket every year is considered quite a bit of money.

Mr. LUJAN. Does the gentleman refer to $10 million of taxpayers' money?

Mr. WEAVER. I refer to rate payers' money. They pay for it out of the electric bills to set up this bureaucracy.

Mr. LUJAN. Does the gentleman mean it is costing 10,000 times a thousand; what is that, $1 billion, $100 million?

What is the original amount?

Mr. WEAVER. I am taking the figures from the report of the Committee on Interstate and Foreign Commerce. If the gentleman wishes to question the figures, the gentleman may refer to that committee.

Mr. LUJAN. The gentleman offered the amendment and that is why I was wondering. It is confusing to me what the gentleman is doing.

Mr. WEAVER. I am delighted to enlighten the gentleman. In the bill it says that they can take 0.02 percent of the revenues for administrative costs of the council. I am cutting that in half. I do not believe we should support that kind of bureaucracy in the Northwest if the bill's proponents want to have this huge bureaucracy.

Mr. SHARP. Will the gentleman yield?

Mr. WEAVER. I will be delighted to yield.

Mr. SHARP. Is the gentleman talking about .02 percent? Is the gentleman talking about 0.02 mils? Does the gentleman's amendment read 0.019 or is it 0.01? As the gentleman has suggested this is a tremendously important amendment. I presume the gentleman understands his own amendment because it is so serious. It goes to the heart of this bill.

Mr. WEAVER. May I read the language? I would be delighted to:

Funds provided by the Administrtaor for such payments shall not exceed annually an amount equal to 0.02 mils multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded.

Mr. Chairman, I would be delighted to explain the bill to the chief sponsor of the bill.

The CHAIRMAN. Does the gentleman yield back the balance of his time?

Mr. WEAVER. I do, Mr. Chairman.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. It is obvious that the gentleman from Oregon says it is a serious amendment and yet the gentleman describes it as a $5 million to $10 million amendment, I believe. When 0.02 mils equates to only $2.5 million, how could one-half of that be $10 million?

Mr. Chairman, I submit the gentleman's amendment does not do what the gentleman indicates and I suggest that it be defeated.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon. All those in favor signify by saying aye; opposed, no.

In the opinion of the Chair, the noes have it.

Mr. WEAVER. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The CHAIRMAN. The gentleman's point of order is not in order in the Committee of the Whole.

Mr. DINGELL. Mr. Chairman, that is not an appropriate motion at this time.

The CHAIRMAN. The amendment is not agreed to.

Mr. DINGELL. Mr. Chairman, a regular order.

The CHAIRMAN. Are there further amendments?

The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER) in the nature of a substitute.

PERFECTING AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. No, Mr. Chairman, I have another amendment.

Mr. DINGELL. Regular order.

Mr. WEAVER. Mr. Chairman, I was on my feet with an amendment.

The CHAIRMAN. The Clerk will report the amendment.

Mr. WEAVER. Mr. Chairman, it is amendment No. 35.

Mr. DINGELL. Mr. Chairman, a point of order. We do not have a copy of that amendment at the desk.

The CHAIRMAN. The Chair will advise the gentleman from Michigan that he does not state a point of order under the rules.

The Clerk read as follows:

Perfecting amendment offered by Mr. WEAVER: Page 41, line 12, strike "and to each requesting investor-owned utility";

Page 41, line 13, strike the comma and insert in lieu thereof: "or";

Page 41, line 14, strike "or investor-owned utility";

Page 42, line 5, strike "(2) Contracts" and all that follows down through page 42, line 8, renumbering accordingly;

Page 42, line 13, after "cooperative" strike the comma and insert in lieu thereof "or";

Page 42, line 13–14, strike "or investor-owned utility".

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his perfecting amendment to the bill.

Mr. WEAVER. Mr. Chairman, I would first like to inquire why I did not get a vote on the last one. I made a point of order——

Mr. DINGELL. Regular order, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. DINGELL. Mr. Chairman, may we have regular order.

Mr. WEAVER. Mr. Chairman, I will speak on my amendment.

The CHAIRMAN. The gentleman from Oregon is recognized.

□ 1700

Mr. WEAVER. Mr. Chairman, this amendment strikes the provision in the bill which requires the Bonneville Power Administration, a Federal agency, to meet all the power needs of the private utilities in the Northwest. It specifically says, contrary to what we have heard earlier in debate, that this provision has been in the bill, in law before—it has not. This is a radical, revolutionary provision.

I will read it. It says:

(b)(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 and to each requesting investor-owned utility electric power to meet the firm power load of such public body, . . .

It also includes other agencies as well. My amendment goes only to and strikes the requirement that Bonneville serve the private utilities. Now, if they want to solve the energy problems in the Northwest—and this is what I am sure Mr. LOWRY meant when he said that this bill actually hurts and hinders in solving our energy problems in the Northwest. What we need, of course, is initiative, aggression, people willing to go out and aggressively develop new energy sources.

This is what will happen if a contractor says, "Well, the Federal Government under law is required to meet all our needs."

Now is that, in our knowledge of human behavior, the way to develop new energy? Have you ever seen somebody who is given all the money they want—in this instance all the power they want—from the Federal Government, have you ever seen someone actually go out and use initiative to develop something? I do not think so. I do not think so.

Many of the publics, the ones particularly that have never developed their own energy sources, have these requirements on track now. And, they have not developed their own energy sources. It is some of the very public utilities that have developed their own energy sources, such as Eugene Water and Electric Board, my home utility, that oppose this bill, that are so vastly and adamantly opposed to this bill.

So, we are going to put the private utilities right in the same situation as the other publics and say, "We are going to meet all your energy needs."

Now, let us not do that. Let us let them go out, as they should, put together con-

sortiums, develop their own energy. They are doing it. They have announced, several privates have announced, that they are going to have a consortium to develop several plants at Hanford in Washintgon. Let them do it. That is the way to meet our energy needs, but do not have the Federal Government guarantee to meet all the power requirements of the private utilities in the Northwest. We have to meet our energy needs in the Northwest. This kind of Federal guarantee and Federal dole will mean that we will have a lack of initiative and a lack of interest in developing other energy needs.

This is one of the special deals I was talking about earlier that is in here. Sure, if you are a private utility and you would like to have the Federal Government guarantee your needs—and that is one of the reasons they support it—but I told the private utility executives, I said:

Do you realize, you think you are getting a good deal now, having the Federal Government supply all your power on a guaranteed basis, but pretty soon the worm is going to turn. The bureaucracy is going to take you over, and when that happens the Federal Government will own you lock, stock, and barrel.

They laugh, the executives of the private utilities, when I tell them that. "No way; it will never happen," they say. "Of course not."

Oh? Oh? When a bureaucracy first gets its hooks into an industry, do you think they are going to let go? When a bureaucracy has to guarantee the private utilities all their energy needs, do you think they are not going to impose requirements, regulations, demands—in effect, take over the running of their industry?

I think, Mr. Chairman, that you would find that this will eventually result in a complete naturalization of the utility industry. Remeber what this amendment does. It strikes the provision that requires Bonneville to meet the power needs of the private utilities.

Mr. KAZEN. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, the gentleman offered this amendment in the subcommittee and he offered it in the full committee. It was turned down both in the subcommittee and in the full committee.

The gentleman's amendment would eliminate the authority in section 5(b)(1) which authorizes BPA to supply the net requirements of the utilities in the regions, including the I O U's. Since I O U's generally have enough resources to meet their present needs, this section means that BPA will supply the I O U's load growth.

Unfortunately, because the I O U's will not be able to use the regional financial backing and risk rating achieved through BPA purchase to meet these loads, their financing costs associated with these resources will be much higher. This increase in cost will drive up the I O U's average system cost for power sold to BPA through the section 5(c) exchange, and will eventually trigger the rate ceiling in section 7(b).

The triggering of the rate ceiling will force BPA to apply surcharges to the power sold to I O U's pursuant to section 5(c) exchange, and will destroy the wholesale rate equality that section is designed to provide. This, in turn, will probably mean withdrawal of support for the substitute by the States principally served by I O U's, and destruction of the substitute bill.

In other words, Mr. Chairman, the adoption of this amendment will effectively destroy the bill before this committee.

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in support of the amendment.

(Mr. CARR asked and was given permission to revise and extend his remarks.)

Mr. CARR. Mr. Chairman, I would like to ask the author of the bill, whomever that may be—I understand there are dozens of authors of this bill—nobody wants to claim credit. I would like to ask a question, maybe of my good friend, Mr. SWIFT.

I am wondering if the hearings disclosed any precedent anywhere in the Nation where a public agency would write such a requirements contract on request by an investor-owner utility. Is there anywhere in the country where that is happening now?

Mr. SWIFT. Mr. Chairman, if the gentleman will yield, in the Pacific Northwest we have a situation that is unlike anything anywhere else in the country. The important point to remember here is that this bill does not require BPA to provide the full demand of a private utility. In fact, the bill specifically says that the contract itself will limit what BPA can give that agency in two major respects; and more importantly, in a time of insufficiency it can only sell to a private utility the amount of electricity that they have bought from the private utility. So, the charge that this is somehow a blank check on the Federal Government to supply the utilities is totally incorrect, a complete misreading of the bill.

Mr. CARR. Well, I would direct the gentleman to page 41, line 9, where it says, "Whenever requested, the Administrator shall offer to sell to each requesting public body * * *" in this case "* * * to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility * * *."

My question is, Is there anywhere in the country where that is now the case?

Mr. SWIFT. If the gentleman will yield further, he is reading it without reading subsection 5, which relates directly. If you take one section of this bill and read it without things that relate to it, you can make it read anything you want. The fact is, that is not what it does. Subsection (c) says that when Bonneville enters into that contract, it first of all cannot sell power to private utilities that would in any way take from the preference clause. Secondly, it says at a time of insufficiency it can only sell to a utility the amount that it purchased from the utility.

□ 1710

That is in the bill. If the gentleman will read what we are talking about in the totality of the bill, he will see that he is simply dead wrong. What this amendment is aimed at doing is based upon a profound misunderstanding of what the purchasing authority has to do with it.

Mr. CARR. Mr. Chairman, I would state to the gentleman that I may be wrong, but I have not stated a position here.

If I may ask a question within the context of what the gentleman has said, is there anyplace else in the country where such an arrangement is already in existence between a public agency and an investor-owned utility? That is my question.

Mr. SWIFT. Mr. Chairman, can the gentleman tell me if there is anyplace else in the country where exactly 50 percent of the power is provided through a Federal marketing agency and the rest comes directly out of the utilities?

In other words, we are in a unique situation, and the bill in a number of respects is unique in how it treats this matter.

Mr. CARR. Mr. Chairman, I understand the great debater's technique of answering a question with a question. But to restate my question, is there any other place in the country where such an arrangement exists?

Mr. SWIFT. Mr. Chairman, the answer to the gentleman's question, if he would yield, is that I am not familiar with all the other situations in the country.

Mr. CARR. Mr. Chairman, perhaps the chairman of the subcommittee of the Committee on Interstate and Foreign Commerce might know if there is another place in the country where we have a similar kind of arrangement.

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, I am not familiar with any, but I happen to think the section referred to is good public policy.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. CARR. I am pleased to yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I do not know if I can answer the gentleman's question directly with respect to other provisions of law and other sections of the country, but unless the gentleman from Washington would correct me, I would say that this is not any different than what had been going on and actually transpiring in the Pacific Northwest for a long time. To the extent energy was available, the Bonneville Power Administration had the authority and did enter into contracts with investor-owned utilities to supply them energy. They had the power, and did exercise it, that when the supply became short, they gave notice—I think it was in about 1973—to the investor-owned utilities that this energy would no longer be available to them after the 5-year period, in 1978, and they did in fact terminate it.

That same power exists under the Bonneville Act with respect to any con-

tract Bonneville would enter into pursuant to this section 5(b) provision.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has expired.

Mr. DUNCAN of Oregon. Mr. Chairman, I ask unanimous consent that the gentleman from Michigan (Mr. CARR) may be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. DINGELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The question is on the perfecting amendment offered by the gentleman from Oregon (Mr. WEAVER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WEAVER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1720

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Oregon (Mr. WEAVER) for a recorded vote.

Does the gentleman from Oregon insist upon his demand for a recorded vote?

Mr. WEAVER. I do, Mr. Chairman.

A recorded vote was refused.

So the perfecting amendment was rejected.

PERFECTING AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. WEAVER: Page 11, line 24, strike "two persons from each State" and insert "four persons from Washington, three persons from Oregon, and two persons each from Idaho and Montana".

Mr. WEAVER. Mr. Chairman, the original House bill—and I would like the chairman of the Commerce Subcommittee to correct me if I am wrong—as passed out by the Commerce Committee, had proportional representation on the council.

Let me explain the council. The council is set up under this bill to devise a plan for energy in the Northwest. Under the bill we have before us today in the Committee of the Whole, this has been changed; so that each State involved—Washington, Oregon, Idaho, and Montana—have two members apiece on this council.

Mr. Chairman, under the bill we have before us in the Committee, first there is a council appointed by the Governors of the States, two from each State of Montana, Idaho, Oregon, and Washington. Under the bill there is what is called a safety net or backup provision, in that if that is found unconstitutional, then the Secretary of Energy will appoint these councils. In other words, our utility structure in the Northwest will be directly administered by the Secretary of Energy—in other words, Washington, D.C., reaching its tentacles into the Eugene Water and Electric Board, my home utility, the largest public utility in Oregon, and a utility which is adamantly opposed to this bill because they know that they do not want to be run by Washington, D.C. But at least my amendment says that we should have, at the very least, if this is going to be done to us, proportional representation.

Oregon has a population of 2½ million, Washington has a population of 3½ million, while Idaho is more like 1 million, and that half of Montana that is affected is about one-half a million. And yet, with one-half million, they get two votes, and Washington, with 3½ million, they have two votes on the council, and Oregon, with 2½ million, they have two votes, under the bill. My amendment simply says:

Let us have proportional representation in the bill, 4 persons from Washington, 3 persons from Oregon, and 2 persons each from Idaho and Montana.

□ 1730

As I say, the original Commerce Committee bill, the one passed out of the Commerce Committee, contained this proportional representation, and it certainly was, I felt, a very good idea, that we have more like, not completely, but more like one-man one-vote in a sense, and the population and the amount of the electricity used should determine roughly how many people from each State serve on the board.

So, if we are going to have the Secretary of Energy appoint members of the council and we are going to be run by Washington, D.C., then for goodness sakes, give us some kind of proportional representation even so because they do have to be appointed from each State.

Now I know and I realize that my dear friends from Idaho and my dear friends from Montana want equal representation. I do not blame them. I do not blame them a bit. But Montana, with 500,000 people affected in the Bonneville region and Washington, 3½ million, you would think there would be some differentiation on the representation on this council. The council, as I say, if it is found unconstitutional to be appointed by the Governors, will be appointed by the Secretary of Energy.

We have an unofficial letter from the Department of Justice advisory saying they believe that the appointment by the Governors is quite likely to be unconstitutional, so the likelihood—and the bill sponsors certainly must have felt so—because they put into the bill a provision saying if it is found unconstitutional the Secretary of Energy shall appoint for the next two Congresses the members of this council.

So, therefore, if the Secretary of Energy does appoint, or even if the Governors appoint, I am asking that there be more of a proportional representation on this council by population and the usage of energy. I would hope the amendment would pass.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment alters the amendment of the planning council as established under section 4 of the compromise bill.

As pointed out, the Commerce Committee reported out a bill with proportional representation. At that time we were acting on a Federal council, not on a State council. Now we have a State council which is regional in character, and this would permit two from each of the States involved.

Now, while there is disparity of population in the region, the States of the region, their members and those who have discussed the matter with us find this eminently successful and satisfactory. It should be pointed out that some States such as Washington have the population, but States like Montana and Idaho possess a large portion of the water and the coal and the other resources that are important to meeting the future needs of the region.

Since the Governors of the State and the officials of the State find this to be supportable, the Commerce Committee finds no objection to the compromise which lies before the committee at this particular time and happens to think that the two-member quality approach helps recognize the valid differences which exist in the region and differences which are accepted and recognized by all the Governors as justifying a two-member approach for each State.

I urge the rejection of the amendment, Mr. Chairman.

Mr. LUJAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is interesting that such an amendment should be offered. I notice that if you look at the balance, there are four persons from Washington and then four persons from both States combined, Idaho and Montana, and of course Oregon maintains the balance. The percentage, according to these numbers, gives a little higher weight to Oregon. And the other one, as under the bill, it is 2 out of 8. Here it is 3 out of 11.

Let me just say this has been worked out. It is one of the things that we finally came to agreement on. The four Governors agreed. The Senators from the States agreed. Ten or 12 of the 14 Members of the congressional delegations from those States agreed, and I just have a suspicion that if it were 4, 3, 2, and 2, that an agreement would be would be offered today to make it 6 or 12 or whatever other number it is.

So, Mr. Chairman, I just think that the offering of this amendment does not make a lot of sense. The States each are

even under the bill, and that may not be the same system, but that is what almost everybody else agreed to.

Thank you, Mr. Chairman.

Mr. BONKER. Mr. Chairman, I rise in opposition to the amendment. I do so reluctantly.

As the gentleman knows, for a long time I supported the amendment that provides for proportional representation, feeling very strongly that the council should be made up of members who would accurately reflect the populations of each of these States, but I also felt strongly that that council be independent and be broadly diversified. I feel that the compromise which has evolved through long and protracted debate on both committees, that we finally now have language that insures the council's independence, that it will be hopefully deliberative and allow for meaningful public input on regional energy decisions and also that it be a council that is broadly diverse in its makeup, representative of all of the States involved in the region.

It is an amendment or compromise that I was reluctant to support, but given the realities that exist of all of the States in the region and the Governors' strong support of an equally based public council, this is the only acceptable compromise that is before us.

To accept this amendment would, I think, defeat that compromise and thus defeat passage of the bill which I think is the author's intent.

I urge my colleagues to oppose this amendment and support the language that is in the bill.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman from Washington.

I appreciate the gentleman's statement and his support of the compromise. It was my amendment in the Committee on Interior and Insular Affairs which established the representation which we now have on the council, and I offered that amendment, as the gentleman knows, at the behest of the Governor of Montana, the Governor of Idaho and with the concurrence of the Governor of Oregon. I think this representation on this Council is vitally important both to the bill and to the forward momentum and equal representation which the council will bring to the region.

Mr. BONKER. I thank the gentleman and commend him for his cooperative efforts.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Oregon (Mr. WEAVER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WEAVER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. WEAVER. Mr. Chairman, I withdraw my point of order that a quorum is not present

The CHAIRMAN. The pending business is the demand of the gentleman from Oregon (Mr. WEAVER) for a recorded vote.

A recorded vote was refused.

So the perfecting amendment was rejected.

□ 1740

Mr. KAZEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHARP) having assumed the chair, Mr. MCHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through the use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 885, under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 7554. An act to amend the Federal securities laws to provide incentives for small business investment, and for other purposes;

H.R. 7865. An act to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy; and

H.J. Res. 610. Joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes.

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 610) entitled "Joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes," request a conference with the House of Representatives on the disagreeing votes of two Houses thereon, and appoints Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. BAYH, Mr. EAGLETON, Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. YOUNG, Mr. HATFIELD, Mr. STEVENS, Mr. MATHIAS, Mr. SCHWEIKER, Mr. BELLMON, Mr. WEICKER, Mr. MCCLURE, and Mr. SCHMITT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the Houses is requested:

S. 3027. An act to extend authorization for the Disaster Relief Act, and for other purposes.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 610, CONTINUING APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 610) making continuing appropriations for the fiscal year 1981, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi? The Chair hears none and, without objection, appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, ADDABBO, LONG of Maryland, YATES, MCKAY, BEVILL, ALEXANDER, DUNCAN of Oregon, BENJAMIN, DIXON, CONTE, MICHEL, MCDADE, ANDREWS of North Dakota, EDWARDS of Alabama, and YOUNG of Florida.

There was no objection.

Mr. CONTE. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Chair will indicate to the gentleman that his motion comes too late.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on the passage of the bill, H.R. 2545, on which further proceedings were postponed earlier today.

OSCAR JOHNSON LAKE

The SPEAKER pro tempore. The unfinished business is the passage of the bill, H.R. 2545.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2728, INDIAN HEALTH CARE IMPROVEMENT ACT AMENDMENTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2728) to amend the Indian Health Care Improvement Act and the Public Health

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. KAZEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from New York (Mr. MCHUGH) as Chairman of the Committee of the Whole and requests the gentleman from California (Mr. DANIELSON) to assume the chair temporarily.

☐ 1820

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 885, with Mr. DANIELSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. KAZEN) will be recognized for 30 minutes; the gentleman from New Mexico (Mr. LUJAN) will be recognized for 30 minutes; the gentleman from Washington (Mr. SWIFT) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. BROWN) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. DANIELSON, Chairman pro tempore of the Commitee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River power system to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. WAMPLER. On September 19, 1980, I am recorded as absent on rollcall No. 570 and rollcall No. 571. My absence occurred because of a need to depart Washington early enough to drive to Blacksburg, Va., in order to honor a prior commitment to address an evening meeting of the Association of Government Accountants.

Had I been present, I would have voted "nay" on rollcall No. 570, and "aye" on rollcall No. 571.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore laid before the House the following message from the Senate:

In the Senate of the United States, ordered that the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 2724) entitled "An act to extend authorization for law enforcement assistance at Corps of Engineers projects."

The SPEAKER pro tempore. Without objection, the request is agreed to.

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C., September 24, 1980.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on September 16, 1980:

CONSTRUCTION

Omaha, Nebraska: Federal Office Building, Parking Facility & Vehicle Maintenance Facility.

LEASES

Washington, D.C.: Railway Labor Building, 400 First Street, N.W.

Washington, D.C.: Reporters Building, 300 7th Street, S.W.

Washington, D.C.: Executive Building, 1030 15th Street, N.W.

Washington, D.C.: Tamoi Building, 4228 Wisconsin Avenue, N.W.

Washington, D.C.: 1325 G Street, N.W.

Washington, D.C.: Shoreham Building, 15th & H Streets, N.W.

Washington, D.C.: 1310 L Street, N.W.

Arlington, Virginia: Key Building, 1200 Wilson Boulevard.

Arlington, Virginia: Arlington Center Building, 4600 Fairfax Drive.

Arlington, Virginia: Magazine Building, 1815 North Lynn Street.

Arlington, Virginia: Crystal Square 5, 1755 Jefferson Davis Highway.

Arlington, Virginia: Crystal Plaza No. 5, 2211 Jefferson Davis Highway.

Hillcrest Heights, Maryland: World Weather Building, 5200 Auth Road.

San Francisco, California: Embarcadero Center, Department of Housing and Urban Development.

Seattle, Washington: Park Place Building, 1200 Sixth Avenue.

Lakewood, Colorado: Department of Energy and Western Area Power Administration.

Chicago, Illinois: Railroad Retirement Board.

Los Angeles, California: Defense Contract Administration.

The original and one copy of the authorizing resolutions are enclosed.

Sincerely,

HAROLD T. (BIZZ) JOHNSON,
Chairman.

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 15 minutes.

[Mr. COLLINS of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, due to official business in my district, I was not recorded on rollcall No. 571 on Friday, September 19. If I had been present, I would have voted "yes" on final passage of H.R. 85, the Comprehensive Oil Pollution Liability and Compensation Act.●

PRESIDENT CARTER'S REMARKS AT 100TH ANNIVERSARY DINNER OF POLISH NATIONAL ALLIANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, last Saturday evening I was present at the House of the White Eagle in Niles, Ill., where President Carter delivered a moving address to the 100th anniversary dinner of the Polish National Alliance. I am proud to be a longtime member of the alliance which is the largest ethnic fraternal organization in the United States. The 100-year history of the PNA is a story of enriching American life with enduring values of Polish culture, history, and tradition. The organization has never been more productive than it is now, which is no doubt due to the outstanding leadership qualities of its president, Aloysius A. Mazewski. President Carter's remarks were not only timely but, more important, were a powerful reaffirmation of his human rights policy. I would commend the President's address to my colleagues:

REMARKS OF THE PRESIDENT TO THE 100TH ANNIVERSARY DINNER OF THE POLISH NATIONAL ALLIANCE

Thank you. President Mazewski, Mayor Byrne, Mayor Blaise, Congressman Dan Rostenkowski, John Berry, former Congressman Roman Pucinski, Francis Meehan, our new American Ambassador to Poland, ladies and gentlemen. I knew that when I welcomed the Pope to the White House for the first time in America's history and spoke Polish in my welcome that everybody was going to do what I did and take the glory away from me as being the only one to welcome someone in Polish language. It was easy for me to understand what he said. I could get the words very clear—Taft, Carter, Brzezinski—and I know that many of you were in about the same shape I was.

I do want to thank your great president,

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. AKAKA presented a bill (H.R. 8209) for the relief of John Liuaki Botelho, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 54: Mr. BURGENER.
H.R. 4653: Mr. ALBOSTA.
H.R. 5062: Mr. HAWKINS.
H.R. 5225: Mr. HEFNER.
H.R. 6617: Mr. LOWRY.
H.R. 6722: Mr. FOWLER and Mr. STANGELAND.
H.R. 7050: Mr. KINDNESS and Mr. OBERSTAR.
H.R. 7287: Mr. GUARINI.
H.R. 7445: Mr. JEFFRIES and Mr. SPENCE.
H.R. 7533: Mr. VANDER JAGT.
H.R. 7793: Mr. OTTINGER.
H.R. 7796: Mr. SPENCE.
H.R. 7959: Mr. LAGOMARSINO, Mr. DERWINSKI, Mr. CLAUSEN, Mr. FRENZEL, and Mr. LUNGREN.
H.R. 8080: Mr. PEASE, Mr. LEHMAN, Mr. BARNES, Mr. BEDELL, and Mr. WOLPE.
H.R. 8148: Mr. HOLLAND.
H.R. 8169: Mr. BURGENER, Mr. WHITEHURST, Mr. RAHALL, and Mr. KOGOVSEK.
H.J. Res. 488: Mr. MCDADE and Mr. FORSYTHE.
H.J. Res. 511: Mr. D'AMOURS, Mr. SOLOMON, Mr. ROYBAL, Mr. PRITCHARD, Mr. BARNARD, Mr. BEARD of Tennessee, Mr. PURSELL, Mr. RODINO, Mr. LOEFFLER, Mr. MOORE, Mr. PREYER, Mr. NOWAK, Mr. NOLAN, Mr. PICKLE, Mr. GRAMM, Mr. BLANCHARD, Mr. STENHOLM, Mr. ANDREWS of North Dakota, Mr. JOHN L. BURTON, Mr. MAGUIRE, Mr. JEFFORDS, Mr. CLAUSEN, Mr. NATCHER, Mr. ABDNOR, Mr. LOWRY, Ms. FERRARO, Mr. SNYDER, Mr. LEVITAS, Mr. STAGGERS, Mr. ROBERTS, Mr. BEILENSON, Mr. ULLMAN, and Mr. CORMAN.
H.J. Res. 596: Mr. ST GERMAIN, Mr. RHODES, Mr. LLOYD, Mr. ROUSSELOT, Mr. CORCORAN, Mr. SEIBERLING, Mr. FORSYTHE, Mr. SOLOMON, Mr. CLINGER, Mr. SPENCE, Mr. JEFFORDS, Mr. GUARINI, Mr. SIMON, Mr. BOWEN, Mr. STEWART, Mr. STACK, Mr. LEDERER, Mr. WALGREN, Mr. WILLIAMS of Ohio, Mr. PEPPER, Mr. NOWAK, Mr. THOMAS, Mr. STENHOLM, Mr. MONTGOMERY, Mr. YATRON, Mr. WIRTH, Mr. ALBOSTA, Mr. LAFALCE, Mr. WON PAT, Mr. ABDNOR, Mr. MARRIOTT, Mr. ROTH, Mr. VENTO, Mr. MOLLOHAN, Mr. WALKER, Mr. ASHLEY, Mr. ALEXANDER, Mr. MCHUGH, Mr. ADDABBO, and Mr. ANDREWS of North Carolina.
H. Con. Res. 409: Mr. NEAL, Mr. MOFFETT, Mr. KRAMER, Mr. PEASE, Mr. STRATTON, and Mr. BEDELL.
H. Con. Res. 434: Mr. OBERSTAR, Mr. WAXMAN, Mr. HANLEY, Mr. WEAVER, Mr. PEPPER, Mr. HOLLENBECK, Mr. MAGUIRE, Mr. AUCOIN, Mr. HORTON, Mr. LEHMAN, Mr. DRINAN, Mr. HUGHES, Mrs. FENWICK, Mr. DORNAN, Mr. FISH, Mr. STACK, Mr. OTTINGER, Mr. RATCHFORD, Mr. LENT, Mr. FROST, Mr. ERTEL, Mr. EDGAR, Mr. DOWNEY, Mr. MURPHY of Pennsylvania, Mr. BLANCHARD, Mr. WIRTH, Mr. FORSYTHE, Mr. KEMP, Mr. MAVROULES, Mr. PORTER, Mr. DOUGHERTY, Mr. FAZIO, Mr. WHITEHURST, Mr. CORMAN, Mr. BEILENSON, Mr. EDWARDS of California, Mr. RICHMOND, Mr. BIAGGI, Mr. STARK, Mr. RODINO, Mr. CLEVELAND, Mr. LUNGREN, Mr. PEYSER, Mr. CONYERS, Mr. ATKINSON, Mr. COTTER, Mr. GREEN, Mr. MURPHY of New York, Mr. PHILLIP BURTON, Mr. KILDEE, Ms. MIKULSKI, Mr. GUARINI, Mr. SCHEUER, Mr. FORD of Tennessee, Mr. MATSUI, Mr. GARCIA, and Mr. GRADISON.

PETITIONS, ETC.

Under clause 1 of rule XXII,

538. The SPEAKER presented a memorial of the Legislature of the State of California, relative to commercial whaling, which was referred to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4370

By Mr. AMBRO:
—Page 11, after line 17, insert the following new subsection:

(h) No person may be issued a certificate under this section for construction or extension of a coal pipeline unless, before the issuance of the certificate, each State which has a legal interest in the ground water to be used and beneath whose lands any part of the ground water aquifer constituting any part of the source of the ground water to be used lies shall consent in writing to the use of its water before the issuance of the certificate.

Redesignate the subsequent subsection of section 101 accordingly.

H.R. 5615

By Mr. WEISS:
—On page 3, strike out lines 11 through 22, inclusive.

H.R. 6979

By Mr. AKAKA:
—On page 5, line 7, after Islands, insert subsection:

(4) Immediately after paragraph (5) insert the following new paragraph:

"(iv) Any transportation, conversion, treatment, transfer, or storage of alternative energy resources, including but not limited to those for ocean thermal and wind energy conversion systems, biomass, municipal waste, geothermal power, and solar energy."
—On page 11, line 23, after "coal." insert "or alternative energy sources.".

On page 12, line 14 after "storage;" insert "the number, capacity, and generated employment of alternative energy facilities and activities; and such other relevant factors deemed appropriate by the Secretary.".

H.R. 7112

By Mr. BOLAND:
—Page 3, line 13, immediately before the period insert "and, notwithstanding any other provision of this title, no unit of local government shall be entitled to an allocation calculated on the basis of a funding level in excess of the amount appropriated for the applicable entitlement period".

Page 4, line 7, strike "authorized" and insert in lieu thereof "appropriated".

Page 4, line 9, strike "authorized" and insert in lieu thereof "appropriated".
—Page 3, strike out line 6 and everything that follows through line 21 and insert in lieu thereof the following:

"(b) AUTHORIZATION OF APPROPRIATIONS FOR PAYMENTS TO LOCAL GOVERNMENTS.—

"(1) AUTHORIZATION FOR ENTITLEMENTS.—There are authorized to be appropriated to the Trust Fund $4,566,700,000 to pay the entitlements of units of local government hereinafter provided for the entitlement period beginning October 1, 1980, and ending September 30, 1981.

"(2) AUTHORIZATION FOR ALLOCATIONS.—There are authorized to be appropriated to the Trust Fund $4,566,700,000 to make allocations to units of local government as hereinafter provided for each of the entitlement periods—

"(A) beginning October 1, 1981, and ending September 30, 1982; and

"(B) beginning October 1, 1982, and ending September 30, 1983.

Page 4, strike out line 3 and everything that follows through line 12 and insert in lieu thereof the following:

SEC. 106. ALLOCATION AMONG STATES OF FUNDS FOR LOCAL GOVERNMENT.

"(a) IN GENERAL.—

"(1) ENTITLEMENTS BASED ON AUTHORIZATION.—There shall be allocated an entitlement to each State for the entitlement period beginning on October 1, 1980, and ending on September 30, 1981, out of amounts authorized under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).

"(2) ALLOCATION BASED ON APPROPRIATION.—There shall be allocated an amount to each State for the entitlement period beginning on or after October 1, 1981, out of amounts appropriated under section 105(b)(2) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).

By Mr. ENGLISH:
—Page 4, after line 2, insert the following new subsection:

"(d) PROHIBITION ON USE OF FUNDS FOR ABORTIONS.—None of the funds appropriated pursuant to this section shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

By Mr. GRAMM:
—Page 16, immediately before line 1 insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 104. EXCLUSION OF CERTAIN TAXES FROM TAX EFFORT COMPUTATIONS.

Section 109(c)(2)(A) of the State and Local Fiscal Assistance Act of 1972 is amended to read as follows:

"(A) TAXES TAKEN INTO ACCOUNT.—The State and local taxes taken into account under paragraph (1) are—

"(i) the compulsory contributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes,

"(ii) adjusted, to the extent practicable (under regulations prescribed by the Secretary), by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to the fraction of any tax the burden of which is not borne by the residents of such State.".

By Mr. LEVITAS:
(Amendment to the amendment offered by Mr. WYDLER.)
—Immediately before the period at the end of section 107 as proopsed to be inserted on page 6, after line 3, by the amendment of the gentleman from New York, insert the following: ", except that (1) no payment of any such allocation shall be made to any State unless the Secretary determines (in accordance with regulations prescribed by the Secretary) that such State has declined to receive or has refunded to the United States, from funds otherwise available to such State under any Federal categorical grant program (as identified in such regulations), an amount equal to such allocation, and (2) any funds which would otherwise be paid to a State but for clause (1) shall be transferred by the Secretary from the Trust Fund to the general fund of the Treasury in accordance with section 105(d)".

By Mr. PANETTA:

—Page 35, after line 22 insert the following new subsection:

"(d) NO PAYMENTS TO STATES RECEIVING GENERAL REVENUE SHARING PAYMENTS.—Notwithstanding subsection (a)(1), no payment shall be made to any State government with respect to any eligible calendar quarter which falls within an entitlement period (as defined in section 141(b) of this Act) for which there has been an appropriation of funds for payments to State governments under title I of this Act. Any funds which would, but for the preceeding sentence, be paid to State governments shall be transferred to the general fund of the Treasury.

By Mr. ROSENTHAL:

—Page 18, strike out line 10 and everything that follows through line 14 and insert in lieu thereof the following: "shall not exceed the product of the economic decline factor for such quarter multiplied by $10,000,000.".

S. 885

By Mr. CARR:

(Amendment to the amendment in the nature of a substitute.)

—Page 53, line 15 strike the period, add a colon and the following: "Provided, That the acquisition of a major resource as defined in section 3(12) shall be limited to 25 per centum of planned project capability."

—Page 53, line 15, strike the period, add a colon and the following: *"Provided,* That the acquisition of a major resource as defined in section 3(12) shall be limited to 30 per centum of planned project capability.".

—Page 53, line 15, strike the period, add a colon and the following: *"Provided,* That the acquisition of a major resource as defined in section 3(12) shall be limited to 40 per centum of planned project capability.",

—Page 47, line 2, strike the period, add a colon and the following: *"Provided,* That the Administrator shall no longer offer h direct service industrial customers availabi ity credits for electric power interruptions.".

By Mr. MILLER of California:

(Amendment to the amendment in the nature of a substitute.)

—Page 58, line 19, strike from "Act" through line 20 and insert in lieu the following: "legislation reported from the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

—Page 85, line 16, strike after "Facility" and through line 17 and insert in lieu the following: "Not utilizing renewable resources."

that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3904. An act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes;

H.R. 7825. An act to establish the Ice Age National Scenic Trail, and for other purposes; and

H.J. Res. 551. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

ADJOURNMENT

Mr. RATCHFORD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 24, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5357. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting notice of the proposed conversion of the motor vehicle operation and maintenance function at Fitzsimmons Army Medical Center, Colorado, to contractor performance, pursuant to section 806 of Public Law 96-107; to the Committee on Armed Services.

5358. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during August 1980, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

5359. A letter from the Comptroller General of the United States, transmitting a report on analytical framework for Federal policies and programs influencing capital formation in the United States (PAD-80-24, Sept. 23, 1980); to the Committee on Government Operations.

5360. A letter from the Secretary of Health and Human Services, transmitting a quarterly report on State compliance with medicaid utilization control requirements, pursuant to section 1903(g)(6) of the Social Security Act, as amended; to the Committee on Interstate and Foreign Commerce.

5361. A letter from the Acting Administrator, Energy Information Administration, transmitting reports covering the month of June 1980 on changes in market shares of refined petroleum products and of retail gasoline, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

5362. A letter from the Comptroller General of the United States, transmitting a report on nuclear nonproliferation policies, and the impact of such regulations on the international competitiveness of the U.S. nuclear industry (ID-80-42, Sept. 23, 1980); jointly, to the Committees on Government Operations and Foreign Affairs.

5363. A letter from the Comptroller General of the United States, transmitting a report discussing the U.S. nuclear fast breeder reactor program and possible directions to proceed in the future (EMD-80-81, Sept. 22, 1980); jointly, to the Committees on Government Operations and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. H.R. 6933. A bill entitled: "To amend the patent and trademark laws"; with amendments (Rept. No. 96-1307, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 791. Resolution providing for the consideration of S. 885. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River power system to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes (Rept. No. 96-1368). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2801. A bill to designate the Indian Health Facility in Ada, Okla., the "Carl Albert Indian Health Facility" (Rept. No. 96-1369). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2126. A bill relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation (Rept. No. 96-1370). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference on report on S. 1159 (Rept. No. 96-1371). Ordered to be printed.

Mr. JOHNSON of California: Committee on Public Works and Transportation. S. 1798. An act to reduce regulation of and increase competition in the household goods moving industry, and for other purposes; with amendment (Rept. No. 96-1372). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GEPHARDT:

H.R. 8182. A bill to amend the Internal Revenue Code of 1954 to provide, with respect to certain trusts created before December 31, 1977, a deduction from the gross estate for a charitable remainder interest in such a trust if such remainder interest is transferred free of trust to charity; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H.R. 8183. A bill to amend the Internal Revenue Code of 1954 to provide for the annual imposition and payment of the gift tax; to the Committee on Ways and Means.

By Mr. SOLARZ:

H.R. 8184. A bill to authorize $200 million to carry out a multiyear economic support fund program for Zimbabwe; to the Committee on Foreign Affairs.

By Mr. STEED (for himself, Mr. JONES of Oklahoma, Mr. ENGLISH, Mr. WATKINS, Mr. EDWARDS of Oklahoma, and Mr. SYNAR):

H.R. 8185. A bill to remove certain lands from the Wechita Mountains Wildlife Refuge, Okla.; to the Committee on Merchant Marine and Fisheries.

By Mr. WOLPE:

H.R. 8186. A bill to establish a Federal annuity program to compensate participants in private pension plans which terminated before July 1, 1974, for nonforfeitable pension benefits which were lost by reason of the terminations, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. FROST:

H.J. Res. 614. Joint resolution to authorize and request the President to proclaim November 28, 1980 as "Salvation Army Day"; to the Committee on Post Office and Civil Service.

By Mr. BONKER (for himself and Mr. PHILLIP BURTON):

H. Con. Res. 437. Concurrent resolution urging the Government of South Korea to fulfill its stated commitments to the democratization of South Korea and to commute the death sentence of Kimdae Jung; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

534. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the San Diego Naval Regional Medical Center; to the Committee on Armed Forces.

535. Also, memorial of the Legislature of the State of California, relative to drug labeling; to the Committee on Interstate and Foreign Commerce.

536. Also, memorial of the Legislature of the State of Louisiana, relative to a constitutional amendment to provide for the popular election of Federal judges; to the Committee on the Judiciary.

537. Also, memorial of the Legislature of the State of California, relative to shipbuilding and shipyard facilities; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HUBBARD introduced a bill (H.R. 8187) for the relief of Dr. Javad Najadi Sani, his wife, Parvin Nahvi, and their children, Roya N. Sani and Farhad N. Sani, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 581: Mr. MURPHY of New York.

H.R. 1918: Mr. CAVANAUGH.

H.R. 2813: Mr. ATKINSON.

H.R. 4646: Mr. WRIGHT.

H.R. 5211: Mr. GUYER.

H.R. 6579: Mr. KRAMER and Mr. PORTER.

H.R. 6977: Mr. LEDERER, Mr. ADDABBO, Mr. MILLER of California, Mr. CLAY, Mr. AUCOIN, Mrs. CHISHOLM, Mr. OTTINGER, Mr. MOFFETT, Mr. DOWNEY, and Mr. MURPHY of Illinois.

H.R. 7170: Mr. HINSON.

H.R. 7313: Ms. MIKULSKI, Mr. CHARLES WILSON of Texas, Mr. OBERSTAR, and Mr. GINGRICH.

H.R. 7436: Mr. NELSON.

H.R. 7688: Mr. MCCLOSKEY, Mr. BOWEN, Mr. SAWYER, Mr. FORD of Tennessee, Mr. CON-

sign entities in connection with the import or export activities of cooperatives which are borrowers from the banks for cooperatives, shall expire on September 30, 1985, unless extended by Act of Congress prior to that date. Any contract or agreement entered into under the authority of either provision prior to its expiration shall remain in full force and effect notwithstanding such expiration.".

S. 885

By Mr. AUCOIN

—On page 69, after line 17, insert:

"(n)(1) The Administrator may not acquire any resource derived from a new nuclear generating facility until such time as the Nuclear Regulatory Commission has licensed the operation of a permanent storage facility for high level nuclear waste and spent fuel from commercial nuclear generating facilities.

"(2) For purposes of this subsection, the term 'new nuclear generating facility' shall not include any nuclear generating facility for which a construction permit was issued by the Nuclear Regulatory Commission before the date of enactment of this Act.".

By Mr. CARR:

—Page 1, line 1, strike all after the enacting clause and insert in lieu thereof:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of content, may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.
Sec. 4. Regional planning and participation.
Sec. 5. Sale of power.
Sec. 6. Conservation and resource acquisition.
Sec. 7. Rates.
Sec. 8. Amendments to existing law.
Sec. 9. Administrative provisions.
Sec. 10. Savings provision.
Sec. 11. Effective Date.

PURPOSES

SEC. 2. The purposes of this Act, all of which are to be consistent with applicable provisions of environmental and other laws, are—

(1) to encourage, through the unique opportunity provided by the Federal Columbia River Power System, conservation and efficiency in the use of electric power and the development of renewable resources within the Pacific Northwest;

(2) to assure the Pacific Northwest an adequate, efficient, economical, and reliable power supply;

(3) to provide for the participation and consultation of the Pacific Northwest States, local governments, consumers, customers, users of the Columbia River System (including Federal and State fish and wildlife agencies and appropriate Indian tribes), and the public at large within the region in the development of regional plans and programs related to energy conservation, renewable resources, other resources, and in achieving the purposes of this Act to facilitate the orderly planning of the region's power system, to provide environmental quality, and to protect, mitigate, and enhance the fish and wildlife resources;

(4) to provide that the customers of the Bonneville Power Administration and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System;

(5) to insure; subject to the provisions of this Act—

(A) that the authorities and responsibilities of State and local governments, electric utility systems, water management agencies, and other non-Federal entities for the regulation, planning, conservation, supply, distribution, and use of electric power shall be construed to be maintained, and

(B) that Congress intends that this Act not be construed to limit or restrict the ability of customers to take actions in accordance with other applicable provisions of Federal or State law, including, but not limited to, actions to plan, develop, and operate resources and to achieve conservation, without regard to this Act; and

(6) to protect, mitigate, and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries, particularly anadromous fish which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other facilities on the Columbia River and its tributaries.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Acquire" and "acquisition" shall not be construed as authorizing the Administrator to construct, or have ownership of, under this Act or any other law, any electric generating facility.

(2) "Administrator" means the Administrator of the Bonneville Power Administration.

(3) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production, or distribution.

(4)(A) "Cost-effective", when applied to any measure or resource referred to in this Act, means that such measure or resource must be forecast—

(i) to be reliable and available within the time it is needed, and

(ii) to meet or reduce the electric power demand, as determined by the Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof.

(B) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, among other factors, waste disposal costs, end-of-cycle costs, decommissioning costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administration determines, on the basis of a methodology developed by the Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource.

(5) "Consumer" means any end user of electric power.

(6) "Council" means, unless otherwise specifically provided, the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established by this Act.

(7) "Customer" means anyone who contracts for the purchase of power from the Administrator pursuant to this Act.

(8) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(9) "Electric power" means electric peaking capacity, or electric energy, or both.

(10) "Federal base system resources" means—

(A) the Federal Columbia River Power System hydroelectric projects;

(B) resources acquired by the Administrator under long-term contracts in force on the effective date of this Act; and

(C) resources acquired by the Administrator in an amount necessary to replace reductions in capability of the resources referred to in subparagraphs (A) and (B).

(11) "Indian tribe" means any Indian tribe or band with a governing body duly recognized by the Secretary of the Interior.

(12) "Major resource" means any resource that—

(A) has a planned capability greater than fifty average megawatts, and

(B) if acquired by the Administrator, is acquired for a period of more than five years but does not mean any resource acquired pursuant to section 11(b)(6) of the Federal Columbia River Transmission System Act.

(13) "New large single load" means any load associated with a new facility, an existing facility, or an expansion of an existing facility—

(A) which is not contracted for, or committed to, as determined by the Administrator, by a public body, cooperative, investor-owned utility, or Federal agency customer, as applicable prior to September 1, 1979, and

(B) which will result in an increase in power requirements of ten average megawatts or more in any consecutive twelve-month period.

(14) "Pacific Northwest", "region", or "regional" means—

(A) the area consisting of the State of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(B) any contiguous areas, not in excess of seventy-five air miles from the area referred to in subparagraph (A), which are a part of the service area of a rural electric cooperative customer served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without such region.

(15) "Plan" means the Regional Electric Power and Conservation plan adopted pursuant to this Act and such plan shall apply to actions of the Administrator as specified in this Act.

(16) "Renewable resource" means a resource which utilizes solar, wind, hydro, geothermal, biomass, or similar sources of energy and which either is used for electric power generation or will reduce the electric power requirements of a consumer, including by direct application.

(17) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator—

(A) from resources, or

(B) from rights to interrupt, curtail, or otherwise withdraw, as provided by specific

contract provisions, portions of the electric power supplied to customers.

(18) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electric loads or uses, but only the first four hundred horsepower during any monthly billing period of farm irrigation and pumping for any farm.

(19) "Resource" means—

(A) electric power, including the actual or planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

(20) "Secretary" means the Secretary of Energy.

REGIONAL PLANNING AND PARTICIPATION

SEC. 4. (a)(1) To facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and the United States pursuant to this Act, there is established the Pacific Northwest Electric Power and Conservation Planing Council, which shall have its offices in the Pacific Northwest. The Council shall be composed of eight members, and shall be considered formed when at least six members have been appointed.

(2) The Governors of Idaho, Montana, Oregon, and Washington may appoint, subject to applicable State law, two members from their respective States to carry out the functions of Council members set forth in this Act. The applicable State authorities and appointing actions of the States shall constitute an agreement to the exercise by the Council of the functions set forth in this Act, to which the Congress hereby consents.

(3) Members of the Council appointed pursuant to section 4(a)(2) shall—

(A) serve until June 30 of the third twelvemonth period following the date of their appointment, unless otherwise provided by State law;

(B) be subject to removal in accordance with the provisions of State law;

(C) be compensated according to such State law from funds available pursuant to paragraph (14); and

(D) be deemed to be officers or employees of their respective States, and not of the United States.

(4)(A) If the Governors have not appointed at least six Council members by April 30, 1981, or if, for any other reason the Council set forth in paragraph (2) is unable to be formed or is held by a United States court of appeals to be unable to perform substantially all of its functions, the Secretary shall temporarily appoint two members from each of the States of Washington, Oregon, Idaho, and Montana to serve on an interim basis until such time as Congress or the States act to cure any impediment to the appointment of Council members pursuant to paragraph (2). Any appointments by the Secretary under this paragraph shall be made in a manner designed to assure continuity of the Council's functions and to minimize any possible disruption of the Council's activities during such interim period. Unless extended by the Congress, the interim Council appointed pursuant to this paragraph shall terminate at the end of the second full Congress following the first temporary appointment.

(B) Within one year after making any such temporary appointment pursuant to this paragraph, the Secretary, in consultation with the Governors of the Pacific Northwest States, shall formally submit to the appropriate committees of Congress recommended legislation that will permit members to be appointed by the Governors in the manner set forth in paragraph (2). The Secretary shall make quarterly reports to the Governors on the progress of such legislation until its enactment and to Congress as to whether the interim Council should be extended or any other recommendations for legislation or other action which the Secretary recommends should be taken, following termination of the Council, to continue carrying out the purposes for which the Council was established.

(C) If members are appointed by the Secretary on an interim basis pursuant to this paragraph, they shall (i) receive compensation under the General Schedule at a rate equivalent to the salary of members appointed from the same State by the Governor pursuant to paragraph (2); (ii) be considered during their temporary appointments, officers or employees of the United States for purposes of title II of the Ethics in Government Act of 1978 (5 U.S.C. app.); and (iii) be allowed travel expenses, including per diem in lieu of subsistence expenses, in addition to the compensation provided in this paragraph.

(D) In the event the Congress fails to extend the interim Council or enact legislation to cure any impediment to the appointment of Council members pursuant to paragraph (2), the Administrator may not implement any proposal to acquire a major generating resource or to grant billing credits or services involving a major generating resource until the expenditure of funds for that purpose has been specifically approved by Act of Congress.

(5) A majority of the members of the Council shall constitute a quorum. Except as otherwise provided specifically in this Act, all actions and decisions of the Council shall be by majority vote of the voting members present and voting. The plan or any part thereof and any amendment thereto shall not be approved unless such plan or amendment receives the votes of (A) a majority of the members appointed to the Council, including the vote of at least one member from each State; or (B) at least six members of the Council.

(6) The members of the Council shall select from among themselves a Chairman for the Council. The Council shall meet at the call of the Chairman or upon the request of a majority of the members of the Council. If any member of the Council disagrees with respect to any matter transmitted to any Federal or State official or any other person or wishes to express additional views concerning such matter, such member may submit a statement to accompany such matter setting forth the reasons for such disagreement or views.

(7) The Council shall appoint, and may assign and delegate duties to such executive and administrative personnel as the Council deems necessary to fulfill its functions under this Act, taking into account such information and analyses as are, or are likely to be, available from other sources pursuant to provisions of this Act. No person appointed by the Council shall be deemed to be an employee of the United States.

(8) Upon request of the Council, the head of any Federal agency is authorized to detail to the Council, on a reimbursable basis, any of the personnel of such agency to assist the Council in the performance of its functions under this Act.

(9) To obtain such information and advice as the Council determines to be necessary or appropriate to carry out the purposes of this Act, the Council shall, to the greatest extent practicable, solicit engineering, economic, social, environmental, and other technical studies from customers of the Administrator and from other bodies or organizations in the region with particular expertise.

(10) The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions under this Act. The Council shall make available to the public a statement of its organization, practices, and procedures, and make available to the public its annual work program budget at the time the President submits his annual budget to Congress.

(11) The Administrator and other Federal agencies, to the extent authorized by other provisions of law, shall furnish the Council all information requested by the Council as necessary for performance of its functions, subject to such requirements of law concerning trade secrets and proprietary data as may be applicable.

(12)(A) At the request of the Council, the Administrator shall pay from funds available to the Administrator the compensation and other expenses of the Council as are authorized by this Act and as the Council determines are necessary or appropriate for the performance of its functions including financial support to those States which have appointed members to the Council pursuant to section 4(a)(2) for their participation in the Council and activities of the State related thereto. Funds for such payments shall be included by the Administrator in his annual budgets submitted to Congress pursuant to the Federal Columbia River Transmission System Act and shall be subject to the requirements of that Act, including the audit requirements of section 11(d). Such funds shall not exceed annually an amount equal to 0.02 mill multiplied by the kilowatt hours sold by the Administrator during the preceding calendar year. In order to assist the Council's initial organization, the Administrator after the enactment of this Act shall promptly prepare and propose an amended annual budget to expedite payment for Council activities.

(B) Notwithstanding the limitation contained in the third sentence of subparagraph (A), upon an annual showing by the Council that such limitation will not permit the Council to carry out its functions under this Act, the Administrator may raise such limit up to any amount not in excess of 0.10 mill multiplied by the kilowatt hours sold by the Administrator during the preceding calendar year.

(b)(1) The Council shall, subject to applicable law, establish a voluntary scientific and statistical advisory committee to assist in the development, collection, and evaluation of such statistical, biological, economic, social, environmental, and other scientific information as is relevant to the Council's development and amendment of a regional conservation and electric power plan.

(2) The Council may, subject to applicable law, establish such other voluntary advisory committees as it determines are necessary or appropriate to assist it in carrying out its functions under this Act.

(c) The Council shall ensure that the membership of any advisory committee established or formed pursuant to subsection (b) of this section shall, to the greatest extent feasible, be composed of representatives of, and seek the advice of, the various Federal, State, and Indian Tribal Governments, consumer groups, and customers whose interests are or may be directly or indirectly substantially affected by the recommendations of such advisory committees.

(d) Within two years after the effective date of this Act, the Council shall prepare, adopt, and promptly transmit to the Administrator a regional conservation and electric power plant. The adopted plan, or any portion thereof, may be amended from time to time, and shall be reviewed by the Council not less frequently than once every five years. Prior to such adoption, public hearings shall be held in each Council member's State on the plan or substantial, nontechnical amendments to the plan proposed by the Council for adoption. A public hearing shall also be held in any other State of the region on the plan or amendments thereto, if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which

may be developed in that State and which the Administrator may seek to acquire. Action of the Council under this subsection concerning such hearings shall be subject to section 553 of title 5, United States Code and such procedures as the Council shall adopt.

(e)(1) The plan shall, as provided in this paragraph, give priority to resources which the Council determines to be cost effective. Priority shall be given: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources.

(2) The plan shall set forth a general scheme for implementing conservation measures and developing resources pursuant to section 6 of this Act to reduce or meet the Administrator's obligations with due consideration by the Council of (A) environmental quality, (B) compatibility with the existing regional power system, (C) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, and (D) other criteria which may be set forth in the plan.

(3) To accomplish the priorities established by this subsection, the plan shall include the following elements which shall be set forth in such detail as the Council determines to be appropriate:

(A) an energy conservation program to be implemented under this Act including, but not limited to, model conservation standards;

(B) recommendations for research and development;

(C) a methodology for determining quantifiable environmental costs and benefits under section 3(4);

(D) a demand forecast of at least twenty years (developed in consultation with the Administrator, the customers, the States, including State agencies with ratemaking authority over electric utilities, and the public, in such manner as the Council deems appropriate) and a forecast of power resources estimated by the Council to be required to meet the Administrator's obligations and the portion of such obligations the Council determines can be met by resources in each of the priority categories referred to in paragraph (1) which forecast (i) shall include regional reliability and reserve requirements, (ii) shall take into account the effect of the requirements of subsection (h) on the availability of resources to the Administrator, and (iii) shall include the approximate amounts of power the Council recommends should be acquired by the Administrator on a long-term basis and the types of resources from which such power should be acquired;

(E) an analysis of reserve and reliability requirements and cost-effective methods of providing reserves designed to insure adequate electric power at the lowest probable cost;

(F) the program adopted pursuant to subsection (h); and

(G) if the Council recommends surcharges pursuant to subsection (f), a methodology for calculating such surcharges.

(4) The Council shall undertake studies of conservation measures reasonably available to direct service industrial customers and other major consumers of electric power within the region and make an analysis of the estimated reduction in energy use which would result from the implementation of such measures as rapidly as possible, consistent with sound business practices. The Council shall include in such study and analysis estimates of financial assistance to the extent such assistance might be necessary for particular conservation measures to be implemented.

(f)(1) Model conservation standards to be included in the plan shall include, but not be limited to, standards applicable to (A) new and existing structures, (B) utility, customer, and governmental conservation programs, and (C) other consumer actions for achieving conservation. Model conservation standards shall reflect geographic and climatic differences within the region and other appropriate considerations, and shall be designed to produce all power savings that are cost-effective for the region and economically feasible for consumers through financial assistance made available to consumers under section 6(a) of this Act. These model conservation standards shall be adopted by the Council and included in the plan after consultation, in such manner as the Council deems appropriate, with the Administrator, States, and political subdivisions, customers of the Administrator, and the public.

(2) The Council by a majority vote of the members of the Council is authorized to recommend to the Administrator a surcharge and the Administrator shall thereafter impose such a surcharge, in accordance with the methodology provided in the plan, on customers for those portions of their loads within the region that are within States or political subdivisions which have not, or on the Administrator's customers which have not, implemented conservation measures applicable to such customers that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such standards. Such surcharges shall be established to recover such additional costs as the Administrator determines will be incurred because such projected energy savings attributable to such conservation measures have not been achieved, but in no case may such surcharges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g) To insure widespread public involvement in the formulation of regional power policies, the Council and Administrator shall—

(1) take into account, and give due consideration to, the results of the voting in any election bearing on those policies held in those States, or subdivisions thereof, which comprise the region, as defined in section 3(14), and

(2) maintain comprehensive programs to—

(A) inform the Pacific Northwest public of major regional power issues,

(B) obtain public views concerning major regional power issues, and

(C) secure advice and consultation from the Administrator's customers and others.

(h)(1)(A) The Council shall develop and adopt, pursuant to this subsection, a program to protect, mitigate, and enhance fish and wildlife, including habitat, on the Columbia River and its tributaries. Because of the unique history, problems and opportunities presented by the development and operation of the hydroelectric facilities on the Columbia River and its tributaries, the program shall be designed to deal with that river and its tributaries as a system, As a result, this subsection shall be applicable solely to fish and wildlife, including habitat, located on the Columbia River and its tributaries. Nothing in this subsection shall alter, modify or affect in any way the laws applicable to other rivers, river systems, or electric power facilities, or affect the rights and obligations of any agency, entity, or person under such laws.

(B) The Council shall request in writing promptly after the effective date of this Act and prior to the development or review of the plan, or any major revision thereto, from the Federal and the region's State fish and wildlife agencies and the region's appropriate Indian tribes, recommendations for—

(i) measures which the Administrator, using authorities under this Act and other laws, and other Federal agencies can implement to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries;

(ii) objectives for the development and operation of projects of the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife, and

(iii) fish and wildlife management coordination and research and development (including funding) which, among other things, will assist protection, mitigation and enhancement of anadromous fish at and between the region's hydroelectric dams.

(C)(i) Agencies and tribes shall have ninety days to respond to such request, unless the Council extends the time for making such recommendations. The Federal and the region's water management agencies, and the region's electric power producing agencies, customers, and public may submit recommendations of the type referred to in subparagraph (1)(B), and comments on the recommendations submitted by agencies and tribes, within such reasonable time as the Council shall provide. All recommendations shall be accompanied by detailed information and data in support of the recommendations.

(ii) The Council shall give notice of all recommendations and shall make recommendations and supporting documents available to the Administrator, to the Federal and the region's State fish and wildlife agencies, to the appropriate Indian tribes, to Federal agencies responsible for managing, operating or regulating hydroelectric facilities located on the Columbia River or its tributaries, and to any customer or other electric utility which owns or operates any such facility. Upon request, notice shall also be given to members of the public, and copies of recommendations and supporting documents shall be made available at reasonable cost. The Council shall provide opportunities for public participation and comment regarding the recommendations and supporting documents by conducting hearings or by other appropriate means.

(iii) Thereafter, the Council shall develop a program on the basis of recommendations, supporting documents, and relevant additional views and information. The program shall consist of measures to protect, mitigate and enhance fish and wildlife affected by the development or operation of such facilities while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. Enhancement measures shall be included in the program to the extent they satisfy the criteria of this subsection and are designed to achieve protection and mitigation.

(iv) Measures included in the program shall—

(1) complement the existing and future activities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes;

(2) be based on and supported by the best available scientific knowledge;

(3) achieve sound biological objectives at minimum economic cost for each objective;

(4) be consistent with the legal rights of appropriate Indian tribes in the region;

and, in the case of anadromous fish;

(5) provide for improved survival of such fish at hydroelectric facilities located on the Columbia River system; and

(6) provide flows of sufficient quality and quantity between such facilities to improve production, migration and survival of such fish as necessary to meet sound biological objectives.

(v) The Council shall determine whether each recommendation received is consistent

with the purposes of this Act. In the event such recommendations are inconsistent with each other, the Council, in consultation with appropriate entities, shall resolve such inconsistency in the program giving due weight to the recommendations, expertise, and legal rights and responsibilities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes. If the Council does not adopt any recommendation as part of the program, it shall explain in writing, as part of the program, the basis for its finding that the adoption of such recommendation would be—

(1) inconsistent with the purposes of the Act;

(2) inconsistent with the standards for the program established in this paragraph; or

(3) less effective than the adopted recommendations for the protection, mitigation, and enhancement of fish and wildlife.

(vi) The Council shall recognize, in developing and adopting a program pursuant to this subsection, the following additional principles:

(1) enhancement measures may be used, in appropriate circumstances, as a means of achieving offsite protection and mitigation with respect to compensation for losses arising from the development and operation of the hydroelectric facilities of the Columbia River and its tributaries as a system,

(2) consumers of electric power shall bear the cost of measures designed to deal with adverse impacts caused by the development and operation of electric power facilities and programs only,

(3) monetary costs and electric power losses resulting from the implementation of the program shall be allocated by the Administrator consistent with individual project impacts and system-wide objectives pursuant to paragraph (2) of this subsection, and

(4) to the extent the program provides for coordination of its measures with additional measures (including additional enhancement measures and measures to deal with impacts caused by factors other than the development and operation of electric power facilities and programs), such additional measures are to be implemented in accordance with agreements among the appropriate parties providing for the administration and funding of such additional measures.

(vii) The Council shall adopt such program within one year of the time provided for receipt of the recommendations in section 4(h)(1)(B). Such program shall also be included in the plan adopted by the Council under subsection (d). The Council's actions pursuant to this paragraph shall be subject to judicial review under the provisions of section 9(e).

(2)(A) The Administrator shall use the Bonneville Power Administration fund and appropriations, if any, and the authorities available to the Administrator under this Act and other laws administered by the Administrator, to protect, mitigate, and enhance the fish and wildlife to the extent affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries in a manner consistent with the plan, the program adopted by the Council under section 4(h)(1), the purposes of this Act, and the provisions of other laws. Expenditures of the Administrator pursuant to this paragraph shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(B) The Administrator may make expenditures from such fund for such purposes which shall have been included in the annual or supplementary budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act. Any amounts included in such budget for the construction of capital facilities with an estimated life of greater than five years or an aggregate capital cost of over $1 million shall be funded as provided in the appropriation Acts from the proceeds of bonds issued by the Administrator pursuant to section 13 of the Federal Columbia River Transmission System Act or from appropriations, including appropriations to other Federal agencies for such purposes.

(C) The amounts expended by the Administrator for each activity pursuant to this subsection shall be allocated as appropriate by the Administrator, in consultation with the Corps of Engineers and the Water and Power Resources Service, among the various hydroelectric projects of the Federal Columbia River Power System. Amounts so allocated shall be further allocated to the various project purposes in accordance with existing accounting procedures for the Federal Columbia River Power System.

(3)(A) The Administrator and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River or its tributaries shall—

(i) exercise such responsibilities in coordination with one another, consistent with the purposes of this Act and other applicable laws, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated under other provisions of law;

(ii) exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under paragraph (1).

If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with paragraph (2) of this subsection.

(B) The Administrator and such Federal agencies shall consult with the Secretary of the Interior, the Assistant Administrator for the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes and affected project operators in carrying out the provisions of this paragraph.

(4) Beginning on October 1 of the first fiscal year after all members to the Council are appointed initially, the Council shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate and to the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs of the House of Representatives. The report shall describe the actions taken and to be taken by the Council under this section including this subsection, the effectiveness of the fish and wildlife program, and potential revisions or modifications to the program to be included in the plan. At least ninety days prior to its submission of such report, the Council shall make available to such fish and wildlife agencies, and tribes, the Administrator and the customers a draft of such report. The Council shall establish procedures for timely comments thereon. The Council shall include as an appendix to such report such comments or a summary thereof. The Administrator shall keep such committees fully and currently informed of the actions taken and to be taken by the Administrator under this Act, including this subsection.

(5) If, after one year from the effective date of this Act, the Council is unable to be formed or to perform its functions under the provisions of this subsection, the Administrator shall, upon request of the region's State and Federal fish and wildlife agencies or appropriate Indian tribes, carry out the development of a program in accordance with the provisions of this subsection, until such time as the Council is formed or the Administrator determines it is able to perform its functions.

(i) In carrying out the provisions of this section, the Council and the Administrator shall—

(1) consult with the Administrator's customers;

(2) include the comments of such customers in the record of the Council's proceedings; and

(3) recognize and not abridge the authorities of State and local governments, electric utility systems, and other non-Federal entities responsible to the people of the Pacific Northwest for the planning, conservation, supply, distribution, and use of electric power and the operation of electric generating facilities.

(j) In the preparation, adoption, and implementation of the plan, the Council and the Administrator shall encourage the cooperation, participation, and assistance of appropriate Federal agencies, State entities, State political subdivisions, and Indian tribes. The Council and the Administrator are authorized to contract, in accordance with applicable law, with such agencies, entities, tribes, and subdivisions individually, in groups, or through associations thereof to (1) investigate possible measures to be included in the plan, (2) provide public involvement and information regarding a proposed plan or amendment thereto, and (3) provide services which will assist in the implementation of the plan. In order to assist in the implementation of the plan, particularly conservation, renewable resource, and fish and wildlife activities, the Administrator, when requested and subject to available funds, may provide technical assistance in establishing conservation, renewable resource, and fish and wildlife objectives by individual States or subdivisions thereof or Indian tribes. Such objectives, if adopted by a State or subdivision thereof or Indian tribes, may be submitted to the Council and the Administrator for review, and upon approval by the Council may be incorporated as part of the plan.

SALE OF POWER

SEC. 5. (a) All power sales under this Act shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937 (16 U.S.C.. 832 and following) and, in particular, sections 4 and 5 thereof. Such sales shall be at rates established pursuant to section 7.

(b)(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 and to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the region to the extent that such firm power load exceeds—

(A) the capability of such entity's firm peaking and energy resources used in the year prior to the enactment of this Act to serve its firm load in the region, and

(B) such other resources as such entity determines, pursuant to contracts under this Act, will be used to serve its firm load in the region.

In determining the resources which are used to serve a firm load, for purposes of subpar-

agraphs (A) and (B), any resources used to serve a firm load under such subparagraphs shall be treated as continuing to be so used, unless such use is discontinued with the consent of the Administrator, or unless such use is discontinued because of obsolescence, retirement, loss of resource, or loss of contract rights.

(2) Contracts with investor-owned utilities shall provide that the Administrator may reduce his obligations under such contracts in accordance with section 5(a) of the Bonneville Project Act of 1937.

(3) In addition to his authorities to sell electric power under paragraph (1), the Administrator is also authorized to sell electric power to Federal agencies in the region.

(4) Sales under this subsection shall be made only if the public body, cooperative, Federal agency or investor-owned utility complies with the Administrator's standards for service in effect on the effective date of this Act or as subsequently revised.

(5) The Administrator shall include in contracts executed in accordance with this subsection provisions that enable the Administrator to restrict his contractual obligations to meet the loads referred to in this subsection in the future if the Administrator determines, after a reasonable period of experience under this Act, that the Administrator cannot be assured on a planning basis of acquiring sufficient resources to meet such loads during a specified period of insufficiency. Any such contract with a public body, cooperative, or Federal agency shall specify a reasonable minimum period between a notice of restriction and the earliest date such restriction may be imposed.

(6) Contracts executed in accordance with this subsection with public body, cooperative, and Federal agency customers shall—

(A) provide that the restriction referred to in paragraph (5) shall not be applicable to any such customers until the operating year in which the total of such customers' firm loads to be served by the Administrator equals or exceeds the firm capability of the Federal base system resources;

(B) not permit restrictions which would reduce the total contractual entitlement of such customers to an amount less than the firm capability of the Federal base system resources; and

(C) contain a formula for determining annually, on a uniform basis, each such customer's contractual entitlement to firm power during such a period of restriction, which formula shall not consider customer resources other than those the customer has determined, as of the effective date of this Act, to be used to serve its own firm loads.

The formula referred to in subparagraph (C) shall obligate the Administrator to provide on an annual basis only firm power needed to serve the portion of such customer's firm load in excess of the capability of such customer's own firm resources determined by such customer under paragraph (1) to be used to serve its firm load.

(c)(1) Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.

(2) The purchase and exchange sale referred to in paragraph (1) with any electric utility shall be limited to an amount not in excess of 50 per centum of such utility's regional residential load in the year beginning July 1, 1980, such 50 per centum limit increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985, and each year thereafter.

(3) The cost benefits, as specified in contracts with the Administrator, of any purchase and exchange sale referred to in paragraph (1) which are attributable to any electric utility's residential load within a State shall be passed through directly to such utility's residential loads within such State, except that a State which lies partially within and partially without the region may require that such cost benefits be distributed among all of the utility's residential loads in that State.

(4) An electric utility may terminate, upon reasonable terms and conditions agreed to by the Administrator and such utility prior to such termination, its purchase and sale under this subsection if the supplemental rate charge provided for in section 7(b)(3) is applied and the cost of electric power sold to such utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by such utility to the Administrator under this subsection.

(5) Subject to the provisions of sections 4 and 6, in lieu of purchasing any amount of electric power offered by a utility under paragraph (1), the Administrator may acquire an equivalent amount of electric power from other sources to replace power sold to such utility as part of an exchange sale if the cost of such acquisition is less than the cost of purchasing the electric power offered by such utility.

(6) Exchange sales to a utility pursuant to this subsection shall not be restricted below the amounts of electric power acquired by the Administrator from, or on behalf of, such utility pursuant to this subsection.

(7) The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. Such average system cost shall not include—

(A) the cost of additional resources in an amount sufficient to serve any new large single load of the utility;

(B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and

(C) any costs of any generating facility which is terminated prior to initial commercial operation.

(d)(1)(A) The Administrator is authorized to sell in accordance with this subsection electric power to existing direct service industrial customers. Such sales shall provide a portion of the Administrator's reserves for firm power loads within the region.

(B) After the effective date of this Act, the Administrator shall offer in accordance with subsection (g) to each existing direct service industrial customer an initial long-term contract that provides such customer an amount of power equivalent to that to which such customer is entitled under its contract dated January or April 1975 providing for the sale of "industrial firm power".

(2) The Administrator shall not sell electric power, including reserves, directly to new direct service industrial customers.

(3) The Administrator shall not sell amounts of electric power, including reserves, to existing direct service industrial customers in excess of the amount permitted under paragraph (1) unless the Administrator determines that such proposed sale is consistent with the plan and that—

(A) additional power system reserves are required for the region's firm loads,

(B) the proposed sale would provide a cost-effective method of supplying such reserves,

(C) such loads or loads of similar character cannot provdie equivalent operating or planning benefits to the region if served by an electric utility under contractual arrangements providing reseerves, and

(D) the Administrator has or can acquire sufficient electric power to serve such loads, and

unless the Council has approved such sale by majority vote. After such determination and approval, the Administrator is authorized to offer to existing direct service industrial customers power in such amounts in excess of the amount permitted under paragraph (1) as the Administrator determines to be necessary to provide additional power system reserves to meet the region's firm loads.

(4)(A) As used in this section, the term "existing direct service industrial customer" means any direct service industrial customer of the Administrator which has a contract for the purchase of electric power from the Administrator on the effective date of this Act and which has before such effective date received electric power from the Administrator pursuant to such contract.

(B) The term "new direct service industrial customer" means any industrial entity other than an existing direct service industrial customer.

(e)(1) The contractual entitlement to firm power of any customer from whom, or on whose behalf, the Administrator has acquired electric power pursuant to section 6 may not be restricted below the amount of electric power so acquired from, or on behalf of, such customer. If in any year such customer's requirements are less than such entitlement, any excess of such entitlement shall be first made available to increase the entitlement of other customers of the same class before being available for the entitlement of other customers. For purposes of this paragraph, the following entities shall each constitute a class:

(A) public bodies and cooperatives;

(B) Federal agencies;

(C) direct service industrial; and

(D) investor-owned utilities.

(2) Any contractual entitlement to firm power which is based on electric power acquired from, or on behalf of, a customer pursuant to section 6 shall be in addition to any other contractual entitlement to firm power not subject to restriction that such customer may have under this section. For the purposes of this subsection, references to amounts of power acquired by the Administrator pursuant to section 6 shall be deemed to mean the amounts specified in the resource acquisition contracts exclusive of any amounts recognized in such contracts as replacement for Federal base system resources.

(3) The Administrator shall, consistent with the provisions of this Act, insure that any restrictions upon any particular customer class made pursuant to this subsection and subsection (b) are distributed equitably throughout the region.

(f) The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsection (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator, including the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), and the Act of August 31, 1964 (16 U.S.C. 837–837h).

(g)(1) As soon as practicable within nine months after the effective date of this Act, the Administrator shall commence necessary negotiations for, and offer, initial long-term contracts (within the limitations of the third sentence of section 5(a) of the Bonneville Project Act) simultaneously to—

(A) existing public body and cooperative customers and investor-owned utility customers under subsection (b);

(B) Federal agency customers under subsection (b);

(C) electric utility customers under subsection (c); and

(D) direct service industrial customers under subsection (d)(1).

(2) Each customer offered a contract pursuant to this subsection shall have one year from the date of such offer to accept such contract. Such contract shall be effective as provided in this subsection.

(3) An initial contract with a public body, cooperative, or investor-owned electric utility customer or a Federal agency customer pursuant to subsection (b) shall be effective on the date executed by such customer, unless another effective date is otherwise agreed to by the Administrator and the customer.

(4) An initial contract with an electric utility customer pursuant to subsection (c) shall be effective on the date executed by such customer, but no earlier than the first day of the tenth month after the effective date of this Act.

(5) An initial contract with a direct service industrial customer pursuant to subsection (d)(1) shall be effective on the date agreed upon by the Administrator and such customer, but no later than the first day of the tenth month after the effective date of this Act. When such contract is executed, it may for rate purposes be given retroactive effect to such first day.

(6) Initial contracts offered public body, cooperative, and Federal agency customers in accordance with this subsection shall provide that during a period of insufficiency declared in accordance with subsection (b) each customer's contractual entitlement shall, to the extent of its requirements on the Administrator, be no less than the amount of firm power received from the Administrator in the year immediately preceding the period of insufficiency.

(7) The Administrator shall be deemed to have sufficient resources for the purpose of entering into the initial contracts specified in paragraph (1) (A) through (D).

CONSERVATION AND RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall acquire such resources, through conservation, implement all such conservation measures, and acquire such renewable resources which are installed by a residential or small commercial consumer to reduce load, as the Administrator determines are consistent with the plan or, if no plan is in effect, with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) and, in the case of major resources, in accordance with subsection (c). Such conservation measures and such resources may include, but are not limited to—

(1) loans and grants to consumers for insultation or weatherization, increased system efficiency, and waste energy recovery by direct application,

(2) technical and financial assistance to, and other cooperation with, the Administrator's customers and governmental authorities to encourage maximum cost-effective voluntary conservation and the attainment of any cost-effective conservation objectives adopted by individual States or subdivisions thereof.

(3) aiding the Administrator's customers and governmental authorities in implementing model conservation standards adopted pursuant to section 4(f), and

(4) conducting demonstration projects to determine the cost effectiveness of conservation measures and direct application of renewable energy resources.

(b)(1) In addition to electric power acquired under subsection 5(c) or on a short-term basis pursuant to section 11(b)(6)(i) of the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), the Administrator, without considering restrictions which may apply pursuant to subsection 5(b), shall meet his contractual obligations and his obligations to protect, mitigate and enhance fish and wildlife under section 4(h)(2) that remain after taking into account planned savings from measures provided for in subsection (a) by acquiring sufficient resources.

(2) Except as specifically provided in this section, acquisition of resources under this Act shall be consistent with the plan or, if no plan is in effect, consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) both as determined by the Administrator, and, in the case of major resources, in accordance with subsection (c).

(3) The Administrator shall aquire any non-Federal resources to replace Federal base system resources only in accordance with the provisions of this section. The Administrator shall include in the contracts for the acquisition of any such non-Federal replacement resources provisions that will enable him to ensure that such non-Federal replacement resources are developed and operated in a manner consistent with the factors specified in section 4(e)(2) of this Act.

(4) Notwithstanding any acquisition of resources pursuant to this section, the Administrator shall not reduce his efforts to acquire and implement conservation and acquire renewable resources pursuant to subsection (a).

(5) In making any payment to an investor-owned utility for the acquisition under this subsection of any resource as defined by section 3(19)(A), or for the exchange of power under section 5(c), the Administrator shall exclude the costs of construction work in progress.

(c)(1) For each proposal under subsection (a), (b), (f), (h), or (l) to acquire a major resource, to implement a conservation measure which will conserve an amount of electric power equivalent to that of a major resource, to pay or reimburse investigation and preconstruction expenses of the sponsors of a major resource, or to grant billing credits or services involving a major resource, the Administrator shall—

(A) publish notice of the proposed action in the Federal Register and provide a copy of such notice to the Council, the Governor of each State in which facilities would be constructed or a conservation measure implemented, and the Administrator's customers;

(B) not less than sixty days following publication of such notice, conduct one or more public hearings, presided over by a hearing officer, at which testimony and evidence shall be received, with opportunity for such rebuttal and cross-examination as the hearing officer deems appropriate in the development of an adequate hearing record;

(C) develop a record to assist in evaluating the proposal which shall include the transcript of the public hearings, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator; and

(D) following completion of such hearings, promptly provide to the Council and make public a written decision that includes, in addition to a determination respecting the requirements of subsection (a), (b), (f), (h), (l), or (m), as appropriate—

(i) if a plan is in effect, a finding that the proposal is either consistent or inconsistent with the plan or, notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligations under this Act, or

(ii) if no plan is in effect, a finding that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) or, notwithstanding its inconsistency, a finding that it is needed to meet the Administrator's obligations under this Act.

In the case of subsection (f), such decision shall be treated as satisfying the requirements of this subsection, if it includes a finding of probable consistency, based upon the Administrator's evaluation of information available at the time of completion of the hearing under this paragraph. Such decision shall include the reasons for such finding.

(2) Within sixty days after receipt of the Administrator's decision pursuant to paragraph (1)(D), the Council may determine by a majority vote of all members of the Council, and notify the Administrator, that the proposal is either consistent or inconsistent with the plan, or, if no plan is in effect, that the proposal is either consistent or inconsistent with the criteria of section 4(e)(2): *Provided*, That the Council's authority to make consistency determinations if no plan is in effect shall cease upon the adoption of a plan or the expiration of two years from the effective date of this Act, whichever is earlier.

(3) The Administrator may not implement any proposal referred to in paragraph (1) that is determined by either the Administrator or the Council to be inconsistent with the plan or, if no plan is in effect, with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) unless (A) the Administrator determines that the resource is needed to meet the Administrator's contractual obligations under section 5 without considering restrictions which may apply pursuant to section 5(b), and (B) the expenditure of funds for that purpose has been specifically authorized by legislation enacted by the Congress pursuant to bills reported from the committees of Congress having jurisdiction under the applicable rules of the respective Houses of Congress, over substantive amendments to the Federal Columbia River Transmission System Act and the Bonneville Project Act.

(4) Before the Administrator implements any proposal referred to in paragraph (1), the Administrator shall—

(A) submit to the appropriate committees of the Congress the administrative record of the decision (including any determination by the Council under paragraph (2)) and a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act of 1969.

(B) publish notice of the decision in the Federal Register, and

(C) note the proposal in the Administrator's annual or supplementary budget submittal made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following).

The Administrator may not implement any such proposal until ninety days after the date of publication in the Federal Register.

(d) The Administrator is authorized to acquire a resource, other than a major resource, whether or not such resource meets the criteria of section 4(e)(1) and the considerations of section 4(e)(2) but which he determines is an experimental, developmental, demonstration, or pilot project of a type with a potential for providing cost-effective service to the region. The Administrator shall make no obligation for the acquisition of such resource until it is included in the annual budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act.

(e)(1) In order to effectuate the priority given to conservation measures and renewable resources under this Act, the Administrator shall, to the maximum extent practicable, make use of his authorities under this Act to acquire conservation measures and renewable resources, to implement conservation measures, and to provide credits and technical and financial assistance for the development and implementation of such resources and measures (including the funding of, and the securing of debt for, expenses incurred during the investigation and preconstruction of resources, as authorized in subsection (f)).

(2) To the extent conservation measures or acquisition of resources require direct

arrangements with consumers, the Administrator shall make maximum practicable use of customers and local entities capable of administering and carying out such arrangements.

(f)(1) For resources which the Administrator determines may be eligible for acquisition under this section and satisfy the criteria of section 4(e)(1) and the considerations of section 4(e)(2) or, if a plan is in effect, to be consistent with the plan, the Administrator is authorized to enter into agreements with sponsors of—

(A) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource, or

(B) any other resource to provide for the reimbursement of the sponsor's investigation and preconstruction expenses concerning such resource (which expenses shall not include procurement of capital equipment or construction material for such resource).

In the case of any resource referred to in subparagraph (B), such reimbursement is authorized only if—

(i) such resource is subsequently denied State siting approval or other necessary Federal or State permits, or approvals,

(ii) such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of section 4(e)(1) and the considerations of section 4(e)(2) or is not acceptable because of environmental impacts, or

(iii) after such investigation the Administrator determines not to acquire the resource and the sponsor determines not to construct the resource.

(2) The Administrator may exercise the authority of this subsection only if he does not foresee termination of the resource. If the Administrator reasonably foresees that certain actions of the resource sponsors may lead to termination of the resource, he shall specify such actions with particularity in the agreement and shall exclude reimbursement if the resource sponsors take such actions. In no event shall the Administrator agree to reimburse expenses incurred prior to the effective date of this Act or of the agreement.

(3) Any agreement under paragraph (1) shall provide the Administrator an option to acquire any such resource, including a renewable resource, and shall include such other provisions, as the Administrator deems appropriate, for the Administrator's recovery from such sponsors or any assignee of the sponsors, if such sponsor or assignee continues development of the resource, of any advances made by the Administrator pursuant to such agreement.

(4) The Administrator shall not reimburse any expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after the date of a final denial of application for State siting approval or after the date the Administrator determines that the resource to be inconsistent with the plan or the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator in accordance with applicable law and regulations, may be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h)(1) If a customer so requests, the Administrator shall grant billing credits to such customer, and provide services to such customer at rates established for such services, for—

(A) conservation activities independently undertaken or continued after the effective date of this Act by such customer or political subdivision served by such customer which reduce the obligation of the Administrator that would otherwise have existed to acquire other resources under this Act, or

(B) resources constructed, completed, or acquired after the effective date of this Act by a customer, an entity acting on behalf of such customer, or political subdivision served by the customer which reduce the obligation of the Administrator to acquire resources under this Act. Such resources shall be renewable resources or multipurpose projects or other resources which are not inconsistent with the plan or, in the absence of a plan, not inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(2) The energy and capacity on which a credit under this subsection to a customer is based shall be the amount by which a conservation activity or resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(3) The amount of credits for conservation under this subsection shall be set to credit the customer implementing or continuing the conservation activity for which the credit is granted for the savings resulting from such activity. The rate impact on the Administrator's other customers of granting the credit shall be equal to the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually saved by the activity for which the credit is granted.

(4) For resources other than conservation, the customer shall be credited for net costs actually incurred by such customer, an entity acting on behalf of such customer, or political subdivision served by such customer, in acquiring, constructing, or operating the resource for which the credit is granted. The rate impact to the Administrator's other customers of granting the credit shall be no greater than the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually produced by the resource for which the credit is granted.

(5) Retail rate structures which are voluntarily implemented by the Administrator's customers and which induce conservation or installation of consumer-owned renewable resources shall be considered, for purposes of this subsection, to be (A) conservation activities independently undertaken or carried on by such customers, or (B) customer-owned renewable resources, and shall qualify for billing credits upon the same showing as that required for other conservation or renewable resource activities.

(6) Prior to executing a contract for any billing credit or related services pursuant to this subsection, the Administrator shall—

(A) Comply with the notice and hearing provisions of subsection (c), and include in such notice the methodology the Administrator proposes to use in determining the amount of any such credit;

(B) Include the cost of such credit in the Administrator's annual or amended budget submittal to the Congress made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838(j));

(C) Include in such contract provisions to ensure that resources in excess of a customer's reasonable load growth shall have been offered to others for ownership, participation or other sponsorship pursuant to subsection (m), except in the case of conservation, multipurpose projects uniquely suitable for development by the customer, or renewable resources; and

(D) Include in such contract provisions to ensure that the operators of any generating resource for which a billing credit is to be granted agree to operate such resource in a manner compatible with the planning and operation of the region's power system.

(i) Contracts for the acquisition of resources

and for billing credits for major resources, including conservation activities, entered into pursuant to this section shall contain such terms and conditions, applicable after the contract is entered into, as will—

(1) insure timely construction, scheduling, completion, and operation of resources,

(2) insure that the costs of any acquisition are as low as reasonably possible, consistent (A) with sound engineering, operating, and safety practices and (B) the protection, mitigation, and enhancement of fish and wildlife, including related spawning grounds and habitat, affected by the development of such resources, and

(3) insure that the Administrator exercises effective oversight, inspection, audit, and review of all aspects of such construction and operation, including environmental protection.

Such contracts shall contain provisions assuring that the Administrator has the authority to approve all costs of and proposals for, major modifications in construction, scheduling, or operations and to assure that the Administrator is provided with such current information as he deems necessary to evaluate such construction and operation.

(j)(1) All contractual and other obligations required to be carried out by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations are not, nor shall they be construed to be, general obligations of the United States, nor are such obligations intended to be or are they secured by the full faith and credit of the United States.

(2) All contracts entered into by the Administrator for the acquisition of resources pursuant to this Act shall require that, in the sale of any obligations, all offerings and promotional material for the sale of such obligations shall include the language contained in the second sentence of paragraph (1). The Administrator shall monitor and enforce such requirement.

(k) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act and the Administrator's obligations to particular customer classes, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

(l)(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the States of Idaho, Montana, Oregon, and Washington if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor, or otherwise develop them. The Administrator shall keep the Council fully and currently informed of such investigations, and seek the Council's advise as to the desirability of pursuing such investigations.

(2) The Administrator is authorized and directed to investigate periodically opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity in the Pacific Northwest and the regions with which such exchanges may oc-

cur. The Council shall take into consideration in formulating a plan such investigations.

(3) After the Administrator submits a report to Congress pursuant to paragraph (5), the Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of section 4(e)(1) and the considerations of section 4(e)(2). Such acquisitions shall be in accordance with the provisions of this section.

(4) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this subsection with the assistance of other Federal agencies as may be appropriate.

(5) No later than July 1, 1981, the Administrator shall submit to the Congress a report of the result of the investigations undertaken pursuant to this subsection, together with the prospect for obtaining additional resources under the authority granted by this subsection and for reduction in generation or generating capacity through exchanges.

(m) Except as to resources under construction on the effective date of this Act, the Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest electric utility for ownership, participation, or other sponsorship, but not in excess of the amounts needed to meet such utility's regional load.

(n) The Council may authorize the Administrator to implement a proposal not subject to the provisions of section 6(c)(1) upon satisfaction of the requirements of section 6(c)(4) notwithstanding a finding by the Administrator that such proposal is inconsistent with the plan, or, if no plan is in effect, inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(o) The Council or any customer of the Administrator may request the Administrator to take action under section 6 to carry out his responsibilities under this section. Within 60 days of the receipt of such request, the Administrator shall respond in writing either that he will propose the action and will initiate the procedures of this section in order to review the action, or that he will not propose the action and the reasons why such action would not be timely or would not be consistent with the plan or with the Administrator's obligations under this Act or other provisions of law which the Administrator shall specifically identify.

RATES

SEC. 7. (a)(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law. Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act.

(2) Rates established under this section shall become effective only upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission, that such rates—

(A) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs,

(B) are based upon the Administrator's total system costs, and

(C) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal utilizing such system.

(b)(1) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and loads of electric utilities under section 5(c). Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply such loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates shall recover the cost of additional electric power as needed to supply such loads, first from the electric power acquired by the Administrator under section 5(c) and then from other resources.

(2) After July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative, and Federal agency customers, exclusive of amounts charged such customers under subsection (g) for the costs of conservation, resource and conservation credits, experimental resources, and uncontrollable events, may not exceed in total, as determined by the Administrator, during any year after July 1, 1985, plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, the Administrator assumes that—

(A) the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives;

(B) public body, cooperative, and Federal agency customers were served, during such five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A);

(C) no purchases or sales by the Administrator as provided in section 5(c) were made during such five-year period;

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under subparagraph (B)) were—

(i) purchased from such customers by the Administrator pursuant to section 6, or

(ii) not committed to load pursuant to section 5(b),

and were the least expensive resources owned or purchased by public bodies or cooperatives; and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator; and

(E) the quantifiable monetary savings, during such five-year period, to public body, cooperative, and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D), and

(ii) reserve benefits as a result of the Administrator's actions under this Act were not achieved.

(3) Any amounts not charged to public body, cooperative, and Federal agency customers by reason of paragraph (2) shall be recovered through supplemental rate charges for all other power sold by the Administrator to all customers. Rates charged public body, cooperative, or Federal agency customers pursuant to this subsection shall not include any costs or benefits of a net revenue surplus or deficiency occurring for the period ending June 30, 1985, to the extent such surplus or deficiency is caused by—

(A) a difference between actual power deliveries and power deliveries projected for the purpose of establishing rates to direct service industrial customers under subsection (c)(1), and

(B) an overrecovery or underrecovery of the net costs incurred by the Administrator under section 5(c) as a result of such difference.

Any such revenue surplus or deficiency incurred shall be recovered from, or repaid to, customers over a reasonable period of time after July 1, 1985, through a supplemental rate charge or credit applied proportionately for all other power sold by the Administrator at rates established under other subsections of this section prior to July 1, 1985.

(4) The term "general requirements" as used in this section means the public body, cooperative, or Federal agency customer's electric power purchased from the Administrator under section 5(b), exclusive of any new large single load.

(c)(1) The rate or rates applicable to direct service industrial customers shall be established—

(A) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(c), based upon the Administrator's projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other customers; and

(B) for the period beginning July 1, 1985, at a level which the Administrator determines to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial consumers in the region.

(2) The determination under paragraph (1)(B) shall be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates but shall take into account—

(A) the comparative size and character of the loads served,

(B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and

(C) direct and indirect overhead costs,

all as related to the delivery of power to industrial customers, except that the Administrator's rates during such period shall in no event be less than the rates in effect for the contract year ending on June 30, 1985.

(3) The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d)(1) In order to avoid adverse impacts on retail rates of the Administrator's custo-

mers with low-system densities, the Administrator shall, to the extent appropriate, apply discounts to the rate or rates for such customers.

(2) In order to avoid adverse impacts on direct service industrial customers using raw materials indigenous to the region as their primary resource, the Administrator is authorized to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region.

(e) Nothing in this Act prohibits the Administrator from establishing, in rate schedules of general application, a uniform rate or rates for sale of peaking capacity or from establishing time-of-day, seasonal rates, or other rate forms.

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(c), and additional resources which, in the determination of the Administrator, are applicable to such sales.

(g) Except to the extent that the allocation of costs and benefits is governed by provisions of law in effect on the effective date of this Act, or by other provisions of this section, the Administrator shall equitably allocate to power rates, in accordance with generally accepted ratemaking principles and the provisions of this Act, all costs and benefits not otherwise allocated under this section, including, but not limited to, conservation, fish and wildlife measures, uncontrollable events, reserves, the excess costs of experimental resources acquired under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a)), the Administrator shall adjust power rates to include any surcharges arising under section 4(f), and shall allocate any revenues from such charges in such manner as the Administrator determines will help achieve the purposes of section 4(f).

(i) In establishing rates under this section, the Administrator shall use the following procedures:

(1) Notice of the proposed rates shall be published in the Federal Register with a statement of the justification and reasons supporting such rates. Such notice shall include a date for a hearing in accordance with paragraph (2).

(2) One or more hearings shall be conducted as expeditiously as practicable by a hearing officer to develop a full and complete record and to receive public comment in the form of written or oral presentation of views, data, questions, and argument related to such proposed rates. In any such hearing—

(A) any person shall be provided an adequate opportunity by the hearing officer to offer refutation or rebuttal of any material submitted by any other person or the Administrator, and

(B) the hearing officer shall allow for cross-examination to develop information and material relevant to any such proposed rate.

(3) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and arguments submitted by persons prior to, or before, the close of hearings shall be made a part of the administrative record.

(4) After such a hearing, the Administrator may propose revised rates, publish such proposed rates in the Federal Register, and conduct additional hearings in accordance with this subsection.

(5) The Administrator shall make a final decision establishing a rate or rates based on the record which shall include the hearing transcript, together with exhibits, and such other materials and information as may have ben submitted to, or developed by, the Administrator. The decision shall include a full and complete justification of the final rates pursuant to this section.

(6) The final decision of the Administrator shall become effective on confirmation and approval of such rates by the Federal Energy Regulatory Commission pursuant to subsection (a)(2). The Commission shall have the authority, in accordance with such procedures as the Commission may establish, to approve the final rate submitted by the Administrator on an interim basis, pending the Commission's final decision in accordance with such subsection: *Provided*, That, until the Commission has established appropriate procedures for interim approval, the Secretary shall have authority to approve on an interim basis final rates submitted by the Administrator.

(j) All rate schedules adopted, and all power billings rendered, by the Administrator pursuant to this section shall indicate—

(1) the approximate cost contribution of different resource categories to the Administrator's rates for the sale of energy and capacity, and

(2) the cost of resources acquired to meet load growth within the region and the relation of such cost to the average cost of resources available to the Administrator.

(k) Notwithstanding any other provision of this Act, all rates or rate schedules for the sale of nonfirm electric power within the United States, but outside the region, shall be established after the date of this Act by the Administrator in accordance with the procedures of subsection (i) of this section (other than the first sentence of paragraph (6) thereof) and in accordance with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act. Notwithstanding section 201(f) of the Federal Power Act, such rates or rate schedules shall become effective after review by the Federal Energy Regulatory Commission for conformance with the requirements of such Acts and after approval thereof by the Commission. Such review shall be based on the record of proceedings established under subsection (i) and this subsection. The parties to such proceedings under subsection (i) shall be afforded an opportunity by the Commission for an additional hearing in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act.

(l) In order to further the purposes of this Act and to protect the consumers of the region, the Administrator may negotiate, or establish, rates for electric power sold by the Administrator to any entity not located in the United States which shall be equitable in relation to rates for all electric power which is, or may be, purchased by the Administrator or the Administrator's customers from entities outside the United States. In establishing rates other than by negotiation, the provisions of subsection (i) shall apply. In the case of any negotiation with an entity not located in the United States, the Administrator shall provide public notice of any proposal to negotiate such rates. Such negotiated rates shall be not less than the rates established under this Act for nonfirm power sold within the United States but outside the region. The Administrator shall also afford notice of any rates negotiated pursuant to this subsection.

AMENDMENTS TO EXISTING LAW

SEC. 8. (a) Section 11(b) of the Federal Columbia River Transmission System Act (16 U.S.C. 837) is amended by striking out the semicolon at the end of paragraph (6) and inserting in lieu thereof ", or (iv) on a short term basis to meet the Administrator's obligations under section 4(h)(2) of the Pacific Northwest Electric Power Planning and Conservation Act;".

(b) Section 11(b) of the Federal Columbia River Transmission System Act (16 U.S.C. 838) is amended by striking out "and" at the end of paragraph (10); by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12 making such payments, as shall be required to carry out the purposes and provisions of the Pacic Northwest Electric Power Planning and Conservation Act.".

(c) Subsection (b) of section 13 of such Act is amended by striking out "and 11(b)(11)" and inserting in lieu thereof ", 11(b)(11), and 11(b)(12)."

(d)(1) The first sentence of subsection (a) of section 13 of such Act is amended by inserting "(1) after "is authorized", by inserting after the word "system," the following: "and to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (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 electric power from any generating facility not utilizing a renewable resource or from a generating facility utilizing a renewable resource and having a planned capability greater tha fifty average megawatts),", and by inserting "(2)" before "to issue and sell bonds to refund such bonds".

(2) The fourth sentence of such subsection (a) is amended by striking out "similar bonds" and substituting "triple-A rated nongovernment utility bonds." Based on information provided by the Administrator to the Secretary of the Treasury, the interest rate determined pursuant to the immediately preceding sentence will be increased by 1 per centum thereof for each immediately preceding consecutive fiscal year, beginning with the fiscal year in which this Act becomes effective, that the applicable financial reports, including current repayment studies, of the Administrator show repayment criteria not being met".

(3) Such subsection (a) is further amended by inserting the following before the period at the end thereof: "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."

(e) Clause (2) of section 1(b) of the Act of August 31, 1964 (78 Stat. 756) is amended to read as follows: "(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.".

(f) Section 7 of the Federal Columbia River Transmission System Act is amended by inserting "(a)" after "7" and by adding the following new subsection at the end thereof:

"(b)(1) From amounts available to the Administrator from the fund under section 11(b)(2), the Administrator shall make annual impact aid payments to State and

local governments having within their jurisdiction the transmission facilities described in paragraph (2). The Administrator may also make impact aid payments to State and local governments with respect to transmission facilities of the Administrator other than those described in paragraph (2) where the construction of such facilities, or any substantial modification thereof, is completed after the date of enactment of the Pacific Northwest Electric Power Planning and Conservation Act and the Administrator determines that such facilities have a substantial impact on the State and local government concerned.

"(2) The transmission facilities for which payments shall be made under this subsection are any major transmission facilities—

"(A) which are owned by the Bonneville Power Administration;

"(B) which are exempt from State and local real property taxes; and

"(C) initial construction of which was completed after the date of the enactment of the Pacific Northwest Electric Power Planning and Conservation Act.

"(3)(A) The payments made under this subsection for any year shall be determined on the basis of a regionwide formula established by the Administrator by rule, after notice and opportunity for public hearing and after consultation with State and local governments in the region and the Administrator's customers in the region. Such formula shall provide for an annual payment based on (i) the amount of land and interests in land acquired by the Administrator for purposes of constructing the facility, and the value of the facilities constructed thereon, and (ii) the costs of all governmental services related to the facility and an appropriate share of the general government expenses which are ordinarily paid from State and local real property taxes. No annual payment to any such State or local government may exceed such amount as the Administrator determines would be paid to such government during that year if the transmission facilities were not exempt from State and local real property taxation.".

ADMINISTRATIVE PROVISIONS

SEC. 9. (a) Subject to the provisions of this Act and the Bonneville Project Act, the Administrator is authorized to contract in accordance with section 2(f) of the Bonneville Project Act of 1937 (16 U.S.C. 832a(f)).

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), sections 302(a) (2) and (3) of the Department of Energy Organization Act, and this Act. The Secretary of Energy, the Council, and the Administrator shall take such steps as are necessary to assure the timely implementation of this Act in a sound and businesslike manner.

(c) Any contract of the Administrator for the sale or exchange of electric power for outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of the Act of August 31, 1964 (16 U.S.C. 837a and 837b) for any contract for the sale, delivery, or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest. In applying such sections for the purposes of this subsection, the term "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and the term "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties impose upon, the Secretary by sections 5 and 7 of such Act (16 U.S.C. 837e and 837f) shall also apply to the Administrator in connection with resources acquired by the Administrator pursuant to this Act. The Administrator shall, in making any determination, under any contract executed pursuant to section 5, of the electric power requirements of any Pacific Northwest customer, which is a non-Federal entity having its own generation, exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of such Act (16 U.S.C. 837b(d)), any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased. Such amount of energy shall not be excluded, if the Administrator determines that through reasonable measures such amount of energy could not be conserved or otherwise retained for service to regional loads. The Administrator may sell as replacement for any amount of energy so excluded only energy that would otherwise be surplus.

(d) No restrictions contained in subsection (c) shall limit or interfere with the sale, exchange, or other disposition of any power by any utility or group thereof from any existing or new non-Federal resource if such sale, exchange, or disposition does not increase the amount of firm power the Administrator would be obligated to provide to any customer. The Administrator, in addition to the directives contained in subsections (i) (1)(B) an (i)(3), and subject to any contractual obligations of the Administrator, or any other obligations under existing law, shall (1) provide transmission access, load factoring, storage and other services normally attendant thereto to such utilities and (2) shall not discriminate on the basis of independent development of resources against any utility or group thereof in providing such services.

(e)(1) For purposes of sections 701 through 706 of title 5, United States Code, the following actions shall be final actions subject to judicial review—

(A) adoption of the plan or amendments thereto by the Council under section 4, and adoption of the program by the Council under section 4(h);

(B) sales, exchanges, and purchases of electric power under section 5;

(C) the Administrator's acquisition of resources under section 6;

(D) implementation of conservation measures under section 6;

(E) execution of contracts for assistance to sponsors under section 6(f);

(F) granting of credits under section 6(h); and

(G) establishment of regionwide formula under section 7(b)(3) of the Federal Columbia River Transmission System Act.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with this Act. The scope of review of such actions without a hearing or after a hearing shall be governed by section 706 of title 5, United States Code. The scope of review of an action under section 6(c) shall be governed by section 706 of title 5, United States Code. Nothing in this section shall be construed to require a hearing pursuant to section 554 or 557 of title 5 of the United States Code.

(3) Nothing in this section shall be construed to preclude judicial review of other final actions and decisions by the Council or Administrator.

(4) For purposes of this subsection—

(A) major resources shall be deemed to be acquired upon publication in the Federal Register pursuant to section 6(c)(4)(B);

(B) resources, other than major resources, shall be deemed to be acquired upon execution of the contract therefor;

(C) conservation measures shall be deemed to be implemented upon execution of the contract or grant therefor; and

(D) rate determinations pursuant to section 7 shall be deemed final upon confirmation and approval by the Federal Energy Regulatory Commission.

(5) Suits to challenge final actions and decisions taken pursuant to this Act, or the implementation of such final actions, whether brought pursuant to this Act, the Bonneville Project Act, the Act of August 31, 1964 (16 U.S.C. 837–837h), or the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), shall be filed in the appropriate Federal court in the case of rates under section 7 and in the United States court of appeals for the region in the case of other actions or decisions subject to the provisions of this subsection. Such suits shall be filed within ninety days of the time such action or decision is deemed final, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days from such notice, or be barred. In the case of a challenge of the plan or amendments thereto, such suit shall be filed within sixty days after publication of a notice of such final action in the Federal Register. Such courts shall have jurisdiction to hear and determine any suit brought as provided in this section. The plan, as finally adopted or portions thereof, or amendments thereto, shall not thereafter be reviewable as a part of any other action under this Act or any other law administered by the Administrator.

(f) For purposes of enabling the Administrator to acquire resources necessary to meet the firm load of public bodies, cooperatives, and Federal agencies from a governmental unit at a cost no greater than the cost which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provide in section 103(a)(1) of the Internal Revenue Code of 1954 shall not be affected by the Administrator's acquisition of such resources if—

(1) the Administrator, prior to contracting for such acquisition, certifies to his reasonable belief, that the persons for whom the Administrator is acquiring such resources for sale pursuant to section 5 of this Act are public bodies, cooperatives, and Federal agencies, unless the Administrator also certifies that he is unable to acquire such resources without selling a portion thereof to persons who are not exempt persons (as defined in section 103(b) of such Code), and

(2) based upon such certification, the Secretary of the Treasury determines in accordance with applicable regulations that less than a major portion of the resource is to be furnished to persons who are not exempt persons (as defined in section 103(b) of such Code).

The certification under paragraph (1) shall be made in accordance with this subsection and a procedure and methodology approved by the Secretary of the Treasury. For purposes of this subsection, the term "major portion" shall have the meaning provided by regulations issued by the Secretary of the Treasury.

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility customer under section 5(c) or 6, the Federal Energy Regulatory Commission shall, in accordance with section 209 of the Federal Power Act (16 U.S.C. 824h)—

(1) convene a joint State board, and

(2) invest such board with such duties

and authority as will assist the Commission in its review of such rates.

(h)(1) No "company' (as defined in section 2(a)(2) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(2)), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(3)), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code, if at least 90 per centum of the electricity generated by such company is sold to the Administrator under section 6, and if—

(A) the organization of such company is consistent with the policies of the Public Utility Holding Company Act of 1935, as determined by the Securities and Exchange Commission, with the concurrence of the Administrator, at the time of such organization; and

(B) participation in any facilities of such "company" has been offered to public bodies and cooperatives in the region pursuant to section 6(m).

(2) The Administrator shall include in any contract for the acquisition of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource.

(3) In the case of any "company" which meets the requirements of paragraph (1), the Administrator, with the concurrence of such Commission, shall approve all significant contracts entered into by, and between, such "company" and any sponsor company or any subsidiary of such sponsor company which are determined to be consistent with the policy of the Public Utility Holding Company Act of 1935 at the time such contracts are entered into The Administrator and the Securities and Exchange Commission shall exercise such approval authority within sixty days after receipt of such contracts Such contracts shall not be effective without such approval.

(4) Paragraph (1) of this subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission, or both, through periodic review, (A) determine at any time that the "company" no longer operates in a manner consistent with the policy of the Public Utility Holding Company Act of 1935 and in accordance with this subsection, and (B) notify the "company" in writing of such preliminary determination. This subsection shall cease to apply to such "company" thirty days after receipt of notification of a final determination thereof A final determination shall be made only after public notice of the preliminary determination and after a hearing completed not later than sixty days from the date of publication of such notice. Such final determination shall be made within thirty days after the date of completion of such hearing.

(i)(1) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(A) acquire any electric power required by (i) any customer or group of customers to enable them to replace resources determined to serve firm load under section 5(b), or (ii) direct service industrial customers to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power the Administrator is obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting such power; and

(B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

(2) In implementing the provisions of subparagraphs (A) and (B) of paragraph (1), the Administrator may prescribe policies and conditions for the independent acquisition or disposition of electric power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial cutomer an opportunity to participate in such acquisition or disposition.

(3) The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations, or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

(j)(1) The Council, as soon as practicable after the enactment of this Act, shall prepare, in consultation with the Administrator, the customers, appropriate State regulatory bodies, and the public, a report and shall make recommendations with respect to the various retail rate designs which will encourage conservation and efficient use of electric energy and the installation of consumer-owned renewable resources on a cost-effective basis, as well as areas for research and development for possible application to retail utility rates within the region. Studies undertaken pursuant to this subsection shall not affect the responsibilities of any customer or the Administrator which may exist under the Public Utility Regulatory Policies Act of 1978.

(2) Upon request, and solely on behalf of customers so requesting, the Administrator is authorized to (A) provide assistance in analyzing and developing retail rate structures that will encourage cost-effective conservation and the installation of cost-effective consumer-owner renewable resources; (B) provide estimates of the probable power savings and the probable amount of billing credits under section 6(h) that might be realized by such customers as a result of adopting and implementing such retail rate structures; and (C) solicit addtional information and analytical assistance from appropriate State regulatory bodies and the Administrator's other customers.

(k) There is hereby established within the administration an Assistant Administrator position for conservation and renewable resources. Such Assistant Administrator shall be appointed by the Administrator and shall be assigned responsibility for conservation and direct-application renewable resource programs (including the administration of financial assistance for such programs). Such position is hereby established in the senior executive service in addition to the number of such positions heretofore established in accordance with other provisions of law applicable to such positions.

SAVINGS PROVISIONS

SEC. 10. (a) Nothing in this Act shall be construed to affect or modify any right of any State or political subdivision thereof or electrical utility to—

(1) determine retail electric rates, except as provided by section 5(c)(3);

(2) develop and implement plans and programs for the conservation, development, and use of resources; or

(3) make energy facility siting decisions including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act, shall alter, diminish, or abridge the rights and obligations of the Administrator or any customer under any contract existing as of the effective date of this Act.

(c) Nothing in this Act shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(d) If any provision of this Act is found to be unconstitutional, then any contract entered into by the Administrator, prior to such finding and in accordance with such provisions, to sell power, acquire or credit resources, or to reimburse investigation and preconstruction expenses pursuant to section 5, and section 6 (a), (b), (f), or (h) of this Act shall not be affected by such finding.

(e) Nothing in this Act shall be construed to affect or modify any treaty or other right of an Indian tribe.

(f)(1) Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual.

(2) In the implementation of this Act, the United States, its agents, permittees, or licensees shall not appropriate, use, divert, dedicate, or claim water within any State unless such appropriation, use, diversion, dedication, or claim takes place pursuant to substantive and procedural provisions of State law, regulation, or rule of law, including the establishment, exercise or enforcement of terms or conditions, governing appropriation, use, diversion, or dedication of water.

(3) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, diversion, dedication of, or claim to, water

(4) Nothing in this Act shall be construed as altering or affecting the rights of any Indian tribe.

(g) Nothing in this Act shall obligate the Federal Government for the performance of any new contracts executed by the Administratior or Council directly or indirectly unless specifically authorized by Congress.

(h) The reservation under law of electric power for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State, plus 50 per centum of any electric power produced at Libby Reregulating Dam if built, is hereby affirmed. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7.

EFFECTIVE DATE

SEC. 11. This Act shall be effective on the date of enactment, or October 1, 1980, whichever is later. The term "date of enactment of this Act" as used in this Act shall be either such date or October 1, 1980.

DOE STUDY OF OTHER REGIONS

SEC. 12. (a) The Secretary of Energy shall undertake a study of the means by which the benefits accruing to the Pacific Northwest pursuant to the provisions of this Act may be duplicated in other regions throughout the United States through the establishment of other Federal regional electric power planning and financing agencies having authority comparable to those granted to the Administrator under this Act. Such

study shall include an examination of the means by which agencies may reduce the cost of electric power throughout the various regions of the United States by planning for electric power production and utilizing cost effective conservation measures on a regional basis and by reducing the cost of financing for new privately and publicly owned generation and transmission facilities.

(b) The Secretary of Energy shall submit a report to Congress not later than 6 months after the date of the enactment of this Act containing the results of the study carried out under this section.

—Page 85, strike lines 18 through 20 and renumber the subsections accordingly.

—Page 85, strike lines 19 and 20 and substitute: ed by striking out "similar bonds." and substituting "triple-A rated nongovernment utility bonds."

—Page 86, beginning in line 7, strike out "Beginning in" and all that follows down through "if" in line 8 and substitute "If".

Page 86, strike out line 12 and all that follows down through "the Secretary" in line 15 and substitute "Energy, the Secretary".

Page 86, line 20, strike out "1" and substitute "2 and ½".

Page 86, strike out line 25 and all that follows down through the period in line 5 and substitute: "The rates established by the Administrator as provided in section 7 of the Pacific Northwest Electric Power and Planning and Conservation Act shall include such automatic adjustment provisons (including fuel adjustment clauses and purchased power adjustment clauses) as may be necessary to insure that, to the maximum extent practicable, funds will be available to the Administrator to comply with the repayment criteria of the Secretary of Energy.".

—Page 87, after line 16, insert:

(f) Section 11 of the Federal Columbia River Transmission System Act is amended by inserting the following new subsection at the end thereof:

"(e) Nothing in this or any other Act (except subsection (b)(6)(i) and (iii)) shall be deemed to authorize or permit the Administrator to purchase electric power (or the entitlement of electric plant capability) unless such purchase is authorized by legislation enacted by the Congress pursuant to bills reported from the committees of Congress having jurisdiction, under the applicable rules of the respective Houses of Congress, over substantive amendments to the Federal Columbia River Transmission System Act and Bonneville Project Act.".

—Page 103, after line 5, insert:

DOE STUDY OF OTHER REGIONS

SEC. 13. (a) The Secretary of Energy shall undertake a study of the means by which the benefits accruing to the Pacific Northwest pursuant to the provisions of this Act may be duplicated in other regions throughout the United States through the establishment of other Federal regional electric power planning and financing agencies having authorities comparable to those granted to the Administrator under this Act. Such study shall include an examination of the means by which such agencies may reduce the cost of electric power throughout various regions of the United States by planning for electric power production and utilising cost effective conservation measures on a regional basis and by reducing the cost of financing for new privately and publicly owned generation and transmission facilities.

(b) The Secretary of Energy shall submit a report to Congress not later than 6 months after the date of the enactment of this Act containing the results of the study carried out under this section.

Amend the table of contents on page 2 by adding the following new item at the end thereof:

"Sec. 13. DOE study of other regions.".

—Page 85, beginning in line 22, strike out "prior to" and all that follows down through line 5 of page 86 and substitute: ", as provided in annual appropriation Acts".".

—Page 8, line 5, strike the word "fifty" and insert in lieu thereof the word "five".

Page 85, line 17, strike the number "50" and insert in lieu thereof the number "5".

—Page 8, line 5, strike the word "fifty" and insert in lieu thereof the word "fifteen".

Page 85, line 17, strike the number "50" and insert in lieu thereof the number "15".

—Page 8, line 5, strike the word "fifty" and insert in lieu thereof the word "twenty-five".

Page 85, line 17, strike the number "50" and insert in lieu thereof the number "25".

—Page 20, line 20, strike the comma and everything that follows and add a period after "functions".

Page 20, strike lines 21 and 22.

—Page 19, line 19, after the word "personnel" insert the following: ", not to exceed twenty individuals,".

—Page 13, line 23, strike section 4(b)(1).

Page 14, line 18, strike section 4(b)(2).

Page 15, line 18, strike section 4(b)(3).

Page 16, line 17, strike section 4(b)(4).

Page 17, line 4, strike section 4(b)(5)(A).

Page 17, line 15, strike section 4(b)(5)(B).

—Page 103, add the following section:

"At the end of each calendar year, beginning in 1981, the Bonneville Power Administration shall be treated for federal income taxation purposes in the same manner as any regulated private electric utility, and shall file all appropriate tax returns and make federal income tax payments based upon its entire system capital and operating costs and revenues."

—Page 52, line 18, strike the period and add the following: ": *Provided*, That no power may be delivered under any initial contract to any direct service industrial customer until such customer has been certified, after public hearings and a finding by the Council that it meets the best available energy conservation standards in each facility owned or operated by such customer.".

—Page 21, line 17, strike the figure "0.02" and insert in lieu thereof the figure "0.03".

By Mr. LOWRY:

(Amendment to the amendment offered in the nature of a substitute.)

—Page 10, lines 15–17, strike "(A) electric power," and all that follows and insert in lieu thereof: "electric power, electric power output of generating facilities, programs and measures to conserve electric power, renewable energy technologies, and programs and measures to utilize renewable technologies, or".

By Mr. MILLER of California.

(Amendments to the amendment in the nature of a substitute.)

—Page 58, line 19, strike from "Act" through line 18 and insert in lieu the following: "legislation reported from the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.".

Page 85, line 16, strike after "facility" and through line 7 and insert in lieu the following: "not utilizing renewable resources.".

By Mr. VENTO:

(Amendment to the amendment in nature of a substitute.)

—Page 55, section 6(b)(3), line 7, after "4(e)(2) of this Act" and before the period insert the following: "except a major resource or new large single load unless authorized by Congress.".

—Page 102, section 10, after line 16, add a new subsection (I):

Nothing in this Act shall obligate the federal government for the performance of any new contracts executed by the Administrator or Council directly or indirectly unless specifically authorized by Congress.

By Mr. WEAVER:

(Amendment to the amendment in the nature of a substitute.)

—Page 6, line 3, after "quantifiable" insert "direct and indirect".

—Page 6, line 4, insert between "environmental" and "costs", "and social".

—Page 6, line 13, strike ", including" and insert "based on".

—Page 10, line 12, strike "four" and insert therefor "two".

—Page 10, lines 15–21, strike "(A) electric power", and all that follows down through page 10, line 21 and insert in lieu thereof: "electric power, electric power output of generating facilities, programs and measures to conserve electric power, renewable energy technologies, and programs and measure to utilize renewable technologies.".

—Page 11, line 24, strike "two persons from each State" and insert "four persons from Washington, three persons from Oregon, and two persons each from Idaho and Montana".

—Page 11, line 24, strike "two persons" and insert "one person".

—Page 11, lines 24–25, strike "appointed" and insert "elected".

Page 12, line 2, after "Council.", insert "All references in this Act to the appointment of the members of such Council shall be deemed to mean the election of the members of such Council under applicable state law.".

—Page 12, line 9, strike "two" and insert "three".

—Page 12, line 15, strike "three'" and insert therefor "four"; and

Page 12, line 18, strike "three" and insert therefor "four".

—Page 12, line 19, after "chairman", insert "which shall rotate among the states' representatives on an annual basis".

—Page 13, line 5, strike "GS–18" and insert therefor "GS–17".

—Page 18, line 3, strike "whenever" and all that follows down through line 10 and insert therefor "all contracts executed by the Administrator pursuant to section 5 or section 6 of this Act shall be null and void".

—Page 18, line 15, strike "A majority" and insert therefor "Six".

—Page 18, line 22, strike "(A) a majority" and all that follows down through "(B)" on page 18 line 25.

—Page 18, line 22, strike "(A) a majority" and all that follows down through "Council" on page 18 line 25 and insert therefor "all members of the Council".

—Page 19, line 2, strike "three" and insert therefor "four".

—Page 21, line 17, strike "0.02" and insert therefor "0.019".

—Page 22, line 4, strike "0.10" and insert therefor "0.09".

—Page 23, line 5, strike "five" and insert therefor "four".

—Page 23, line 15, strike "section 553" and insert therefor "section 554".

—Page 25, line 17, strike "may" and insert "shall".

—Page 26, line 6, strike ", taking" and all that follows down through "section," on line 8.

—Page 27, line 10, strike "may" and insert therefor "shall".

—Page 29, line 10, strike the first comma and insert "and".

Page 29, line 10, strike ", fish and wildlife".

Page 29, line 13, strike the first comma and insert "and" and strike ", and fish and wildlife".

—Page 30, line 5, delete "tributaries." and insert "tributaries and on other rivers and their tributaries in the region. All references in this Act to the Columbia River and its tributaries shall be deemed to include other rivers and tributaries in the region.".

Page 4, line 16, after "tributaries" insert "and of other rivers and tributaries in the region".

—Page 32, line 3, strike "at reasonable cost".
—Page 32, line 16, strike "while" and all that follows down through "supply" on page 32, line 18.
—Page 33, line 6, strike "(C) utilize" and all that follows down through "cost;" on page 33, line 8, and renumber accordingly.
—Page 34, line 17, strike "may" and insert therefor "shall".
—Page 37, line 18, strike "to the fullest extent practicable".
—Page 38, line 14, strike "Committees on Interstate and Foreign Commerce and" and insert therefor "Committee".
—Page 39, line 14, strike "To the greatest extent practicable, within" and insert therefor "Within".
—Page 40, line 4, strike "(k)(1) Not" and all that follows down through page 41, line 2.
—Page 41, line 12, strike "and to each requesting investor-owned utility".
Page 41, line 13, strike the comma and insert in lieu thereof: "or".
Page 41, line 14, strike "or investor-owned utility".
Page 42, line 5, strike "(2) Contracts" and all that follows down through page 42, line 8, renumbering accordingly.
Page 42, line 13, after "cooperative" strike the comma and insert in lieu thereof "or".
Page 42, line 13–14, strike "or investor-owned utility".
—Page 43, line 3, after "imposed" insert ", but not less than five years".
—Page 44, line 12, strike "(2) The" and all that follows down through page 44, line 18.
—Page 45, line 11, after "subsection" insert ", so long as such termination results in a decrease in the rates charged pursuant to section 7(b)(1) in the amount necessary to prevent the exceeding of the limit established by section 7(b)(2)".
—Page 46, line 17, after "sales" insert ", in their entirety, notwithstanding the provisions of subparagraph (B) of this paragraph relating to the provisions of any contract dated January or April 1975,".
—Page 47, line 4, after "directly" insert "or indirectly".
—Page 48, line 23, after "customer" insert "and, notwithstanding any provision of section 7, such electric power shall be sold at a price that reflects the full cost of acquiring such power plus the appropriate administrative costs of the Administrator".
—Page 50, line 6, strike "(C) direct service industrial and renumber accordingly.
—Page 51, line 10, after "and" insert ", within twenty-four months,".
—Page 51, line 10, after "and" insert ", as soon as the Plan is adopted pursuant to section (4d),".
—Page 53, line 3, strike "(7) The" and all that follows down through page 53, line 5.
—Page 54, line 20, after "Act.", insert "(b) The Administrator shall require in utility customer contracts that those utilities shall purchase excess electricity at appropriate prices offered for sale by individuals owning and operating renewable energy equipment.", renumbering accordingly.

—Page 54, line 20, after "Act." insert a new subsection, renumbering accordingly "(b) In making any payment to a utility for the acquisition of a resource under section 6(a)(2) or for the exchange of power under section 5(C), the Administrator shall exclude the costs of construction work in progress."
—Page 58, line 9, after "(1)" insert "when no plan is in effect or" and on page 58, line 11, strike "or, if" and all that follows down through "section 4(e)(2)" on page 58, line 13.
—Page 58, line 19, after "Congress" insert "pursuant to bills reported from the Committees of Congress having jurisdiction, under the applicable rules of the respective Houses of Congress, over substantive amendments to the Bonneville Project Act and the Federal Columbia River Transmission System Act,".
—Page 59, line 19, after "Congress" insert

"(d) Prior to the acquisition of a specific major resource, any utility may notify the Administrator of its determination not to participate in such resource if such utility has determined by a referendum or a vote by its governing body not to participate in such resource.

In the event of such notification, the Administrator shall not include costs from such resource in the rates charged such utility, and the Administrator, in allocating power among the utilities, shall not allocate to nonparticipating utilities any power from such resource. Such allocation shall be adjusted from time to time to take into account the historical operating experience of the resource.".
—Page 60, line 20, strike "(f)(1) For" and all that follows down through page 62, line 18.
Page 55, line 22, strike "(f),".
Page 55, line 25, strike "to" and all that follows down through "resource," on page 56, line 2.
Page 52, line 2, strike "(f),".
Page 57, line 15, strike "In the case" and all that follows down through page 57, line 22.
Page 60, line 11, strike "(including" and all that follows down through page 60, line 14, and insert in lieu thereof a period.
Page 91, line 7, strike "(E)" and all that follows down through page 91, line 8, and renumber accordingly.
—Page 68, line 19, after "subsection" insert "and the Congress by concurrent resolution, approves such report".
—Page 69, line 17, after "load.", insert a new subsections:

"(n)(1) In each case of major resource acquisition, the Administrator shall resource asquisition, the Administrator shall promptly transmit to the Attorney General a copy of any reource acquisition proposal provided for in subsections (a), (b), (f), (h) or (l); and the Attorney General shall, within a reasonable time, but in no event to exceed 180 days after receiving a copy of such proposal, render such advice to the Administrator as he determines to be appropriate in regard to the finding to be made by the Administrator pursuant to paragraph (3) of this subsection. Such advice shall include an explanatory statement as to the reasons or basis therefor.

"(2) Upon the request of the Attorney General, the Administrator shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate for the advice called for in paragraph (1) of this subsection.

"(3) Promptly upon receipt of the Attorney General's advice, the Administrator shall publish the advice in the Federal Register. Where the Attorney General advises that there may be adverse antitrust aspects and recommends that there be a hearing, the Attorney General or his designee may participate as a party in the proceedings thereafter held by the Administrator in connection with the subject matter or his advice. The Administrator shall give due consideration to the advice received from the Attorney General and to such evidence as may be provided during the proceedings in connection with such subject matter, and shall make a finding as to whether the activities under the proposal would create or maintain a situation inconsistent with the antitrust laws as specified in subsection 105a of the Atomic Energy Act of 1954 (42 USC 2135).

"(4) In the event the Administrator's finding under paragraph (3) is in the affirmative, the Administrator shall terminate such proposal, notwithstanding other provisions of this Act.

—Page 71, line 1, after "(1)" insert "(A)";
—Page 71, line 1, strike out "a rate or";
—Page 71, line 5, strike out "Such rate or rates shall" and all that follows down through page 71, line 12 and substitute:

"(B) The rates of general application established under this paragraph for electric power sold to meet such general requirements and loads under section 5(c) shall consist of the following separate rates—

(i) A rate which shall recover both (I) the costs of that portion of the Federal base system resources needed to serve such general requirements and loads and (II) the costs of the electric power acquired by the Administrator under section 5(c) to serve such general requirements and loads.

(ii) Separate rates which shall recover the costs of any additional electric power acquired by the Administrator from sources other than the sources referred to in clause (i) in order to serve such general requirements and loads under section 5(c).

(C) The rates under clause (ii) of paragraph (B) shall consist of the following separate rates—

(i) A rate for that amount of additional electric power referred to in clause (ii) of subparagraph (B) which is initilly purchased by the Administrator in the first ten year period during which any such additional electric power is purchased by the Administrator for purposes of sales referred to in such clause (ii).

(ii) Separate rates for that amount of additional electric power referred to in clause (ii) of subparagraph (B) which is initially purchased in each sueceeding ten year period during which any such additional electric power is purchased by the Administrator for purposes of sales referred to in such clause (ii).

(D) The rates established pursuant to subparagraph (B)(ii) for any electric power acquired by the Administrator from a new resource shall recover the full costs of such new resource over its useful life.

(E)(i) The Administrator shall annually allocate the electric power sold at the rate established under clause (i) of subparagraph (B) to the customers referred to in subparagraph (A), including public bodies and cooperatives formed after the date of the enactment of this Act which initially become customers of the Administrator after such date.

(ii) In the case of the public body, cooperative, and Federal agency customers, such allocation shall be in proportion to general requirements of each such customer, except that the allocation shall be adjusted to give equitable consideration to differing rates of population growth, employment, and irrigated acreage.

(iii) In the case of the customers acquiring electric power pursuant to section 5(c), such allocation shall be adjusted on the basis of population growth and irrigated acreage.

(F) Each separate rate required pursuant to this subpargraph shall be separately stated on a billing provided to the customer for purposes of periodically notifying the customer of the charges for electric power purchased subject to each such rate.

(G) Whenever the rates charged to public body, cooperative, and Federal agency customers are modified by reason of the limitation contained in paragraph (2), such modified rates shall be established, where practicable, as separate rates charged according to the rate structure described in subparagraphs (B) and (C), and where not practicable, according to a rate structure which the Administrator determines will maintain the effects of such separate rates and will carry out the purposes of subparagraphs (B) and (C).".

Page 80, strike "(j) All" and all that follows down through line 4 on page 81.
—Page 56, line 17, strike "to assist in evaluating the".
Page 56, line 18, strike "proposal".
Page 56, line 24, after "decision" insert

"based on the record developed pursuant to subparagraph (c) of this paragraph".

Page 91, line 22, after "Code" insert including sections 706(2)(E) and 706(2)(F) thereof".

—Page 76, line 12, after "customers." insert "(4) Notwithstanding any other provision of this subsection, the rates established by this subsection for that portion of the direct service industrial load that is not subject to interruption by the Administrator for the purpose of providing reserves shall in no event be less than the average cost to the Administrator of acquiring new resources pursuant to section 6 in the year previous to the sale of power to any direct service industrial customer to which this subsection applies.".

—Page 77, line 8, after "time-of-day" insert "rates, conservation rates, inverted rates, multi-tier rates".

—Page 80, line 24, strike the second "and";

Page 81, line 4, strike the period; insert therefor ", and (3) a statement by the Administrator, rationalizing why the rates established pursuant to this section for resources required to meet load growth within the region are less than the actual costs of acquiring such resources."

—Page 91, line 22, strike "Nothing" and all that follows down through page 91, line 24.

—Page 92, line 25 and page 93, line 3, strike "ninety" and insert therefor "one hundred twenty".

—Page 93, line 5, strike "sixty" and insert therefor "ninety".

—Page 95, line 4, strike "(h)(1) No" and all that follows down through page 97, line 9.

—Page 98, line 17, strike "The" and all that follows down through page 98, line 24.

—Page 100, line 7, strike "Such" and all that follows down through page 100, line 10.

—Page 100, line 10, after "positions." insert:

"(1) The authorities granted and the programs established by this Act, insofar as they exceed those existing the day before the date of enactment of this Act, shall cease to be effective on the date five years after the date of enactment of this Act, unless the Congress by Joint Resolution reauthorizes such authorities and programs before such date."

—Page 100, line 10, after "positions." insert:

"(1) No rule and regulation promulgated by the Administrator or the Council pursuant to this Act shall become effective until the Congress, by concurrent resolution, has approved such rule and regulation: *Provided*, That, any such rule or regulation shall be considered approved by the Congress if no action has been taken by the Congress regarding such rule or regulation within 60 days after such rule or regulation has been promulgated. For the purpose of determining the 60 days referred to in the previous sentence, only days on which both Houses of Congress are in session shall be included."

—Page 101, line 8, strike "(d) If" and all that follows down through page 101, line 14.

—Page 101, line 24, after "Act" insert ", including section 10(a)(1),".

—Page 102, line 4, strike "(h)" and all that follows down through page 102, line 16.

—Page 102, line 24, strike "SEC. 12" and all that follows down through page 103, line 5.

—Page 46, line 20, strike "(B) After" and all that follows down through page 47, line 2 and insert therefor "(B) After the effective date of this Act, the Administrator shall auction to any and all direct service industrial customers the rights to electric power service pursuant to subparagraph (A) of this paragraph. Such auction sales shall be executed in increments of megawatt-hours and for periods of five years and shall be limited to such total amount of power as the Administrator can assure delivery. The Administrator shall not sell any power under this subsection except to the highest bidders in the auction held pursuant to this subparagraph.".

—Page 1, strike all after the enacting clause and insert therefor "That this Act may be cited as the "Northwest Renewable Resources, Conservation, and Energy Planning Act."

FINDINGS

SEC. 2. The Congress finds that—

(a) The Federal Columbia River power system offers a unique opportunity to encourage policies of conservation and efficiency in the use of electric power within the Pacific Northwest region and to demonstrate the effectiveness of such policies to the Nation at large.

(b) The participation and consultation of the States, local communities, ratepayers, fishery agencies, and the public at large are essential in development of regional plans and programs related to energy conservation, renewable resources, and other generating resources and orderly planning of the Federal Columbia River power system.

(c) The ratepayers of the Pacific Northwest should continue to pay all costs necessary to produce, transmit, and conserve electric power to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River power system.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Administrator" means Administrator, Bonneville Power Administration.

(b) "Conservation" means any improvement in the efficiency of energy production or use or any reduction in energy use.

(c) A conservation measure or program, a renewable resource application or program, or any other resource is "cost-effective" for purposes of this Act if it meets the end-use energy demand at a cost below the cost of generating and distributing electricity from the next least-cost alternative program or resource. For purposes of determining the cost of resources under this subsection, the term "cost" shall include, but not be limited to, the costs of the full fuel cycle, including prospective cost escalation, availability of fuel and plant decommissioning and waste disposal, the appropriate historical capacity and availability factors, the appropriate and actual financing costs, and the direct and indirect social and environmental costs (including the impact on the affected region's fisheries that acompanies the addition of new resources) to the extent such costs can be identified and quantified. Such costs shall be based on the full life-cycle of such resources.

(d) "Electric power" means electric peaking capacity or electric energy or both.

(e) "Federal base system resources" means the Federal Columbia River power system hydroelectric projects which on the effective date of this Act are in operation or are scheduled for operation on or before June 30, 1983, electric power resources acquired by the Administrator under long-term contracts which are in effect on the effective date of this Act and new resources acquired by the Administrator at the least possible cost to replace reductions in capability of the foregoing resources.

(f) "New resources" means all electric power resources acquired by the Administrator, except resources which are Federal base system resources or resources acquired at average cost from the investor-owned utilities pursuant to section 5(b)(2) of this Act.

(g) "Pacific Northwest, region, or regional" means—

(1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.

(h) "Renewable resource" means a source of energy relying on a naturally replenishable fuel, including, but not limited to, solar, wind, hydro, geothermal, and biomass, which is used for electrical generation or which will reduce the electrical requirements of a consumer by direct application.

(i) "Residential use or load" means all usual residential, apartment, seasonal dwelling and farm building, electrical loads or uses, and not to exceed a total of one hundred horsepower of farm irrigation and pumping loads for any farm.

(j) "Resources" means electric power, electric power output of generating facilities, programs and measures to conserve electric power, renewable energy technologies, and programs and measures to utilize renewable technologies.

(k) "Plan" means the regional power planning and conservation plan required by section 4.

(l) "Commission" means the Pacific Northwest Electric Energy Planning Commission established under section 4.

(m) "Evidentiary hearing" means a proceeding conducted as provided in sections 554, 556, and 557 of title V of the United States Code.

(n) "Reserves" as used in connection with power sold to the direct-service industrial customers means the energy and/or capacity available to the Administrator through contract rights to interrupt, curtail, or otherwise withdraw, for the benefit of firm loads within the Pacific Northwest, any or all of the energy and/or capacity supplied such customers when needed to avert particular planning and/or operating contingencies specified in his contracts with such customers.

REGIONAL PARTICIPATION

SEC. 4. (a) In order to insure regional accountability for energy decisions, there is established a Pacific Northwest Electric Energy Planning Commission, composed one representative each from the States of Idaho and Montana, and two representatives each from the States of Oregon and Washington, elected under applicable laws of each State.

The Administrator shall include in his annual budgets submitted pursuant to Public Law 93-454 the amount requested by the Commission, but not to exceed an amount equal to 0.02 mills per kilowatt hour sold by the Administrator in the preceding calendar year, for equal distribution to the States of Idaho, Oregon, Montana, and Washington, in support of the States participation in the business of the council and related electrical energy planning activities.

The Commission shall select a chairman from among its State members. Five members of the Commission shall constitute a quorum for conducting business and decisions of the council shall be by majority vote: *Provided*, That the plan required by subsection (b) of this section, or any element thereof or revisions thereto must be approved by at least five members.

(b) Within two years of enactment of this Act, the Commission shall prepare and adopt as a rule a regional power planning and conservation plan ("the plan"). Such plan shall be revised by the Commission as it deems necessary, but not less frequently than every five years. Within one year of the effective date of this Act, and at least twelve months before adoption of any new plan, the Commission shall identify the elements of the plan. The Commission shall give notice and opportunity for public hearing and comment in each State, on—

(1) identification of the elements of the plan; and

(2) adoption of the plan.

The Commission shall take action under this subsection pursuant to section 553 of title 5, United States Code.

(c) The plan shall include—

(1) a twenty-year regional load and resource forecast for the Administrator, including an assessment of the impact of the conservation standards promulgated pursuant to section 7 and a description of the methodology used in the preparation of the forecast;

(2) conservation, waste-recovery, and renewable resource programs required by section 7;

(3) model conservation standards required by section 7;

(4) a research and development program;

(5) a program to carry out the fisheries conservation requirements of section 8;

(6) criteria and standards for resources acquisitions pursuant to section 6 of this Act;

(7) a mix of resource types and an analysis of potential resources to be acquired pursuant to section 6 of this Act, this cost, feasibility, and reliability;

(8) major transmission system additions; and

(9) such other programs as are appropriate.

Any proposed action under paragraphs (2) and (7) shall be cost-effective. Such plan shall set forth in detail the findings upon which such determination of cost-effectiveness is based.

(d) No action may be taken by the Administrator under section 6 or under any other provision of law to which the plan applies unless such action conforms to the plan adopted under this section, except as specifically provided for in section 6.

(e) In order to further insure widespread and representative public involvement in formulation of regional power programs and policies, the Administrator and the Commission shall establish and maintain comprehensive programs designed to inform the Pacific Northwest public of major regional electric power issues, to obtain public views and reactions concerning those issues, and to secure as he deems appropriate, advice and consultation from his customers and others, including groups organized for such purpose.

SALE OF POWER

SEC. 5. Subject at all times to the preference and priority accorded public bodies and cooperatives under the Bonneville Project Act of 1937, Public Law 75-329, and, in particular, sections 4 and 5 thereof:

(a) The Administrator shall offer to sell electric power to each Publicly-owned utility or cooperative in the Pacific Northwest, at rates established pursuant to section 9, to meet its firm power load in the region which is in excess of the capability of such utility's firm resources which the utility as of December 31, 1976, had determined or which the utility shall after the effective date of this Act, determine to use to serve its firm load, subject to the provisions of subsection (b)(2) of this section:

Provided, That (1) such resources used to serve firm loads shall, except with the consent of the Administrator, continue to be used to meet the utility's firm load except for obsolescence, retirement, or loss of resource or contract rights; (2) the Administrator shall include provisions in contracts executed in accordance with this section to enable him to restrict his obligations to meet such loads in the event he determines he cannot acquire sufficient resources pursuant to section 6 to meet such loads; but no such restrictions shall be imposed against the Administrator's public body, cooperative and Federal agency customers until the Federal base system resources are fully allocated to such customers; and (3) sales to a utility pursuant to this section 5(a) shall not be restricted below the amount of resources acquired by the Administrator from such utility pursuant to section 6. The Administrator shall not reduce or restrict his sales of power to any utility customer as a result of a reduction in such utility's load due to energy conservation savings or development of renewable or waste-recovery resources by the utility.

(b) Additionally, (1) the Administrator is authorized to sell electric power to Federal agencies located in the Pacific Northwest and (2) if the Administrator acquires electric power either from a Pacific Northwest utility at the average system cost of resources then available to that utility, or from other resources at a cost equal to or less than the average system cost of resources then available to that utility, then the Administrator shall offer to sell to such utility for resale to meet the load of its residential customers in the region an equivalent amount of electric power: *Provided*, That the Administrator shall insure, by contract or otherwise, that rates charged residential customers of utilities as a result of this subsection shall directly reflect the unmelded rate benefits provided to that utility by this subsection: *And provided further*, That the sales of power to utilities made pursuant to this subsection shall be subject to the separate, new-resource rate or rates required by section 9(b), when such separate rate or rates are established. Such electric power shall be sold at rates established pursuant to section 9. Average system cost of resources as used in this subsection shall not include: (1) the cost of resources acquired by a utility to meet any large new industrial load that was not contracted for or committed to by October 1, 1978; or (2) the cost of resources acquired to meet any firm power sales to ultimate consumers outside the region.

(c) Within one hundred and twenty days of the effective date of this Act, and as necessary thereafter, the Commission shall adopt by rule a methodology for determining average system cost of power to be obtained by the Administrator under section 5(b)(2) of this Act. In determining appropriate rates for sale of power to the Administrator under sections 5(b)(2) and 6(b) from an investor-owned utility, the Federal Energy Regulatory Commission ("FERC") shall convene a board, pursuant to section 209 of the Federal Power Act, section 824h of title 16, United States Code, with such power as the Federal Energy Regulatory Commission shall direct, to assist the Federal Energy Regulatory Commission in its consideration of the sale.

(d) The Administrator is authorized to sell to direct-service industrial customers receiving electric power from the Federal Columbia River power system as of the date of this Act electric power to meet their load requirements so long as such sales provide a portion of the planning and operating reserves for the Federal Columbia River power system. The Administrator shall offer to such customers new power sales contracts with terms of five years or less. Such offer shall expire one year from the date it is tendered by the Administrator. Such electric power shall be sold at rates established pursuant to section 9.

(e) The Administrator is further authorized to sell or otherwise dispose of electric power that is surplus to his obligations incurred pursuant to subsections (a), (b), and (c) of this section in accordance with other statutes related to disposition of power from the Federal Columbia River power system. Such electric power shall be sold at rates established pursuant to section 9.

RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall implement all cost-effective conservation and renewable resource programs in conformance with the plan and as provided for in section 7. The Administrator shall proceed with any and all specific cost-effective programs mandated by this subsection prior to adoption of the initial plan: *Provided*, That any such programs shall be reevaluated and modified to conform with the initial plan.

(b) If the plan determines that resources, in addition to conservation savings and renewable energy utilization implemented pursuant to section 6(a), will be necessary to enable him to meet obligations incurred under subsections (a), (b), and (d) of section 5, the Administrator shall acquire such additional resources without, however, reducing his efforts to achieve conservation savings and renewable energy utilization pursuant to subsection (a) of this section. Resources so acquired—

(1) shall be consistent with the plan adopted pursuant to section 4;

(2) shall be constructed and operated to provide efficient, economic, and reliable service;

(3) shall be obtained first from feasible and cost-effective sources relying on renewable fuels, waste heat or cogeneration and, then from other feasible and cost-effective sources, with priority given to resources of high fuel efficiency and high labor intensity; and

(4) may be obtained from Federal or non-Federal, utility or nonutility entities.

Contracts for acquisition of resources entered into pursuant to this subsection shall contain such terms and conditions as the Administrator finds necessary or proper to ensure timely construction, scheduling, and completion of new generating facilities to be constructed to supply such resources; to ensure that the costs of any acquisitions are as low as reasonably possible, consistent with sound business practices; to ensure that obligations incurred under such contracts for non-renewable resources shall not become obligations of the United States; and to provide the means for the Administrator to exercise effective oversight, audit and review of all aspects of such construction. Size and location of such resources shall not be considered as factors except as they relate to the relative cost per unit of energy produced.

(c) The Administrator shall require in utility customer contracts that those utilities shall purchase excess electricity at appropriate prices offered for sale by individuals owning and operating renewable energy equipment.

(d) The Administrator is authorized to construct and operate conservation and renewable resource demonstrations for the purpose of assessing cost and feasibility.

(e) The Administrator is authorized to pay for the investigation and preconstruction development of renewable resources that may potentially be offered to him for ultimate acquisition: *Provided*, That the Administrator shall take no such action without first providing opportunity for public review and comment as required by section 4: *Provided further*, That if he makes any payment under this subsection the Administrator shall obtain the option to acquire such resources.

(f) No contract for the acquisition of resources pursuant to subsection (b) of this section involving a single facility costing more than $100,000,000 may be entered into by the Administrator unless he determines after evidentiary hearing that the proposed resource acquisition is necessary and in conformance with the plan. No financial commitment shall be incurred under the authority of subsection (b) until it has been noted in the Administrator's budget submittal made pursuant to section 11 of Pub-

lic Law 93-454. With written notice, any utility customer may inform the Administrator that it chooses not to participate in any resource covered by this subsection. Thereafter, such utility shall not receive power from such facility or be charged for power produced at such facility. The Administrator shall condition his financial commitment in any contract for acquisition of resources upon the receipt of all approvals and permits from the applicable State siting authorities.

(g) The Administrator, at the request and expense of a Pacific Northwest customer, shall acquire, to the extent practicable, any electric power which is required by such customer to replace electric power curtailed or interrupted by the Administrator: *Provided*, That such customer may elect to acquire independently replacement power under terms and conditions as prescribed by the Administrator.

CONSERVATION AND RENEWABLE RESOURCES

SEC. 7. (a) As required by section 6 and consistent with the plan, the Administrator shall establish a conservation and renewable resource loan and grant fund, the moneys of which shall be raised as needed and dispensed to and through the region's utilities. The fund shall be established at $1,250,000,000, and may be adjusted by the Commission as necessary according to the projected use of the fund, for the following purposes:

(1) investment by individual utilities in cost-effective conservation measures and programs and in small-scale renewable and waste-recovery resources;

(2) provision of loans and grants to customers of the region's utilities for investment in conservation, waste-recovery, and renewable energy measures;

(3) technical and other assistance to utilities to carry out the provisions of this section; and

(4) other appropriate programs.

(b) The Administrator shall require in contracts that his utility customers (1) provide detailed accurate information to their customers on the relative life-cycle costs of various resources, including, but not limited to, conservation measures, dispersed renewable energy applications, and conventional utility-provided electricity, and (2) make the maximum practicable effort to conserve energy and promote renewable energy use among their customers, as is cost-effective.

(c) The Administrator shall—

(1) establish, as required by section 4, model regional conservation standards for efficient use of power (hereinafter "model standards"). Model standards shall be periodically reviewed and amended as necessary and shall be set for new and existing residential, commercial, industrial, and agricultural structures; commercial, industrial, and agricultural processes; and utility and other customer programs for achieving conservation of energy and the utilization of renewable resources. The model standards shall include those appropriate for passive solar design. Model standards shall reflect climatic differences within the region, be designed to accomplish all reasonable and practical conservation and renewable resource use and be set at the cost-effective level;

(2) apply a 50 per centum surcharge to rates for power sales to those utilities or other customers in States which have not enacted or are not implementing within one year of adoption by the Administrator the model standards and revisions developed pursuant to this subsection: *Provided*, That the Administrator may grant exemptions from the surcharge to utilities in jurisdictions where equivalent standards have been developed and implemented locally; and

(3) if within three years of adoption of the model standards or revisions by the Administrator, a State or States have not implemented such standards or revisions, the Administrator, without regard to any other provision of this Act or other Act of law, shall preferentially allocate power to those customers located in States which have implemented such standards or revisions.

FISHERIES CONSERVATION

SEC. 8. (a) In addition to duties established by any other provision of law, the Administrator shall—

(1) implement such mitigation and enhancement measures as may be necessary to restore fisheries, to the maximum extent practicable, which have been damaged by the development and operation of the Federal Columbia River power system; and

(2) maintain the minimum instream flow in the Columbia River necessary to preserve the existing stocks of fish, and to preserve increased stocks of fish which result from mitigation and enchancement measures implemented pursuant to paragraph (1) or by any other agency, and structural modifications made pursuant to subsection (b).

(b) The Administrator shall effect, in coordination with the necessary agencies, (1) the modification of existing structures of the Federal Columbia River power system, to the extent practicable, (2) the construction of any structure of such system for which no contract has been made and no construction has begun on the date of the enactment of this Act, and (3) the construction or modification, to the extent practicable, of any structure of such system which has not been completed, but for which a contract has been made or construction has begun, on the date of the enactment of this Act, in a manner which will minimize damage to fisheries from the operation of such system.

(c)(1) In any case in which actions taken under subsection (a) or (b) cause a decrease in the production of electric power in the Federal Columbia River power system, the Administrator shall reduce the amount of power sold to customers outside the Pacific Northwest, on an equitable basis, by an amount equal to such decrease.

(2) If the amount of the decrease described in paragraph (1) is greater than the amount of electric power sold outside the Pacific Northwest, the Administrator shall reduce the amount of power sold to customers within the Pacific Northwest on an equitable basis. The Administrator shall provide compensation to each customer within the Pacific Northwest with which he has a long-term contract for the supply of electric power, which is subject to such a reduction. The amount of such compensation shall be equal to the customer's cost of replacing any electric power which the Administrator is obligated to supply under such contract, but which is not supplied because of such reduction.

(d) In any contract made after the date of the enactment of this Act to supply electric power to customers in the Pacific Northwest, the Administrator shall agree to supply electric power only to an extent consistent with maintaining the minimum instream flow required by subsection (a)(2).

(e) In any case in which an action of the Administrator may affect fisheries in the Columbia River system, the Administrator shall consult, and coordinate his actions, with the National Marine Fisheries Service and the appropriate State fish and game agencies in order to carry out his duties under this section.

(f) Any license which is issued or renewed under the Federal Power Act after the date of the enactment of this Act for the operation of a facility in the Federal Columbia River power system shall be issued or renewed on the condition that the licensee comply with the requirements of subsection (a) and on such other conditions as the Federal Energy Regulatory Commission may prescribe to achieve the purposes of this section.

RATE DIRECTIVES

SEC. 9. (a) The Administrator shall establish and periodically modify rates for the sale and disposition of electric power to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power and renewable resources including the amortization of the Federal investment in the Federal Columbia River power system over a reasonable period of years and other costs and expenses incurred by the Administrator pursuant to law. Such rates shall become effective upon confirmation and approval by the Federal Energy Regulatory Commission and shall be established in accordance with sections, 9 and 10 of Public Law 93-454 and the provisions of this Act on the finding that such rates (1) are sufficient to assure repayment of the Federal investment after first meeting the Administrator's other costs; (2) are based upon the Administrator's total costs of service, including contingencies; and (3) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal users.

(b) The Administrator shall establish a rate or rates applicable to the electric power sold for the general requirements of public body, cooperative and Federal customers, and to the electric power sold under section 5(b)(2) for the requirements of residential customers in the region. Such rate or rates shall recover the costs of that portion of the Federal base system resources needed until such requirements exceed the Federal base system resources. Thereafter, such rate or rates shall also recover the costs of additional electric power as purchased by the Administrator under section 5(b). In addition, the Administrator shall establish a separate schedule applicable to sales of the electric power he acquires from new resources in each successive ten year period following the passage of this Act. These separate rates will be set to recover the full life-cycle cost of the new resources.

The Administrator shall set rates and schedule charges for all utilities receiving power from the pool of Federal base system resources and power acquired pursuant to section 5(b), based on the following considerations:

(1) The estimated amounts charged for firm power under rates applicable to the general requirements of public bodies, cooperative, and Federal agency customers of the Administrator under this Act, including sales from new resources acquired by the Administrator, but excluding costs for conservation or uncontrollable events which have been included as part of such rates, in no event shall exceed in any five-year period beginning July 1, 1985 an amount equal to the estimated cost for such customers that would have obtained if: (A) the public body and cooperative customers' general requirements had included the direct service industrial customers' loads located within or adjacent to the geographic service boundaries of such public bodies and cooperatives during the applicable period; (B) public body, cooperative, and Federal agency customers had been served with Federal base system resources, less firm power contractual commitments as the date of this Act to direct service industrial customers not located within or adjacent to the service area of a public body or cooperative customer of the Administrator; (C) no purchase or sale as provided in section 5(b)(2) had been made; (D) all resources that would have been required to meet the general requirements of the public body, cooperative, and Federal agency customers in excess of Federal base system resources were from resources owned or purchased by public bodies and cooperatives after the effective date of this Act; and (E) the monetary savings to the public body,

cooperative and Federal agency customers that resulted from actions of the Administrator under section 6 were not achieved. Any amounts not charged to such public body, cooperative, and Federal agency customers pursuant to this section 9(b) shall be recovered from the rates applicable to all other power sold.

(2) Rates charged to individual utilities, pursuant to section 9(b)(1), to recover the cost of Federal base system resources and resources acquired pursuant to section 5(b)(2) shall be prescheduled. The prescheduled charges to individual utilities will be in proportion to their projected general requirements or to requirements for power pursuant to section 5(b)(2), as determined by the regional forecast developed pursuant to section 4.

(3) Projected charges to all individual utilities to recover costs of new resource pools will be scheduled in proportion to their projected net requirements from Bonneville Power Administration: *Provided*, That to the extent their actual requirements deviate from projected levels, their charges will be reduced or increased by the amount their load falls short of or exceeds projections, valued at the rate for power from the newest resource pool.

(4) The schedule of charges for the first five years of the Act will be set in conformance with the 1978 long-term forecasts of each utility and Federal agency customer of Bonneville Power Administration, with schedules for charges for each subsequent ten-year period determined from the uniformly applied regional forecast model developed pursuant to section 4 and announced two years before the schedules are to take effect. The Administrator may grant exceptions for the total rates charged to individual utilities with requirements of less than 25 megawatts, in the event of new single large loads which could not have reasonably been anticipated in the regional forecast.

General requirements as used in this section shall be that portion of a public body's, cooperative's or Federal agency's directly served electric powerload in excess of its own resources that are dedicated to meet such load and exclusive of any large new industrial load that was not contracted for or committed to by the public bodies or cooperatives by October 1, 1978.

(c) The Administrator shall require by contract or otherwise that the resale rates of his utility customers directly reflect the two unmelded rates established pursuant to subsection (b).

(d) The rate or rates applicable to direct-service industrial customers shall be established at a level which the Administrator determines is equitable in relation to the rates charged by the region's electric utilities to their major industrial customers, taking into account the value of power system reserves made available to the Administrator through his rights to curtail or interrupt service to such direct-service industrial customers; the comparative size and character of the loads served; the relative costs of electric capacity, energy, transmission, and related delivery facilities provided, and other service provisions, all as related to the delivery of power to such customers; *Provided*, That prior to July 1, 1985, the rate or rates applicable to direct-service industrial customers shall be established to recover the costs incurred by the Administrator pursuant to section 5(b)(2) and not recovered through rates applicable for other classes of power sold by the Administrator: *Provided further*, That for the period prior to July 1, 1981, such rate or rates may be in the form of a surcharge on rates then applicable to direct-service industrial customers: *Provided further*, That notwithstanding any other provision of this section, the rates established by this subsection for that portion of the direct service industrial load that is not subject to interruption by the Administrator for the purpose of providing reserves shall in no event be less than the average cost to the Administrator of acquiring new resources pursuant to section 6 in the year previous to the sale of power to any direct service industrial customer to which this subsection applies.".

(e) In establishing rate schedules of general application, the Administrator may establish a uniform rate or rates for sale of capacity.

(f) Rates for all other firm power sold by the Administrator shall be based upon the cost of the portions of Federal base system resources and additional resources, including new resources, which the Administrator determines are required to support such sales.

(g) The Administrator shall allocate to power rates, as he may determine appropriate, all other costs and benefits including, but not limited to, conservation, uncontrollable events, reserves, operating services, and the sale of excess electric power.

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) In carrying out the provisions of this Act, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancellation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary

(b) Except as specifically provided herein, the authority and duties of the Secretary of Energy and the Administrator shall not be affected by this Act.

(c) No later than ninety days after enactment of this Act, the Administrator shall offer to enter into power sales and purchase contracts to be effective ninety days thereafter with utilities pursuant to section 5(b)(2).

(d) For the purpose of enabling the Administrator to acquire resources from State and local governmental units at a cost no greater than the cost which would be applicable in the absence of such acquisition, the debt obligations described in section 103(a)(1) of title 26 of the United States Code shall not be affected by any contract or agreement regarding the Administrator's acquisition of resources constructed by a State or local governmental unit and for which the Secretary of the Treasury in consultation with the Administrator determines at the time the commitment for such acquisition is made will not be utilized over the life of the project in whole or in major part by a person who is not an exempt person, as defined in section 103(c)(3) of title 26 of the United States Code.

AMENDMENTS TO EXISTING LEGISLATION

SEC. 11. (a) Section 11(b) of Public Law 93-454 is amended by adding a new subparagraph (12) as follows:

"(12) making such payments as shall be required to carry out the purposes of the Northwest Conservation, Renewable Resource, and Energy Planning Act.".

(b) Public Law 93-454 is amended by striking subsections 13 (a) and (b) and substituting the following new subsections:

"SEC. 13. (a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of, and on behalf of the Bonneville Power Administration, bonds, notes, and other evidences of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the constructing, acquisition, and replacement of the transmission system, to implement the Administrator's authority pursuant to the Northwest Renewable Resource, Conservation and Energy Planning Act, 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 Treasury 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. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $3,500,000,000.

"(b) 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 11(b)(2) through 11(b)(7), 11(b)(11) and 11(b)(12), and shall include reserve or other funds created from such receipts.".

(c) Pulic Law 88-552 is amended by striking subsection 1(b) and inserting a new subsection (b) as follows:

"(b) Pacific Northwest means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it services both within and without said region.".

(d) Public Law 88-552 is amended by adding a new section 10 as follows:

"SEC. 10. All references in sections 1, 2, 3, 5, and 7 of this Act to 'plants,' 'energy,' 'peaking capacity,' and 'generating facilities' shall be applicable to all types of generation and not solely to hydroelectric generation.".

MISCELLANEOUS

SEC. 12. (a) Neither the provisions of this Act empowering the Administrator to market resources to entities other than public bodies and cooperatives nor the implementation of these provisions shall affect, alter or diminish the provisions of other Federal laws in which preferential entitlement to purchase Federally generated power and energy is accorded to public bodies and cooperatives.

(b) Nothing in this Act shall in any way diminish or abridge the right of any State to determine retail electric rates (except as provided in section 9(c)), to develop its own plans for conservation, development and use of electrical energy resources, or to make energy facility siting decisions including, but not limited to, determination of the need for a particular facility, evaluation of alternative sites, and consideration of alternative methods of meeting the determined need.

S. 1280

By Mr. WYDLER:

—Amend the table of contents to include the following new section:

SEC. 2. FINDINGS.

Renumber the following SEC. 2 as SEC. 3.

Immediately following section 1, add the following new section:

"(iii) the degree of toxicity of the hazardous waste involved;

"(iv) the degree of involvement by the parties in the generation, transportation, treatment, storage, or disposal of the hazardous waste;

"(v) the degree of care exercised by the parties with respect to the hazardous waste concerned, taking into account the characteristics of such hazardous waste; and

"(vi) the degree of cooperation by the parties with Federal, State, or local officials to prevent any harm to the public health or the environment."

Page 48, line 21, strike "this paragraph" and insert "subparagraph (A)".

H.R. 7112

By Mr. MAGUIRE:

—Page 16, immediately before line 1 insert the following new section (and redesignate the succeeding sections accordingly):

SEC. 104. EXCLUSION OF CERTAIN TAXES FROM TAX EFFORT COMPUTATIONS.

(a) AMENDMENT.—Section 109(c)(2)(A) of the State and Local Fiscal Assistance Act of 1972 is amended to read as follows:

"(A) TAXES TAKEN INTO ACCOUNT.—The State and local taxes taken into account under paragraph (1) are—

"(i) the compulsory contributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes,

"(ii) adjusted, to the extent practicable (under regulations prescribed by the Secretary), by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to the fraction of any severance, production, or sales taxes, imposed by the State or by any unit of local government or other political subdivision of the State on the extraction or sale of mineral resources, the burden of which is not borne by the residents of such State.".

(b) CONFORMING AMENDMENT.—Section 109(c)(2) is further amended by adding at the end thereof the following new subparagraph:

"(C) MINERAL RESOURCES.—For purposes of subparagraph (A)(ii), the term 'mineral resources' means petroleum, natural gas, or coal.".

By Mr. WALKER:

—Page 2, strike out lines 3 through 5; on line 6, redesignate section 101 as section 2; on page 8, line 13, redesignate section 102 as section 3; on page 12, line 23, redesignate section 103 as section 4; on page 16, line 1, redesignate section 104 as section 5; on page 16, line 9, redesignate section 105 as section 6; and on page 16, beginning on line 13, strike out all of title II of the bill through line 19 on page 38.

—Page 16, beginning on line 13, strike out all of title II of the bill through line 19 on page 38.

S. 885

By Mr. WEAVER:

(Amendment to the amendment in the nature of a substitute (text of H.R. 8157).

—Page 6, line 13, strike ", including" and insert "based on".

—Page 10, lines 15-21, strike "(A) electric power," and all that follows down through page 10, line 21 and insert in lieu thereof: "electric power, electric power output of generating facilities, programs and measures to conserve electric power, renewable energy technologies, and programs and measure to utilize renewable technologies."

—Page 11, line 24, strike "two persons from each State" and insert "four persons from Washington, three persons from Oregon, and two persons each from Idaho and Montana".

—Page 41, line 12, strike "and to each requesting investor-owned utility";

Page 41, line 13, strike the comma and insert in lieu thereof "or";

Page 41, line 14, strike "or investor-owned utility";

Page 42, line 5, strike "(2) Contracts" and all that follows down through page 42, line 8, renumbering accordingly;

Page 42, line 13, after "cooperative" strike the comma and insert in lieu thereof "or";

Page 42, lines 13–14, strike "or investor-owned utility".

—Page 48, line 23, after "customer" insert "and, notwithstanding any provision of section 7, such electric power shall be sold at a price that reflects the full cost of acquiring such power plus the appropriate administrative costs of the Administrator".

—Page 53, line 3, strike "(7) The" and all that follows down through page 53, line 5.

—Page 54, line 20, after "Act." insert a new subsection, renumbering accordingly:

"(b) In making any payment to a utility for the acquisition of a resource under section 6(a)(2) or for the exchange of power under section 5(C), the Administrator shall exclude the costs of construction work in progress."

—Page 58, line 19, after "Congress" insert "pursuant to bills reported from the Committees of Congress having jurisdiction, under the applicable rules of the respective Houses of Congress, over substantive amendments to the Bonneville Project Act and the Federal Columbia River Transmission System Act,".

—Page 59, line 18, after "Council.", insert:

"(d) Prior to the acquisition of a specific major resource, any utility may notify the Administrator of its determination not to participate in such resource if such utility has determined by a referendum or a vote by its governing body not to participate in such resource.

"In the event of such notification, the Administrator shall not include costs from such resource in the rates charged such utility, and the Administrator, in allocating power among the utilities, shall not allocate to nonparticipating utilities any power from such resource. Such allocation shall be adjusted from time to time to take into account the historical operating experience of the resource."

—Page 60, line 20, strike "(f)(1) For" and all that follows down through page 62, line 18;

Page 55, line 22, strike "(f),"

Page 55, line 25, strike "to" and all that follows down through "resource," on page 56, line 2:

Page 52, line 2, strike "(f),";

Page 57, line 15, strike "In the case" and all that follows down through page 57, line 22;

Page 60, line 11, strike "(including" and all that follows down through page 60, line 14, and insert in lieu thereof a period;

Page 91, line 7, strike "(E)" and all that follows down through page 91, line 8, and renumber accordingly.

—Page 71, line 1, after "(1)" insert "(A)";

Page 71, line 1, strike out "a rate or";

Page 71, line 5, strike out "Such rate or rates shall" and all that follows down through page 71, line 12 and substitute:

"(B) The rates of general application established under this paragraph for electric power sold to meet such general requirements and loads under section 5(c) shall consist of the following separate rates—

(i) A rate which shall recover both (I) the costs of that portion of the Federal base system resources needed to serve such general requirements and loads and (II) the costs of the electric power acquired by the Administrator under section 5(c) to serve such general requirements and loads.

(ii) Separate rates which shall recover the costs of any additional electric power acquired by the Administrator from sources other than the sources referred to in clause (i) in order to serve such general requirements and loads under section 5(c).

(C) The rates under clause (ii) of paragraph (B) shall consist of the following separate rates—

(i) A rate for that amount of additional electric power referred to in clause (ii) of subparagraph (B) which is initially purchased by the Administrator in the first ten year period during which any such additional electric power is purchased by the Administrator for purposes of sales referred to in such clause (ii).

(ii) Separate rates for that amount of additional electric power referred to in clause (ii) of subparagraph (B) which is initially purchased in each succeeding ten year period during which any such additional electric power is purchased by the Administrator for purposes of sales referred to in such clause (ii).

(D) The rates established pursuant to subparagraph (B)(ii) for any electric power acquired by the Administrator from a new resource shall recover the full costs of such new resource over its useful life.

(E)(i) The Administrator shall annually allocate the electric power sold at the rate established under clause (i) of subparagraph (B) to the customers referred to in subparagraph (A), including public bodies and cooperatives formed after the date of the enactment of this Act which initially become customers of the Administrator after such date.

(ii) In the case of the public body, cooperative, and Federal agency customers, such allocation shall be in proportion to general requirements of each such customer, except that the allocation shall be adjusted to give equitable consideration to differing rates of population growth, employment, and irrigated acreage.

(iii) In the case of the customers acquiring electric power pursuant to section 5(c), such allocation shall be adjusted on the basis of population growth and irrigated acreage.

(F) Each separate rate required pursuant to this subparagraph shall be separately stated on a billing provided to the customer for purposes of periodically notifying the customer of the charges for electric power purchased subject to each such rate.

(G) Whenever the rates charged to public body, cooperative, and Federal agency customers are modified by reason of the limitation contained in paragraph (2), such modified rates shall be established, where practicable, as separate rates charged according to the rate structure described in subparagraphs (B) and (C), and where not practicable, according to a rate structure which the Administrator determines will maintain the effects of such separate rates and will carry out the purposes of subparagraphs (B) and (C).".

Page 80, strike "(j) All" and all that follows down through line 4 on page 81.

—Page 95, line 4, strike "(h)(1) No" and all that follows down through page 97, line 9.

at the Federal Emergency Management Agency Special Facility; to the Committee on Government Operations.

5335. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report on civil rights issues in immigration, pursuant to section 104(c) of Public Law 85–315, as amended; to the Committee on the Judiciary.

5336. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title 14, United States Code, to provide for selective preappointment travel to the Coast Guard Academy for cadet applicants; to the Committee on Merchant Marine and Fisheries.

5337. A letter from the Comptroller General of the United States, transmitting a report on equal opportunity in referrals of the U.S. Employment Service (HRD–80–95, Sept. 17, 1980); jointly, to the Committees on Government Operations and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMPSON: Committee of conference. Conference report on H.R. 3904 (Rept. No. 96–1343). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. House Concurrent Resolution 376. Concurrent resolution relative to Japan-United States trade; with amendment (Rept. No. 96–1345). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7942. A bill to approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes (Rept. No. 96–1346). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 8081. A bill to establish the United States Holocaust Memorial Council; with amendment (Rept. No. 96–1347, pt. 1). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HARRIS: Committee on the Judiciary. H.R. 3459. A bill to waive the statute of limitations with regard to the claim of Eazor Express, Inc., of Pittsburgh, Pa., against the United States; with amendments (Rept. No. 96–1344). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PERKINS (for himself, Mr. FORD of Michigan, Mr. GOODLING, and Mr. ASHBROOK):

H.R. 8145. A bill to dismiss certain cases pending before the Education Appeal Board; to the Committee on Education and Labor.

By Mr. CORMAN (for himself, Mr. RANGEL, Mr. BRODHEAD, and Mr. DOWNEY):

H.R. 8146. A bill to provide a program of Federal supplemental unemployment compensation; to the Committee on Ways and Means.

By Mr. CLAUSEN:

H.R. 8147. A bill to provide a comprehensive system of liability and compensation for damage and removal costs resulting from spills of oil and hazardous substances, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Ways and Means.

By Mr. CORMAN:

H.R. 8147. A bill to allow an income tax deduction for certain motor carrier operating authorities to offset the impact of the Motor Carrier Reform Act of 1980; to the Committee on Ways and Means.

By Mr. DERWINSKI:

H.R. 8149. A bill to extend duty-free treatment to prayer shawls, bags for the keeping of prayer shawls, and certain headware used in religious observances; to the Committee on Ways and Means.

By Mr. DUNCAN of Oregon (for himself and Mr. ULLMAN):

H.R. 8150. A bill to amend the Internal Revenue Code of 1954 to exempt from the Federal motor fuels excise taxes fuel used in aircraft while engaged in certain activities related to planting, caring for, and harvesting of trees; to the Committee on Ways and Means.

By Mr. DORNAN:

H.R. 8151. A bill to amend title 18 of the United States Code to make rape a Federal crime if committed after travel in interstate commerce with the intent to commit rape, and to provide for the establishment within the Federal Bureau of Investigation a rape prevention information center; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 8152. A bill to amend the Internal Revenue Code of 1954 to encourage foreign pension plans to invest in the United States; to the Committee on Ways and Means.

By Mr. JENKINS (for himself, Mr. SMITH of Iowa, and Mr. FRENZEL):

H.R. 8153. A bill to amend the Internal Revenue Code of 1954 to clarify the tax-exempt status of agricultural and horticultural organizations operated for the purpose of bargaining collectively for the sale of members' products; to the Committee on Ways and Means.

By Mr. JENKINS (for himself, Mr. HEFTEL, and Mr. HOLLAND):

H.R. 8154. A bill to provide that Revenue Ruling 80–60 shall not require a change in the taxpayer's method of accounting for taxable years beginning before 1980; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H.R. 8155. A bill to amend the Internal Revenue Code of 1954 to cut in half the capital gains tax on the sale of certain stocks and bonds of qualified small corporations; to the Committee on Ways and Means.

By Mr. ULLMAN:

H. R. 8156. A bill to extend for an additional 3 years certain provisions relating to controversies involving whether individuals are employees for purposes of the employment taxes; to the Committee on Ways and Means.

By Mr. SWIFT (for himself, Mr. STAGGERS, Mr. UDALL, Mr. DINGELL, Mr. BROWN of Ohio, Mr. CLAUSEN, Mr. KAZEN, Mr. LUJAN, Mr. SHARP, Mr. SYMMS, Mr. ULLMAN, Mr. FOLEY, Mr. PRITCHARD, Mr. MCCORMACK, Mr. DUNCAN of Oregon, Mr. BONKER, and Mr. DICKS):

H.R. 8157. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River power system to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

By Mr. AUCOIN:

H.R. 8158. A bill to amend the Agricultural Adjustment Act to authorize marketing research and promotion projects, including paid advertising for filberts; to the Committee on Agriculture.

By Mr. DOWNEY:

H.R. 8159. A bill to provide for the same standard mileage rate to be used in determining the amount of income tax deductions for charitable and medical uses of automobiles as is used in determining the amount of income tax deductions for business uses of automobiles; to the Committee on Ways and Means.

By Mr. FISHER:

H.R. 8160. A bill to amend the Safe Drinking Water Act to permit small communities to comply with certain notice provisions by an appropriate means other than through publication in a newspaper of general circulation; to the Committee on Interstate and Foreign Commerce.

By Mr. GAYDOS:

H.R. 8161. A bill to designate the U.S. Federal Building in Pittsburgh, Pa., as the "William S. Moorhead Building"; to the Committee on Public Works and Transportation.

By Mr. HOLLAND:

H.R. 8162. A bill to authorize the Secretary of the Interior to assist in the preservation of historic Camden in the State of South Carolina, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McKINNEY (for himself, Mr. STARK, Mr. HARRIS, Mr. FISHER, and Mr. FAUNTROY):

H.R. 8163. A bill to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the designing, construction, and equipping of a rail rapid transit line to the Dulles International Airport; jointly, to the Committees on District of Columbia and Public Works and Transportation.

By Mr. SEIBERLING:

H.R. 8164. A bill to amend the trade adjustment assistance provisions of the Trade Act of 1974 in order to include periods of authorized sick leave or absence from work due to work-related injury within the computation of weeks of employment for purposes of establishing worker eligibility for such assistance, and for other purposes; to the Committee on Ways and Means.

By Mr. CORMAN:

H.J. Res. 613. Joint resolution authorizing the President to proclaim May 13 of each year as "National Indian Day"; to the Committee on Post Office and Civil Service.

By Mr. GUARINI:

H. Con. Res. 433. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service and the Postal Rate Commission should take such action as may be necessary to establish a special "citizen's rate" for domestic first-class mail that affords individual nonbusiness mail users a reduced domestic first-class mail rate; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

529. By the SPEAKER: Memorial of the Legislature of the State of California, relative to energy conservation financing; to the Committee on Interstate and Foreign Commerce.

530. Also, memorial of the Legislature of the State of California, relative to funding the Olympic games; jointly, to the Com-

Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to the Netherlands (Transmittal No. 80-98), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5317. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Italy (Transmittal No. 80-103), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5318. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Greece (Transmittal No. 80-119), pursuant to section 36(b) of the Arms Export Control Act, together with certification that the sale is consistent with the principles contained in section 620 C(b) of the Foreign Assistance Act of 1961, as amended, pursuant to section 620C(d) of the act; to the Committee on Foreign Affairs.

6319. A letter from the Administrator of General Services, transmitting the annual report on records management activities of the Federal Government for fiscal year 1979, pursuant to 44 U.S.C. 2904(10); to the Committee on Government Operations.

5320. A letter from the Chairman, National Mediation Board, transmitting the 45th Annual Report of the National Mediation Board, including the report of the National Railroad Adjustment Board, covering fiscal year 1979, pursuant to section 4 (second) and section 3 (first) (w) of the act of June 21, 1934; to the Committee on Interstate and Foreign Commerce.

5321. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease for the expanded needs of the Federal Aviation Administration in East Point, Ga.; to the Committee on Public Works and Transportation.

5322. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of leased space for several agencies in Portland, Oreg.; to the Committee on Public Works and Transportation.

5323. A letter from the Administrator of Veterans' Affairs, transmitting his annual report for fiscal year 1979, pursuant to 38 U.S.C. 214; to the Committee on Veterans' Affairs.

5324. A letter from the Comptroller General of the United States, transmitting a report on ground water overdrafting (CED-80-96, Sept. 12, 1980); jointly, to the Committees on Government Operations, Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

5325. A letter from the Comptroller General of the United States, transmitting a report on the U.S. program in high-energy physics (EMD-80-58, Sept. 16, 1980); jointly, to the Committees on Government Operations and Science and Technology.

5326. A letter from the Director of Central Intelligence, transmitting a draft of proposed legislation to amend title 18, United States Code, to provide criminal penalties for certain acts against intelligence personnel which interfere with the performance of their duties, and for other purposes; jointly, to the Committees on the Judiciary and the Permanent Select Committees on Intelligence.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. S. 885. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River power system to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes with amendment (Rept. No. 96-976, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BIAGGI: Committee of conference. Conference report on H.R. 4310 with amendment (Rept. No. 96-1320). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 7939. A bill to amend the Securities Investor Protection Act to increase the amount of protection available under such act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission (Rept. No. 96-1321, pt. 1). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3637. A bill to carry out the obligations of the United States under the International Coffee Agreement, 1976, signed at New York on February 27, 1976, and entered into force for the United States on October 1, 1976, and for other purposes; with amendments (Rept. No. 96-1322). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 7782. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the U.S. Secret Service Uniformed Division as are given to Federal employees under the General Schedule; with amendments (Rept. No. 96-1323). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALL of Texas: Committee on the Judiciary. S. 707. A bill for the relief of certain aliens (Rept. No. 96-1324). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CORMAN:

H.R. 8118. A bill to provide for a temporary program of Federal supplemental unemployment compensation; to the Committee on Ways and Means.

By Mr. ANDERSON of California:

H.R. 8119. A bill to require the Secretary of Commerce to undertake a study to determine the effects of certain past ocean dumping of radioactive wastes; jointly, to the Committees on Merchant Marine and Fisheries and Science and Technology.

By Mr. DEVINE:

H.R. 8120. A bill to amend the Internal Revenue Code of 1954 to provide that certain rentals to members of the taxpayer's family will not be treated as personal use by the taxpayer for purposes of the disallowance of certain expenses in connection with the business use of homes, rental of vacation homes, etc.; to the Committee on Ways and Means.

By Mr. DINGELL (for himself, Mr. BROWN of Ohio, Mr. OTTINGER, Mr. MOFFETT, Mr. MOORHEAD of California, Mr. WIRTH, Mr. STOCKMAN, Mr. MARKEY, Mr. CORCORAN, Mr. GRAMM, Mr. MAGUIRE, Mr. GORE, Mr. LOEFFLER, and Mr. SWIFT):

H.R. 8121. A bill to amend the Energy Policy and Conservation Act to improve the administration of the strategic petroleum reserve program, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. EMERY:

H.R. 8122. A bill to provide for the conveyance to the State of Maine of certain lands located in such State; to the Committee on Armed Services.

By Mr. FISHER:

H.R. 8123. A bill to amend the Internal Revenue Code of 1954 to promote capital investment in small business, and for other purposes; to the Committee on Ways and Means.

By Mr. HEFTEL:

H.R. 8124. A bill to amend the Internal Revenue Code of 1954 to permit tax-free sales of fuels for use in certain buses; to the Committee on Ways and Means.

By Mr. MAGUIRE:

H.R. 8125. A bill to require certain Federal agencies to analyze complaints regarding their delivery of services and benefits and to report their findings to Congress; to the Committee on Government Operations.

By Mr. OBERSTAR (for himself and Mr. VENTO):

H.R. 8126. A bill to revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PICKLE (for himself and Mr. SMITH of Iowa):

H.R. 8127. A bill to amend the Internal Revenue Code of 1954 to reduce corporate income tax rates; to the Committee on Ways and Means.

By Mr. SOLARZ:

H.R. 8128. A bill to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits; to the Committee on Ways and Means.

By Mr. STOCKMAN (for himself and Mr. BROWN of Ohio):

H.R. 8129. A bill to enhance the economic and military security of the United States by requiring completion of the strategic petroleum reserve at an expedited rate; to the Committee on Interstate and Foreign Commerce.

By Mr. TAUZIN:

H.R. 8130. A bill to exempt a portion of U.S. Highway 90 from federally required permits; to the Committee on Public Works and Transportation.

By Mr. OTTINGER:

H.R. 8131. A bill to establish a national industrial innovation corporation to provide financial assistance to industrial firms to assist them in conducting projects and activities which will increase innovation and productivity and enhance the competitive position of the United States in international markets; jointly, to the Committees on Banking, Finance and Urban Affairs and Science and Technology.

By Mr. WHITTEN:

H.J. Res. 610. Joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes; to the Committee on Appropriations.

MEMORIALS

Under clause 4 of rule XXII,

528. The SPEAKER presented a memorial of the Legislature of the State of California, relative to energy resources, which was referred to the Committee on Interior and Insular Affairs.

(The following Members (at the request of Mr. SKELTON) and to include extraneous matter:)

Mr. DELLUMS.
Mr. SABO.
Mr. STOKES.
Mr. MINETA.
Mr. WOLFF in two instances.
Mr. SEIBERLING in 10 instances.
Mr. MCCORMACK.
Mr. RATCHFORD.
Mr. ROE.
Mr. CORMAN in five instances.
Mr. OTTINGER.
Mr. OBERSTAR.
Mr. BENJAMIN.
Mr. ALBOSTA.
Mr. CONYERS.
Mr. EDGAR.
Mr. ZABLOCKI.
Mr. RANGEL.
Mr. PEYSER.
Mr. MURPHY of Pennsylvania.
Mr. WALGREN.
Mr. FROST.
Mr. GRAY in two instances.
Mr. MCDONALD.
Mr. HOLLAND.
Ms. FERRARO.
Mr. ADDABBO.
Ms. OAKAR.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2432. An act to amend title 28 of the United States Code to provide that the counties of Audrain and Montgomery shall be in the northern division of the eastern judicial district of Missouri; to the Committee on the Judiciary; and

S. 2517. An act to rename certain buildings of the Library of Congress; to the Committee on House Administration.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on the House Administration, reported that that committee did on May 13, 1980, present to the President, for his approval, bills of the House of the following title:

H.R. 10. An act to authorize actions for redress in cases involving deprivation of rights of institutionalized persons secured or protected by the Constitution or laws of the United States;

H.R. 3928. An act to amend the Act of November 8, 1978 (92 Stat. 3095), to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, N. Mex.;

H.R. 5673. An act to authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes; and

H.R. 6839. An act to authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982.

ADJOURNMENT

Mr. SKELTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until Monday, May 19, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4384. A letter from the Manager, Federal Crop Insurance Corporation, Department of Agriculture, transmitting the Corporation's 1979 annual report, pursuant to section 508 (a) of the Agricultural Adjustment Act of 1938, as amended; to the Committee on Agriculture.

4385. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting selected acquisition reports and SAR summary tables for the quarter ended March 31, 1980, pursuant to section 811(a) of Public Law 94-106; to the Committee on Armed Services.

4386. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3-182, "To amend the District of Columbia Code to include cooperative loans under the requirements pertainint to residential mortgage loans in the District of Columbia, and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4387. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3-183, "To order the closing of a public alley abutting on lots 167, 141, 142, and 143 in Square 4058, between Morse Street, N.E., and Bladensburg Road, N.E. (S.O. 78-290) (Ward 5)," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4388. A letter from the Chairman Council of the District of Columbia transmitting a copy of District of Columbia Act 3-184, "To extend the legal effectiveness of documents not published in the District of Columbia Municipal Regulations," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4389. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3-187, "To establish minimum requirements for the elimination of architectural barriers to the physically handicapped in newly-constructed, altered, and converted public buildings in the District of Columbia," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4390. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3-188, "To provide compensation for disability or death resulting from injury to employees in certain employments in the District of Columbia, and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4391. A letter from the Secretaries of the Interior and Agriculture, transmitting the 1978 annual report of the Youth Conservation Corps, pursuant to section 5 of Public Law 92-597; to the Committee on Education and Labor.

4392. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting a report on changes in the previously-submitted list of arms sales proposals considered eligible for approval during fiscal year 1980, pursuant to section 25(d) of the Arms Export Control Act, as amended; to the Committee on Foreign Affairs.

4393. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission will be unable to render a final decision in Docket No. 37301, Restricted Transit, Trans-Continental Shipments of Oils, within the specified 7-month time period, pursuant to 49 U.S.C. 10707; to the Committee on Interstate and Foreign Commerce.

4394. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Marysville, Kans., in response to a resolution of the House Committee on Public Works adopted October 10, 1974 (H. Doc. No. 96-313); to the Committee on Public Works and Transportation and ordered to be printed.

4395. A letter from the Comptroller General of the United States, transmitting a report on improvements needed by Federal agencies in the acquisition of private lands by condemnation (CED-80-54, May 14, 1980); jointly, to the Committees on Government Operations, the Judiciary, and Public Works and Transportation.

4396. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Natural Gas Pipeline Safety Act of 1968, as amended and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for the fiscal year 1982; jointly, to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 2759. A bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto; with amendment (Rept. No. 96-411, Pt. 4). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 4717. A bill to amend title 5, United States Code, to provide for adjustments to Federal personnel ceilings based upon the extent that Federal functions are contracted out, to provide that performance in administering personnel ceilings and contracting-out requirements are taken into account in evaluating the performance of Federal executives and managers, and for other purposes; with amendment (Rept. No. 96-729, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 6635. A bill to authorize the establishment of a food security reserve of wheat, and for other related purposes (Rept. No. 96-966, pt. 1). And ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 6627. A bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981 and fiscal year 1982, and for other purposes; with amendment (Rept. No. 96-967, pt. 1). And ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6627. A bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981 and fiscal year 1982, and for other purposes; with amendment (Rept. No. 96-967, pt. 2). And ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 7126. A bill to amend the Toxic Substances Control Act to extend the authorization of appropriations contained in such Act, and for other purposes; with amendment (Rept. No. 96-968). Referred to the Committee of the Whole House on the State of the Union.

Mr. EDWARDS of California: Committee on the Judiciary. H.R. 6888. A bill to amend section 106 of the Civil Rights Act of 1957

to authorize appropriations for the Commission on Civil Rights for the fiscal year 1981. (Rept. No. 96-969). Referred to the Committee of the Whole House on the State of the Union.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 7305. A bill to authorize additional appropriations for fiscal years 1980 and 1981 for the Department of State and the Board for International Broadcasting, and for other purposes (Rept. No. 96-971). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 6777. A bill to increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes; with amendment (Rept. No. 96-972). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of Conference. Conference Report on House Joint Resolution 545 (Rept. No. 96-973). Ordered to be printed.

Mr. GONZALEZ: Committee of Conference. Conference Report on S. 662 (Rept. 96-974). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6629. A bill to amend the Indian Health Care Improvement Act (90 Stat. 1400) to reauthorize appropriations for the various programs therein; with amendment (Rept. No. 96-975, Pt. 1). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 885. An act to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes; with amendment (Rept. No. 96-976, Pt. 1). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 7299. A bill to revise and improve the Federal programs of assistance for the provision of mental health services, and for other purposes; with amendment (Rept. No. 96-977). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 7203. A bill to amend the Public Health Service Act to revise and extend the programs for the National Health Service Corps and to revise and extend the program of assistance under titles VII and VIII of such Act for the education of health professions personnel, and for other purposes; with amendment (Rept. No. 96-978). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 7262. A bill to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation and related programs, and for other purposes; with amendment (Rept. No. 96-979). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 670. Resolution providing for the consideration of H.R. 6410, a bill to authorize a supplemental appropriation to the National Aeronautics and Space Administration for Research and Development (Rept. No. 96-980). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 671. Resolution providing for the consideration of H.R. 6846, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1981, and for other purposes (Rept. No. 96-981). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 672. Resolution providing for the consideration of H.R. 6413, a bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (Rept. No. 96-982). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 6667. A bill to amend the Federal Water Pollution Control Act relating to authorization extensions and industrial cost recovery; with amendment (Rept. No. 96-983). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 7238. A bill to authorize appropriations for fiscal year 1981 for part A of title IV of the Comprehensive Employment and Training Act (Rept. No. 96-984). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 6796. A bill to amend and extend title VII of the Comprehensive Employment and Training Act; with amendment (Rept. No. 96-985). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 6115. A bill to amend the General Education Provisions Act to extend the authorization of appropriations for the National Institute of Education for five fiscal years; with amendment (Rept. No. 96-986). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7330. A bill to authorize appropriations for certain insular areas of the United States, and for other purposes; with amendment (Rept. No. 96-987). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 7191. A bill to establish the Snug Harbor National Wildlife Refuge; with amendment (Rept. No. 96-988). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5340. A bill to extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes; with amendment (Rept. No. 96-989). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Standards of Official Conduct. Study and Analysis of the Voting Anomalities in the House of Representatives on May 14 and July 30, 1979 (Rept. No. 96-991). Referred to the House Calendar.

Mrs. SCHROEDER: Committee on Post Office and Civil Service. H.R. 6790. A bill to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes; with amendment (Rept. No. 96-992, Pt. 1). Ordered to be printed.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 6790. A bill to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes; with amendment (Rept. No. 96-992, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the clerk for printing, and bills referred as follows:

Mr. STRATTON: Committee on Armed Services. H.R. 7252. A bill to authorize appropriations for fiscal year 1981 for conservation, exploration, development and use of the naval petroleum reserves and naval oil shale reserves, and for other purposes; referred to the Committee on Interstate and Foreign Commerce for a period ending not later than June 27, 1980, for consideration of such provisions of the bill as fall within that committee's jurisdiction pursuant to clause 1(1), Rule XI (Rept. No. 96-970, Pt. 1.)

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6628. To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; with amendment, referred to the Committee on Interstate and Foreign Commerce for a period ending not later than June 20, 1980, for consideration of such portions of the bill and amendment as fall within that committee's jurisdiction pursuant to clause 1(1), Rule X (Rept. No. 96-990, Pt. 1.)

SUBSEQUENT ACTION ON BILLS SEQUENTIALLY REFERRED UNDER TIME LIMITATION

Under clause 5 of rule X, the following action was taken by the Speaker:

Referral of H.R. 4660. A bill to amend the Small Business Act, and an act to amend the Small Business Act (Public Law 94-305, 90 Stat. 669) to provide regulatory flexibility for small businesses and small organizations to minimize unnecessary burdens in complying with Federal rules and reporting requirements to the Committee on the Judiciary extended for an additional period ending not later than May 28, 1980.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AuCOIN:

H.R. 7364. A bill to encourage exports by facilitating the formation and operation of export trading companies and the expansion of export trade services generally; jointly, to the Committees on Banking, Finance and Urban Affairs, Foreign Affairs, the Judiciary, and Ways and Means.

By Mr. BENJAMIN:

H.R. 7365. A bill to prohibit the importation into the United States of the products of any foreign country during any period in which certain export controls are in effect with respect to that country; to the Committee on Ways and Means.

By Mr. BIAGGI (for himself, Mr. OTTINGER, Mr. LEDERER, and Mr. RANGEL):

H.R. 7366. A bill to authorize the Secretary of the Treasury to conduct a study of handgun bullets manufactured in or imported into the United States, to determine which bullets have the capacity to penetrate bulletproof vests commonly used by law enforcement officers; to the Committee on the Judiciary.

By Mr. BUCHANAN (for himself and Mr. LOTT):

H.R. 7367. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of certain travel expenses of individuals on temporary work assignments; to the Committee on Ways and Means.

By Mr. FROST:

H.R. 7368. A bill to provide for making payments to certain citizens and nationals of the United States held hostage in Iran,

H. REPORT 96-976, PT. II (INTERIOR)

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 96-
2d Session } { 976, Part II

ASSISTING THE ELECTRICAL CONSUMERS OF THE PACIFIC NORTHWEST THROUGH USE OF THE FEDERAL COLUMBIA RIVER POWER SYSTEM TO ACHIEVE COST-EFFECTIVE ENERGY CONSERVATION, TO ENCOURAGE THE DEVELOPMENT OF RENEWABLE ENERGY RESOURCES, TO ESTABLISH A REPRESENTATIVE REGIONAL POWER PLANNING PROCESS, TO ASSURE THE REGION OF AN EFFICIENT AND ADEQUATE POWER SUPPLY, AND FOR OTHER PURPOSES

SEPTEMBER 16, 1980.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

together with

SUPPLEMENTAL, ADDITIONAL, SEPARATE, and DISSENTING VIEWS

[To accompany S. 885]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert the following:

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SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

TABLE OF CONTENTS

Sec 1 Short title and table of contents
Sec 2 Purposes
Sec 3 Definitions
Sec 4 Regional planning and participation
Sec 5 Sale of power
Sec 6 Conservation and resource acquisition
Sec 7 Rates
Sec 8 Amendments to existing law
Sec 9 Administrative provisions
Sec 10 Savings provision
Sec 11 Effective Date

PURPOSES

SEC. 2. The purposes of this Act, all of which are to be consistent with applicable provisions of environmental and other laws, are—

(1) to encourage, through the unique opportunity provided by the Federal Columbia River Power System, conservation and efficiency in the use of electric power and the development of renewable resources within the Pacific Northwest;

(2) to assure the Pacific Northwest an adequate, efficient, economical, and reliable power supply;

(3) to provide for the participation and consultation of the Pacific Northwest States, local governments, consumers, customers, users of the Columbia River System (including Federal and State fish and wildlife agencies and appropriate Indian tribes), and the public at large within the region in the development of regional plans and programs related to energy conservation, renewable resources, other resources, and in achieving the purposes of this Act to facilitate the orderly planning of the region's power system, to provide environmental quality, and to protect, mitigate, and enhance the fish and wildlife resources;

(4) to provide that the customers of the Bonneville Power Administration and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System;

(5) to insure, subject to the provisions of this Act—

(A) that the authorities and responsibilities of State and local governments, electric utility systems, water management agencies, and other non-Federal entities for the regulation, planning, conservation, supply, distribution, and use of electric power shall be construed to be maintained, and

(B) that Congress intends that this Act not be construed to limit or restrict the ability of customers to take actions in accordance with other applicable provisions of Federal or State law, including, but not limited to, actions to plan, develop, and operate resources and to achieve conservation, without regard to this Act; and

(6) to protect, mitigate, and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries, particularly anadromous fish which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other facilities on the Columbia River and its tributaries.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Acquire" and "acquisition" shall not be construed as authorizing the Administrator to construct, or have ownership of, under this Act or any other law, any electric generating facility.

(2) "Administrator" means the Administrator of the Bonneville Power Administration.

(3) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production, or distribution.

(4)(A) "Cost-effective", when applied to any measure or resource referred to in this Act, means that such measure or resource must be forecast—

(i) to be reliable and available within the time it is needed, and

(ii) to meet or reduce the electric power demand, as determined by the Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof.

(B) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, among other factors, waste disposal costs, end-of-cycle costs, decommissioning costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource.

(5) "Consumer" means any end user of electric power.

(6) "Council" means, unless otherwise specifically provided, the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established by this Act.

(7) "Customer" means anyone who contracts for the purchase of power from the Administrator pursuant to this Act.

(8) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(9) "Electric power" means electric peaking capacity, or electric energy, or both.

(10) "Federal base system resources" means—

(A) the Federal Columbia River Power System hydroelectric projects;

(B) resources acquired by the Administrator under long-term contracts in force on the effective date of this Act; and

(C) resources acquired by the Administrator in an amount necessary to replace reductions in capability of the resources referred to in subparagraphs (A) and (B).

(11) "Indian tribe" means any Indian tribe or band with a governing body duly recognized by the Secretary of the Interior.

(12) "Major resource" means any resource that—

(A) has a planned capability greater than fifty average megawatts, and

(B) if acquired by the Administrator, is acquired for a period of more than five years but does not mean any resource acquired pursuant to section 11(b)(6) of the Federal Columbia River Transmission System Act.

(13) "New large single load" means any load associated with a new facility, an existing facility, or an expansion of an existing facility—

(A) which is not contracted for, or committed to, as determined by the Administrator, by a public body, cooperative, investor-owned utility, or Federal agency customer, as applicable prior to September 1, 1979, and

(B) which will result in an increase in power requirements of ten average megawatts or more in any consecutive twelve-month period.

(14) "Pacific Northwest", "region", or "regional" means—

(A) the area consisting of the States of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(B) any contiguous areas, not in excess of seventy-five air miles from the area referred to in subparagraph (A), which are a part of the service area of a rural electric cooperative customer served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without such region.

(15) "Plan" means the Regional Electric Power and Conservation plan adopted pursuant to this Act and such plan shall apply to actions of the Administrator as specified in this Act.

(16) "Renewable resource" means a resource which utilizes solar, wind, hydro, geothermal, biomass, or similar sources of energy and which either is used for electric power generation or will reduce the electric power requirements of a consumer, including by direct application.

(17) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator—

(A) from resources, or

(B) from rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(18) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electric loads or uses, but only the first four hundred horsepower during any monthly billing period of farm irrigation and pumping for any farm.

(19) "Resource" means—

(A) electric power, including the actual or planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

(20) "Secretary" means the Secretary of Energy.

REGIONAL PLANNING AND PARTICIPATION

SEC. 4. (a)(1) To facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and the United States pursuant to this Act, there is established the Pacific Northwest Electric Power and Conservation Planning Council, which shall have its offices in the Pacific Northwest. The Council shall be composed of eight members, and shall be considered formed when at least six members have been appointed.

(2) The Governors of Idaho, Montana, Oregon, and Washington may appoint, subject to applicable State law, two members from their respective States to carry out the functions of Council members set forth in this Act. The applicable State authorities and appointing actions of the States shall constitute an agreement to the exercise by the Council of the functions set forth in this Act, to which the Congress hereby consents.

(3) Members of the Council appointed pursuant to section 4(a)(2) shall—

(A) serve until June 30 of the third twelve-month period following the date of their appointment, unless otherwise provided by State law;

(B) be subject to removal in accordance with the provisions of State law;

(C) be compensated according to such State law from funds available pursuant to paragraph (14); and

(D) be deemed to be officers or employees of their respective States, and not of the United States.

(4)(A) If the Governors have not appointed at least six Council members by April 30, 1981, or if, for any other reason the Council set forth in paragraph (2) is unable to be formed or is held by a United States court of appeals to be unable to perform substantially all of its functions, the Secretary shall temporarily appoint two members from each of the States of Washington, Oregon, Idaho, and Montana to serve on an interim basis until such time as Congress or the States act to cure any impediment to the appointment of Council members pursuant to paragraph (2). Any appointments by the Secretary under this paragraph shall be made in a manner designed to assure continuity of the Council's functions and to minimize any possible disruption of the Council's activities during such interim period. Unless extended by the Congress, the interim Council appointed pursuant to this paragraph shall terminate at the end of the second full Congress following the first temporary appointment.

(B) Within one year after making any such temporary appointment pursuant to this paragraph, the Secretary, in consultation with the Governors of the Pacific Northwest States, shall formally submit to the appropriate committees of Congress recommended legislation that will permit members to be appointed by the Governors in the manner set forth in paragraph (2). The Secretary shall make quarterly reports to the Governors on the progress of such legislation until its enactment and to Congress as to whether the interim Council should be extended or any other recommendations for legislation or other action which the Secretary recommends

should be taken, following termination of the Council, to continue carrying out the purposes for which the Council was established.

(C) If members are appointed by the Secretary on an interim basis pursuant to this paragraph, they shall (i) receive compensation under the General Schedule at a rate equivalent to the salary of members appointed from the same State by the Governor pursuant to paragraph (2); (ii) be considered during their temporary appointments, officers or employees of the United States for purposes of title II of the Ethics in Government Act of 1978 (5 U.S.C. app.); and (iii) be allowed travel expenses, including per diem in lieu of subsistence expenses, in addition to the compensation provided in this paragraph.

(D) In the event the Congress fails to extend the interim Council or enact legislation to cure any impediment to the appointment of Council members pursuant to paragraph (2), the Administrator may not implement any proposal to acquire a major generating resource or to grant billing credits or services involving a major generating resource until the expenditure of funds for that purpose has been specifically approved by Act of Congress.

(5) A majority of the members of the Council shall constitute a quorum. Except as otherwise provided specifically in this Act, all actions and decisions of the Council shall be by majority vote of the voting members present and voting. The plan or any part thereof and any amendment thereto shall not be approved unless such plan or amendment receives the votes of (A) a majority of the members appointed to the Council, including the vote of at least one member from each State; or (B) at least six members of the Council.

(6) The members of the Council shall select from among themselves a Chairman for the Council. The Council shall meet at the call of the Chairman or upon the request of a majority of the members of the Council. If any member of the Council disagrees with respect to any matter transmitted to any Federal or State official or any other person or wishes to express additional views concerning such matter, such member may submit a statement to accompany such matter setting forth the reasons for such disagreement or views.

(7) The Council shall appoint, and may assign and delegate duties to such executive and administrative personnel as the Council deems necessary to fulfill its functions under this Act, taking into account such information and analyses as are, or are likely to be, available from other sources pursuant to provisions of this Act. No person appointed by the Council shall be deemed to be an employee of the United States.

(8) Upon request of the Council, the head of any Federal agency is authorized to detail to the Council, on a reimbursable basis, any of the personnel of such agency to assist the Council in the performance of its functions under this Act.

(9) To obtain such information and advice as the Council determines to be necessary or appropriate to carry out the purposes of this Act, the Council shall, to the greatest extent practicable, solicit engineering, economic, social, environmental, and other technical studies from customers of the Administrator and from other bodies or organizations in the region with particular expertise.

(10) The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions under this Act. The Council shall make available to the public a statement of its organization, practices, and procedures, and make available to the public its annual work program budget at the time the President submits his annual budget to Congress.

(11) The Administrator and other Federal agencies, to the extent authorized by other provisions of law, shall furnish the Council all information requested by the Council as necessary for performance of its functions, subject to such requirements of law concerning trade secrets and proprietary data as may be applicable.

(12)(A) At the request of the Council, the Administrator shall pay from funds available to the Administrator the compensation and other expenses of the Council as are authorized by this Act and as the Council determines are necessary or appropriate for the performance of its functions including financial support to those States which have appointed members to the Council pursuant to section 4(a)(2) for their participation in the Council and activities of the State related thereto. Funds for such payments shall be included by the Administrator in his annual budgets submitted to Congress pursuant to the Federal Columbia River Transmission System Act and shall be subject to the requirements of that Act, including the audit requirements of section 11(d). Such funds shall not exceed annually an amount equal to 0.02 mill multiplied by the kilowatt hours sold by the Administrator during the preceding calendar year. In order to assist the Council's initial organization, the Administrator after the enactment of this Act shall promptly prepare and propose an amended annual budget to expedite payment for Council activities.

(B) Notwithstanding the limitation contained in the third sentence of subparagraph (A), upon an annual showing by the Council that such limitation will not

permit the Council to carry out its functions under this Act, the Administrator may raise such limit up to any amount not in excess of 0.10 mill multiplied by the kilowatt hours sold by the Administrator during the preceding calendar year.

(b)(1) The Council shall, subject to applicable law, establish a voluntary scientific and statistical advisory committee to assist in the development, collection, and evaluation of such statistical, biological, economic, social, environmental, and other scientific information as is relevant to the Council's development and amendment of a regional conservation and electric power plan.

(2) The Council may, subject to applicable law, establish such other voluntary advisory committees as it determines are necessary or appropriate to assist it in carrying out its functions under this Act.

(c) The Council shall ensure that the membership of any advisory committee established or formed pursuant to subsection (b) of this section shall, to the greatest extent feasible, be composed of representatives of, and seek the advice of, the various Federal, State, and Indian Tribal Governments, consumer groups, and customers whose interests are or may be directly or indirectly substantially affected by the recommendations of such advisory committees.

(d) Within two years after the effective date of this Act, the Council shall prepare, adopt, and promptly transmit to the Administrator a regional conservation and electric power plan. The adopted plan, or any portion thereof, may be amended from time to time, and shall be reviewed by the Council not less frequently than once every five years. Prior to such adoption, public hearings shall be held in each Council member's State on the plan or substantial, nontechnical amendments to the plan proposed by the Council for adoption. A public hearing shall also be held in any other State of the region on the plan or amendments thereto, if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. Action of the Council under this subsection concerning such hearings shall be subject to section 553 of title 5, United States Code and such procedures as the Council shall adopt.

(e)(1) The plan shall, as provided in this paragraph, give priority to resources which the Council determines to be cost effective. Priority shall be given: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources.

(2) The plan shall set forth a general scheme for implementing conservation measures and developing resources pursuant to section 6 of this Act to reduce or meet the Administrator's obligations with due consideration by the Council of (A) environmental quality, (B) compatibility with the existing regional power system, (C) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, and (D) other criteria which may be set forth in the plan.

(3) To accomplish the priorities established by this subsection, the plan shall include the following elements which shall be set forth in such detail as the Council determines to be appropriate:

(A) an energy conservation program to be implemented under this Act including, but not limited to, model conservation standards;

(B) recommendations for research and development;

(C) a methodology for determining quantifiable environmental costs and benefits under section 3(4);

(D) a demand forecast of at least twenty years (developed in consultation with the Administrator, the customers, the States, including State agencies with ratemaking authority over electric utilities, and the public, in such manner as the Council deems appropriate) and a forecast of power resources estimated by the Council to be required to meet the Administrator's obligations and the portion of such obligations the Council determines can be met by resources in each of the priority categories referred to in paragraph (1) which forecast (i) shall include regional reliability and reserve requirements, (ii) shall take into account the effect of the requirements of subsection (h) on the availability of resources to the Administrator, and (iii) shall include the approximate amounts of power the Council recommends should be acquired by the Administrator on a long-term basis and the types of resources from which such power should be acquired;

(E) an analysis of reserve and reliability requirements and cost-effective methods of providing reserves designed to insure adequate electric power at the lowest probable cost;

(F) the program adopted pursuant to subsection (h); and

(G) if the Council recommends surcharges pursuant to subsection (f), a methodology for calculating such surcharges.

(4) The Council shall undertake studies of conservation measures reasonably available to direct service industrial customers and other major consumers of electric power within the region and make an analysis of the estimated reduction in energy use which would result from the implementation of such measures as rapidly as possible, consistent with sound business practices. The Council shall include in such study and analysis estimates of financial assistance to the extent such assistance might be necessary for particular conservation measures to be implemented.

(f)(1) Model conservation standards to be included in the plan shall include, but not be limited to, standards applicable to (A) new and existing structures, (B) utility, customer, and governmental conservation programs, and (C) other consumer actions for achieving conservation. Model conservation standards shall reflect geographic and climatic differences within the region and other appropriate considerations, and shall be designed to produce all power savings that are cost-effective for the region and economically feasible for consumers through financial assistance made available to consumers under section 6(a) of this Act. These model conservation standards shall be adopted by the Council and included in the plan after consultation, in such manner as the Council deems appropriate, with the Administrator, States, and political subdivisions, customers of the Administrator, and the public.

(2) The Council by a majority vote of the members of the Council is authorized to recommend to the Administrator a surcharge and the Administrator shall thereafter impose such a surcharge, in accordance with the methodology provided in the plan, on customers for those portions of their loads within the region that are within States or political subdivisions which have not, or on the Administrator's customers which have not, implemented conservation measures applicable to such customers that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such standards. Such surcharges shall be established to recover such additional costs as the Administrator determines will be incurred because such projected energy savings attributable to such conservation measures have not been achieved, but in no case may such surcharges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g) To insure widespread public involvement in the formulation of regional power policies, the Council and Administrator shall—

(1) take into account, and give due consideration to, the results of the voting in any election bearing on those policies held in those States, or subdivisions thereof, which comprise the region, as defined in section 3(14), and

(2) maintain comprehensive programs to—

(A) inform the Pacific Northwest public of major regional power issues,

(B) obtain public views concerning major regional power issues, and

(C) secure advice and consultation from the Administrator's customers and others.

(h)(1)(A) The Council shall develop and adopt, pursuant to this subsection, a program to protect, mitigate, and enhance fish and wildlife, including habitat, on the Columbia River and its tributaries. Because of the unique history, problems and opportunities presented by the development and operation of the hydroelectric facilities on the Columbia River and its tributaries, the program shall be designed to deal with that river and its tributaries as a system. As a result, this subsection shall be applicable solely to fish and wildlife, including habitat, located on the Columbia River and its tributaries. Nothing in this subsection shall alter, modify or affect in any way the laws applicable to other rivers, river systems, or electric power facilities, or affect the rights and obligations of any agency, entity, or person under such laws.

(B) The Council shall request in writing promptly after the effective date of this Act and prior to the development or review of the plan, or any major revision thereto, from the Federal and the region's State fish and wildlife agencies and the region's appropriate Indian tribes, recommendations for—

(i) measures which the Administrator, using authorities under this Act and other laws, and other Federal agencies can implement to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries;

(ii) objectives for the development and operation of projects of the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife, and

(iii) fish and wildlife management coordination and research and development (including funding) which, among other things, will assist protection, mitigation

and enhancement of anadromous fish at and between the region's hydroelectric dams.

(C)(i) Agencies and tribes shall have ninety days to respond to such request, unless the Council extends the time for making such recommendations. The Federal and the region's water management agencies, and the region's electric power producing agencies, customers and public may submit recommendations of the type referred to in subparagraph (1)(B), and comments on the recommendations submitted by agencies and tribes, within such reasonable time as the Council shall provide. All recommendations shall be accompanied by detailed information and data in support of the recommendations.

(ii) The Council shall give notice of all recommendations and shall make recommendations and supporting documents available to the Administrator, to the Federal and the region's State fish and wildlife agencies, to the appropriate Indian tribes, to Federal agencies responsible for managing, operating or regulating hydroelectric facilities located on the Columbia River or its tributaries, and to any customer or other electric utility which owns or operates any such facility. Upon request, notice shall also be given to members of the public, and copies of recommendations and supporting documents shall be made available at reasonable cost. The Council shall provide opportunities for public participation and comment regarding the recommendations and supporting documents by conducting hearings or by other appropriate means.

(iii) Thereafter, the Council shall develop a program on the basis of recommendations, supporting documents, and relevant additional views and information. The program shall consist of measures to protect, mitigate and enhance fish and wildlife affected by the development or operation of such facilities while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. Enhancement measures shall be included in the program to the extent they satisfy the criteria of this subsection and are designed to achieve protection and mitigation.

(iv) Measures included in the program shall—

(1) complement the existing and future activities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes;

(2) be based on and supported by the best available scientific knowledge;

(3) achieve sound biological objectives at minimum economic cost for each objective;

(4) be consistent with the legal rights of appropriate Indian tribes in the region;

and, in the case of anadromous fish;

(5) provide for improved survival of such fish at hydroelectric facilities located on the Columbia River system; and

(6) provide flows of sufficient quality and quantity between such facilities to improve production, migration and survival of such fish as necessary to meet sound biological objectives.

(v) The Council shall determine whether each recommendation received is consistent with the purposes of this Act. In the event such recommendations are inconsistent with each other, the Council, in consultation with appropriate entities, shall resolve such inconsistency in the program giving due weight to the recommendations, expertise, and legal rights and responsibilities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes. If the Council does not adopt any recommendation as part of the program, it shall explain in writing, as part of the program, the basis for its finding that the adoption of such recommendation would be—

(1) inconsistent with the purposes of the Act;

(2) inconsistent with the standards for the program established in this paragraph; or

(3) less effective than the adopted recommendations for the protection, mitigation, and enhancement of fish and wildlife.

(vi) The Council shall recognize, in developing and adopting a program pursuant to this subsection, the following additional principles:

(1) enhancement measures may be used, in appropriate circumstances, as a means of achieving offsite protection and mitigation with respect to compensation for losses arising from the development and operation of the hydroelectric facilities of the Columbia River and its tributaries as a system,

(2) consumers of electric power shall bear the cost of measures designed to deal with adverse impacts caused by the development and operation of electric power facilities and programs only,

(3) monetary costs and electric power losses resulting from the implementation of the program shall be allocated by the Administrator consistent with individual project impacts and system-wide objectives pursuant to paragraph (2) of this subsection, and

(4) to the extent the program provides for coordination of its measures with additional measures (including additional enhancement measures and measures to deal with impacts caused by factors other than the development and operation of electric power facilities and programs), such additional measures are to be implemented in accordance with agreements among the appropriate parties providing for the administration and funding of such additional measures.

(vii) The Council shall adopt such program within one year of the time provided for receipt of the recommendations in section 4(h)(1)(B). Such program shall also be included in the plan adopted by the Council under subsection (d). The Council's actions pursuant to this paragraph shall be subject to judicial review under the provisions of section 9(e).

(2)(A) The Administrator shall use the Bonneville Power Administration fund and appropriations, if any, and the authorities available to the Administrator under this Act and other laws administered by the Administrator, to protect, mitigate, and enhance the fish and wildlife to the extent affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries in a manner consistent with the plan, the program adopted by the Council under section 4(h)(1), the purposes of this Act, and the provisions of other laws. Expenditures of the Administrator pursuant to this paragraph shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(B) The Administrator may make expenditures from such fund for such purposes which shall have been included in the annual or supplementary budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act. Any amounts included in such budget for the construction of capital facilities with an estimated life of greater than five years or an aggregate capital cost of over $1 million shall be funded as provided in the appropriation Acts from the proceeds of bonds issued by the Administrator pursuant to section 13 of the Federal Columbia River Transmission System Act or from appropriations, including appropriations to other Federal agencies for such purposes.

(C) The amounts expended by the Administrator for each activity pursuant to this subsection shall be allocated as appropriate by the Administrator, in consultation with the Corps of Engineers and the Water and Power Resources Service, among the various hydroelectric projects of the Federal Columbia River Power System. Amounts so allocated shall be further allocated to the various project purposes in accordance with existing accounting procedures for the Federal Columbia River Power System.

(3)(A) The Administrator and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectic facilities located on the Columbia River or its tributaries shall—

(i) exercise such responsibilities in coordination with one another, consistent with the purposes of this Act and other applicable laws, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated under other provisions of law;

(ii) exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under paragraph (1).

If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with paragraph (2) of this subsection.

(B) The Administrator and such Federal agencies shall consult with the Secretary of the Interior, the Assistant Administrator for the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes and affected project operators in carrying out the provisions of this paragraph.

(4) Beginning on October 1 of the first fiscal year after all members to the Council are appointed initially, the Council shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate and to the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs of the House of Representatives. The report shall describe the actions taken and to be taken by the Council under this section including this subsection, the effectiveness of the fish and wildlife program, and potential revisions or modifications to the program to be included in the plan. At least ninety days prior to its submission of such report, the Council shall make available to such fish and wildlife agencies, and

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tribes, the Administrator and the customers a draft of such report. The Council shall establish procedures for timely comments thereon. The Council shall include as an appendix to such report such comments or a summary thereof. The Administrator shall keep such committees fully and currently informed of the actions taken and to be taken by the Administrator under this Act, including this subsection.

(5) If, after one year from the effective date of this Act, the Council is unable to be formed or to perform its functions under the provisions of this subsection, the Administrator shall, upon request of the region's State and Federal fish and wildlife agencies or appropriate Indian tribes, carry out the development of a program in accordance with the provisions of this subsection, until such time as the Council is formed or the Administrator determines it is able to perform its functions.

(i) In carrying out the provisions of this section, the Council and the Administrator shall—

(1) consult with the Administrator's customers;

(2) include the comments of such customers in the record of the Council's proceedings; and

(3) recognize and not abridge the authorities of State and local governments, electric utility systems, and other non-Federal entities responsible to the people of the Pacific Northwest for the planning, conservation, supply, distribution, and use of electric power and the operation of electric generating facilities.

(j) In the preparation, adoption, and implementation of the plan, the Council and the Administrator shall encourage the cooperation, participation, and assistance of appropriate Federal agencies, State entities, State political subdivisions, and Indian tribes. The Council and the Administrator are authorized to contract, in accordance with applicable law, with such agencies, entities, tribes, and subdivisions individually, in groups, or through associations thereof to (1) investigate possible measures to be included in the plan, (2) provide public involvement and information regarding a proposed plan or amendment thereto, and (3) provide services which will assist in the implementation of the plan. In order to assist in the implementation of the plan, particularly conservation, renewable resource, and fish and wildlife activities, the Administrator, when requested and subject to available funds, may provide technical assistance in establishing conservation, renewable resource, and fish and wildlife objectives by individual States or subdivisions thereof or Indian tribes. Such objectives, if adopted by a State or subdivision thereof or Indian tribes, may be submitted to the Council and the Administrator for review, and upon approval by the Council may be incorporated as part of the plan.

SALE OF POWER

SEC. 5. (a) All power sales under this Act shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937 (16 U.S.C. 832 and following) and, in particular, sections 4 and 5 thereof. Such sales shall be at rates established pursuant to section 7.

(b)(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 and to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the region to the extent that such firm power load exceeds—

(A) the capability of such entity's firm peaking and energy resources used in the year prior to the enactment of this Act to serve its firm load in the region, and

(B) such other resources as such entity determines, pursuant to contracts under this Act, will be used to serve its firm load in the region.

In determining the resources which are used to serve a firm load, for purposes of subparagraphs (A) and (B), any resources used to serve a firm load under such subparagraphs shall be treated as continuing to be so used, unless such use is discontinued with the consent of the Administrator, or unless such use is discontinued because of obsolescence, retirement, loss of resource, or loss of contract rights.

(2) Contracts with investor-owned utilities shall provide that the Administrator may reduce his obligations under such contracts in accordance with section 5(a) of the Bonneville Project Act of 1937.

(3) In addition to his authorities to sell electric power under paragraph (1), the Administrator is also authorized to sell electric power to Federal agencies in the region.

(4) Sales under this subsection shall be made only if the public body, cooperative, Federal agency or investor-owned utility complies with the Administrator's standards for service in effect on the effective date of this Act or as subsequently revised.

(5) The Administrator shall include in contracts executed in accordance with this subsection provisions that enable the Administrator to restrict his contractual obli-

gations to meet the loads referred to in this subsection in the future if the Administrator determines, after a reasonable period of experience under this Act, that the Administrator cannot be assured on a planning basis of acquiring sufficient resources to meet such loads during a specified period of insufficiency. Any such contract with a public body, cooperative, or Federal agency shall specify a reasonable minimum period between a notice of restriction and the earliest date such restriction may be imposed.

(6) Contracts executed in accordance with this subsection with public body, cooperative, and Federal agency customers shall—

(A) provide that the restriction referred to in paragraph (5) shall not be applicable to any such customers until the operating year in which the total of such customers' firm loads to be served by the Administrator equals or exceeds the firm capability of the Federal base system resources;

(B) not permit restrictions which would reduce the total contractual entitlement of such customers to an amount less than the firm capability of the Federal base system resources; and

(C) contain a formula for determining annually, on a uniform basis, each such customer's contractual entitlement to firm power during such a period of restriction, which formula shall not consider customer resources other than those the customer has determined, as of the effective date of this Act, to be used to serve its own firm loads.

The formula referred to in subparagraph (C) shall obligate the Administrator to provide on an annual basis only firm power needed to serve the portion of such customer's firm load in excess of the capability of such customer's own firm resources determined by such customer under paragraph (1) to be used to serve its firm load.

(c)(1) Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.

(2) The purchase and exchange sale referred to in paragraph (1) with any electric utility shall be limited to an amount not in excess of 50 per centum of such utility's regional residential load in the year beginning July 1, 1980, such 50 per centum limit increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985, and each year thereafter.

(3) The cost benefits, as specified in contracts with the Administrator, of any purchase and exchange sale referred to in paragraph (1) which are attributable to any electric utility's residential load within a State shall be passed through directly to such utility's residential loads within such State, except that a State which lies partially within and partially without the region may require that such cost benefits be distributed among all of the utility's residential loads in that State.

(4) An electric utility may terminate, upon reasonable terms and conditions agreed to by the Administrator and such utility prior to such termination, its purchase and sale under this subsection if the supplemental rate charge provided for in section 7(b)(3) is applied and the cost of electric power sold to such utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by such utility to the Administrator under this subsection.

(5) Subject to the provisions of sections 4 and 6, in lieu of purchasing any amount of electric power offered by a utility under paragraph (1), the Administrator may acquire an equivalent amount of electric power from other sources to replace power sold to such utility as part of an exchange sale if the cost of such acquisition is less than the cost of purchasing the electric power offered by such utility.

(6) Exchange sales to a utility pursuant to this subsection shall not be restricted below the amounts of electric power acquired by the Administrator from, or on behalf of, such utility pursuant to this subsection.

(7) The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. Such average system cost shall not include—

(A) the cost of additional resources in an amount sufficient to serve any new large single load of the utility;

(B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and

(C) any costs of any generating facility which is terminated prior to initial commercial operation.

(d)(1)(A) The Administrator is authorized to sell in accordance with this subsection electric power to existing direct service industrial customers. Such sales shall pro-

vide a portion of the Administrator's reserves for firm power loads within the region.

(B) After the effective date of this Act, the Administrator shall offer in accordance with subsection (g) to each existing direct service industrial customer an initial long-term contract that provides such customer an amount of power equivalent to that to which such customer is entitled under its contract dated January or April 1975 providing for the sale of "industrial firm power".

(2) The Administrator shall not sell electric power, including reserves, directly to new direct service industrial customers.

(3) The Administrator shall not sell amounts of electric power, including reserves, to existing direct service industrial customers in excess of the amount permitted under paragraph (1) unless the Administrator determines that such proposed sale is consistent with the plan and that—

(A) additional power system reserves are required for the region's firm loads,

(B) the proposed sale would provide a cost-effective method of supplying such reserves,

(C) such loads or loads of similar character cannot provide equivalent operating or planning benefits to the region if served by an electric utility under contractual arrangements providing reserves, and

(D) the Administrator has or can acquire sufficient electric power to serve such loads, and

unless the Council has approved such sale by majority vote. After such determination and approval, the Administrator is authorized to offer to existing direct service industrial customers power in such amounts in excess of the amount permitted under paragraph (1) as the Administrator determines to be necessary to provide additional power system reserves to meet the region's firm loads.

(4)(A) As used in this section, the term "existing direct service industrial customer" means any direct service industrial customer of the Administrator which has a contract for the purchase of electric power from the Administrator on the effective date of this Act and which has before such effective date received electric power from the Administrator pursuant to such contract.

(B) The term "new direct service industrial customer" means any industrial entity other than an existing direct service industrial customer.

(e)(1) The contractual entitlement to firm power of any customer from whom, or on whose behalf, the Administrator has acquired electric power pursuant to section 6 may not be restricted below the amount of electric power so acquired from, or on behalf of, such customer. If in any year such customer's requirements are less than such entitlement, any excess of such entitlement shall be first made available to increase the entitlement of other customers of the same class before being available for the entitlement of other customers. For purposes of this paragraph, the following entities shall each constitute a class:

(A) public bodies and cooperatives;

(B) Federal agencies;

(C) direct service industrial; and

(D) investor-owned utilities.

(2) Any contractual entitlement to firm power which is based on electric power acquired from, or on behalf of, a customer pursuant to section 6 shall be in addition to any other contractual entitlement to firm power not subject to restriction that such customer may have under this section. For the purposes of this subsection, references to amounts of power acquired by the Administrator pursuant to section 6 shall be deemed to mean the amounts specified in the resource acquisition contracts exclusive of any amounts recognized in such contracts as replacement for Federal base system resources.

(3) The Administrator shall, consistent with the provisions of this Act, insure that any restrictions upon any particular customer class made pursuant to this subsection and subsection (b) are distributed equitably throughout the region.

(f) The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsection (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator, including the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), and the Act of August 31, 1964 (16 U.S.C. 837–837h).

(g)(1) As soon as practicable within nine months after the effective date of this Act, the Administrator shall commence necessary negotiations for, and offer, initial long-term contracts (within the limitations of the third sentence of section 5(a) of the Bonneville Project Act) simultaneously to—

(A) existing public body and cooperative customers and investor-owned utility customers under subsection (b);

(B) Federal agency customers under subsection (b);
(C) electric utility customers under subsection (c); and
(D) direct service industrial customers under subsection (d)(1).

(2) Each customer offered a contract pursuant to this subsection shall have one year from the date of such offer to accept such contract. Such contract shall be effective as provided in this subsection.

(3) An initial contract with a public body, cooperative, or investor-owned electric utility customer or a Federal agency customer pursuant to subsection (b) shall be effective on the date executed by such customer, unless another effective date is otherwise agreed to by the Administrator and the customer.

(4) An initial contract with an electric utility customer pursuant to subsection (c) shall be effective on the date executed by such customer, but no earlier than the first day of the tenth month after the effective date of this Act.

(5) An initial contract with a direct service industrial customer pursuant to subsection (d)(1) shall be effective on the date agreed upon by the Administrator and such customer, but no later than the first day of the tenth month after the effective date of this Act. When such contract is executed, it may for rate purposes be given retroactive effect to such first day.

(6) Initial contracts offered public body, cooperative, and Federal agency customers in accordance with this subsection shall provide that during a period of insufficiency declared in accordance with subsection (b) each customer's contractual entitlement shall, to the extent of its requirements on the Administrator, be no less than the amount of firm power received from the Administrator in the year immediately preceding the period of insufficiency.

(7) The Administrator shall be deemed to have sufficient resources for the purpose of entering into the initial contracts specified in paragraph (1) (A) through (D).

CONSERVATION AND RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall acquire such resources, through conservation, implement all such conservation measures, and acquire such renewable resources which are installed by a residential or small commerical consumer to reduce load, as the Administrator determines are consistent with the plan or, if no plan is in effect, with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) and, in the case of major resources, in accordance with subsection (c). Such conservation measures and such resources may include, but are not limited to—

(1) loans and grants to consumers for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application,

(2) technical and financial assistance to, and other cooperation with, the Administrator's customers and governmental authorities to encourage maximum cost-effective voluntary conservation and the attainment of any cost-effective conservation objectives adopted by individual States or subdivisions thereof,

(3) aiding the Administrator's customers and governmental authorities in implementing model conservation standards adopted pursuant to section 4(f), and

(4) conducting demonstration projects to determine the cost effectiveness of conservation measures and direct application of renewable energy resources.

(b)(1) In addition to electric power acquired under subsection 5(c) or on a short-term basis pursuant to section 11(b)(6)(i) of the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), the Adminstrator, without considering restrictions which may apply pursuant to subsection 5(b), shall meet his contractual obligations and his obligations to protect, mitigate and enhance fish and wildlife under section 4(h)(2) that remain after taking into account planned savings from measures provided for in subsection (a) by acquiring sufficient resources.

(2) Except as specifically provided in this section, acquisition of resources under this Act shall be consistent with the plan or, if no plan is in effect, consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) both as determined by the Administrator, and, in the case of major resources, in accordance with subsection (c).

(3) The Administrator shall acquire any non-Federal resources to replace Federal base system resources only in accordance with the provisions of this section. The Administrator shall include in the contracts for the acquisition of any such non-Federal replacement resources provisions that will enable him to ensure that such non-Federal replacement resources are developed and operated in a manner consistent with the factors specified in section 4(e)(2) of this Act.

(4) Notwithstanding any acquisition of resources pursuant to this section, the Administrator shall not reduce his efforts to acquire and implement conservation and acquire renewable resources pursuant to subsection (a).

(5) In making any payment to an investor-owned utility for the acquisition under this subsection of any resource as defined by section 3(19)(A), or for the exchange of

power under section 5(c), the Administrator shall exclude the costs of construction work in progress.

(c)(1) For each proposal under subsection (a), (b), (f), (h), or (l) to acquire a major resource, to implement a conservation measure which will conserve an amount of electric power equivalent to that of a major resource, to pay or reimburse investigation and preconstruction expenses of the sponsors of a major resource, or to grant billing credits or services involving a major resource, the Administrator shall—

(A) publish notice of the proposed action in the Federal Register and provide a copy of such notice to the Council, the Governor of each State in which facilities would be constructed or a conservation measure implemented, and the Administrator's customers;

(B) not less than sixty days following publication of such notice, conduct one or more public hearings, presided over by a hearing officer, at which testimony and evidence shall be received, with opportunity for such rebuttal and cross-examination as the hearing officer deems appropriate in the development of an adequate hearing record;

(C) develop a record to assist in evaluating the proposal which shall include the transcript of the public hearings, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator; and

(D) following completion of such hearings, promptly provide to the Council and make public a written decision that includes, in addition to a determination respecting the requirements of subsection (a), (b), (f), (h), (l), or (m), as appropriate—

(i) if a plan is in effect, a finding that the proposal is either consistent or inconsistent with the plan or, notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligations under this Act, or

(ii) if no plan is in effect, a finding that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) or, notwithstanding its inconsistency, a finding that it is needed to meet the Administrator's obligations under this Act.

In the case of subsection (f), such decision shall be treated as satisfying the requirements of this subsection, if it includes a finding of probable consistency, based upon the Administrator's evaluation of information available at the time of completion of the hearing under this paragraph. Such decision shall include the reasons for such finding.

(2) Within sixty days after receipt of the Administrator's decision pursuant to paragraph (1)(D), the Council may determine by a majority vote of all members of the Council, and notify the Administrator, that the proposal is either consistent or inconsistent with the plan, or, if no plan is in effect, that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2): Provided, That the Council's authority to make consistency determinations if no plan is in effect shall cease upon the adoption of a plan or the expiration of two years from the effective date of this Act, whichever is earlier.

(3) The Administrator may not implement any proposal referred to in paragraph (1) that is determined by either the Administrator or the Council to be inconsistent with the plan or, if no plan is in effect, with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) unless (A) the Administrator determines that the resource is needed to meet the Administrator's contractual obligations under section 5 without considering restrictions which may apply pursuant to section 5(b), and (B) the expenditure of funds for that purpose has been specifically authorized by legislation enacted by the Congress pursuant to bills reported from the committees of Congress having jurisdiction, under the applicable rules of the respective Houses of Congress, over substantive amendments to the Federal Columbia River Transmission System Act and the Bonneville Project Act.

(4) Before the Administrator implements any proposal referred to in paragraph (1), the Administrator shall—

(A) submit to the appropriate committees of the Congress the administrative record of the decision (including any determination by the Council under paragraph (2)) and a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act of 1969,

(B) publish notice of the decision in the Federal Register, and

(C) note the proposal in the Administrator's annual or supplementary budget submittal made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following).

The Administrator may not implement any such proposal until ninety days after the date of publication in the Federal Register.

(d) The Administrator is authorized to acquire a resource, other than a major resource, whether or not such resource meets the criteria of section 4(e)(1) and the considerations of section 4(e)(2) but which he determines is an experimental, developmental, demonstration, or pilot project of a type with a potential for providing cost-effective service to the region. The Administrator shall make no obligation for the acquisition of such resource until it is included in the annual budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act.

(e)(1) In order to effectuate the priority given to conservation measures and renewable resources under this Act, the Administrator shall, to the maximum extent practicable, make use of his authorities under this Act to acquire conservation measures and renewable resources, to implement conservation measures, and to provide credits and technical and financial assistance for the development and implementation of such resources and measures (including the funding of, and the securing of debt for, expenses incurred during the investigation and preconstruction of resources, as authorized in subsection (f)).

(2) To the extent conservation measures or acquisition of resources require direct arrangements with consumers, the Administrator shall make maximum practicable use of customers and local entities capable of administering and carrying out such arrangements.

(f)(1) For resources which the Administrator determines may be eligible for acquisition under this section and satisfy the criteria of section 4(e)(1) and the considerations of section 4(e)(2) or, if a plan is in effect, to be consistent with the plan, the Administrator is authorized to enter into agreements with sponsors of—

(A) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource, or

(B) any other resource to provide for the reimbursement of the sponsor's investigation and preconstruction expenses concerning such resource (which expenses shall not include procurement of capital equipment or construction material for such resource).

In the case of any resource referred to in subparagraph (B), such reimbursement is authorized only if—

(i) such resource is subsequently denied State siting approval or other necessary Federal or State permits, or approvals,

(ii) such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the critiera of section 4(e)(1) and the considerations of section 4(e)(2) or is not acceptable because of environmental impacts, or

(iii) after such investigation the Administrator determines not to acquire the resource and the sponsor determines not to construct the resource.

(2) The Administrator may exercise the authority of this subsection only if he does not foresee termination of the resource. If the Administrator reasonably foresees that certain actions of the resource sponsors may lead to termination of the resource, he shall specify such actions with particularity in the agreement and shall exclude reimbursement if the resource sponsors take such actions. In no event shall the Administrator agree to reimburse expenses incurred prior to the effective date of this Act or of the agreement.

(3) Any agreement under paragraph (1) shall provide the Administrator an option to acquire any such resource, including a renewable resource, and shall include such other provisions, as the Administrator deems appropriate, for the Administrator's recovery from such sponsors or any assignee of the sponsors, if such sponsor or assignee continues development of the resource, of any advances made by the Administrator pursuant to such agreement.

(4) The Administrator shall not reimburse any expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after the date of a final denial of application for State siting approval or after the date the Administrator determines that the resource to be inconsistent with the plan or the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator in accordance with applicable law and regulations, may be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h)(1) If a customer so requests, the Administrator shall grant billing credits to such customer, and provide services to such customer at rates established for such services, for—

(A) conservation activities independently undertaken or continued after the effective date of this Act by such customer or political subdivision served by

such customer which reduce the obligation of the Administrator that would otherwise have existed to acquire other resources under this Act, or

(B) resources constructed, completed, or acquired after the effective date of this Act by a customer, an entity acting on behalf of such customer, or political subdivision served by the customer which reduce the obligation of the Administrator to acquire resources under this Act. Such resources shall be renewable resources or multipurpose projects or other resources which are not inconsistent with the plan or, in the absence of a plan, not inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(2) The energy and capacity on which a credit under this subsection to a customer is based shall be the amount by which a conservation activity or resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(3) The amount of credits for conservation under this subsection shall be set to credit the customer implementing or continuing the conservation activity for which the credit is granted for the savings resulting from such activity. The rate impact on the Administrator's other customers of granting the credit shall be equal to the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually saved by the activity for which the credit is granted.

(4) For resources other than conservation, the customer shall be credited for net costs actually incurred by such customer, an entity acting on behalf of such customer, or political subdivision served by such customer, in acquiring, constructing, or operating the resource for which the credit is granted. The rate impact to the Administrator's other customers of granting the credit shall be no greater than the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually produced by the resource for which the credit is granted.

(5) Retail rate structures which are voluntarily implemented by the Administrator's customers and which induce conservation or installation of consumer-owned renewable resources shall be considered, for purposes of this subsection, to be (A) conservation activities independently undertaken or carried on by such customers, or (B) customer-owned renewable resources, and shall qualify for billing credits upon the same showing as that required for other conservation or renewable resource activities.

(6) Prior to executing a contract for any billing credit or related services pursuant to this subsection, the Administrator shall—

(A) Comply with the notice and hearing provisions of subsection (c), and include in such notice the methodology the Administrator proposes to use in determining the amount of any such credit;

(B) Include the cost of such credit in the Administrator's annual or amended budget submittal to the Congress made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838j));

(C) Include in such contract provisions to ensure that resources in excess of a customer's reasonable load growth shall have been offered to others for ownership, participation or other sponsorship pursuant to subsection (m), except in the case of conservation, multipurpose projects uniquely suitable for development by the customer, or renewable resources; and

(D) Include in such contract provisions to ensure that the operators of any generating resource for which a billing credit is to be granted agree to operate such resource in a manner compatible with the planning and operation of the region's power system.

(i) Contracts for the acquisition of resources and for billing credits for major resources, including conservation activities, entered into pursuant to this section shall contain such terms and conditions, applicable after the contract is entered into, as will—

(1) insure timely construction, scheduling, completion, and operation of resources,

(2) insure that the costs of any acquisition are as low as reasonably possible, consistent (A) with sound engineering, operating, and safety practices and (B) the protection, mitigation, and enhancement of fish and wildlife, including related spawning grounds and habitat, affected by the development of such resources, and

(3) insure that the Administrator exercises effective oversight, inspection, audit, and review of all aspects of such construction and operation, including environmental protection.

Such contracts shall contain provisions assuring that the Administrator has the authority to approve all costs of and proposals for, major modifications in construction, scheduling, or operations and to assure that the Administrator is provided with

such current information as he deems necessary to evaluate such construction and operation

(j)(1) All contractual and other obligations required to be carried out by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services Such obligations are not, nor shall they be construed to be, general obligations of the United States, nor are such obligations intended to be or are they secured by the full faith and credit of the United States

(2) All contracts entered into by the Administrator for the acquisition of resources pursuant to this Act shall require that, in the sale of any obligations, all offerings and promotional material for the sale of such obligations shall include the language contained in the second sentence of paragraph (1) The Administrator shall monitor and enforce such requirement

(k) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act and the Administrator's obligations to particular customer classes, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region

(l)(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the States of Idaho, Montana, Oregon, and Washington if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor, or otherwise develop them The Administrator shall keep the Council fully and currently informed of such investigations, and seek the Council's advice as to the desirability of pursuing such investigations

(2) The Administrator is authorized and directed to investigate periodically opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity in the Pacific Northwest and the regions with which such exchanges may occur The Council shall take into consideration in formulating a plan such investigations

(3) After the Administrator submits a report to Congress pursuant to paragraph (5), the Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of section 4(e)(1) and the considerations of section 4(e)(2) Such acquisitions shall be in accordance with the provisions of this section

(4) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this subsection with the assistance of other Federal agencies as may be appropriate

(5) No later than July 1, 1981, the Administrator shall submit to the Congress a report of the result of the investigations undertaken pursuant to this subsection, together with the prospects for obtaining additional resources under the authority granted by this subsection and for reductions in generation or generating capacity through exchanges

(m) Except as to resources under construction on the effective date of this Act, the Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest electric utility for ownership, participation, or other sponsorship, but not in excess of the amounts needed to meet such utility's regional load

(n) The Council may authorize the Administrator to implement a proposal not subject to the provisions of section 6(c)(1) upon satisfaction of the requirements of section 6(c)(4) notwithstanding a finding by the Administrator that such proposal is inconsistent with the plan, or, if no plan is in effect, inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2)

(o) The Council or any customer of the Administrator may request the Administrator to take action under section 6 to carry out his responsibilities under this section Within 60 days of the receipt of such request, the Administrator shall respond in writing either that he will propose the action and will initiate the procedures of this section in order to review the action, or that he will not propose the action and the reasons why such action would not be timely or would not be consistent with the plan or with the Administrator's obligations under this Act or other provisions of law which the Administrator shall specifically identify

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RATES

SEC 7 (a)(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power Such rates shall be established and as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U S C 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act

(2) Rates established under this section shall become effective only upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission, that such rates—

(A) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs,

(B) are based upon the Administrator's total system costs, and

(C) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal utilizing such system

(b)(1) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and loads of electric utilities under section 5(c) Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply such loads until such sales exceed the Federal base system resources Thereafter, such rate or rates shall recover the cost of additional electric power as needed to supply such loads, first from the electric power acquired by the Administrator under section 5(c) and then from other resources

(2) After July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative, and Federal agency customers, exclusive of amounts charged such customers under subsection (g) for the costs of conservation, resource and conservation credits, experimental resources, and uncontrollable events, may not exceed in total, as determined by the Administrator, during any year after July 1, 1985, plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, the Administrator assumes that—

(A) the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives,

(B) public body, cooperative, and Federal agency customers were served, during such five year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A),

(C) no purchases or sales by the Administrator as provided in section 5(c) were made during such five-year period,

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under subparagraph (B)) were—

(i) purchased from such customers by the Administrator pursuant to section 6, or

(ii) not committed to load pursuant to section 5(b),

and were the least expensive resources owned or purchased by public bodies or cooperatives, and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator, and

(E) the quantifiable monetary savings, during such five-year period, to public body, cooperative, and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D), and

(ii) reserve benefits as a result of the Administrator's actions under this Act

were not achieved

(3) Any amounts not charged to public body, cooperative, and Federal agency customers by reason of paragraph (2) shall be recovered through supplemental rate charges for all other power sold by the Administrator to all customers Rates charged public body, cooperative, or Federal agency customers pursuant to this subsection shall not include any costs or benefits of a net revenue surplus or deficiency occurring for the period ending June 30, 1985, to the extent such surplus or deficiency is caused by—

(A) a difference between actual power deliveries and power deliveries projected for the purpose of establishing rates to direct service industrial customers under subsection (c)(1), and

(B) an overrecovery or underrecovery of the net costs incurred by the Administrator under section 5(c) as a result of such difference

Any such revenue surplus or deficiency incurred shall be recovered from, or repaid to, customers over a reasonable period of time after July 1, 1985, through a supplemental rate charge or credit applied proportionately for all other power sold by the Administrator at rates established under other subsections of this section prior to July 1, 1985

(4) The term "general requirements" as used in this section means the public body, cooperative, or Federal agency customer's electric power purchased from the Administrator under section 5(b), exclusive of any new large single load

(c)(1) The rate or rates applicable to direct service industrial customers shall be established—

(A) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(c), based upon the Administrator's projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other customers, and

(B) for the period beginning July 1, 1985, at a level which the Administrator determines to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial consumers in the region

(2) The determination under paragraph (1)(B) shall be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates but shall take into account—

(A) the comparative size and character of the loads served,

(B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and

(C) direct and indirect overhead costs,

all as related to the delivery of power to industrial customers, except that the Administrator's rates during such period shall in no event be less than the rates in effect for the contract year ending on June 30, 1985

(3) The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers

(d)(1) In order to avoid adverse impacts on retail rates of the Administrator s customers with low-system densities, the Administrator shall, to the extent appropriate, apply discounts to the rate or rates for such customers

(2) In order to avoid adverse impacts on direct service industrial customers using raw materials indigenous to the region as their primary resource, the Administrator is authorized to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region

(e) Nothing in this Act prohibits the Administrator from establishing, in rate schedules of general application, a uniform rate or rates for sale of peaking capacity or from establishing time-of-day, seasonal rates, or other rate forms

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(c), and additional resources which, in the determination of the Administrator, are applicable to such sales

(g) Except to the extent that the allocation of costs and benefits is governed by provisions of law in effect on the effective date of this Act, or by other provisions of this section, the Administrator shall equitably allocate to power rates, in accordance with generally accepted ratemaking principles and the provisions of this Act, all costs and benefits not otherwise allocated under this section, including, but not lim-

ited to, conservation, fish and wildlife measures, uncontrollable events, reserves, the excess costs of experimental resources acquired under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a)), the Administrator shall adjust power rates to include any surcharges arising under section 4(f), and shall allocate any revenues from such charges in such manner as the Administrator determines will help achieve the purposes of section 4(f)

(i) In establishing rates under this section, the Administrator shall use the following procedures

(1) Notice of the proposed rates shall be published in the Federal Register with a statement of the justification and reasons supporting such rates Such notice shall include a date for a hearing in accordance with paragraph (2)

(2) One or more hearings shall be conducted as expeditiously as practicable by a hearing officer to develop a full and complete record and to receive public comment in the form of written or oral presentation of views, data, questions, and argument related to such proposed rates In any such hearing—

(A) any person shall be provided an adequate opportunity by the hearing officer to offer refutation or rebuttal of any material submitted by any other person or the Administrator, and

(B) the hearing officer shall allow for cross-examination to develop information and material relevant to any such proposed rate

(3) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and arguments submitted by persons prior to, or before, the close of hearings shall be made a part of the administrative record

(4) After such a hearing, the Administrator may propose revised rates, publish such proposed rates in the Federal Register, and conduct additional hearings in accordance with this subsection

(5) The Administrator shall make a final decision establishing a rate or rates based on the record which shall include the hearing transcript, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator The decision shall include a full and complete justification of the final rates pursuant to this section

(6) The final decision of the Administrator shall become effective on confirmation and approval of such rates by the Federal Energy Regulatory Commission pursuant to subsection (a)(2) The Commission shall have the authority, in accordance with such procedures as the Commission may establish, to approve the final rate submitted by the Administrator on an interim basis, pending the Commission's final decision in accordance with such subsection *Provided,* That, until the Commission has established appropriate procedures for interim approval, the Secretary shall have authority to approve on an interim basis final rates submitted by the Administrator

(j) All rate schedules adopted, and all power billings rendered, by the Administrator pursuant to this section shall indicate—

(1) the approximate cost contribution of different resource categories to the Administrator's rates for the sale of energy and capacity, and

(2) the cost of resources acquired to meet load growth within the region and the relation of such cost to the average cost of resources available to the Admin istrator

(k) Notwithstanding any other provision of this Act, all rates or rate schedules for the sale of nonfirm electric power within the United States, but outside the region, shall be established after the date of this Act by the Administrator in accordance with the procedures of subsection (i) of this section (other than the first sentence of paragraph (6) thereof) and in accordance with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act Notwithstanding section 201(f) of the Federal Power Act, such rates or rate schedules shall become effective after review by the Federal Energy Regulatory Commission for conformance with the requirements of such Acts and after approval thereof by the Commission Such review shall be based on the record of proceedings established under subsection (i) and this subsection The parties to such proceedings under subsection (i) shall be afforded an opportunity by the Commission for an additional hearing in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act

(l) In order to further the purposes of this Act and to protect the consumers of the region, the Administrator may negotiate, or establish, rates for electric power sold by the Administrator to any entity not located in the United States which shall be equitable in relation to rates for all electric power which is, or may be, purchased

by the Administrator or the Administrator's customers from entities outside the United States In establishing rates other than by negotiation, the provisions of subsection (i) shall apply In the case of any negotiation with an entity not located in the United States, the Administrator shall provide public notice of any proposal to negotiate such rates Such negotiated rates shall be not less than the rates established under this Act for nonfirm power sold within the United States but outside the region The Administrator shall also afford notice of any rates negotiated pursuant to this subsection

AMENDMENTS TO EXISTING LAW

SEC 8 (a) Section 11(b) of the Federal Columbia River Transmission System Act (16 U S C 837) is amended by striking out the semicolon at the end of paragraph (6) and inserting in lieu thereof ", or (iv) on a short term basis to meet the Administrator's obligations under section 4(h)(2) of the Pacific Northwest Electric Power Planning and Conservation Act,"

(b) Section 11(b) of the Federal Columbia River Transmission System Act (16 U S C 838) is amended by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph

"(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'

(c) Subsection (b) of section 13 of such Act is amended by striking out "and 11(b)(11)" and inserting in lieu thereof ", 11(b)(11), and 11(b)(12)"

(d)(1) The first sentence of subsection (a) of section 13 of such Act is amended by inserting "(1)" after "is authorized", by inserting after the word "system," the following "and to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (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 electric power from any generating facility not utilizing a renewable resource or from a generating facility utilizing a renewable resource and having a planned capability greater than fifty average megawatts),", and by inserting "(2)" before "to issue and sell bonds to refund such bonds"

(2) The fourth sentence of such subsection (a) is amended by inserting the following before the period at the end thereof "issued by Government corporations Based on information provided by the Administrator to the Secretary of the Treasury, the interest rate determined pursuant to the immediately preceding sentence will be increased by 1 per centum thereof for each immediately preceding consecutive fiscal year, beginning with the fiscal year in which this Act becomes effective, that the applicable financial reports, including current repayment studies, of the Administrator show repayment criteria not being met"

(3) Such subsection (a) is further amended by inserting the following before the period at the end thereof "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"

(e) Clause (2) of section 1(b) of the Act of August 31, 1964 (78 Stat 756) is amended to read as follows "(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region "

(f) Section 7 of the Federal Columbia River Transmission System Act is amended by inserting "(a)" after "7" and by adding the following new subsection at the end thereof

"(b)(1) From amounts available to the Administrator from the fund under section 11(b)(2), the Administrator shall make annual impact aid payments to State and local governments having within their jurisdiction the transmission facilities described in paragraph (2) The Administrator may also make impact aid payments to State and local governments with respect to transmission facilities of the Administrator other than those described in paragraph (2) where the construction of such facilities, or any substantial modification thereof, is completed after the date of enactment of the Pacific Northwest Electric Power Planning and Conservation Act and the Administrator determines that such facilities have a substantial impact on the State and local government concerned

"(2) The transmission facilities for which payments shall be made under this subsection are any major transmission facilities—

"(A) which are owned by the Bonneville Power Administration,

"(B) which are exempt from State and local real property taxes, and

"(C) initial construction of which was completed after the date of the enactment of the Pacific Northwest Electric Power Planning and Conservation Act

"(3)(A) The payments made under this subsection for any year shall be determined on the basis of a regionwide formula established by the Administrator by rule, after notice and opportunity for public hearing and after consultation with State and local governments in the region and the Administrator's customers in the region Such formula shall provide for an annual payment based on (i) the amount of land and interests in land acquired by the Administrator for purposes of constructing the facility, and the value of the facilities constructed thereon, and (ii) the costs of all governmental services related to the facility and an appropriate share of the general government expenses which are ordinarily paid from State and local real property taxes No annual payment to any such State or local government may exceed such amount as the Administrator determines would be paid to such government during that year if the transmission facilities were not exempt from State and local real property taxation "

ADMINISTRATIVE PROVISIONS

SEC 9 (a) Subject to the provisions of this Act and the Bonneville Project Act, the Administrator is authorized to contract in accordance with section 2(f) of the Bonneville Project Act of 1937 (16 U S C 832a(f))

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by the Bonneville Project Act of 1937 (16 U S C 832 and following), sections 302(a) (2) and (3) of the Department of Energy Organization Act, and this Act The Secretary of Energy, the Council, and the Administrator shall take such steps as are necessary to assure the timely implementation of this Act in a sound and businesslike manner

(c) Any contract of the Administrator for the sale or exchange of electric power for outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of the Act of August 31, 1964 (16 U S C 837a and 837b) for any contract for the sale, delivery, or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest In applying such sections for the purposes of this subsection, the term "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and the term "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity The authority granted, and duties imposed upon, the Secretary by sections 5 and 7 of such Act (16 U S C 837e and 837f) shall also apply to the Administrator in connection with resources acquired by the Administrator pursuant to this Act The Administrator shall, in making any determination, under any contract executed pursuant to section 5, of the electric power requirements of any Pacific Northwest customer, which is a non-Federal entity having its own generation, exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of such Act (16 U S C 837b(d)), any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased Such amount of energy shall not be excluded, if the Administrator determines that through reasonable measures such amount of energy could not be conserved or otherwise retained for service to regional loads The Administrator may sell as replacement for any amount of energy so excluded only energy that would otherwise be surplus

(d) No restrictions contained in subsection (c) shall limit or interfere with the sale, exchange, or other disposition of any power by any utility or group thereof from any existing or new non-Federal resource if such sale, exchange, or disposition does not increase the amount of firm power the Administrator would be obligated to provide to any customer The Administrator, in addition to the directives contained in subsections (i)(1)(B) and (i)(3), and subject to any contractual obligations of the Administrator, or any other obligations under existing law, shall (1) provide transmission access, load factoring, storage and other services normally attendant thereto to such utilities and (2) shall not discriminate on the basis of independent development of resources against any utility or group thereof in providing such services

(e)(1) For purposes of sections 701 through 706 of title 5, United States Code, the following actions shall be final actions subject to judicial review—

(A) adoption of the plan or amendments thereto by the Council under section 4, and adoption of the program by the Council under section 4(h),

(B) sales, exchanges, and purchases of electric power under section 5,

(C) the Administrator's acquisition of resources under section 6,

(D) implementation of conservation measures under section 6,

(E) execution of contracts for assistance to sponsors under section 6(f),

(F) granting of credits under section 6(h), and

(G) establishment of a regionwide formula under section 7(b)(3) of the Federal Columbia River Transmission System Act

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with this Act The scope of review of such actions without a hearing or after a hearing shall be governed by section 706 of title 5, United States Code The scope of review of an action under section 6(c) shall be governed by section 706 of title 5, United States Code Nothing in this section shall be construed to require a hearing pursuant to section 554 or 557 of title 5 of the United States Code

(3) Nothing in this section shall be construed to preclude judicial review of other final actions and decisions by the Council or Administrator

(4) For purposes of this subsection—

(A) major resources shall be deemed to be acquired upon publication in the Federal Register pursuant to section 6(c)(4)(B),

(B) resources, other than major resources, shall be deemed to be acquired upon execution of the contract therefor,

(C) conservation measures shall be deemed to be implemented upon execution of the contract or grant therefor, and

(D) rate determinations pursuant to section 7 shall be deemed final upon confirmation and approval by the Federal Energy Regulatory Commission

(5) Suits to challenge final actions and decisions taken pursuant to this Act, or the implementation of such final actions, whether brought pursuant to this Act, the Bonneville Project Act, the Act of August 31, 1964 (16 U S C 837–837h), or the Federal Columbia River Transmission System Act (16 U S C 838 and following), shall be filed in the appropriate Federal court in the case of rates under section 7 and in the United States court of appeals for the region in the case of other actions or decisions subject to the provisions of this subsection Such suits shall be filed within ninety days of the time such action or decision is deemed final, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days from such notice, or be barred In the case of a challenge of the plan or amendments thereto, such suit shall be filed within sixty days after publication of a notice of such final action in the Federal Register Such courts shall have jurisdiction to hear and determine any suit brought as provided in this section The plan, as finally adopted or portions thereof, or amendments thereto, shall not thereafter be reviewable as a part of any other action under this Act or any other law administered by the Administrator

(f) For purposes of enabling the Administrator to acquire resources necessary to meet the firm load of public bodies, cooperatives, and Federal agencies from a government unit at a cost no greater than the cost which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provide in section 103(a)(1) of the Internal Revenue Code of 1954 shall not be affected by the Administrator's acquisition of such resources if—

(1) the Administrator, prior to contracting for such acquisition, certifies to his reasonable belief, that the persons for whom the Administrator is acquiring such resources for sale pursuant to section 5 of this Act are public bodies, cooperatives, and Federal agencies, unless the Administrator also certifies that he is unable to acquire such resources without selling a portion thereof to persons who are not exempt persons (as defined in section 103(b) of such Code), and

(2) based upon such certification, the Secretary of the Treasury determines in accordance with applicable regulations that less than a major portion of the resource is to be furnished to persons who are not exempt persons (as defined in section 103(b) of such Code)

The certification under paragraph (1) shall be made in accordance with this subsection and a procedure and methodology approved by the Secretary of the Treasury For purposes of this subsection, the term "major portion" shall have the meaning provided by regulations issued by the Secretary of the Treasury

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility customer under section 5(c) or 6, the Federal Energy Regulatory Commission shall, in accordance with section 209 of the Federal Power Act (16 U S C 824h)—

(1) convene a joint State board, and

(2) invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h)(1) No "company" (as defined in section 2(a)(2) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(2)), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(3)), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code, if at least 90 per centum of the electricity generated by such company is sold to the Administrator under section 6, and if—

(A) the organization of such company is consistent with the policies of the Public Utility Holding Company Act of 1935, as determined by the Securities and Exchange Commission, with the concurrence of the Administrator, at the time of such organization; and

(B) participation in any facilities of such "company" has been offered to public bodies and cooperatives in the region pursuant to section 6(m).

(2) The Administrator shall include in any contract for the acquisition of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource.

(3) In the case of any "company" which meets the requirements of paragraph (1), the Administrator, with the concurrence of such Commission, shall approve all significant contracts entered into by, and between, such "company" and any sponsor company or any subsidiary of such sponsor company which are determined to be consistent with the policy of the Public Utility Holding Company Act of 1935 at the time such contracts are entered into. The Administrator and the Securities and Exchange Commission shall exercise such approval authority within sixty days after receipt of such contracts. Such contracts shall not be effective without such approval.

(4) Paragraph (1) of this subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission, or both, through periodic review, (A) determine at any time that the "company" no longer operates in a manner consistent with the policy of the Public Utility Holding Company Act of 1935 and in accordance with this subsection, and (B) notify the "company" in writing of such preliminary determination. This subsection shall cease to apply to such "company" thirty days after receipt of notification of a final determination thereof. A final determination shall be made only after public notice of the preliminary determination and after a hearing completed not later than sixty days from the date of publication of such notice. Such final determination shall be made within thirty days after the date of completion of such hearing.

(i)(1) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(A) acquire any electric power required by (i) any customer or group of customers to enable them to replace resources determined to serve firm load under section 5(b), or (ii) direct service industrial customers to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power the Administrator is obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting such power; and

(B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

(2) In implementing the provisions of subparagraphs (A) and (B) of paragraph (1), the Administrator may prescribe policies and conditions for the independent acquisition or disposition of electric power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisition or disposition.

(3) The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations, or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale

at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

(j)(1) The Council, as soon as practicable after the enactment of this Act, shall prepare, in consultation with the Administrator, the customers, appropriate State regulatory bodies, and the public, a report and shall make recommendations with respect to the various retail rate designs which will encourage conservation and efficient use of electric energy and the installation of consumer-owned renewable resources on a cost-effective basis, as well as areas for research and development for possible application to retail utility rates within the region. Studies undertaken pursuant to this subsection shall not affect the responsibilities of any customer or the Administrator which may exist under the Public Utility Regulatory Policies Act of 1978.

(2) Upon request, and solely on behalf of customers so requesting, the Administrator is authorized to (A) provide assistance in analyzing and developing retail rate structures that will encourage cost-effective conservation and the installation of cost-effective consumer-owned renewable resources; (B) provide estimates of the probable power savings and the probable amount of billing credits under section 6(h) that might be realized by such customers as a result of adopting and implementing such retail rate structures; and (C) solicit additional information and analytical assistance from appropriate State regulatory bodies and the Administrator's other customers.

(k) There is hereby established within the administration an Assistant Administrator position for conservation and renewable resources. Such Assistant Administrator shall be appointed by the Administrator and shall be assigned responsibility for conservation and direct-application renewable resource programs (including the administration of financial assistance for such programs). Such position is hereby established in the senior executive service in addition to the number of such positions heretofore established in accordance with other provisions of law applicable to such positions.

SAVINGS PROVISIONS

SEC. 10 (a) Nothing in this Act shall be construed to affect or modify any right of any State or political subdivision thereof or electric utility to—

(1) determine retail electric rates, except as provided by section 5(c)(3);

(2) develop and implement plans and programs for the conservation, development, and use of resources; or

(3) make energy facility siting decisions, including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any customer under any contract existing as of the effective date of this Act.

(c) Nothing in this Act shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(d) If any provision of this Act is found to be unconstitutional, then any contract entered into by the Administrator, prior to such finding and in accordance with such provisions, to sell power, acquire or credit resources, or to reimburse investigation and preconstruction expenses pursuant to section 5, and section 6 (a), (b), (f), or (h) of this Act shall not be affected by such finding.

(e) Nothing in this Act shall be construed to affect or modify any treaty or other right of an Indian tribe.

(f)(1) Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual.

(2) In the implementation of this Act, the United States, its agents, permittees, or licensees shall not appropriate, use, divert, dedicate, or claim water within any State unless such appropriation, use, diversion, dedication, or claim takes place pursuant to substantive and procedural provisions of State law, regulation, or rule of law, including the establishment, exercise or enforcement of terms or conditions, governing appropriation, use, diversion, or dedication of water.

(3) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, diversion, dedication of, or claim to, water.

(4) Nothing in this Act shall be construed as altering or affecting the rights of any Indian tribe.

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(g) Nothing in this Act shall obligate the Federal Government for the performance of any new contracts executed by the Administrator or Council directly or indirectly unless specifically authorized by Congress

(h) The reservation under law of electric power for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State, plus 50 per centum of any electric power produced at Libby Reregulating Dam if built, is hereby affirmed. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7

EFFECTIVE DATE

SEC. 11. This Act shall be effective on the date of enactment, or October 1, 1980, whichever is later. The term "date of enactment of this Act" as used in this Act shall be either such date or October 1, 1980

PURPOSE

One of the primary purposes of S. 885[1] is to allow the Pacific Northwest to resolve the competing claims to the Federal energy resources of the region and enable it to focus its attention on the task of developing an economical, adequate, efficient and reliable power system for the future. Additional purposes include: the implementation and development of conservation and renewable energy programs; the establishment of a regional public planning process to enable all regional entities and the public at large to participate in the region's electrical energy decision making process; the protection, mitigation and enhancement of the fish and wildlife resources of the Columbia River and its tributaries; and the preservation of the authorities and responsibilities of non-Federal entities in the electrical energy field. It is not, however, a purpose of this legislation to interfere in any way with, or modify, the statutory rights of preference customers either within or without the region; nor is this legislation intended to be a precedent for any other region of the country.

BACKGROUND AND NEED

Formed in 1937, pursuant to the provisions of the Bonneville Project Act (16 U.S.C. 832; 50 Stat. 731), the Bonneville Power Administration (BPA) was given the authority to build and operate transmission facilities and dispose of electric power to be generated by the Federally constructed Bonneville Dam located on the Columbia River. BPA's authority has been statutorily expanded over the years so that today it transmits and markets the power generated at 30 Federal dams constructed by the Bureau of Reclamation (now the Water and Power Resources Service) and the Army Corps of Engineers located in the Pacific Northwest. At present, BPA markets over 50 percent of all the electricity consumed in its marketing area. This power is transmitted through a vast system of power lines built by BPA (80 percent of the region's high voltage transmission lines are BPA's), and the dams and transmission system are collectively referred to as the Federal Columbia River Power System (FCRPS).

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[1] S 885 was approved by the Senate on August 3, 1979 Comparable, though not identical, measures referred to the Committee on Interior and Insular Affairs included H R 3508, by Mr Ullman (for himself, Mr Foley, Mr McCormack, Mr Duncan of Oregon, Mr Hansen, Mr Pritchard, Mr Symms, Mr AuCoin, Mr Bonker, Mr Dicks, Mr Lowry, and Mr Swift), H R 4137 and H R 4159, by Mr Weaver, H R 5146, by Mr Ullman, and H R 6677, by Mr Swift

BPA has no express statutory authority to own, construct or purchase the output or capability of electric generating plants except to meet short term deficiencies. Its sole statutory duty is to market and transmit the power generated at Federal hydroelectric projects. Under a "regional preference and reciprocal act" (16 U.S.C. 837; 78 Stat. 756), BPA's marketing area is defined as including the States of Washington, Oregon, Idaho, and that part of Montana lying west of the Continental Divide. That Act also prohibits BPA from selling Federal power to entities outside the region if there is a demand for that power within the region, and affords similar regional priority with respect to other Federal projects outside the Pacific Northwest for sales to the Pacific Northwest.

The original Bonneville Project Act, like other Federal power marketing laws, contains a "preference clause". This clause requires that BPA, although statutorily authorized to sell power to all types of customers, must give first right and priority to that power to "public bodies and cooperatives". "Public bodies" are defined to include "States, public power districts, counties, and municipalities, including agencies or subdivisions of any thereof". If a shortage of power is contemplated, BPA's other customers must do without, in order that "public bodies and cooperatives" continue to receive the Federal power to which they are entitled.

The class of customers generally considered within the definition of "public bodies and cooperatives" is quite large and diverse. It is presently composed of 36 municipal utilities, 54 rural electric cooperatives, and 26 entities known as PUDs (Public Utility Districts in Washington and People's Utility Districts in Oregon)—a total of 116 "public bodies and cooperatives". These customers are collectively referred to as "preference customers" of BPA. BPA's present contracts with these customers expire during the period from 1983 to 1994.

For a variety of reasons, preference customers proliferated in Washington while meeting with only limited organizational success in Oregon, Idaho, and western Montana. As a consequence, 57 percent of the residential consumers in Washington today are served by preference customers of BPA while only 21 percent, 18 percent, and 21 percent of the residential consumers in Oregon, Idaho and western Montana, respectively, are served by preference customers of BPA. Those consumers not served by preference customers are served by the seven investor-owned utilities of the region. These utilities are referred to as "IOU's".

During BPA's early years, the type of utility ownership serving an area was of little practical consequence. Because of the massive, preinflation era development of Federal dams in the Pacific Northwest, there was an abundance of low cost Federal hydropower, and BPA was able to meet the needs of its preference customers with substantial amounts of Federal hydro remaining. This surplus power was sold to the IOUs in the region and directly to aluminum and other electro-process industries which located in the region during the 1940's and 1950's because of the abundance of power. These industrial customers are directly served by BPA and, hence, are known as direct-service industrial customers or "DSIs". BPA's contracts with DSIs contain provisions whereby BPA can "interrupt" or curtail deliveries of power to the fifteen operating DSIs (six of which are aluminum companies) under a variety of operat-

ing and planning contingencies and therefore provide the region with valuable and necessary energy and capacity reserves. Together, the DSIs account for about one-third of BPA's firm and non-firm energy sales. BPA's present contracts with the DSIs expire during the period from 1981-1991.

By the mid-1960's, it became apparent that Federal hydropower abundance would soon come to an end. The Pacific Northwest had run out of economic and environmentally acceptable new sites for large scale, multi-purpose Federal hydroelectric projects. This, combined with projected increases in electrical energy consumption, indicated to BPA and others that additional non-Federal sources of power would soon be required to meet the needs of the region.

Faced with this perceived need, BPA, in cooperation with over 100 utilities in the region, embarked upon Phase I of the Hydro-Thermal Power Program. Under this program, BPA would continue to build the region-wide high voltage transmission system while the utilities in the region would be responsible for building and operating thermal (coal and nuclear) plants sized, located and scheduled to meet regional loads. To provide for the expansion of the region's power supplies and to reduce financing costs for preference customers building plants, BPA developed the concept of "net billing".

Under net billing, a preference customer of BPA agrees to pay a certain percentage of a thermal plant's annual costs in return for an equivalent percentage of that plant's output. The preference customer then assigns its percentage of project output to BPA and BPA credits the preference customer's monthly bill for other energy and services received from BPA with an amount equal to the preference customer's share of the monthly costs of the thermal plant.

In other words, the preference customer receives a monthly power bill from BPA "net" of its share of thermal plant costs. Once BPA receives the preference customer's share of the output of the thermal plants, it combines those resource costs with that of the Federal hydroelectricity, in keeping with normal utility ratemaking practices, and sells the aggregate supply to all its customers, including the DSIs, at "melded" rates sufficient to recover all of the costs of producing and transmitting both the thermal and Federal hydro.

Net billing allowed BPA to use its limited authority to acquire non-Federal power without obtaining direct statutory authority to purchase power on a long-term basis. Net billing was specifically approved in the reports accompanying the Public Works Appropriations Acts of 1970 and 1971, as Congress was kept apprised of progress of the Hydro-Thermal Program, although some have criticized the appropriateness of this kind of congressional authority.

Net billing was also supposed to reduce the costs of thermal plants built by preference customers since, under the net billing agreements, BPA was required to credit each preference customers' power bill with that customer's share of the thermal plant's cost, regardless of whether BPA actually received power from the plant. This shifted the risk of a failed plant, or "dry hole" as it is called, from the owner systems to all of BPA's customers in the region whose rates would be raised to compensate for the costs of the non-

producing plant. This made revenue bonds sold by these preference customers to finance the thermal plants more secure. This, in turn, led to better bond ratings with lower interest rates and lowered overall construction costs.

The IOUs in the region did not participate in net billing, partly because BPA did not sell them any significant power to net bill against. Under Phase I, the IOUs were expected to build their own thermal plants to meet their load growth requirements and to replace the hydropower they had been receiving from BPA but would lose in 1973 when their 20-year power sale contracts with BPA expired. BPA could not renew the IOUs contracts because it estimated that it would need the power to serve preference customers, as mandated by the preference clause, and to serve the DSIs as required by their contracts still in effect. (The IOUs have not received any firm power from BPA since 1973. However, estimates in the late 1960's indicated that thermal power costs would be only slightly higher than the cost of Federal hydro. Thus, the IOUs and their retail consumers were not expected to suffer severe cost impacts as a result of losing access to BPA wholesale power.)

The utilities in the region began to implement Phase I immediately. The IOUs began constructing their thermal plants and the preference customers, through a joint operating agency known as the Washington Public Power Supply System (WPPSS) began constructing the net billed plants. In addition, the utilities and BPA sought enactment of legislation which would allow BPA to operate on a "self-financed" basis, whereby BPA could directly apply its revenues to its costs and would be authorized to sell bonds to the U.S. Treasury to raise funds to construct additions to the regional transmission system. This legislation, which was eventually enacted in 1974 as the Federal Columbia River Transmission System Act (16 U.S.C. 838; 88 Stat. 1376), was intended to free BPA from the uncertainties of the appropriations process (though Congress retained considerable authority to disapprove any element of the BPA program) and to allow BPA to construct transmission additions on a timetable compatible with that of the thermal plants.

Phase I soon ran into trouble. First, the costs of the net billed plants began to rise, which would soon exhaust the net billing capability of the BPA System. Second, in 1973, the Internal Revenue Service issued regulations which effectively prevented further participation by BPA in net billing. Third, thermal plant cost escalation also struck the IOUs. This, in turn, forced the IOUs to raise their retail rates which, in many instances, meant that customers of IOUs would end up with higher retail rates (as much as 300% higher) than customers of preference customers of BPA. Rates of preference customers were also going to go up because of the cost escalations of the net billed plants, but these escalations would be mitigated somewhat for many years since the high cost net billed resources were to be "melded" with a large block of quite low cost Federal hydro.

Faced with the limitations of Phase I, the utilities and BPA embarked upon Phase II of the Hydro-Thermal Power Programs in early 1974. Under Phase II, each class of utility agreed to build its own new generation (no net billing for preference customers) and the DSIs were to help make the plan economically feasible by providing a market for any excess power from Phase II projects. As

before, BPA would provide certain transmission and other such services such as peaking and reserves. However, Phase II was killed before it got off the ground by a 1975 Federal District Court ruling requiring the preparation of an environmental impact statement on BPA's role in the regional power system. The delay associated with the preparation of the EIS and soaring construction costs created substantial power planning uncertainties for the region's utilities and DISs and, as a result, Phase II was scrapped.

The uncertainties caused by the demise of Phase II were compounded on June 24, 1976, when BPA, in furtherance of its belief that Federal power would not be adequate to meet the projected demands of its preference customers, issued Notices of Insufficiency to these customers. These notices had the legal effect of relieving BPA of liability for any failure to satisfy its preference customers load growth needs after July 1, 1983. BPA also informed its DSI customers that it would probably not be able to renew their power sale contracts when they expire in the period from 1981 to 1991 since it will need the energy "freed up" with the expiration of those contracts to meet the growing requirements of its preference customers, which, by virtue of the preference clause, have first right to it.

Additional power planning uncertainties arose on July 28, 1977, when legislation was enacted in the State of Oregon creating the Oregon Domestic and Rural Power Authority (DRPA). This legislation is intended to make the entire State of Oregon a preference customer of BPA for the purpose of securing a pro rata share of Federal hydro sufficient to meet the total demands of Oregon domestic and rural consumers.

The impetus for DRPA can be traced back to BPA's early years. As was mentioned above, preference customers flourished in the State of Washington but not in Oregon, Idaho and western Montana. While all types of utilities (including IOUs in Oregon) were receiving low cost Federal hydro from BPA, this difference was of no consequence. However, since 1973, when BPA stopped selling power to IOUs, they have had to rely on (as it has turned out) increasingly expensive thermal power. Preference customers, on the other hand, still rely primarily upon low cost Federal hydro. Consequently, wholesale power costs to IOUs are usually higher than those faced by preference customers in the region. Since Oregon is primarily served by IOUs and Washington is primarily served by preference customers, consumers in Oregon (and Idaho and western Montana), on the average, pay more for their electricity at retail than those in Washington.

The State of Oregon has not been alone in its efforts to obtain access to the supply of Federal hydro. On November 14, 1977, the City of Portland, Oregon, filed two lawsuits against BPA in Federal District Court in Portland in an attempt to secure Federal hydro from BPA for the city, which is presently served by two investor-owned utilities. In addition, efforts are being made within the State of Oregon and elsewhere in the region to form new "public bodies and cooperatives" eligible to receive Federal hydro from BPA.

BPA, in recognition of the fact that the Federal resources available to it will be insufficient to meet the requirements of its existing preference customers after 1983, let alone the requirements of any new preference customers such as the Oregon Domestic and Rural

Power Authority, began the process of developing a policy for allocating the Federal power it sells and issued a proposed allocation policy in September, 1979. Under this proposal, existing and any new preference customers will be limited to a pro rata share of BPA power after 1991. Unfortunately, these shares will fall far short of meeting their requirements, especially if most of the DSIs become customers of the preference utilities upon the expiration of their present contracts with BPA or if new preference customer systems are formed. Before 1991, no BPA customer will be assured of getting its requirements met by BPA or certain in advance how much power it will be entitled to. Existing preference customers will, for the most part, be limited to supplies in accordance with their existing contracts, although they may be able to secure some indeterminate amount of additional power as the DSI contracts expire. New preference customers will divide up most of the power "freed up" by expiring DSI contracts, but the amount available to each will be impossible to determine in advance and will likely be insufficient to meet their needs.

It is clear that this allocation policy, once it is finalized and reviewed administratively within the Department of Energy, will be vigorously challenged in the Federal courts. The cost disparity between the Federal resources marketed by BPA, even with the tremendous cost escalations of the three net billed thermal plants presently under construction in the region factored in, and alternative sources of energy is too great for any of the potential claimants to the BPA supply—existing preference customers, the DSIs and potential new preference customers—to ignore. These challenges will undoubtedly be taken to the nation's highest court and could literally take years to resolve. The City of Portland lawsuits and potential lawsuits over the status of Oregon's Domestic and Rural Power Authority will only add to the complexity and length of these legal proceedings.

While these proceedings are being resolved, no utility or other claimant will know for certain how much of the Federal power it will eventually be entitled to receive from BPA and, consequently, will not know what energy resources it should plan to develop for its own use. Unfortunately, current forecasts already show that the Pacific Northwest could experience serious power shortages during any critical water year in the 1980's. The delays associated with the above-mentioned power planning uncertainties will only exacerbate this existing power supply problem.

Available evidence indicates that the frequency and extent of these projected power shortages could be substantially reduced through the implementation of cost-effective conservation programs throughout the Pacific Northwest region. Unfortunately, it appears that the region presently lacks the means with which to undertake the necessary regional conservation effort. Legal and institutional constraints have limited the ability of individual utilities in this area. The ability of BPA to carry out these conservation programs is also limited since its authority to engage in these activities is minor and since it cannot borrow funds to finance their implementation. As a consequence, the Pacific Northwest is unable to "capture" the economic and power supply benefits available through the implementation of effective, region-wide conservation programs.

Many regional observers are of the opinion that the above-mentioned power planning and supply problems and the pending administrative/judicial battle over the allocation of the Federal hydroelectric resources in the Pacific Northwest can only be avoided through enactment of Federal legislation which: (1) lets the Congress decide which regional entities should have access to the Federal hydroelectricity marketed by BPA; (2) authorizes BPA to play a central role in the Pacific Northwest's electric energy decision making process; and (3) expands the authority of BPA to permit it to acquire additional resources on a long-term basis to meet the needs of the region. In addition, it is believed that such legislation can provide the institutional framework necessary for the implementation of effective, region-wide conservation programs, allow the residential and small farm consumers of the region's non-preference utilities to share in the economic benefits of the Federal hydroelectric resources without impinging upon the protections provided to existing or new preference customers of BPA by the preference clause of the Bonneville Project Act, establish a workable public planning process, and facilitate the protection, mitigation, and enhancement of the region's fish and wildlife resources. Finally, it is felt that these legislative goals can be accomplished without adversely affecting other regions of the nation.

The power planning and supply uncertainties presently facing the Pacific Northwest, if left unresolved, could eventually lead to severe economic, social, and environmental disruptions throughout the region. Most parties agree that this type of Federal legislation, although providing for the expansion of BPA's authorities, properly recognizes the unique Federal presence in the Pacific Northwest without creating precedents for other regions and offers the only viable solution to the region's electrical energy problems.

Explanation of S. 885, as Recommended by the Committee on Interior and Insular Affairs

The Committee on Interior and Insular Affairs adopted one amendment to S. 885 striking all after the enacting clause and inserting in lieu thereof the text of a substitute bill. The following explanation is of this Committee substitute and all references to "the bill", "the legislation", or "S. 885" in the explanation are to this Committee substitute.

The substitute recommended by the Committee on Interior and Insular Affairs contains a variety of provisions designed to enable the Pacific Northwest to solve the electric power planning uncertainties presently facing it, including these basic features: (1) The establishment of a comprehensive public planning process; (2) a requirement that the Administrator of BPA offer new long-term power sale contracts to preference customers, Federal agencies, investor-owned utilities, and existing direct-service industrial customers of BPA; (3) a power exchange for the benefit of the region's residential and small farm consumers; (4) a grant of additional authority to the Administrator of BPA to require him to acquire on a long-term basis the resources necessary to meet his contractual requirements to his customers; (5) revised rate directives; (6) comprehensive energy conservation provisions; and (7) provisions for the

protection, mitigation and enhancement of the fish and wildlife resources of the Columbia River and its tributaries.

Public planning process

The heart of the public planning provisions of this legislation is contained in section 4(a) which establishes an eight member Pacific Northwest Electric Power and Conservation Planning Council. The Council will be composed of two members from each of the States of Washington, Oregon, Idaho, and Montana and they will be appointed by their respective Governors in accordance with applicable State law. The Council members are to be considered employees of their respective States (not of the United States) and will be compensated and subject to removal in accordance with applicable State law.

The chief task of the Council will be to prepare, adopt and periodically review and revise, after public hearings and participation, a regional conservation and electric power plan primarily for the purpose of guiding the Administrator in the exercise of the resource acquisition authorities granted him by section 6 of this legislation (sec. 4(d)). Pursuant to section 4(e)(2), the plan must set forth a general scheme for the implementation of the Administrator's conservation and resource development authorities pursuant to section 6 with due consideration by the Council of environmental quality, compatibility with the existing power system, protection, mitigation and enhancement of fish and wildlife and other appropriate criteria. In addition, under section 4(e)(1), the plan must give the following priority to cost-effective resources the Administrator may implement or acquire: (1) conservation; (2) renewable resources; (3) resources utilizing waste heat or having high fuel conversion efficiency; and (4) all other resources. Section 4(e)(3) sets out the specific elements to be included in the plan. As more fully described below, the plan must also contain provisions relating to model conservation standards and fish and wildlife protection, mitigation and enhancement measures.

In addition to the public participation and input which will come about as a result of the preparation and adoption of the regional plan, the bill facilitates public input and knowledge by requiring, in section 4(g), that the Council and the Administrator inform the public on major regional power issues, obtain their views on such issues, and secure the advice and consultation of the Administrator's customers and others.

New long-term power sale contracts

Provisions governing power sales by BPA are contained in Section 5 of S. 885.

Specifically, section 5(b)(1) requires the Administrator, if requested, to enter into long-term power sale contracts with both preference and investor-owned utilities in the region to supply them with the firm power they need to meet their firm loads in the region to the extent they cannot meet their own loads with their own resources. The practical effect of this mandate is that: (1) preference utilities, whose current loads are now almost entirely met by BPA, will continue to have all of their firm power needs in the region met by BPA, and (2) investor-owned utilities, which already own most of the resources necessary to meet their existing loads, will

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receive from BPA the power needed to meet their firm load growth requirements within the region. Section 5(d)(1) of the bill authorizes the Administrator to sell power to its existing direct-service industrial customers and requires him to offer to such customers initial long-term power sale contracts that provide them with amounts of power equivalent to that provided them under their existing contracts with BPA; however, sales to new DSI customers are expressly prohibited (sec. 5(d)(2)). These new DSI contracts must continue to provide reserves for the region. Finally, section 5(b)(3) authorizes BPA to sell power to Federal agencies in the region.

Pursuant to section 5(g), the Administrator is required to offer all of these customers initial long-term contracts.

As more fully described below, section 6 of S. 885 requires the Administrator to acquire on a long-term basis sufficient resources, including conservation, necessary to fulfill his contractual obligations to his customers. However, the legislation recognizes that these resource acquisition authorities may prove to be inadequate and therefore requires the Administrator to include in contracts with utility and Federal agency customers provisions permitting him to restrict his obligations to meet the full requirements of such customers in the future if he determines, after a reasonable period of experience under this legislation, that he cannot be assured on a planning basis of being able to acquire the necessary resources (sec. 5(b)(5)).

It is anticipated under this legislation that each BPA customer group will provide BPA, through the acquisition procedures of section 6, with sufficient power to meet each such customer group's load requirements. Section 5(e) of S. 885 will encourage these customer groups to actually provide BPA with such resources since it provides that customers will not be restricted pursuant to section 5(b) below the amount of power that they have provided BPA pursuant to section 6.

Section 5 of S. 885 also contains provisions designed to insure that preference customers of BPA continue to have supply preference to the amount of resources to which the preference clause applies. The most significant of these is section 5(a) which provides that all power sales by BPA pursuant to this legislation "shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937. . . . and, in particular, sections 4 and 5 thereof." In addition, section 5(b)(6) prohibits the Administrator from imposing restrictions on preference customers and Federal agencies if such restrictions would reduce the total contractual entitlement of such customers to an amount less than the amount of power to which the preference clause applies—the Federal base system resources. Taken together, these and other provisions of section 5 will make certain that all preference customer contract requirements will continue to have a priority over BPA sales to other customers.

Residential power exchange

Section 5(c) of S. 885 contains provisions for a residential power "exchange". Under these provisions, any utility in the region would be entitled to sell to BPA an amount of power equal to the utility's residential and small farm load at the "average system

cost" of such power and BPA would be required to sell back to each such utility an equivalent amount of power at a rate identical to what preference customers pay BPA for power to meet their "general requirements" (subject to a "rate ceiling").

Although this exchange is technically available for use by any utility in the region, including preference utilities, it is anticipated that the region's investor-owned utilities will make primary use of it. This exchange will allow the residential and small farm consumers of the region's IOUs to share in the economic benefits of the lower-cost Federal resources marketed by BPA and will provide these consumers wholesale rate parity with residential consumers or preference utilities in the region. Customers of preference utilities will not suffer any adverse economic consequences as a result of this exchange since, as discussed below, the direct-service industrial customers of BPA are required to pay the costs of the exchange during its initial years while a "rate ceiling" protects the customers of preference utilities during later years.

The cost benefits of any exchange are required under section 5(c)(3) to be passed directly through to the appropriate residential and small farm consumers. In addition, section 5(c)(2) requires that the amount of power permitted to be exchanged must be "ramped" in, beginning at 50 percent of the utility's residential and small farm load in 1980 and increasing to 100 percent of such load in 1985.

Authority to acquire resources

Section 6 of the legislation authorizes and requires the Administrator of BPA to acquire on a long-term basis sufficient resources, including conservation, to meet his section 5 contractual obligations to his customers. This resource acquisition authority, by providing the Administrator with the ability to expand the energy resource pool available to him, allows the Administrator to enter into the long-term power sale contracts with preference and investor-owned utilities, Federal agencies and existing direct-service industrial customers and obviates the need for him to administratively allocate the limited amount of Federal resources among existing and potential claimants to it. Thus, the Pacific Northwest will be able to avoid the power planning and supply uncertainties inherent in such an administrative allocation of over one-half of the region's electrical energy resources.

Specifically, section 6(a) of S. 885 requires BPA to: (1) acquire all conservation resources and renewable resources installed by residential and small commercial consumers, and (2) implement all conservation measures, including loans and grants for insulation and weatherization, which are determined to be consistent with the plan developed by the regional Council pursuant to section 4 or, if no plan is in effect, consistent with sections 4(e)(1) and (2). Section 6(b) requires BPA to acquire sufficient resources to meet its contractural obligations, after taking into account planned savings from measures provided for in section 6(a), which are determined to be consistent with the plan, or, in the absence of a plan, with sections 4(e)(1) and (2). Section 6(c) sets out additional procedural requirements which must be met in the case of any "major" resource acquisition proposal. These requirements include detailed notice, hearing and decision-making procedures and a requirement

that any major resource acquisition proposal found to be inconsistent with the plan or, in the absence of a plan, with sections 4(e)(1) and (2) must be specifically authorized by Act of Congress.

The authority to acquire resources under section 6 will not permit BPA to construct or own any generating facility; rather, it will permit BPA to purchase the output or, to reduce unnecessary costs of resources not yet constructed, the capability of resources owned and operated by other entities in the region.

Revised rate directives

Section 7 of the legislation sets out the requirements BPA must follow when fixing rates for the power sold its customers under this legislation. Subject to the general requirement (contained in section 7(a)) that BPA must continue to set its rates so that its total revenues continue to recover its total costs, BPA is required by the legislation to establish the following rates:

A. The lowest rates will be reserved for the normal loads ("general requirements") of preference utilities and for the power sold to utilities under the section 5(c) exchange provisions for service to their residential and small farm loads (sec. 7(b)(1)).

B. A higher rate will apply to the load growth of the region's investor-owned utilities and for the power needed by preference utilities to meet any "new large single loads" they may have (sec. 7(f)).

C. The direct-service industrial customers of BPA will pay rates prior to 1985 sufficient to cover the cost of resources required to serve them plus the otherwise unrecovered cost of the section 5(c) exchange power. After 1985, the direct-service industrial customers rates will be based on the retail industrial rates charged by BPA's preference utility customers (sec. 7(c)). In essence, the DSIs by paying these higher rates make it possible for the residential and small farm consumers served by the region's investor-owned utilities to share in the economic benefits of the Federal resources without increasing power costs for preference utilities and their customers.

As an added protection against preference utilities and their customers suffering adverse economic consequences as a result of this legislation, section 7(b)(2) establishes a "rate ceiling" which is hypothetically intended to insure that these customers' rates will be no higher than they would have been had the Administrator not been required to participate in power sales or purchase transactions with non-preference customers under this legislation.

Energy conservation provisions

S. 885 contains a variety of comprehensive and interrelated energy conservation provisions designed to encourage and achieve cost-effective conservation within the Pacific Northwest.

As was noted above, section 6(a) of the legislation requires the Administrator of BPA to implement all conservation measures and acquire consumer-installed renewable resources as are cost-effective, through a variety of measures including loans and grants to consumers for insulation and weatherization. Section 6(b) permits the Administrator to acquire other resources to meet his contractual obligations but only after taking into account planned conservation savings under section 6(a). (The section 3(4) definition of "cost-effective" also gives conservation measures a 10 percent ad-

vantage over all other resources.) Thus, sections 6(a) and (b) together require the Administrator to achieve all available conservation and prevent him from acquiring non-conservation resources without first taking into account planned savings from conservation.

Section 4(d) requires the preparation of a regional electric power and conservation plan in which conservation would have first priority. This plan would consist of, among other things, an energy conservation program including model conservation standards applicable to electrical energy consuming activities. Under section 4(f), surcharges of from 10 percent to 50 percent on BPA rates could be assessed customers or jurisdictions which do not implement the standards or achieve comparable energy savings. Thus, the bill directly encourages the use of authorities by State and local governments to achieve energy conservation.

Section 6(h) requires the Administrator to pay billing credits (reductions in customer's bills) for customer conservation activities independently undertaken which reduce the demand on BPA. This provision is expected to induce local utility initiative to reduce energy demand. In addition, retail rate structures which reduce demand would qualify for such credits under section 6(h)(5).

Finally, section 8(d) increases BPA's borrowing limit to establish a $1¼ billion revolving fund for conservation and renewable resource loans and grants. This authority would help finance the conservation actions authorized by section 6(a) and other provisions of the bill and would be supported solely by BPA revenues.

Fish and wildlife provisions

This bill provides, primarily through section 4(h), a mechanism agreeable to both the power and fisheries interests in the Pacific Northwest for developing a comprehensive program to protect, mitigate and enhance fish and wildlife resources affected by the hydroelectric facilities on the Columbia River and its tributaries. The bill creates a forum for the resolution of conflicts between fisheries and power interests on this unique and complex river system, and provides a means for funding the fish and wildlife provisions adopted as part of the program. Although this approach is not intended to create any new obligations with respect to fish and wildlife, it will provide a system for insuring that existing fish and wildlife obligations are fulfilled while simultaneously assuring the region an economical and reliable power supply. This approach should work extremely well on the Columbia River and its tributaries without creating an adverse precedent for either fisheries or power interests in other regions of the country.

Specifically, section 4(h) requires the Council to promptly develop a comprehensive program of fish and wildlife measures based on recommendations of the region's fisheries agencies, utilities and others. The section sets out specific criteria such recommendations must meet in order to be included in the program. Once developed and adopted, the program will be incorporated into the regional electric power and conservation plan, but will also exist independently of the plan. BPA is authorized to use its power revenues and borrow from the Treasury for the purpose of implementing the program. Other Federal agencies, whose existing authorities are not changed by this legislation, are required to take the fish and wildlife program into account in exercising their independent statutory

responsibilities. Finally, although section 4(h) does not apply to rivers in the region other than the Columbia River and its tributaries, the fish and wildlife resources on those other rivers will be protected under this legislation through other provisions designed to minimize environmental impacts generally in the implementation of this Act.

This legislation does not itself authorize any appropriation of water for fisheries purposes; all actions of other Federal agencies, including actions to assist fish migration, must be taken under other authorities. The goal of the program is not to increase the obligations of water project owners and operators, but rather to go beyond a project-by-project approach on a river system whose multiplicity of projects and interdependent biological species makes a project-by-project approach unsatisfactory for all involved parties.

Section-by-Section Analysis of S. 885, as Recommended by the Committee on Interior and Insular Affairs

Section 1—Short title and table of contents

This section provides the short title, the "Pacific Northwest Electric Power Planning and Conservation Act" and a table of contents.

Section 2—Purposes

This section establishes purposes of the bill that emphasize both the uniqueness and the multi-purpose character of the Pacific Northwest's power supply system in general and the Federal Columbia River Power System in particular. These purposes, which are given substantive effect through other provisions of the bill, are to be consistent with one another and with other laws.

Section 3—Definitions

This section contains definitions of terms used throughout this legislation.

Section 3(1) defines "acquire" and "acquisition" to make clear that use of these terms in this bill does not authorize BPA to own or construct generating facilities.

Section 3(2) defines "Administrator" as the Administrator of BPA.

Section 3(3) defines "conservation" as a reduction in electric power consumption resulting from increases in efficiency in energy use, production or distribution.

Section 3(4) defines "cost-effective" for purposes of regional power planning and resources acquisition. The definition essentially requires a full marginal cost comparison among alternatives such as conservation and generating resources, and specifies the basis of such comparisons. This definition insures that decommissioning costs and projected increases in fuel costs are specifically included in the estimate of the direct costs of a resource.

The Committee intends that the appropriate historical experience with similar resources shall be the starting point in determining the estimated amount of power that particular types of resources may produce, and that those who contend that such estimates should reflect other factors (e.g., technological improvements) should have the burden of demonstrating the appropriateness of such factors.

Section 3(5) defines "consumer" as an end user of electric power, as distinct from a wholesaler of electric power such as a utility.

Section 3(6) defines "Council" to mean the regional council contemplated under section 4.

Section 3(7) defines "customer" as anyone who purchases power from BPA. Thus, direct-service industries are "customers" as well as "consumers" for purposes of this bill; utilities are "customers" only.

Section 3(8) defines "direct service industrial customer" as an industrial customer that purchases power from BPA.

Section 3(9) defines "electric power" to mean electric peaking capacity or electric energy, or both. This definition already applies to BPA through the Federal Columbia River Transmission System Act, and avoids the need to use the terms "peaking capacity" and "energy" throughout the bill except where the distinction is necessary and made.

Section 3(10) defines "Federal base system resources" to include existing and future Federal hydro projects, resources acquired by BPA under existing contracts, and resources acquired as replacements therefor. This defined term is used in several of the bill's provisions that protect the preference rights of public bodies and cooperatives.

Section 3(11) defines "Indian tribe" in a manner consistent with the definition used in similar resource management laws.

Section 3(12) defines "major resources". The definition includes a size limit (fifty average megawatts), since the bill draws substantive and procedural distinctions between major and non-major resources. The definition also includes, in the case of resources acquired by BPA, a durational criterion (more than five years), since BPA is already authorized under the Federal Columbia River Transmission System Act to make short-term purchases (five years or less) to meet its contractual obligations.

Section 3(13) defines "new large single loads", a term with rate consequences under sections 5(c) and 7(b) of the legislation. Under this definition, September 1, 1979, is the "cut-off" date for all categories of new large single loads; no cut-off date distinction is made between industrial and non-industrial loads of this type. Thus, a large single load of a utility is a "new large single load" if it was not contracted for or committed to by that utility prior to such date.

Section 3(14) defines "Pacific Northwest", "region" or "regional".

Section 3(15) defines "plan" to mean the regional electric power and conservation plan to be developed by the Council under section 4 of the legislation.

Section 3(16) defines "renewable resource", and includes not only generating resources using a renewable source of energy but also resources that reduce consumer power needs through direct application such as solar hot water systems. "Breeder" or "fusion" projects cannot qualify as renewable resources under this definition.

Section 3(17) defines "reserves", which represent power available to protect firm loads from various shortage or operating situations. BPA obtains a portion of its power system reserves through rights to curtail power deliveries to direct-service industries; the term is also used in section 6(h) with respect to calculation of billing credits for BPA's customers.

Section 3(18) defines "residential use" and "residential load", a term that determines the amount of power a utility may exchange with BPA under section 5(c). This term includes all normal residential loads along with the first four hundred horsepower during any monthly billing period of farm irrigation and pumping for any farm. This limit recognizes the higher lift distances and different soil conditions in areas east of the Cascade mountains.

Section 3(19) defines "resource" to mean either electric power (including actual or planned capability of generating resources) or reductions in load (including actual or planned savings from conservation measures and direct-application renewables). Conservation is therefore a resource for purposes of this bill. The definition also helps make clear, as does section 3(1), that if BPA acquires a resource, it does not become the owner of an electric generating facility.

Section 3(20) defines "Secretary" to mean the Secretary of Energy.

Section 4—Regional planning and participation

Section 4(a) (1) through (3) establishes an eight member Pacific Northwest Electric Power and Conservation Planning Council which will be considered formed upon the appointment of six members. The Governors of Idaho, Montana, Oregon, and Washington, subject to applicable State law, may each appoint two members to the Council from their respective States. Applicable State authorities and appointing actions of the States constitute their agreement to the exercise by the Council of its functions under this legislation, to which the Congress consents. The arrangement contemplates that State officials on the Council would be authorized to carry out their functions under State law consistent with the scheme of the bill. Council members are deemed to be employees or officers of their respective States, and are subject to removal pursuant to, and compensated in accordance with, applicable State law.

The Committee notes that the Appointments Clause of the United States Constitution has been raised as a possible impediment to gubernatorial appointment of these Council members. However, the Committee believes that the Constitution allows the Congress, through the broad powers it possesses under the Commerce and Property Clauses of the Constitution, to share with the States the type of responsibilities granted to the Council by this legislation and that the Appointments Clause does not prevent an interstate arrangement such as this where the Congress expressly consents to share responsibility with the States in an area of mutual, rather than purely Federal, responsibility. Energy planning is interstate in character, particulary in the Pacific Northwest where the four States and the Federal Government are bound together by their shared interest in, and mutual dependence upon, an integrated regional power system.

The Committee believes that gubernatorial appointment of Council members will most fully carry out its intent to establish an effective regional power and conservation planning council to assure maximum regional cooperation in energy planning and to help guide the new authority granted to BPA by this legislation. The Council arrangement also permits early State involvement in energy planning, to complement those State authorities reserved

by section 10, and to recognize the shared State and Federal authorities in energy planning and regulation that would continue under this Act. In addition, the Committee understands that the size, composition and functions of the Council as set out in this section and section 6 are uniquely acceptable to the major participants in regional discussions concerning these issues.

Section 4(a)(4) provides for a temporary Federally-appointed Council in the event that the State-appointed Council is unable to be formed or is found to be unable to perform its functions by a Federal Court of Appeals.

Under this provision, the Secretary of Energy would appoint two Council members from each State in a manner designed to assure continuity and prevent disruption of the Council's activities. Because this Federal appointment is intended to assure continuity, the Committee would encourage the Secretary to consider appointing those members already serving for the respective States or recommended by the appropriate Governors in the event that this provision becomes effective.

Members so appointed would serve until the Council terminated or until the defect that caused the State-appointed Council to fail was corrected by the States or the Congress, as appropriate. If the defect is not cured, the Federally-appointed Council would terminate at the end of the second full Congress following the Secretary's first appointment, unless extended by Congress.

The Secretary is required to submit to the Congress, in consultation with the Governors, recommended legislation that would cure the defect that caused the State-appointed Council to fail and would once again permit State appointment.

In the event that the Council terminates after inaction by the Congress, the Administrator would not be able to acquire a major generating resource or to grant a billing credit involving a major generating resource until the expenditure of funds for that purpose had been specifically approved by the Congress.

As was noted above, the Committee believes gubernatorial appointment of Council members will most fully carry out its intent to establish an effective energy planning mechanism for the Pacific Northwest and that the Appointments Clause does not bar its formation or operation. However, in the event that a United States Court of Appeals determines that this type of arrangement is constitutionally infirm, in whole or in part, the Committee hopes that whatever relief is prescribed be as narrow as possible, with an eye towards preserving this Committee's essential objective, the perpetuation of regional energy planning substantially as envisioned in section 4. For instance, should such a court determine a particular, but not necessarily key activity to be unconstitutional, the Committee suggests that such responsibility alone be suspended and the larger planning scheme be allowed to function. Because of the urgent needs this legislation is designed to address, the Committee does not intend that this entire Act should fall on the basis of any judicial ruling if such a result can possibly be avoided.

Section 4(a)(5) sets out the requirements for voting by the Council. Under this section, either a simple majority, as long as the majority includes at least one member from each State, or six votes, even though both members of a particular State vote "no", are required for adoption and amendment of the regional conservation

and electric power plan. These voting requirements should adequately protect individual States and facilitate development of the regional plan upon which the entire conservation and resource program envisioned by the bill depend while at the same time avoiding the disruption possible if complete unanimity among the States was required for the adoption of the plan.

Section 4(a)(6) provides for selection of a Council Chairman from among its members, and specifies the procedures for calling meetings and for the submission of dissenting or additional views by any Council member.

Sections 4(a)(7) through (11) provide for appointment of Council staff; authority to request personnel from Federal agencies on a reimbursable basis; reliance, to the greatest extent practicable, on customers of the Administrator and other regional entities for expert and technical information; Council determination of its procedures and public access thereto as well as to its annual work program budget; provision to the Council by the Administrator and other Federal agencies of relevant information requested by it; and other administrative responsibilities and authorities of the Council.

Section 4(a)(12) directs the Administrator at the request of the Council to provide financial support for the performance of the Council's functions and to the States that have appointed members to the Council for their participation in, and activities related to, the Council.

Section 4((b) directs the Council to establish a voluntary scientific and technical advisory committee and authorizes the establishment of such other voluntary advisory committees as it deems necessary.

Section 4(c) directs that these Council advisory committees shall be composed of, and rely upon, to the greatest extent feasible, the various Federal, State and Tribal governments, consumer groups and customers whose interests are affected by the committees. The committee intends that such committees shall be manageable in terms of total size and composition.

Section 4(d) sets out the Council's primary responsibility, to prepare and adopt within two years a regional conservation and electric power plan and to review and amend, if necessary, the plan at least once every five years. Public legislative type hearings are required to be held before adoption of the plan or substantial, nontechnical amendments to it.

Section 4(e)(1) directs that the plan give priority to resources that the Council determines to be cost-effective as follows: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or having high fuel conversion efficiency; and fourth, to all other resources.

Section 4(e)(2) requires that the plan shall set forth a general scheme for implementing conservation measures and developing resources pursuant to section 6 with due consideration to environmental quality, compatibility with the existing regional power system, protection, mitigation and enhancement of fish and wildlife, and other relevant criteria.

Section 4(e)(3) sets out the following specific elements that will be included in the plan: (1) an energy conservation program, including model conservation standards; (2) recommendations for research and development; (3) a methodology for determining "quantifiable environmental costs" under section 3(4); (4) a 20-year demand and

resource forecast; (5) an analysis of cost-effective methods of providing reserves; (6) the fish and wildlife program adopted pursuant to section 4(h); and (7) a methodology for calculating model conservation surcharges, if recommended. This section makes it clear that only these elements will be included in the plan and that the Council has full discretion to determine the amount of detail that is appropriate for each element in the plan.

Section 4(e)(4) requires the Council to study conservation measures reasonably available to direct service industrial customers and other major consumers of electric power. The study shall include an analysis of financial assistance that might be necessary and available to permit particular conservation measures to be implemented. This study is not required to be part of the plan.

Section 4(f)(1) describes the model conservation standards that are to be included in the plan. These standards are to be designed to produce all power savings that are cost-effective for the region and economically feasible for consumers through financial assistance made available under this legislation. Consumers will therefore bear the cost of conservation measures that are cost-effective in terms of the electric rates consumers pay, while the cost of the additional increment of conservation that is cost-effective to the region will be met through financial assistance that BPA is required to provide under section 6(a).

Section 4(f)(2) describes the surcharge that the Council may vote to recommend that the Administrator impose on customers for those portions of their loads within States or political subdivisions which have not, or on customers which have not, implemented conservation measures that achieve energy savings that the Administrator determines are comparable to those which would be obtained under the model conservation standards established pursuant to this section. These surcharges shall not be less than 10 percent nor more than 50 percent of the Administrator's applicable rates for such load or portion thereof.

Section 4(g) directs the Council and the Administrator to undertake measures to insure widespread public involvement in the formulation of regional power policies and requires the Council and the Administrator to take into account State and local elections in the region that bear on regional power policies.

Section 4(h) contains detailed provisions concerning the protection, mitigation and enhancement of fish and wildlife on the Columbia River and its tributaries and incorporates the recommendations proposed by an ad hoc committee of Federal, State and Tribal fisheries agencies, Federal power and water management agencies, and BPA customers.

Section 4(h)(1)(A): This subparagraph requires the Council to develop a unified program for the protection, mitigation and enhancement of fish and wildlife on the Columbia River and its tributaries. This provision recognizes that the history, problems and opportunities of the Columbia River system are unique, making such a program suitable and desirable for this particular river system but not for other rivers or systems in or out of the Pacific Northwest region. The provision therefore contains a non-applicability clause to ensure that the type of program contemplated by this legislation is not a precedent for other areas.

Section 4(h)(1)(B): This subparagraph requires the Council, as a first step in developing the program, to request promptly from the relevant fish and wildlife agencies their recommendations for (i) measures to protect, mitigate and enhance fish and wildlife affected by the hydroelectric projects of the Columbia River system, (ii) objectives for development and operation of such projects in a manner that will protect, mitigate and enhance fish and wildlife, and (iii) management coordination, research and development, and funding that will aid protection, migration and survival of anadromous fish. It is anticipated that because of the importance of nonfirm power sales outside the Pacific Northwest and the opportunity value of such sales, at least some of these recommendations will explore alternative methods by which fish migration can be improved without unnecessary spillage of water.

Section 4(h)(1)(C)(i) established the procedure for the Council's solicitation of recommendations relating to protection, mitigation and enhancement of fish and wildlife.

Section 4(h)(1)(C)(ii) provides procedures for making the received recommendations and comments available to all relevant parties and the public, and for conducting hearings and otherwise ensuring public participation and comment on the recommendations.

Section 4(h)(1)(C)(iii) requires the Council to develop the program on the basis of the recommendations, comments and information received. The program is to consist of measures that protect, mitigate and enhance fish and wildlife affected by the Columbia River system while satisfying the power supply purposes of the Act. Enhancement measures that are designed to achieve protection and mitigation and that meet the criteria of Section 4(h) are to be included in the program. The latter statement helps clarify that in this context enhancement is not a new or additional obligation, but a means of fulfilling existing protection and mitigation obligations under the unique circumstances presented by the Columbia River power system.

Section 4(h)(1)(C)(iv) sets substantive criteria for measures included in the program. The criteria include: (1) complementary with other related efforts; (2) scientific support; (3) minimization of cost, not absolutely but for any given biological objective; (4) consistency with the legal rights of Indian tribes; and, in the case of anadromous fish, (5) provision for improved survival of such fish at hydroelectric facilities; and (6) provision for flows between such facilities to improve production, migration and survival of such fish as necessary to meet sound biological objectives.

Section 4(h)(1)(C)(v) requires the Council to determine whether each recommendation is consistent with the purposes of the Act, and to reconcile inconsistencies among individual recommendations in order to create an internally consistent program. The Council may decline to include a recommendation in the program only if that recommendation is (1) inconsistent with the purposes of the Act, (2) inconsistent with standards established for the program, or (3) less effective than an adopted recommendation in achieving protection, mitigation and enhancement.

Section 4(h)(1)(C)(vi) contains additional principles to guide the Council in developing the program. These include:

1. The use of enhancement as a tool for achieving off-site protection and mitigation (in appropriate circumstances), not as an additional obligation.

2. Consumers of electric power should bear only those costs attributable to electric power facilities and programs (but not the cost of measures designed to deal with impacts caused by other factors).

3. Monetary costs and power losses resulting from implementation of the program are to be allocated among projects, both Federal and non-Federal, in accordance with the relative impacts of individual projects and with system-wide objectives.

4. While the program shall include directly only those measures needed to deal with impacts caused by power facilities and programs, it may be integrated with similar efforts dealing with other impacts (or additional enhancement) to the extent the administration and funding of such additional efforts are provided through other provisions of law or ancillary agreements.

Section 4(h)(1)(C)(vii) sets a time limit for adoption of the program by the Council, requires the program to be included in the Council's regional power and conservation plan adopted pursuant to section 4(d), and provides for judicial review of the Council's actions in adopting the program. The intent is that the program may exist independently of the regional plan, as well as being incorporated into that plan as one of the plan elements.

Section 4(h)(2)(A): This subparagraph requires BPA to use its funding authorities (i.e., borrowing and, potentially, appropriations) to protect, mitigate and enhance fish and wildlife to the extent such resources are affected by the hydroelectric projects of the Columbia River and its tributaries. (Section 8(b) provides BPA's authority to pay the costs of all acquired resources regardless of location, including fish and wildlife protection costs.) In doing so, BPA shall act consistently with the regional plan, the program developed under this subsection, the purposes of this Act and other provisions of law. BPA expenditures shall be in addition to, not in lieu of, other expenditures authorized or required to be made by other entities under other agreements or provisions of law. Other fisheries efforts outside this Act, for example, are expected to continue and to be funded separately.

Section 4(h)(2)(B): This subparagraph requires BPA to include proposed expenditures under this subsection in its budget submittals to Congress, and, in the case of major expenditures, to obtain approval in the same manner as is currently required for major transmission system additions.

Section 4(h)(2)(C): The allocation of particular costs to individual projects and among different project purposes, as is required by existing law, is preserved in this subparagraph to avoid establishing any precedent of a different allocation result. Thus, power, irrigation, navigation, recreation and other project purposes will continue to bear only their established shares of the total costs attributable to protection and mitigation measures. All expenditures by BPA are to be made on a reimbursable basis vis-a-vis other project purposes, although BPA will have the flexibility to treat expenditures in excess of its allocated share as being payments for other project costs for which BPA is responsible under existing law.

Section 4(h)(3)(A): This subparagraph requires all Federal agencies with responsibilities for hydroelectric facilities on the Columbia River system to do two things. First, such agencies must exercise their responsibilities (in coordination with one another, and consistently with the purposes of this and other laws) to protect, mitigate and enhance fish and wildlife in a manner providing equitable treatment for such fish and wildlife relative to the other purposes for which the Columbia River system and facilities are managed and operated under other provisions of law.

Second, such agencies are required to take into account to the fullest extent practicable the program adopted under this subsection when they exercise their responsibilities. This provision does not change the existing statutory authority of other Federal agencies such as the Corps of Engineers or FERC. It does require them, in the interest of coordination, to recognize BPA's obligations under this and other laws and to take into account, at each relevant stage of their own decision-making (pursuant to existing processes), the decisions embodied as measures in the Council's fish and wildlife program. If such agencies reject the implementation of any measure contained in the program, they should indicate in writing the basis for that decision so that all parties will have a basis for understanding the decision.

Subparagraph 4(h)3(A) also requires the Administrator to reimburse non-Federal projects for monetary costs of power losses to the extent program measures not attributable to those projects themselves are imposed upon the projects as a result of the consideration given the program by other agencies (e.g., FERC).

Section 4(h)(4) requires reports to Congress by the council and the Administrator on the fish and wildlife program.

Section 4(h)(5) provides a means of ensuring that the program contemplated in this subsection is developed in timely fashion, even should the Council itself be delayed in formation or proven unable to function.

Section 4(i) requires the Administrator and Council to consult with BPA customers and to recognize and not abridge the authorities of State and local governments, electric utility systems, and other non-Federal entities responsible for power supply.

Section 4(j) requires the Council and the Administrator to encourage the cooperation and participation of appropriate Federal, State, local and Tribal entities in the preparation, adoption and implementation of the regional plan.

Section 5—Sale of power

Section 5(a) makes clear that all power sales under this bill are subject at all times to the Bonneville Project Act, particularly sections 4 and 5 of that Act. This provision therefore retains the preference and priority accorded public bodies and cooperatives in BPA power sales. Related preference protecting provisions include sections 5(b), 7(b) and 10(c).

Section 5(b)(1) requires BPA to offer to sell to each requesting utility the power needed by the utility to meet its firm load within the region in excess of the utility's own firm resources, and specifies the method of determining the utility's own firm resources. This section also clarifies that firm energy and firm peaking resources of a utility may differ and that the firm energy associated

with the firm peaking component of a resource is the firm energy produced in the peaking use of that resource.

Section 5(b)(2) reaffirms the provisions of the Bonneville Project Act that BPA must be able to reduce its obligations to investor-owned utilities upon five years notice. The Committee does expect, however, that BPA can and should be able to provide a long notice period to these utilities to the extent practicable to facilities orderly planning by these utilities.

Section 5(b)(3) authorizes BPA to sell power to Federal agencies in the region. Although Federal agencies are not preference customers, some have long depended on BPA for power, and it is intended that BPA continue to serve these agencies.

Section 5(b)(4) requires that BPA sales under this subsection be made, as they are today, only to entities meeting BPA's standards for service. This ensures that BPA will not be required to serve technologically unprepared or unsuitable customers.

Section 5(b)(5) continues the requirement of the Bonneville Project Act that BPA include in its contracts with utilities provisions permitting BPA to restrict its contract obligations to meet such customer's full requirements during any period of insufficiency. The subsection requires a reasonable period of experience under this Act prior to BPA's giving notice of a period of insufficiency, and also a reasonable notice period before any restriction becomes effective for preference customers and Federal agency customers. This subsection deals with restriction of contract obligations on a planning basis for future periods, not actual power deliveries during an operating shortage, since actual operating curtailments for utilities are imposed by State and local governments, not BPA.

Section 5(b)(6) specifices that the total contractual entitlements of preference customers and Federal agencies during any period of insufficiency shall not be less than the total firm capability of the Federal base system resources. This is to protect preference. In order to aid planning by such customers, the subsection requires that the contract formula for allocating entitlements during any such period shall be on a uniform basis, and shall disregard resources of such customers other than those dedicated to their firm loads prior to the effective date of this Act. The subsection also makes clear that the actual contract entitlement of any such customer shall not exceed that customer's actual net requirements during any period of insufficiency.

Section 5(c) permits power exchanges between BPA and Pacific Northwest utilities for the benefit of residential and small farm consumers. The cost benefits of such exchanges are required to be passed through directly to the residential and small farm consumers themselves. Exchange agreements may be terminated by the utility under specified circumstances, and upon reasonable terms and conditions agreed in advance, but during any period of insufficiency a utility's entitlement under this section shall not be less than the amount of power BPA acquires from or on behalf of such utility under this section. The rate BPA pays for power so acquired shall be based on an "average system cost" methodology BPA develop in consultation with the Council, BPA customers and appropriate State regulatory bodies; the methodology is subject to review by FERC under this section and section 9(g). Paragraph (7) specifies certain costs that must be excluded from the amounts BPA pays

for resources exchanged under this section. Such excluded costs include: the cost of additional resources in an amount sufficient to serve any new large single loads; costs of resources used to serve additional loads outside the region after the effective date of this Act; and costs of any generating facility which is terminated prior to inital commercial operation. This subsection also requires that the exchange be "ramped" in from 50 percent of the residential load in the year beginning July 1, 1980, to 100 percent in the year beginning July 1, 1985.

Section 5(b) mandates continued BPA power sales to existing direct-service industries and prohibits such sales to new DSIs. Existing DSIs will receive the amount of power to which they are entitled under present "Industrial Firm" power sales agreements. These agreements include contingent allowances for defined technological improvements (excluding plant expansion), but no additional BPA sales to existing DSIs are authorized unless the conditions of paragraph (3), including Council approval, are satisfied. The definition of "existing" direct-service industrial customers included in this subsection makes it clear that one DSI with a present contract with BPA but with no existing facilities shall not be considered an "existing" DSI for the purposes of this section.

Sales to existing DSIs are required under this subsection to continue to provide a portion of BPA's power system reserves. The Committee understands and intends that the new DSI contracts under the legislation will provide capacity reserves similar to those provided in the present contracts. Fifty per cent of the then operating DSI load may be restricted for a period of up to two hours to provide a forced outage or peaking power reserve. One hundered per cent of the DSI load may be restricted by BPA for up to five minutes whenever frequency problems arise on the regional grid.

The DSIs will also provide two types of energy reserves. Approximately 25 percent of the DSI load is to be treated as a firm load for purposes of resource operation and will provide an operating reserve that may be restricted by BPA at any time in order to protect the Administrator's firm loads within the region and for any reason, including low or critical streamflow conditions and unanticipated growth of regional firm loads. An additional 25 percent of the DSI load will be treated as a firm load for both planning and operating purposes and will provide a planning reserve to protect the Administrator's firm loads against the delayed completion or unexpectedly poor performance of regional generating resources or conservation measures implemented or acquired by BPA.

Section 5(e) governs contractual entitlements of BPA customers during any period of insufficiency. Other provisions specify minimum entitlements based on the preference clause or section 5 contract rights; this provision by contrast governs entitlements based on power sold by the customers to BPA under section 6. Each customer's minimum entitlement will be the amount of power so sold to BPA, but not to exceed the customer's actual requirements (excess entitlements go first to customers of the same specified class). Entitlements of a customer under this subsection are in addition to entitlements under section 5 that are not subject to restriction. The Committee intends that BPA will reduce entitlements under this subsection, on a reasonable planning basis, to the extent the actual output of an acquired resource is less than its

planned output, so that customers will have an obligation to plan additional resources to make up the difference. A copy of a letter from the Administrator of BPA to the Honorable James Weaver regarding the operation and effect of this subsection can be found later in this report.

Section 5(f) is a technical provision to insure that BPA has the ability to dispose of any temporary or incidentally surplus power under this Act and other laws applicable to BPA power sales.

Section 5(g) governs the offering of initial long-term contracts to BPA customers, including such matters as negotiation, timing of the contract offer, and date of contract effectiveness. Paragraph (6) specifies that the initial contracts with preference customers and Federal agency customers shall provide that during any period of insufficiency each such customer's contractual entitlement shall not be less than the amount of firm power such customer actually received from BPA in the year prior to the period of insufficiency. This aid to planning certainty during the initial contracts is intended to be compatible with, and not to diminish, the entitlements of such customers and other customers under section 5(e).

Section 6—Conservation and resource acquisition

Section 6(a) requires BPA to acquire all conservation resources (including renewable resources installed to reduce loads of residential or small commercial consumers) and to implement all conservation measures BPA determines to be consistent with the plan, or, in the absence of a plan, with the provisions of sections 4(e) (1) and (2). Such measures and resources include, but are not limited to, loans and grants for insulation and weatherization, as well as other listed items.

Section 6(b) requires BPA to acquire sufficient resources to meet its contractual obligations, after taking into account planned savings from conservation and other listed factors. Except as otherwise specifically provided, resource acquisitions shall be consistent with the plan, or, in the absence of a plan, with the provisions of sections 4(e) (1) and (2). Paragraph (3), dealing with resources acquired to replace Federal base system resources, clarifies that BPA will be able to require that such replacement resources be developed and operated consistently with section 4(e)(2) of this legislation. Paragraph (4) requires BPA to continue to acquire and implement conservation measures and conservation resources and certain renewable resources pursuant to section 6(a) regardless of other resource acquisitions. Paragraph (5) requires BPA to exclude the costs, if any, of construction work in progress (that portion of rates related to construction work investment included in a utility's rate base during the construction period by State regulatory authorities) from any payment BPA may make to investor-owned utilities for a resource acquired under this subsection from them or for power exchanged by them under section 5(c). This provision does not effect BPA's authority to make payments for other costs to investor-owned utilities under resource acquisition contracts such as payments upon completion or termination of construction for financing costs capitalized during construction. It should be noted, however, that section 5(c) expressly excludes from BPA's payments for power acquired under that section the costs of any resource that is terminated prior to commercial operation.

Section 6(c) establishes procedures which govern all BPA actions on major resources. Paragraph (1) contains detailed notice, hearing and decision making requirements which BPA must follow on any major resource proposal and which require BPA to make a determination on whether or not the proposal is consistent or inconsistent with the regional plan, or if no plan is in effect, consistent or inconsistent with the provisions of sections 4(e) (1) and (2). Paragraph (2) provides for the Council to determine whether or not such a proposed action is consistent or inconsistent with the plan, or during the two years preceding plan adoption, consistent or inconsistent with the provisions of sections 4(e) (1) and (2). Paragraph (3) provides that if either the Council or BPA determine that a major resource proposal is inconsistent with the plan, or, in the absence of a plan, inconsistent with the provisions of sections 4(e) (1) and (2), then BPA cannot implement such a proposal until the expenditure of funds for that purpose has been specifically authorized by Congress pursuant to bills reported from the committees of Congress having substantive jurisdiction over BPA's statutes. Paragraph (4) sets forth additional procedural steps BPA must follow prior to the implementation of any major resource proposal that BPA is authorized to undertake.

Section 6(d) authorizes BPA to acquire resources (other than major resources) that do not meet the provisions of section 4(e) (1) and (2), but that are experimental or developmental and that have the potential for providing cost-effective service.

Section 6(e) catalogues various of BPA's conservation and renewable resource authorities, and requires that maximum use be made of them. This subsection also requires that BPA work through its customers and other local entities to the extent practicable in making any direct arrangement with consumers.

Section 6(f) permits, under specified conditions, the funding or reimbursement by BPA of certain investigation and preconstruction expenses for resources that BPA may later acquire pursuant to section 6. However, this provision does not enable BPA to provide any such funding or reimbursment for resources that BPA foresees will be terminated or for termination of a resource as the result of a foreseeable and avoidable action of the resource's sponsor. This provision also protects against "bail-outs" by precluding BPA payments for costs incurred by a resource sponsor prior to the effective date of this Act or the effective date of any such agreement.

Section 6(g) provides for the coordination of Federal and State environmental impact statements.

Section 6(h) requires BPA to grant billing credits and provide services to any customer for independent conservation activities or resources undertaken by the customer or by political subdivisions to the extent that such actions reduce BPA's obligation to acquire additional resources. Independent conservation actions for purposes of this subsection are those that provide power savings beyond the savings provided through measures adopted as part of the plan or implemented or acquired by BPA in its implementation of this Act. Paragraph (2) provides for computation of the amount of energy and capacity on which credits shall be granted, and takes into account changes in customer power and reserve requirements on BPA. Paragraph (3) specifies the amount of the billing credit for conservation activities. Paragraph (4) specifies the amount for re-

sources. Paragraph (5) clarifies that retail rate structures voluntarily implemented by BPA's customers shall qualify as measures for which billing credits shall be granted if such retail rate structures induce consumers to conserve or to install consumer-owned renewable resources. Paragraph (6) contains requirements to be met prior to a billing credit being granted, including notice provisions, inclusion in BPA's budget submittal to Congress, and acceptance by the customer of certain contract provisions. These provisions are, first, that certain resources be offered to others for participation to the extent of amounts in excess of the customer's reasonable load growth, and, second, that the operators of generating resources agree as a condition of receiving the credit that the resources will be operated in a manner compatible with the planning and operation of the region's power system. The first of these contract provisions is designed to prevent a "freeze out" of other BPA customers for regional resources being constructed to meet another customer's load growth. Thus, a utility's "reasonable load growth" is intended to be based on such utility's then current 20-year load/resource forecast (before adjustment for conservation activities independently undertaken).

Section 6(i) provides for BPA to include in its resource acquisition contracts, and billing credit contracts for major resources, provisions assuring BPA of effective oversight with respect to resource development, construction, scheduling, operations, costs and environmental protection, including protection of fish and wildlife affected by the development of such resources.

Section 6(j) reaffirms the requirement of the Federal Columbia River Transmission System Act that BPA is a wholly self-financed agency, that its obligations are not obligations of the United States of America nor secured by the full faith and credit of the United States of America, and requires that all offerings and promotional material for the sale of obligations secured by BPA shall include this disclaimer. This subsection is intended to make clear that there are no "Federal guarantees" supporting BPA's obligations, which instead are secured solely by BPA's own revenues from the sale of power and other services.

Section 6(k) requires that benefits under section 6 be distributed equitably throughout the region, consistent with the provisions of this legislation and BPA's obligations to particular customer classes.

Section 6(l) requires BPA to investigate: (1) possibilities for obtaining economic power supplies from renewable resources outside the region; and (2) opportunities for mutually beneficial interregional power exchanges pursuant to provisions of this section.

Section 6(m) directs BPA to determine that reasonable opportunities to participate in major resources offered to BPA for acquisition have been offered to all Pacific Northwest utilities, or that a reasonable equivalent participation opportunity exists.

Section 6(n) allows the Council to authorize BPA to implement a non-major resource proposal notwithstanding a finding by the Administrator that such a proposal is inconsistent with the plan or, in the absence of a plan, with the provisions of sections 4(e) (1) and (2).

Section 6(o) permits the Council and any customer of BPA to request BPA to take action to carry out its responsibilities under section 6 and to require BPA to act on such requests in a prompt and

specified manner. This section allows the Administrator to decline to take the requested actions if, among other reasons, the Administrator determines that such a request would not be timely. This later provision is not intended to provide the Administrator with an open-ended excuse for not preceding with the requested action; rather, it is intended to allow the Administrator to decline to take requested actions until he and the Council have had the opportunity to become familiar with the requirements and resource acquisition criteria established by this legislation.

Section 7—Rates

Section 7(a) continues the requirement of existing law that BPA set its rates to recover, in total, the full cost (but not more than the full cost) of its financial obligations. This subsection also sets forth the applicable law and procedure upon which the Federal Energy Regulatory Commission shall approve and confirm BPA's periodic rate filings.

Section 7(b) contains the rate directives for power sold to meet the "general requirements" (defined in this subsection) of BPA's public body and cooperative customers and Federal agency customers, as well as power sold by BPA under the section 5(c) exchange. This will be BPA's lowest firm power rate, based on BPA's lowest cost resources. Subsection 7(b)(2) establishes a "rate ceiling" for BPA's preference customers, and specifies the method of calculating this ceiling, in order to insure such customers the cost benefits of their preference rights for sales under this subsection. Amounts not recoverable from preference customers because of this ceiling are to be recovered through supplemental rate charges for all other power sold by BPA under other provisions of section 7, as subsection 7(b)(3) specifies. Subsection 7(b)(4) defines "general requirements" as the power purchased by the relevant customers under section 5(b), exclusive of power used by the customer to serve any new large single loads (defined in section 3(13)). This provision thus affects power rates only, not the amount of power supplied to the customer under section 5(b).

Section 7(c) contains the rate directives for direct service industrial customers. Prior to July 1, 1985, the rates of these customers shall be set to recover both the costs of serving these loads and the otherwise unrecovered net costs of the section 5(c) exchange. After July 1, 1985, such rates are to be "equitable" in relation to certain specified retail industrial rates in the region; the method of determining the "equitable" rate is set forth in detail in subsection 7(c)(2). Subsection 7(c)(3) specifies that BPA shall adjust such rates to take into account the value of power system reserves made available to BPA through its rights to interrupt or curtail service to these customers.

Section 7(d)(1) permits BPA to offer rate discounts to customers with low system densities such as rural electric cooperatives with high distribution costs resulting from sparsely populated service areas.

Section 7(d)(2) authorizes BPA to establish a special rate for a direct-service industrial customer if (1) the customer's primary resource consists of raw materials indigenous to the region, and (2) all power sold to such a customer may be interrupted, curtailed or withdrawn to meet firm loads in the region. The Committee is

aware of only one direct-service industrial customer, the Hanna Nickel Mining and Smelting Company, Riddle, Oregon, which would meet the criteria of this paragraph.

Section 7(e) clarifies that BPA may continue, as it does under existing law, to charge uniform rates for the sale of electric peaking capacity. This subsection also clarifies that the rate directives contained in this bill only govern the amount of money BPA is to collect from each class of customer and not the form of the rate used to collect that sum of money. For example, time-of-day rates, seasonal rates, rate structures designed to give BPA customers particular price signals, and other rate forms would be permissible.

Section 7(f) is the rate directives for the so-called "new resources rate" that BPA will charge customers for sales other than those to which a different rate directive applies. This rate directive applies only to firm power sales for use within the Pacific Northwest. It will be used, for example, for power sold to investor-owned utilities to meet their net requirements, and for power sold to preference customers for service to new large single loads.

Section 7(g) provides for the allocation of costs and benefits that are not otherwise allocated by other provisions of this bill or other applicable laws currently in effect.

Section 7(h) authorizes BPA to adjust power rates to include surcharges arising under section 4(f), and to allocate the revenues from any such surcharges in a manner that will achieve the conservation purposes of section 4(f). This provision specifically does not authorize BPA to collect in total more revenue than needed to meet its total costs, thus reaffirming the requirements of section 7(a).

Section 7(i) sets forth detailed procedures BPA must follow in establishing rates. In general, the procedures of this subsection parallel those followed by BPA today. However, this subsection will change these existing procedures in one respect since it contains a requirement that cross-examination must be allowed at BPA's rate hearings. This requirement is intended to eliminate the hearing officer's discretion to prohibit cross-examination altogether, not the hearing officer's ability to prevent the use of unwarranted cross-examination as a dilatory tactic. Section 7(i) also authorizes FERC to approve all of BPA's final rates on an interim basis but allows the Secretary of Energy to exercise such interim approval of such rates for application until such time as FERC establishes procedures of its own for interim approval of BPA's final rates.

Section 7(j) requires BPA, in its power billings to its customers, to break down the costs of different resource categories and to indicate the cost of new resources in relation to the average cost of BPA resources. This will allow BPA's customers to identify, for themselves and for their ratepayers, the costs of load growth to the region.

Section 7(k) governs the method of determining BPA's rates for the sale of nonfirm electric power to other regions of the United Stats. Such rates shall continue to be governed by existing law, and shall become effective after review by FERC under the procedures of the Federal Power Act.

Section 7(l) authorizes BPA top establish rates for the sale of power outside the United States (i.e., to Canada), and to negotiate such rates if appropriate to insure equitable treatment in relation

to the rates charged for power purchased by BPA from entities outside the United States. The purpose of this provision is to protect regional consumers from the economic penalties of selling low and buying high in dealings with Canada.

Section 8—Amendments to existing law

Section 8(a) amends the Federal Columbia River Transmission System Act to permit BPA to use the BPA Fund to make short term power purchases to enable BPA to meet its obligations under the fish and wildlife provisions of this bill (e.g., to buy power to replace power generating capability that may be lost through a spill for fish passage purposes at a Federal dam). This is designed to reduce conflicts between fisheries agencies and BPA customers by ensuring that BPA can meet its obligations to each.

Sections 8(b) and (c) are technical amendments to the Federal Columbia River Transmission System Act needed to permit BPA to use its self-financing ability to carry out the provisions of this bill.

Section 8(d) amends the Federal Columbia River Transmission System Act with respect to BPA's borrowing authority. Under the authority of that Act, BPA is authorized to borrow by selling bonds to the United States Treasury to finance the construction of the Pacific Northwest's high-voltage transmission system.

Paragraph (1) of this subsection amends that Act to permit BPA to utilize its existing borrowing authority in order to implement this bill, but not for the purpose of acquiring under section 6 of this bill electric power from a generating facility with a planned capability of more than 50 average megawatts, or from any smaller generating facility other than one utilizing renewable resources.

Paragraph (2) of this subsection amends that Act to specify that the interest rate Treasury charges BPA shall be the rate at which Treasury borrows plus a sufficient markup to raise the total rate to the level of similar bonds sold by other government agencies. This paragraph also requires BPA to pay a one per cent interest rate penalty on any amount that is not repaid to Treasury in a timely fashion in any given year under applicable repayment criteria. The Committee included this interest penalty provision in S. 885 so as to provide BPA with an incentive to keep its repayment obligations current. However, the Committee is aware that BPA's revenues are dependent upon streamflows in the region and that these revenues fluctuate significantly in response to fluctuations in annual streamflows. Consequently, the Committee believes it would be appropriate for BPA to include as a cost in its rates an allowance to cover the possibility of less than average water conditions so as to enable it to make the timely repayments necessary to avoid the interest rate penalty.

Paragraph (3) of this subsection amends that Act by increasing BPA's existing $1,250,000,000 borrowing limit by an additional $1,250,000,000 after October 1, 1981, for the purpose of creating a special revolving account in the BPA fund for conservation and renewable resource loans and grants.

Section 8(e) is a technical provision to conform the definition of the Pacific Northwest region in the Act of August 31, 1964 (Public Law 88-552) to that used in this bill.

Section 8(f) amends the Federal Columbia River Transmission System Act to add provisions for annual impact aid payments by

BPA to State and local governments. Such payments are mandated if BPA completes, after the effective date of this Act, the initial construction of BPA major transmission facilities that are exempt from State and local real property taxes although located within the jurisdiction of a State or local government to whom such payments shall be made. Such payments are discretionary in other specified circumstances. Payments are to be made under a region-wide formula that BPA establishes by rule; the formula is to be based on certain specified factors. BPA's payment to any State and local government shall not exceed the amount that BPA determines would be paid to such government if the transmission facilities were not exempt from State and local real property taxes. As with all other transmission system costs, such payments should be charged to the transmission system and equitably allocated by BPA between Federal and non-Federal uses of the transmission system (see section 7(a)(2)(C)).

The purpose of this section is to compensate State and local governments for impacts incurred as a result of transmission facilities being constructed by BPA.

Section 9—Administrative provisions

Section 9(a) is a technical provision integrating BPA's general contracting authority under section 2(f) of the Bonneville Project Act with its contracting authority under this bill, and therefore avoiding potential conflicts between BPA's statutes with respect to contract matters.

Section 9(b) governs the relationship of BPA and the Department of Energy, and mandates that BPA, DOE and the Council are to assure the timely implementation of this bill in a sound and businesslike manner.

Section 9(c) insures that BPA sells outside the region (both directly and indirectly) only that power which is excess to the needs of the region.

Section 9(d) serves two purposes. First, it clarifies that utilities (unlike BPA) are free to dispose of their own non-Federal power (both firm and non-firm) so long as they do not thereby increase BPA's firm power obligations. Second, the subsection requires BPA to provide available services and facilities to such utilities for such sales, and prohibits BPA from discriminating in the provision of such services against any utility or group thereof on the basis of their independent development of resources. Both parts of this subsection therefore preserve the individual and collective independence of utilities and groups of utilities, as well as reaffirming the requirement contained in section 6 of the Federal Columbia River Transmission System Act that BPA make available on a fair and non-discriminatory basis Federal transmission system capacity in excess of the capacity required for power generated or acquired by the United States.

Section 9(e) governs judicial review of final actions under this bill, and includes (i) a list of final actions, (ii) provisions with respect to scope of review and the record on review, (iii) specification of when particular actions shall be deemed to be taken, and (iv) specification of the appropriate court and the time within which suits to challenge actions or decisions under this Act may be brought.

Section 9(f) contains provisions to insure that the ability of state and local governments to engage in tax-exempt municipal financing of power facilities is preserved but not extended, and that the regulations of the Internal Revenue Service applicable to industrial development bonds in general shall continue to apply to resources financed through tax-exempt bonds in the Pacific Northwest. Under section 5(b), BPA will be obligated to meet all the load growth requirements of requesting preference utilities from the effective date of this Act; this provision is designed to insure that utilities with tax-exempt status will be able to provide to BPA the resources necessary to meet this load growth without losing their tax-exempt status.

Section 9(g) provides that FERC shall convene a joint State board under section 209 of the Federal Power Act to assist it when it reviews rates paid by BPA to investor-owned utilities for power acquired from such utilities under sections 5(c) and 6 of this bill. This provision permits State regulatory agency participation in the review of rates that would otherwise not be subject to State jurisdiction because the relevant sales would be sale of power in interstate commerce.

Section 9(h) establishes terms and conditions for, and regulatory control over, the creation and operation of electric generating entities that may be formed in order to sell resources to BPA under this bill. This subsection provides that such generating entities do not become "electric utility companies" for purposes of the Public Utility Holding Company Act if a number of conditions are satisfied. These conditions include the review by the Securities and Exchange Commission for consistency with the policies specified in section 1(b) of that Act. These conditions are intended to preclude possible abuses which could result from unconditional exemption. The purpose of this subsection is to permit BPA to acquire resources from investor-owned utilities at the lowest obtainable power cost in order to avoid adverse impacts on the rates of BPA's other customers.

Section 9(i) sets forth additional services BPA is to provide its customers, at their request and expense, with respect to power sales and purchases of their own. This subsection essentially ratifies BPA's existing policies on services, except that paragraph (3) creates a limited and contingent priority on BPA's available services for the marketing of power from projects currently under construction in the region, should BPA decline to acquire these resources.

Section 9(j) requires the Council to prepare a report on retail rate structures that encourage cost-effective conservation and consumer-owned renewable resources and authorizes the Administrator to assist customers in analyzing and developing such rate structures.

Section 9(h) establishes within BPA an Assistant Administrator position for conservation and renewable resources.

Section 10—Savings Provisions

Section 10(a) is a savings provision to preserve the rights of States, local governments and utilities to (1) determine retail electric rates, (2) develop and implement conservation and resources, and (3) continue to make all energy facility siting decisions.

Section 10(b) preserves the rights and obligations of all parties under existing contracts so that this bill will not be construed as abrogating any contract. It is anticipated, however, that certain contracts such as power sale contracts will be surrendered voluntarily by BPA customers who wish to obtain new contracts under this bill.

Section 10(c) expressly preserves the provisions of Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of Federally generated electric power. (The preference provisions of the Bonneville Project Act are expressly preserved in section 5(a) of this bill.)

Section 10(d) recognizes and clarifies that certain specified contracts executed pursuant to this bill shall not be affected by any subsequent judicial determination that any provision of this bill may be unconstitutional. The purpose of this provision is to permit the bill to be implemented, and contracts under the bill to be relied upon, on the schedule set forth in other provisions of the bill.

Section 10(e) preserves all treaty and other rights of Indian Tribes.

Section 10(f) relates to appropriations of water and to water rights generally. Paragraph (1) clarifies that this bill does not authorize any appropriation of water by any entity. Paragraph (2) states that in the implementation of this Act, the Federal government and its agents, permittees or licensees shall not appropriate, use, divert, dedicate, or claim water within any State except pursuant to substantive and procedural provisions of State law, regulation or rule of law. Paragraphs (3) and (4) preserve, respectively, State laws and interstate compacts governing the appropriation, use, diversion, dedication of, and claim to, water, and the rights of Indian Tribes. The intent of the latter provision is to preserve reserved rights that such tribes may possess.

Section 10(g) reaffirms the provisions of section 6(j) by making clear that BPA alone, not the United States of America or any other Federal entity, is obligated to perform any new contracts executed by BPA pursuant to this bill. Similarly, this subsection makes clear that the United States of America is not obligated to perform any contracts that may be executed by the Council.

Section 10(h) affirms the reservation under law of electric power for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State, as well as the reservation of 50 percent of the power produced at Libby Reregulating Dam, if built.

This section establishes the method of determining the effective date of this bill after it has become an Act.

Committee Action and Recommendation

The Subcommittee on Water and Power Resources held hearings on S. 885 and related legislation on July 30 and September 8, 25, and 27, 1979. The subcommittee met and considered the legislation on June 24, 25, and July 1, 21, and 22, 1980, and on July 22, 1980, the Subcommittee recommended S. 885, with an amendment, to the Full Committee on Interior and Insular Affairs. Following consideration of the legislation on August 26, 27, and 28, and September 3 and 4, 1980, the Full Committee, on September 4, by a vote of 28 ayes and 14 noes, ordered S. 885 favorably reported with an amendment in the nature of a substitute and recommends its enactment by the House.

Inflationary Impact

In the judgment of the Committee on Interior and Insular Affairs, enactment of S. 885, as amended, will have a minimal inflationary impact. To the extent that the energy conservation provisions of this legislation reduce the demand for high cost alternative energy sources, it should have a positive effect on inflation and should result in significant cost savings for the region.

Cost and Budget Act Compliance

The Committee on Interior and Insular Affairs concurs with and accepts as its own the analysis of the Congressional Budget Office which follows:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., September 10, 1980.

Hon. Morris K. Udall,
Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 885, Pacific Northwest Electric Power Planning and Conservation Act.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin,
Director.

Congressional Budget Office Cost Estimate, September 10, 1980

1. Bill number: S. 885.
2. Bill title: Pacific Northwest Electric Power Planning and Conservation Act.
3. Bill status: As ordered reported by the House Committee on Interior and Insular Affairs, September 4, 1980.
4. Bill purpose: The bill establishes programs and procedures to encourage conservation and efficiency in the use of electric power and ensure public participation in the development of regional plans for energy conservation in the Pacific Northwest. It also provides for

the mitigation of adverse impacts from hydroelectric projects on fish and wildlife in the region. Subject to appropriation action, the bill authorizes an additional $1.25 billion in borrowing authority for the Bonneville Power Administration (BPA), effective in fiscal year 1982, for the purpose of making conservation and renewable resource loans and grants.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Authorization level		1,250			
Estimated net outlays		200	222	186	150

The costs of this bill fall within budget function 270.

6. Basis of estimate: The Bonneville Power Administration is required by law to operate on a business-like basis. It obtains its capital by borrowing from the Treasury and must collect through rates enough to cover retirement of the principal indebtedness and payment of interest costs in addition to other operating costs. The Federal Columbia River Transmission System Act of 1974 provided BPA with $1.25 billion in authority to borrow from the Treasury, and to date approximately two-thirds of that amount remains available. Under the 1974 Act, however, BPA can only borrow to build transmission lines. This bill broadens the potential uses of the existing borrowing authority to include activities to conserve existing resources and mitigate effects on fish and wildlife. The bill provides an additional $1.25 billion in borrowing authority to BPA effective October 1, 1981, for conservation and renewable resource loans and grants.

Since rates must be structured to cover all costs, BPA receipts and outlays should be equal in the long run. However, in the short-run, there can be a significant budget impact. For the purpose of this estimate, it is assumed that the bill will be passed early in fiscal year 1981. Estimated outlays are based on BPA's preliminary expectation that it will invest about $950 million in conservation and related measures between now and 1985 (approximately $200 million in 1982, and $250 million per year thereafter). These estimates will be refined as the regional electric power plan mandated by the bill is developed, and as results from existing pilot programs become available. No additional outlays are anticipated in fiscal year 1981, because these programs have a start-up time of one-to-two years.

The additional expenditures will be partially offset by additional receipts from loan repayments and rate increases. These receipts are estimated to total approximately $190 million by 1985, based on the assumption that BPA will set its rates at a level that will cover additional expenses, including 13 percent interest plus an amount sufficient to retire the principal in 20 years.

The bill would permit eligible utilities to dedicate capacity to BPA without losing the right to issue bonds that bear tax-exempt

interest. There will be no direct revenue loss to the federal government from enactment of this provision.

7. Estimate comparison: None.

8. Previous CBO estimate: On April 15, 1980, a CBO cost estimate was prepared for S. 885, as ordered reported by the House Committee on Interstate and Foreign Commerce. This bill differs significantly from that version of the bill; however, BPA projects that the same investment will be necessary under either bill. Thus, the cost estimates for the two versions of the bill are the same.

9. Estimate prepared by: Debbie Goldberg.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Oversight Statement

The Committee on Interior and Insular Affairs will exercise continuing oversight responsibility over the implementation of the provisions and authorities of S. 885, as amended, if enacted. No oversight recommendation has been received pursuant to Rule X, Clause 2(b)(2).

Executive Communications

By letter dated March 11, 1980, the Department of Energy reported its comments and recommendations on S. 885 to the Committee on Interior and Insular Affairs. This letter, which included numerous attachments which have been retained in the Committee's files on this legislation, is set forth below in its entirety. There is also set forth below in its entirety a letter from the Adminstrator of the Bonneville Power Administration to the Honorable James Weaver regarding the operation and effect of Section 5(e) of this legislation.

Department of Energy,
Washington, D.C., March 11, 1980.

Hon. Abraham Kazen, Jr.
Chairman, Subcommittee on Water and Power, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

Dear Mr. Kazen: This is in response to your request for the views of the Department of Energy on S. 885, the "Pacific Northwest Electric Power Planning and Conservation Act" as passed by the United States Senate on August 3, 1979. The bill contains many significant differences from H.R. 3508, the companion bill upon which George S. McIsaac testified before your subcommittee on July 30, 1979.

The bill, as passed by the Senate, generally is consistent with the President's energy program. However, the Administration continues to urge certain provisions be modified as follows:

First, in section 3(o) at page 6, line 5 of the bill, strike the word "four" and insert the word "one." A load of 100 horsepower, as provided in H.R. 3508, would be consistent with the intent of the legislation, as expressed in the Senate Energy Committee's report, to enable residential users to enjoy the Federal power rate. At the request of the Senate Energy Committee, the Bonneville Power Ad-

ministration made a study of the impact of different levels of load upon service to family farms. That study reveals that 85 percent of the farm irrigation loads in the region are served by less than 100 horsepower. Moreover, it appears that few farm irrigation loads that exceed 100 horsepower can be identified as "family farms." Most are large commercial farms operated by corporations.

Second, sections 4 and 6 deal with the composition and authority of the Pacific Northwest Electric Power Planning Council. These provisions vest substantive executive powers in individuals who are not appointed by the President or the head of a cabinet department and appear to violate the Appointments Clause of the Constitution, Article II, Section 2, Clause 2. The Department of Justice has taken a similar position as expressed in its letter to you dated January 9, 1980. We defer to the views of the Department of Justice on this matter.

Third, the procedures in section 6(c) for acquiring a major resource that is consistent with the adopted regional plan are very complex and cumbersome. Two separate announcements of the Administrator's intention to acquire the resource, one published in the Federal Register, are required. The procedures also mandate two 90-day waiting periods and elaborate submissions of records and documents to the Congressional committees. The specification of these requirements in the law opens the process to litigation. We understand the desire of the Congress for procedural safeguards to ensure that the Administrator is acting consistent with the plan. A simpler and more efficient procedure should be devised for acquisitions consistent with the plan. We understand that others have voiced similar concerns. The Administration would be willing to work with the Committee to develop less cumbersome procedures.

Fourth, subsections (a) and (i) of section 7 create several problems by eliminating the Secretary of Energy from the interim confirmation of rates and by introducing detailed mandatory procedural provisions for setting rates.

In December 1978, the Secretary of Energy signed Delegation Order No. 0204-33, attached hereto, that delegated to the Assistant Secretary for Resource Applications the authority, acting by the Administrators of the five power marketing administrations, to develop power and transmission rates and to confirm, approve and place the rates in effect on an interim basis. The order also delegated to the Federal Energy Regulatory Commission the authority to confirm and approve the rates on a final basis. If the rates finally approved are lower than the rates effective on an interim basis, any overpayments will be refunded with interest. 43 Fed. Reg. 60636 (1978). Under this delegation, the Assistant Secretary has issued 15 rate orders. Seven of these orders extend existing rates and eight place new rates into effect on an interim basis. Copies of the eight orders on new rates are attached. The system works well. The Assistant Secretary and his staff work closely with the Administrators of the five power marketing administrations (PMAs) and their staffs in the ratemaking process. As a result, the Assistant Secretary moves swiftly to confirm, approve and place rates into effect on an interim basis to meet contract deadlines and repayment obligations.

We recommend that the Congress not transfer the authority for Bonneville rates presently in the Assistant Secretary for Resource

Applications to the FERC. Accordingly, we recommend that section 7(a) be amended by inserting on page 29, line 8, after "effective" the following: "on an interim basis upon confirmation and approval by the Secretary of Energy, and shall become effective on a final basis" and that section 7(i)(6) be amended accordingly.

The Department of Energy is in the process of developing a system of ratemaking procedures for the Bonneville Power Administration and the other four power marketing administrations that is responsive to the special needs of Federal power ratemaking in the Department of Energy. The proposed procedures were published in the Federal Register on July 5, 1979, 44 Fed. Reg. 39184. The final procedures, as revised based on public comment, soon will be placed into effect. These procedures are based on the experience gained by the PMAs since 1975 in conducting more than a dozen rate adjustment proceedings. They include the procedures for the Bureau of Reclamation, which were published on August 15, 1975, 40 Fed. Reg. 3441, and the procedures for the Bonneville Power Administration, which were published on December 14, 1977, 42 Fed. Reg. 62950. The procedures used in these proceedings by the PMAs have received substantial acceptance by the customers.

We oppose the creation of special procedural provisions for Bonneville rates. These provisions would be difficult to implement and we believe would be unworkable.

Another matter that concerns us deeply is the relationship between the rate provisions of Section 7, both substantive and procedural, and the current ratemaking proceeding for Bonneville's power rates placed into effect on an interim basis on December 20, 1979. We do not believe that Congress intends to upset this proceeding. To make this clear, we recommend that a subsection be added either in Section 7 or in Section 9 providing that: "( ) The provisions of Section 7 do not apply to the system rate increases effective December 20, 1979."

Fifth, the Administration is concerned about several of the financial aspects of the bill. The new unlimited authority for Bonneville to borrow from the Treasury could be used as a back-up for tax exempt bonds issued to finance public utility power projects that would sell power resources to the Administrator. The Administration strongly objects to such financing arrangements. The Administration has recommended that the borrowing authority be limited to transmission expenditures, as found in current law, and to conservation and small resource acquisitions of 25 MW or less. The Administration also recommends that Bonneville continue to borrow from the Treasury at a triple-A utility rate rather than at the lower interest rate established in the bill. All of these, and other related, points were raised in more detail and specific Administration changes were proposed by Assistant Treasury Secretary Altman in his testimony before your Committee on September 25, 1979. The Administration continues to oppose the financial provisions of section 8(b). Attached is a letter dated July 15, 1979 from former Assistant Secretary McIssac to Senator Henry Jackson that details our objections, and proposes amendments, to the provisions of section 8(b) as well as other sections of S. 885.

Sixth, the Department of Energy desires the opportunity to work with the Committee staff to consider the addition of a provision that would cause the Council to undertake detailed studies of the

feasibility and desirability of mandatory surcharges and of two-tiered wholesale rates as devices to promote energy conservation.

For the foregoing reasons, the Department of Energy supports the enactment of S. 885 with the comments and recommendations explained above.

This report has been coordinated within the Department of Energy in accordance with procedures prescribed by the Secretary of Energy.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

ERIC J. FYGI,
Deputy General Counsel.

Attachment.

DEPARTMENT OF ENERGY,
BONNEVILLE POWER ADMINISTRATION,
Portland, Oreg., August 13, 1980.

Hon. JIM WEAVER,
House of Representatives,
Washington, D.C.

DEAR MR. WEAVER: Your letter of July 28, 1980, requests that we provide you a summary of the "expected" Bonneville Power Administration (BPA) contractual terms relating to the application "contractual entitlements" provisions in Section 5(e) of S. 885. As I am sure you will understand, BPA has not begun drafting or negotiating contracts to implement the legislation. The answer, therefore, must be based upon our interpretation of the legislation and the application of current regional utility contracting and planning procedures.

Section 5(e) would be effective only in the event the regional planning provisions in the legislation fail and BPA is unable to acquire adequate resources, including conservation, to meet its contracted loads under Section 5. At that point, BPA is obligated under Section 5(b)(5) to "restrict" its "contractual obligations to meet loads." That section requires BPA allow a reasonable minimum period between the notice to its customers of its inability to acquire adequate resources and the date such restriction can be imposed.

The second factor in applying Section 5(e) is determining BPA's assumptions for planning and contracting purposes as they relate to resources BPA acquires in the future. When BPA executes a contract for acquisition of a resource's capability, it will necessarily assume for BPA's 20-year load-resource forecast the amount of peaking and energy capability that resource will produce once it is commercially operable. In each ensuing year BPA will make a similar resource capability analysis based upon current knowledge of such matters as project construction progress, fuel supply, forecast operation and maintenance requirements, etc. Each utility buying power from BPA will make assumptions in a similar manner for resources that utility independently develops for its own use.

In our view, the provisions implementing Section 5(e) must provide a practical planning division between BPA and the utility en-

titled to power under this section. Therefore, just as Section 5(b)(5) requires a "reasonable minimum period" for notice of restriction, we would expect that the contracts will also provide a similar period for reducing the power entitlements under Section 5(e) if a resource does not measure up to its planned capability. If a project fails to achieve its forecast capability, BPA's power sales obligation (the utility's entitlement to purchase under Section 5(e)) after a "reasonable minimum period" would also be reduced under the terms of the contract. The language of Section 5(e) clearly anticipates this reduction by stating the entitlement in terms of electric power acquired from a customer rather than stating it in terms of "capability acquired."

The determination of the actual amounts of entitlements should not be difficult. BPA currently annually reviews the power it forecasts will be available from various projects whose capability it markets based upon generally accepted utility and engineering principles. This forecast establishes both the amount of reliable capacity and energy that each generating plant will provide the system. It seems reasonable that these same procedures, updated from time to time to take into account the latest operating experience and technology, would be applied in future BPA resource and power sales contracts. We do not expect to enter into a contract which would establish a "one-time" capability for use for the term of the contract. Rather, the amount of project capability attributed to a project will be allowed to vary as experience and conditions dictate.

Using your example, if a project scheduled to produce at a 70-percent plant factor only produces at a 30-percent factor, BPA's contractural obligations must respond accordingly. First, our estimate of future capability of that project used in load/resource estimates would be reviewed to determine what adjustments should be made. If we determined the operation of the plant could not be improved, BPA would reduce its forecast of available energy in future years to reflect the 30-percent plant factor. Concurrently, BPA would begin to acquire adequate replacement power on a short-term basis and identify resources for the long term under the terms of Section 6 of the legislation.

If at the time of determination BPA was operating under a notice of insufficiency given in accordance with Section 5(b)(5), BPA would give the utility with the entitlement notice it was reducing its future entitlement to reflect the lower plant factor. The lower entitlement would be effective after a "reasonable period" specified in the contract to allow the utility time to adjust its resource planning and acquisition program. What is a reasonable time for making alternative arrangements will be a subject for negotiation, but probably something in the order of 5–10 years would be reasonable.

We do not foresee any major problems in negotiating contractural provisions which will carry out fairly the intent of Section 5(e) while protecting against possible abuses. We do anticipate the contractual negotiations to implement Section 5 to be extensive and subject to intense scrutiny by many concerned groups. Please call us if we can be of further assistance on this matter.

Sincerely,

STERLING MUNRO, *Administrator.*

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF OCTOBER 18, 1974 (88 Stat. 1376)

* * * * * * *

SEC. 7. (*a*) Subject to the provisions of section 5 of this Act the Administrator may purchase or lease or otherwise acquire and hold such real and personal property in the name of the United States as he deems necessary or appropriate to carry out his duties pursuant to law.

(b)(1) From amounts available to the Administrator from the fund under section 11 (b)(2), the Administrator shall make annual impact aid payments to State and local governments having within their jurisdiction the transmission facilities described in paragraph (2). The Administrator may also make impact aid payments to State and local governments with respect to transmission facilities of the Administrator other than those described in paragraph (2) where the construction of such facilities, or any substantial modification thereof, is completed after the date of the enactment of the Pacific Northwest Electric Power Planning and Conservation Act and the Administrator determines that such facilities have a substantial impact on the State and local government concerned.

(2) The transmission facilities for which payments shall be made under this subsection are any major transmission facilities—

(A) which are owned by the Bonneville Power Administration;

(B) which are exempt from State and local real property taxes; and

(C) initial construction of which was completed after the date of the enactment of the Pacific Northwest Electric Power Planning and Conservation Act.

(3)(A) The payments made under this subsection for any year shall be determined on the basis of a regionwide formula established by the Administrator by rule, after notice and opportunity for public hearing and after consultation with State and local governments in the region and the Administrator's customers in the region. Such formula shall provide for an annual payment based on (i) the amount of land and interests in land acquired by the Administrator for purposes of constructing the facility, and the value of the facilities constructed thereon, and (ii) the costs of all governmental services related to the facility and an appropriate share of the general government expenses which are ordinarily paid from State and local real property taxes. No annual payment to any such State or local government may exceed such amount as the Administrator determines would be paid to such government during that year if the transmission facilities were not exempt from State and local real property taxation.

* * * * * * *

SEC. 11. (a) There is hereby established in the Treasury of the United State 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 11 of the Bonneville Project Act of August 20, 1937 (16 U.S.C. 831 et seq.), 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 the Interior, acting by and through the Administrator, as authorized in this Act 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) 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 Act 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, tests, 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, or (ii) if such purchase has been heretofore authorized or is made with funds expressly appropriated for such purchase by the Congress, or (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)(2) of the Pacific Northwest Electric Power Planning and Conservation Act;*

(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 13(a) of this Act, 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; [and]

(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 Interior, as the Administrator determines to be necessary or appropriate in carrying out the purposes of this Act [.] *; 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.

(c) Moneys heretofore or hereafter appropriated shall be used only for the purposes for which appropriated, and moneys received by the Administrator in trust shall be used only for carrying out such trust. The provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.) shall be applicable to the Administrator in the same manner as they are applied to the wholly owned Government corporations named in section 101 of such Act (31 U.S.C. 846), but nothing in the proviso of section 850 of title 31, United States Code, shall be construed as affecting the powers granted in subsection (b)(11) of this section and in sections 2(f), 10(b), and 12(a) of the Bonneville Project Act (16 U.S.C. 832 et seq.).

(d) Notwithstanding the provisions of sections 105 and 106 of the Government Corporation Control Act, 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.

* * * * * * *

SEC. 13. (a) The Administrator is authorized (*1*) 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 Act col-

lectively referred to as "bonds") to assist in financing the construction, acquisition, and replacement of the transmission system, *and to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (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 electric power from any generating facility not utilizing a renewable resource or from a generating facility utilizing a renewable resource and having a planned capability greater than 50 average megawatts),* and *(2)* 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 Treasury 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. Based on information provided by the Administrator to the Secretary of the Treasury, the interest rate determined pursuant to the immediately preceding sentence will be increased by one percent thereof for each immediately preceding consecutive fiscal year, beginning with the fiscal year in which this Act becomes effective, that the applicable financial reports, including current repayment studies, of the Administrator show repayment criteria not being met.*

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 appropriations 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) 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 11(b)(2) through 11(b)(7) [and 11(b)(11)], *11(b)(11), and 11(b)(12),* and shall include reserve or other funds created from such receipts.

(c) The Secretary of the Treasury shall purchase forthwith any bonds issued by the Administrator under this Act and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of

the bonds issued by the Administrator under this Act. The Secretary of the Treasury may, at any time, sell any of the bonds acquired by him under this Act. All redemptions, purchases, and sales by the Secretary of the Treasury of such bonds shall be treated as public debt transactions of the United States.

* * * * * * *

ACT OF AUGUST 31, 1964 (78 Stat. 756)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, as used in this Act—

(a) "Secretary" means the Secretary of the Interior.

(b) "Pacific Northwest" means (1) the region consisting of the States of Oregon and Washington, the State of Montana west of the Continentual Divide, and such portions of the States of Nevada, Utah, and Wyoming within the Columbia drainage basin and of the State of Idaho as the Secretary may determine to be within the marketing area of the Federal Columbia River power system, and [(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (i) no generating facilities, and (ii) a distribution system from which it serves both within and without said region.] *(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.*

(c) "Surplus energy" means electric energy generated at Federal hydroelectric plants in the Pacific Northwest which would otherwise be wasted because of the lack of a market therefor in the Pacific Northwest at any established rate.

(d) "Surplus peaking capacity" means electric peaking capacity at Federal hydroelectric plants in the Pacific Northwest for which there is no demand in the Pacific Northwest at any established rate.

(e) "Non-Federal utility" means any utility not owned or controlled by the United States, including any entity (1) which such a utility owns or controls, in whole or in part, or is controlled by, (2) which is controlled by those controlling such utility, or (3) of which such utility is a member.

(f) "Energy requirements of any Pacific Northwest customer" means the full requirements for electric energy of (1) any purchaser from the United States for direct consumption in the Pacific Northwest, and (2) any non-Federal utility in that region in excess of (i) the hydroelectric energy available for its own use from its generating plants in the Pacific Northwest, and (ii) any additional energy available for use in the Pacific Northwest which, under a then existing contract, the utility (A) can obtain at no higher incremental cost than the rate charged by the United States, or (B) is required to accept.

(g) Terms not defined herein shall, unless the context requires otherwise, have the meaning given them in the March 1949 Glossary of Important Power and Rate Terms prepared under the supervision of the Federal Power Commission

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SUPPLEMENTAL VIEWS OF REP. PAT WILLIAMS

In an effort to prepare the Pacific Northwest Regional Power Planning legislation in the most acceptable version possible to the four states affected by the bill, I offered a package of amendments which were negotiated by the Governors of the states. The amendments were accepted by the Committee.

However, there was a certain confusion involved in the actual presentation of the amendments to the Committee. Due to a simple error in the stapling together of the amendments, they were handed out in bloc, rather than individually. The hearing record shows that the amendments were duly considered, and, for the most part, fully discussed; however, to assure that the consideration not be perceived as abridged, I am including herein an explanation of each amendment.

Council Structure and Appointment

This amendment creates an eight member Council with two members appointed by the Governor of each of the four states; Washington, Oregon, Idaho and Montana.

The amendment responds to the concern that each state should have equal representation on the Council. At the same time, the amendment provides a Council large enough to assure that diverse energy interests in the region will have adequate representation of their views on the Council.

The amendment provides for Council members to be appointed by the Governors rather than by the Secretary of Energy. Gubernatorial appointment will ensure regional control over regional power matters and will provide a more meaningful check on the Bonneville Administrator. The Appointments Clause of the Constitution (Art. 2, Sec. 2, Cl. 2) has been raised as a possible impediment to State appointment of Council members. Careful constitutional research, however, shows that the Congress may share with the states authorities such as those given to the Council. The Appointments Clause relates to separation of powers between the branches of the national government, not to mechanisms such as the Council, in which state officials would be acting pursuant to state authority within the framework of a federal law.

Interim Federally Appointed Council

This amendment provides for temporary appointment of a federal "back-up" council in the event that a state-appointed council could not be formed under the act, or was found to be invalid by a court.

There is a general consensus among those who have studied the question that the state-appointed council is a valid constitutional sharing of state and federal powers. However there is a recognition of some uncertainty on the question. In the event that the state-

appointed council cannot act as contemplated, the amendment would establish a federally appointed council to act until such time as a valid state council could be formed.

The amendment calls for the Secretary of Energy to appoint new council members in a way which would ensure the continuity of council functions. Presumably, the Secretary would appoint those members already serving from the states. The appointments of interim federal council members would cease at such time as the defect that caused the failure of the state-appointed council was cured. If it required Congressional action to cure the defect, the Secretary is required to submit his recommendations on legislation to the Congress, and if Congress did not take action within two full Congresses, the Council would terminate. With the termination of the Council, the Administrator would be required to bring all major resource decisions to the Congress for resolution through the appropriations process.

The "sunset" for the federal council is preferred by most elements in the region to continuation of a new federal agency. The "sunset" of the federal council on a date certain will give Congress the impetus to act to cure whatever defects may have caused the failure of the state-appointed council.

Votes Required for Approval of Plan

An amendment to section 4(a)(6) retains language of the Subcommittee bill calling for at least one vote from each state for adoption of the plan, yet provides that a plan can be adopted when there are at least six votes for it, even though both members from one state may vote against the plan. The amendment retains the principle that more than a simple majority should be required for adoption, but does not allow one state to block passage. A one-state veto of the plan might lead to the adoption of a plan that represented only the lowest common denominator, rather than a true choice among alternative paths. It would also allow one state to hold the plan hostage in order to gain advantage in interstate disputes that may have nothing to do with the plan. Finally, a one state veto does not allow a state to abstain for political or conflict-of-interest reasons without destroying the plan. This amendment addressed these problems. It is also important to note that a one-state veto is not needed to protect a state against being forced to accept resources it does not want. Section 10(a) of the bill explicitly preserves state siting authority unimpaired, regardless of the provisions of the plan.

Technical and Conforming Amendments

Several technical amendments were made to Section 4 in order to conform the bill to a state-appointed rather than a federal council. Specifically, an amendment deleted references to federal law regarding employees of the Council in Section 4(a)(8). Sections 4(a)(10), (11) and (12) were amended to delete references to the contracting requirements of the Department of Energy, to the provision of services by the General Services Administrator, and to publication in the Federal Register. Section 4(a)(14) was amended to

make clear that state support staff to Council members can be funded through the Council's budget.

Section 4(e)(3) was amended in several places to clarify the provisions describing the regional plan. First, the phrase "but not limited to" in this section was deleted in order to make clear that the plan is to cover only those elements set forth in the bill. Since all that could conceivably be put in the plan is quite comprehensively described in section 4(e)(3), the phrase is not necessary and increases the chance that the state-appointed Council might stray into areas not constitutionally permitted. The amendment also signals the Congress' intent that the Council stay to the planning agenda. The addition of the phrase "which shall be set forth in such detail as the Council determines to be appropriate," allows the Council to determine the appropriate level of detail for the plan. A regional plan of this nature has never before been attempted, and the Council needs flexibility to approach this unique task. the Council will have sufficient incentive to make the plan as detailed as possible, because the greater the detail, the greater will be the Council's ability to determine the energy future of the region. An amendment to section 4(e)(3)(D) makes clear that the plan will contain a resource forecast, setting out what types of resources are to be acquired, as well as a demand forecast, delineating amounts of power which will be required. One other amendment, the change of 'may' to 'shall' in section 4(e)(3)(D), requires the Council to determine the approximate amount of power the administrator should acquire and the types of resources from which he should acquire that power. These are essential elements of the plan and should not be discretionary.

Deletion of Review of 10 Percent Conservation Advantage

The deletion of section 4(k) eliminates the review of the 10 percent advantage given conservation in the bill. This amendment makes a firm statement by Congress that conservation is preferable to the acquisition of new resources. The 10 percent advantage was added to the bill by Senator Hatfield in a provision that a conservation measure or small renewable resource should be considered as cost-effective as a conventional resource even though it is up to ten per cent more expensive than the conventional resource. This addresses the traditional problems associated with conventional resources, specifically cost overruns which raise their costs well above original estimates, and the use of fuel which is subject to drastic price increases. The costs to society which are not included in cost estimates of conventional resources include air pollution, water pollution, acid rain, and depletion of unrenewable resources. These are not factors in conservation or small renewable resources.

Consistency Review

An amendment to section 6(c)(2) requires that the Council act within sixty days if it chooses to exercise review of the Administrator's resource acquisition decisions, and deletes the second part of the section which stated that the Council was deemed to have found the Administrator's decisions to be consistent with the regional plan unless it found otherwise. This amendment assures the

region that consistency review will be exercised quickly and that the Council will not be taking a stance on the question of whether or not the Administrator's resource acquisition decisions are consistent with the plan merely by deciding not to exercise review. A review of the Administrator's actions is still possible, but the Council is not forced to make that review.

PAT WILLIAMS.

ADDITIONAL VIEWS OF REP. B. F. VENTO

During full Committee consideration of S. 885, the Committee discussed, but came to no conclusion on, the issue of bank underwriting of the revenue bonds authorized by this legislation.

This is an extremely complex area of public policy which has broad implications for municipalities, the banking and security industry, as well as the investing public. The Glass-Steagall Act prohibits banks from engaging in investment banking. Any action by the Interior and Insular Affairs Committee would have created a special exemption from this 47 year old law for the particular bond issues authorized by this legislation.

Proponents of allowing banks to underwrite these bonds argue that the general public will be better served by the increased competition among bond underwriters. Opponents argue that repeal of this prohibition would lead to unwanted concentration of power within the bond market. Both these arguments are pursuasive. It is precisely for that reason that this issue should be resolved in a comprehensive manner, and not dealt with in a piecemeal fashion.

The Committee jurisdiction system has been established to provide member and staff expertise in a subject area. It is also important because it provides a certain amount of continuity to the oversight of laws and programs. The Interior and Insular Affairs Committee possess neither the expertise, hearing record or the jurisdiction to act on this issue.

The Committees of jurisdiction, Banking, Finance and Urban Affairs and Interstate and Foreign Commerce are actively pursuing a complete review of this subject. Indeed the Financial Institutions Subcommittee has already held more than 100 hours of hearings on various proposals to modify provisions of the Glass-Steagell Act. The Committee correctly concluded that any action on this issue or any attempt to indicate a committee position whether through statutory or report language would be ill-advised.

BRUCE VENTO.

ADDITIONAL VIEWS OF REPS. JERRY M. PATTERSON AND LAMAR GUDGER

Unfortunately, time and jurisdictional constraints prevented consideration of the potential cost savings to public bodies and ratepayers that would result if this bill were amended to permit commercial banks to underwrite bonds issued by public bodies to finance the new power generation and conservation facilities contemplated by this legislation.

The many power authorities now functioning in the Northwest, and in other states interconnected with the BPA, finance their capital projects in the municipal bond market through the sale of revenue bonds secured by the revenues from power sales. Because commercial banks are excluded from the underwriting and marketing of municipal revenue bonds, but not other Federal, state and local obligations, the market for revenue bonds, used for financing generation and conservation facilities by public bodies, is more limited than it is for those other obligations.

There is pending in another committee legislation which would permit banks to underwrite state and local revenue bonds, including the type of bonds contemplated to be issued by public bodies in furtherance of the purpose of this bill. That legislation would expand the competition for revenue bonds so that state and local investment issuers can realize the cost savings that naturally flow from broader competition.

Because of the consistency of that legislation with the purposes of this bill, we hope that early and serious consideration will be given to that legislation so that the power needs of the Northwest can be met at the lowest possible reasonable cost.

JERRY M. PATTERSON.
LAMAR GUDGER.

ADDITIONAL VIEWS OF REPS. BOB CARR, MORRIS K. UDALL, ED MARKEY, GEORGE MILLER, JOHN SEIBERLING, AND BRUCE VENTO

We have specific concerns about certain provisions of S. 885 that are not addressed either in the report of the Committee or in other of the dissenting views thereto. Our concerns are about the relationship of the Bonneville Power Administration and the U.S. Department of the Treasury.

In 1974 the Federal Columbia River Transmission System Act removed BPA from the necessity of annual Congressional appropriations and set the agency on a more equal footing with utilities by establishing a revolving fund. The change also entailed setting interest rates paid on borrowing from Treasury at the rate for "similar bonds"—a rate determined by Treasury as that paid by the highest quality (triple-A) non-government utility bonds.

S. 885 as reported by the Interior Committee both doubles the amount of money BPA can borrow from Treasury and significantly lowers the interest rate payable on that borrowing. The amendments to existing law are cause for particular concern because of the unwarranted loss of revenue to the Treasury that would result and because of Bonneville's poor record of debt repayment.

Of equal concern, from the standpoint of Treasury, is the fact that the new interest rate set by the bill is a mysterious "government corporation" rate. In a recent memo to Chairman Udall, the Treasury Department states that this new rate "would complicate rather than clarify the statutory rate determination language, because there are no government corporations currently issuing bonds in the market. Therefore there is no benchmark for the rate determination proposed in the amendment." Treasury goes on to suggest substituting the present "triple-A non-government utility rate" as its preference for solving this administrative headache.

There has been no substantive argument offered for the change away from "triple-A non-government utility" borrowing rates. In view of the congressional decision in 1974 to establish the revolving fund and the triple-A utility rate as two pillars of the change in BPA's status, removing one pillar would seem to necessitate removing the other as well. But there has been no suggestion of deleting the revolving fund arrangement.

Clearly the intent of the amendment is simply to lower the cost of borrowing for BPA. While the uncertainty surrounding the "government corporation" rate makes it difficult to pinpoint the difference the change would make for BPA, it is possible to project the kind of savings envisioned by the amendment by looking at an alternative to the "government corportaion" rate that has been floating alongside it rather vaguely in discussions of the issue. That rate is the Federal Financing Bank rate, which is 0.125 percent above the Treasury borrowing rate. The triple-A non-government utility rate presently accorded to BPA ranges from 0.30 percent to

1.30 percent above that. The "FFB" rates would lower enormously BPA's borrowing costs. What the "government corporation" rate would do—and for that matter, why it is the language of choice—is anybody's guess. And the Treasury, as it has made clear in its memo to the Chairman, would prefer not to guess.

Our concern over the interest rate is not merely academic. BPA is presently authorized to borrow up to $1.25 billion from Treasury for financing the construction, acquisition, and replacement of the transmission system. S. 885 doubles that level to $2.5 billion, with the increased borrowing earmarked for conservation and renewable energy.

In 1977, the last year for which information is readily available, the weighted average interest paid on all BPA debt outstanding was 3.25 percent. Bonneville presently enjoys a 50-year repayment period for its loans from the Treasury, and it has fallen into the habit of quickly repaying its high-interest borrowing while permitting its low-interest debt to remain unpaid. The Office of Management and Budget has asked the Department of Energy to study the question of repayment policies and procedures in order to improve the consistency of existing policies and procedures with sound repayment of public debt. The objective is to establish a firm repayment schedule and to remove the discretion presently allowed Bonneville in determing which debt will be paid off when.

The Committee consented to authorize a 1 percent interest penalty charge for every year that Bonneville failed to meet applicable repayment criteria. That is, however, the only concession the Committee made to the concerns articulated here. We believe the concerns warrant further attention.

BOB CARR.
MORRIS K. UDALL.
ED MARKEY.
GEORGE MILLER.
JOHN SEIBERLING.
BRUCE VENTO.

SEPARATE VIEWS OF REP. PAT WILLIAMS

"There are compelling reasons for the Committee to have adopted the Council arrangment set forth in section 4, as amended by the Interior Committee, in spite of the fact that some existing state authorities seem well protected by savings provisions of section 10 of the bill.

"First, the multistate Council's determinations are, in essence, in aid of those state authorities reserved. State resources and conservation planning reserved by section 10(a), for example, can best be protected by allowing the Northwest states (in cooperation with each other, and with BPA, the utilities and the public) to shape and coordinate their planning cooperatively at an early point in time through the Council, rather than trying to react, ad hoc, late in the planning process.

"Second, the responsibilities given the Council reflect the Committee's interest in keeping Federal and state planning responsibilities balanced, and to take into account that S. 885 gives BPA a significantly larger role in future resource planning than it would otherwise have. Except for the bill, the Northwest states would have the dominant role in shaping policies for utilities within their borders; but because the scheme in S. 885 would facilitate development of conservation and other resources, it will encompass most such proposals. Recognizing this, the Committee adopted a Council scheme that would restore a strong, cooperative planning role for the states.

"Finally, though several state authorities are preserved by section 10 of the bill, at least one is weakened. Those states which now regulate the bulk power costs of investor-owned utilities would lose much of that jurisdiction to the Federal Energy Regulatory Commission. Under the scheme in the bill, companies would sell power to BPA under sections 5(c) and 6; these sales would be wholesales in interstate commerce, instead of costs which are now largely internal to the companies. Section 9 does provide for FERC to seek the advice of a joint state board in regulating wholesale sales to BPA. But the states' participation in the Council would be a clearer, more useful tool with which to affect regional bulk power planning, more comparable to the authority lost to FERC under the bill."

PAT WILLIAMS.

SEPARATE VIEWS OF REP. JOHN F. SEIBERLING

I voted against this legislation for a number of reasons, some of which Mr. Weaver explains in his dissenting views to the Committee report. I did not co-sign his dissenting views, as I am not sufficiently familiar with some aspects of the Northwest power situation which are peculiar to the region. However, I share many of Mr. Weaver's concerns.

The effect of the guaranteed purchase authority provision, and the federally-backed debt financing of new utility construction is to give an artificial advantage to investor-owned utilities in the Northwest at a time when utilities in other regions of the country are scaling back construction plans because of reduced demand for electricity. The rate-setting discretion given to the Bonneville Power Authority administrator under this bill would effectively mask the higher costs of new thermal power generation brought into the system under the guaranteed purchase authority, and foist additional burdens on rate payers to local public utility districts despite the conservation and alternative resource development efforts of such districts.

I also object to, and offered an amendment in Committee to delete, a provision (Sec. 9(g)) which would exempt utilities contributing to the Bonneville power system from the Public Utilities Holding Company Act (PUHCA). The intent of this provision, as explained by its proponents, is to assure that Pacific Power and Light, the largest utility in the region, will be able to invest in new resources without divesting itself of other unrelated properties. The effect would be to allow any company created to supply BPA to exempt itself likewise from the requirements of PUHCA.

The Public Utilities Holding Company Act was enacted to protect consumers from abuses common to corporate structures, and to impose antitrust restrictions to protect investors and prevent "sweetheart" deals between the related members of holding companies. A 1977 GAO report showed that the Security and Exchange Commission had granted administrative exemptions to 84 of 100 utilities eligible for regulation, but we are told that statutory exemption is needed to fulfill the purposes of this bill—the purchase of private utility resources by the BPA. Not only does this provision create an opportunity for abuse in the Northwest region, but it opens the Congress to appeal from other areas of the country for similar treatment.

The amendment I offered to delete this provision was defeated in the Committee, but I intend to raise the issue again on the floor to assure that the Public Utility Holding Company Act is enforced nationwide, and that its protections are assured to utility rate-payers.

JOHN F. SEIBERLING.

DISSENTING VIEWS OF REP. BOB CARR

"HEADS I WIN, TAILS YOU LOSE"

My experience with the Pacific Northwest Electric Power Planning and Conservation Act has been, from first to last, bewildering. Let me outline quickly the maze through which I have followed this will o' the wisp.

Several years ago the Bonneville Power Administration and its customers—public and private utilities and direct service aluminum industries—discovered to their alarm that the Pacific Northwest's seemingly endless supply of federally distributed cheap hydropower is, in fact, finite. A consequence of that discovery is that the Pacific Northwest faces a future in which only a major part of its energy needs can be met by power from existing federal dams. (It's not, in fact, such a bad future. Would that my own region, the Midwest, had such adversity to bear up under. But I digress.) Rather than taking what seems to be the logical next step—simply hanging the "Sold Out" sign on the BPA door and leaving the job of providing electrical energy to the utilities—the proponents of this bill would call in the federal government to assure a cheap energy future for the Pacific Northwest.

As one who has, since coming to Congress six years ago, acted on the belief that the federal government should avoid unnecessary involvement in any area of the private sector, I was confident that my views on this matter would be shared by my colleagues in the House, particularly since testimony before the Interior Committee by the General Accounting Office and testimony before the Nuclear Regulatory Commission by three major investor owned utilities in the region confirmed that the utilities can finance and construct whatever power plants are necessary. I was, therefore, astonished at the zeal of some of my Committee colleagues who have made a career championing free enterprise as they argued that the goal of rational energy planning in the Pacific Northwest could be accomplished only by vastly expanding the powers of an agency of the U.S. Department of Energy.

Not wanting to appear slow to absorb the surprising insights of my colleagues, I proposed to require the Department of Energy to see in what manner the planning mechanisms mandated by this bill could be duplicated in other regions of the country. Imagine my dismay when my colleagues voted my amendment down.

Moral: what's sauce for the goose is not always sauce for the gander.

Now, the fact is you can't have it both ways. Either it is well and good for the federal government to involve itself directly in regional energy planning and financing, or it is not. It cannot be good only for the Pacific Northwest and not for any other region of the country.

For decades the Pacific Northwest has enjoyed plentiful electric energy at rates that are almost unbelievably low in comparison to

those in other regions of the country. According to information put out by the Seattle City Light Company, the following rates represent the residential cost per month for 1,000 kilowatts of electric power as of December 1, 1977:

New York, N Y	$84 96
Los Angeles, Calif	52 44
Detroit, Mich	44 10
Omaha, Nebr	34 25
Memphis, Tenn	26 23
Tacoma, Wash	12 80
Seattle, Wash	11 28

While no one begrudges the good fortune of the Pacific Northwest in its natural resources—while no one wishes unbuilt the dams that have powered the region into the 1980's—it is possible to question the wisdom of a bill that would, through such dubious means as guaranteed purchase authority (see the Dissenting Views of Mr. Weaver), melded rates (see the Dissenting Views of Mr. Weaver), the Public Utility Holding Company Exemption (see the Dissenting Views of Mr. Seiberling), and extremely low interest rates on borrowing from Treasury (see the Additional Views of Reps. Carr, Udall, Markey, Miller of Calif., Seiberling, and Vento) perpetuate artificially the low rates enjoyed by the Northwest to the exclusion of citizens in other regions.

The Pacific Northwest Electric Power Planning and Conservation Act is founded in an apparent belief that electric power cometh from the federal government—as it was in the beginning, it is now and ever shall be. That simply is not the case For the Bonneville Power Administration to move from its present role of marketing surplus hydropower from federal dams to managing the region's energy future, including financing the construction of new power facilities, is most assuredly not a natural development ordained immutably by divine providence. It is, in fact, an extraordinary and unprecedented extension of federal power that will lift from the shoulders of the utilities of one region—and one region only—the responsibility for providing for the region's energy future. In so doing, it will cushion one region—and one region only—against the economic and social shocks that all regions are experiencing as they try to cope with the uncertain energy needs of their citizens.

The feature article in the August 2, 1980, issue of National Journal surveys the progress our nation's utility industry has made in meeting the challenges today's energy situation offers—challenges such as escalating fuel costs, increased construction costs, and unpredictable demand for power, which all utilities and all consumers in all parts of the nation face. The industry is inching toward policies such as marginal cost pricing that will reflect the new energy realities of today. For the federal government to reach into one region of the country and to offer unprecedented assistance to the utilities of that region and that region alone would upset the still fragile balance of this new movement in the industry.

What is called for in the Pacific Northwest is rather delicate surgery to ease the dependence of the region's utilities on Uncle Sam. What S. 885 provides for the operation is a sledgehammer and a riveting iron. In its eagerness to respond to the calls for help from the Pacific Northwest's power interests, the Committee is paying

insufficient heed to three crucial national interests. In a final ironic twist, S. 885 hangs the "Sold Out" sign not on the door of the Bonneville Power Administration, but on these three interests:

1. regional equity;
2. caution in expanding the role of the federal government; and
3. energy conservation and prudent management of energy resources nationwide.

BOB CARR.

DISSENTING VIEWS OF REPS. JIM WEAVER, PETER KOSTMAYER, BRUCE VENTO, EDWARD MARKEY, AND GEORGE MILLER

Repeatedly in this report and in the bill itself, it is stated that this bill does not constitute a precedent for future federal involvement in other utility systems or regions of the country. That fact leads one to wonder just what sort of precedent is set that it must be denied so often. In recent months, the Congress has enacted legislation that a few years ago would have been thought extraordinary: it has pointed the direction to what is now being called the "bright future of business-labor-government partnership." And now "reindustrialization" has become the watchword for federal assistance to corporations in trouble.

While we do not quarrel with the principle of the federal government assisting industries that find themselves ailing, we think it crucial that a line be drawn between those industries caught by the exigencies of unforseeable economic and energy developments and those suffering at their own hands—which, due to shortsightedness or excessive dependence on the federal government, find themselves in a "crisis of dependence." The utilities of the Pacific Northwest, we would hold, fall into the latter category.

For the federal government and the American taxpayer to suffer their ostrich-like head burying will only encourage further head-burying by utilities in other regions, and perhaps, in other industrial sectors. It is that fact that is repeatedly denied in this legislation and in this report.

Two interconnected themes dominate this bill and the utility support for it. The first is a preoccupation by Northwest utilities with a near-term crisis of their own making that demands hasty action. The second is the utilities' abandoning of responsibility and the concomitant usurpation of control by the federal government. The latter will have severe, long-term repercussions for the nation all out of proportion to the former need for short-term action within the region. By pushing the federal legislative panic button in response to a regional utility problem, the Congress is inviting other requests—or demands—for financial bailouts.

Northwest utilities have been spoiled; unlike any of their counterparts in other regions, they have until now been blessed with "requirements contracts" from the Bonneville Power Administration (BPA). These contracts state that the federal government must serve all their power needs. Despite the impending shortage of federal power, the utilities understandably want to retain those contracts; they place the responsibility for power supply fully on the back of the federal government. But, because there is no significant new source of hydro power available to BPA, it faces a dilemma—increased demand and static supply. This is the near-term crisis—its origin is in the special treatment the Northwest uitilities have always enjoyed; its solution lies not in further special treatment,

but in the discipline to get on with the job themselves, just as every other utility in the nation must.

Congressman Bob Carr characterized this special treatment and the best way to obviate the need for this legislation when, in response to an explanation of this bill, he asked BPA Administrator, Sterling Munro, "Why don't you just say you're sold out?" Every other Federal Power Marketing Administration (Southwest Power Administration, Alaska Power Administration, Western Area Power Administration, and Southeast Power Administration) is presently allocating a shortage. That is, they provide to their customers what federally generated hydropower is available and the utilities provide for the remainder of their needs. There is no reason BPA and the Northwest utilities could not do the same.

Because the utilities want BPA to assume responsibility to meet their load growth and because BPA has no more power to market, the Northwest Power Bill will empower BPA to purchase the capability of new coal and nuclear plants from the very utilities it would serve. In the process, BPA, a federal agency, will guarantee that it will pay for the plant, no matter if it operates or not, and, in turn, supply all requested power to any Northwest utility. So, no longer will the utilities be responsible for building generation or supplying their customers; now it will be the responsibility of the federal government. This precedental shifting of responsibility is not necessary.

This bill is touted by its supporters as a progressive experiment crafted to address a unique regional problem. It can no longer be considered an experiment, however; once before—only once—this federal "guaranteed purchase authority" was used. That was the experiment, one that has proven a dismal, costly failure. In the early 1970's, these very same utilities and the BPA, through a complex accounting procedure, circumvented a statutory prohibition and effected a BPA guarantee of three thermal power plants in Washington state, the so-called net billing agreements. Since construction commenced, these plants have risen in cost from $3.1 billion to $9.3 billion, and have suffered schedule slippages of over five years per plant. It is just such construction irresponsibility and mismanagement that the Northwest Power Bill would expand and further as the utilities receive the guarantees and the government assumes the risk.

But this bill goes much further. While the experiment mentioned above provided financing for several specific plants, this bill will establish a system outside of which no utility in the region will be allowed to operate. It centralizes control in a federal agency, thus severely restricting the pluralism that for so long has characterized the Northwest utility industry.

Each of the major concepts of the bill should be examined carefully in order to understand the pattern woven by the two themes of (1) a history of special treatment begetting further demands for federal largesse, and (2) an abdication of responsibility by the region's utility and the assumption of control by the federal agency. Each provision and the larger pattern also should be studied to understand the template on which future utility bailout legislation will be struck.

GUARANTEED PURCHASE AUTHORITY

BPA presently only markets power produced at federal hydroelectric projects and serves as the coordinator of the Northwest's transmission system. This bill would change that drastically by making BPA the primary developer of electric energy in the region. The utilities would build new power plants, but BPA, under the purchase authority (sections 6(b)(1) and 3(19)), would guarantee prior to construction commencement, that it would purchase the theoretical capacity—not output—of the plant and thus, pay the full cost of the facility, "whether or not operating or operable and notwithstanding the suspension, reduction or curtailment of project output." The proponents of the bill claim that this is nothing new, that all utilities assume the risk of plant failure as well as the benefits of plant operation, and that this bill only expands that practice to the entire region, the so-called one-utility concept. Their arguments ignore several problems:

Guaranteed Purchase Authority will result in mismanagement.—This practice will not only condone, but will specifically mandate, the separation of (1) the authority to build a power plant from (2) the responsibility to pay for that plant. By removing the responsibility to pay for mistakes, to keep costs low, to build on schedule, the Congress would be inviting utility mis- or lax management.

Guaranteed Purchase Authority is a blank check signed by every ratepayer in the region.—Because BPA will agree to purchase the full capacity of a new power plant, and thus must pay for it no matter if it works or not, every utility that receives BPA power will pay for it. And all its ratepayers will pay for it, whether the plant is completed on time at cost, or 5 years late and at 300 percent of cost. This will happen even though that utility may have negligible load growth and contribute not a whit to the demand for the plant. In other words, the slow-growing utilities of Western Montana will be paying for the load growth in Seattle and Portland because the new expensive plants being built in the region will be needed to serve only the fast growing areas.

While some might say that the region should "hang together" and share the benefits and risks of regional power development, one might ask where does that theory end? Should we nationalize the electrical grid? Should rural New Mexico pay its "fair share" of expensive new plants built to serve Southern California? Should Eastern Indiana finance Chicago's load growth? Should everyone in the South pay for the economic development in Atlanta and Orlando? If not, why wish it on rural Oregonians or Montanans?

Guaranteed Purchase Authority makes the federal government responsible for activities that private industry can and should continue to do quite well.—Utilities all over the country are financing new facilities with no apparent crisis. While their bond costs might be higher than they would like, that is true of every entity entering the bond market. Federal subsidization of borrowing is not an answer; rather, it is a well known cause of inflation. The General Accounting Office testified before the Water & Power Resources Subcommittee of the Interior Committee and had this to say about purchase authority:

> We do not see a need for Bonneville financial participation in conventional thermal powerplants unless it is clear-

> ly shown that regional utilities are incapable of (building new powerplants) without Bonneville sponsorship. It has been GAO's position that the Federal Government should not take over functions that the private sector could or has been performing unless it has been demonstrated that the private sector is unable to perform. We have seen no demonstration that Northwest utilities are unable to construct or secure private capital needed for constructing conventional powerplants.

Guaranteed Purchase Authority could bestow a financing advantage on the Northwest to the detriment of the rest of the country.—One of the few remaining true marketplaces is that in which bonds are bought and sold. If one person is given an advantage, someone else suffers a disadvantage. S. 885 clearly provides Northwest utilities with an advantage; it is not yet clear exactly who will suffer the disadvantages. An internal Department of the Treasury memorandum on this matter stated:

> Bonneville's assumption of financial risks of new energy projects in the Northwest will result in further subsidies to all utilities and their electric customers in a region which already enjoys extremely low electricity rates largely due to the Federal Columbia River Power System.

While the quality of the BPA guarantee has been downgraded, by amendment, from a federal to a regional guarantee, bonds issued by utilities as a result of this Act will still be more attractive than any like quality bond. School districts, water districts, hospitals, non-Northwest public utilities and non-Northwest investor-owned utilities will likely then pay more for their money.

Requirements Contracts

The fact that publicly-owned utilities in the Northwest have for decades enjoyed BPA requirements contracts has already been pointed out. This special treatment, we claim, has contributed to the demands for this bill as those utilities have become lazy, and want more than anything else to have someone else—the BPA—do the job. So why, one must ask, should the Congress now consider granting requirements contracts to investor-owned utilities as well? Why contribute to their abdication of utility responsibility by obligating the federal government to serve their load? While we can think of no good answers to those questions, that is exactly what this legislation does.

Perhaps only a series of questions can adequately point out the wrongheadedness of this policy.

Why should it become the federal government's obligation to serve the full power needs of investor-owned utilities?

Will not this provision erase any future distinction between publicly-owned and investor-owned utilities insofar as they stand before the federal power marketing agency for an allocation of powers?

Does this not change the 50-year old policy of preferential treatment of public power?

Will not investor-owned utilities in the rest of the nation plead that they too should be granted access to federal power?

Once it assumes responsibility for supply, how long will it be before the federal bureaucracy expands its control over utility decisions?

It is claimed that BPA must provide requirements contracts to the IOU's for only then will these utilities provide BPA power through the guaranteed purchase agreements. That this argument is a tautology is bad enough; that the Congress would consider passing this precedent-setting provision into law on the basis of that tautology is far worse: The only reason BPA would need to purchase power from one or a group of IOU's is in order to serve their load. Remove the load and you remove the reasons to purchase their power.

Price Melding

The third part of the trinity-like centerpiece of S. 885 is the wholesale price melding that is required of BPA. First, BPA is obligated to serve the utilities; second, it must acquire new resources to do so; and third, it must average the cost of the new very expensive thermal power with its existing extraordinarily cheap hydropower. Such a practice flies in the face of hardfought, but now accepted, principles of energy policy and pricing. Ten years ago, the academic world recognized average cost pricing as deleterious. Later, the regulatory bodies throughout the country agreed. And even the Congress, in the Natural Gas Act of 1978, recognized that prices kept artificially low through price melding would lead to wrong decisions. Yet this bill would require a federal agency to do just that in setting its power rates in order to once more remove any incentive for the Northwest utilities to act on their own.

The price meld would work in the following way. New 60–100 mill/kwh thermal power would be added to BPA's 3 mill/kwh hydropower in order to serve an increased regional load. Yet one utility in the region might have no load growth, thus putting no additional demand on BPA and contributing not at all to the need for the plant. It will, however, have to pay for it as BPA's rates rise to accomodate it. Another utility, looking ahead ten years to determine how much new power it needs and where it is going to acquire it, would, under S. 885, be presented with a dilemma. Say it needed ten (10) more megawatts in 1991 than in 1990. The additional power necessary to meet its load growth (and others throughout the region) might raise BPA's rate from maybe 15 mills/kwh in 1990 to 18 mills/kwh in 1991 (the result of a meld of, say, an 80 mill marginal cost resource with BPA's existing pool). Very little could compete in a utility manager's eye with 18 mill power in 1991, and thus, he or she would be "forced" to buy what seems to be 18 mill power from BPA. But the region would actually be paying 80 mills. For this reason, all the alternative resources that cost between 18 and 80 mills would be foregone by the utility manager even though they are the most cost-effective investment for the region. (The obvious answer to this dilemma is the institution of a two-tier pricing scheme; an amendment to do just that was defeated in the Interior Committee on a 21–21 tie vote).

Decisionmaking

One of the key elements of the Northwest utility industry over the years has been its diversity, its pluralism. Perhaps more than any other part of the country, the Northwest employed a model of local control, decentralized decisionmaking that allowed individual communities to determine the future of their utility. In a time when the American public is crying out for less bureaucratic control, not more, this model should be maintained. But the Northwest Power Bill does exactly the opposite.

All decisions regarding new power resources, rates, conservation programs and standards and fisheries protection in the region will be made by BPA and a new Pacific Northwest Electric Power and Conservation Planning Council. At last count, fully 36 pages of S. 885 were devoted to this federal decision-making process alone. No more will the Eugene Water and Electric Board or the Clark County Public Utility District of the Blachley-Lane Electric Cooperative be able to determine for themselves, through their elected Boards of Directors or Commissioners, in what direction they want to go. Following passage of S. 885, the federal government will determine that without local "interference."

But will this innovation make matters work more smoothly? We doubt it.

When asked by its client to analyze the workability of this process and its impact on resource development, the Counsel to the Washington Public Utilities Districts Association agreed with us and had this to say:

> "We see serious legal problems with respect to financing and construction of new publicly-owned projects in connection with the purchase authority provisions of the bill. In the event of litigation * * * which is considered likely * * * it would be at least several years before financing and construction of such plants could go forward."

So the local utilities will be caught between the proverbial rock and hard place. On the one hand, they will be constrained to observe only the federal bureaucracy making for them the decisions that are at the very foundation of their utility business and, on the other, that process will likely run into severe litigative obstacles. All of this is the price they must pay for the "free lunch" (requirements contracts) that they are requesting of this legislation, however.

Price Equalization

Finally and perhaps most enigmatically, comes the question of the price-fixing scheme proposed in S. 885 and its effect on competition within the utility industry. The electric utility industry is often thought of as regulated and monopolistic in nature. However, that is only partly true. In most states, utilities serving at the retail level do have franchise protection. However, the retail market is subject to the competitive opportunity for consumers to replace their supplier by choosing to retain or change the nature of ownership of the utility. Price competition is but one of the reasons for the exercise of this consumer right. S. 885 seeks to equalize rates at the retail level, which would have the effect of freezing

competition within the Pacific Northwest. The pressure to maintain competitive rates would be eliminated for private and public utilities alike, all other conditions of service being equal. Never has Congress enacted a law with the purpose of eliminating retail price competition between electric utilities.

In the wholesale market there is a well-established body of law requiring competition, particularly when a supplier occupies a dominant market position. BPA will, under S. 885. Offering all utilities requirements at a melded rate throughout the region would abolish competition for supply and price to the detriment of all consumers. Their utility would bask in a Congressionally-blessed price-fixing scheme—complete with federal financial guarantees—with the assurance that they will never have to take the initiative to seek the lowest cost source of power. Extension of monopoly under this bill is not confined to the electric industry. Direct Service Industrial customers, particularly those engaged in the sale of the same product, are guaranteed a uniform rate for their energy requirements. In an energy-intensive industry, such as aluminum production, these customers would enjoy the advantage of having the energy component of their product priced uniformly by the federal government, leading to diminished competition for the purchasers of the products of the DSI's. S. 885 even commands BPA to set prices at the level which these industries would pay if they received energy from local utilities, furthering the price-fixing scheme whereby the industrial customer would be precluded from seeking out a lower priced source of energy.

These considerations also point up what the Northwest is giving up in its headlong rush to a solution—any solution—to its "crisis of dependence." They also make clear the abuses that could be expanded to the rest of the nation as well.

One footnote is in order: much has been made of the public participation provisions of the bill and the precedent-setting cost-effective criterion for resource acquisition. We support both, but we also recognize that concentrating on style while ignoring the substance of the issue will not make the substance go away. This shortsightedness—this insistence that rational planning will result from public hearings despite the anachronistic price-mending, despite federal loan guarantees, despite the removal of any incentives for utilities to act on their own—is nowhere better illustrated than in the bill's support by a public interest organization which is the first to admit that it didn't examine the substantive aspects of the bill. Public hearings do not rational planning make.

If one accepts the assumption that the Pacific Northwest faces an electrical energy crisis, and it is the federal government's responsibility to solve that crisis, and that the only way to do so is to make a federal bureaucracy the centerpiece of energy planning for the region's utilities, and that loan guarantees and price-melding are integral parts of the federal bureaucracy's role, if one accepts all that, then the Pacific Northwest Electric Power Planning and Conservation Act is a fairly good attempt at meeting those goals. But if one wants to maintain local control over utility matters, if one believes that local utilities in the Northwest should solve their own problems like utilities around the rest of the nation must, if one believes that local citizens and ratepayers should not be saddled with extra costs in order that risks of that utility business

may be reduced, and, most importantly, if one is concerned that the federal government—following the precedent of this bill's passage and implementation—might be called upon to bailout other utilities and industries, then an alternative to this legislation can and must be found.

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H. REPORT 96-976, PT. I (COMMERCE)

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT 96-976
2d Session } { Part I

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

MAY 15, 1980 —Ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany S 885 which on September 5, 1979, was jointly referred to the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs]

[Including Cost Estimate of the Congressional Budget Office]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, having considered the same, report favorably thereon with an amendment and recommends that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act."

TABLE OF CONTENTS

Sec 1 Short title and table of contents
Sec 2 Purposes
Sec 3 Definitions
Sec 4 Regional planning and participation
Sec 5 Sale of power
Sec 6 Conservation and resource acquisition
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Sec 9 Administrative provisions
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PURPOSES

SEC. 2. The purposes of this Act are—

(1) to encourage, through the unique opportunity provided by the Federal Columbia River Power System, conservation and efficiency in the use of electric power and the development of renewable resources within the Pacific Northwest and to assure the Pacific Northwest an adequate, efficient, and reliable power supply consistent with applicable environmental and other provisions of law;

(2) to provide for the participation and consultation of the Pacific Northwest States, local governments, consumers, customers, users of the Columbia River System (including Federal and State fish and wildlife agencies and appropriate Indian tribes), and the public at large within the region in the development of regional plans and programs related to energy conservation, renewable resources, other resources, and the protection, mitigation, and enhancement of fish and wildlife resources and in the orderly planning of the Federal Columbia River Power System;

(3) to provide that the customers of the Bonneville Power Administration and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System;

(4) to insure, subject to the provisions of this Act—

(A) that the authorities and responsibilities of State and local governments, electric utility systems, and other non-Federal entities for the regu-

lation, planning, conservation, supply, distribution, and use of electric power shall be construed to be maintained, and

(B) that Congress intends that this Act not be construed to limit or restrict the ability of customers to take actions in accordance with other applicable provisions of Federal or State law, including, but not limited to, actions to plan, develop, and operate resources and to achieve conservation, without regard to this Act; and

(5) to protect, mitigate, and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries, particularly anadromous fish which are of significant importance to the social and economic well being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other facilities on the Columbia River and its tributaries.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Acquire" and "acquisition" shall not be construed as authorizing the Administrator to construct, or have ownership of, under this Act or any other law, any electric generating facility.

(2) "Administrator" means the Administrator of the Bonneville Power Administration.

(3) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production, or distribution.

(4)(A) "Cost-effective", when applied to any measure or resource referred to in this Act, means that such measure or resource must be forecast—

(i) to be reliable and available within the time it is needed, and

(ii) to meet or reduce the electric power demand, as determined by the Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof.

(B) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs, and such quantifiable environmental costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource.

(5) "Consumer" means any end user of electric power.

(6) "Council" means, unless otherwise specifically provided, the voting members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established by this Act.

(7) "Customer" means anyone who contracts for the purchase of power from the Administrator pursuant to this Act.

(8) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(9) "Electric power" means electric peaking capacity, or electric energy, or both.

(10) "Federal base system resources" means—

(A) the Federal Columbia River Power System hydroelectric projects;

(B) resources acquired by the Administrator under long-term contracts in force on the effective date of this Act; and

(C) resources acquired by the Administrator in an amount necessary to replace reductions in capability of the resources referred to in subparagraphs (A) and (B).

(11) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community which is located in whole or in part in the region and which is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status.

(12) "Members of the council" means only the voting members of the council.

(13) "Major resource" means any resource having a planned capability greater than fifty average megawatts, other than electric power acquired by purchase by the Administrator for a period of five years or less pursuant to section 11(b)(6) of the Federal Columbia River Transmission System Act.

(14) "New large single load" means any load associated with a new facility, an existing facility, or an expansion of an existing facility—

(A) which is not contracted for, or committed to, as determined by the Administrator, by a public body, cooperative, or Federal agency customer prior to October 1, 1978, in the case of industrial loads, or September 1, 1979, in the case of other than industrial loads, and

(B) which will result in an increase in power requirements of ten average megawatts or more in any consecutive twelve-month period.

(15) "Pacific Northwest", "region", or "regional" means—

(A) the area consisting of the States of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(B) any contiguous areas, not in excess of seventy-five air miles from the area referred to in subparagraph (A), which are a part of the service area of a rural electric cooperative customer served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without such region.

(16) "Plan" means the Regional Electric Power and Conservation plan adopted pursuant to this Act and such plan shall apply to actions of the Administrator as specified in this Act.

(17) "Renewable resource" means a resource which utilizes solar, wind, hydro, geothermal, biomass, or similar sources of energy and which either is used for electric power generation or will reduce the electric power requirements of a consumer, including by direct application.

(18) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator (A) from resources or (B) from rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(19) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses, but only the first two hundred horsepower during any monthly billing period of farm irrigation and pumping for any farm.

(20) "Resource" means—

(A) electric power, including the actual or planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

(21) "Secretary" means the Secretary of Energy.

REGIONAL PLANNING AND PARTICIPATION

SEC. 4. (a)(1) There is established the "Pacific Northwest Electric Power and Conservation Planning Council" which shall have its offices in the Pacific Northwest. The Council shall be composed of eleven voting members selected as follows:

(A) four from the State of Washington,

(B) three from the State of Oregon,

(C) two from the State of Idaho, and

(D) two from the State of Montana.

(2) As soon as practicable, but not more than forty-five days after the effective date of this Act and thereafter within forty-five days after a vacancy occurs, the Governor of the States of Washington, Oregon, Idaho, and Montana may each (under applicable State laws, if any) provide to the Secretary a list of nominations from such State for each of the State's positions to be selected for the Council. The list shall include at least two persons for each such position. The list shall include

such information about such nominees as the Secretary may request The Secretary shall appoint the Council members from each Governor's list of nominations for each State's positions The Secretary may decline to appoint for any reason any of a Governor's nominees for a position and shall notify the Governor, whereupon the Governor may make successive nominations within forty-five days of receipt of such notice until nominees, acceptable to the Secretary, are appointed for each position In the event the Governor of any such State fails to make the required nominations for any State position on the Council within the time specified for such nominations (which time may be extended by the Secretary in his discretion), the Secretary shall select and appoint the Council member or members from such State for such position

(3) The members of the Council shall serve for a term of three years, except that, with respect to members initially appointed, the Secretary shall designate four members thereof to serve a term of two years, four members thereof to serve a term of three years, and the remaining three such members to serve for a term of four years Successive members of the Council shall be nominated and appointed in the same manner as the original members Any person appointed to fill a Council vacancy occurring prior to the expiration of the term of such office shall be appointed for the remainder of that term

(4) The Administrator shall be an ex officio, nonvoting member of the Council The Secretary shall also appoint as ex officio, nonvoting members such other Federal officials as he determines appropriate to the Council who have responsibilities for the Federal Columbia River Power System hydroelectric projects and for the fish and wildlife affected by such System The Secretary may also appoint persons from the general public as nonvoting members of the Council

(5) The voting members of the Council who are not employed by the United States or a State shall receive compensation at a rate equal to the rate prescribed for offices and positions at level GS-18 of the General Schedule for each day such members are engaged in the actual performance of duties as members of the Council, except that no such member may be paid more in any calendar year than an officer or employee at step 1 of level GS-18 is paid during such year Members of the Council shall be considered officers or employees of the United States for purposes of title II of the Ethics in Government Act of 1978 (5 U S C app) The voting members of the Council shall also be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code

(6) A majority of the members of the Council shall constitute a quorum Except as otherwise provided specifically in this Act, all actions and decisions of the Council shall be by majority vote of the voting members present and voting The plan or any part thereof and any amendment thereto shall not be approved unless such plan or amendment receives the votes of a majority of the voting members appointed to the Council, including the vote of at least one member from each State

(7) The members of the Council shall select a Chairman for the Council The Council shall meet at the call of the Chairman or upon the request of a majority of the members of the Council If any member of the Council disagrees with respect to any matter transmitted to any Federal or State official or any other person or wishes to express additional views concerning such matter, such member may submit a statement to accompany such matter setting forth the reasons for such disagreement or views

(8) The Council shall appoint, and assign duties to, an executive director who shall serve at the pleasure of the Council and who shall be compensated at the rate established for GS-18 of the General Schedule The executive director shall exercise the powers and duties delegated to such director by the Council, including the power to appoint and fix compensation of additional personnel in accordance with applicable Federal law to carry out the functions of the Council

(9) Upon request of the Council, the head of any Federal agency is authorized to detail to the Council, on a reimbursable basis, any of the personnel of such agency to assist the Council in the performance of its functions under this Act

(10) To obtain such information and advice as the Council determines to be necessary or appropriate to carry out the purposes of this Act, the Council shall, to the greatest extent practicable, solicit engineering, economic, social, environmental, and other technical studies from customers of the Administrator with particular expertise and from other bodies or organizations in the region The Council is authorized to enter into contracts in accordance with provisions of law applicable to the Department of Energy

(11) At the Council's request, the Administrator of the General Services shall furnish the Council with such offices, equipment, supplies, and services in the same manner and to the same extent as such Administrator is authorized to furnish to

any other agency or instrumentality of the United States such offices, supplies, equipment, and services

(12) The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions under this Act The Council shall publish in the Federal Register and make available to the public a statement of its organization, practices, and procedures, and make available to the public its annual work program budget at the time the President submits his annual budget to Congress

(13) The Administrator and other Federal agencies, to the extent authorized by other provisions of law, shall furnish the Council all information requested by the Council as necessary for the performance of its functions, subject to such requirements of law concerning trade secrets and proprietary data as may be applicable

(14)(A) At the request of the Council, the Administrator shall pay from funds available to the Administrator the compensation and other expenses of the Council as are authorized by this Act and as the Council determines are necessary or appropriate for the performance of its functions Funds for such payments shall be included by the Administrator in his annual budgets submitted to Congress pursuant to the Federal Columbia River Transmission System Act and shall be subject to the requirements of that Act, including the audit requirements of section 11(d) Such funds shall not exceed annually an amount equal to 0 02 mill multiplied by the kilowatt hours sold by the Administrator during the preceding calendar year In order to assist the Council's initial organization, the Administrator after the enactment of this Act shall promptly prepare and propose an amended annual budget to expedite payment for Council activities

(B) Notwithstanding the limitation contained in the third sentence of subparagraph (A), upon an annual showing by the Council that such limitation will not permit the Council to carry out its functions under this Act, the Administrator may raise such limit up to any amount not in excess of 0 10 mills

(b) The Council shall, subject to applicable law, establish a voluntary scientific and statistical advisory committee to assist in the development, collection, and evaluation of such statistical, biological, economic, social, environmental, and other scientific information as is relevant to the Council's development and amendment of a regional conservation and electric power plan

(c) The Council may, subject to applicable law, establish such other voluntary advisory committees as it determines are necessary or appropriate to assist it in carrying out its functions under this Act

(d) Within two years after the effective date of this Act, the Council shall prepare, adopt, and promptly transmit to the Administrator a regional conservation and electric power plan The adopted plan, or any portion thereof, may be amended from time to time, and shall be reviewed by the Council not less frequently than once every five years Prior to such adoption, public hearings shall be held in each Council member's State on the plan or substantial, nontechnical amendments to the plan proposed by the Council for adoption A public hearing shall also be held in any other State of the region on the plan or amendments thereto, if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire Action of the Council under this subsection concerning such hearings shall be subject to section 553 of title 5, United States Code and such procedures as the Council shall adopt

(e)(1) The plan shall, as provided in this paragraph, give priority to resources which the Council determines to be cost-effective Priority shall be given first, to conservation, second, to renewable resources, third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency, and fourth, to all other resources

(2) The plan shall set forth a general scheme for implementing conservation measures and developing resources pursuant to section 6 of this Act to reduce or meet the Administrator's obligations with due consideration by the Council for (A) environmental quality, (B) compatibility with the existing regional power system, (C) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, and (D) other criteria which may be set forth in the plan

(3) To accomplish the priorities established by this subsection, the plan shall include, but not be limited to, the following elements

(A) an energy conservation program to be implemented under this Act including, but not limited to, model conservation standards,

(B) recommendations for research and development,

(C) a methodology for determining quantifiable environmental costs and benefits under section 3(4),

(D) a demand forecast of at least twenty years (developed in consultation with the Administrator, the customers, the States, including State agencies with ratemaking authority over electric utilities, and the public, in such manner as the Council deems appropriate) of power resources estimated by the Council to be required to meet the Administrator's obligations and the portion of such obligations the Council determines can be met by resources in each of the priority categories referred to in paragraph (1) which forecast (i) shall include regional reliability and reserve requirements and (ii) may include the approximate amounts of power the Council recommends should be acquired by the Administrator on a long term basis and the types of resources from which such power should be acquired;

(E) an analysis of reserve and reliability requirements and cost-effective methods of providing reserves designed to ensure adequate electric power at the lowest probable cost; and

(F) if the Council recommends surcharges pursuant to subsection (f), a methodology for calculating such surcharges.

(f)(1) Model conservation standards to be included in the plan shall include, but not be limited to, standards applicable to (A) new and existing structures, (B) utility, customer, and governmental conservation programs, and (C) other consumer actions for achieving conservation. Model conservation standards shall reflect geographic and climatic differences within the region and other appropriate considerations, and shall be designed to produce all power savings that are economically feasible for consumers, taking into account financial assistance made available to consumers under section 6(a) of this Act. These model conservation standards shall be adopted by the Council and included in the plan after consultation, in such manner as the Council deems appropriate, with the Administrator, States, and political subdivisions, customers of the Administrator, and the public.

(2) The Council by a majority vote of the members of the Council is authorized to recommend to the Administrator a surcharge and the Administrator may thereafter impose such a surcharge, in accordance with the methodology provided in the plan, on customers for those portions of their loads within the region that are within States or political subdivisions which have not, or on the Administrator's customers which have not, implemented conservation measures applicable to such customers that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such standards. Such surcharges shall be established to recover such additional costs as the Administrator determines will be incurred because such projected energy savings attributable to such conservation measures have not been achieved, but in no case may such surcharges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g) To ensure widespread public involvement in the formulation of regional power policies, the Council and the Administrator shall maintain comprehensive programs to inform the Pacific Northwest public of major regional power issues, to obtain public views concerning those issues, and to secure advice and consultation from the Administrator's customers and others.

(h)(1) The Council shall request in writing promptly after the effective date of this Act and prior to the development of a plan or any amendment thereto from the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes recommendations for—

(A) measures to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries, including recommendations for achieving sufficient quantities and quality of flows for successful migration, survival, and propagation of anadromous fish, and

(B) fish and wildlife research and development which, among other things, will provide improved passage and survival for anadromous fish at and between the Region's hydroelectric dams.

Such agencies and tribes shall respond within ninety days of such request from the Council. The Council may extend the time for making such recommendations. All recommendations made pursuant to this subsection shall include detailed data in support of such recommendations. The Council shall give notice of all such recommendations and make available such recommendations and data to the Administrator and the public. Copies shall be provided subject to payment of reasonable costs of reproduction. Water management agencies, electric power producing agencies, customers, and the public may also submit written views and comments on such recommendations and also make written recommendations within such time as the Council shall provide. The Council may hold public hearings on the recommendations of such agencies and tribes, together with any other written recommendations provided to the Council. If thereafter the Council determines that such recommen-

dations of such fish and wildlife agencies and tribes are not inconsistent with the purposes of this Act, the Council shall adopt such recommendations The Council may also adopt such other recommendations as the Council determines are consistent with such purposes Nothing in this paragraph shall prevent the Council from modifying such recommendations in consultation with such fish and wildlife agencies and tribes and others Any such determination, and the reasons therefor, shall be set forth in writing and published and shall be subject to the provisions of section 9(d)

(2) The Administrator shall—

(A) utilize the Bonneville Power Administration fund, and

(B) the authorities available to the Administrator under this Act and other laws administered by the Administrator

to protect, mitigate, and enhance the fish and wildlife affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries in a manner consistent with the plan and the purposes of this Act, including the recommendations adopted pursuant to paragraph (1) The Administrator may make expenditures from such fund for such purposes which shall have been included in the annual or supplementary budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act

(3) The Administrator and other Federal agencies responsible for the management or operation or regulation of the Federal Columbia River Power System hydroelectric projects or the hydroelectric facilities of any customer or any other electric utility located on the Columbia River or its tributaries shall exercise such responsibilities, consistent with the purposes of this Act, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated or regulated under other provisions of law

(4) The Administrator and such Federal agencies shall consult with the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region and appropriate Indian tribes in carrying out the provisions of this subsection

(5) Beginning on October 1 of the first fiscal year after all members to the Council are appointed initially, the Council shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate and to the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs of the House of Representatives on the actions taken and to be taken by the Council under this section, including this subsection At least ninety days prior to its submission of such report, the Council shall make available to such fish and wildlife agencies, and tribes, the Administrator and the customers a draft of such report The Council shall establish procedures for timely comments thereon The Council shall include as an appendix to such report such comments or a summary thereof The Administrator shall keep such committees fully and currently informed of the actions taken and to be taken by the Administrator under this Act, including this subsection

(i)(1) Following adoption of the plan and any amendment thereto, all actions of the Administrator pursuant to section 6 shall be consistent with the plan and any amendment thereto, except as otherwise specifically provided

(2)(A) Except in the case of major resources subject to the procedures of section 6(c), the Council shall give notice to the Administrator of the types of actions under section 6 to be reviewed for consistency with the plan and may, from time to time, amend such notice

(B) Whenever a proposed action by the Administrator under section 6 is of a type designated for review by the Council, the Administrator shall make the initial determination whether such action is consistent with the plan and, if the Administrator determines the action is consistent, so advise the Council at least sixty days prior to taking the proposed action

(C) Within sixty days after notice of the Administrator's determination, the Council may direct the Administrator to hold a hearing in accordance with the applicable procedures of paragraphs (2), (3), and (5) of section 7(i) Upon completion of such hearing, the Administrator shall make a final determination whether or not such action is consistent with the plan

(D) If the Council fails within the time provided to direct the Administrator to hold a hearing pursuant to subparagraph (C), the Council shall be deemed to have found the proposed action consistent with the plan

(j)(1) The Council may request the Administrator to take an action under section 6 to carry out the Administrator's responsibilities under the plan

(2) Within ninety days after the Council's request, the Administrator shall respond to the Council in writing specifying—

(A) the means by which the Administrator will undertake the action or any modification thereof requested by the Council, or

(B) the reasons why such action would not be consistent with the plan, or with the Administrator's legal obligations under this Act, or other provisions of law, which the Administrator shall specifically identify

(3) If the Administrator determines not to undertake the requested action, the Council, within sixty days after notice of the Administrator's determination, may direct the Administrator to hold a hearing in accordance with the applicable procedures of paragraphs (2), (3), and (5) of section 7(i)

(4) The Administrator's final determination upon completion of such hearing shall be based on substantial evidence

(k) In carrying out the provisions of this section, the Council and the Administrator shall—

(1) consult with the Administrator's customers,

(2) include the comments of such customers in the record of the Council's proceedings, and

(3) recognize and not abridge the authorities of State and local governments, electric utility systems, and other non-Federal entities responsible to the people of the Pacific Northwest for the planning, conservation, supply, distribution, and use of electric power and the operation of electric generating facilities

(l) In the preparation, adoption, and implementation of the plan, the Council and the Administrator shall encourage the cooperation, participation, and assistance of appropriate State entities, State political subdivisions, and Indian tribes The Council and the Administrator are authorized to contract, in accordance with applicable law, with such entities, tribes and subdivisions individually, in groups, or through associations thereof to (1) investigate possible measures to be included in the plan, (2) provide public involvement and information regarding a proposed plan or amend ment thereto, and (3) provide services which will assist in the implementation of the plan In order to assist in the implementation of the plan, particularly conservation, renewable resource, and fish and wildlife activities, the Administrator, when requested and subject to available funds, may provide technical assistance in establishing conservation, renewable resource, and fish and wildlife objectives by individ ual States or subdivisions thereof or Indian tribes Such objectives, if adopted by a State or subdivision thereof or Indian tribes, may be submitted to the Council and the Administrator for review, and upon approval by the Council may be incorporat ed as part of the plan

(m) (1) Not later than October 1, 1986, the Council shall complete a thorough analysis of conservation measures implemented and renewable resources acquired pursuant to this Act during the five-year period beginning on the date of the enactment of this Act to determine if such measures or resources

(A) have resulted or are likely to result in costs to consumers in the region greater than the costs of additional generating resources or additional fuel which the Council determines would be necessary in the absence of such measures or resources,

(B) have not been or are likely not to be generally equitable to all consumers in the region, or

(C) have impaired or are likely to impair the ability of the Administrator to carry out his obligations under this Act and other laws, consistent with sound business practices

(2) The Administrator may determine that section 3 (4)(D) shall cease to be effective for any conservation measure or renewable resource if the Administrator finds after receipt of such analysis from the Council that such measure or resource has any result or effect described in paragraph (A), (B) or (C)

SALE OF POWER

SEC 5 (a) All power sales under this Act shall be subject at all times to the pref erence and priority provisions of the Bonneville Project Act of 1937 (16 U S C 832 and following) and, in particular, sections 4 and 5 thereof Such sales shall be at rates established pursuant to section 7

(b)(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 and to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the Region to the extent that such firm power load exceeds—

(A) the capability of such entity's firm resources used in the year prior to the enactment of this Act to serve its firm load in the region, and

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(B) such other resources as such entity determines, pursuant to contracts under this Act, will be used to serve its firm load in the region.

In determining the resources which are used to serve a firm load, for purposes of subparagraphs (A) and (B), any resources used to serve a firm load under such subparagraphs shall be treated as continuing to be so used, unless such use is discontinued with the consent of the Administrator, or unless such use is discontinued because of obsolescence, retirement, loss of resource, or loss of contract rights.

(2) Contracts with investor-owned utilities shall provide that the Administrator may reduce his obligations under such contracts in accordance with section 5(a) of the Bonneville Project Act of 1937.

(3) In addition to his authorities to sell electric power under paragraph (1), the Administrator is also authorized to sell electric power to Federal agencies in the region.

(4) Sales under this subsection shall be made only if the public body, cooperative, Federal agency or investor-owned utility complies with the Administrator's standards for service in effect on the effective date of this Act or as subsequently revised.

(5) The Administrator shall include in contracts executed in accordance with this subsection provisions that enable the Administrator to restrict his contractual obligations to meet the loads referred to in this subsection in the future if the Administrator determines, after a reasonable period of experience under this Act, that the Administrator cannot be assured on a planning basis of acquiring sufficient resources to meet such loads during a specified period of insufficiency. Any such contract with a public body, cooperative, or Federal agency shall specify a reasonable minimum period between a notice of restriction and the earliest date such restriction may be imposed.

(6) Contracts executed in accordance with this subsection with public body, cooperative, and Federal agency customers shall—

(A) provide that the restriction referred to in paragraph (5) shall not be applicable to any such customers until the operating year in which the total of such customers' firm loads to be served by the Administrator equals or exceeds the firm capability of the Federal base system resources;

(B) not permit restrictions which would reduce the total contractual entitlement of such customers to an amount less than the firm capability of the Federal base system resources; and

(C) contain a formula for determining annually, on a uniform basis, each such customer's contractual entitlement to firm power during such a period of restriction, which formula shall not consider customer resources other than those the customer has determined, as of the effective date of this Act, to be used to serve its own firm loads.

The formula referred to in subparagraph (C) shall obligate the Administrator to provide on an annual basis only firm power needed to serve the portion of such customer's firm load in excess of the capability of such customer's own firm resources determined by such customer under paragraph (1) to be used to serve its firm load.

(c)(1) Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.

(2) The purchase and exchange sale referred to in paragraph (1) with any electric utility shall be limited to an amount not in excess of 50 per centum of such utility's Regional residential load in the year beginning July 1, 1980, such 50 per centum limit increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985, and each year thereafter.

(3) The cost benefits, as specified in contracts with the Administrator, of any purchase and exchange sale referred to in paragraph (1) which are attributable to any electric utility's residential load within a State shall be passed through directly to such utility's residential loads within such State, except that a State which lies partially within and partially without the region may require that such cost benefits be distributed among all of the utility's residential loads in that State.

(4) An electric utility may terminate, upon reasonable terms and conditions agreed to by the Administrator and such utility prior to such termination, its purchase and sale under this subsection if the supplemental rate charge provided for in section 7(b)(3) is applied and the cost of electric power sold to such utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by such utility to the Administrator under this subsection.

(5) Subject to the provisions of sections 4 and 6, in lieu of purchasing any amount of electric power offered by a utility under paragraph (1), the Administrator may acquire an equivalent amount of electric power from other sources to replace power

sold to such utility as part of an exchange sale if the cost of such acquisition is less than the cost of purchasing the electric power offered by such utility

(6) Exchange sales to a utility pursuant to this subsection shall not be restricted below the amounts of electric power acquired by the Administrator from, or on behalf of, such utility pursuant to this subsection

(7) The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission Such average system cost shall not include—

(A) the cost of additional resources in an amount sufficient to serve any new large single load of the utility that was not contracted for, or committed to, as determined by the Administrator, prior to October 1, 1978, in the case of industrial loads, or Setember 1, 1979, in the case of other than industrial loads,

(B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act, and

(C) any costs of any generating facility which is terminated prior to initial commercial operation

For purposes of this paragraph, the term "new large single load" means any load which will result in an increase in power requirements of ten average megawatts or more in any consecutive twelve-month period

(d)(1)(A) The Administrator is authorized to sell in accordance with this subsection electric power to existing direct service industrial customers Such sales shall provide a portion of the Administrator's reserves for firm power loads within the region

(B) After the effective date of this Act, the Administrator shall offer in accordance with subsection (g) to each existing direct service industrial customer an initial long term contract that provides such customer an amount of power equivalent to that to which such customer is entitled under its contract dated January or April 1975 providing for the sale of "industrial firm power "

(2) The Administrator shall not sell electric power, including reserves, directly to new direct service industrial customers

(3) The Administrator shall not sell amounts of electric power, including reserves, to existing direct service industrial customers in excess of the amount permitted under paragraph (1) unless the Administrator determines that such proposed sale is consistent with the plan and that—

(A) additional power system reserves are required for the region's firm loads,

(B) the proposed sale would provide a cost-effective method of supplying such reserves,

(C) such loads or loads of similar character cannot provide equivalent operating or planning benefits to the Region if served by an electric utility under contractual arrangements providing reserves, and

(D) the Administrator has or can acquire sufficient electric power to serve such loads, and

unless the Council has approved such sale by majority vote of the members of the Council After such determination and approval, the Administrator is authorized to offer to existing direct service industrial customers power in such amounts in excess of the amount permitted under paragraph (1) as the Administrator determines to be necessary to provide additional power system reserves to meet the region's firm loads

(4)(A) As used in this section, the term "existing direct service industrial customer" means any direct service industrial customer of the Administrator which has a contract for the purchase of electric power from the Administrator on the effective date of this Act

(B) The term "new direct service industrial customer" means any industrial entity other than an existing direct service industrial customer

(e)(1) The contractual entitlement to firm power of any customer from whom, or on whose behalf, the Administrator has acquired electric power pursuant to section 6 may not be restricted below the amount of electric power so acquired from, or on behalf of, such customer If in any year such customer's requirements are less than such entitlement, any excess of such entitlement shall be first made available to increase the entitlement of other customers of the same class before being available for the entitlement of other customers For purposes of this paragraph, the following entities shall each constitute a class

(A) public bodies and cooperatives,

(B) Federal agencies shall,

(C) direct service industrial, and

(D) investor owned utilities

(2) Any contractual entitlement to firm power which is based on electric power acquired from or on behalf of a customer pursuant to section 6 shall be in addition to any other contractual entitlement to firm power not subject to restriction that such customer may have under this section For the purposes of this subsection, references to amounts of power acquired by the Administrator pursuant to section 6 shall be deemed to mean the amounts specified in the resource acquisition contracts exclusive of any amounts recognized in such contracts as replacement for Federal base system resources

(3) The Administrator shall, consistent with the provisions of this Act, insure that any restrictions upon any particular customer class made pursuant to this subsection and subsection (b) are distributed equitably throughout the region

(f) The Administrator is authorized to sell or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsections (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator, including the Bonneville Project Act of 1937 (16 U S C 832 and following), the Federal Columbia River Transmission System Act (16 U S C 838 and following), and the Act of August 31, 1964 (16 U S C 837-837h)

(g)(1) As soon as practicable within nine months after the effective date of this Act the Administrator shall commence necessary negotiations for, and offer, initial long term contracts (within the limitations of the third sentence of section 5(a) of the Bonneville Project Act) simultaneously to—

(A) existing public body and cooperative customers and investor owned utility customers under subsection (b),

(B) Federal agency customers under subsection (b),

(C) electric utility customers under subsection (c) and

(D) direct service industrial customers under subsection (d)(1)(A)

(2) Each customer offered a contract pursuant to this subsection shall have one year from the date of such offer to accept such contract Such contract shall be effective as provided in this subsection

(3) An initial contract with a public body, cooperative or investor-owned electric utility customer or a Federal agency customer pursuant to subsection (b) shall be effective on the date executed by such customer unless another effective date is otherwise agreed to by the Administrator and the customer

(4) An initial contract with an electric utility customer pursuant to subsection (c) shall be effective on the date executed by such customer, but no earlier than the first day of the tenth month after the effective date of this Act

(5) An initial contract with a direct service industrial customer pursuant to subsection (d)(1)(A), shall be effective on the date agreed upon by the Administrator and such customer, but no later than the first day of the tenth month after the effective date of this Act When such contract is executed it may for rate purposes be given retroactive effect to such first day

(6) Initial contracts offered public body, cooperative and Federal agency customers in accordance with this subsection shall provide that during a period of insufficiency declared in accordance with subsection (b) each customer s contractual entitlement shall to the extent of its requirements on the Administrator, be no less than the amount of firm power received from the Administrator in the year immediately preceding the period of insufficiency

(7) The Administrator shall be deemed to have sufficient resources for the purpose of entering into the initial contracts specified in paragraph (1) (A) through (D)

CONSERVATION AND RESOURCE ACQUISITION

SEC 6 (a)(1) The Administrator shall acquire such resources, through conservation, implement all such conservation measures, and acquire such renewable resources which are installed by a residential or small commercial consumer to reduce load, as the Administrator determines are consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) and, in the case of major resources, in accordance with subsection (c) Such conservation measures and such resources may include, but are not limited to—

(A) loans and grants to consumers for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application,

(B) technical and financial assistance to, and other cooperation with, the Administrator's customers and governmental authorities to encourage maximum cost-effective voluntary conservation and the attainment of any cost-effective conservation objectives adopted by individual States or subdivisions thereof,

(C) aiding the Administrator's customers and governmental authorities in implementing model conservation standards adopted pursuant to section 4(f), and

(D) conducting demonstration projects to determine the cost effectiveness of conservation measures and direct application of renewable energy resources

(2) If a plan is in effect, the Administrator shall acquire such resources through conservation and use of renewable resources and implement such conservation measures which are referred to in paragraph (1) as he determines to be consistent with the plan and, in the case of major resources, in accordance with subsection (c)

(3) In addition to electric power acquired on a short-term basis pursuant to section 11(b)(6)(i) of the Federal Columbia River Transmission System Act (16 U S C 838 and following), the Administrator shall meet his contractual obligations that remain after taking into account planned savings from conservation and conservation measures as provided in this subsection by acquiring sufficient resources

(b)(1) Except as specifically provided in this section, acquisition of resources under this Act shall be consistent with the plan, as determined by the Administrator

(2) The Administrator may acquire resources under this Act which are not consistent with the plan, but which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) Such determinations are subject to the provisions of section 4(i)

(3) If no plan is in effect, the Administrator may acquire resources under this Act which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2)

(4) The Administrator shall acquire any non-Federal resources to replace Federal base system resources only in accordance with the provisions of this section

(5) Notwithstanding any acquisition of resources pursuant to this section, the Administrator shall not reduce his efforts to achieve conservation pursuant to subsection (a)

(c)(1) For each proposal under subsections (a), (f), (h), or (l) to acquire a major resource, to implement a conservation measure which will conserve an amount of electric power equivalent to that of a major resource, to pay or reimburse investigation and preconstruction expenses of the sponsors of a major resource, or to grant billing credits or services involving a major resource, the Administrator shall—

(A) publish notice of the proposed action in the Federal Register and provide a copy of such notice to the Council, the Governor of each State in which facilities would be constructed or a conservation measure implemented, and the Administrator's customers,

(B) not less than sixty days following publication of such notice, conduct one or more public hearings, presided over by a hearing officer, at which testimony and evidence shall be received, with opportunity for such rebuttal and cross-examination as the hearing officer deems appropriate in the development of an adequate hearing record,

(C) develop a record to assist in evaluating the proposal which shall include the transcript of the public hearings, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator, and

(D) following completion of such hearings, promptly provide to the Council and make public a written decision that includes, in addition to a determination respecting the requirements of subsection (a), (f), (h), (l), or (m), as appropriate—

(i) if a plan is in effect, a finding that the proposal is either consistent or inconsistent with the plan or, notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligations under this Act, or

(ii) if no plan is in effect, a finding that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2)

In the case of subsection (f), such decision shall be treated as satisfying the requirements of subsection (f), if it includes a finding of probable consistency, based upon the Administrator's evaluation of information available at the time of completion of the hearing under this paragraph Such decision shall include the reasons for such finding

(2) Where a plan is in effect the Council may determine by a majority vote of all the members appointed to the Council, and notify the Administrator, that a proposal referred to in paragraph (1) is either consistent or inconsistent with the plan If the Council fails to make such determination within sixty days after receipt of an Administrator's decision under paragraph (1)(D), the Council shall be deemed to have determined that the decision is consistent with the plan

(3) The Administrator may not implement any proposal referred to in paragraph (1) that is determined by either the Administrator or the Council to be inconsistent with the plan until the expenditure of funds for that purpose has been specifically authorized by Act of Congress

(4) Before the Administrator implements any proposal referred to in paragraph (1) which has been determined to be consistent with the plan or with the criteria of section 4(e)(1) and the considerations of section 4(e)(2), the Administrator shall—

(A) submit to the appropriate committees of the Congress the administrative record of the decision (including any determination by the Council under paragraph (2)) and a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act of 1969,

(B) publish notice of the decision in the Federal Register, and

(C) note the proposal in the Administrator's annual or supplementary budget submittal made pursuant to the Federal Columbia River Transmission System Act (16 U S C 838 and following)

The Administrator may not implement any such proposal until 90 days after the date on which such proposal has been noted in such budget

(d) The Administrator is authorized to acquire a resource, other than a major resource, whether or not such resource meets the criteria of section 4(e)(1) and the considerations of section 4(e)(2) but which he determines is an experimental, developmental, demonstration, or pilot project of a type with a potential for providing cost-effective service to the region The Administrator shall make no obligation for the acquisition of such resource until it is included in the annual budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act

(e)(1) In order to effectuate the priority given to conservation measures and renewable resources under this Act, the Administrator shall, to the maximum extent practicable, make use of his authorities under this Act to acquire conservation measures and renewable resources, to implement conservation measures, and to provide credits and technical and financial assistance for the development and implementation of such resources and measures (including the funding of, and the securing of debt for, expenses incurred during the investigation and preconstruction of resources, as authorized in subsection (f))

(2) To the extent conservation measures or acquisition of resources require direct arrangements with consumers, the Administrator shall make maximum practicable use of customers and local entities capable of administering and carrying out such arrangements

(f)(1) For resources which the Administrator determines may be eligible for acquisition under this section and satisfy the criteria of section 4(e)(1) and the considerations of section 4(e)(2) or, if a plan is in effect, to be consistent with the plan, the Administrator is authorized to enter into agreements with sponsors of—

(A) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource, or

(B) any other resource to provide for the reimbursement of the sponsor's investigation and preconstruction expenses concerning such resource (which expenses shall not include procurement of capital equipment or construction material for such resource)

In the case of any resource referred to in subparagraph (B), such reimbursement is authorized only if, for unforeseeable reasons—

(i) such resource is subsequently denied State siting approval or other necessary Federal or State permits, or approvals,

(ii) such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of section 4(e)(1) and the considerations of section 4(e)(2) or is not acceptable because of environmental impacts, or

(iii) after such investigation the Administrator determines not to acquire the resource and the sponsor determines not to construct the resource

(2) The Administrator may exercise the authority of this subsection only after he determines that the failure to do so would result in extreme or unusual hardship The Administrator may provide reimbursement under this subsection only for expenses incurred after the date of the enactment of this Act

(3) Any agreement under paragraph (1) shall provide the Administrator an option to acquire any such resource, including a renewable resource, and shall include such other provisions, as the Administrator deems appropriate, for the Administrator's recovery from such sponsors or any assignee of the sponsors, if such sponsor or assignee continues development of the resource, of any advances made by the Administrator pursuant to such agreement

(4) The Administrator shall not reimburse any expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after the date of a final denial of application for State siting approval or after the date the Administrator determines that the resource to be inconsistent with the plan or the criteria of section 4(e)(1) and the considerations of section 4(e)(2)

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible

by the Administrator in accordance with applicable law and regulations, may be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h)(1) If a customer so requests, the Administrator shall grant billing credits to such customer, and provide services to such customer at rates established for such services, for—

(A) conservation activities independently undertaken or continued after the effective date of this Act by such customer or political subdivision served by such customer which reduce the obligation of the Administrator that would otherwise have existed to acquire other resources under this Act, or

(B) resources constructed, completed, or acquired after the effective date of this Act by a customer, an entity acting on behalf of such customer, or political subdivision served by the customer which reduce the obligation of the Administrator to acquire resources under this Act. Such resources shall be renewable resources or multipurpose projects or other resources which are not inconsistent with the plan or, in the absence of a plan, not inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(2) The Administrator may grant credits for resources other than resources referred to in paragraph (1) which reduce the obligation of the Administrator if he finds the granting of such credits would not be inconsistent with the plan, or if no plan is in effect, not inconsistent with the priorities of section 4(e)(1) and the considerations of section 4(e)(2).

(3) The energy and capacity on which a credit under this subsection to a customer is based shall be the amount by which a conservation activity or resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(4) The amount of credits for conservation under this subsection shall be set to credit the customer implementing or continuing the conservation activity for which the credit is granted for the savings resulting from such activity. The rate impact on the Administrator's other customers of granting the credit shall be equal to the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually saved by the activity for which the credit is granted.

(5) For resources other than conservation, the customer shall be credited for net costs actually incurred by such customer, an entity acting on behalf of such customer, or political subdivision served by such customer, in acquiring, constructing, or operating the resource for which the credit is granted. The rate impact to the Administrator's other customers of granting the credit shall be no greater than the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually produced by the resource for which the credit is granted.

(6) Retail rate structures which are voluntarily implemented by the Administrator's customers and which induce conservation or installation of consumer-owned renewable resources shall be considered, for purposes of this subsection, to be (A) conservation activities independently undertaken or carried on by such customers, or (B) customer-owned renewable resources, and shall qualify for billing credits upon the same showing as that required for other conservation or renewable resource activities.

(7) Prior to granting any credit or services pursuant to this subsection, the Administrator shall notify the Council and his customers of the credit or services applied for, inform them of the methodology the Administrator proposes to use in determining the amount of any credit the Administrator may grant, and permit them a reasonable opportunity, consistent with the provisions of this Act, to evaluate and comment upon the credit and service proposal.

(i) Contracts for the acquisition of resources and for billing credits for major resources, including conservation activities, entered into pursuant to this section shall contain such terms and conditions as will insure timely construction, scheduling, completion, and operation of resources, to insure that the costs of any acquisition are as low as reasonably possible, consistent with sound engineering, operating, and safety practices, and to insure that the Administrator exercises effective oversight, inspection, audit, and review of all aspects of such construction and operation. Such contracts shall contain provisions assuring that the Administrator has the authority to approve all costs and proposals for major modifications in construction or in scheduling or in operations and to assure that the Administrator is provided with such current information as he deems necessary to evaluate such construction and operation.

(j)(1) All contractual and other obligations required to be carried out by the Administrator pursuant to this Act shall be secured solely by the Administrator's rev-

enues received from the sale of electric power and other services. Such obligations are not, nor shall they be construed to be, general obligations of the United States, nor are such obligations intended to be or are they secured by the full faith and credit of the United States.

(2) All contracts entered into by the Administrator for the acquisition of resources pursuant to this Act shall require that, in the sale of any obligations, all offerings and promotional material for the sale of such obligations shall include the language contained in the second sentence of paragraph (1). The Administrator shall monitor and enforce such requirement.

(k) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act and the Administrator's obligations to particular customer classes, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

(l)(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the States of Idaho, Montana, Oregon, and Washington if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor, or otherwise develop them. The Administrator shall keep the Council fully and currently informed of such investigations, and seek the Council's advice as to the desirability of pursuing such investigations.

(2) The Administrator is authorized and directed to investigate periodically opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity in the Pacific Northwest and the regions with which such exchanges may occur. The Council shall take into consideration in formulating a plan such investigations.

(3) After the Administrator submits a report to Congress pursuant to paragraph (5), the Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of section 4(e)(1) and the considerations of section 4(e)(2). Such acquisitions shall be in accordance with the provisions of this subsection.

(4) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this subsection with the assistance of other Federal agencies as may be appropriate.

(5) No later than July 1, 1981, the Administrator shall submit to the Congress a report of the results of the investigations undertaken pursuant to this subsection, together with the prospects for obtaining additional resources under the authority granted by this subsection and for reductions in generation or generating capacity through exchanges.

(m) Except as to resources under construction on the effective date of this Act, the Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest electric utility for ownership, participation, or other sponsorship, but not in excess of the amounts needed to meet such utility's Regional load.

RATES

SEC. 7. (a)(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law. Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act. (2) Rates established under this section shall become effective only upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission, that such rates—

(A) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs,

(B) are based upon the Administrator's total System costs, and

(C) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system

(b)(1) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and loads of electric utilities under section 5(c) Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply such loads until such sales exceed the Federal base system resources Thereafter, such rate or rates shall recover the cost of additional electric power as needed to supply such loads, first from the electric power acquired by the Administrator under section 5(c) and then from other resources

(2) After July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under subsection (g) for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, may not exceed in total, as determined by the Administrator, during any year after July 1, 1985, plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, the Administrator assumes that—

(A) the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives,

(B) public body, cooperative, and Federal agency customers were served, during such five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A),

(C) no purchases or sales by the Administrator as provided in section 5(c) were made during such five-year period,

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under subparagraph (B)) were—

(i) purchased from such customers by the Administrator pursuant to section 6, or

(ii) not committed to load pursuant to section 5(b),

and were the least expensive resources owned or purchased by public bodies or cooperatives, and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator, and

(E) the quantifiable monetary savings, during such five-year period, to public body, cooperative and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D), and

(ii) reserve benefits as a result of the Administrator's actions under this Act

were not achieved

(3) Any amounts not charged to public body, cooperative, and Federal agency customers by reason of paragraph (2) shall be recovered through supplemental rate charges for all other power sold by the Administrator to all customers Rates charged public body, cooperative, or Federal agency customers pursuant to this subsection shall not include any costs or benefits of a net revenue surplus or deficiency occurring for the period ending June 30, 1985, to the extent such surplus or deficiency is caused by—

(A) a difference between actual power deliveries and power deliveries projected for the purpose of establishing rates to direct service industrial customers under subsection (c)(1), and

(B) an overrecovery or underrecovery of the net costs incurred by the Administrator under section 5(c) as a result of such difference

Any such revenue surplus or deficiency incurred shall be recovered from, or repaid to, customers over a reasonable period of time after July 1, 1985, through a supplemental rate charge or credit applied proportionately for all other power sold by the Administrator at rates established under other subsections of this section prior to July 1, 1985

(4) The term "general requirements" as used in this section means the public body, cooperative or Federal agency customer's electric power purchased from the Administrator under section 5(b), exclusive of any new large single load

(c)(1) The rate or rates applicable to direct service industrial customers shall be established—

(A) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(c), based upon the Administrator's projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other customers, and

(B) for the period beginning July 1, 1985, at a level which the Administrator determines to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial consumers in the region

(2) The determination under paragraph (1)(B) shall be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates but shall take into account—

(A) the comparative size and character of the loads served,

(B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and

(C) direct and indirect overhead costs,

all as related to the delivery of power to industrial customers, except that the Administrator's rates during such period shall in no event be less than the rates in effect for the contract year ending on June 30, 1985

(3) The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers

(d) In order to avoid adverse impacts on retail rates of the Administrator's customers with low system densities, the Administrator shall, to the extent appropriate, apply discounts to the rate or rates for such customers

(e) Nothing in this Act prohibits the Administrator from establishing, in rate schedules of general application, a uniform rate or rates for sale of peaking capacity or from establishing time-of-day, seasonal rates, or other rate forms

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(c) and additional resources which, in the determination of the Administrator, are applicable to such sales

(g) Except to the extent that the allocation of costs and benefits is governed by provisions of law in effect on the effective date of this Act, or by other provisions of this section, the Administrator shall equitably allocate to power rates, in accordance with generally accepted ratemaking principles and the provisions of this Act, all costs and benefits not otherwise allocated under this section, including, but not limited to, conservation, fish and wildlife, uncontrollable events, reserves, the excess costs of experimental resources acquired under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a)), the Administrator shall adjust power rates to include any surcharges arising under section 4(f), and shall allocate any revenues from such charges in such manner as the Administrator determines will help achieve the purposes of section 4(f)

(i) In establishing rates under this section, the Administrator shall use the following procedures

(1) Notice of the proposed rates shall be published in the Federal Register with a statement of the justification and reasons supporting such rates Such notice shall include a date for a hearing in accordance with paragraph (2)

(2) One or more hearings shall be conducted as expeditiously as practicable by a hearing officer to develop a full and complete record and to receive public comment in the form of written and oral presentation of views, data, questions, and argument related to such proposed rates In any such hearing—

(A) any person shall be provided an adequate opportunity by the hearing officer to offer refutation or rebuttal of any material submitted by any other person or the Administrator, and

(B) the hearing officer, in his discretion, may allow for cross-examination to develop information and material relevant to any such proposed rate

(3) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and arguments submitted by per-

sons prior to, or before, the close of hearings shall be made a part of the administrative record.

(4) After such a hearing, the Administrator may propose revised rates, publish such proposed rates in the Federal Register, and conduct additional hearings in accordance with this subsection.

(5) The Administrator shall make a final decision establishing a rate or rates based on the record which shall include the hearing transcript, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator. The decision shall include a full and complete justification of the final rates pursuant to this section.

(6) The final decision of the Administrator shall become effective on confirmation and approval of such rates by the Federal Energy Regulatory Commission pursuant to subsection (a)(2). The Commission shall have the authority, in accordance with such procedures as the Commission may establish, to approve the final rate submitted by the Administrator on an interim basis, pending the Commission's final decision in accordance with such subsection.

(j) All rate schedules adopted, and all power billings rendered, by the Administrator pursuant to this section shall indicate—

(1) the approximate cost contribution of different resource categories to the Administrator's rates for the sale of energy and capacity, and

(2) the cost of resources acquired to meet load growth within the region and the relation of such cost to the average cost of resources available to the Administrator.

(k) Notwithstanding any other provision of this Act, all rates or rate schedules for the sale of nonfirm electric power within the United States, but outside the region, shall be established after the date of this Act by the Administrator in accordance with the procedures of subsection (i) of this section (other than the first sentence of paragraph (6) thereof) and in accordance with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act. Notwithstanding section 201(f) of the Federal Power Act. Such rates or rate schedules shall become effective after review by the Federal Energy Regulatory Commission for conformance with the requirements of such Acts and after approval thereof by the Commission. Such review shall be based on the record of proceedings established under subsection (i) and this subsection. The parties to such proceedings under subsection (i) shall be afforded an opportunity by the Commission for an additional hearing in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act.

(l) In order to further the purposes of this Act and to protect the consumers of the region, the Administrator may negotiate, or establish, rates for electric power sold by the Administrator to any entity not located in the United States which shall be equitable in relation to rates for all electric power which is, or may be, purchased by the Administrator or the Administrator's customers from entities outside the United States. In establishing rates other than by negotiation, the provisions of subsection (i) shall apply. In the case of any negotiation with an entity not located in the United States, the Administrator shall provide public notice of any proposal to negotiate such rates. Such negotiated rates shall be not less than the rates established under this Act for nonfirm power sold within the United States but outside the region. The Administrator shall also afford notice of any rates negotiated pursuant to this subsection.

AMENDMENTS TO EXISTING LAW

SEC. 8. (a) Section 11(b) of the Federal Columbia River Transmission System Act (16 U.S.C. 838) is amended by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(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.".

(b) Subsection (b) of section 13 of such Act is amended by striking out "and 11(b)(11)" and inserting in lieu thereof ",11(b)(11), and 11(b)(12)".

(c)(1) The first sentence of subsection (a) of section 13 of such Act is amended by inserting after the word "system," the following: "to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (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 electric power from a generating facility having a planned capability greater than 50 average megawatts),".

(2) The fourth sentence of such subsection (a) is amended by inserting the following before the period at the end thereof "issued by Government corporations"

(3) Such subsection (a) is further amended by inserting the following before the period at the end thereof "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 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"

(d) Clause (2) of section 1(b) of the Act of August 31, 1964 (78 Stat 756) is amended to read as follows "(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region "

ADMINISTRATIVE PROVISIONS

SEC 9 (a) Subject to the provisions of this Act and other applicable provisions of law, the Administrator is authorized to contract in accordance with section 2(f) of the Bonneville Project Act of 1937 (16 U S C 832a(f))

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by the Bonneville Project Act of 1937 (16 U S C 832 and following), sections 302(a) (2) and (3) of the Department of Energy Organization Act, and this Act The Secretary of Energy, the Council, and the Administrator shall take such steps as are necessary to assure the timely implementation of this Act in a sound and businesslike manner

(c) Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of the Act of August 31, 1964 (16 U S C 837a and 837b) for any contract for the sale, delivery, or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest In applying such sections for the purposes of this subsection, the term "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and the term "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity The authority granted, and duties imposed upon, the Secretary by sections 5 and 7 of such Act (16 U S C 837e and 837f) shall also apply to the Administrator in connection with resources acquired by the Administrator pursuant to this Act The Administrator shall, in making any determination, under any contract executed pursuant to section 5, of the electric power requirements of any Pacific Northwest customer, which is a non-Federal entity having its own generation, exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of such Act (16 U S C 837b(d)), any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased Such amount of energy shall not be excluded, if the Administrator determines that through reasonable measures such amount of energy could not be conserved or otherwise retained for service to regional loads The Administrator may sell as replacement for any amount of energy so excluded only energy that would otherwise be surplus

(d)(1) For purposes of sections 701 through 706 of title 5, United States Code, the following actions shall be final actions subject to judicial review—

(A) adoption of the plan or amendments thereto by the Council under section 4, and any determination by the Council under section 4(h),

(B) a decision by the Administrator under section 4(j),

(C) sales, exchanges, and purchases of electric power under section 5,

(D) the Administrator's acquisition of resources under section 6,

(E) implementation of conservation measures under section 6,

(F) execution of contracts for assistance to sponsors under section 6(f),

(G) granting of credits under section 6(h), and

(H) final rate determinations under section 7

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with this Act The scope of review of such actions without a hearing or after a hearing shall be governed by section 706, other than 706(2) (E) and (F), of title 5, United States Code, except that final determina-

tions regarding rates under section 7 shall be supported by substantial evidence in the rulemaking record required by section 7(i) considered as a whole The scope of review of an action under section 6(c) shall be governed by section 706 of title 5, United States Code Nothing in this section shall be construed to require a hearing pursuant to section 554 or 557 of title 5 of the United States Code

(3) Nothing in this section shall be construed to preclude judicial review of other final actions and decisions by the Council or Administrator

(4) For purposes of this subsection—

(A) major resources shall be deemed to be acquired upon publication in the Federal Register pursuant to section 6(c)(4)(B),

(B) resources, other than major resources, shall be deemed to be acquired upon execution of the contract therefor,

(C) conservation measures shall be deemed to be implemented upon execution of the contract or grant therefor, and

(D) rate determinations pursuant to section 7 shall be deemed final upon confirmation and approval by the Federal Energy Regulatory Commission

(5) Suits to challenge final actions and decisions taken pursuant to this Act, or the implementation of such final actions, whether brought pursuant to this Act, the Bonneville Project Act, the Act of August 31, 1964 (16 U S C 837-837h), or the Federal Columbia River Transmission System Act (16 U S C 838 and following), shall be filed in the appropriate Federal court in the case of rates under section 7 and in the United States court of appeals for the region in the case of other actions or decisions subject to the provisions of this subsection Such suits shall be filed within ninety days of the time such action or decision is deemed final, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days from such notice or be barred In the case of a challenge of the plan or amendments thereto, such suit shall be filed within sixty days after publication of a notice of such final action in the Federal Register Such courts shall have jurisdiction to hear and determine any suit brought as provided in this section The plan, as finally adopted or portions thereof, or amendments thereto, shall not thereafter be reviewable as a part of any other action under this Act or any other law administered by the Administrator

(e) For purposes of enabling the Administrator to acquire resources necessary to meet the firm load of public bodies, cooperatives, and Federal agencies from a governmental unit at a cost no greater than the cost which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a)(1) of the Internal Revenue Code of 1954 shall not be affected by the Administrator's acquisition of such resources if—

(1) the Administrator, prior to contracting for such acquisition, certifies to his reasonable belief, that the persons for whom the Administrator is acquiring such resources for sale pursuant to section 5 of this Act are public bodies, cooperatives, and Federal agencies, unless the Administrator also certifies that he is unable to acquire such resources without selling a portion thereof to persons who are not exempt persons (as defined in section 103(b) of such Code), and

(2) based upon such certification, the Secretary of the Treasury determines in accordance with applicable regulations that less than a major portion of the resource is to be furnished to persons who are not exempt persons (as defined in section 103(b) of such Code)

The certification under paragraph (1) shall be made in accordance with this subsection and a procedure and methodology approved by the Secretary of the Treasury For purposes of this subsection, the term "major portion" shall have the meaning provided by regulations issued by the Secretary of the Treasury

(f) When reviewing rates for the sale of power to the Administrator by an investor-owned utility customer under sections 5(c) or 6, the Federal Energy Regulatory Commission shall, in accordance with section 209 of the Federal Power Act (16 U S C 824h),

(1) convene a joint State board and

(2) invest such board with such duties and authority as will assist the Commission in its review of such rates

(g)(1) No "company" (as defined in section 2(a)(2) of the Public Utility Holding Company Act of 1935, 15 U S C 79b(a)(2)), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935, 15 U S C 79b(a)(3)), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code, if at least 90 per centum of the electricity generated by such company is sold to the Administrator under section 6, and if—

(A) the organization of such company is consistent with the policies of the Public Utility Holding Company Act of 1935, as determined by the Securities and Exchange Commission, with the concurrence of the Administrator, at the time of such organization, and

(B) participation in any facilities of such "company" has been offered to public bodies and cooperatives in the region pursuant to section 6(m), and

(2) The Administrator shall include in any contract for the acquisition of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource

(3) In the case of any "company" which meets the requirements of paragraph (1), the Administrator, with the concurrence of such Commission, shall approve all significant contracts entered into by, and between, such "company" and any sponsor company or any subsidiary of such sponsor company which are determined to be consistent with the policy of the Public Utility Holding Company Act of 1935 at the time such contracts are entered into The Administrator and the Securities and Exchange Commission shall exercise such approval authority within sixty days after receipt of such contracts Such contracts shall not be effective without such approval

(4) Paragraph (1) of this subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission, or both, through periodic review, (A) determine at any time that the "company" no longer operates in a manner consistent with the policy of the Public Utility Holding Company Act of 1935 and in accordance with this subsection, and (B) notify the "company" in writing of such preliminary determination This subsection shall cease to apply to such "company" thirty days after receipt of notification of a final determination thereof A final determination shall be made only after public notice of the preliminary determination and after a hearing completed not later than sixty days from the date of publication of such notice Such final determination shall be made within thirty days after the date of completion of such hearing

(h)(1) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(A) acquire any electric power required by (i) any customer or group of customers to enable them to replace resources determined to serve firm load under section 5(b), or (ii) direct service industrial customers to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power the Administrator is obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting such power, and

(B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws

(2) In implementing the provisions of subparagraphs (A) and (B) of paragraph (1), the Administrator may prescribe policies and conditions for the independent acquisition or disposition of electric power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisition or disposition

(3) The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year

(i)(1) The Council, as soon as practicable after the enactment of this Act, shall prepare, in consultation with the Administrator, the customers, appropriate State regulatory bodies, and the public, a report and shall make recommendations with respect to the various retail rate designs which will encourage conservation and efficient use of electric energy and the installation of consumer-owned renewable resources on a cost-effective basis, as well as areas for research and development for possible application to retail utility rates within the region Studies undertaken pursuant to this subsection shall not affect the responsibilities of any customer or the

Administrator which may exist under the Public Utility Regulatory Policies Act of 1978.

(2) Upon request, and solely on behalf of customers so requesting, the Administrator is authorized to (A) provide assistance in analyzing and developing retail rate structures that will encourage cost-effective conservation and the installation of cost-effective consumer-owned renewable resources; (B) provide estimates of the probable power savings and the probable amount of billing credits under section 6(h) that might be realized by such customers as a result of adopting and implementing such retail rate structures; and (C) solicit additional information and analytical assistance from appropriate State regulatory bodies and the Administrator's other customers.

(j) There is hereby established within the administration an Assistant Administrator position for conservation and renewable resources. Such Assistant Administrator shall be appointed by the Administrator and shall be assigned responsibility for conservation and direct-application renewable resource programs (including the administration of financial assistance for such programs). Such position is hereby established in the senior executive service in addition to the number of such positions heretofore established in accordance with other provisions of law applicable to such positions.

SAVINGS PROVISIONS

SEC. 10. (a) Nothing in this Act shall be construed to affect or modify any right of any State or political subdivision thereof or electric utility to—

(1) determine retail electric rates, except as provided by section 5(c)(3);

(2) develop and implement plans and programs for the conservation, development, and use of resources; or

(3) make energy facility siting decisions, including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any customer under any contract existing as of the effective date of this Act.

(c) Nothing in this Act shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(d) If any provision of this Act is found to be unconstitutional, then any contract entered into by the Administrator, prior to such finding and in accordance with such provisions, to sell power, acquire or credit resources, or to reimburse investigation and preconstruction expenses pursuant to section 5, and section 6 (a), (f) or (h) of this Act shall not be affected by such finding.

(e) Nothing in this Act shall be construed to affect or modify any treaty or other right of an Indian tribe.

SEC. 11. This Act shall be effective on the date of enactment, or October 1, 1980, whichever is later. The term "date of enactment of this Act" as used in this Act shall be either such date or October 1, 1980.

BACKGROUND AND NEED

The Bonneville Power Administration (BPA) was established in 1937 by the Act of August 20, 1937, generally referred to as the Bonneville Project Act (16 U.S.C. 832, et seq.). Section 2(a) of the 1937 Act provides that the BPA shall dispose of electric energy generated in the operation of the Bonneville Project constructed and operated by the Corps of Engineers. Section 2(b) of the Act also states:

> In order to encourage the widest possible use of all electric energy that can be generated and marketed and to provide reasonable outlets therefor, and to prevent the monopolization thereof by limited groups, the administrator is authorized and directed to provide, construct, operate, maintain, and improve such electric transmission lines and substations, and facilities and structures appurtenant thereto, as he finds necessary, desirable, or appropriate for

> the purpose of transmitting electric energy, available for sale, from the Boneville project to existing and potential markets, and for the purpose of interchange of electric energy, to interconnect the Bonneville project with other Federal projects and publicly-owned power systems now or hereafter constructed.

The Bonneville Act did not give BPA authority to construct any generation facilities. Instead, Congress authorized the Corps of Engineers and the then Bureau of Reclamation (now Water and Power Resources Service) to construct additional hydro projects in the Pacific Northwest.

Congress has since expanded the BPA statutory authority and responsibilities through the enactment of several other laws, such as Public Law 88-552 (16 U.S.C. 837; et seq.) and the Federal Columbia River Transmission System Act (16 U.S.C. 838, et seq.). The latter established a self-financing fund, called the Bonneville Power Administration fund, for the operation and maintenance of the Federal Columbia River Transmission system, as well as a number of other purposes.

BPA is the marketing agency of Federal hydroelectric power generated from a series of hydro projects built by the Corps of Engineers and the Bureau of Reclamation and located in the Pacific Northwest on the Columbia River and it tributaries. BPA markets this power wholesale to utilities and to direct service industrial customers. BPA's primary service area is the Pacific Northwest, which generally means the States of Oregon and Washington, that portion of Montana west of the Continental Divide, and portions of the States of Nevada, Utah, and Wyoming. This service area is statutorily established in Public Law 88-552 which provides a priority in the sale of BPA power for loads within the region. In marketing power generated at these Federal hydro projects, Congress provided that BPA is unequivocally obliged by statute to "give preference and priority to public bodies and cooperatives" which terms are defined in section 3 of the Bonneville Project Act. Such public bodies and cooperatives are known as "preference customers". S. 885, as amended by this Committee, does not alter in any way that Congressionally-established obligation and priority, not does the Committee intend that the legislation be construed to alter or modify that obligation and priority.

Until the early 1970's, there was a sufficient supply of Federal power to satisfy the net requirements of preference customers, various Federal agencies, investor-owned systems, and certain direct service industrial customers (DSI's). Until that time, the Pacific Northwest enjoyed ample supplies of electricity at very low prices. However, as projected demand began to exceed supplies, the Administrator announced that firm power sales to investor-owned utilities would cease in 1973. The region then began to realize the finite nature of the generating potential of the Columbia River System and the need to find an acceptable way to meet future electric energy demand. Adding to BPA's existing power supply was thought to be the most logical alternative.

However, BPA is not authorized by law to construct additional resources on its own. With sites for baseload hydroprojects essentially exhausted, BPA and the region's electric utilities initiated a

hydro-thermal power program to meet future load growth by adding coal-fired and nuclear generating plants owned by non-Federal entities to the Federal system. BPA agreed to participate in paying for the publicly-owned portions of these powerplants through a net-billing arrangement with its preference customers, under which BPA preference customers (utilities participating in the actual construction of these plants) signed agreements which assigned or sold the plant's generating capability to BPA in return for a credit on the BPA charges for the power sales to that utility. Washington Public Power System (WPPSS) plants 1, 2 and 3, now under construction, are financed through the credit established in this way. However, in 1972, the internal Revenue Service effectively prohibited additional net billed agreements by issuing a regulation denying tax exempt status for future municipal bonds to finance construction of plants whose capability is acquired by Federal agencies. The region then attempted an alternative program, sometimes called "Phase 2" of the hydro thermal program, whereby preference customers agreed to build their own new generation to meet load growth with BPA agreeing to provide the necessary reserves for those systems and serving the DSI's. For a number of reasons, including an unfavorable court decision, this alternative failed.

In June of 1976, BPA recognized that Federal power, including the "net billed" power, would be inadequate to meet the projected needs of its preference customers, and issued Notices of Insufficiency to these customers. This relieved BPA from liability for any failure to satisfy preference customer load growth after July 1, 1983. Similarly, BPA informed its direct service customers that their contracts expiring in the 1981–91 period were not likely to be renewed. In view of this inevitable shortfall in Federal base resources and with no ability to add to its power supply, BPA began consideration of an administrative allocation so that each qualified customer could obtain an appropriate share of the available resources and plan to meet its needs accordingly.

More than anything else, it was probably the enormous increase in the cost of alternative resources that promises to make the process of allocating these resources so difficult and contentious. The region enjoys the lowest electric rates in the country. BPA is selling wholesale electricity at rates approximating 8 mills per kilowatt, or an equivalent of $3/barrel oil (even after a recent 90 percent rate increase), whereas investments in thermal based alternative resources could now cost 10 times a much. Each claimant to the BPA supply in the Northwest is vigorously seeking a share of this invaluable resource. The preference customers claim that upon termination of the DSI contracts they are entitled to any power thus freed up. The DSI's are claiming that, if cut off from direct service, they are entitled to service similar to their current service from the appropriate local utility. Ten of the 15 DSI's are located in, or adjacent to, BPA preference customer service areas. These ten make up about 85 percent of the total DSI load.

At the same time, the States are looking for ways to qualify their residential customers for a share of these resources. In this respect, the State of Oregon has formed a "Domestic and Rural Power Authority" (DRPA) which has applied to BPA for an allocation of power. DRPA is intended to qualify as a preference customer in

order to obtain low-cost power to serve all residential customers throughout the State. With the incentive becoming greater, more and more groups are considering the formation of new preference customers, among other reasons, for the purpose of qualifying for this power. With stakes so high, no claimant can afford not to attempt to secure an administrative allocation.

So long as this struggle continues (and it is only just beginning) utilities are unable to plan effectively for their future needs. The most important consequence of this failure is that despite certain distinguished programs for conservation, conservation opportunities are being ignored. The opportunity for conservation of electric power in the region is great. Kilowatts saved cost a small fraction of the cost of producing an equivalent amount of kilowatts. All concede that a vast potential for energy conservation is being wasted in the region.

As the costs of new generation have increased, the potential for cost-effective conservation programs in the region have also increased. Unfortunately, the region appears to lack mechanisms to undertake an effective regional conservation effort. BPA has limited authority to carry out conservation programs, and no authority to borrow or underwrite funds to finance these programs. Individual utilities (particularly publicly owned systems) face many legal and practical problems which limit their conservation efforts. Further, under current conditions it could be several years before many customers of BPA preference customers will face the kind of price signals that would encourage them to invest money in cost effective conservation measures.

Coupled with conservation's economic promise is the urgent need to conserve to ease the region's almost certain power shortages in the 1980's. Current forecasts indicate that the Northwest will experience massive power shortages during any critical water year in the next decade even if present construction schedules are met, and the likelihood is very great that those construction schedules will slip still further. Although it is too late to avert such shortages by building new thermal plants it is not too late to reduce the incidence and duration of such shortages through conservation. In the absence of a coordinated regional power program, it is probable that conservation efforts in the region will be too slow, too scattered, and too modest to be effective; and the region would thus lose a good portion of conservation's potential economic benefits.

The region has turned to the Congress to assist in two requests: (1) the question as to which customers obtain what share of these low-cost Federal resources and (2) to authorize BPA to play a central role in helping to determine how the future electric power needs of this region will be met. The various legislative proposals have involved an expansion of the authority of the Bonneville Power Administration to permit the Administrator to acquire or purchase additional power on a long-term basis. BPA now supplies over half of the electricity to this region on a wholesale basis and maintains the integrated power grid that tends to distinguish this region from others. A grant of additional authority to this agency was generally accepted as the most sensible solution to the region's planning problem and far more acceptable than the alternative of contentious litigation and what the Governor of Washington de-

scribed as a "regional civil war" over low-cost power. However, no solution to such a serious problem could be quite this simple.

Every legislative alternative has occasioned some controversy and concern, especially in the region itself. Commencing in the 95th Congress and carrying through to the second session of this Congress, a variety of legislative approaches have been introduced and extensive hearings have been held. These hearings showed that acceptable legislation had to include: (1) strong conservation provisions; (2) provisions protecting the existing preference clause, and insurance that this legislation should not be considered as a precedent for other regions; (3) an effective regionwide public planning process; (4) a share in the economic benefits of the lower-cost Federal system for the residential customers of the non-preference customers; (5) higher rates for direct service customers; (6) fish and wildlife protection, mitigation, and enhancement measures; and (7) assurances that the Northwest's legislative solution not impact detrimentally on other regions.

The hearings also demonstrated that a legislative solution to the region's electric power planning problems was imperative. The certain inability of the region otherwise to resolve its problems without legislation represents a serious economic, social, and environmental threat to the region and, by implication, to other regions of the country. The continued failure to use existing resources and conservation effectively and to plan efficiently for future needs raises the potential of severe regional electrical power shortages in this decade.

Purpose of the Legislation

S. 885, as amended by the Committee, provides a mechanism through which the Pacific Northwest can resolve the differing claims over how the Federal resources are to be shared and begin coordinated planning to meet the electric power needs of the region. Emphasis is placed on conservation and the development of renewable resources. The Committee amendment establishes a public planning process to enable the States, localities, consumers, customers, fish and wildlife agencies and appropriate Indian tribes, users of the Columbia River System, and the public at large, to participate in the region's electric power decisionmaking process. It serves to protect and enhance the fish and wildlife of the Columbia River System. It fully preserves the preference clause and the long-held statutory rights of preference customers. It is not, however, intended to be a precedent for other regions, uniquely suitable for this region primarily because of the central role of BPA in the region's power system.

Summary of the Legislation

The Pacific Northwest Electric Power Planning and Conservation Act is intended to provide a legislative solution to the electric power planning problems of the Northwest. It authorizes the Bonneville Power Administration to acquire additional resources on a long-term basis, giving first priority to conservation and renewable resources. The Act also requires the Administrator to sign new contracts for the sale of power to the region's utilities and direct serv-

ice customers. In the absence of this authority, the Administrator would need to allocate the existing limited Federal resources among BPA's preference customers (public bodies and cooperatives) administratively (subject to judicial challenge), leaving these, other utilities, and the industrial customers in the region with the responsibility to meet their own uncertain future power needs.

To ensure that this authority to acquire purchase power is exercised in the region's best interest, a regional planning Council is established. This Council, made up of 11 voting members appointed by the Secretary of Energy upon the recommendation of the region's governors, is charged with establishing a Plan to guide the Administrator in the exercise of his authorities. In acquiring necessary resources to meet the projected power demands of the region, the Administrator must pursue conservation and end user renewable resources before proceeding to other resources. No major resources found to be inconsistent with the regionally developed Plan can be acquired without a lengthy process that ultimately requires approval by Congress.

Acquisition authority does not permit BPA construction or ownership, but permits the Administrator to purchase power developed by others for sale to the Administrator. To the extent that conservation measures cannot satisfy the region's needs, the Administrator is authorized, consistent with the plan, to enter into contracts with a sponsor of a generating resource to acquire the capacity of that resource. In this way, BPA is permitted to add to the regional power supply.

With this authority, the Administrator would be permitted to enter into contracts promising to meet the future net requirements of his authorized customers and additional qualified customers. With such contracts, the preference customers could be assured of having all of their future needs satisfied and, pursuant to provisions of the Committee amendment, could maintain their existing preference to the supply and price of that power.

Direct service industrial customers now may purchase power, firm or near firm, directly from BPA. In 1978, BPA made direct sales of power to 15 DSIs located in Oregon, Washington, and Montana. Six of these operate 10 aluminum reduction plants, providing about 30 percent of U.S. domestic aluminum production capacity, while the other 9 are electroprocessing, pulp, paper, or chemical companies.

Following is a list provided by the General Accounting Office of DSIs receiving power from BPA, with their contract expiration dates and contract demand amounts:

Customer	Contract expiration	Demand (million watts) (as of Mar 1 1979)
Aluminum companies (6)		
Alcoa	June 15, 1987	520
Anaconda Co	Sept 8, 1987	379
Intalco	Oct 22, 1984	438
Kaiser Aluminum & Chemical Corp	Oct 10, 1986	674
Martin-Marieta Aluminum Corp	Feb 13, 1988	380
Reynolds Metals Co	Dec 28, 1986	690
Subtotal		3,081

Customer	Contract expiration	Demand (million watts) (as of Mar 1 1979)
Other companies (9)		
The Carborundum Co	Dec 31, 1985	30
Crown Zellerbach Corp	Aug 30 1983	14
Georgia Pacific Corp	July 6, 1984	27
Hanna Nickel Smelting Co	June 26, 1990	115
Oregon Metallurgical Corp	May 7, 1988	9
Pacific Carbide & Alloys Co	Sept 9, 1991	8
Pennwalt Corp	Dec 31, 1985	45
Stauffer Chemical Works	Apr 22, 1988	80
Union Carbide Corp	May 11, 1981	12
Subtotal		340
Total (15)		3,421

The GAO advises that BPA sales of power to these companies in 1978 were:

	Kilowatt hours (billions)	Dollars (millions)
Six aluminum companies	23 9	57 1
Nine other companies	2 1	5 5
Sales to DSI's	26 0	62 6
Total BPA sales	76 5	267 5
DSI sales as percent of total BPA sales	34	23

The Committee Amendment specifically authorizes the Administrator to enter into new contracts with these direct service industries. These contracts will provide power in amounts equal to, but not greater than, that which these companies are now entitled under existing contracts with BPA, and the terms of these contracts will require that these companies continue to supply reserves for the region.

These industries will also pay significantly higher rates under the new contracts. These higher rates permit the Administrator to enter into contracts with the region's investor-owned utilities for an exchange of power equal to the utilities' residential load. This exchange will permit residential customers of investor-owned utilities to share in the benefits of the lower-cost Federal resources. The power sold to BPA will be sold at the utilities' average system cost and purchased back at the rate paid by the preference customers' utilization their general requirements. The loss in revenue to the Administrator is in effect returned by the higher direct service industry rates. By providing these residential customers wholesale rate parity with residential customers of preference utilities, the amendment serves in a substantial way to cure a major part of the allocation problem.

The amendment also authorizes the Administrator to enter into contracts with investor-owned utilities to meet their future load

growth. Although the rates for power sold under these contracts will be higher than is now being paid by the preference customers for their general requirements, the offer of these contracts has benefits for these utilities' customers. It will integrate these utilities into an overall planning and delivery system which is appropriate to this region. By permitting a regional backup for the development of power necesary to meet this new obligation of the Administrator, the power will be produced at lesser cost. This will benefit all of the investor-owned utility customers. In addition, the lower cost power will result in lower average system costs, and thus lessen the cost of the exchange.

The amendment also ensures that regional planning and the management of the region's hydroelectric projects will pay due regard to the fish and wildlife resources of the Columbia River System, including anadromous fish. Protection, mitigation, and enhancement of this important resource is an integral element in this proposal.

Legislative Background

On August 17, 1978, former Congressman Lloyd Meeds introduced H.R. 13931, in an effort to provide a solution to the electric power planning problems identified within the region at the time. An identical bill, S. 3418, was introduced by Senator Henry M. Jackson. These bills represented a redraft of proposal first introduced in 1977. H.R. 13931 was cosponsored by eight Congressmen from the region and was jointly referred to the Committee on Interior and Insular Affairs and this Committee.

On September 19, 1978, the Committee's Subcommittee on Energy and Power initiated hearings on H.R. 13931. At that hearing, Subcommittee Chairman John D. Dingell said:

> This bill is of vital concern of the consumers of the region. * * *, it raises a number of difficult issues, some of which reach far beyond the borders of the Columbia River Basin in their implications. These include: Impact on traditional Federal marketing priorities, timetables for the implementation of vitally needed energy conservation programs, as well as the adequacy of those programs, the standards to be imposed upon the administrator of BPA, the adequacy of provisions for public participation, the costs of such a program to the Federal Treasury, the provisions for the acquisition of additional generating capacity and the purchase of power, the impact on the preference clause, antitrust questions, tax issues and more.

Additional hearings by the Subcommittee were held on September 27, 1978 in Washington, D.C. and on December 11, 13, and 14 in the States of Washington, Oregon, and Idaho. During these of hearings, testimony was heard from over 100 witnesses including many of the region's elected officials, various Federal agencies, the General Accounting Office, State and local agencies, interested national groups, utility and industry representatives, fish and wildlife interests, environmental groups and the general public.

These hearings demonstrated that while a need for legislation clearly existed, the legislation needed considerable improvement.

At the commencement of the 96th Congress, H.R. 3508 was introduced by Congressman Al Ullman of Oregon, together with 11 other Members of the region's delegation. Similarly, Senator Jackson introduced S. 885 in the Senate. These bills contained the same provisions as H.R. 13931 and S. 3418. The sponsors of H.R. 3508 and S. 885 indicated, however, that introduction of this same bill was intended to trigger immediate legislative consideration and that there was a general consensus on a need for substantial modification.

On July 30, 1979, the Senate Committee on Energy and Natural Resources reported S. 885 with an amendment (S. Rept. 96-272) that substantially revised the bill. The bill passed the Senate on July 30, 1979 after additional amendments were adopted.

Other bills introduced in the House during the 96th Congress are: H.R. 3508 by Mr. Ullman and 12 co-sponsors; H.R. 4137 and H.R. 4159 by Mr. Weaver; H.R. 5146 by Mr. Ullman; H.R. 5260 by Mr. Murphy of New York; and H.R. 6677 by Mr. Swift.

Two additional days of hearings were held by the Subcommittee on July 30 and October 19, 1979. During the July 30 hearings, Congressman Tom Foley, on behalf of himself, Congressmen Ullman, Duncan, AuCoin, Pritchard, Baker, Dicks, Swift, Hansen and Symms, stressed the urgent need for legislation for this region. Congressman Foley briefly noted the four basic needs of the region:

> The first of these is allocation. Half of the power in the Northwest is relatively low cost Federal power. All of that power is presently committed by contracts that begin expiring in 1981, and Bonneville lacks the authority to add significantly to supplies. Thus, allocation of Federal power cannot be avoided; the only issue is whether the reallocation will be legislated by Congress or performed administratively by the Administrator of BPA. An administrative allocation will be fought over for years in the courts because the amount of Federal power is sufficiently large and its cost is sufficiently low that none of the utilities or the industries servied directly by BPA can afford not to take part in the impending courtroom battles. Without a legislative allocation of Federal power, disruption in the region is virtually inevitable.
>
> The second need is power supplies. The Northwest has been growing rapidly, but even if our growth rate declined dramatically, the potential for large power deficits will remain during every year of the coming decade. The impact of such shortages on the Northwest will be particularly severe; no region is more dependent on electric energy than ours. We cannot, by legslation, eliminate such shortages. What we can do, and must do, is give our region the tools it needs to reduce any impending power shortage through cooperative planning, development, and operation of our power resources and through stimulating electric energy conservation. We can and should do this under legislation that requires the Northwest to continue paying its own way.
>
> Third is a regional power resource mix. In recent years, the Northwest has virtually exhausted its ability to obtain

more firm energy from new hydroelectric units. We do not have significant oil and natural gas resources in the Pacific Northwest, and we do not use either gas or oil to generate any significant percentage of Northwest electricity. Within the Bonneville service territory, we have relatively little coal. Ten years ago, the region turned primarily to nuclear power to meet its load growth needs.

But nuclear power in the Northwest faces the same problems it does elsewhere in the country. For these reasons, there is increasing interest in broadening our generating resource mix to include renewable resources and there is widespread support for a strong conservation effort. We believe that every opportunity should be provided for renewable resources to compete with more conventional resources, and that conservation should be pursued vigorously. Without legislation, however, we have no regionwide mechanisms for enforcing or financing these efforts; we cannot capture their full potential under existing law.

Fourth are planning requirements. Today, power planning in the Northwest is largely in the hands of the utilities. The public, however, represented, should be more directly involved as well. Over the years, public and private utilities have worked in cooperation with Bonneville and its direct-service industries to stretch regional energy resources and minimize the need for costly, new generating capacity. But, for a variety of reasons, few utilities possess the capacity to implement broad conservation programs and to develop renewable resources to their full, cost-effective potential. In addition, because of our heavy dependence on hydroelectric generation, energy decisionmaking also affects nonpower uses of our river system such as fisheries, farming, recreation, and navigation.

At the October 19 Subcommittee hearing, Congressman Al Swift summed up the dilemma still facing the Subcommittee:

> * * * despite progress and improvement in this legislation since the last Congress, all the proposed bills, including S. 885, still appear to lack the kind of regiona support necessary for passage. Specifically, the bills have been criticized as failing to protect adequately the broad range of interests which may be affected by passage.
>
> Spokesmen for the region stress that the problems which prompted the legislation are no less serious today then they were last September when we began the first of 8 days of hearings on this subject. These problems include the need to allocate valuable electric power harnessed from the energies of the treasured Columbia River system; the need for strong conservation programs, and regional electric power planning, and the need to enhance the region's diminishing anadromous fish resources.

On March 3, 1980, Congressman Swift introduced H.R. 6677, which substantially met many of the concerns expressed by witnesses at the Subcommittee hearings and by many Members of the Committee. The bill, while generally following the format of S. 885,

substantially revised the Senate-passed bill and eliminated many ambiguities identified in that bill, particularly by the region's preference customers, the DSI's private utilities, governmental entities, Indian representatives, fishery representatives, environmentalists, and many concerned individuals in the region. I was the basic markup bill in the Subcommittee and the Committee, representing a vast improvement over other bills considered by the Committee.

COMMITTEE ACTION

The Committee on Interstate and Foreign Commerce met on March 19, 1980 to consider the text of H.R. 6677 as an amendment to S. 885 and ordered S. 885, with an amendment, reported to the House by a voice vote, a quorum being present.

The Committee wishes particularly to commend Congressman Swift and all the Members of the region who have been immeasurably helpful to the Committee in understanding the problems of the region. These Members have worked with the various entities and citizens of the region to develop an improved bill aimed at meeting the concerns of region and the nonregional interests.

The Committee also expresses its appreciation to the Administrator of the BPA, Mr. S. Sterling Munro, and his staff for the technical assistance BPA provided to the Committee.

The Committee is also appreciative of the assistance received from the General Accouting Office. The GAO's report of September 4, 1979, entitled "Impacts and Implications of the Pacific Northwest Power Bill", was extremely helpful to the Committee.

GENERAL EXPLANATION

The basic framework of the Committee amendment to S. 885 corresponds to the structure of all of the introduced bills addressing the electric power planning problems faced by the Pacific Northwest. These basic features are: (1) a grant of expanded authority to the Bonneville Power Administrator to purchase additional power on a long-term basis; (2) the establishment of a public planning process charged with preparing a plan to guide the Administrator; (3) the establishment of effective provisions concerning fish and wildlife of the Columbia River and its tributaries; (4) a requirement that conservation and renewables have a priority for acquisition by the Administrator; (5) an obligation on the Administrator to offer new long-term contracts for the sale of power to preference customers, Federal agencies, investor-owned utilites, and existing direct service industries; (6) a revised schedule of rates; and (7) a power exchange designed to benefit the region's residential customers; and (8) preservation of the preference clause. A number of concerns are raised by the provisions detailing these basic components and the following discussion highlights those issues and how they were addresses by the Committee.

a. Protection of the preference clause

Preference means the statutory priority to purchase Federally-generated electricity which has, generally been provided to public bodies and rural electric cooperatives in over 32 Federal power marketing laws. These preference provisions date back to 1902 and

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were enacted to insure that Federal hydroelectric generating facilities would be operated for the benefit of the general public. As noted earlier in this report, the principal preference clause applicable to the Pacific Northwest is included in the Bonneville Project Act. Although similar to other statutes, this Act also contains additional language indicating that the "general public", especially domestic and rural customers, should benefit from the sale of Federal power.

Concerns have been expressed that S. 885 might be construed to change the meaning or application of preference in the Northwest, and by precedent, nationally. However, the intention of this Committee is clear. The Committee does not want to undo nearly 80 years of history or establish any precedent. Specific provisions incorporated in the Committee amendment are designed to protect the entitlement of both existing and new preference customers to the full Federal base system. These provisions seek to protect preference as to both supply and price.

One of the basic provisions of the Committee amendment is section 5(a). It states:

> SEC. 5. (a) All power sales under this Act shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937 (16 U.S.C. 832 and following) and, in particular, sections 4 and 5 thereof. Such sales shall be at rates established pursuant to section 7.

The purpose of this provision is clear. The Committee wants to insure that all preference customer contract requirements will continue to have a priority over sale to other customers and other sales would be, in effect, subordinate to preference provisions of the Bonneville Project Act, including the five-year withdrawal features for contracts with nonpreference customers and the 20-year limitation on the terms of the contract.

Section 5(b)(6) also assures preference customers' right to purchase power from the equivalent Federal base system before BPA can restrict its obligation to deliver power to those customers.

In addition, section 7(b) reserves for preference customers the price benefits of Federal power that they would have enjoyed in the absence of this legislation. This is accomplished by a "rate ceiling" which governs preference customer general requirements rates. Under this provision, the Northwest preference customers could pay less—but not more—for power under the legislation than they would have in any 5-year period.

The "rate ceiling" is essentially that preference customers' cost of power from BPA will not exceed the costs they would have paid for power if:

(1) preference customers were served from available Federal base system resources and, after these were exhausted, from such customers' own new resources;

(2) preference customers served direct-service industrial customers located in or adjacent to their geographic service boundaries; and

(3) no IOU exchanges for residential customers were made.

Lastly, section 10(c) of the bill contains a disclaimer which flatly states that the bill does not "alter, diminish, abridge, or otherwise affect", either directly or indirectly, the preference provisions of

other Federal laws. The Committee clearly intends no such construction of this Act by a court, Federal agency, or others that could affect in any way such provisions of law.

The Committee believes that these and other safeguards adequately protect the preference clause and the long-held rights of preference customers in the Pacific Northwest and elsewhere.

b. BPA financing and Federal guarantees

The Bonneville Power Administration is self-financed. Pursuant to the Federal Columbia River Transmission Act, BPA must meet all its costs, including the cost of the Federal investment in the Columbia River system, from its power sale revenues. General tax revenues are not used to support BPA programs. The Committee amendment continues this financial independence while maintaining the current practice of Congressional review of BPA activities as part of the normal budget review process.

However, issues were raised concerning Federal backup or "guarantee" of the Administrator's acquisition of resources. Although section (6)(i) makes clear that Federal monies could not be used to support acquisitions or other activities, BPA would remain a Federal agency and it was argued by some that a Federal backup might be provided when the Administrator assumes an obligation to pay project expenses including debt obligations issued in connection with an acquired resource. The Department of Treasury was asked to address this concern and to make recommendations for necessary changes. Treasury defined as a possible guarantee the use of BPA bond authority in connection with many resource acquisition. Assistant Secretary of Treasury Roger Altman, in September 25, 1979 testimony before the House Committee on Interior and Insular Affairs, was principally concerned with what he saw in S. 885, as it passed the Senate, as a "granting of tax-exempt interest coupled with the backup of a Federal agency's . . . credit".

To meet this problem, Secretary Altman recommended that section 8 of S. 885 be amended to only "extend the borrowing authority for financing conservation programs and small, renewable resource projects".

Section 8(c)(1) of the Committee amendment generally carries out the Secretary's recommendation in its amendment to section 13(a) of the Federal Columbia River Transmission System Act. The amendment permits use of BPA's authority to issue bonds to be extended to this legislation, but precludes such use in acquiring under section 6 of the Committee amendment "electric power from a generating facility having a planned capability greater than 50 average megawatts".

Lastly, in order to make clear that all contracts and other obligations required of the Administrator will be secured solely by BPA revenues and not by the Federal government, the Committee included section 6(j)(2) which requires that, in the sale of any obligation, all offerings and promotional material shall contain language indicating that such obligations are "not intended to be, nor are they, secured by the full faith and credit of the United States".

c. Removal of BPA restriction on acquisition or purchase of power to meet needs

One of the most controversial issues surrounding this legislation has been the concern that the grant of authority to BPA to "purchase" power as a supplement to its hydro base was too broad. A number of witnesses at the Energy and Power Subcommittee hearings voiced their concern that this authority would be misused, would make the BPA Administrator a "Czar", that BPA would undertake an expansive and expensive construction program in competition with public and private utilities, and that BPA would become a nuclear power agency. The Committee amendment addresses all of these charges and concerns.

The BPA Administrator lacks adequate authority under existing law to purchase additional power on a long-term basis. The net billing scheme discussed earlier in this report represented an attempt to provide this additional authority, but it is no longer an adequate means for resource acquisition.

BPA and others believe new authority for resource acquisition is an essential piece of this legislative solution. Without such authority, BPA asserts that the amount of power available to BPA is fixed. BPA, in a May 20, 1979 document outlining issues relative to this legislation, said:

> Under the preference clause, this fixed quantity of BPA power must eventually be offered solely to the public bodies and cooperatives, since the projected needs of these preference customers will in future years exceed the total BPA supply. Given its limited power supply, BPA cannot execute new firm power sales contracts with nonpreference customers such as investor-owned utilities (IOU's) and direct service industries (DSI's) as proposed in the legislation. These facts have set the stage for an imminent and protracted legal battle within the Northwest over the meaning and application of the preference clause, the formation of new preference utilities or other entities claiming preference status, and the fate of the DSI's and the vital power reserves that BPA's contracts with the DSI's provide for the region.
>
> This regional legal battle can be laid to rest if (1) the DSI's are able to trade in their existing low-cost power contracts for new contracts at higher rates; (2) the low-cost power released by the DSI's can be made available to residential and small farm customers of regional IOU's; and (3) the preference rights of publicly-owned and cooperative utility systems can be preserved. Such an allocation system is the heart of the proposed regional power legislation. It would permit the Northwest to put aside its battles over low-cost power and to work cooperatively again in planning to meet the region's future needs for conservation and renewable resources, as well as conventional resources, as part of an efficient, economical, and environmentally sound regional power system.
>
> The proposed allocation system can be carried out only through new contracts between BPA on the one hand and preference customers, IOU's and DSI's on the other. But

under present law, BPA cannot execute such contracts. The fixed supply of BPA power is too small to meet even the full future requirements of preference customers in the future, and therefore contracts with the nonpreference IOU's and DSI's are legally precluded. This is true even though the total supply of Federal plus non-Federal power in the region is, and can remain, sufficient to meet the region's total loads. BPA simply cannot obtain the non-Federal power under present law.

The Committee amendments seeks to address the allocation issue by directing in section 5(g) that BPA commence, within nine months after enactment, negotiations and offer initial long-term, not to exceed 20 years, contracts to each of the following types of customers:

(A) existing public body and cooperative customers and investor-owned utility customers;
(B) Federal agency customers;
(C) electric utility customers; and
(D) direct service industrial customers.

Crucial to the legal authority to enter into these contracts is section 5(g)(7) which provides that BPA "shall be deemed to have sufficient resources" for the purposes of entering into such initial contracts. In order to fulfill its statutory commitments, the BPA must have adequate authority to acquire resources on a short-term and long-term basis.

As recognized in the Committee amendment, section 3(12) and section 6(a)(3), BPA now has authority in accordance with section 11(b)(6) of the Federal Columbia River Transmission System Act to use funds from the BPA fund to purchase electric power for periods of five years or less to meet its commitments. The Committee amendment does not alter that authority.

For the long term, section 6 authorizes the BPA to acquire "resources" to meet these contractual obligations. However, in providing this authority, the Committee was mindful of the concerns by some that this authority not provide a "blank check" to BPA to acquire whatever resources it deems appropriate. The Committee limited that authority and set priorities. For example, the Committee amendment defines the term "acquire" and "acquisition" in section 3(1) to make clear that BPA is not authorized to construct or "have ownership of" any "electric generating facility". Further, the Committee amendment provides that BPA must first "take into account planned savings from conservation and conservation measures". In addition, all acquisitions, except where specifically provided, must be consistent with the Regional Electric Power and Conservation Plan which the regional planning Council will adopt. If no plan is adopted, the criteria and considerations of section 4(e) will apply. As an added safeguard, the Council established by this bill is empowered to review many of the acquisitions. A demonstrated need for the resource will be required. In the case of "major resources" which have a planned capability of greater than 50 average megawatts, the BPA must go through a lengthy procedure, including hearings.

The Committee believes that this purchase authority is needed. However, the Committee also believes that the above provisions, as

well as others, should meet the concerns expressed by the Committee and others. Most importantly, it is the Committee's intention to conduct periodic oversight over the BPA's use of this authority.

d. Capability versus output—dry hole

BPA has no authority to own or construct power resources and the proposed legislation does not grant that authority; it does, however, permit BPA to purchase the output or capacity of power resources that are owned or constructed by other entities. The priority for resources eligible for such purchase are specified in the legislation as, first, conservation, second, renewable resources and, finally (as the least-preferred alternative), conventional thermal resources.

Concern has been expressed that authorizing BPA to purchase capacity—as distinct from mere output—will be harmful to the region's ratepayers, and that it will lead to overbuilding of conventional power resources in the Pacific Northwest and unnecessary cost overruns.

An entity (such as BPA) purchasing power from the owner of a power resource (such as a utility) may do so in two basic ways. First, if the resource is already in existence and a certain amount of power appears to be surplus to the needs of the owner for some period of time, the purchasing entity may simply buy that amount of power from the resource on the utility system. This type of purchase is most common in cases of temporary surpluses and deficits among interconnected power suppliers, and generally involves only short-term purchases and sales.

A second type of purchase arrangement is generally used when the power resource in question is not yet constructed. The owner planning to build such a resource may offer to sell an ownership share in the project or, alternatively, a share of the resource's planned capability. In either event, the purchaser is obligated to pay its percentage share of the project's construction and operating costs and is allowed to exercise ownership operating rights for its share, just as if the purchaser were a part owner. This type of arrangement was extensively used in developing the non-Federal mid-Columbia hydro facilities and is now used generally throughout the United States. The legislation would permit BPA to enter into this type of arrangement.

Since the purchase of resource capability carries with it the risks of unexpected cost overruns and operating problems (including the risk of a so-called "dry hole"), it might appear that capability purchases are imprudent, even if traditional. The reasons that support creation of purchase agreements as follows:

(1) The risk of cost overruns and operating problems are inherent in constructing any power resource (including conservation investment programs such as regionwide home insulation). These risk are ordinarily borne by ratepayers that will obtain the benefits. An individual utility owner of a power resource will not agree to an arrangement that leaves all the risks on the shoulders of its own ratepayers yet shares the benefits (the power produced at cost) with the ratepayers of the purchasing entity.

(2) The long-term purchaser is really equivalent to a part owner of the resource, since the purchaser will receive the right to a certain percentage of the power for the life of the resource and will

pay only the actual costs of the resource. It is fair that the purchaser assume its percentage share of the risks.

(3) In many cases, the resource is being built or undertaken by a group of utilities primarily to satisfy the regional power needs. If BPA did not agree to purchase capability as its share of the project, the project would simply be undertaken by a group of utilities on their own, with each utility meeting its own load growth requirements through its own projects and with no help to BPA. Such action would in turn decrease the integration and efficiency of the regional power system and would probably lead to overbuilding of power resources, with added costs to consumers. There would be no regional program under these circumstances.

(4) Purchase of capability reduces costs to consumers by reducing financing costs of the new resource, whether that bond-financed resource is conservation or a generating facility. Financing costs—a very substantial portion of total power costs—are reduced because bond buyers are willing to accept lower interest rates on lower-risk bonds, the wider the risks can be spread, the more secure the bonds. As discussed in (3) above, without purchase of capability the utilities must look to themselves to absorb the risk and would consequently lose access to over half the region's power supply over which they could otherwise spread the risk.

(5) Purchase of capability, by placing the purchaser in a quasi-ownership status, also permits the purchase to exercise effective oversight on resource management, construction and operation. A mere purchase of power would have no such opportunity. Yet the cost of power to the purchaser is based in both cases on the actual construction and operating costs of the power resource. The Committee amendment strengthens the BPA in this regard and requires BPA to oversee such construction and operation.

If the bill limited BPA purchase of resources to actual output only, BPA, in order to have available power to sell, would have to find utilities who would be willing to develop new resources at risk to their customers and, at the same time, also be willing to provide to BPA the benefits of an operating plant. The testimony shows that no utility would prudently agree to such an arrangement. One may contend that such testimony is self-serving and that if Congress authorized acquisition of actual output only, the utilities would, in fact, enter into such agreements because of the advantages of hooking up to the BPA system. The Committee recognizes this possibility, but believes it is too speculative and is inconsistent with longstanding utility practice. The General Accounting Office confirmed that this practice exists in a September 4, 1979 response to questions posed by Subcommittee Chairman Dingell. The GAO said:

> Our review indicated that it is common practice for electric utilities purchasing the output of major thermal plants to agree to repay construction bonds whether the plant operates or not. Generally, plant output is not guaranteed by any one entity because the risks of cost overruns and operating problems—particularly on nuclear power plants—are too great to be safely assumed by a single owner or builder. It is therefore natural for several utilities to share the risk of a "dry hole".[1] By doing so they

> can limit their respective risks and collectively provide a large enough revenue base to withstand a major loss.
>
> With respect to the reasonableness of BPA's purchasing the capability of WPPSS nuclear plants, two other questions emerge. The first question is whether BPA should limit its customers' exposure to financial risks by commiting them to large thermal power plants more cautiously or with more diversity. BPA's present commitments include 100 percent of the output of two WPPSS plants, WNP-1, and WNP-2, and 70 percent of a third plant, WNP-3. The aggressiveness of BPA's commitment has its drawbacks. There is virtually no sharing of the considerable financial risks with other utilities—BPA has not taken on sufficient partners in construction. In this respect, we noted that the region's investor-owned utilities have never committed themselves to as much as 70 percent of a regional nuclear plant. Of the five nuclear plants constructed or planned for construction by investor-owned utilities, the average participation for each utility is about 30 percent of any one plant. [Footnote omitted.]

The Committee shares the GAO concern about the "aggressiveness of BPA's commitment". Sharing of financial risks among several entities is prudent and should certainly be given careful consideration by BPA and the council in administering this program. The Committee did not want to limit BPA's exposure because this might not have proved wise, particularly in light of concerns discussed later in this report about exempting utilities from the requirements of the Public Utility Holding Company Act. However, the Committee strongly believes that the BPA should act conservatively in entering into these commitments and expects that all such proposals will be fully justified and carefully scrutinized in the review process for acquiring resources set forth in the Committee amendment.

e. Public Utility Holding Company Act of 1935

One controversial provision concerning this legislation has been the proposal to exempt from the provisions of the Public Utility Holding Company Act of 1937 persons and companies in the Northwest that are organized for the primary purpose of financing, constructing, and managing electric generation facilities wherein 75 percent or more of the power is, or will be, sold to BPA. Mr. Robert Short, President of Portland General Electric Co., testified that the "reason for creating generating subsidiaries is to reduce the financing cost of building plants". He said:

> The purpose of section 9(b) is to allow the eight investor owned utilities in the Pacific Northwest to create jointly owned coporations to finance, construct, and operate plants to sell power to BPA under this bill. The reason for creating generating subsidiaries is to reduce the financing cost of plants.
>
> A generating subsidiary would not be subject to most utility indentures restrictions and could have a higher debt ratio. BPA's contract to purchase the output of the plant will strengthen the generating subsidiary's credit

> rating, thereby allowing a higher debt ratio; thus, lower interest rates.
>
> The Public Utility Holding Company Act exemption is needed because, as the SEC pointed out in its September 25, 1978, letter to Chairman Dingell, formation of a generating subsidiary would cause us to be deemed "holding companies" under the Public Utility Holding Company Act. The Holding Company Act puts us to a choice—either accept holding company status or stay out of a generating subsidiary. Holding company status could require several of the Pacific Northwest utilities to divest themselves of nonelectric utilities and one of them to divest itself of the part of its electric system not in contiguous states, as well as raise questions about the status of non-utility properties. The cost of holding company status would be too high, so that the benefits of the generating subsidiaries would be foregone.

Exemption from the Public Utility Holding Company Act is not an escape from regulation. Every private utility is subject to complete regulation—either by states, the FERC, or in most cases, both. A generating subsidiary would be subject to the same system of regulation.

However, Mr. Alex Radin, Executive Director of the American Public Power Association, objected to a "blanket exemption" by legislation. He said:

> We have been informed by the SEC that no similar statutory exemption has even been granted, and we do not believe that such a legislative exemption is necessary or desirable in this instance. It should be noted that procedures are contained in the Public Utility Holding Company Act itself for exempting companies from the Act's requirements. It is therefore possible that exemptions, if necessary, could be secured through available administrative procedures. The administrative exemption route would permit the SEC to review the types of actions to be undertaken. This review would be preferable to the unreviewable exemption to be conferred by the legislation.

The Federal Trade Commission and many members of this Committee also doubted that a legislative exemption was necessary or desirable. Chairman Dingell and Congressman Gore particularly noted that the SEC has been somewhat lax in its enforcement of the Act, but doubted that was sufficient reason for eliminating SEC's role entirely. The FTC, in a July 26, 1979 letter to Congressman Weaver said:

> I disagree that a legislative exemption is more suitable than an administrative one. In section 3(d) Congress has conferred broad rulemaking authority upon the SEC, which has developed more than 40 years of expertise in administering the Act. More important, the SEC could revoke an administrative exemption if the conduct of the companies involved so warranted, where as a legislative exemption could not be altered except by further Congres-

> sional action. I believe that competition and consumer protection would be better served under an administrative exemption—and the SEC's continuous monitoring which such an exemption would entail—than by a legislative one.

However, the SEC, which administers the Act, disagreed and supported the legislative exemption act. Indeed, the SEC, in a January 14, 1980 letter to the Subcommittee, said:

> * * * it does not appear that there is any substantial need to subject the sponsoring parent companies of the proposed generating company to regulation under the Act. All of these companies, and the proposed generation company will qualify for exemption only as long as it serves the purposes of the bill. The impact of regulation under the Act would relate to matters having little to do with the purpose for which the generation company is to be organized.

The SEC also expressed reservations about certain proposed monitoring responsibilities delegated to the Commission

The Committee was convinced that leaving the matter to a subsequent administrative determination under existing law, particularly if Congress rejected a statutory exemption, would not be sound. Similarly, the Committee did not believe it sound to establish a legislative exemption subject only to approval by the BPA, which has no expertise under the Act. Also, the Committee did not share the SEC's view that monitoring was unnecessary. Thus, the Committee amendment authorizes an exemption where both the BPA and the SEC concur that the organization of the new company is consistent with the policies of the 1937 Act. The exemption is not automatic.

The Committee also required that at least 90 percent of the electricity generated by such company be sold to the Administrator. Despite the SEC view that administrative difficulties exist with respect to a percentage limit, the Committee included this provision in order to narrow opportunities for abuse.

In addition, the company must show the BPA and the SEC that participation in the company's facilities must be offered to the region's public bodies and cooperatives. Also, BPA must include in contracts with such companies provisions limiting the equity investment in such company. BPA, with the SEC's concurrence, must approve certain contracts between the company and any sponsor company or subsidiary.

Most importantly, the Committee requires that the SEC and BPA monitor the exempted company. If either SEC or BPA determines that it is not operating in a manner consistent with the 1937 Act, a preliminary determination will be issued and made public. A hearing will then be held if the consistent conduct is not remedied and a final determination will be issued.

The Committee expects both agencies, particularly the SEC, to act prudently and with vigilence in administering this first exemption from the 1937 Act. This provision is not to be considered a precedent for future exemptions.

f. Tax-exempt financing by public bodies

Under existing law, State and local governmental units are permitted to finance generating projects by issuing bonds, the income

from which is exempt from Federal taxation. The legislation does not change the existing tax exempt status of those governmental units that are also public utilities.

Under this bill the region's publicly-owned utilities will finance powerplants, to meet their projected load growth through sales to BPA. Although BPA will be merely reselling this power back to these same utilities, the Committee recognized that the sale to Bonneville would be a sale to a non-exempt person, thus jeopardizing the use by these public utilities of their existing privilege of tax-exempt financing. Although the sale of power from these resources to BPA should not destroy this authority, it was also the clear intent of the Committee not to expand the authority. In this respect, there was concern that section 9(e) of the Senate-passed bill would allow those generating units to provide substantial amounts of generation for sale to BPA to meet load growth of investor-owned utilities. In order to avoid this possibility, the Committee specifically amended this section to limit BPA's purchases from State and local governmental units to that amount of power which is needed to meet the load growth of public bodies, cooperatives and Federal agencies at a cost no greater than the cost which would be applicable without the acquisition. To assure that there is no abuse, the Administrator must certify, in accordance with a procedure and methodology approved by the Secretary of the Treasury, that BPA is acquiring resources for these entities solely. However, an exception is permitted where BPA also certifies that it is not able to acquire the resources without selling a portion to non-exempt persons, as defined in the IRS Code. In addition, the Secretary of Treasury must determine that less than a major portion is to be furnished to persons who are not tax exempt under regulations applicable to industrial development bonds.

The resource can be planned and used to meet the load growth of cooperatives at Federal agencies, as well as public bodies, even though cooperatives and Federal agencies are not exempt bodies under Internal Revenue Service regulations. However, in making the determination under such regulations that less than a major portion of the resource is to be furnished to non-exempt persons, the Secretary will treat Federal agencies and cooperatives as non-exempt.

With these provisions, the existing authority to issue tax-free bonds is preserved but not expanded.

g. The bill's impact on other regions

Concerns have been expressed that the legislation may have the effect of providing incentives for new commerce and industry to move to the Pacific Northwest at the expense of other regions, or that the bill may afford Northwest utilities special financing advantages over other parts of the country. In addition, some fear the bill's effect on the Pacific Northwest's ability to supply surplus energy to other regions.

Electric power rates in the Northwest are and have been among the lowest in the Nation, though this fact has not resulted in disproportionate amounts of industrial and commercial activity in the Northwest.

Under this bill, rates for increased loads resulting from any new commercial and industrial activity ("New Single Large Loads", sec-

tion 3(12)) are excluded from the Federal base resource rate. Thus, any utility seeking additional power to serve such a load would be charged a rate equivalent to the new resource cost. This new resource cost should be the same or higher than the cost to utilities in other regions to serve such load. This provision should help to narrow, rather than expand, the Northwest's advantage in attracting new industry through lower-cost electricity. (Industry and commerce served by IOU's do not and would not, under the bill, have access to the low-cost Federal base system.)

It will remain possible, however, for a public utility to subsidize industry with lower-cost residential power. This would, of course, need the consent of the utility's governing body.

The bill would create a more secure marketing arrangement by virtue of the BPA purchase authority since it would have the effect of putting all BPA's customers behind certain State and local obligations. This would create a lower-risk security, bearing a lower return on capital. This has raised the question of whether Northwest security issues could adversely impact security issues of utilities in other regions where comparable marketing schemes do not exist.

The Subcommittee on Energy and Power explored this issue and the evidence heard indicated that financing under this bill should not jeopardize financing of projects in other regions and that insofar as the conservation provisions decrease the development of generating resources, this will mean less competition in capital markets. As is the existing practice, bond sellers will continue carefully watching the issuance of debt obligations from other borrowers, including the Pacific Northwest, so as to minimize competition but there was no evidence presented to the Committee that this legislation will detrimentally impact other borrowers.

The Northwest is now interconnected to other Western regions, particularly the Pacific Southwest. Mutually-advantageous regional exchanges and sales of surplus hydro energy from the Northwest to the Southwest have been effected over the intertie to the Southwest. The Northwest's seasonal surplus occurs at the same time as the Southwest's seasonal peak and the Northwest's winter peak also comes at a time of seasonal surplus for the Southwest utilities. As a result, over the past 11 years, an estimated 67.5 billion Kwh of surplus energy have been sold to Southwest utilities, displacing oil consumption of 230 million barrels of oil or its equivalent.

To the extent that the Committee amendment would resolve the impending BPA administrative allocation and the incident uncertainty in power planning, the region is more likely to have the resources to support mutually advantageous exchanges with other regions and, in years of high river flows, seasonal surpluses to sell.

In summary, the Committee was careful to ensure that this bill would not detrimentally impact other regions and that any impact would, in fact, be beneficial.

h. Fish and wildlife

The Pacific Northwest has the distinction of being an area with an abundance of fish and wildlife resources that has provided food and recreation for many each year. The Pudget Sound, for example, is a principal wintering area for waterfowl from British Columbia, the Northwest territories, Alaska, and Eastern Russia. Similar-

ly, many areas of the Columbia River and tributaries provide nesting and resting areas for waterfowl and other migratory birds of the Pacific Flyway. However, many of these areas have been adversely affected by dams.

Probably the most important water-related resource of the region is the anadromous salmon and steelhead resources of the Columbia Basin. The once plentiful anadromous fish runs in the Columbia River Basin have been badly depleted. Several of these fishery species are being studied for listing as threatened and endangered species. About two-thirds of the area where salmon and steelhead originally spawned have been rendered unaccessible to the fish by the construction of dams. The GAO described the impact of these dams on anadromous fish in its September 4, 1979 report to Subcommittee Chairman Dingell as follows (pp. IV.3–IV.5):

> Until the completion of the Grand Coulee Dam on the Mid-Columbia River in 1941, adult salmon and steelhead enjoyed fairly unimpaired access to most of their historic spawning areas. Chinook salmon once traveled nearly 1,200 miles up the Columbia River to spawn in tributaries of its headwaters in Canada. Because of its great height, Grand Coulee Dam was not provided with fishways, and its completion ended access by anadromous fish to more than 500 miles of the upper river and many hundred miles of productive spawing and river tributaries. During the next three decades more dams were constructed along the main-stem of the Columbia River and its major tributary, the Snake River. Chief Joseph Dam, constructed and operated by the Corps of Engineers, and Hells Canyon Dam, operated by the Idaho Power Company, mark the upstream limits of anadromous fish migration on the Columbia and Snake Rivers, respectively, since neither was provided with fish ladders.
>
> Adult salmon and steelhead ranging from 5 to 50 pounds must negotiate 9 dams to reach the upstream limit of their migration on the Columbia River. Adult fish journeying to the natural spawning areas in the Snake River and its major tributary, the Salmon River, must pass over eight dams—four on the Columbia and four on the Snake. Of the 16 main-stem dams impacting on the anadromous fish, 9 are operated by the Corps of Engineers, 1 by the Bureau of Reclamation, and 6 by electric utilities in Washington and Idaho.
>
> The dams also pose serious problems for young salmon and steelhead migrating downstream to the sea. Prior to the expanded development of the river's main-stem, large quantities of water in excess of power needs were allowed to flow over the spillways. This spillage aided the downstream move of smolts, but resulted in nitrogen supersaturation which cause a high mortality rate. This problem was reduced by the development of spillway deflectors, increases in up-stream storage capacity, and installation of additional turbines.
>
> In recent years, completion of more main-stem projects and the installation of additional turbines for peaking pur-

poses have enabled power managers to put most of the river flow through their powerhouse turbines. While this reduced spillage and nitrogen supersaturation, it created a serious new problem—turbine mortality among migrating juvenile salmon and steelhead. During the period of April to June when the juveniles are migrating downstream, great numbers of them are killed by or as a result of passage through the hydropower turbines.

Smolts surviving passage through the turbines of one dam enter the large, slow-moving reservoir of water formed by the next dam. The river no longer has the strong, swift current needed to carry the smolts rapidly downstream and out to sea. It now takes young fish more than twice as long to migrate downstream as it did before the dams were built. The slower the downstream migration, the more smolts are lost to predators. Others lose the desire to migrate and become permanent residents of the river, further reducing the breeding stock that finally reaches the ocean. It is the cumulative effect of hydro facilities which is so destructive. Each facility poses a separate and sometimes different set of problems for migrating smolts, and each contributes to a cumulative deterioration of the downstream migration. Depending on flows, juvenile losses from all causes average an estimated 15 to 20 percent at each main-stem dam and reservoir complex. Mortalities as high as 30 percent per project have been recorded under particularly adverse conditions.

These problems occur in normal or good water years. In low or below normal water years, the problems are compounded and mortality rates for downstream migrants increase. Juvenile losses increase because of competition for available water supplies. River waste is released from upstream reservoirs when needed to best serve flood control, power production, and irrigation purposes. This may or may not provide enough water at the right time to aid the downstream migration of young salmon and steelhead.

Many of the witnesses at the Subcommittee's regional hearings complained that fish and wildlife resources and their protectors are ignored or treated with disdain by the power interests of the region. Fish and wildlife mitigation and enhancement is not mentioned as an authorized purpose of the Federal dams. The fish and wildlife have no vested rights. Fish hatcheries to compensate for fish losses have been built, but this has not been enough. Efforts to maintain flows for anadromous fish runs have often reportedly met resistance. The GAO points out that the BPA, for example, recognizes "the cost of revenue lost as a result of special operations, including water spillage, at Federal dams to facilitate downstream movement of juvenile salmon and steelhead during the spring".

One critic of the Pacific Northwest's power interests testified that he feels that these interests take the view that all unappropriated water in the main-stem Columbia and lower Snake Rivers should be used to maximize power production and revenues. He is Mr. Ed Chaney of the Northwest Resource Information Center, Inc., in Idaho. Mr. Chaney said:

During the years of low and average runoff, virtually the entire flow of the main-stem Columbia and to a somewhat lesser extent the lower Snake River is put through the turbines of successive main-stem dams. Salmon and steelhead migrating to the sea from the upper Columbia Basin necessarily go with the flow. During the low flow year of 1973, and estimated 95 percent of all salmon and steelhead produced in the upper Columbia Basin were killed by main-stem dams and reservoirs before reaching the estuary below Bonneville Dam.

This catastrophic loss prompted basin State and Federal fishery agencies to ask the Federal agencies (BPA, Corps, and Reclamation) and the Washington County public utility districts to annually manipulate mainstem flows during the peak of juvenile downstream migration to minimize mortalities. This request was met with what can only be politely termed a decided lack of enthusiasm.

Record low flows associated with the 1977 drought threatened to annihilate upriver salmon and steelhead runs already in serious trouble from years of chronic uncompensated losses at Federal and PUD hydrodams. In spite of this threat, Federal and PUD hydropower interest refused to divert any of the public's unappropriated water from hydropower production to prevent the destruction of the upriver runs.

The PUD's were subsequently ordered to do so by the Federal Energy Regulatory Commission. The Corps of Engineers, BPA, and Reclamation were "persuaded" to do so by the unanimous formal urging of Oregon, Washington, Idaho, and Montana Governors and the personal intervention of the U.S. Secretary of the Interior.

No effort was spared to limit the amount of water diverted from hydropower production to protect the fish. The net amount finally diverted from hydrogeneration was about 0.0016 of the annual unappropriated flow of the Columbia River at Bonneville Dam.

Mr. John R. Donaldson, Chairman of the Columbia River Fisheries Council, also was critical of the impacts of dams on the fisheries. He said:

> Rivers have altered the seasonal distribution of flow, greatly reducing flow in the spring and increasing it in the winter. A moderate adjustment of the seasonal flow pattern to restore some of the spring freshet is needed. The existing practice of regulating flow of the Columbia River to maximize power revenues, including the export of surplus Northwest power to the Southwest, is the most critical factor causing a severe decline in upriver salmon and steelhead runs above Bonneville dam.

The GAO, in it September 4, 1979 report, responding to the Subcommittee's concern that no single agency appears to be adequately addressing the fish and wildlife problems, said:

> No single agency—Federal or otherwise—has been assigned oversight responsibility and authority for maintain-

> ing the anadromous fish runs on the Columbia River System. A number of Federal and State agencies and Indian organizations, as well as several interagency coordinating bodies, impact on salmon and steelhead fisheries. The interests represented by these entities are sport and commercial fishing, Indian treaty fishing, agriculture, interstate navigation, flood control, and power production. Responsibility for the protection of salmon and steelhead runs is fragmented and the resources is subject to management by committee.
>
> * * * * * * *
>
> Fishery maintenance and enhancement is not specified as an authorized purpose of the dams, and the fish runs have no vested water rights. Consequently, fishery management agencies must seek the voluntary cooperation of the operating agencies and utilities of petition the Federal Energy Regulatory Commission (FERC) to provide spills and flows at non-Federal dams that will allow for successful migration of juvenile fish. In March 1979, officials from Federal and State fisheries agencies, Indian tribes, and three electric utilities negotiated until the "eleventh hour"—just before a FERC hearing—before agreeing to the quantity of water to be spilled at utility dams in order to accommodate the spring migration of juvenile salmon.

Existing Federal legislation is not adequate to offset the cumulative impact of the hycroelectric dams of the Columbia and its tributaries on fish and wildlife. To remedy this situation, Mr. Terry Holubetz of the Columbia River Fisheries Council made five recommendations. He said:

> Mr. Chairman, the Columbia River Fisheries Council strongly recommends that the following points be incorporated in the Pacific Northwest Power bill: (1) Fisheries must be identified as a major subject area, thereby providing status for fisheries equal to energy; (2) A formal procedure that provided the annual opportunity to the appropriate fisheries agencies and Indian tribes to jointly submit recommendations to the planning Council regarding management measures needed for preservation and enhancement of the fisheries resources; (3) A mandate to the planning Council to incorporate the fisheries recommendation in the plan or to explain through the public hearing procedure reasons for not adopting the recommendation; (4) The Administrator shall include funds for fisheries coordination, research, and development in his annual budget; (5) A directive to the Federal Energy Regulatory Commission to review all licenses of projects that are associated with the Northwest regional energy system, and to use the authorities vested by the Federal Power Act to insure that the capabilities of each project are fully utilized to provide operations that are compatible with the plan, including the fishery consideration.

The Committee amendment includes provisions to carry out each of these five recommendation.

The Committee recognizes that the Federal agencies and others in the regin cannot correct past mistakes merely by enacting a new law, while many such mistakes unfortunately may be uncorrectable, others can clearly be corrected or avoided. Money, a reasonable amount of time, clear regulatory authority, and cooperative participation by the various interests will be needed to protect and rejuvenate the fish and wildlife resources of this region. It is not the Committee's intention to make fish and wildlife superior to power or other recognized needs. But it is the intention of the Committee to treat fish and wildlife as a co-equal partner with other uses in the management and operation of hydro projects of this region.

The Committee also believes that BPA and others in the region, including the so-called "power interests", concerned with meeting the power needs of the region have in recent times become more concerned about these valuable natural resources. They testified that they are anxious to accommodate fish and wildlife needs. The Committee believes that this is a hopeful sign and that this bill will help to achieve what appears to be a welcome common objective of protecting and enhancing this resource.

Section-by-Section Analysis

Section 1. Short title and table of contents

This section provides the short title, the "Pacific Northwest Electric Power Planning and Conservation Act" and a table of contents.

Section 2. Purposes

This section establishes five broad purposes which must be considered by the Council and BPA in carrying out the provisions of this Act. These purposes apply to the Pacific Northwest.

The first is to promote conservation and the efficient use of electric power by BPA, all of its customers, ratepayers and others in the region in order to reduce the need for added power sources, and to encourage the development of renewable resources by BPA and others and to assure an adequate, efficient and reliable power supply for the region, consistent with applicable environmental and other provisions of law. It is intended that the interests of consumers be adequately protected by BPA and the Council in carrying out this purpose, including their interest in assuring that power supplies are acquired at the lowest cost possible.

The second relates to the planning and acquisition process established by the Act. It clearly indicates that widespread participation by governmental, representatives, consumers, the BPA customers, users of the Columbia River System, including governmental and Indian fish and wildlife representatives, and the general public is not only encouraged, but expected, in the development of effective plans and programs related not only to energy conservation, renewable sources, and other resources, but also to protection, mitigation, and enhancement of fish and wildlife. It is also an essential element for the orderly planning of the Federal system.

The third purpose is that the BPA customers and the consumers of those customers will continue to pay all of the costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements. These costs include those related to fish and wildlife.

The fourth purpose is, in reality, a savings provision. Subject to the provisions of the Act which impose certain requirements on BPA customers in return for providing by contract benefits under the Act to those customers, this purpose seeks to assure local and State authorities, private and public utilities, and other non-Federal entities that their authorities and responsibilities will be continued and not usurped by BPA. These entities are not intended to be precluded from acting independently of this Act and, under other provisions of law, are given authority to plan, develop, and operate resources and to achieve conservation.

Lastly, these purposes provide that BPA, the Council, and other Federal agencies must carry out their duties and responsibilities and exercise their authorities to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat of the Columbia River and its tributaries. Of particular importance are the anadromous fisheries which are dependent on suitable environmental conditions that generally can be obtained from management and operation of the hydro facilities to protect, mitigate, and enhance these fisheries.

Section 3. Definitions

This section defines various terms used throughout the Committee amendment.

Section 3(1) defines "acquire" and "acquisition" to make clear that the Administrator, whether he utilizes this Act or other laws, is not authorized to construct or own any electric power generating facility.

As defined in 3(3), "conservation" requires a reduction in electric power consumption as a result of increased efficiencey in energy use, production or distribution, as distinguished from reductions from electric power consumption resulting from power shortages or use of alternate energy resources.

Section 3(4) defines "cost effective" as a term used in reference to conservation measures and resources in sections 4 and 6. Pursuant to this definition, a resource or conservation method is cost effective when compared with similarly available and reliable alternative resources or conservation methods. It must be forecast to be reliable and available within the time it is needed at an estimated incremental cost no greater than similarly available measures or resources. The cost comparison is done on the basis of incremental, or marginal, costs. All estimated direct system costs of a measure are to be included in the projected costs for the purpose of this comparison. In estimating the amount of power, consideration must be given to appropriate historical experience with similar measures or resources.

Conservation under this definition will be cost effective as compared to other resources if the costs of conservation are no greater than 110% of the costs of alternatives.

The definition of "consumer" in section 3(5) serves to distinguish between consumers of power and customers of Bonneville. It does not include the DSI's who are BPA customers.

Section 3(6) defines the Pacific Northwest Electric Power and Conservation Planning Council established by section 4. The "Council" is defined as the voting members appointed to the Council, as distinguished from other Council members who have no vote.

Section 3(7) defines "customer" as anyone who purchases power directly or wholesale from the Administrator; it includes the direct service industrial customers.

Section 3(8) defines a "direct service industrial customer" as an industrial customer that purchases power from the Administrator directly. The definition does not seek to limit those entities who fall under this definition.

Section 3(9) defines "electric power" to means electric peaking capacity or electric energy, or both. Except where explicitly provided, there is no need in this bill to distinguish capacity from energy.

As defined in section 3(10), "Federal base system resources" means existing and future Federal Columbia River hydroelectric projects, resources already acquired by the Administrator under existing contracts (including the capability of "net billed" plants), and future resources that may be acquired in accordance with this Act to replace the hydroelectric facilities or resources under existing contracts.

Section 3(12) defines "major resources" as any resource acquired by BPA for a period of five years or more having a planned capability of greater than 50 average megawatts. The term however, does not include power purchased under other authority in accordance with the Transmission Act to meet short-term deficiencies in electric power which Bonneville is obliged by contract to supply. Section 6 sets forth separate procedures for acquiring such major resources.

Section 3(14) defines "new single, large load", a term used in the rate provisions of section 7(b)(4) and the sales provisions of section 5(c)(7). In order for a load to be new, it must have the following elements: (1) increase a customer's total power requirements by greater than ten average megawatts and must come on line during any 12-month period; (2) the load must be contracted for, or committed to, by a public body, cooperative or Federal agency customer prior to October 1, 1978 if it is an industrial load or September 1, 1979 if it is other than an industrial load; (3) the load must be new to the system or an existing load not previously served by a preference utility.

This is an important definition in many respects. Although the Administrator will be obligated to sell power to meet these loads, power for new large single loads will be sold at the section 7(f) rates which are likely to be the marginal cost of power. Consequently, enterprises new to the Region will have to pay rates at least as high as rates charged for electric power in other regions unless other electric power consumers want to subsidize the industry. The definition also will serve to induce DSI's to terminate their existing contracts in favor of new long-term contracts to be offered under section 5(d). The DSI's would, if they could obtain service, be treated as a new large single load and thus subject to the 7(f) rate. This rate would be higher than the rates they would pay under the contracts offered under this bill.

This definition also has application under the section 5(c)(1) exchange. The "average system cost" of the power sold to the Administrator by investor-owned utilities pursuant to this section must exclude the cost of resources needed to serve a new large single load. Thus, the cost of serving new large loads will not be averaged in

BPA rates applicable to sales for general requirements of preference customers and for IOU's, residential and small farm customers.

The Committee amendment refers to new loads that are not "contracted for, or committed", as determined by the BPA, prior to the specified dates. The Committee expects the BPA to examine carefully claims that a facility is not a new large single load. The Committee understands that while in some cases actual written contracts do not exist to support such claims, there otherwise is a clear history to support the claim. One large single load, the Mount Tolman Project, which include mining activities cooperatively carried out with Indian and private interests, located on the Coleville Indian Reservation, which would be served by the Ferry County PUD, has such a history. The project was initiated in 1964 and is of special significance in the region. The Committee believes, on the basis of information provided to it, that this large single load would qualify as a committed load.

"Renewable resource" is a resource which uses only regenerative or essentially inexhaustible energy sources, such as solar, wind, hydro, geothermal, biomass, or similar sources of energy either for electric power generation or reduction of a customer's electric power requirements. This may include direct application devices to reduce power demand. "Breeder" or "fusion" projects cannot qualify as a renewable resource.

Section 3(18) defines "reserves" as the electric power necessary to avert planning or operating shortages of the firm power loads within the region. These reserves can be obtained from contract rights to interrupt portions of electric power supplied to customers or from other resources.

Section 3(19) defines the term "residential use" or "residential loads" as all usual residential or apartment dwellings, including all the first 200 horsepower (cumulative) during any monthly billing period of farm irrigation and pumping loads. This 200 horsepower limit is likely to embrace all "family farms" in the region and some large corporate farms. Large corporate farms that do not qualify would be treated the same as commercial and industrial customers of IOU's.

The term "resource" as defined in section 3(19) includes actual or planned electric power capability as well as reduction in electric power consumption. Thus, conservation could be treated as a resource for the purpose of resource acquisition or billing credits pursuant to section 6. The term "planned" as applied to electric power capability reflects the Committee's recognition that the actual power produced or reduced may be different than the amounts planned to be produced or saved. It is not intended that the BPA Administrator contract for power which he has reason to know will never be produced or will not reduce load.

Section 4. Regional planning and participation

Section 4(a) establishes by statute a 12-member Pacific Northwest Power Planning and Conservation Council, composed of 11 voting members (4 from Washington, 3 from Oregon, 2 from Montana and 2 from Idaho). The Administrator is an ex officio nonvoting member. The voting members are appointed by the Secretary of Energy upon the recommendation of the Governor of each

State. The appointment by the Secretary addresses concerns expressed by the Department of Justice in an October 18, 1979 letter to Chairman Dingell that certain Council functions require that they be appointed consistent with the Appointments Clause, Article II, section 2, clause 2 of the Constitution.

This section provides the procedures to be followed in the nominating and appointing of voting members. The procedure is designed to ensure early appointment of Council members and broad participation by the States in appointing qualified people to serve on the Council. While the Secretary must select nominees from a State list submitted in a timely fashion, the Secretary need not appoint each State nominee, but may decline to do so for any reason. The Governor must provide adequate data about the education, experience, background, and other pertinent data to the Secretary, including data to ensure that the appointee meets the requirements of the Ethics in Government Act of 1978. The Committee expects the States and the Secretary to work together to appoint persons who are well-qualified and who will enjoy the support of a wide spectrum of the public.

The Secretary is authorized to appoint additional non-voting members individuals he determines appropriate. They may include other Federal officials responsible for the Federal Columbia River Power Station hydroelectric projects and for fish and wildlife affected by such system, as well as representatives of Indian tribes, and from the public.

Voting members who are not Federal or State employees will be paid for the actual days they work as Council members, although there is a total annual limit on such compensation. They shall also be allowed travel expenses. All voting members are subject to the Ethics in Government Act of 1978.

Section 4(a)(6) establishes a majority of Council voting members as a quorum and that, except as otherwise provided specifically in the bill, all actions and decisions shall be by majority vote of the voting members present and voting. This section also provides that in voting for the plan or any amendment thereto the majority must include at least one member from each State. This provision will better ensure that the interest of each State is protected and not jeopardized by a cooperative effort by other States. The Committee believes that it will not be useful to allow a majority of the Council, which could be composed of members of just two States, to approve a plan that applies to all States, unless at least one of the Members representing all the States approve it. The Committee does not favor State vetos in general and this is not a State veto in the normal sense, but in reality, if one or more States object, the plan will probably have little chance of success. A plan will probably never be effectively implemented without State participation.

Section 4(a)(7) provides procedures for the selection of a Council chairman from among the voting members, and procedures for the call of meetings. It further provides opportunities for the submission of a statement of dissenting or additional views by a voting member disagreeing with a Council action or wishing to state additional views.

Sections 4(a)(8) through (14) provides the various administrative authorities and obligations of the Council and procedures for establishing the Council's budget and funding. Some of these include:

appointment of an executive director and other staff personnel who shall be Federal employees; the authority to request personnel from other Federal agencies; authority to obtain expert and technical studies from other organizations within the region; the authority to enter into contracts in accordance with provisions of law applicable to the Department of Energy; obtaining offices and support from GSA; and determining its organization, practices and procedures, including the annual work program, and the making of such information available to the public.

As for the Council's budget the Administrator must include in the BPA budget the funds necessary for the Council to carry out its responsibilitites. The total amount shall be no greater than .02 mills times the kilowatt hours sold by the Administrator the previous calendar year. Anticipating that this ceiling may be too limited, the Committee provided a procedure whereby the Administrator may raise the amount to .10 mills. The Committee expects the BPA and the Council to be judicious in utilizing this authority. To insure this, the procedure requires an annual showing to BPA by the Council of the basis for any request for added funds which must be public. The raise allowed for one year will not automatically be applied in the next.

The Council is a Federal agency, but has a semi-independent character, i.e., it is independent of the BPA. Its principal role is planning and advisory. It is subject to various Federal laws, such as the Freedom of Information Act, the Federal Advisory Committee Act, and Federal procurement laws.

Section 4(b) requires the Council to establish a voluntary scientific and statistical advisory committee to assist it in developing information relevant to the Council's development of a plan. Section 4(c) permits the Council to establish other voluntary advisory committees.

Section 4(d) sets forth the principal responsibility of the Council. The Council is directed to prepare and adopt within two years a regional conservation and power plan. This section permits amendment to the plan and requires review at least every five years. This subsection also requires that hearings be held, prior to adoption of the plan or amendments, in Washington, Oregon, Idaho, and Montana and in any other State in the region which the plan or amendments might impact through the acquisition of resources. 5 U.S.C. 553 shall apply to such hearings. The hearing process provides broad input and participation in the development of a plan and any amendments.

The Committee is concerned that the Council, with its myriad duties, may not meet this planning deadline, particularly if there is a delay in the appointment of Council members. The deadline is intended to be met and it can be met, if all in the region cooperate. While failure to meet the deadline will not result in any penalty, the plan will still be required. Although delay should be avoided, the Committee does not intend that the Council adopt a weak and ineffective plan merely to meet the deadline. A sound and competent plan is expected.

In order to insure that the Administrator, in meeting his obligation, will pursue cost effective conservation and renewables before other cost effective conventional resources, the plan, pursuant to section 4(e)(1), must give priorities to certain resources on a cost ef-

fective basis: (1) conservation, (2) renewable resources; (3) resources using waste heat or having high fuel conversion efficiency, and only then all other resources. In each case, a priority must be provided to resources determined by the Council to be cost effective. The Committee is of the view that by establishing conservation and renewables as priorities, the conservation and renewable resource objectives of the bill will be enhanced. This emphasis on conservation in planning for the region is intended by the Committee to be clearly followed. It is the cornerstone of the planning process.

Section 4(e)(2) requires that the plan set forth a general scheme for implementing conservation measures and developing resources pursuant to section 6. Thus, the plan will outline how the objectives contained therein are to be reached. The Council, in developing the general scheme, must give due consideration to: (A) environmental quality; (B) compatibility with existing regional power systems; (C) protection, mitigation and enhancement of fish and wildlife and related spawning grounds and habitats, including sufficient quantities and qualities of flows for successful migration, survival and propagation of anadromous fish; and (D) other criteria which may be set forth in the plan.

Section 4(e)(3) sets forth some of the specific elements a plan must include: (1) an energy conservation program, including model conservation standards; (2) recommendations for research and development; (3) a methodology for determining "quantifiable environmental costs" under subsection 3(3); (4) a 20 years demand forecast for the region; (5) an analysis of cost effective methods of providing reserves; and (6) if the Council recommends, conservation surcharges which BPA may impose on its customers.

The demand forecast will be the Council's estimate, developed with considerable public and BPA input, of the resources needed to meet the BPA's obligations under this Act. It will include the Council's determinations of the BPA obligations which can be met by resources in each of the section 4(e)(1) priority categories. The Committee views the development of a conservation program and the preparation of a reliable demand forecast to be priority matters for the Council's attention because so many of the Administrator's actions are dependent on these considerations.

Section 4(f) addresses the conservation standards to be included in the plan. These standards apply, but are not limited, to (A) new and existing structures, (B) utility customers and governmental conservation programs, and (C) other consumer actions for achieving conservation. The Committee intends that these standards not be applied in a manner that discriminates against any class of customer or consumer.

Pursuant to section 4(f)(2), the Council may recommend, and the Administrator may impose, a surcharge. It would be for those portions of a customer's loads within States or political subdivisions which have not, or for customers which have not, implemented conservation measures applicable to such customers that achieve energy savings which BPA determines are comparable to those obtained under the model conservation standards. The bill provides that surcharges would not be imposed where the Administrator determines with comparable results have been achieved by the customer through means other than those specifically included in the plan. If implemented, surcharges are to be set to recover the costs

attributable to the Administrator on account of the failure to achieve the energy savings projected from such conservation measures. However, there is a 10 percent floor and 50 percent ceiling on surcharges for each customer. The surcharge would be imposed on the customer by BPA, in order to provide substantial incentives for States and localities to adopt effective conservation measures and thus accelerate achievement of conservation objectives. At the same time, with the limits imposed on the surcharges, States' and localities' prerogatives are reasonably protected.

Section 4(g) seeks to insure broad public participation in the development of regional power policies. The bill provides opportunities for the Indian tribes of the region to participate in the Council's activities. The Committee believes that their participation should help to ensure widespread acceptance of the plan. The Committee has been assured by their representatives that they want to cooperate in carrying out the bill's purposes.

Section 4(h) is designed to provide effective procedures and authorities whereby fish and wildlife of the Columbia River Basin will be treated on a par with power needs and the other purposes for which the hydroelectric dams of the region were built and are operated and maintained. This should ensure a balance for all uses of the river.

Once the Council has been appointed and it begins its task of developing a plan, it must send a written request to all of the State fish and wildlife agencies in the region, the Federal Bureau of Sport Fisheries and Wildlife, the National Marine Fisheries Service, and the appropriate Indian tribes located in the region for appropriate recommendations. Each will have a minimum of 90 days to reply, although this period may be extended if necessary. The Committee expects the Council to be reasonable in responding to requests for extensions and that the above entities will act promptly to develop effective recommendations.

The recommendations must be accompanied by data to support them. The better the data, the more likely it is that the recommendations will receive wide support. While the Committee believes it reasonable to expect organizations with fish and wildlife expertise to be able easily to provide needed support data, the Committee also recognizes, and the Council should also, that 90 days will not afford an opportunity for extensive studies, the acquisition of new data, or the development of the best scientific knowledge. The data requirement is to enable the Council and others to understand the recommendations. The quantity or quality of the data should not serve as a basis for turning down any recommendation.

Once recommendations are made, an expedited public review process, including hearings, and an opportunity for power interests and others to also submit comments and recommendations, will be conducted by the Council. Thereafter, if the Council determines that any recommendation is not inconsistent with the purposes of this Act, the recommendation must be adopted by the Council. The Committee wants to stress that adoption of these recommendations is not intended to be delayed pending adoption of any plan or revision; the Council should act promptly on all recommendations. Also, the amendment clearly contemplates that the Council and these entities will, to the greatest extent possible, work together to develop effective and workable recommendations. The Council is

not asked to rubber-stamp any recommendation. However, neither is it expected that the fish and wildlife agencies or Indian tribes shall be required to agree with each other or with the power interests and others in the region to what might be aptly described as "consensus" recommendations in order to satisfy all interests. Any determination must set forth the reasoning in support of that determination and will be subject to judicial review.

The recommendations are clearly required to include, as appropriate, a broad range of measures which could, for example, be regulatory or management-type, to "protect, mitigate, and enhance" fish and wildlife and their spawning grounds and habitat. The objective is to give flexibility to all concerned to devise effective and imaginative measures that are also reasonable and will not result in unreasonable power shortages or loss of power revenues. Some power losses, with resultant loss in revenues, may be inevitable at times if these fish and wildlife objectives are to be achieved. Such losses, however, should not be a burden on the consumers of the region. The objective, however, should be to avoid, or at least minimize, losses, while meeting fish and wildlife needs. The Committee does not intend that these provisions be used to subert the power objectives of this bill.

It has been suggested that the terms "protect, mitigate, and enhance" should be defined. The Committee did not choose to do so in recognition of the fact that these terms are not new to those concerned with this resource, and because such a definition might later prove more limiting than anticipated.

At the same time, the Committee does not intend that these terms be construed in broad terms that biological and economic considerations will be totally ignored. They must be considered. However, cost should not be a deterrent if a fish and wildlife need might be sacrificed to save dollars.

Section 4(h) also requires the BPA to use the BPA fund its statutory authorities to protect, mitigate, and enhance fish and wildlife in a manner consistent with an adopted plan, including the above recommendations, and with the purposes of this legislation. It is important to stress once again that the recommendations may well precede the plan. If so, BPA and others should not delay their implementation pending adoption of the plan which will incorporate these recommendations.

Section (h) also provides a directive to BPA and other Federal agencies responsible for the management or operation or regulation of hydro facilities on the Columbia or its tributaries to adequately protect, etc., fish and wildlife affected by such facilities in a manner that ensures equitable treatment for fish and wildlife with other purposes for the facilities. This provision does not replace other provisions of law such as FERC's section 10 of the Federal Power Act, but supplements it. This provision is also aimed at placing fish and wildlife on a par with these other purposes.

Section 4(i) requires actions of the Administrator pursuant to section 6 to be consistent with the plan and amendments thereto unless otherwise provided. This subsection also provides that, except in the case of major resources which are subject to section 6(c), the Council shall advise the Administrator of those section 6 actions it will review for consistency with the plan. Thereafter, the Administrator must make an initial determination of consistency

for proposed actions and notify the Council at least 60 days prior to taking such action. Within 60 days thereafter, the Council may direct the Administrator to hold a hearing as to the consistency of the proposed action with the plan. A failure by the Council to require a hearing is deemed a determination that the proposed action is consistent with the plan. After the hearing, BPA makes the final determination.

The requirement that actions be consistent with the plan is vital to the plan's effectiveness. However, the Committee is of the view that procedures available to check on such consistency should not be used in such a way as to frustrate the overall purpose of the plan or BPA in meeting its obligations. Any final determination by the Administrator to proceed is judicially reviewable pursuant to section 9(e).

Section 4(j) permits the Council to request the Administrator to take certain actions under section 6 to carry out BPA's duties under an adopted plan.

Within 90 days after receipt of the Council's request, the Administrator must indicate how he will carry out the request or any portion thereof, or explain why he believes the action to be inconsistent with the plan or his contractual obligations or other provisions of law and give reasons therefor. If the Administrator decides not to carry out the Council's request, the Council can require a section 7(i) hearing on the Administrator's decision and the proposed action. BPA's final decision must be based on substantial evidence, but this does require a proceeding under 5 U.S.C. 554–557.

The Committee has included this rather extraordinary authority for the Council to provide it with a limited check on the extent to which the Administrator implements an adopted plan. It is intended that the Council use this authority judiciously. Clearly, some effort should be made by the Council to consult with the Administrator in advance of triggering this provision to minimize problems and to encourage voluntary actions by BPA. At the same time, the Administrator should cooperate and be receptive to the Council's suggestions. Clearly, the BPA has flexibility to adopt the proposed actions with modifications, if necessary, in order to avoid a complete rejection of the suggestion.

Similarly, the Committee included subsection (i) as a means to check on BPA's actions under section 6. Of course, before the Council can exercise this authority, there must be a plan, and so prompt plan development and adoption is important. The Council and the BPA Administrator should work together. The Council need not rubberstamp the BPA actions. However it should also be flexible. Both should always keep an eye on the purposes of this bill and make sure that their proposals are always consistent with those purposes.

Once the plan is adopted, the Council's expenditures should not be as great as they may be prior to planning. At that same time, the Council has a continuing and important role under subsections (h), (i), and (j) in addition to its responsibility to review the plan and consider future changes. The Council is expected to exercise its responsibilities under section 4 carefully and diligently.

Section 4(i) and (j) require that such hearings be conducted in accordance with procedures set forth in section 7(i). Those procedures, if misused, could frustrate the objectives of the Committee in re-

porting this legislation. The requirement that actions be consistent with the plan is vital to the plan's effectiveness. However, the Committee does not intend that the procedures available to check on such consistency should be used by the Council or any interested person in such a way as to frustrate the overall purpose of the plan or the BPA in meeting its obligations. To avoid such a possibility, the Committee expects the hearing officer to carry out his duties expeditiously and fairly. Although an adequate record is needed, delay is not.

Any final determination by the Administrator is judicially reviewable pursuant to section 9(e).

Section 4(k) reaffirms the bill's intent to encourage broad participation in the planning process. By soliciting opinions from its customers, the Administrator and the Council will have access to additional valuable information. This section also affirms the bill's intent not to abridge authorities of State and localities, electric utilities and other non-Federal entities. Similarly, section 4(l) provides a machanism to open the planning process to regional governmental bodies' ideas and initiatives, including Indian tribes.

Section 4(m) requires that by October 1, 1986, the Council conduct and complete an analysis of conservation measures implemented and renewable resources acquired under the Act since enactment for the purpose of making certain determinations set forth in this section. Once the BPA receives the Council's analysis (which shall be available to the public), the Administrator may determine that section 3(4)(D) shall no longer apply any particular conservation measure or resource if he finds any result or effect described in the referenced section. Like other BPA determinations, this one is also subject to judicial review.

Section 5. Sale of power

Section 5(a) makes clear that all power sales, including exchange sales, under this bill are subject at all times to the preference provisions of the Bonneville Project Act, as discussed earlier in this report. These provisions retain and assure preference and priority in BPA power sales to public bodies and cooperatives. This provision works together with a number of other provisions contained in this bill (section 5(b)), which provides that sales to preference customers cannot be restricted to less than the full amount of power from Federal base system resources; section 5(b)(2) which states that the five-year pullback provisions of the Project Act will apply to all investor owned utility contracts; section 7(c)(1)(A) tying the rate for preference customers to the costs of Federal base system resources; and the rate ceiling in section 7(b).

Section 5(b)(1) requires the Administrator to offer to sell to each preference agency and to each investor-owned utility the firm power it needs to meet its firm power load within the region to the extent that it cannot meet its load with its own resources. Those resources must be the resources used in the year prior to enactment of this bill and such other resources that will be used to serve its firm load in the region.

Section 5(b)(2) is a reaffirmation of the five-year pullback provision of the Bonneville Project Act.

Section 5(b)(3) authorizes the Administrator to sell electric power to Federal agencies in the region. Although Federal agencies are

not preference customers, these Federal agency customers have depended upon the Administrator for power supply. It is intended that BPA will continue to serve them.

By requiring that preference customers, IOU's and Federal agency customers comply with the Administrator's standards for service, Section 5(b)(4) ensures that the Administrator will not be required to serve any technologically-unprepared customer that cannot meet the necessary technical service criteria. BPA may periodically review and revise these standards.

Pursuant to section 5(b)(5), the Administrator is to include in the contracts for the sale of power to utilities provisions permitting restriction of his obligations to meet such customers' full requirements during any period of insufficiency. In the case of public bodies, cooperatives and Federal agencies, the contract must specify a reasonable period between the date the notice is issued and the date it is to take effect. With the authority to acquire power, such insufficiency would be for that period of time required for BPA can acquire additional power resources. The phase "on a planning basis" is intended to clarify that BPA will make determination of power entitlements or allocations on reasonable future estimate, under this section. This does not reach power deliveries during operating curtailments which is a matter for State and local governments.

By specifying the amount of power to which preference customers and Federal agencies are entitled, Section 5(b)(6) ensures compliance with the preference clause by guaranteeing that preference customers as a group and Federal agencies may not be contractually restricted until their loads exceed the firm capability of the Federal base system resources. It also permits individual preference customers better to plan to meet their future power needs by enabling them to determine the minimum amount of power they will receive in the event of an insufficiency.

Section 5(c) permits power exchange and power sales whereby rate relief will be provided residential customers of investor-owned utilities. Although all utilities are permitted to enter into such sales, its benefits are likely to be limited to utilities that are not entitled to service as a preference customer. The sale is permitted where a utility offers for sale to the Administrator an amount of electric power equal to that utility's residential load. When such an offer is made the Administrator shall acquire, by purchase, such power at that utility's average system cost and shall offer to sell the same amount of power back to the utility at the rate charged preferenced customers for their general requirements for resale to that utility's residential users within the region only. There is an exception for utilities where service lies both within and without the region as defined in section 3. The requirement is not likely to result in parity in the retail rates being paid by consumers of preference customers and consumers of investor-owned utilities, but it should equalize the wholesale costs of the electric power with a resulting benefit the investor-owned utilities' customers.

Average system cost is established pursuant to section 5(C)(7) and the rates for resale are established under section 7(b)(1). Section 5(c)(2) ramps in the exchange from 50 percent of the residential load in the year beginning July 1, 1980 to 100 percent in the year beginning July 1, 1985.

The cost of the exchange during the first five years is charged to the rates applicable to DSI's under section 7(c)(1)(A). Testimony given to the Committee indicated that it was necessary to phase in the exchange in order to minimize the dramatic rate increases to the Administrator's direct service industries.

Section 5(c)(3) requires that the benefits of this exchange be passed directly through to residential customers.

Section 5(c)(4) permits a utility to terminate the exchange if the rate ceiling of section 7(b)(3) is applied and the resulting surcharge makes the exchange uneconomic to the utility. The terms and conditions of any termination must be mutually agreed to in advance of any termination.

Section 5(c)(5) provides that although the Administrator must offer to sell an amount of power equivalent to the residential load of the utility, BPA may obtain the power from other sources if it is available at less cost than the cost of purchasing the power offered by the utility. Such acquisitions are subject to the provisions of sections 4 and 6.

Pursuant to section 5(c)(6), a utility exchanging power under this section will receive, in the event of insufficiency, an entitlement to the amount of power acquired by the Administrator from, or on behalf of, such utility and the exchange of power would continue during period of declared insufficiency.

Section 5(c)(7) provides for establishing the "average system cost," as that term is used in section 5(c)(1) by BPA in consultation with the Council, BPA's customers, and the State ratemaking agencies. This method is subject to review and approval by the Federal Energy Regulatory Commission. The average system cost may not include (a) the cost of additional resources needed to serve new large single loads, (b) the cost of additional resources needed to serve load growth outside the region, (c) the costs of any generating facility which is terminated prior to commercial operation. The term "new large single load" is defined in this section to mean any load that will result in an increase in power needs of 10 or more average megawatts in any consecutive 12-month period.

Section 5(d) authorizes the Administrator to sell power to existing direct service industrial customers that have a BPA contract at the date this bill is enacted. Initial long-term 20-year contracts are to be offered by BPA to these customers in accordance with section 5(g). In return for these new contracts, the DSI's would have to agree to terminate their current contracts. Subsequent contracts for these DSI's are authorized but not mandated. The initial contracts shall provide each direct service customer an amount of power equivalent to that which such customer is entitled under its existing contract dated January or April 1975 for the sale of "industrial firm power." These power sales to these existing direct service customers will also provide a portion of the Administrator's reserves for firm power loads within the region. The bill is silent on peaking reserves, but it is presumed that they would be similar to those under present contracts.

The amount of power the DSI's are entitled to receive under these initial contracts is expressed in section 5(d)(1) in terms of an entitlement under their present contracts, rather than in terms of the amount of power being used at a particular time.

The contracts with the DSI's now provide reserves for the region. These are basically capacity reserves and energy reserves. Under certain conditions, BPA can interrupt power sold to DSI's. Capacity reserves permit brief interruptions of the entire DSI load and repeated two-hour interruptions (up to five minutes) of half the load. In this manner, the authority to interrupt provides peaking reserves and reserves for forced outages and system reliability. The energy reserves are of two types, an operating reserve and a planning reserve. An operating reserve of roughtly 25 percent of the DSI load which may be interrupted including instances of law or critical stream flow conditions or an account of the unanticipated growth of regional firm loads; in order to protect the Administrator's firm loads within the region at any time and for any period, as determined by BPA. A planning reserve is an additional 25 percent of these DSI loads which may, upon advance notice, be withdrawn to protect firm loads from projected peak and energy deficits caused by the Administrator's planned resources being delayed or available at a lesser capability than planned.

The BPA provides credits to the DSI's for power interruptions under current contracts. The GAO, in its September 1979 report, discussed the credits then established for such interruptions as follows:

The BPA provides credits to the DSI's for power interruptions under current contracts. The GAO, in its September 1979 report, discussed the credits then established for such interruptions as follows:

> When BPA exercises the right to interrupt the DSI loads for more than one hour, it grants the DSI's discounts known as availability credits. During a 3½ year period (January 1975 through June 1978) BPA withheld almost 9 billion kilowatt hours of energy, which is equal to about 9 percent of the total planned DSI load for that period. For these interruptions, the DSI's were granted a total of almost $38 million in credits—about 14 percent of BPA's gross sales to them.
>
> When they are interrupted, DSI's are granted availability credits in a series of steps. The first step grants a credit of almost $7 million to be shared by all the DSI's when the power interruption lasts for more than one hour but does not exceed 5 percent of the total energy requested during the year. The next step grants an additional $10 million credit when the energy restricted exceeds 5 percent but is not 10 percent.

The GAO also said in the report that during January 1979, such credits tended to cause BPA power system schedulers to delay interruption of DSI loads because of the cost to BPA. However, they ultimately did so.

The BPA has since revised these credits and is expected to examine them again in connection with the new contracts.

The Committee amendment calls for new DSI contracts. The amendment does not require that they be identical to the current contracts concerning reserves, credits, and other matters, but provides BPA with considerable flexibility to prepare and negotiate contracts and adopt rates that insure that conditions relating to re-

serves are not so stringent as to render the reserves provided by the DSI's largely ineffective. As noted, the GAO expressed concern that previous rates adopted by BPA for DSI sales inhibited the use of reserves furnished by the DSI contracts.

Additionally, since the linchpin of this legislation is conservation and regional planning, the Committee expects that the DSI's will do their part to conserve energy and cooperate with BPA and the Council in the implementation of any plan adopted by the Council.

The Committee is aware that one of the direct service industrial customers entitled to an initial contract under this section, Alumax Aluminum Co., has not begun construction of its proposed aluminum reduction plant at Umatilla, Oregon, because of litigation and other factors. Since the Pacific Northwest faces potential major power shortages in the early to mid-1980's, the BPA should examine whether the initial contract offered Alumax should provide for delayed construction and operation of the plant to allow the region to cure the predicted power shortages. Further, before power is acquired by Bonneville to serve this load, there should be contractual assurances regarding the dates of completion and operation of the reduction plant.

Section 5(d)(2) expressly prohibits sale to new DSI's.

Section 5(d)(3) prohibits BPA from selling to existing DSI's amounts of power in addition to their entitlement except in accordance with strict procedures. These procedures require the BPA to determine that such sales are consistent with the plan. Also, the Council must approve such sales. This limitation and the amount of power available to DSI's should serve as significant incentives for the DSI's to conserve that power for the purpose of additional DSI production.

Under existing contracts, the DSI's qualify to receive additional power for the purpose of making improvements not related to increasing a DSI facility's level of production. The Committee understands that this has been intepreted by BPA to include such measures as pollution control devices which, of course do not, relate to a facility's production. Although this power is probably included as part of the current entitlement of the DSI's, the Committee expects the BPA to be assured that such power does not fall into the category of new power sales to increase production under such 5(d)(3).

Section 5(e)(1) insures that customers' contractural entitlement to firm power will not be restricted below the amount of power which they are providing the Administrator pursuant to section 6 and further requires that any excess of such entitlement in any given year shall be made available to other customers of the same class. This section also defines which customers are of the same class. Section 5(e)(2) ensures that entitlements of a customer (under subsection (e)(1) are additive.

Section 5(f) provides that power that is not needed to meet BPA's obligations under subsections (b), (c), and (d) is to be sold in accordance with this Act and existing law.

Section 5(g)(1) specifies that the Administrator must simultaneously offer appropriate customers the initial long-term 20-year contracts and initiate negotiations with such customers within nine months after enactment. The customer has one year to complete negotiations and accept the offer or lose the benefits of these provisions.

Section 5(g)(3)–(5) concern the acceptance and effective date of power sales contracts under the Act and in particular, ensure that the benefits of the 5(c) exchange begin on a specified date even if the DSI contracts are not executed until later.

Paragraph 5(g)(6) places a floor under the power entitlements of individual public body, cooperative and Federal agency customers in the event of an insufficiency during the initial contract. A minimum contractual entitlement enhances the customers' ability to plan.

Section 5(g)(7) is intended to ensure that a challenge (on the basis that the Administrator lacks legal authority on account of insufficient power resources) to the initial contracts required to be offered under this Act will not be sustained. In obtaining new resources, however, BPA must do so in accordance with this bill. This provision does not override any other provision of this bill. To the extent that additional power is required to meet these initial contract commitments, BPA can use its existing short-term authority as well as its authority under this Act.

Section 6. Conservation and resource acquisition

Section 6(a) requires the Administrator to acquire conservation, conservation measures and renewable resources installed by residential and small commercial consumers in meeting his obligations to satisfy the load of his customers. These measures and resources must be consistent with the priority tests of section 4(e)(1) and the considerations of section 4(e)(2). The Administrator need not await a plan to utilize this authority. He must, however, apply these section 4(e) provisions to the proposed acquisition. A nonexclusive list of authorized conservation measures is provided in this subsection.

Section 6(a)(3) contains the BPA's authority to acquire resources other than conservation and end-use renewables to meet contract obligations after taking into account conservation. This expanded authority is distinguishable from the Administrator's existing authority in accordance with the Federal Columbia River Transmission Act which permits the Administrator to purchase power on a short-term basis to meet temporary deficiencies in electric power which he is obligated by contract to supply.

Except as specifically provided elsewhere, section 6(b) provides that acquisition of resources pursuant to section 6 are to be consistent with the plan developed by the Council under section 4. If the resources are not consistent with the plan, or if there is no plan in effect, then the Administrator may acquire these resources so long as the Administrator determines that they are consistent with the priorities and considerations of section 4(e)(1) and 4(e)(2). This determination, where the resource is not consistent with the plan, is subject to the procedural requirements of section 4(i). If the resource is a major resource, the acquisition must be in accordance with section 6(c).

In acquiring a resource under this section, the Administrator will not own or construct any generating resources. The Administrator's acquisition will be by contract to pay for the capability or, in some cases, a specific amount of power from a utility's system or power associated with a generating resource or conservation resource or group of resources.

Section 6(b) stresses the BPA, in acquiring these other resources, shall not reduce efforts to achieve greater conservation.

Section 6(c) sets out the procedures for the acquisition of a major resource, the implementation of a conservation measure that will conserve an amount of power equivalent to a major resource, an agreement to reimburse investigations and pre-construction expenses for a major resource or to grant billing credits or services involving a major resource. For each such proposal, the Administrator must (A) publish notice, with copies to the Council and, as appropriate, the Governor of a State where a facility is to be constructed or a conservation measure implemented; (B) conduct public hearings; (C) develop an administrative record; and (D) prepare a written discussion, including a determination of whether the proposed acquisition is consistent with the plan, or notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligation under this Act. If no plan is in effect, then the Administrator must find that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

If either the Administrator or the Council determines that the proposal is not consistent, the Administrator may not proceed until the expenditure of funds for the proposal has been specifically authorized by an Act of Congress through the budgetary process required under the Transmission Act. After that, he must wait 90 days. All acquisitions must comply with all applicable environmental laws, as well as other applicable laws.

Section 6(d) authorizes the Administrator to acquire a non-major resource which is experimental, developmental, demonstration, or a pilot project type so long as the resource is a potential for cost-effective service to the region is included in the Administrator's budget submitted to Congress. Again, "acquisition" does not include actual construction.

Section 6(e) provides a list of certain of the Administrator's conservation authorities and requires that the Administrator make maximum practicable use of such authorities to give effect to the priority for conservation and direct-applications renewable resources. Section 6(e)(2) explains that to the extent conservation measures or resource acquisitions require direct arrangements with consumers, the Administrator shall make maximum practicable use of his customers and local entities.

Section 6(f) authorizes the Administrator to support the sponsors of resources that the Administrator determines may be eligible for future acquisition. For such resources, the Administrator would be authorized to enter into agreements with the sponsors of any resource to reimburse certain expenses. If the resource is renewable, but not a major resource, the Administrator can fund or secure debts incurred in the investigation and initial development of such resource.

In the case of resources, other than these renewable resources, the BPA can reimburse investigation and preconstruction expenses (not including the costs of capital equipment or construction material) subject to the following requirements: (1) the reimbursement may only be exercised where the Administrator determines at the time of the contract that a failure to do so would result in extreme or unusual hardship; (2) it can only reach expenses incurred after

enactment of this Act; (3) the agreement shall provide the Administrator with an option to acquire such resource; (4) the agreements provide that if the resource is ultimately developed, then the developer shall pay all such expenses; (5) it is authorized only if the resource is subsequently denied State siting approval or other necessary permits, the investigation subsequently demonstrates that the resource does not meet the bill's criteria and considerations for acquisition, or if the Administrator decides not to purchase the resource and the sponsor decides not to construct it; (6) the agreement provides that the Administrator will recover any funding in the event that the sponsors decide to construct the resource after the Administrator has decided not to acquire it. Expenses incurred by a sponsor after denial of a State siting approval or after BPA's determination about the relationship of the resource to the plan or section 4(e) are not reimbursable, excepting those reasonably necessary for the liquidation of the resource.

The purpose of this section is to permit the region where necessary to share certain resource sponsor expenses when it is anticipated that the region will be sharing in the benefits of this resource.

Section 6(g) makes clear that the preparation of joint State and Federal environmental impact statements apply to resources acquired under this Act is encouraged as provided by existing laws and regulations.

Section 6(h) authorizes the Administrator to grant billing credits to customers and provide services if, by undertaking independent conservation or resource programs, they reduce the Administrator's obligation to acquire resources. These are both mandatory credits and discretionary credits, but in either case, the amount of the credit can never be set at a level that results in costs for the Administrator's other customers greater than the costs those customers would have experienced had the Administrator acquired the needed resources directly.

Mandatory credits apply to: (a) independent conservation activities of BPA customers or political subdivisions served by those customers which reduce BPA's obligations to acquire resources; and (b) independent resources of customers or political subdivisions constructed, completed, or acquired after the effective date of this Act and which also reduce BPA's obligations. This latter category is renewable, multipurpose projects, or other resources.

Discretionary credits apply to resources that reduce the obligation of the Administrator to acquire resources and that are not inconsistent with the plan, or if no plan is in effect, not inconsistent with section 4(e)(1) and (2).

Calculations of power savings are to be based on actual change in customers' requirements for power or reserves. It is the Committee's intention that for eligible resources receiving some financial assistance from the Administrator such assistance will be subtracted from the calculation in determining the net credit for that resource and that eligibility for billing credits shall cease if the Administrator acts pursuant to the plan to acquire the resource or mandate the conservation program. The Committee also views participation shares in a jointly-owned or operated resource as creditable resources of the participant, if they meet the requirements of this subsection. There is also significant value to the Administra-

tor's customers in knowing whether or not their resources will receive credits, and thus the Committee intends that discretionary eligibility standards and calculation of actual credits will follow the general eligibility conditions for the mandatory credits. The exact size of the credit will give individual utilities ample incentive for local investments while preserving for other customers of the Administrator the rates and costs they would have paid in the absence of the individual utilities' action.

The amount of the credits is determined by different formulas set forth in the subsection. Conservation credits are to be set at the level at which the rate impact to the Administrator's other customers is the same as the rate impact such customers would have experienced if the Administrator had acquired resources in the same amount. Resource credits are to be based on the net costs actually incurred by the utility in acquiring the resource but the credit may not be greater than the cost of resource acquired by BPA from other resources.

Retail rate structures voluntarily implemented by a customer which induce conservation, or installation of consumer owned renewable resources will qualify for billing credits if they meet the same type of performance standards as are required from other conservation or resource activities under this subsection these rate forms are not limited to those studied by the Council pursuant to section 9(i)(1).

Before granting any credit, the Administrator must notify customers and the Council, explain the method he proposes to use in determining the amount of the credit, and permit them a reasonable time to express their views. All major resource credits must follow section 6(c).

Section 6(i) requires the Administrator to include in BPA contracts enforceable terms and conditions which will allow it to exercise effective oversight for all resources it acquires, including conservation activities for which it provides billing credits. Such terms and conditions may vary depending on the particular resource, and its potential impacts on BPA ratepayers.

This provision was strengthened significantly as a result of the Subcommittee's investigation of the net billed plants with the help of the GAO. The Committee expects that BPA will exercise responsibilities by BPA in such a way that cost overruns such as those experienced at the net billed plants will be minimized or avoided. It is intended that the BPA will have an active role in monitoring the building and operation concerning such resources. To do this, BPA will have to expand its capability to oversee such activities.

Section 6(j) makes it explicit that the Act does not authorize any form of "Federal guarantee" for bonds sold to finance resources acquired by the Administrator. All contractural and other obligations required of the Administrator under the Act are secured solely by Bonneville's revenues. The full force and credit of the United States is not pledged. In addition, all offerings and promotional material for resources acquired by the Administrator under this Act must specifically state that the obligations are not guaranteed by the Federal government. The Committee will watch BPA's activities under section 6 (i) and (j).

Section 6(k) requires that financial assistance, billing credits and other benefits be distributed equitably to each class of customer throughout the region.

Section 6(i) directs the Administrator to investigate opportunities for adding to the region's resources through the accelerated or cooperative development of renewable resources located outside the region and opportunities for mutually-beneficial interregional exchanges of power that reduce the need for additional generation or generating capacity in the Pacific Northwest and regions with which such exchanges may occur.

Paragraph (2) of subsection (1) authorizes and directs the Administrator periodically to investigate opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity, with emphasis upon reduction of additional generation in the Pacific Northwest and the regions with which such exchanges may occur. Similar exchanges implemented in the past have demonstrated the mutual benefits that regional exchanges can achieve. The Council is required to consider such investigations and interregional exchanges in formulating the regional conservation and electric power plan mandated by section 4.

Paragraph (3) authorizes the Administrator to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of section 4(e)(1) and the considerations of section 4(e)(2).

Section 6(m) requires the Administrator to determine that a reasonable share of the resource to be acquired, or a reasonable equivalent, has been offered to each Pacific Northwest utility for ownership, participation, or other sponsorship. This provision is important because under section 5(e) each utility's entitlement will include those additional resources the utility has sold to the Administrator under section 6.

Section 7. Rates

Section 7(a) requires that the Administrator periodically review and set BPA rates to recover the Administrator's total costs, including amortization of the Federal investment in the Federal Columbia River Power System and specifies the applicable laws upon which FERC shall approve and confirm the Administrator's periodic rate filings, including the rates paid by BPA for purchased power. As recommended by FERC, these laws include the Flood Control Act of 1944. The costs include those incurred under section 4(h) of the Committee amendment, but they do not include, as recommended by FERC, an "allowance for contingencies".

Section 7(b) establishes the rates for power sold to meet the general requirements of public bodies, cooperatives, and Federal agency customers within the Pacific Northwest, and for sales under the 5(c) exchange. This rate will be the Administrator's lowest firm power rate. Section 7(b)(2) establishes a "rate ceiling" for preference customers that seeks to assure these customers that their rates will be no higher than they would have been had the Administrator not been required to participate in power sales or purchase transactions with non-preference customers under this Act. The assumption to be made by the Administrator in establishing this ceiling are specifically set forth. It is through rate ceilings that this

Act provides additional protection to public bodies and cooperatives' preference customers as to the price of the sale of power by the Administrator. In the event that this rate ceiling is triggered, then the additional needed revenues must be recovered from BPA's other rate schedules.

Section 7(c) prescribes the rates applicable to direct service industrial customers. Prior to July 1, 1985, the direct service industrial customer rates are set to recover the cost of resources required to serve such customers' loads, plus the otherwise unrecovered net costs of the section 5(c) exchange for the benefit of residential consumers in the region. After July 1, 1985, the rates are required to be equitable in relation to the retail rates charged by the Administrator's public body and cooperative customers to their industrial consumers in the region. Direct service industrial rates are to be adjusted to take into account the value of power system reserves available to Bonneville through its contract right to interrupt service to such customers.

Section 7(d) permits the Administrator to apply constraints to the rates of customers with low system densities. This is intended to afford greater equity to consumers of small rural co-ops which have high distribution costs due to difficult terrain, remote service areas, or other factors.

Section 7(e) clarifies that the Administrator may establish a uniform rate for the sale of peaking capacity and that the rate directives of this Act govern the amount of revenue the Administrator collects from each class of customers, not the rate form.

Section 7(f) establishes the rate or rates for sales to investor-owned utilities other than sales pursuant to the section 5(c) exchange, preference customers for power needed to meet the requirements of new large single "loads" and all other miscellaneous sales. This rate has sometimes been termed a new resource rate and does not preclude the establishment of more than one rate under this provision if circumstances make a separate rate for a separate load or demand necessary or appropriate.

Section 7(g) accommodates the need to allocate across all rates those costs that cannot be allocated to particular rates to meet the requirement of section 7(a). BPA's obligation and that of the customers is to ensure that all costs are recovered. BPA also has an obligation to keep costs reasonable while carrying out its contractual and statutory obligations fully. This subsection further provides that all costs and benefits will be allocated to the various rates consistent with the provisions of this Act and, as appropriate, generally accepted ratemaking principles and specific directives of this Act.

Section 7(h) requires the Administrator to adjust rates if necessary in order to collect additional charges for failure to comply with standards established pursuant to section 4(f) and to allocate revenues from such surcharges in a way that will help achieve the purpose of section 4(f).

Section 7(i) establishes rather detailed procedures for ratemaking. The Committee amendment clarifies the procedures adopted by the Senate to ensure adequate and effective review of BPA rates and revisions thereof. It is the clear intent of the Committee that no one may use these procedures to frustrate the Act or to delay rate revisions. The BPA must act fairly to ensure full public

and customer input, but dilatory tactics must be avoided. Few relish rate changes that result in higher rates, but often they cannot be avoided. The burden is on BPA to justify increases. These procedures should ferret out unjustified or inadequately supported changes.

This section also authorizes FERC to approve BPA's rates on an interim basis. FERC is authorized to establish procedures for this purpose, including provision for refunds if the final rate approved by FERC is less than the interim rate. FERC should act promptly to adopt such procedures.

Section 7(j) required the Administrator to provide information in rate schedules and billings to its customers on the cost of different resource categories and new resources. It allows the customer and, if included in the customer's bill to its ratepayers, the ratepayers of that customer to identify the costs of load growth.

Subsection (k) reaffirms that all rates or rate schedules proposed by the Administrator for the sale of non-firm energy oustide of the region, but within the United States, shall become effective only after review by the Federal Energy Regulatory Commission for conformance with the requirements of existing law applicable to BPA sales: the Bonneville Project Act, the Flood Control Act of 1944 and the Federal Columbia River Transmission System Act. FERC's review will be based on the BPA record and on any subsequent FERC proceedings. In performing its review, the Commission shall afford any party to the BPA proceedings conducted under section 7(i) an opportunity for an additional hearing, to be conducted in accordance with procedures established by the Commission for ratemaking under the Federal Power Act. This section does not alter the authority of the Administrator under existing law, but supplements that authority. The second hearing requirement at FERC is intended to afford all parties fair opportunity to challenge BPA rates. However, it should not be allowed to become burdensome or dilatory.

To protect regional consumers from the economic penalties of selling low and buying high in dealings with Canada, section 7(l) permits the Administrator to negotiate or establish rates for sales outside the United States at levels which are equitable in view of the rates charged by non-U.S. entities to the Administrator or his customers. The BPA must give notice of proposed negotiations and notice of the rate agreed to as a result of such negotiations. The first notice, however, does not require BPA to reval its negotiation strategy or its rate proposal.

Section 8. Amendments to existing law

Section 8(a) and (b) are technical amendments to the Transmission Act necessary on account of this Act.

Section 8(c) amends the Transmission Act in a more substantive way. It makes clear that the Administrator's ability to borrow does not include authority to borrow for the purpose of acquiring power from a major generating facility under section 6. This responds to the concerns of the Department of the Treasury and others relative to a Federal guarantee of the Administrator's acquisitions. Secondly, this section alters the terms on which the Administrator may borrow from Treasury. The Administrator is not permitted to borrow on the open market since BPA is required to borrow from

Treasury. Treasury now charges the Administrator a rate equivalent to that of certain utility bonds sold on the open market. This bill specifies that the rate shall be the rate Treasury borrows plus a sufficient markup to raise the total rate to the level of similar bonds sold by other government agencies.

Lastly, this section raises the Administrator's borrowing limit of $1.25 billion to $2.5 billion effective in fiscal year 1982. The entire increase would be for a revolving fund for conservation and renewable resource loans and grants. It is subject to annual appropriations. It is intended that if such funds are funneled for this purpose through utilities to local customers, they shall be deemed to be the Administrator's funds.

Section 8 amends also Public Law 88–552 so that the definition of the term "Pacific Northwest" will coincide with that used in this Act.

Section 9. Administrative powers

Section 9(a), although apparently broad, is a technical provision that integrates the Administrator's authority under this Act with its authority under the Bonneville Project Act. Only insofar as it incorporates the authority necessary to carry out this Act does it expand existing BPA authority to contract. By allowing the same contracting authority as exists under present law, this provision is intended to eliminate potential conflicts between the statutes in contract matters.

Section 9(b) specifies that the Administrator shall carry out his functions in accordance with the Act, the Bonneville Project Act and the Department of Energy Organization Act.

Section 9(c) insures that, as under present law, all power sold outside the Pacific Northwest by BPA must be surplus to the needs within the Northwest and that the provisions of the Act of August 31, 1964 will apply to resources acquired by BPA and its customers.

Paragraph (1) lists eight specific actions of the Council and BPA that are deemed final for purposes of judicial review under 5 U.S.C. 701–706.

Paragraph (2) sets forth the scope of review of such actions with or without a hearing. In the case of ratemaking, the substantial evidence rule will apply. The adjudication provisions of 5 U.S.C. 554 and 557 do not apply to hearings under this bill.

Paragraph (3) makes it clear that other final actions and decisions of the Council and BPA are also subject to judicial review in accordance with existing law.

Paragraph (5) indicates what courts will entertain judicial review and provides some finality to the plan and other actions.

Section 9(e), the so-called "tax-exempt financing provision", preserves, but does not extend the ability of publicly-owned utilities to finance power resources with governmental obligations, the income from which is exempt from Federal taxation as provided in section 103(a)(1) of the Internal Revenue Code. So long as these resources are developed to meet the firm load of public bodies, cooperatives and Federal agencies, acquisition of these resources by the Administrator does not impair the exemption. The subsection establishes a two-step procedure to insure that the exemption is only available for this purpose and is exercised consistent with appropriate regulations. First, the Administrator must certify that the persons for

whom the Administrator is acquiring such resources for sale pursuant to section 5 of this are public bodies, cooperatives and Federal agencies and this certification must be pursuant to methodology approved by the Secretary. Secondly, the Secretary must determine under regulations which apply to industrial development bonds that less than a major portion of the resource is to be furnished to persons who are not exempt persons (which term does not include cooperatives and Federal agencies).

Section 9(f) directs the Federal Energy Regulatory Commission to convene a joint State board to assist the Commission in its review of rates paid by the Administrator for power from investor-owned utilities. This insures that State regulatory bodies will be given an opportunity to participate in this review and does not establish any precedent in applying the Federal Power Act.

Currently, section 209 of the Federal Power Act authorizes such a board. This provision would mandate the board. However, it does not change FERC's remaining powers under section 209, including its power to revoke any reference to such a board.

Section 9(g) is intended to provide a limited exemption for the Public Utility Holding Company Act of 1935 by exempting from the definition of "electric utility company" in that Act any company which owns or operates facilities for the generation of electricity generated by such company to be sold directly or indirectly to the Administrator. At least ninety percent of such generation must be sold directly or indirectly to BPA. The Securities and Exchange Commission, with the concurrence of the Administrator, must determine that the organization of such company is consistent with the policies of section 1(b) of the Public Utility Holding Company Act of 1935 (PUHCA). Participation in any such facilities must be offered to public bodies and cooperatives. The Administrator must include in contracts for the purchase of a major resource from that company provisions limiting the amount of equity, if any, in such company to that which the Administrator determines will be consistent with achieving the lowest attainable power cost. All significant contracts entered into by and between that a company must be approved by BPA with the SEC's concurrence. These will include all sales, construction, financing and related contracts as a minimum. The exemption shall continue unless the Administrator or the Securities and Exchange Commission, or both through periodic review, determine that the company no longer operates in a manner consistent with the policy of the PUHCA. A procedure bringing the company into compliance is provided.

The Committee amendment requires the SEC to "determine that the organization is consistent with the policies of PUHCA" and contemplates that the SEC should establish procedures as it may deem appropriate to assure that such exemption is consistent with the policies of PUHCA. The amendment contemplates monitoring of the operation of the subsidiary. The SEC or the BPA Administrator may revoke the exemption upon a determination that it is no longer being operated in a manner consistent with the policies of PUHCA. The Committee amendment provides for periodic review by BPA and SEC of the exemption. The purpose of this provision is to ensure that the company is in compliance and, if is not, to take appropriate action, including termination of the exemption.

However, it is not intended that these agencies trigger termination procedure for minor or insignificant reasons. The agencies should give a company reasonable opportunity to make corrections after giving notice of them to the company. Also, the term "policies" of the 1935 Act is not defined by the Committee. The agencies are, obviously given some leeway to define them in light of the Act and its application today and in the future. The bill places a duty on both agencies. The Committee expects that it will be exercised properly and fairly, but with effect.

Lastly, in requiring that at least 90% of the power generated by the exempted company's share of a project be sold to BPA, the Committee understands that individual plant operations could cause an anticipated violation of this requirement and does not believe that an exemption should be lost under such circumstances, but the BPA and SEC should examine violations to see if they are, in fact, only minor in nature.

Section 9(h) describes the additional services that the Administrator is to provide his customers within the region. Paragraph (1) requires that the Administrator, upon the request of any customer, including the DSI's assist such customer in acquiring and disposing of non-Federal power that such customers need to replace power that may be curtailed or interrupted by the Administrator. Paragraph (2) authorizes the Administrator to prescribe policies and conditions for the independent acquisition or disposition of power by direct service industries. Paragraph (3) requires the Administrator to furnish services, including transmission, storage, and load factors, to customers unless he determines that the provisions of such services would interfere with his other responsibilities and provides a limited priority in this respect to resources under construction on the effective date of this Act is such power as has been offered for sale at cost and referred by the Administrator.

Section 9(i) requires the Council to prepare a report on retail rate structures that encourage cost-effective conservation and consumer-owned renewable resources, and to authorize the Administrator, upon request of a customer, to assist the customer in analyzing and developing retail structure that encourage such conservation and renewable resources.

Section 9(j) establishes a new position with BPA for conservation and renewable resources and requires that the Administrator, subject to his supervision, assign responsibility for conservation and renewable resource programs to this person. The intent is to provide greater emphasis to these programs at BPA consistent with the bill's purposes.

Section 10. Savings provision

The Committee intends under section 10(a) that nothing in this Act shall be construed to modify the authorities and responsibilities of State and local governments and electric utilities over their traditional responsibilities for power matters, particularly siting of projects, rate regulations, safety and other areas within State jurisdiction. The disclaimer, however, does not relieve BPA customers and others with contractual obligations under this bill from complying with those obligations and this bill.

Section 10(b) preserves the rights and obligations of the Administrator and his customers under contracts existing on the effective

date of this Act. Again this provision must be read in light of other provisions of the bill that provide for termination of contracts upon acceptance of initial contracts.

Section 10(c) makes it clear that this Act does not in any way affect or modify the preference provisions contained in other Federal power marketing statutes.

Section 10(d) was added by the Committee to insure that certain identified contracts entered into by the Administrator to sell power, to acquire or credit resources, or to reimburse investigation and preconstruction expenses, shall not be affected if any provision of this Act is found to be unconstitutional. The savings provision applies to contracts entered into prior to such finding and in accordance with the affected provision.

Section 10(e) was added by the Committee to insure that nothing in this Act shall be construed to modify any treaty or other right of an Indian tribe.

Section 11. Effective date

This section establishes the effective date of the bill to be the enactment date or October 1, 1980, whichever is later.

Inflationary Impact Statement

The Pacific Northwest Electric Power Planning and Conservation Act is not expected to have an inflationary impact. The conservation aspects of the bill, plus the ability to meld the BPA system with other power entities, should result in substantial longterm cost savings.

Congressional Budget Office,
U.S. Congress,
Washington, D.C., April 15, 1980.

Hon. Harley O. Staggers,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 885, Pacific Northwest Electric Power Planning and Conservation Act.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin, *Director.*

Congressional Budget Office—Cost Estimate, April 15, 1980

1. Bill Number: S. 885.
2. Bill title: Pacific Northwest Electric Power Planning and Conservation Act.
3. Bill status: As ordered reported by the House Committee on Interstate and Foreign Commerce, March 19, 1980.
4. Bill purpose: The bill establishes programs and procedures to encourage conservation and efficiency in the use of electric power and ensure public participation in the development of regional plans for energy conservation in the Pacific Northwest. It also provides for the mitigation of adverse impacts from hydroelectric projects on fish and wildlife in the region. Subject to appropriation

action, the bill authorizes an additional $1.25 billion in borrowing authority for the Bonneville Power Administration (BPA), effective in fiscal year 1982, for the purpose of making conservation and renewable resource loans and grants.

5. Cost estimate:

[By fiscal years in millions of dollars]

	1981	1982	1983	1984	1985
Authorization level		1,250			
Estimated net outlays		200	222	186	150

The costs of this bill fall within budget function 300.

6. Basis of estimates: The Bonneville Power Administration is required by law to operate on a business-like basis. It obtains its capital by borrowing from the Treasury and must collect through rates enough to cover retirement of the principal indebtedness and payment of interest costs in addition to other operating costs. The Federal Columbia River Transmission System Act of 1974 provided BPA with $1.25 billion in authority to borrow from the Treasury, and to date approximately two-thirds of that amount remains available. Under the 1974 Act, however, BPA can only borrow to build transmission lines. This bill broadens the potential uses of the existing borrowing authority to include activities to conserve existing resources and mitigate effects on fish and wildlife. The bill provides an additional $1.25 billion in borrowing authority to BPA effective October 1, 1981, for conservation and renewable resource loans and grants.

Since rates must be structured to cover all costs, BPA receipts and outlays should be equal in the long run. However, in the short-run, there can be a significant budget impact. For the purpose of this estimate, it is assumed that the bill will be passed late in fiscal year 1980. Estimated outlays are based on BPA's preliminary expectation that it will invest about $950 million in conservation and related measures between now and 1985 (approximately $200 million in 1982, and $250 million per year thereafter). These estimates will be refined as the regional electric power plan mandated by the bill is developed, and as results from existing pilot programs become available. No additional outlays are anticipated in fiscal year 1981, because these programs have a start-up time of one-to-two years.

The additional expenditures will be partially offset by additional receipts from loan repayments and rate increases. These receipts are estimated to total approximately $190 million by 1985, based on the assumption that BPA will set its rates at a level that will cover additional expenses, including 13 percent interest plus an amount sufficient to retire the principal in 20 years.

The bill would permit eligible utilities to dedicate capacity to BPA without losing the right to issue bonds that bear tax-exempt interest. There will be no direct revenue loss to the federal government from enactment of this provision.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Debbie Goldberg.
10. Estimate approved by: C. G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

Cost of Legislation

The Committee's estimate of the projected budget impact of the specific authorization in the Committee amendment is shown in the following table:

[By fiscal years in millions of dollars]

	1981	1982	1983	1984	1985
Authorization level		1250			
Estimated net outlays		200	222	186	150

The Bonneville Power Administration is required by law to operate on a businesslike basis. It obtains its capital by borrowing from the Treasury and must collect through rates enough to cover retirement of the principal indebtedness and payment of interest costs in addition to other operating costs. The Federal Columbia River Transmission System Act of 1974 provided BPA with $1.25 billion in authority to borrow from the Treasury, and, to date, approximately two-thirds of that amount remains available. Under the 1974 Act, however, BPA can only borrow to build transmission lines. This bill broadens the potential uses of the existing borrowing authority to include activities to conserve existing resources and mitigate and enhance effects on fish and wildlife. The bill provides an additional $1.25 billion in borrowing authority to BPA effective October 1, 1981, for conservation and renewable resource loans and grants. Bonneville estimates that after 1987, interest and other payments to the Treasury under this authority will result in net receipts to the Treasury. The additional expenditures will be partially offset by additional receipts from loan repayments and rate increases. These receipts are estimated to total approximately $190 million by 1985, based on the assumption that BPA will set its rates at a level that will cover additional expenses, including 13 percent interest plus an amount sufficient to retire the principal in 20 years.

The Council will be financed entirely by BPA revenues. The bill sets forth requirements for FERC review and approval of BPA rates and certain other matters. In general, this is a restatement of FERC's current review and approval authority under the Federal Power Act. No new funds are expected to be needed by FERC in fiscal year 1981.

Committee on Government Operations

No findings or recommendations on oversight activities pursuant to clause 2(b)(2) of rule X and clause 2 (1) and (2)(D) under rule VI of the Rules of the House of Representatives have been submitted by the Committee on Government Operations for inclusion in this report.

OVERSIGHT FINDINGS

The Energy and Power Subcommittee, with the help of the General Accounting Office, has conducted an extensive oversight investigation as part of its consideration of this legislation into the BPA's net-billed contracts and the BPA oversight over those contracts. The investigation revealed serious weaknesses in the BPA contracting and oversight procedures. The Committee amendment includes several provisions aimed at overcoming these weaknesses. Also, in part based on the Subcommittees' efforts, the BPA has initiated some corrective measures under its existing authorities.

The investigation also covered the deficiencies in Federal laws and Federal agency procedures for protecting fish and wildlife in the region. This bill should correct many of these deficiencies.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL COLUMBIA RIVER TRANSMISSION SYSTEM ACT

* * * * * * *

BONNEVILLE POWER ADMINISTRATION FUND

SEC. 11. (a) * * *

(b) 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) * * *

* * * * * * *

(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; [and]

(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 Interior, as the Administrator determines to be necessary or appropriate in carrying out the purposes of this Act[.] *; 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.

* * * * * * *

REVENUE BONDS

SEC. 13. (a) 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 Act 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 (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 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 Treasury 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.* 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 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 the such revolving account shall not be deemed State or local funds.*

(b) 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 11(b)(2) through 11(b)(7) [and], 11(b)(11), *and 11(b)(12),* and shall include reserve or other funds created from such receipts.

* * * * * * *

SECTION 1 OF THE ACT OF AUGUST 31, 1964

AN ACT To guarantee electric consumers in the Pacific Northwest first call on electric energy generated at Federal hydroelectric plants in that region and to guarantee electric consumers in other regions reciprocal priority, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, as used in this Act—

(a) "Secretary" means the Secretary of the Interior.

(b) "Pacific Northwest" means (1) the region consisting of the States of Oregon and Washington, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming within the Columbia drainage basin and of the State of Idaho as the Secretary may determine to be within the marketing area of the Federal Columbia River power system, and [(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (i) no generating facilities, and (ii) a distribution system from which it serves both within and without said region.] *(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.*

* * * * * * *

MINORITY VIEWS

The Pacific Northwest Electric Power Planning and Conservation Act is intended to resolve the serious and unique electric power deficit in the Pacific Northwest. This bill is far from perfect. In fact, the Minority supports it with misgivings over some provisions. We recognize, however, that the bill is agreeable to the region and that, without this bill, the gravity of the problem would only worsen. Unabated, the power deficit in the Northwest could result in ruinous litigation and regional chaos. Without a certainty of power, the domestic production of aluminum may be endangered, undermining our attempts to improve our national economy.

For over forty years, the states of Washington, Oregon, Idaho, and Montana have enjoyed abundant and inexpensive hydropower marketed by the Bonneville Power Administration. Now the growth of the region has surpassed its hydropower supply. The previous, non-legislative attempts to meet the growing demand have failed.

The Bonneville Power Administration, created in 1937 to market the hydropower generated by dams built by other Federal agencies, served three types of customers: public power agencies, investor-owned utilities, and direct service industries, largely aluminum ingot plants. The public agencies were granted a preference right to the hydropower in the original statutes, but never needed to exercise those rights against other Bonneville customers until recently. Because of the power deficit, Bonneville curtailed sales of hydropower to the investor-owned utilities in 1973, and has indefinitely interrupted sales to the direct-service industries over the past three years. Neither public nor private utilities are capable of independently building enough new supply to overcome the deficit. Moreover, without an equitable system of reallocation there is little hope that the two types of utilities would be able to construct new generation cooperatively. In addition, because the residential rates of public agencies are 50 percent of those of the private utilities, there is a movement towards creating a new public agency for the entire State of Oregon. While this may bring some temporary relief to the residential consumers of Oregon's private utilities, it would create such a huge strain on Bonneville's resources that the entire region's power supply would be imbalanced.

It is clear that only a new system of allocating the hydropower can arrest the problem, and that only Congress can provide the solution. This bill would reallocate the hydropower into a region-wide power pool, administered by Bonneville, so that the cost and production of new thermal generation may be shared among the customers of the region. The bill carefully protects the preference rights of the public agencies, allows the residential consumers of the private utilities to share hydropower rates, and allows a certainty of supply—at a greatly increased rate—to the direct-service industries.

The solution is not flawless. For example, the bill establishes a new planning agency to direct Bonneville in meeting the power deficit. We are concerned that this Council, mandated to consider conservation first and conventional generation last, may succumb to a no-growth philosophy. This would be most unwise, since the

region's past inability to build new generation has contributed to the present shortage.

We can, however, support the bill because it is the only way new generation will be built in the region and therefore the only way to remedy the deficit.

A healthy power supply in the Pacific Northwest is important to the nation, and particularly to the western states. The power supply of the region is still largely hydropower and as such is seasonal. There are often huge temporary surpluses of power which are available for purchase by other western utilities. Southern California, for example, often exchanges power with the Northwest to the benefit of both regions. This long-standing arrangement was recently clouded by a proposed Bonneville wholesale rate increase which would dramatically increase retail rates in California. Such a large increase would jeopardize the ability of California utilities to back-out oil-fired generation.

The Committee adopted two Minority supported amendments, agreeable to the Pacific Northwest and Southwest, which reaffirm that all rates or rate schedules proposed by the Bonneville Administrator for the sale of non-firm energy outside of the region but within the United States shall become effective only after substantive review by the Federal Energy Regulatory Commission for conformance with the requirements of the Bonneville Project Act, the Flood Control Act of 1944 and the Federal Columbia River Transmission System Act. In performing its review, the Commission shall afford any party to the proceedings an opportunity for a hearing to be conducted in accordance with the procedure established by the Commission for ratemaking under the Federal Power Act. In addition, Bonneville is directed to periodically investigate opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity, with emphasis upon reduction of oil-fired generation, in the Pacific Northwest and the regions with which such exchanges may occur. The Council is required to consider such investigations and interregional exchanges in formulating the regional conservation and electric power plan. In turn, Bonneville is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of the bill.

The Northwest is now well interconnected to other Western regions, particularly the Pacific Southwest. Mutually-advantageous sales of surplus hydro energy from the Northwest to the Southwest have been effected over the intertie to the Southwest, particularly since the Northwest's seasonal surplus occurs at the same time as the Southwest's seasonal peak. The Northwest's winter peak also comes at a time of seasonal surplus for the Southwest utilities. As a result, over the past 11 years, an estimated 67.5 billion Kwh of surplus energy have been sold to Southwest utilities, displacing oil consumption of 230 million barrels of oil or its equivalent. We feel that these types of interregional exchanges are in the national interest and that the provisions of the bill encourage such exchanges.

In conclusion, we believe this legislation will encourage and promote economic growth and a higher standard of living for those affected by the bill.

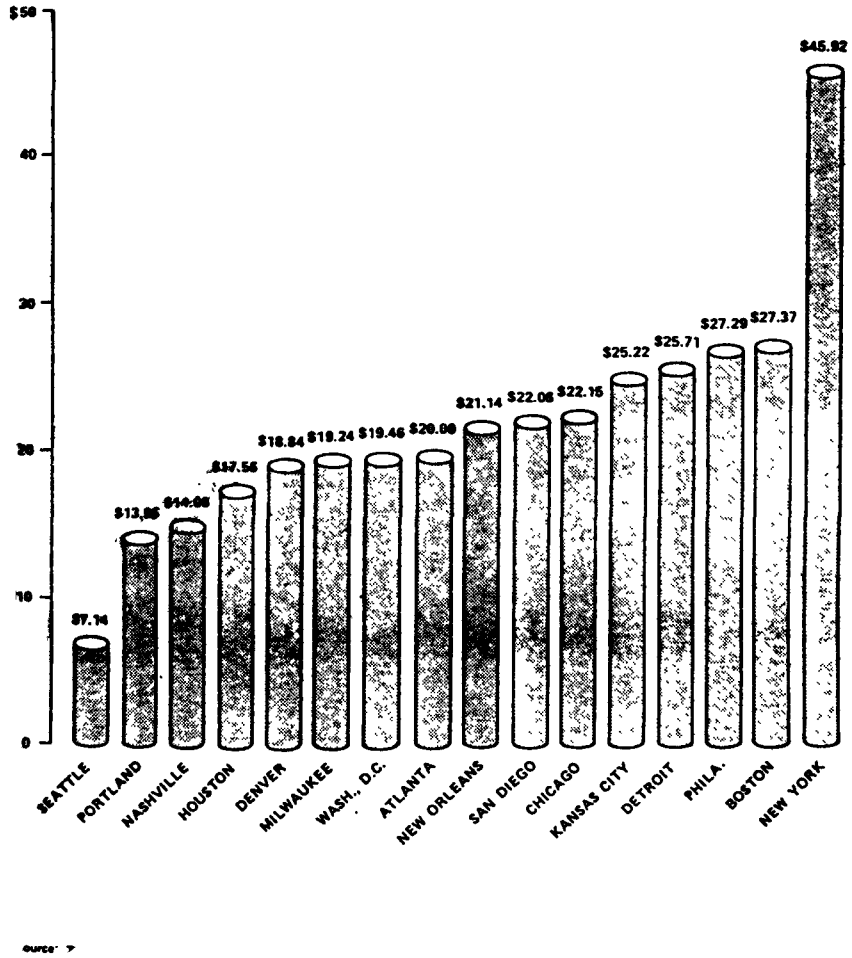
JAMES T. BROYHILL.
SAMUEL L. DEVINE.
CLARENCE J. BROWN.
JAMES M. COLLINS.
N. F. LENT
EDWARD MADIGAN.
TOM LOEFFLER.
TOM CORCORAN.
GARY A. LEE.
DAVE STOCKMAN.
CARLOS J. MOORHEAD.
BILL DANNEMEYER.

ADDITIONAL VIEWS OF HON. CARLOS J. MOORHEAD OF CALIFORNIA

With some reservation, I support The Pacific Northwest Electric Planning and Conservation Act. The bill is far from perfect. However, I think it is serious effort to stave off contentious litigation and regional chaos as the parties in the Pacific Northwest clamor for cheap federal hydropower provided by the Bonneville Power Administration. Demands on hydropower, if we assume and anticipate a reasonable degree of economic growth, and we do, will steadily increase. Consequently, it seems necessary to permit BPA to acquire non-Federal sources of power in sufficient amounts for it to meet its customers' requirements and its obligations to areas outside of the region.

The Pacific Northwest has paid, and does pay, some of the lowest power rates in the Nation as evidenced by the following charts:

Figure 2.3
COMPARATIVE ELECTRIC BILLS FOR SELECTED CITIES
(JANUARY 1977 BILL FOR 500 Kwh RESIDENTIAL USAGE – TAXES INCLUDED)



Source: [illegible]

Average Commercial Electricity Prices—1977

Rank	State	¢/kWh	Rank	State	¢/kWh
1	New York (1)	6.16	26	Arkansas (29)	3.62
2	Hawaii (2)	5.95	27	Mississippi (27)	3.62
3	New Jersey (4)	5.27	28	South Dakota (20)	3.45
4	New Hampshire (3)	5.16	29	Kansas (34)	3.44
5	Delaware (8)	5.10	30	West Virginia (23)	3.41
6	Massachusetts (5)	5.06	31	Missouri (21)	3.40
7	Rhode Island (6)	4.80	32	Nevada (30)	3.36
8	Maryland & D.C. (9)	4.64	33	Indiana (35)	3.31
9	Michigan (10)	4.33	34	Texas (39)	3.23
10	Connecticut (7)	4.31	35	South Carolina (33)	3.23
11	California (26)	4.16	36	New Mexico (38)	3.19
12	Pennsylvania (11)	4.14	37	North Carolina (32)	3.18
13	Arizona (17)	4.07	38	North Dakota (37)	3.06
14	Florida (12)	4.06	39	Colorado (36)	3.04
15	Virginia (22)	4.02	40	Oklahoma (43)	3.01
16	Illinois (13)	3.97	41	Utah (44)	2.94
17	Iowa (15)	3.92	42	Louisiana (40)	2.93
18	Ohio (25)	3.92	43	Nebraska (42)	2.91
19	Maine (19)	3.89	44	Tennessee (41)	2.89
20	Alabama (31)	3.84	45	Idaho (46)	1.97
21	Wisconsin (24)	3.77	46	Wyoming (47)	1.96
22	Georgia (16)	3.77	47	Kentucky (49)	1.96
23	Alaska (28)	3.74	48	Montana (45)	1.90
24	Vermont (14)	3.73	49	Oregon (48)	1.82
25	Minnesota (18)	3.73	50	Washington (50)	1.59

( ) Denotes 1976 Rank

U.S. Average: 3.84¢ per kWh

Cheap federal hydropower is the reason for this special privilege that the Northwest enjoys. Unfortunately, like the ungrateful servant in the parable contained in Matthew 18:23–25, the Bonneville Power Administration has not been as charitable as it should be in the pricing of federal surplus hydro to areas outside of the region like the Southwest. BPA has proposed a surplus hydro rate to FERC that would amount to a 500 percent increase in surplus rates for California consumers, many of which are customers of California public power companies. This unconscionable rate actually works to penalize utilities outside of the region as they attempt to displace oil fired generation.

We believe this rate structure violates national energy policy. We also find it ironic that a federal agency seeks to substantially increase surplus hydro rates absent marketplace incentives, while at the same time, the same federal government implements a policy of artifically restraining the price of natural gas and other energy resources. The Bonneville Power Administration has attempted to justify its rate increase for surplus hydro on the grounds that OPEC has substantially increased its price for oil. I believe this method of operation to be highly objectionable as far as a federal agency is concerned. We ask BPA to side with U.S. consumers not OPEC. The California Congressional Delegation reacted to the increase in a unified voice of protest as the following letter to Energy Secretary Duncan deomonstrates:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 24, 1979.

Hon. CHARLES W. DUNCAN, Jr.,
Secretary of the Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: The purpose of this letter is to express our concern relative to the Bonneville Power Administration (BPA) proposed 1979 Wholesale Power Rate Increase. We strongly object to the proposed schedule for surplus hydroelectric energy sold to California utilities (Schedule H–6 Wholesale Nonfirm Energy Rate).

BPA's proposal will result in a 90-percent increase in their revenues. The increase to California utilities purchasing surplus hydro energy, however, will be approximately 500 percent. This excessive rate increase for California utilities subsidizes rates for firm energy in the Pacific Northwest where rates are among the lowest in the country. (Rates to California utilities for non-firm surplus energy will be approximately 300 percent higher than rates for firm energy in the Pacific Northwest.)

Of particular concern to us is the fact that proposed rates for surplus hydro are not based on the cost of providing energy, but rather on the value of the energy to the purchasers. Furthermore, the proposed rate schedule for surplus hydro does not provide a rate but rather a flexible formula which will result in different rates to different customers for the same energy. The charges under the proposed schedule will rise automatically as fuel prices escalate without any increase in costs to BPA.

We are enclosing a copy of the comments of the cities of Burbank, Glendale, Los Angeles, and Pasadena, California; Pacific Gas and Electric Company, San Diego Gas and Electric Company, and

Southern California Edison Company, on the proposed H-6 Rate. We believe that these comments clearly show that the proposed rate offered by this Federal agency will result in unjustified increases in prices to consumers in California and is entirely inconsistent with national energy policy.

We urge that the proposed rate schedule for surplus hydroelectric energy be disapproved.

Sincerely,

CARLOS J. MOORHEAD.
S. I. HAYAKAWA.
WILLIAM M. THOMAS.
DANIEL E. LUNGREN.
ROBERT E. BADHAM.
PETE N. MCCLOSKY.
JOHN H. ROUSSELOT.
TONY COELHO.
BILL ROYER.
BOB WILSON.
CHARLES PASHAYAN, Jr.
R. K. DORNAN.
ROBERT J. LAGOMARSINO.
JERRY LEWIS.
WILLIAM E. DANNEMEYER.
DON H. CLAUSEN.
CLAIR W. BURGENER.
GEORGE E. DANIELSON.
HENRY A. WAXMAN.
NORMAN D. SHUMWAY.
JAMES C. CORMAN.
WAYNE GRISHAM.
BARRY M. GOLDWATER, Jr.
AUGUSTUS F. HAWKINS.
JULIAN C. DIXON.
GEORGE E. BROWN, Jr.
VIC FAZIO.
GEORGE MILLER.
GLEN M. ANDERSON.
EDWARD R. ROYBAL.
PETE STARK.
PHILLIP BURTON.
RONALD V. DELLUMS.
CHARLES H. WILSON.
JERRY M. PATTERSON.
LIONEL VAN DEERLIN.
HAROLD T. JOHNSON.
JOHN L. BURTON.
NORMAN Y. MINETA.
ANTHONY C. BEILENSON.
ROBERT J. MATSUI.
DON EDWARDS.

As a result of the BPA surplus hydro rate increase described herein, the Committee adopted two Minority supported amendments that:

(1) Reaffirmed that all rates or rate schedules proposed by the BPA Administrator for the sale of nonfirm energy outside of the Region but within the United States shall become effective only after substantive review by the Federal Energy Regulatory Commission for conformance with the requirements of the Bonneville Project Act, the Flood Control Act of 1944 and the Federal Columbia River Transmission System Act. In performing its review, the Commission shall afford any party to the proceedings an opportunity for a hearing to be conducted in accordance with the procedure established by the Commission for ratemaking under the Federal Power Act.

(2) Authorize and direct the BPA Administrator to periodically investigate opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity, with emphasis upon reduction of oil-fired generation, in the Pacific Northwest and the regions with which such exchanges may occur, e.g. the Pacific Southwest. The Council is required to consider such investigations and interregional exchanges in formulating the regional conservation and electric power plan. The BPA Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of the bill.

Our intent is to continue and promote partnerships between vital and significant regions of the country so that power can flow between these regions at fair prices in a mutually compatible way.

○

C.R.—SENATE
DEBATE 1979

made under subtitle A for a calendar quarter, no amount may be paid under this subtitle for that calendar quarter.

"(2) TERMINATION OF SUSPENSION.—Notwithstanding paragraph (1), amounts shall be paid under this subtitle for any calendar quarter for which the average rate of unemployment for the United States is less than 6.5 per centum beginning with the third calendar quarter of the three calendar quarter period which began with the first of such calendar quarters, until such time as paragraph (1) requires another suspension of payments

"ALLOCATION OF TARGETED AMOUNTS

"SEC. 232 (a) ALLOCATIONS TO LOCAL GOVERNMENTS.—

"(1) GENERAL.—The Secretary shall allocate from amounts appropriated under the authorization contained in section 231(c), an amount for the purpose of making a payment to each local government, equal to the product of—

"(A) the total amount appropriated for the fiscal year or calendar quarter, multiplied by

"(B) the applicable local government percentage.

"(2) APPLICABLE LOCAL GOVERNMENT PERCENTAGE.—For purposes of this subsection, the local government percentage is equal to the percentage resulting from the division of the product of—

"(A) the local excess unemployment percentage, multiplied by

"(B) the local revenue sharing amount, by the sum of such products for all local governments.

"(3) MINIMUM ALLOCATION.—If the amount which would be allocated to a unit of local government under this subtitle for a calendar quarter during the fiscal year beginning October 1, 1979, is less than $2,500, then no amount shall be allocated for such unit of local government under this subtitle for such year or quarter.

"(4) TARGETED FISCAL ASSISTANCE PAYMENT NOT IN EXCESS OF $10,000 TO BE COMBINED WITH GENERAL REVENUE SHARING PAYMENT.—If the amount of any payment to be made under this subtitle to a unit of local government is not more than $10,000 for a calendar quarter, the Secretary shall combine the amount of such payment with the amount of any payment to be made to such unit under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.), and shall make a single payment to such unit at the time payments are made under that Act. Whenever the Secretary makes a single, combined payment to a unit of local government under this paragraph, he shall notify the unit as to which portion of the payment is allocable to amounts payable under this subtitle and which portion is allocable to amounts payable under that Act.

"(b) REALLOCATION OF UNDISTRIBUTED AMOUNTS.—If, for any fiscal year or calendar quarter, the amount appropriated under section 231(c) for payments to local governments exceeds the sum of the amounts allocated to local governments because of the limitation contained in subsection (a)(3) or section 203(e), or because of the suspension-of-payments requirements contained in subsection (c), then the Secretary shall reallocate the excess among local governments receiving payments for the fiscal year or calendar quarter, and allocate to each such local government an amount which bears the same ratio to the amount of the excess as the amount allocated to such government for the calendar quarter without regard to this subsection bears to the sum of the amounts allocated to all local governments for the fiscal year or calendar quarter without regard to this subsection.

"(c) SUSPENSION OF PAYMENTS FOR LOW UNEMPLOYMENT —

"(1) SUSPENSION.—No amount shall be paid to any unit of local government under the provisions of this section for the fiscal year beginning October 1, 1979, if the local unemployment rate during the six-month period which ended three months before the beginning of such quarter was less than 6 per centum.

"(2) TERMINATION OF SUSPENSION.—Notwithstanding paragraph (1), amounts shall be paid under this subtitle for calendar quarters during the fiscal year beginning October 1, 1979, to any local government for which payments were suspended under paragraph (1), beginning with any calendar quarter following such suspension which follows an appropriate six-month period for which the average rate of unemployment within the jurisdiction of the local government equals or exceeds 6 per centum until such time as paragraph (1) requires another suspension of payments

"(d) DEFINITIONS.—For purposes of this subtitle, each term used in this section which is defined or described in paragraph (3) or (4) of section 203(c) shall have the meaning given to it in that paragraph.

"APPLICATION OF CERTAIN SUBTITLE A PROVISIONS TO THIS SUBTITLE

"SEC. 233. The provisions of sections 204, 205, 206, 207, 208, 211, 212, 213, 214, 215, and 216 shall apply to funds authorized under this subtitle.".

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY. Mr. President, after final passage of the bill, I express my appreciation to the staff members who contributed so much to this legislation.

They are Marcia Aronoff, of my staff; Allen Moore and Chris Brewster of Senator DANFORTH'S staff; Bill Morris and Mike Stern of the Finance Committee; Morton Katz of Senator MOYNIHAN'S office; Rodger Schlickeisen of the Budget Committee; Mike Koon of Senator DURENBERGER'S office; as well as Mary Jane Checchi of the majority leader's office.

Mr. ROBERT C. BYRD. Mr. President, I suggest the Senate proceed with the order.

SENATE PUBLIC FINANCIAL DISCLOSURE PROVISIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Resolution 220 which the clerk will state by title.

The legislative clerk read as follows:

A resolution (S. Res. 220) amending the standing rules of the Senate.

The Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending business, Senate Resolution 220, be set aside temporarily until 2:30 p.m. today and that at this time the Senate proceed, instead, to the consideration of Calendar Order 289, S. 885.

The PRESIDING OFFICER. Without objection, it is so ordered.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) The Federal Columbia River Power System offers a unique opportunity to encourage policies of conservation and efficiency in the use of electric power within the Pacific Northwest.

(b) The participation and consultation of the Pacific Northwest States, local communities, ratepayers, the Administrator's customers, users of the Columbia River system (including fisheries agencies), and the public at large within the region are essential in development of regional plans and programs related to energy conservation, renewable resources, other generating resources and orderly planning of the Federal Columbia River Power System.

(c) The ratepayers of the Pacific Northwest should continue to pay all costs necessary to produce, transmit, and conserve electric power to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Administrator" means the Administrator, Bonneville Power Administration.

(b) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production or distribution.

(c) A conservation measure or any resource is "cost effective" if it is forecast to be available within the time it is needed and if it is forecast to meet or reduce the electric power demand of the consumer at an estimated incremental system cost no greater than that of the least-cost similarly available alternative conservation measure or resource: Provided, That such cost estimates shall include estimates of all direct systems costs of the conservation measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer, and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs, and such such quantifiable environmental and social costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, are directly attributable to the conservation measure or resource: Provided further, That

any conservation measure may have an estimated incremental system cost of up to 110 per centum of the least cost alternative nonconservation resource.

(d) "Council" means the Pacific Northwest Electric Power Planning Council established pursuant to this Act.

(e) "Customer" means an entity that contracts for the purchase of power from the Administrator, either for resale or for direct consumption.

(f) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(g) "Electric power" means electric peaking capacity or electric energy or both.

(h) "Federal base system resources" means the Federal Columbia River Power System hydroelectric projects, resources acquired by the Administrator under long-term contracts in force on the effective date of this Act, and resources acquired by the Administrator to replace reductions in capability of the foregoing resources.

(i) "Major resource" means a resource having a capability greater than fifty average megawatts, and, if acquired by the Administrator, is acquired for a period longer than five years.

(j) "New large industrial load" means an industrial load associated with a new industrial plant or an expansion of an existing plant or an existing industrial plant load which is not contracted for or committed to by a public body, cooperative, or Federal agency customer prior to October 1, 1978, any of which will result in an increase in power requirements of ten average megawatts or more in any three-year period: *Provided*, That the Council may recommend to the Congress for approval a different limitation in the maximum size of such new large industrial load.

(k) "Pacific Northwest", "region", or "regional" means:

(1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.

(l) "Plan" means the regional electric power plan prepared and adopted pursuant to this Act.

(m) "Renewable resource" means a resource which utilizes a renewable source of energy, including, but not limited to, solar, wind, hydro, geothermal, and biomass, and which is used for electric power generation or which will reduce the electric power requirements of a consumer by direct application.

(n) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator either from resources or through rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(o) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses, but only the first four hundred horsepower of farm irrigation and pumping for any farm.

(p) "Resource" means (1) electric power, including the actual or planned electric power capability of generating facilities or (2) actual or planned load reduction resulting from direct application of a renewable energy resource, or from a conservation measure.

REGIONAL PLANNING AND PARTICIPATION

SEC. 4. (a) There is established the Pacific Northwest Electric Power Planning Council composed of five members. The Governors of the States of Idaho, Oregon, Montana, and Washington may under applicable State laws each appoint one member to the Council from their respective States. The Administrator shall serve as the fifth member of the Council.

(b) The Council shall select a chairman from among its members. Three members of the Council shall constitute a quorum for conducting business. Decisions of the Council shall be by majority vote: *Provided*, That any action to approve or amend the plan described in subsections (d) and (e) of this section, or any element thereof, must receive the votes of at least three members of the Council, including the vote of the Administrator, to be adopted. The Council shall adopt rules of procedure, including rules applicable to its public hearings.

(c) Each State's member of the Council may request Council approval of funding in support of his State's participation in the Council and activities of his State related thereto. The Administrator shall include in his annual budget submitted pursuant to Public Law 93-454 (as amended), such requests approved by the Council, not to exceed a total amount equal to 0.02 mills per kilowatt-hour of the Administrator's estimated sales in the year the budget is to be effective. In order to assist initial State participation in the Council, the Administrator shall prepare and propose an amended annual budget as soon as practicable after the enactment of this Act to expedite payments to the States.

(d) The Council shall direct the preparation of a regional electric power plan, and shall adopt such plan within two years after the effective date of this Act. The adopted plan or any portion thereof may be amended from time to time, and shall be reviewed not less frequently than once every five years. Within one year from the effective date of this Act, and thereafter prior to each review, the Council shall identify major subject areas to be included in the plan. Public hearings shall be held in each member's State on (1) major subject areas to be addressed in the plan, and (2) the plan or amendments to the plan, proposed by the Council for adoption: *Provided*, That a public hearing shall also be held in any other State of the region on the plan, or amendments, proposed for adoption if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. The Council shall take action under this subsection pursuant to section 553 of title 5, United States Code.

The Administrator's implementation of the authorities under this Act shall be consistent, to the extent he determines feasible, with the plan: *Provided*, That the Administrator shall notify the Council of any actions not consistent with the plan together with his reasons for taking such actions: *Provided further*, That the Administrator's implementation of the authorities in sections 6 (a) through (d), (f) and (h) shall be consistent with the plan as he determines or, notwithstanding his determination, as the Council, within sixty days of his determination by majority vote of the full Council, may determine: *Provided however*, That if no plan is in effect or a proposed implementation of a conservation measure or an acquisition of a resource is not consistent with the plan, the Administrator may proceed to implement the conservation measure or acquire the resource pursuant to the procedures in sections 6 (a) through (c).

(e) The plan shall give the following priority to resources: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat and generating resources of high fuel conversion efficiency; and fourth, to all other resources: *Provided*, That all such resources shall be cost effective and feasible.

(1) The plan shall set forth a general scheme for implementing conservation and developing resources to reduce or meet the Administrator's obligations with due consideration for environmental quality, compatibility with the existing regional power system, preservation and enhancement of fisheries, and other criteria which may be set forth in the plan.

(2) The plan shall also include, but not be limited to, model conservation standards, areas for research and development, a methodology for determining the average system cost of resources exchanged under section 5(b)(2), a methodology for determining quantifiable environmental and social costs and benefits under section 3(c), and a twenty-year demand forecast which includes regional reliability and reserve requirements.

(f) Model conservation standards for inclusion in the plan shall (1) include, but not be limited to, standards applicable to new and existing structures, utility, customer and governmental conservation programs, and other consumer actions for achieving conservation, and (2) be designed to produce all power savings that are reasonable, feasible and cost-effective to consumers. If the Council so recommends by majority vote of the full Council, the Administrator may impose additional charges on customers for those portions of their load within the region that are within States or political subdivisions which have not, or on his customers which have not, implemented conservation measures applicable to themselves that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such model conservation standards. Such charges shall be set to recover additional costs the Administrator determines he will incur because such energy savings have not been achieved, but in no case may such charges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g) To insure widespread public involvement in the formulation of regional power policies, the Administrator (1) shall maintain comprehensive programs, including programs in cooperation with the Council, to inform the Pacific Northwest public of major regional power issues, to obtain public views concerning those issues, and to secure advice and consultation from the Administrator's customers and other parties; and (2) may form advisory committees as appropriate.

(h) The Council shall request annually from the region's State and Federal fisheries agencies and the appropriate Indian tribes their recommendations of measures which would contribute to the preservation and enhancement of the fish resources of the Columbia River and its tributaries for inclusion in the plan and their recommendations for the funding of research and development efforts which have the potential of providing improved passage for anadromous fish migrants at and between the region's hydroelectric dams. The Council shall consider such recommendations in the preparation of the plan or amendments to the plan. Upon the adoption of the plan or amendments to the plan by the Council, the Administrator shall (1) include in his annual budget funds for fisheries research

and development to be paid from the Bonneville Power Administration fund, or from appropriations, and (2) acquire and dispose of power and utilize the flexibility of the resources available to him in a manner which will assist in the preservation and enhancement of the anadromous fisheries resource while meeting his other obligations.

SALE OF POWER

SEC. 5. Subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937, Public Law 75-329 (as amended), and, in particular, sections 4 and 5 thereof, and at rates established pursuant to section 7 of this Act—

(a) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under Public Law 75-329 (as customer's firm power load in the region amended), and to each requesting investor-owned utility, electric power to meet such customer's firm power load in the region which is in excess of the capability of such customer's firm resource which such customer had used in the year prior to enactment of this Act to serve its firm load and such other resources as such customer shall determine, pursuant to contracts under this Act, will be used to serve its firm load: *Provided*, That such resources shall continue to be so used except with the consent of the Administrator or because of obsolescence, retirement, loss of resource or loss of contract rights.

The Administrator shall include in contracts executed in accordance with this subsection provisions that enable him to restrict his obligations to meet such loads in the event he determines, after a reasonable period of experience under this Act, that he cannot be assured of acquiring sufficient resources pursuant to section 6 to meet such loads, but (1) no such restrictions shall be applicable to the Administrator's public body and cooperative customers entitled to preference and priority under Public Law 75-329 (as amended), or to his Federal agency customers, until the Federal base system resources are fully allocated to such customers; and (2) sales to customers pursuant to this subsection shall not be restricted below the amounts of electric power, as specified in such contracts, acquired by the Administrator from or on behalf of such customer pursuant to subsection 5(b)(2) and section 6. The Administrator shall, consistent with the provisions of this Act, insure that any such restrictions pursuant to this subsection are distributed equitably throughout the region.

(b) Additionally, (1) the Administrator is authorized to sell electric power to Federal agencies in the region, and (2) whenever a Pacific Northwest utility offers to sell electric power to the Administrator at the average system cost of resources then available to that utility, the Administrator shall purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region: *Provided*, That (A) such sale shall be limited to an amount not to exceed 50 per centum of each such utility's regional residential load in the year beginning July 1, 1980, and increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985; (B) the cost benefits, as specified in contracts, of any such exchange sale which are attributable to any utility's residential load within a State shall be passed through directly to the utility's residential loads within such State: *Provided*, That a State which lies partially within and partially without the region may require that such benefits be distributed among all of the utility's residential loads in that State; (C) a utility may terminate, upon reasonable terms and conditions, its exchange purchase and sale in the event the supplemental rate charge provided for in section 7(b) is applied and the cost of electric power sold to the utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by the utility to the Administrator under this subsection; and (D) the Administrator may acquire the electric power necessary to carry out the exchange sale from other resources, rather than purchase the electric power offered him by the utility pursuant to this subsection, if the cost of doing so is less than the cost of purchasing the electric power offered by the utility.

The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator, subject to review and approval by the Federal Energy Regulatory Commission as provided in section 9(g), on the basis of a methodology developed for this purpose. Such methodology shall be developed by the Council as part of the regional electric power plan identified in section 4, or, until such a plan has been adopted, shall be developed by the Administrator in consultation with his customers in the region and appropriate State regulatory bodies. Average system cost shall not in any event include: (i) the cost of additional resources in an amount sufficient to serve any new large industrial load of the utility that was not contracted for or committed to prior to October 1, 1976; (ii) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and (iii) any costs of a generating facility which is terminated prior to commercial operation.

(c)(1) The Administrator is authorized to sell electric power to direct service industrial customers which have contracts for the purchase of electric power from him on the effective date of this Act, so long as such sales provide a portion of the reserves for firm power loads within the region. To effectuate the purposes of this subsection the Administrator shall offer to such customers new long term contracts in accordance with section 9(c) that provide such customers an amount of power equivalent to that to which such customers are entitled under present industrial firm contracts. The offer and execution of these initial new contracts shall be deemed to be supported by a sufficiency of electric power available to the Administrator.

(2) The Administrator shall not offer to sell amounts of electric power, including reserves, to new direct service industrial customers or to existing direct service industrial customers in addition to the amounts provided under subsection (c)(1) unless the Council has approved such sale by majority vote of the full Council and the Administrator determines that such proposed sale is consistent with the plan and that (A) additional power system reserves are required for the region's firm loads, (B) additional direct service industrial loads would provide a feasible and cost-effective method of supplying such reserves, (C) loads of similar character cannot provide equivalent operating or planning benefits to the region if served by a utility, and (D) the Administrator has or can acquire sufficient electric power to serve such loads. After such determination and approval by the Council, the Administrator is authorized to offer to new or existing direct service industrial customers an additional amount of power providing reserves in the amount determined to be necessary.

(d) The Administrator is further authorized to sell or otherwise dispose of electric power, including acquired power, that is surplus to his obligations incurred pursuant to subsections (a), (b), and (c) of this section in accordance with this and other statutes applicable to the Administrator.

CONSERVATION AND RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall, to the maximum extent practicable, implement all conservation measures he determines to be consistent with the plan. If no plan is in effect the Administrator shall implement conservation measures he determines are feasible and consistent with the criteria of section 4(e): *Provided*, That no mandatory conservation requirements shall be set by the Administrator pursuant to this authority in the absence of a plan. Such measures may include, but are not limited to, financial assistance for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application. The Administrator may, in accordance with the provisions of this section, conduct demonstration projects to determine the feasibility of conservation measures and direct application renewable energy resources: *Provided further*, That no obligation may be incurred for any such demonstration project until such proposal is explicitly noted in the Administrator's budget submittal to the Congress pursuant to Public Law 93-454 (as amended). In addition, he shall assist conservation by and among regional consumers by (1) providing technical or financial assistance, (2) cooperating with his customers and governmental authorities to encourage maximum cost-effective voluntary conservation, and (3) aiding his customers and governmental authorities in implementing conservation standards adopted pursuant to 4(f).

(b) The Administrator shall meet his contractual obligations that remain after taking into account planned savings from conservation measures provided in this section by acquiring additional resources (in addition to electric power acquired on a short term basis pursuant to section 11(b)(6)(i) of Public Law 93-454 (as amended)) he determines to be consistent with the plan or, if no such plan is in effect, which he determines, after compliance with section 6(c), are consistent with section 4(e). The Administrator shall acquire resources to replace Federal base system resources in accordance with the provisions of section 6 of this Act except in the case of federally constructed resources otherwise authorized by the Congress. Notwithstanding any acquisition of resources, the Administrator shall not reduce his efforts to achieve conservation savings pursuant to section 6(a).

(c)(1) In proposing to acquire any major resource, the Administrator shall give notice of the proposed action to the Council, his customers and the State in which the resource would be acquired, solicit views and relevant information, conduct a public hearing, and not less than ninety days after such notice may make a decision supported by a written statement, which statement shall include specific findings that the proposed acquisition is consistent with the plan unless such acquisition is proposed pursuant to parts (3) or (4) of this subsection.

(2) The Administrator shall submit to appropriate committees of the Congress the administrative record which shall consist of his written statement in support of any major resource acquisition decision made pursuant to this subsection together with (A) all statements, data, and other information on which the Administrator relies, including information received by him from the Council and his customers; (B) the transcript or other record (including all exhibits) of the hearing; (C) a record of all other relevant views and reactions received by him; and (D) a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act, Public Law 91-190 (as amended). The Administrator thereafter shall publish notice of his decision in the Federal Register. The Administrator may not implement any such deci-

sion or make any financial commitment for a major resource acquisition under this subsection prior to ninety days after the date of publication in the Federal Register and until it has been noted in the Administrator's budget submittal made pursuant to Public Law 93-454 (as amended): *Provided*, That in the absence of a plan or if the proposal is inconsistent with the plan, no financial commitment for a major resource acquisition shall be made until the acquisition has been specifically approved by Act of Congress.

(3) If within two years after the effective date of this Act, the Administrator proposes to acquire a major resource, but no plan is yet in effect, the Administrator may acquire such resource by following the procedure set forth in subsection (c) (1) and (2), except that his written statement shall include specific findings that acquisition of the resource is consistent with the criteria of subsection 4(e).

(4) If, subsequent to the adoption of a plan the Administrator wishes to be able to acquire a resource or undertake a conservation measure which he determines to be inconsistent with such plan, or in the absence of an adopted plan two years after the effective date of this Act, the Administrator may acquire a resource or undertake a conservation measure pursuant to the following procedure: (A) the Administrator shall propose to the Council a plan, or an amendment to the existing plan, with which the proposed action would be consistent, and submit a written statement to the Council that the plan or proposed amendment is needed to permit the proposed action, that the resource or conservation measure is needed to meet the Administrator's obligations, and that the resource or conservation measure is consistent with the criteria set forth in subsection 4(e); (B) the Council shall proceed with hearings in accordance with provisions of section 4(d)(2); (C) if within ninety days after the submission of the Administrator's proposal the Council has not adopted a plan or plan amendment with which, in the Administrator's determination, the proposed action is consistent, the Administrator may proceed with the action after following the procedure established under parts (1) and (2) of this subsection. For the acquisition of a resource or implementation of a conservation measure, either of which the Administrator determines to be inconsistent with the plan, public hearings shall be held pursuant to section 556 of title 5, United States Code, and the Administrator shall make a written statement in support of his decision pursuant to section 557 of title 5, United States Code.

(5) The Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest utility for ownership, participation, or other sponsorship but not in excess of the amounts needed to meet its regional load.

(d) The Administrator is authorized to acquire a resource, other than a major resource, which does not meet criteria of section 4 but which he determines is an experimental, developmental, demonstration or pilot project of a type with a potential for providing feasible, cost-effective, and reliable service to the region. The Administrator is authorized to construct such a project if it is a renewable resource and he determines that no utility or political subdivision in the Pacific Northwest is willing to construct such project at reasonable cost. The Administrator shall make no obligation for the acquisition or construction of such of such a resource until it has been noted in his budget submittal to the Congress pursuant to Public Law 93-454 (as amended).

(e) To the extent conservation measures or acquisition of resources require direct arrangements with consumers of electric power, the Administrator shall make maximum practicable use of his customers and other local entities capable of administering and carrying out such arrangements.

(f) For resources which the Administrator determines will be not inconsistent with the plan or for which he proposes to follow the procedures of section 6(c) (3) and (4), the Administrator is authorized to enter into agreements with sponsors of (1) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource which may be proposed for acquisition by the Administrator, or (2) any other resource, which on preliminary data he finds would satisfy criteria of this act, to provide for the reimbursement of the sponsor's investigation and preconstruction expenses (which expenses shall not include procurement of capital equipment or construction material for such resource) if such resource is subsequently denied State siting approval or other necessary Federal or State permits, or if such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of this act, or is not acceptable because of environmental impacts, or after such investigation the Administrator determines not to purchase the resource and the resource is not constructed: *Provided*, That any such agreements shall provide the Administrator an option to acquire any such resource: *Provided further*, That the Administrator shall terminate his financial commitment as to any further expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after a final denial of application for State siting approval. No further commitment may be made by the Administrator until the Administrator has completed such procedure as may be required by the National Environmental Policy Act, Public Law 91-190 (as amended).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator, shall be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h) The Administrator is authorized to grant billing credits and provide services to any of his customers for independent conservation activities undertaken by such customers or political subdivisions served by a customer and for resources constructed, completed or acquired by a customer or political subdivision after the effective date of this Act which reduce the obligation of the Administrator to acquire resources under this Act. Any such credits which are granted for a major resource shall be granted only if such grant is determined by the Administrator to be not inconsistent with the plan or if such credits are authorized pursuant to the procedures of section 6(c)(4). The Administrator shall be required to grant credits (1) to the extent such customer or political subdivision undertakes independent conservation measures which the Administrator finds will achieve energy savings beyond the measures included in the plan, and (2) for a renewable resource or a multipurpose project uniquely suitable for such customer's or political subdivision's development. The Council may develop and propose guidelines to the Administrator to assist in the determination of the amount of such credits. The Administrator shall determine the amount of credits taking into account guidelines recommended by the Council and the risks and benefits assumed by the entity to be credited and the risks and benefits provided to the Administrator's customers: Provided, That any credits under this subsection shall be granted only to the extent they are cost effective.

(i) Contracts for acquisition of resources entered into pursuant to this section shall contain such terms and conditions as the Administrator finds necessary or proper to insure timely construction, scheduling, completion, and operation of new resources, to insure that the costs of any acquisition are as low as reasonably possible, consistent with sound engineering, operating, and safety practices, and to provide the means for the Administrator to exercise effective oversight, audit, and review of all aspects of such construction and operation.

(j) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(1) acquire any electric power required by (A) any customer or group of customers to enable them to replace resources determined to serve firm load under subsection 5(a), or (B) direct service industrial customers, to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power he is himself obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting it: Provided, That the Administrator may prescribe policies and conditions for the independent acquisition of replacement power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisitions; and

(2) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable statutes, and with respect to direct service industrial customers, if such sale is under terms and conditions acceptable to the Administrator.

The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

(k) All obligations incurred by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations shall not be, nor shall they be deemed to be, general obligations of the United States of America.

(l) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

RATE DIRECTIVES

SEC. 7. (a) The Administrator shall establish and periodically modify rates for the sale and disposition of electric power and the transmission on non-Federal power. Such rates shall be set to recover, in accordance

with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to law. Such rates shall be established in accordance with sections 9 and 10 of Public Law 93-454 (as amended) and the provisions of this Act, and shall become effective upon confirmation and approval by the Federal Energy Regulatory Commission on the finding that such rates (1) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs, (2) are based upon the Administrator's total system costs including contingencies, and (3) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

(b) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and sold to utilities under section 5(b)(2). Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply the foregoing loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates also shall recover the costs of additional electric power as needed to supply the foregoing loads, first from the electric power purchased by the Administrator under section 5(b)(2) and then from new resources: *Provided*, That after July 1, 1985 the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under section 7(g) for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, shall in no event exceed in total, as determined by the Administrator, during any year plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, as estimated in accordance with the following assumptions for the same five-year period:

(1) the public body and cooperative customers' general requirements had included the direct service industrial customer loads located within or adjacent to the geographic service boundaries of such public bodies and cooperatives during the applicable period;

(2) public body, cooperative, and Federal agency customers were served in the applicable period with Federal base system resources not obligated to other parties under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in part (1) above;

(3) no purchase or sales as provided in section 5(b)(2) were made during the applicable period;

(4) all resources that would have been required to meet remaining general requirements of the public body, cooperative and Federal agency customers not met by the available Federal base system resources determined under part (2) above were resources purchased from such customers by the Administrator pursuant to section 6 or resources not committed to load pursuant to section 5(a) and were the least expensive resources owned or purchased by public bodies or cooperatives with any additional needed resources having been obtained at the average cost of all other new resources acquired by the Administrator and

(5) the quantifiable monetary savings to public body, cooperative, and Federal agency customers resulting from actions of the Administrator under section 6 were not achieved.

Any amounts not charged to such public body, cooperative, and Federal agency customers because of this proviso shall be recovered through supplemental rate charges for all other power sold by the Administrator.

General requirements as used in this section shall be the public body, cooperative, or Federal agency customer's electric power purchased from the Administrator under section 5(a) and 5(b)(1) exclusive of any new large industrial load that was not contracted for or committed to by the customer by October 1, 1978.

(c) The rate or rates applicable to direct service industrial customers shall be established:

(1) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(b)(2), based upon his projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other classes of power sold by the Administrator; and

(2) for the period after July 1, 1985, at a level which the Administrator determines by rule to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial customers in the region (to be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates) but taking into account (A) the comparative size and character of the loads served, (B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and (C) direct and indirect overhead costs, all as related to the delivery of power to industrial customers: *Provided*, That the Administrator's rates during such period shall in no event be less than his rate in effect for the contract year ending on June 30, 1985.

The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d) In order to avoid adverse impacts on—

(1) retail rates of the Administrator's customers with low system densities, the Administrator is authorized to apply discounts to the rate or rates for such customers;

(2) direct service industrial customers using raw materials indigenous to the region as their primary resource, the Administrator is authorized to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region under contract provisions equivalent to those of present modified firm contracts.

(e) In establishing rate schedules of general application, the Administrator may establish a uniform rate or rates for sale of peaking capacity.

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(b)(2) and additional resources (including new resources) which, in the determination of the Administrator, are applicable to such sales.

(g) The Administrator shall allocate to power rates, as he may determine appropriate, all other costs and benefits including, but not limited to, conservation, uncontrollable events, reserves, the excess costs of experimental resources under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a)), the Administrator shall adjust power rates to include any additional charges arising under section 4(f), and shall allocate any revenues from such charges in a manner he determines will help achieve the purposes of section 4(f).

AMENDMENTS TO EXISTING LEGISLATION

SEC. 8. (a) Section 11(b) of Public Law 93-454 (as amended) is amended by striking the word "and" at the end of subparagraph (10), and by substituting "; and" for the period at the end of subparagraph (11) and adding a new subparagraph (12) as follows:

"(12) making such payments, as shall be required to carry out the purposes of the Pacific Northwest Electric Power Planning and Conservation Act.".

(b) Public Law 93-454 (as amended) is amended by striking subsections 13 (a) and (b) and substituting the following new subsections:

"SEC. 13. (a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of and on behalf of the Bonneville Power Administration bonds, notes, and other evidence of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the construction, acquisition, and replacement of the transmission system, to implement the Administrator's authority (including the provision of financial assistance for conservation measures and renewable resources) pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, 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 may be 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 Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of America 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 but not to exceed the interest rate which would be applied to such bonds if they were purchased by the Federal Financing Bank. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1 250,000,000 prior to October 1, 1980, and $1,750,000,000 thereafter.

"(b) 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 11(b)(2) through 11(b)(7), 11(b)(11) and 11(b)(12), and shall include reserve or other funds created from such receipts.".

(c) Public Law 88-552 (as amended) is amended by striking subsection 1(b) and inserting a new subsection 1(b) as follows:

"(b) 'Pacific Northwest' means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and

such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.".

ADMINISTRATIVE SECTIONS

SEC. 9. (a) In carrying out the provisions of this Act, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancellation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary.

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by Public Law 75-329, as amended, this Act and sections 302(a) (2) and (3) of Public Law 95-91. The Secretary of Energy and the Administrator shall take such steps are are necessary to (1) assure the Administrator's timely implementation of this Act and (2) enable the Administrator to operate in a sound and businesslike manner.

(c)(1) As soon as practicable after the effective date of this Act, and in no event later than nine months after the enactment of this Act, the Administrator shall, in addition to offers otherwise authorized or required in other sections of this Act, offer long-term contracts simultaneously to (A) existing public body and cooperative customers and investor-owned utilities under section 5(a); (B) Federal agencies under section 5(b)(1); (C) direct service industrial customers under section 5(c)(1); and (D) utilities under section 5(b)(2).

(2) Each customer offered a power sales contract pursuant to this subsection shall have one year from the date of offer to accept such contract. Such contract shall become effective as follows:

(A) A contract with a public body, cooperative or investor-owned utility pursuant to section 5(a) or a Federal agency pursuant to section 5(b), on the date executed by such public body, cooperative, investor-owned utility or Federal agency, unless otherwise agreed upon the by contracting parties.

(B) A contract with a utility pursuant to section 5(b)(2), on the date executed by the utility, but no earlier than the first day of the tenth month after the effective date of this Act.

(C) A contract with a direct service industrial customer pursuant to section 5(c)(1), on the date agreed upon by the parties, but no later than the first day of the tenth month after the effective date of this Act; such contract when executed may for rate purposes be given retroactive effect to such day.

The Administrator shall be deemed to have sufficient resources for the purpose of entering into the power sales contracts specified in this subsection.

(d) Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of Public Law 88-552 (as amended) for any contract for the sale, delivery or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest: Provided, That, for the purposes of this subsection, "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties imposed upon, the Secretary of Energy by sections 5 and 7 of Public Law 88-552 (as amended) shall also apply to the Administrator in connection with resources acquired by the Administrator. The Administrator, in making any determination of the electric power requirements of a Pacific Northwest customer which is a non-Federal utility having its own generation shall exclude, in addition to hydro generated energy excluded in section 3(d) of Public Law 88-552 (as amended), any amounts of energy included in the resources of such utility for service to firm loads in the region which were disposed of by the utility outside the region if and to the extent that as the result of such disposition the firm energy requirements of such utility and other customers on the Administrator are greater than if such energy had been or reasonably could have been conserved or otherwise retained for service to regional loads.

The Administrator may sell as a replacement therefore only that which would be surplus energy.

(e)(1) For purposes of section 701 of title 5, United States Code, and the following: acquisition of resources, granting of credits under subsection 6(h), assistance to sponsors under subsection 6(f), sales of electric power under section 5 (a) through (c), implementation of conservation measures, adoption of the plan or amendments thereto insofar as the plan or such amendments relate to specific resources acquisition or conservation decisions, determinations of the Administrator or the Council under section 4(d), and rate determinations under section 7 shall be final actions subject to judicial review. The record upon review shall be limited to the administrative record compiled in accordance with this Act. The scope of reviews shall be governed by section 706 (1) and (2)(A) through (D) of title 5, United States Code, except that review of rate determinations under section 7 shall be on the basis of substantial evidence on the record. The adopted plan or portions thereof shall not be reviewable as a part of a review of a resource acquisition decision or a conservation measure implementation decision.

For purposes of this subsection, (A) resources shall be deemed to be acquired upon publication in the Federal Register of the Administrator's section 6(b) determination or section 6(c)(2) written statement; (B) conservation measures shall be deemed to be implemented upon publication in the Federal Register of the determination required of the Administrator pursuant to section 6(a); and (C) the plan or amendments thereto shall be deemed to be adopted upon adoption by the Council and publication of notice of adoption in the Federal Register pursuant to section 4(d), or as otherwise provided for by this Act.

(2) Suits brought to challenge final actions taken pursuant to this Act, or the implementation of such final actions, whether brought pursuant to this Act or Public Law 75-329 (as amended), or Public Law 88-552 (as amended), or Public Law 93-454 (as amended), shall be commenced within ninety days of the action, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days of such notice, or be barred.

(f) For the purpose of enabling the Administrator to acquire resources from State or local governmental units at a cost no greater than the costs which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a)(1) of title 26 of the United States Code shall not be affected by the Administrator's acquisition of such resources if the Administrator, prior to contracting for the acquisition, certifies to [illegible] reasonable belief, in accordance with a [illegible] procedure approved by the Secretary of the Treasury, as to the persons for whom the Administrator is purchasing such resources for sale pursuant to section 5 of this Act and as to the amount for each such person, and if, based upon such certification, which shall be conclusive as to the facts stated therein, the Secretary of the Treasury determines that less than a major portion thereof is to be furnished to persons who are not exempt persons as defined in section 103(b) of such title.

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility under sections 5(b)(2) and 6, the Federal Energy Regulatory Commission shall convene a joint State board pursuant to section 209 of the Federal Power Act (16 U.S.C. 824h), and shall invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h) No "company" (as defined in section 79b(a)(2) of title 15, United States Code), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 79b(a)(3) of title 15, United States Code), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code: *Provided*, That the Administrator shall have approved the organization of such "company" and all material contracts entered into by and between such "company" and any sponsor company: *Provided further*, That (1) participation in any facilities of such "company" shall have been offered to public bodies and cooperatives in the region pursuant to subsection 6(c)(3), and (2) the Administrator shall include in any contract for the purchase of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource. This subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission determines that the "company" no longer operates in accordance with this subsection, and notifies the "company" in writing of such determination, in which event this subsection shall cease to apply to such "company" thirty days after receipt of such notification.

SAVINGS PROVISIONS; WAIVER OF PREEMPTION

SEC. 10. (a) Nothing in this Act shall alter, diminish, or abridge the right of any State or political subdivision thereof to (1) determine retail electric rates except as provided by section 5(b)(2); (2) develop and implement its own plans and programs for the conservation, development and use of electric power resources or facilities; or (3) make energy facility siting decisions including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the authorities or obligations of the Administrator granted by or arising under any other applicable statute, unless otherwise specifically provided herein.

(c) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any other party under

any contract or agreement existing as of the effective date of this Act.

(d) Nothing in this Act shall alter, diminish, abridge or otherwise affect the provisions of other Federal statutes by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(e) Nothing in this Act shall alter, diminish, or abridge the authority of the Administrator to meet with his customers or with other groups or individuals in order to discuss regional power issues or other matters of interest or concern.

(f) Nothing in this Act shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States, or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(g) The reservation under law of electric power for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State, plus 50 per centum of any electric power produced at Libby Reregulating Dam when built, is hereby affirmed. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7.

Mr. JACKSON. Mr. President, this bill is a monument to the cooperative spirit of the Senators from Oregon, Washington, Montana, and Idaho. Faced with electric energy problems that cover the entire Pacific Northwest, the Senators of the respective States have transcended State boundaries and partisan politics and have truly addressed a regional problem with a regional solution.

As my colleagues know, this measure has been the subject of intense debate and discussion both in the Senate Committee on Energy and Natural Resources and in the Pacific Northwest. I believe that the legislative process has succeeded in hammering out a consensus measure that addresses the needs and interests of the citizens of the Pacific Northwest. As my colleagues from the Pacific Northwest know, and in particular those who are members of the Committee on Energy and Natural Resources, S. 885 is a truly bipartisan effort and I would particularly commend the efforts of the senior Senators from Oregon and Idaho and the junior Senator from Idaho for their respective efforts in bringing this important measure to the floor for consideration by the Senate.

Mr. President, I ask unanimous consent that for the benefit of those who will read these proceedings that the purpose, background, need and summary of major provisions sections of the committee report No. 96–272 which accompanied S. 885 when reported by the Committee on Energy and Natural Resources be printed in the RECORD at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE REPORT No. 96–272

PURPOSE

S. 885 has several major elements:

To establish a procedure for the Bonneville Power Administration to participate with regional entities in a public planning process to coordinate the provision of electric power resources to meet the needs of the region.

To extend the benefits of the Federal Columbia River Power System to the residential and farming consumers of investor-owned utilities.

To supplement the authority of the Bonneville Power Administration to utilize regional power revenues to assist in the financing of future conservation measures and electric power supply resources development in the region.

BACKGROUND

The Bonneville Power Act of 1937 (Act of August 1937, 50 Stat. 731), authorizing the construction of the Bonneville Dam by the Corps of Engineers, provided that the electric power generated at the dam should be marketed by a Bonneville Power Administrator to be appointed by the Secretary of the Interior. The Administrator was authorized to construct, operate, and maintain transmission lines necessary to market the power. The Administrator was not authorized to construct or operate either hydro or thermal electric generating facilities.

The Bonneville Power Administration, through subsequent legislation and interpretation of the Act, has become a major part of the electric power system in the Pacific Northwest. The Federal Columbia River Power System, for which BPA is the marketing agency, had 30 hydroelectric power projects in operation in 1978, with a total generating capacity of 16,441 megawatts. In that year, the system (including federally acquired thermal) generation represented 54 percent of the region's total electric generation. The BPA transmision system includes 12,454 circuit miles with an additional 1,652 miles in various stages of design and construction. The BPA tranamission system, containing 80 percent of the region's primary transmission system, forms the backbone for what constitutes a regional grid.

Traditionally, the Pacific Northwest's power needs have been satisfied by the energy produced by large hydroelectric projects. For the most part, the projects were constructed and operated by the Federal Government with the power marketed through the Bonneville Power Administration. However, some of the larger utilities built and operated their own generating facilities and purchased part of their regional power needs from BPA. In the late 1960's projections of future regional power needs by the Bonneville Power Administration indicated that by the mid-1970's, regional loads would exceed system capacity. As a result, in 1969 the "Hydrothermal Power Program" was initiated in the region in an effort to provide an orderly transition from a hydro based system to one using a blend of hydro and thermal resources. By 1970, rising costs associated with thermal plant construction and BPA's inability to acquire thermally generated resources indicated that an alternate to the Hydrothermal Power Programs would be needed if future regional needs were to be met.

By 1973, BPA stopped selling firm low-cost hydro power to investor-owned utilities because of inadequate supplies and the utilities turned to higher cost thermal power. Public utilities also realized that they too faced problems in meeting future demands when in 1976 the BPA issued notices of insufficiency to all public utilities and direct service customers, stating that BPA would not be able to meet new load requirements after 1983. Concern for future sources of electric power lead public and private utilities, industries, and customers to seek legislative assistance from the Congress.

NEED FOR THE LEGISLATION

As reported, S. 885 addresses problems associated with the future of electrical energy production and consumption in the Pacific Northwest as identified by interested regional entities. Critical in the problems facing the Northwest are the needs to initiate and carry-out a comprehensive regional electric energy conservation program, to extend to residential and rural consumers the benefits of the Federal Columbia River Power System, and to assure future electric supplies for consumers at reasonable rates. Paramount in achieving these goals is the establishment of a mechanism providing for an effective regionwide planning process. S. 885 mandates the preparation of a regional electric energy plan and assures that such a plan will reflect and be responsive to the diverse interests represented in the region.

Traditionally, utility planning in the Pacific Northwest has been geographically fragmented. While in other parts of the Nation large areas may be served by a single utility which generates and distributes electric energy on an areawide basis, the Pacific Northwest has been served by a myriad of small-to medium-sized utilities, which, for the most part, have relied upon the generation and transmission resources of the Federal Columbia River Power System. In spite of this fragmentation, the FCRP, the Bonneville Power Administration, and the distinct needs and resources of the region have served to facilitate a high degree of cooperation between utilities in forecasting regional power requirements and the integration of available resources. However, seriously lacking in the region is a comprehensive planning process providing for the integration of new generating facilities on a regional basis and a lack of opportunity for State and public participation at an early stage in the planning process. The regional electric energy plan which would be prepared pursuant to the Pacific Northwest Electric Power Supply and Conservation Act is conditioned upon these, and other premises.

Without the planning framework and authorities contained in S. 885, the region faces potentially damaging power shortages, an inability to involve on a formalized basis the States and various interest groups in the region in the planning process, and a lack of direction for and financing of a truly regionwide conservation plan which would not only benefit the individual consumers in the area, but could serve as a model for the rest of the Nation as well.

SUMMARY OF MAJOR PROVISIONS

As amended, S. 885 addresses several major issues related to power problems in the Pacific Northwest, and in some instances would mandate significant departures from past or present practice. Major issues and related provisions of the bill are briefly described as follows:

Public participation and control

Section 4 establishes a Pacific Northwest Electric Power Planning Council to consist of the Administrator of the Bonneville Power Administration and four appointees of the Governors of the States in the region. Using the procedures of the Administrative Procedures Act, the Council is to prepare and adopt a regional electric power plan that will govern most regional conservation efforts and resource acquisitions of the Administrator. The composition, duties and functions of the Council and other public participation provisions are primarily contained in section 4.

Preference

The preamble of section 5 makes all Bonneville power sales subject to the preference and priority provisions of the existing Bonneville Project Act. Public bodies and cooperatives entitled to preference and priority under that Act may not be subjected to restriction on the amount of power sold them unless and until their loads exceed the amount of Federal base system resources. Section 7(b) provides that rates charged such public bodies and cooperatives may not exceed a limit designed to reflect the power costs such public bodies and cooperatives would have experienced in the absence of this legislation. Section 10(d) preserves the

general preference and priority to which public bodies and cooperatives are entitled under other statutes governing the sale of power from federally-owned generating facilities.

Allocation

Sections 5 and 7 contain most provisions related to allocation of the Administrator's existing and newly acquired power and related power costs. Public bodies and cooperatives entitled to preference and priority under the existing Bonneville Project Act are to receive new requirements contracts that provide power at the Administrators' lowest rate (except power needed to serve new large industrial loads). Investor-owned utilities are to receive requirements contracts that provide power at a new resources rate, and are permitted to exchange with the Administrator an amount of power sufficient to serve their residential and small farm loads. The latter power will also be sold at the Administrator's lowest rate, with the cost benefits of the exchange required to be passed through directly to the residential and farm consumers involved. Direct-service industrial customers of the Administrator may surrender existing contracts providing low-cost power in order to receive new long-term contracts, but at substantially higher rates. Such higher rates are to recover to the Administrator his additional costs incurred in making the power exchange with the investor-owned utilities.

Acquisition of resources

Section 6 grants new authority to the Administrator to acquire resources, including conservation, to meet the loads of his customers. This authority is granted subject to the requirement that the Administrator make such acquisitions subject to the plan developed by the Council in section 4. In the absence of a regional electric power plan or if a proposed resource acquisition is inconsistent with the plan a special procedure, including specific approval of a major resource acquisition by Act of Congress, is provided.

Conservation and renewable resources

Sections 4 and 6 require conservation to be treated as the region's first priority resource, and renewable resources to be treated as the second priority resource, ahead of all other resource types. Sections 4 (e) and (f) require model conservation standards to be adopted as part of the Council's regional plan. Savings from such standard are to be assured by rate surcharges, if recommended by the Council, of up to 50 percent in the event of nonattainment of expected load reductions.

The Administrator is required under sections 4 and 6 to rely upon conservation to the maximum extent it is feasible and cost effective, to provide financial assistance for conservation and renewable resource purposes, and to continue conservation efforts even if he possesses an adequate supply of power. The existing Bonneville Power Administration borrowing authority is increased by $500,000,000 under section 8(a) to aid in the initial funding, after fiscal year 1980, of conservation and renewable resource efforts, as well as other resource activities. Conservation measures, which are treated as a resource, are to be compared with other resources available for acquisition. Conservation resources are to be considered cost-effective under section 3(c) if their life-cycle incremental system costs are less than or equal to 110 percent of the life-cycle incremental system costs of alternative nonconservation resources. The Administrator is required under section 6(h) to grant rate credits to utilities or local governments for conservation efforts that will achieve extra savings, and for renewable resources or multipurpose projects which reduced demand on the Administrator and allow the Administrator to avoid acquiring other resources.

Other power resources

Sections 4 and 6 require conventional fueled generating resources, including coal and nuclear, to be treated as the region's lowest priority resources. Section 6(c) sets forth a detailed procedure for the acquisition of any major resource and for acquisitions which are either inconsistent with the regional plan or which are made when a regional plan is not yet adopted; specific approval by Congress is required if no plan is in effect or the proposed acquisition is inconsistent with the plan. Section 6(h) prohibits rate credits being granted to utilities for major resources unless such credits are not inconsistent with the plan or Congressional approval is obtained. The cost-effective determination under section 3(c) would consider all costs associated with conventional resources, including the applicable waste disposal costs, end-of-cycle costs, and fuel costs, among other costs.

Financing provisions

In section 2(c), Congress finds that Northwest ratepayers should continue to pay all costs necessary to meet the regions electric power requirements, including repayment with interest of the Federal investment in the Federal Columbia River Power System. Section 6(k) prohibits Federal "guarantees" of new investments and requires that all obligations of the Administrator incurred under this act be secured solely by his revenues from the sale of power and other services. This provision makes explicit in this act the self-financing requirements of the Federal Columbia River Transmission System Act of 1974, Public Law 93-454 (as amended). Section 8(a) increases Bonneville's present borrowing limit from $1.25 billion to $1.75 billion. Section 9(f) preserves the tax-exempt status of obligations issued by State and local governments to finance resources that may be acquired by the Administrator primarily for the needs of such entities.

Mr. HATFIELD. Mr. President, I commend the chairman (Mr. JACKSON) and my Northwest colleagues on the (committee, the Senators from Idaho (Mr. CHURCH and Mr. MCCLURE) and Montana (Mr. MELCHER), for lending their tremendous efforts to the fashioning of this most remarkable piece of legislation.

Without any doubt, I predict it will be viewed in the future as the most important bill ever to have affected the Pacific Northwest. Certainly not since the Federal decision to build Bonneville Dam have we considered anything with such profound long-range impact on the region as we are considering today.

We owe special recognition today to the willingness of the many interest groups of the Northwest to bury old differences and historic animosities and work cooperatively toward a regional solution to our electric power problems. Public power, private power, the direct service industries, the four Governors, the cities of Seattle and Portland, and several environmental and consumer organizations provided the needed thread to weave this complex fabric. We also owe thanks to the personnel at Bonneville Power Administration who provided the necessary backup for the negotiations that have taken place, and who worked tirelessly on endless details when less capable and less dedicated people would have given out. I am particularly appreciative of the work of Mr. Earl Gjelde and Mr. Larry Hittle of Administrator Sterling Munro's staff.

The bill the committee has reported incorporates the proposals of the Governors for establishment of a planning council and the planning and resource acquisition procedures that are central to the regional power program. Their joint action solved what otherwise would have been an issue of extreme difficulty for the congressional delegation.

The bill incorporates the "preference clause" protections recommended by the Northwest Public Power Council, solving another delicate problem and heading off potential opposition from the national public power organizations.

It incorporates many amendments suggested by consumer- and environment-oriented groups, and squarely addresses objections that were leveled at the original bill by them.

Perhaps the most critical section of the bill is the definition of "cost effectiveness"—the test future resource acquisitions must stand. The committee incorporated in total my amendment describing this test. The test is perhaps the most complete ever prescribed for utility-type decisionmaking.

The committee also accepted an amendment Senator CHURCH and I offered, patterned after suggestions by Senator PACKWOOD, to provide for preservation and enhancement of the Columbia River Salmon and steelhead fishery. It assures that such efforts as the council may identify will be made by the administrator to operate the system compatibly with our fishery maintenance and improvement objectives.

I believe the Pacific Northwest power program as described in this legislation will be the most enlightened, advanced, public-spirited, and cost-effective program in the country.

Mr. President, there are several printer's errors in the committee report that need attention. Appendix A on page 55 not only mislocates and misspells several direct service industrial customers, it fails to list the Reynolds aluminum plants in Troutdale, Oreg., and Longview, Wash. There are 16 DSI's that will be eligible for new contracts under this legislation, and I ask unanimous consent that a corrected Appendix A, listing them and their proper locations, be printed in the RECORD.

There being no objection, the appendix was ordered to be printed in the RECORD, as follows:

APPENDIX A—DIRECT SERVICE INDUSTRIAL CUSTOMERS

1. Alumax, Inc., Oregon.
2. Aluminum Company of America, Addy, Wenatchee and Vancouver, Washington.
3. The Anaconda Company, Aluminum Division, Columbia Falls, Montana.
4. Carborundum Company, Vancouver, Washington.
5. Crown Zellerbach Corporation, Port Townsend, Washington.
6. Georgia Pacific Corporation, Bellingham, Washington.
7. Hanna Nickel Smelting Company, Riddle, Oregon.
8. Intalco Aluminum Company, Ferndale, Washington.
9. Martin Marietta Aluminum, Inc., Goldendale, Washington, and The Dalles, Oregon.
10. Kaiser Aluminum and Chemical Corporation, Mead, Tacoma, and Trentwood, Washington.

11. Oregon Metalurgical Corporation, Albany, Oregon.
12. Pacific Carbide and Alloys Company, Portland, Oregon.
13. Pennwalt Corporation, Portland, Oregon.
14. Reynolds Metals Company, Troutdale, Oregon and Longview, Washington.
15. Stauffer Chemical Company, Silver Bow, Montana.
16 Union Carbide Corporation, Portland, Oregon.

Mr. HATFIELD. Mr. President, on page 25, in the second paragraph of the analysis of section 4(f), a line is missing from the second sentence. The sentence should read.

It is not intended that the administrator investigate or monitor the conservation activities or compliance with conservation standards of individual consumers, but rather that he assess the conservation performance of his consumers and of political subdivision within the region when the council has recommended implementation of the standards.

On page 26, at the beginning of the analysis of section 5, the third sentence is not a part of the report and should be deleted. Is is a repetition, with some additional typographical errors, of the second sentence.

Mr. President, I ask unanimous consent that a brief summary I prepared of the power program as contained in S. 885, as amended and passed by the Energy and Natural Resources Committee, together with a summary of some major issues the committee faced and resolved in this bill, appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NORTHWEST POWER PROGRAM CONTAINED IN S. 885, AS AMENDED AND PASSED BY THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

I. BRIEF SUMMARY

Power planning. A regional council to be comprised of representatives of the four Governors and the Bonneville Power Administrator will forecast loads and devise a 20-year plan of resource acquisitions to meet those loads. The plan will set out the mix of resources to be employed, targeting conservation as the first and preferred resource. The council will devise a strategy for achieving all feasible and cost-effective conservation, and will develop a system of electric rate surcharges and credits to aid this endeavor. Their plan must be updated no less frequently than every 5 years.

Implementation of Plan. The BPA Administrator will seek to acquire resources consistent with the plan to meet the utilities' power requirements that are beyond the capability of their own resources. To the extent such resources are generating plants, he will acquire the power from them but not build or operate them (except that he may build an experimental renewable-resource plant if no utility or governmental unit will). The Administrator will be authorized to use his power revenues and to issue bonds backed only by the region's power revenues and not by the U.S. Treasury to acquire these resources. Conservation measures will be treated exactly as if they were power generating resources, as will end-use applications of renewable resources which reduce power consumption (such as solar water heating). The Administrator will be able to seek new or experimental resource developments even though they may not at the time be cost-effective, so long as they represent potential future resources that the region might someday employ to provide reliable, cost-effective electric power generation or conservation. The Administrator will not be authorized to acquire cost-effective thermal power resources (such as coal or nuclear) prior to demonstrating that he is already acquiring all available cost-effective renewable resource development and all cost-effective conservation. Conservation resources will be given an additional priority, in that they will be acquired up to 110% of normal cost-effectiveness levels.

Operation of the regional power system. Residential and farm customers of the investor owned utilities (IOU's) will share in the benefits of the federal hydropower system in the Northwest. During the first years of the regional program, these parties' access to the federal system will be phased in. After the fifth year, they will be sharing in the system on the same basis as the customers of the publically owned utilities. In order for the Administrator to be able to sell amounts of federal system power to the investor-owned utilities to meet their residential and farm loads, the Administrator will buy equivalent amounts of power from these utilities at their average system cost and combine it with the federal hydropower (the "federal base system").

BPA's direct service industrial (DSI) customers will pay the difference between the higher-cost IOU system power and the lower-cost federal base system power involved in the IOU exchange in order that the cost of power to BPA's present utility customers (the publicly-owned systems) is not increased. In return for paying this cost which will quadruple their power rates in 5 years, the DSI's will be offered new power supply contracts to replace those expiring in the 1980's.

In sum: The industries will immediately pay higher rates for power in order to be assured a future supply; these additional revenues will entirely offset the impact of the IOU residential and farm customers' access to the federal base system, preventing any increase in system costs to the publically owned utilities; and the customers of the publicly owned utilities will be assured a full-requirements future power supply which will vitiate the "insufficiency" notification these utilities have received from BPA in regard to the impending inadequacy of the present federal system to meet their load growth after 1983.

II. ISSUES AS RESOLVED BY THE COMMITTEE

Preference clause. The clause of the Bonneville Project Act of 1973 which provides that public bodies and cooperatives be accorded preferred access to power generated at federal projects is completely protected in S. 885, as amended by the Committee. While many public power advocates in the country have doubts about the particular language and mechanics of the bill, the preference concept will remain completely intact in the Northwest. The public system preference is valuable for two reasons: supply and price. In that the BPA Administrator will be granted new authority under the Committee bill to meet the power needs of the public systems after the existing federal base system runs out, and in that they will receive this power at prices no higher (this is guaranteed in the Committee version of S. 885) than those they would experience in the absence of any new legislation, they are not only fully protected in terms of supply and price, they are better off. They will benefit from having the Administrator marshaling all the financial clout of region to produce new resources to cover their load growth and to spread the risks that attend these endeavors over the entire region.

Rate equity. Residential customers of the IOU's (such as PGE, PP&L, Puget Sound Power & Light, and Idaho Power Company) will gain access to the power generated at our federal hydroelectric projects. The wholesale cost of power from BPA to serve all residential customers will therefore be the same for all utilities in the region. IOU's will not be permitted to make a profit on this power, so that the full cost benefits of this access will be passed straight through to their residential consumers.

Federal guarantees and subsidies. They are not allowed. The Committee bill states explicitly that all obligations incurred by the Administrator will be secured solely by the revenues generated by his sale of power—in other words, secured only by the region's ratepayers and not by the U.S. Treasury.

Cost effectiveness. The test provided in the Committee bill is the most comprehensive ever applied to power plant decision making. It will compare all incremental costs to the region's power system (including required new transmission) of any proposed new resource, with those of any alternative. Conservation and end-use applications of renewables will be treated like any power generating resource (but no transmission costs are associated with them, which gives them a particular cost advantage). Nuclear plant proposals must include all waste storage, fuel cycle and decommissioning costs. Proposals must show all environmental and social costs and benefits that are quantifiable and directly attributable to the resource. Despite the completeness of this test, there is a further recognition that classic economic comparisons omit certain important values, some non-quantifiable, such as the benefit of using less of our Nation's depletable fuels, and intangible environmental and social benefits of employing conservation rather than building large new power plants. In this regard, the cost-effectiveness test contains a proviso that any conservation measure may cost up to 110% of that of the least-cost nonconservation resource and still be financed and achieved ahead of the non-conservation resource.

Public involvement. The Council must hold at least four regional hearings, one in each State, in the course of developing their power plan, and must hold another four on the question of adopting their final proposal. In addition, each major resource acquisition will require a Council hearing. Each Council member will be accorded money sufficient to assist his or her participation in Council activities, including the provision of staff and the utilization of such advisory committees as each member or each State's governor may choose to establish. As the Council members, except the BPA Administrator, will be appointees of the governors, they will be quite directly answerable to their state's constituents.

Renewable resources. Renewable will be given second priority, behind conservation, for meeting the region's power needs. In addition, the Administrator will have authority to conduct demonstrations in conservation and end-use renewable resource application, and build experimental generating facilities which will utilize renewable energy resources.

Council-administrator relationship. The votes of three members of the five-member Council, including the vote of the Administrator, will be required to adopt the regional power plan. This gives the Administrator a veto, which is necessary to avoid a collision with the U.S. Constitution over inappropriate delegation of powers over a federal agency. Nonetheless, a plan once adopted will be a powerful controlling force in the region's energy future. All resource acquisitions must be consistent with it, unless the Administrator cannot fulfill some statutory responsibility, in which case he must seek an amendment to the plan (triggering four regional hearings by the Coun-

cil). If the Council leaves him still unable to act to fulfill such requirement, he can then hold an additional hearing and take his findings to Congress, where the Northwest's delegation would essentially have to decide whether to override the Council. An override cannot be made except through passage of an Act of Congress—a new law. This entire process should be sufficiently onerous to prevent its being used except in most unusual circumstances.

The Columbia River fisheries. The Council will obtain annually from the state, federal and Indian fisheries agencies their recommendations for actions which will preserve and enhance the Columbia River salmon and steelhead fishery. The Council will decide what to include in its plan which will then guide the actions of the Administrator. The Administrator will be authorized to conduct fisheries research and development and to acquire and dispose of power and otherwise utilize his resources in whatever manner is most conducive to fish preservation and enhancement consistent with his other statutory obligations.

Conservation. Not only is it the preferred resource for meeting our power needs, it will be pursued by the Administrator unrelentingly, up to 110% of non-conservation resources and without regard to any recent large new generating plant he may have acquired and which may, technically, have provided the region's power needs for some time to come. The Administrator will not reduce his efforts to achieve conservation no matter what other resources he may acquire.

New aluminum plants. BPA may not sell power for new DSI loads, either associated with new plants or existing ones, unless it is consistent with the plan, he determines it to be a cost-effective way to provide new regional reserves, and the Council specifically votes to approve. Alumax, having a power supply contract with BPA but still having been unable to site their plant in the region, is treated by the bill just like any other DSI in the region.

Credits. Any utility or governmental unit which can obtain a resource that is uniquely suited for its development (such as a co-generation project at a local wood products plant) is encouraged to do so by the availability of rate credits from the Administrator. Since such resources will reduce the obligation of the Administrator to go out and find other power resources to meet the load of the utility, which new resources would raise the cost of power to everyone from the base system, the Administrator can offer rate credits to the utility in recognition of the regional saving the utility's action caused.

Cost controls on new plants. The bill requires the Administrator to obtain in contracts whatever terms and conditions are necessary to insure that the costs of any new resource he agrees to acquire will be as low as possible, and that he has the right to effective oversight and audit of all aspects of construction and operation.

"Dry hole" risk. The Administrator will be authorized to make commitments to acquire the capability of new resources. Such commitments, whether for conservation measures, renewables, or thermal plants, will enable the region's utilities and governmental units to finance these new resources much more cheaply than is the case today, since the entire region will stand behind such new resources and share the risks. Should a resource fail, or produce less power than planned (or, in the case of conservation and end-use renewables, should load reductions not be as great as planned), the region will absorb the blow rather than just the ratepayers of a particular utility or the people living in a particular jurisdiction. If the Administrator were not permitted to make such capability acquisitions—if, for example, he were constrained just to purchasing the actual output of the resource, when and if it produced—there would be no financing and cost advantages to the region's ratepayers from his participation.

Grandfathering of plants. There are no provisions in the bill to require the Administrator to acquire any plants now under construction or planned in the region, such as WPPSS 4 and 5, Skagit 1 and 2, or Pebble Springs 1 and 2. There are no provisions biasing any future acquisitions in favor of such plants. They must stand the full test of the bill's acquisition procedures, including cost-effectiveness and conservation priorities, like any other resource that may be proposed. (Note: WPPSS 1, 2 and 3 and Eugene's 30 percent share of Trojan are already part of the federal base system from contractual net-billing agreements between BPA and the public-system sponsors of these resources consummated a decade ago.)

State jurisdictions. The bill explicitly preserves state facility-siting and ratemaking authorities.

Mr. McCLURE. Mr. President, I am pleased to participate in the presentation of S. 885, the Pacific Northwest Electric Power Planning and Conservation Act, to the Senate at this time.

At the outset of this discussion I want to commend my two colleagues on the committee from the Pacific Northwest who have worked so closely with me to build a consensus position on this bill, the Senator from Washington and our chairman, Mr. JACKSON and the Senator from Oregon and our ranking minority member, Mr. HATFIELD. Through countless hours and days spent over the past several years, both here in Washington and at home in the region, my colleagues and close friends, Senator JACKSON and Senator HATFIELD, have labored tirelessly to produce the consensus legislation before the Senate today. I take this opportunity to thank them for their continued efforts to produce their legislation and their unprecedented contribution in seeking a regional consensus on this most important of bills for the future of the entire Pacific Northwest region. On behalf of my constituents in Idaho and this Senator, I want to thank them very sincerely for their efforts.

Mr. President, I am convinced that the bill before the Senate will establish an objectively balanced foundation for regional cooperation in the planning and implementation of the electric power future of the Pacific Northwest in the years and decades ahead. Many of our constituents would agree that the original construction of the Federal hydroelectric system in our region and the subsequent hydrothermal accords dealing with additional regional power cooperation constitute two strategically important milestones or benchmarks in the historical development of the entire Pacific Northwest region. I would humbly suggest, Mr. President, that S. 885 will become recognized as a third major benchmark for the future development of the Pacific Northwest. Accordingly, I am convinced that the action of the Senate today is of critical importance in support of that continued development.

This Senator, despite a currently popular and for some, politically appealing notion that there is no further need for electric power generation in the United States to support economic growth, is absolutely convinced that there remains an inextricable linkage between increased electric power generation capacity and the steady and predictable economic growth which is essential to meet the needs and provide the social basis for the future of the Pacific Northwest. There is absolutely no doubt in my mind that the Pacific Northwest must have additional power resources in the decades ahead to support minimum levels of required economic growth, let alone levels of economic growth which will provide the same kinds of opportunity which my generation had in the Pacific Northwest.

I consider it my responsibility and the responsibility of all the Representatives of the region to insure the predictable availability of that needed electric power for our future growth. To do anything else would be to deny our children and their children the opportunities which we have had and to fail our responsibilities to future generations who will wish to share the truly unique qualities of our region. This bill, S. 885, will hopefully provide the basis for an optimistic and successful approach to providing that future.

Mr. President, I am particularly pleased that, in the consensus process by which we have developed this bill, I was successful in restoring to the bill the mandatory balance between the Federal Administrator of the Bonneville Power Administration and the people of the Pacific Northwest. This balance was restored through a series of amendments throughout the bill to circumscribe the otherwise unconstrained authority and discretion of the Administrator in carrying out the vast new authorities given to him in this bill.

At the outset of our markup efforts in committee, the bill as proposed would have reduced the region and its representatives to mere advisory capacity. The various customers and consumers dealing with the Administrator in the region would have been subject to power allocation, rate making, resource acquisition and conservation measure implementation, which would have been completely within broad discretionary powers of the Administrator.

Virtually none of these authorities would have been subject to any administrative procedure protections nor any reasonable judicial review. Additionally, much of the text of S. 885, as introduced, contained such gross ambiguities and undefined terminology, as to render any guidance contained in that bill relatively powerless as a constraint on the Administrator's discretion. I was convinced at the time, and remain convinced now, that adoption of that original would have effectively conveyed nearly complete discretion for the future electric power and economic development of the Pacific Northwest to the Bonneville Administrator. I do not mean to imply any general or specific intention nor motivation for this result, nor do I intend to suggest any avarice or malice on the part of the current Administrator or any future Administrators. Rather, I am expressing a personal legal opinion as to the grant of authority by the Congress which would

have occurred under the original bill. As I said before, I am particularly satisfied that our consensus process has restored a balance and a control element in this bill before the Senate.

At this point, it might be useful to review the nature of some of the specific improvements which I believe were the result of my requests in the consensus process.

The definitions in section 3 have been sharpened materially in order to avoid any uncontrolled discretion or potential abuses which might have occurred as a result of the original ambiguities and choice of terminology.

Most importantly, by definition, the first 400 horsepower of farm irrigation and pumping for any farm will be treated as a residential load and thereby will qualify for the lower Bonneville rate under this bill.

The Administrator of BPA will not be designated by statute as the chairman of the regional planning council, but rather the council will make its own decision on a chairman. For myself, I would hope that the council will adopt a rotating chairmanship among the State representatives, and not the Administrator.

The Bonneville Administrator will have no power to appoint a State's representative, as proposed originally. Additionally, the representative of a State on the council can be made subject to confirmation by the State legislature.

The council shall have statutory authority to determine whether or not key actions of the Administrator are pursuant to the regional plan under the bill, rather than be purely advisory as originally proposed. Additionally, the Administrator must implement authorities under the bill whenever feasible in a manner consistent with the regional plan, and when he does not, he must utilize a very detailed procedure to seek an alternative approval, including formal hearings, administrative procedures, congressional action, and judicial review.

A majority vote of the full council will be required prior to any imposition of punitive, penalty rate surcharges on the customers of a given service area for failing to implement any specific conservation measures.

The BPA Administrator will be required by law to insure that any restrictions on power sales or allocation under the bill are distributed equitably throughout the region and cannot be allocated in an arbitrary or capricious fashion.

Several highly important formulas for determining rates under the bill will be made subject to specific approval by the council, rather than left to the discretion of the Administrator as originally proposed.

The Administrator's actions in obtaining new electric power resources and in implementing conservation measures will be constrained by a requirement for strict consistency with the regional plan adopted by the regional council.

The Administrator's authority to make major investments in conservation demonstrations and research and development projects will require the review and approval of the Congress, thereby protecting the rights of the region's ratepayers.

All new electric power resources required to replace the original Federal base system, primarily the hydroelectric system, will be subject to all of the requirements and procedures of this bill, so that the obvious future requirements for replacement power will not constitute a loophole in the regional system.

The Administrator's authority to grant billing credits for new electric power capacity and to provide preconstruction assistance to sponsors of new capacity have been limited by a requirement for consistency with the regional plan or in the alternative, strict procedures for approval.

Any new direct service industry customer must be expressly approved by a majority vote of the full council, as well as be consistent with the adopted regional plan.

The Administrator is statutorily required to insure that all of the benefits in the area of new resources and conservation implementation, such as financial and technical assistance, conservation demonstrations and experimental projects are distributed equitably throughout the region.

The Administrator's ratemaking under the bill must be approved by the independent Federal Energy Regulatory Commission and will be subject to strict administrative procedures and judicial review involving the requirement for the Administrator to affirmatively prove that his rates are consistent with the criteria in the bill. Additionally, for several key determinations in the ratemaking formulas, such as for direct service industries, the council must make the required determination or the Administrator must proceed by formal rulemaking. These requirements accompany a general sharpening of the criteria in ratemaking to remove ambiguities which gave the Administrator broad discretion.

The bill now contains an express provision to preserve the full rights of States and the region regarding jurisdiction over State waters. Consequently, despite the broad new authorities for regional power activities granted to the BPA Administrator in this bill, there should not be any reduction in the control of the individual States over their precious water resources in the future.

Mr. President, I consider that the above modifications in the bill, as well as a series of other technical changes in the original draft presented to the committee last month, make a truly important and significant difference in the complexion of this bill and its implications for a balanced and objective Pacific Northwest regional power future. The rights of the States will be strictly protected through their representation on the regional council and its role in establishing and enforcing a regional plan. The rights of the many participating utilities, both public and investor-owned, in the region will be protected through the more precise criteria and terminology in the bill, and related administrative and judicial protections.

The rights of the ratepaying consumers in the region will be protected by the far more constrained discretion on the part of the Administrator to expend and oblige regional power revenues. These consumers will not be penalized punitively by rate surcharges in the name of energy conservation measures unless there is a consensus in the region through the council to do so. The Federal Government's role in this regional power concept is far more predictable and definitive to allow a careful balancing of the relative roles and prerogatives of the States and the Federal Government.

In sum, the regional power concept contained in this bill has been restored to an objective and balanced equation among all of the parties in the region with protected equality among each of the several parties.

Again, Mr. President, I wish to commend my colleagues from the Pacific Northwest region for their extreme diligence and seemingly endless patience for the past several years in the near continuous efforts to bring this bill before the Senate today. The balance and objectivity carefully crafted and perfected in the bill now, as I have described in some detail, is a tribute and a memorial to their diligence and patience.

I sincerely hope that our colleagues and good friends in the other body will be successful in completing their work in a similarly crafted piece of legislation in the weeks ahead. I certainly wish them well in that endeavor and commend to them the process by which we have come to this bill today. Thank you.

Mr. MAGNUSON. Mr. President, I congratulate the Senate Energy and Natural Resources Committee for completing action on the Pacific Northwest Electric Power Planning and Conservation Act and reporting it to the floor. I know that the committee has worked very hard on this matter. The Energy Committee held 4 full days of field hearings in the Pacific Northwest on the regional power issue in the spring of 1978, and 2 days of hearings in Washington, D.C., last fall. During the 96th Congress, the Energy Committee held 2 more days of hearings in May of this year. These extensive hearings have provided an opportunity for all of the various interests in the Pacific Northwest to be heard on this most important issue.

I want to especially thank the distinguished chairman of the Energy and Natural Resources Committee, my good friend and colleague from the State of Washington (Mr. JACKSON) for his patient leadership on this most difficult issue.

I would also like to take this opportunity to compliment all of the individuals and organizations that have worked so hard to improve this complicated piece of legislation. As part of the legislative process, compromises have been made to accommodate the concerns of a number of interests. The Energy Committee has strived to develop a workable, fair bill. I know that there are still some differences about some of the provisions of this bill. I am sure that these issues will be considered as the House works on this legislation.

Mr. President, the consideration of

the Pacific Northwest Electric Power Planning and Conservation Act has a special significance for me. As some of my colleagues will recall, I was a freshman Congresman in the House of Representatives in 1937 when the Congress passed the Bonneville Project Act, authorizing the construction of the Bonneville Dam by the Corps of Engineers. That bill provided that the electric power generated at the dam should be marketed by a Bonneville Power Administrator to be appointed by the Secretary of the Interior. The Administrator was authorized to construct, operate, and maintain transmission lines necessary to market the power.

The Bonneville Power Administration, through subsequent legislation and interpretation of the act, has become a major part of the electric power system in the Pacific Northwest. The Federal Columbia River Power System, for which BPA is the marketing agency, had 30 hydroelectric power projects in operation in 1978 with a total generating capacity of 16,441 megawatts. In that year, the system represented 54 percent of the region's total electric generation. Clearly, the Federal hydroelectirc system and the Bonneville Power Administration have played a vital role in building the economy of the Pacific Northwest.

Mr. President, the Pacific Northwest now stands at the threshold of a new energy era. Historically, over 90 percent of all the electricity in the region was produced from hydroelectric dams. These dams produced some of the cheapest electricity in the world. Between 1937 and 1966, the unit cost of electricity in the Northwest actually declined—each new unit of power lowered rates to the consumer.

But there is general consensus now that most of the major, environmentally acceptable hydroelectric sites in the region have been developed. That means that future requirements for electricity will have to be met by conservation, renewable resources including small hydro projects, generating resources utilizing waste heat, generating resources of high fuel conversion efficiency, and finally, by new thermal plants. All of these sources of energy will be more expensive than the power from our existing hydroelectric dams. In fact, it has been estimated that the retail cost of electricity may double in the Pacific Northwest by 1985. New electrical growth will incerase everyone's electric bill.

With this inevitable incerase in the cost of electric power, I am pleased to note that this bill affords some mitigation and protection for residential customers throughout the region, while protecting the principles of public power that have distingiushed the history of Washington State. Under the bill, public bodies and cooperatives entitled to preference and priority under the existing Bonneville Project Act are to receive new requirements contracts that provide power at the Administrator's lowest rate. Investor-owned utilities are to receive requirements contracts that provide power at a new resource rate, and are permitted to exchange with the Administrator an amount of power sufficient to serve their residential and small farm loads. This exchange power will also be sold at the Administrator's lowest rate, with the cost benefits of the exchange required to be passed through directly to the residential and farm consumers involved.

This legislation protects the preference clause. Public bodies and cooperatives entitled to preference and priority under the Bonneville Project Act may not be subjected to restrictions on the amount of power sold them unless and until their loads exceed the amount of Federal base system resources. The bill also provides that rates charged such public bodies and cooperatives may not exceed a limit designed to reflect the power costs that the public bodies and cooperatives would have experienced in the absence of this legislation.

Mr. President, I believe that this bill goes a long ways toward striking the difficult balance between short-run, economic concerns, and long-run considerations of investment, wise use of energy, and the protection of the natural environment.

Both short-run and long-run needs are important. Fortunately, in many instances these needs are compatible. A prime example is energy conservation that is cost effective.

Mr. President, I am pleased to note that the legislation requires conservation to be treated as the region's first priority resource, and renewable resources to be treated as the second priority resource, ahead of all other resource types. The legislation requires model conservation standards to be adopted as part of a regional plan. Savings from such a standard are to be assured by rate surcharges, if recommended by the Council, of up to 50 percent in the event of nonattainment of expected load reductions.

The Administrator is required under the bill to rely upon conservation to the maximum extent it is feasible and cost effective, to provide financial assistance for conservation and renewable resource purposes, and to continue conservation efforts even if he possesses an adequate supply of power. To help accomplish this task, the existing Bonneville Power Administration borrowing authority is increased by $500 million under the legislation to aid in the initial funding, after fiscal year 1980, of conservation and renewable resource efforts, as well as other resource activities. Conservation measures, which are treated as a resource, are to be compared with other resources available for acquisition. Conservation resources are to be considered cost effective under the legislation if their lifecycle incremental system costs are less than or equal to 110 percent of the lifecycle incremental system costs of alternative nonconservation resources. Moreover, the Administrator is required under the legislation to grant rate credits to utilities or local government conservation efforts that will achieve extra savings, and for renewable resources or multiple purpose projects which reduce demands on the Administrator and allow the Administrator to avoid acquiring other resources.

Mr. President, I believe that this legislation provides the framework for the Pacific Northwest to become the model for the rest of the Nation in energy conservation. An aggressive energy conservation program will meet both the short-run need to minimize future electric power rate increases and long-term needs to provide adequate energy while protecting the natural environment. Thus, by putting conservation first, this bill advances the common purposes of the people in the Pacific Northwest.

Mr. President, as the cost of energy goes up, the need to involve the public and elected officials in energy decisions will increase. As a recognition of this fact, the legislation establishes a Pacific Northwest Electric Power Planning Council to consist of the Administrator of the Bonneville Power Administration and four appointees of the Governors of the States in the region.

The Council is authorized to direct preparation of a regional power plan, among the components of which will be a 20-year load forecast, a scheme for resource acquisition by the Administrator to meet such loads, and model conservation standards to set the norm for the region in achieving load reductions which will be the priority power-related resource. Public involvement in planned development through regional hearings is mandated by this legislation.

As the region develops its energy plan, the citizens of the region must look to the Governors—who have greatly improved this legislation through their constructive suggestions—and the Bonneville Power Administration, which continues to serve the region loyally and capably.

Mr. President, under this legislation the Pacific Northwest taxpayers would continue to pay all costs necessary to meet the region's electric power requirements, including repayments with interest of the Federal investment in the Federal Columbia River power system. The legislation requires that all obligations of the Bonneville Power Administration Administrator incurred under this act shall be secured solely by his revenues from the sale of power and other services. This provision makes explicit in this act the self-financing requirements of the Federal Columbia River Transmission System Act of 1974. I am particularly pleased, as chairman of the Appropriations Committee, to note that this self-financing provision means that all costs incurred by BPA under this act will be paid by BPA's own customers, and not by the U.S. Treasury or the U.S. taxpayer. Moreover, the purchase provisions in this act will allow the region to aggressively pursue conservation, renewable resources, and cogeneration and high efficiency resources. If these forms of energy are not adequate to meet the region's needs, purchase provisions will help minimize the cost of building new thermal plants.

In closing, Mr. President, let me say that I believe that this legislation represents a very good start in our efforts to address the energy challenges facing the Pacific Northwest. No doubt, additional changes will be made by the House of Representatives as it works on this legislation. Senate passage of this legislation

today will continue the process of forging a program that will meet the energy needs of the Pacific Northwest in the years to come.

When Congress voted to establish BPA in 1937, we had a lot of argument about whether we should set up this marketing agency.

BPA has survived for a long time, and served the region well.

The time has come to revise BPA and bring it up to date. I think this bill does that.

UP AMENDMENT NO. 510

Mr. JACKSON. Mr. President, I send to the desk two amendments to clarify the intent of S. 885.

The PRESIDING OFFICER. Does the Senator desire that they be considered en bloc?

Mr. JACKSON. I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself, Mr. HATFIELD, and Mr. MCCLURE, proposes amendments en bloc numbered unprinted amendment No. 510.

The amendment is as follows:

On page 58, line 9, strike the comma after "code", and insert in lieu thereof a period. Strike the remainder of the sentence on lines 10 and 11.

Page 51, line 22, insert a new subsection 7 (i), as follows:

"(i) In establishing rates under this section, the Administrator shall use the following procedures, which procedures shall be established by rule.

(1) Published the initial proposed rates in the Federal Register with a statement of the justification and reasons supporting such rates pursuant to this section;

(2) Appoint a hearings officer empowered to conduct ratemaking hearings and to administer oaths;

(3) After a reasonable time, conduct one or more hearings to receive public comment in the form of written and oral presentation of views, data, questions and argument, related to such proposed rates. In any such hearing any party shall be provided with the opportunity to offer refutation or rebuttal of any material submitted by any other party. The hearings officer, in his discretion, may allow for limited cross examination in any such hearing to develop fully any essential fact which is material and relevant directly to any such proposed rate.

In his discretion, the Administrator may hold such additional hearings as he believes are necessary for the full development of the records;

(4) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions and argument submitted by interested persons before the close of hearings shall be made a part of the administrative record;

(5) Based upon review of the full record adduced at any such hearings and written submissions, the Administrator shall publish the revised proposed rates in the Federal Register. Such rates shall be subject to an additional hearing or hearings using the procedures of (2) and (3) above, after which the Administrator shall make a final decision based on the record of all written submissions and all hearings. The decision shall include a full and complete justification of the final rates pursuant to this section.

(6) The final decision of the Administrator shall be reviewed and approved by the Federal Energy Regulatory Commission pursuant to subsection 7(a). The Commission shall have the authority to approve the final rate submitted by the Administrator on an interim basis, pending its final decision.

(7) Judicial review of any rate approved by the Commission shall determine that the Administrator, in establishing such rate, has borne affirmatively the burden of proof on the basis of the administrative record developed pursuant to this subsection."

On page 29, lines 16 and 17: strike "Upon the adoption of", and insert in lieu thereof, "If the Council so recommends in", and strike "by the Council".

Mr. JACKSON. Mr. President, the first amendment clarifies the ratemaking procedures to be followed and the standard of judicial review applicable to rate determinations under this act.

The amendment is necessary to clarify an ambiguity resulting from the committee's adoption during the markup of provisions relating to judicial review of rate determinations.

This amendment is a useful first step in developing a definitive rate procedure applicable to rate determinations under this act. The amendment codifies the BPA ratemaking procedures and provides an opportunity for judicial review of BPA rates.

The ratemaking process is extremely important. The economic consequences of rate determinations and the overriding need that such determinations be made in a timely manner argues for a thorough but expeditious procedure with an opportunity for review. I would caution that we need to be very careful that the procedure which is ultimately approved by the Congress is workable and will not result in unnecessary delays which do not contribute significantly to exposition of the issues involved in rate determinations. I would hope that in the weeks and months ahead we can give this issue the additional careful attention it requires and that we take advantage of the advice and expertise of knowledgeable parties in the Northwest to make sure that we will achieve the desired results.

Mr. President, the second amendment is a technical amendment to clarify the intent of section 4(h) regarding fishery coordination.

I especially wish to thank the junior Senator from Idaho (Mr. MCCLURE) for his cooperation and his help in working out the amendments in question.

Mr. MAGNUSON. As I understand the first amendment, if someone did not like the rate structure handed down by the Commission or the group they could go into court and there would be judicial review; is that correct?

Mr. JACKSON. The Senator is correct. It does establish the right of judicial review, and the way in which the record in rate proceedings is made.

Mr. MAGNUSON. I thank the Senator.

Mr. JACKSON. The distinguished senior Senator from Oregon (Mr. HATFIELD) played a very important part in this legislation.

May I say, as I said in my opening remarks, there has been unanimous bipartisan support for this legislation; that applies to the junior Senator from Oregon (Mr. PACKWOOD) as well and, of course, I have already mentioned Senator MCCLURE.

It has been a bipartisan effort all the way through. We have set a good example of how to get something accomplished through working out the varying points of view.

I want to commend all the Senators for their help.

Mr. President, I know of no opposition to the amendments that are being considered en bloc, and I think we are prepared to vote on them.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Washington.

The amendments, en bloc, were agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the votes by which the amendments were agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 511

Mr. JACKSON. The senior Senator from Washington, I believe, has an amendment.

Mr. MAGNUSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 511.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Page 26, line 21, strike out "and"; and insert after "(h)"; "and (m)".

Page 45 after line 15, insert the following:

(m)(1). The Administrator is authorized and directed to investigate opportunities for adding to the region's power resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the region, if such resources are renewable resources, and are now or in the future planned or considered for eventual development by non-regional agencies or authorities that will or would own, sponsor or otherwise develop them. The Administrator shall keep the council informed of such investigations as they progress, and seek from the council its advice as to the desirability of pursuing such investigations further.

(2) The Administrator is authorized to acquire resources of the type identified in this section, and to enter into such contracts or agreements as may be necessary to facilitate such acquisitions, if he determines that such resources meet the criteria of this section and that such acquisitions are consistent with the plan; provided, that if the Administrator determines that such acquisitions are not consistent with the plan or in the absence of a plan, the Administrator may acquire such resources, which he determines, after compliance with section 6(c) are consistent with section 4(e).

(3) The Administrator shall conduct the investigations and the acquisitions, if any,

authorized under this section with the assistence of those departments or agencies of the Federal government whose responsibilities include negotiation of the type of contracts or agreements that would be necessary to facilitate an acquisition under this section.

(4) No later than January 1, 1981, and thereafter not less frequently than once each year, the Administrator shall submit to the Congress a report that outlines investigations undertaken pursuant to this section, together with the prospects for obtaining additional resources under the authority granted by this section.

(5) The authority granted in this section shall not diminish or abridge any other authority of the Administrator to carry out similar activities under this Act or other Acts.

Mr. MAGNUSON. Mr. President, the purpose of my amendment is to add to the power available in the Pacific Northwest by accelerating the development of renewable resources outside the region. This amendment could postpone or even eliminate the need for certain generating facilities inside the Pacific Northwest.

The Northwest Regional Power legislation gives strong support to conservation as a desirable power resource that can take the place of at least some generating facilities that would otherwise need to be built within the region. This amendment would authorize the administrator of BPA to identify and acquire another potential class of power resources that might postpone or even avoid the need for certain generating facilities inside the region: generating resources outside the region which would eventually be built in any event and that rely upon renewable resources.

I know that the distinguished chairman of the Energy and Natural Resources Committee has played a major role in the events that made similar resources available to the Northwest in the past. My distinguished colleague from Washington is familiar with the circumstances under which the Bonneville Power Administration now receives large quantities of power as the result of cooperative development between the United States and Canada of major hydroelectric facilities and storage reservoirs in British Columbia. These resources, whose development has been and will continue to be highly beneficial to the Canadians, were built as a result of the Canadian treaty. Most important, they are resources the Canadians would eventually have built themselves, but whose construction ahead of schedule has provided substantial power benefits to the northwest United States. These benefits include an adequate power supply, lower power costs, and avoidance of the need to construct additional thermal plants in the Pacific Northwest States. For their part, the Canadians have received a long-term power supply, lower imbedded costs, and the security of knowing that the resources will be available when Canadian loads require them.

I feel strongly that similar opportunities exists again for cooperative development with other regions. Unfortunately, little work appears to have been done in the recent past to determine whether additional projects, already in the planning stages outside the region, could be accelerated in order to help avert or minimize projected firm energy deficits inside the Pacific Northwest.

For instance, I understand that B. C. Hydro, the British Columbia power authority, has already identified several potential generating projects that may produce very substantial amounts of power. All of these projects would be located in British Columbia. Several very large hydroelectric projects appear to be among those that B. C. Hydro has investigated. Some of these projects may face insurmountable environmental or technical problems, but if any are eventually built, they will be built in order to meet anticipated Canadian demand.

Without having consulted B. C. Hydro, and without wishing to suggest that the United States has any entitlement to the United States as quickly as possible to see if the early development of one or more of these projects might not offer substantial benefits to the citizens of both countries. It is conceivable that there are opportunities for cooperation that would build upon the cooperative foundation already present in the existing treaty with Canada.

By mentioning the B. C. Hydro projects specifically, I do not mean to limit the potential projects outside the Northwest that should be considered. Many other projects in other areas may be worthy of consideration, depending upon advances in transmission technology or the existence of unexploited and relatively benign generation possibilities in other regions. Any project that relies on renewable resources, and could be built at an earlier rather than a later date, should be explored if it offers potential power benefit to the Pacific Northwest and the region in which the project itself would be located.

However, I want to make it clear, that this amendment is not intended to establish an inter-region electrical grid system.

Mr. President, this amendment would authorize and direct the administrator of the Bonneville Power Administration to investigate opportunities for adding to the region's power resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the region, if such resources are renewable resources, and if such resources have already been planned or considered for eventual development by the agencies or authorities that will or would own, sponsor, or otherwise develop them.

The administrator is directed to keep the council informed of such investigations as they progress, and seek from the council its advice as to the desirability of pursuing such investigations further.

The amendment would also authorize the administrator to acquire resources of the type that I have just discussed, and to enter into such contracts or agreements as may be necessary to facilitate such acquisitions, if the Administrator determines that the resources meet the the criteria I have discussed above and the acquisition of the resources will, in a cost-effective manner, add to the region's resources or reduce the region's power costs; provided, that such acquisitions are consistent with the plan.

This amendment also provides a procedure for the Administrator to acquire these resources when he determines that such acquisitions are inconsistent with the plan, or in the absence of a plan. Under these circumstances, the Administrator may acquire the resource if he determines, after compliance with section 6(c), that it is consistent with section 4(e). The amendment would also give the council the authority to review such determination, as outlined in section 4(d).

The amendment would also direct the Administrator to submit a report to Congress once each year that outlines his investigations undertaken pursuant to this amendment, together with the prospects for obtaining additional resources under the authority granted by this amendment.

I want to make it clear that power obtained in this manner is not likely to be cheap. All new power resources are expensive, and in the case of resources outside the region pricing policies are subject to decisionmaking over which we have little effective control. But, from a supply standpoint alone, such resources should be extremely beneficial to the Northwest; acceleration of an already-planned project represents, along with conservation, the best short-term and mid-term method of meeting Northwest power needs. The firm power deficits projected for the 1980's under critical water conditions cannot, at this late date, be met by any fresh start on new thermal resources inside the Northwest. Therefore, I urge the adoption of this amendment.

I have discussed this with my colleague, and I do not know whether the other Senators are familiar with it, but he is willing to accept the amendment.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. JACKSON. I want to thank my friend and colleague from the State of Washington (Mr. MAGNUSON) for offering this most useful amendment to the Northwest Electric Power Planning and Conservation Act. Senator MAGNUSON and I have both been involved in the cooperative efforts between Northwest utilities and the Canadian Government to develop resources in Canada that benefit consumers in that country and the United States.

I agree with my good friend from the State of Washington that in the future there may be other renewable resource projects that are planned or under consideration outside the Pacific Northwest that could be accelerated. Clearly, the administrator of the Bonneville Power Administration should have the authority to investigate these projects to determine whether an accelerated construction schedule was in the best interest of all the parties involved.

In situations where the accelerated cooperative development of resources located outside the region would be cost effective and add to the region's power supply, the administrator would be able to acquire power from the resource if such acquisitions are consistent with the plan. If such acquisitions are not consistent with the plan or in the absence

of a plan, the administrator would have to comply with the applicable provisions of section 6(c) and determine that the resource is consistent with section 4(e) before acquiring the resource. The council would be able to review such a determination.

Mr. President, I believe this will be a very helpful amendment. It will promote further exploration of opportunities for the Northwest to cooperate, with Canada, and with other regions of the United States.

I am hopeful we will be able to find situations that will provide benefits to consumers in the Pacific Northwest, and I am very pleased to accept the Senator's amendment. I am sure it is agreeable to the other side.

Mr. HATFIELD. Mr. President, it is perfectly agreeable on our part to accept this amendment by the Senator from Washington, and I think it improves the bill and certainly broadens the opportunity to develop the renewable resources of the Northwest.

Mr. MAGNUSON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I wish to expand upon my earlier remarks and to express my appreciation to the Senator from Washington (Mr. JACKSON) and to the ranking Republican on the committee, the distinguished Senator from Oregon (Mr. HATFIELD) for the cooperation we have had in very difficult negotiations trying to make certain the language of this bill stated exactly what we meant, and I think we have achieved that objective.

It has not always been easy. It took hours and hours of work. I certainly could not pass the opportunity to commend my staff and the senior staff, Dan Dreyfus, and Steve Hickok on the minority side; and Chuck Trabandt of the committee staff, and Tom Hill of my staff.

Mr. President, I want to mention just two things in passing. One is that in the amendment which has been offered by Senator JACKSON, Senator HATFIELD, and myself with respect to the rate structure, which deals with the process at the ratemaking hearings, and for the hearings officer, in his discretion—I quote from the language of the amendment:

> The hearings officer, in his discretion, may allow for limited cross examination in any such hearing to develop fully any essential fact which is material and relevant directly to any such proposed rate.

Mr. President, that provision is intended to give the hearings officer the opportunity to limit the amount of cross-examination which may take place at any of the hearings in the rate determination, but it is not intended and should not be read to allow the hearings officer to completely exclude the cross-examination of the administrator's witnesses.

I think a fair reading of the requirement in the context of the amendment would indicate that, yes, it should not be interminable, because there is almost total access for interested parties to the hearings process and for putting material in the record. The hearings officer may have to, as a matter of practice, limit the number of people who are permitted to cross-examine, but not to the extent of fully excluding those who might produce evidence or ask questions that were necessary to develop fully any essential fact which is material and relevant directly. And, if, as a matter of fact, the records of all of the proceedings, the administrative record which goes to the court for review, would indicate that the hearings officer had totally excluded that opportunity, and that the opportunity was focused upon such material and relevant essential facts, the court could then remand the proceedings back to the Administrator for further proceedings. The court could upset the rate if as a matter of fact the hearings officer took that action.

I think there is one other area in this amendment that needs a possible clarification, and that is with respect to the question of whether or not the Administrator is a party in the hearing, because under the first part of the amendment, under subsection (3), there is the reference that:

> In any such hearing any party shall be provided with the opportunity to offer refutation or rebuttal of any material submitted by any other party.

The Administrator and his expert witnesses are a party within the meaning of that section, so that the opportunity to refute is accorded to people who may be in opposition to what the Administrator and his witnesses have indicated.

There are two other matters that I think might well be clarified. One is in paragraph 7(1)(7) of the amendment, which refers to the burden of proof. It is very clear that the burden of proof is initially on the Administrator to sustain the rate structure which he has proposed, and that burden of proof remains with the Administrator through to the judicial review of the administrative record. And, the judge must find that that burden has been carried on the administrative record in order to sustain the rate, in the event it is carried to judicial review.

Mr. MAGNUSON. As I understand it, the burden of proof is on the Administrator to justify the rate.

Mr. McCLURE. The Senator is correct.

Mr. MAGNUSON. That should be made clear, and I am glad that the Senator from Idaho has made it clear.

Mr. McCLURE. I thank the Senator. It is, I think, clear in the wording, and I agree with the Senator that it should be made absolutely clear in the legislative history as well.

I think it is important to point out that they will be required also that in meeting that burden of proof, the BPA must include a showing that embedded costs are applied even-handedly to all classes of customers. This would include identifying the component parts of these costs in a manner everyone will understand.

I think the meaning of this amendment is clear. I think it assures that all of the parties who are affected by the rate structure and the distribution of power will be treated in a fair manner. It gives the BPA Administrator the authority that he must have, at the same time carefully making certain that there is no abuse of that authority.

The PRESIDING OFFICER (Mr. FORD). The question is on agreeing to the committee amendment in the nature of a substitute.

Mr. METZENBAUM. Mr. President, may I ask a question of the author of the amendment?

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, we are not under any time restraints.

Mr. METZENBAUM. Will the Senator from Idaho yield for a question on his amendment?

Mr. McCLURE. I am happy to yield for a question.

Mr. METZENBAUM. I understand this is an amendment in the nature of a substitute for the entire bill.

Mr. McCLURE. No, the amendment I have been discussing is the committee floor amendment that deals with ratemaking procedures. It is a substitute for one subsection of the bill.

Mr. METZENBAUM. Is there anything contained therein that would provide any exemption from the antitrust laws?

Mr. McCLURE. Nothing of that kind is contained in the committee floor amendment I have been discussing.

Mr. METZENBAUM. Is there anything in this amendment that would free an electric generation facility owned by a group of utilities from effective regulation by the Federal Regulatory Commission?

Mr. McCLURE. Absolutely not. If anything, under the committee floor amendment, they would be freed from no existing regulation, but they would be subject to some additional regulation that is not there now, with respect to the merging of the rates.

Mr. METZENBAUM. But there would be no lesser amount of regulation provided?

Mr. McCLURE. The Senator is correct.

Mr. METZENBAUM. I thank the Senator from Idaho.

Mr. MAGNUSON. As a matter of fact, it tightens it up.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, I am pleased to lend my strong support to S. 885, the Northwest power bill. I believe this legislation will not only insure the most efficient and least costly utilization of electricity in the northwest region of this country, but will also permit the individual States involved to play a major role in the formulation and implementation of these policies. While the administrator of the Bonneville Power Administration will have the flexibility to perform his duties without facing onerous constraints, which can only serve to hamper his ability to respond quickly to important issues at hand, the States will also play an essential role in developing the policies which will serve to provide direction to the Administrator.

I am particularly pleased that the language of this bill provides for the selection of a Council Chairman by a vote of all its Members; that it provides certain constraints upon the Administrator until a plan has been approved by the full Council; that it provides dispensation for farm irrigation and farm pumping; and that it provides for special consideration of the preservation and enhancement of the fish resources of the Columbia River and its tributaries. I would like to commend my colleague and good friend from the State of Washington, Senator JACKSON, for his leadership and understanding in the development of this legislation. It is largely because of his efforts that the final provisions of this bill will prove to be beneficial to the entire northwest region and still address my concerns regarding specific interests of my State.

A generous measure of credit also belongs to my colleague, Senator MCCLURE, and to the other Senators from the Northwest who have joined together to make this bill possible.

Because this legislation represents a first attempt at managing such a large power system on a regional basis, we must not dismiss the possibility that certain portions may require modification somewhere down the road. For this reason, we must not lose sight of one of the cornerstones of this legislative effort—to encourage the development of renewable energy resources. The congressional oversight provisions of this bill will permit us to reexamine any portions of the law which prove to discourage, instead of encourage, such developments. I am optimistic, therefore, that the direction of this legislation can only serve to greatly promote such renewable resource projects. I wholeheartedly urge my colleagues to support this bill.

The PRESIDING OFFICER. Is there further amendment?

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 512

(Purpose: To include certain areas of Nevada within the definition of "Pacific Northwest, region, or regional")

Mr. CANNON. Mr. President, I have an amendment at the desk. I ask that it be stated.

THE PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) for himself and Mr. LAXALT, proposed an unprinted amendment numbered 512.

Mr. CANNON. I ask unanimous consent that further reading of the amendment be dispensed with. I shall explain the problem.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, insert the following between lines 16 and 17: For the purposes of this subsection areas in the State of Nevada within seventy-five airline miles from said region which are not part of the service area of a distribution cooperative served by the Administrator shall be included in said region.

On page 54, line 14, strike "region.'." and substitute "region. For the purposes of this subsection areas in the State of Nevada within seventy-five airline miles from said region which are not part of the service area of a distribution cooperative served by the Administrator shall be included in said region.".

Mr. CANNON. Mr. President, I say to the chairman and the ranking minority member on the bill, in the northern part of Nevada, within 75 miles of the service area of the Bonneville Power Administration, there are a number of ranchers and some small communities that are not currently served as a part of any service area presently being served by the Bonneville Power Administration or by the co-ops that service part of my State with power from this source.

On the westerly side, we have Harney Electric, a co-op which receives BPA power and services the north part of the State of Nevada. On the east, we have Wells Rural Electric, that gets power out of Idaho and out of Bonneville and services some of the eastern part of the State. As a result of this situation, there is an area of some ranches and small communities but, as I said, within 75 miles of the present service area, not now served by Bonneville power. As a result, the prices that they pay are very, very inequitable. There will be a ranch in one location paying a power bill that is maybe 10 times that of his neighbor who is not a great distance away, simply by reason of the service areas.

I pose this question to my distinguished colleague: Based on that premise and the fact that the areas are within the 75-mile range, I ask if the law as now drafted would permit an existing co-op receiving power from BPA to extend service to these areas provided the residents elected to join up with those particular co-ops in accordance with the State law?

Mr. JACKSON. The Senator is correct. As I understand the situation, the Harney Electric Cooperative runs up to the border with Idaho——

Mr. CANNON. And is in Idaho, as well.

Mr. JACKSON. Across the border, then—is now being served by Bonneville.

Mr. CANNON. The Senator is correct.

Mr. JACKSON. Then there is an area to the east of the Harney service area which involves approximately 2,000 people—ranches, small towns, and communities—that is not now being served by Bonneville.

Mr. CANNON. That is correct.

Mr. JACKSON. Then to the East of that area is the Wells Rural Electric Cooperative. Wells is now being served by Bonneville.

Mr. CANNON. Wells Rural Electric is receiving Bonneville power and power out of Idaho.

Mr. JACKSON. For distribution; is that right?

Mr. CANNON. Correct.

Mr. JACKSON. It is the area between Harney and Wells where there is a great rate disparity, in some instances a tenfold difference. It is my interpretation, as manager of this bill, that under the provisions of the bill now before us, that the people in the area between these two cooperatives—Harney Electric and Wells Rural Electric—who reside within the 75-mile area contiguous to the BPA service area mentioned by the senior Senator from Nevada could receive power from Bonneville if either one of the two existing electric cooperatives that are currently eligible to receive power from BPA should decide to serve that area. I am referring specifically to the definition of Pacific Northwest region or regional, which appears in section 3(k) (1) and (2), and again in section 8.

This bill will not prohibit that result; it will make it possible for that area to receive the power.

Mr. CANNON. That would, of course, be on the condition that they decided to join up with the co-op in accordance with the law.

Mr. JACKSON. That would have to be a local decision within those communities. The communities and the cooperatives in question would have to decide to do it; but they would be eligible under this bill.

I think that would solve the problem that the Senator from Nevada seeks to solve with his amendment. I just want to give him that assurance and make it a part of the legislative history of this measure.

I believe the ranking minority member (Mr. HATFIELD), the Senator from Oregon, has a comment to make on this matter.

Mr. HATFIELD. I affirm the interpretation given by the chairman of the committee. We have done nothing to this bill to prohibit those individuals from making that determination under existing Nevada State law which governs such matters. In no way would we, of course, want to impose that decision from the outside, as I know the Senator from Nevada has no intention of suggesting.

In this act, it is possible for those people—individual ranchers, acting corporately, and the communities under whatever State law prescribes—to join up with one of the existing two co-ops and thereby permit these co-ops under this act and the existing statutes to expand

their service district to include those areas.

That would have to be a self-determination on the part of the people in the areas.

Mr. CANNON. Mr. President, I thank my colleagues for clarifying the law as it now stands.

This is precisely what we are interested in accomplishing, and accomplishing it provided those people in the areas decide they do want to join with the co-ops and be serviced by them with the Bonneville power.

With that representation, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

● Mr. LAXALT. Mr. President, I am pleased to join my distinguished senior colleague (Mr. CANNON) in cosponsoring this amendment. As you are aware, S. 885 contains a definition of "Pacific Northwest" region which includes portions of the State of Nevada that are within the Columbia River drainage basin and the prescribed 75-mile boundary. In fact, over 21,000 square miles of northern Nevada are already included within this region.

But existing law and the bill before us would continue to preclude Bonneville hydropower from servicing loads in the Winnemucca and Elko areas of Nevada, even though these areas are within the prescribed 75-mile boundary. These limitations in effect, grant superpreference to cooperatives over States or other public bodies. As I see it, this is contrary to the intent of sections 3 and 4 of the Bonneville Project Act of August 20, 1937.

Mr. President, as I am sure you are aware, there is a trend in our country that is eliminating vasts amounts of agricultural farmland. This trend is caused by several things. First, and probably the most obvious, is the increasing number of people who are moving from the congested populations in the United States to its urban towns and cities. These small areas are quickly changing their landscapes from green fields and rolling hills to tract houses and mobile home subdivisions. As the countryside changes, so does the amount of taxes and operating costs of the ranchers and farmers. Less agricultural land will eventually lead to higher costs to food consumers.

Additionally, a way of life is being removed from our society. What we need is to give those who want to till the soil incentive to make our remaining land more productive. The inclusion of the Winnemucca and Elko areas of Nevada by the Bonneville Power will help develop this land to its highest potential. In the Winnemucca-Orovada area, sagebrush valleys have been turned into green potato fields and golden rows of grain. These fields help produce a variety of products—everything from potato chips to baby food. The Elko area is of course one of Nevada's most scenic areas. Its ranches contain a large portion of Nevada's cattle herds.

However, it only takes one trip to the local supermarket to purchase a steak to realize the decline in U.S. cattle herds. Lower operating costs to the ranches would help toward rebuilding cattle numbers. Elko has a promising future for further development of its agriculture industry—whether it be increased cattle and sheep herds or larger hay crops.

Northern Nevada has a promising future, it is important that we maintain and increase the potential this area has to supply our vital food resources. Wherever possible, inflation must be kept down. This amendment helps to provide northern Nevada with an energy resource that is vital to its existence. I urge my colleagues to support this amendment.●

Mr. BAUCUS. Mr. President, I wish to commend the Energy and Natural Resources Committee for reporting S. 885. I think the bill has very good provisions beneficial to the Pacific Northwest. However there are several problems presented to the State of Montana.

As the Senate considers S. 885, a bill to restructure the Bonneville Power Administration, I wish to praise the Senate Energy Committee for acceding to a number of improvements during markup, and to express the hope that a number of remaining problems will be cleared up by the House of Representatives.

I am most pleased that the essence of the position adopted by the Governors of the four States involved—Washington, Oregon, Idaho, and Montana—has been incorporated in S. 885. Section 10(c) of the bill addresses many of the more important points. As described in the committee report, this section would, among other things—

> Preserve the right of States and their political subdivisions to . . . regulate retail sales . . . and make energy facility siting decisions . . .

I am also pleased that measures of public accountability were included, as well as the development of a master plan which sets high priorities for conservation and development of natural resources.

I continue to be troubled with those reference in section 4(d) which may give the Administrator too much latitude to avoid the strictures of the plan. I am also concerned at the broad mandate contained in the guaranteed purchase provisions of the bill. It is my hope that the distinguished Members of the House of Representatives who have yet to consider this measure will improve these and other features which appear to be deficient.

Mr. PACKWOOD. Mr. President, I hope my colleagues in the Senate will, today, support the Pacific Northwest Electric Power Planning and Conservation Act, S. 885.

This legislation could benefit Oregonians more than any action Congress has taken in many, many years. Residents served by private electric utility companies will again have access to much cheaper hydroelectric power generated at Federal installations. They will not be required to pay twice or three times the rate of those served by public utilities.

The bill also established proper procedures for financing, developing, and allocating new electric power resources. It will begin an era of energy conservation in the Northwest unmatched by any other region of the country.

Since I am not a member of the Energy Committee, I will not, and cannot, claim a major role in the legislation's development. I can, however, say with pride that the legislation now includes satisfactory responses to each of the concerns I raised when I twice testified about the bill before the Energy and Natural Resources Committee. The economic benefits of the bill must now be passed on directly to the consumers. Local government, like the city of Portland, will be able to buy power at the same favorable rates available to Federal agencies. The Bonneville Power Administration will now have to recognize and provide benefits to those communities which conserve more energy than the rest of the region. The BPA administrator will have new authority to fund creative demonstration projects for efficient energy use. The bill addresses the urgent need to improve the viability of salmon which must pass by the hydroelectric facilities on our region's rivers. These and other concerns of mine have now been set aside by this bill.

I am pleased by the final product. I hope the full Senate is pleased and supportive. I hope the House of Representatives will adopt similar provisions so that we can move on to the many other problems in Oregon and the Northwest we should consider in coming days.

Finally, I would like to thank Senators JACKSON and HATFIELD. As chairman and ranking member, respectively, of the Senate Energy Committee, They have made this process one that every interested party can participate in fully. They and the other committee members deserve our gratitude.

Mr. JACKSON. Mr. President, I know of no further amendments.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 885

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) The Federal Columbia River Power System offers a unique opportunity to encourage policies of conservation and efficiency in the use of electric power within the Pacific Northwest.

(b) The participation and consultation of the Pacific Northwest States, local communities, ratepayers, the Administrator's customers, users of the Columbia River system

(including fisheries agencies), and the public at large within the region are essential in development of regional plans and programs related to energy conservation, renewable resources, other generating resources and orderly planning of the Federal Columbia River Power System.

(c) The ratepayers of the Pacific Northwest should continue to pay all costs necessary to produce, transmit, and conserve electric power to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Administrator" means the Administrator, Bonneville Power Administration.

(b) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production or distribution.

(c) A conservation measure or any resource is "cost effective" if it is forecast to be available within the time it is needed and if it is forecast to meet or reduce the electric power demand of the consumer at an estimated incremental system cost no greater than that of the least-cost similarly available alternative conservation measure or resource: *Provided*, That such cost estimates shall include estimates of all direct systems costs of the conservation measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer, and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs, and such quantifiable environmental and social costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, are directly attributable to the conservation measure or resource: Provided further, That any conservation measure may have an estimated incremental system cost of up to 110 per centum of the least cost alternative nonconservation resource.

(d) "Council" means the Pacific Northwest Electric Power Planning Council established pursuant to this Act.

(e) "Customer" means an entity that contracts for the purchase of power from the Administrator, either for resale or for direct consumption.

(f) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(g) "Electric power" means electric peaking capacity or electric energy or both.

(h) "Federal base system resources" means the Federal Columbia River Power System hydroelectric projects, resources acquired by the Administrator under long-term contracts in force on the effective date of this Act, and resources acquired by the Administrator to replace reductions in capability of the foregoing resources.

(i) "Major resource" means a resource having a capability greater than fifty average megawatts, and, if acquired by the Administrator, is acquired for a period longer than five years.

(j) "New large industrial load" means an industrial load associated with a new industrial plant or an expansion of an existing plant or an existing industrial plant load which is not contracted for or committed to by a public body, cooperative, or Federal agency customer prior to October 1, 1978, any of which will result in an increase in power requirements of ten average megawatts or more in any three-year period: Provided, that the Council may recommend to the Congress for approval a different limitation in the maximum size of such new large industrial load.

(k) "Pacific Northwest", "region", or "regional" means:

(1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.

(l) "Plan" means the regional electric power plan prepared and adopted pursuant to this Act.

(m) "Renewable resource" means a resource which utilizes a renewable source of energy, including, but not limited to, solar, wind, hydro, geothermal, and biomass, and which is used for electric power generation or which will reduce the electric power requirements of a consumer by direct application.

(n) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator either from resources or through rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(o) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses, but only the first four hundred horsepower of farm irrigation and pumping for any farm.

(p) "Resource" means (1) electric power, including the actual or planned electric power capability of generating facilities or (2) actual or planned load reduction resulting from direct application of a renewable energy resource, or from a conservation measure.

REGIONAL PLANNING AND PARTICIPATION

SEC. 4. (a) There is established the Pacific Northwest Electric Power Planning Council composed of five members. The Governors of the States of Idaho, Oregon, Montana, and Washington may under applicable State laws each appoint one member to the Council from their respective States. The Administrator shall serve as the fifth member of the Council.

(b) The Council shall select a chairman from among its members. Three members of the Council shall constitute a quorum for conducting business. Decisions of the Council shall be by majority vote: *Provided*, That any action to approve or amend the plan described in subsections (d) and (e) of this section, or any element thereof, must receive the votes of at least three members of the Council, including the vote of the Administrator, to be adopted. The Council shall adopt rules of procedure, including rules applicable to its public hearings.

(c) Each State's member of the Council may request Council approval of funding in support of his State's participation in the Council and activities of his State related thereto. The Administrator shall include in his annual budget submitted pursuant to Public Law 93-454 (as amended), such requests approved by the Council, not to exceed a total amount equal to 0.02 mills per kilowatt-hour of the Administrator's estimated sales in the year the budget is to be effective. In order to assist initial State participation in the Council, the Administrator shall prepare and propose an amended annual budget as soon as practicable after the enactment of this Act to expedite payments to the States.

(d) The Council shall direct the preparation of a regional electric power plan, and shall adopt such plan within two years after the effective date of this Act. The adopted plan or any portion thereof may be amended from time to time, and shall be reviewed not less frequently than once every five years. Within one year from the effective date of this Act, and thereafter prior to each review, the Council shall identify major subject areas to be included in the plan. Public hearings shall be held in each member's State on (1) major subject areas to be addressed in the plan, and (2) the plan or amendments to the plan, proposed by the Council for adoption: *Provided*, That a public hearing shall also be held in any other State of the region on the plan, or amendments, proposed for adoption if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. The Council shall take action under this subsection pursuant to section 553 of title 5, United States Code.

The Administrator's implementation of the authorities under this Act shall be consistent, to the extent he determines feasible, with the plan: *Provided*, That the Administrator shall notify the Council of any actions not consistent with the plan together with his reasons for taking such actions: *Provided further*, That the Administrator's implementation of the authorities in sections 6(a) through (d), (f), (h), and (m) shall be consistent with the plan as he determines or, notwithstanding his determination, as the Council, within sixty days of his determination by majority vote of the full council, may determine: *Provided, however*, That if no plan is in effect or a proposed implementation of a conservation measure or an acquisition of a resource is not consistent with the plan, the Administrator may proceed to implement the conservation measure or acquire the resource pursuant to the procedures in sections 6(a) through (c).

(e) The plan shall give the following priority to resources: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat and generating resources of high fuel conversion efficiency; and fourth, to all other resources: *Provided*, That all such resources shall be cost effective and feasible.

(1) The plan shall set forth a general scheme for implementing conservation and developing resources to reduce or meet the Administrator's obligations with due consideration for environmental quality, compatibility with the existing regional power system, preservation and enhancement of fisheries, and other criteria which may be set forth in the plan.

(2) The plan shall also include, but not be limited to, model conservation standards, areas for research and development, a methodology for determining the average system cost of resources exchanged under section 5(b)(2), a methodology for determining quantifiable environmental and social costs and benefits under section 3(c), and a twenty-year demand forecast which includes regional reliability and reserve requirements.

(f) Model conservation standards for inclusion in the plan shall (1) include, but not be limited to, standards applicable to new and existing structures, utility, customer and governmental conservation programs, and other consumer actions for achieving conservation, and (2) be designed to produce all power savings that are reasonable, feasible and cost-effective to consumers. If the Council so recommends by majority vote of the full Council, the Administrator may impose additional charges on customers for those portions of their load within the region that are within States or political subdivisions which have not, or on his customers which have not, implemented conservation measures applicable to themselves that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such model conservation standards. Such charges shall be set to recover additional costs the

Administrator determines he will incur because such energy savings have not been achieved, but in no case may such charges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g) To insure widespread public involvement in the formulation of regional power policies, the Administrator (1) shall maintain comprehensive programs, including programs in cooperation with the Council, to inform the Pacific Northwest public of major regional power issues, to obtain public views concerning those issues, and to secure advice and consultation from the Administrator's customers and other parties; and (2) may form advisory committees as appropriate.

(h) The Council shall request annually from the region's State and Federal fisheries agencies and the appropriate Indian tribes their recommendations of measures which would contribute to the preservation and enhancement of the fish resources of the Columbia River and its tributaries for inclusion in the plan and their recommendations for the funding of research and development efforts which have the potential of providing improved passage for anadromous fish migrants at and between the region's hydroelectric dams. The Council shall consider such recommendations in the preparation of the plan or amendments to the plan. If the Council so recommends in the plan or amendments to the plan, the Administrator shall (1) include in his annual budget funds for fisheries research and development to be paid from the Bonneville Power Administration fund, or from appropriations, and (2) acquire and dispose of power and utilize the flexibility of the resources available to him in a manner which will assist in the preservation and enhancement of the anadromous fisheries resources while meeting his other obligations.

SALE OF POWER

SEC. 5. Subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937, Public Law 75-329 (as amended), and, in particular, sections 4 and 5 thereof, and at rates established pursuant to section 7 of this Act—

(a) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under Public Law 75-329 (as amended), and to each requesting investor-owned utility, electric power to meet such customer's firm power load in the region which is in excess of the capability of such customer's firm resources which such customer had used in the year prior to enactment of this Act to serve its firm load and such other resources as such customer shall determine, pursuant to contracts under this Act, will be used to serve its firm load: *Provided*, That such resources shall continue to be so used except with the consent of the Administrator or because of obsolescence, retirement, loss of resources or loss of contract rights.

The Administrator shall include in contracts executed in accordance with the subsection provisions that enable him to restrict his obligations to meet such loads in the event he determines, after a reasonable period of experience under this Act, that he cannot be assured of acquiring sufficient resources pursuant to section 6 to meet such loads, but (1) no such restrictions shall be applicable to the Administrator's public body and cooperative customers entitled to preference and priority under Public Law 75-329 (as amended), or to his Federal agency customers, until the Federal base system resources are fully allocated to such customers; and (2) sales to customers pursuant to this subsection shall not be restricted below the amounts of electric power, as specified in such contracts, acquired by the Administrator from or on behalf of such customer pursuant to subsection 5(b)(2) and section 6. The Administrator shall, consistent with the provisions of this Act, insure that any such restrictions pursuant to this subsection are distributed equitably throughout the region.

(b) Additionally, (1) the Administrator is authorized to sell electric power to Federal agencies in the region, and (2) whenever a Pacific Northwest utility offers to sell electric power to the Administrator at the average system cost of resources then available to that utility, the Administrator shall purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region: *Provided*, That (A) such sale shall be limited to an amount not to exceed 50 per centum of such utility's regional residential load in the year beginning July 1, 1980, and increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985; (B) the cost benefits, as specified in contracts, of any such exchange sale which are attributable to any utility's residential load within a State shall be passed through directly to the utility's residential loads within such State: *Provided*, That a State which lies partially within and partially without the region may require that such benefits be distributed among all of the utility's residential loads in that State; (C) a utility may terminate, upon reasonable terms and conditions, its exchange purchase and sale in the event the supplemental rate charge provided for in section 7(b) is applied and the cost of electric power sold to the utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by the utility to the Administrator under this subsection; and (D) the Administrator may acquire the electric power necessary to carry out the exchange sale from other resources, rather than purchase the electric power offered him by the utility pursuant to this subsection, if the cost of doing so is less than the cost of purchasing the electric power offered by the utility.

The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator, subject to review and approval by the Federal Energy Regulatory Commission as provided in section 9(g), on the basis of a methodology developed for this purpose. Such methodology shall be developed by the Council as part of the regional electric power plan identified in section 4, or, until such a plan has been adopted, shall be developed by the Administrator in consultation with his customers in the region and appropriate State regulatory bodies. Average system cost shall not in any event include: (i) the cost of additional resources in an amount sufficient to serve any new large industrial load of the utility that was not contracted for or committed to prior to October 1, 1978; (ii) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and (iii) any costs of a generating facility which is terminated prior to commercial operation.

(c)(1) The Administrator is authorized to sell electric power to direct service industrial customers which have contracts for the purchase of electric power from him on the effective date of this Act, so long as such sales provide a portion of the reserves for firm power loads within the region. To effectuate the purposes of this subsection the Administrator shall offer to such customers new long term contracts in accordance with section 9(c) that provide such customers an amount of power equivalent to that to which such customers are entitled under present industrial firm contracts. The offer and execution of these initial new contracts shall be deemed to be supported by a sufficiency of electric power available to the Administrator.

(2) The Administrator shall not offer to sell amounts of electric power, including reserves, to new direct service industrial customers or to existing direct service industrial customers in addition to the amounts provided under subsection (c)(1) unless the Council has approved such sale by majority vote of the full Council and the Administrator determines that such proposed sale is consistent with the plan and that (A) additional power system reserves are required for the region's firm loads, (B) additional direct service industrial loads would provide a feasible and cost-effective method of supplying such reserves, (C) loads of similar character cannot provide equivalent operating or planning benefits to the region if served by a utility, and (D) the Administrator has or can acquire sufficient electric power to serve such loads. After such determination and approval by the Council, the Administrator is authorized to offer to new or existing direct service industrial customers an additional amount of power providing reserves in the amount determined to be necessary.

(d) The Administrator is further authorized to sell or otherwise dispose of electric power, including acquired power, that is surplus to his obligations incurred pursuant to subsections (a), (b), and (c) of this section in accordance with this and other statutes applicable to the Administrator.

CONSERVATION AND RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall, to the maximum extent practicable, implement all conservation measures he determines to be consistent with the plan. If no plan is in effect the Administrator shall implement conservation measures he determines are feasible and consistent with the criteria of section 4(e): *Provided*, That no mandatory conservation requirements shall be set by the Administrator pursuant to this authority in the absence of a plan. Such measures may include, but are not limited to, financial assistance for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application. The Administrator may, in accordance with the provisions of this section, conduct demonstration projects to determine the feasibility of conservation measures and direct application renewable energy resources: *Provided further*, That no obligation may be incurred for any such demonstration project until such proposal is explicitly noted in the Administrator's budget submittal to the Congress pursuant to Public Law 93-454 (as amended). In addition, he shall assist conservation by and among regional consumers by (1) providing technical or financial assistance, (2) cooperating with his customers and governmental authorities to encourage maximum cost-effective voluntary conservation, and (3) aiding his customers and governmental authorities in implementing conservation standards adopted pursuant to section 4(f).

(b) The Administrator shall meet his contractual obligations that remain after taking into account planned savings from conservation measures provided in this section by acquiring additional resources (in addition to electric power acquired on a short term basis pursuant to section 11(b)(6)(i) of Public Law 93-454 (as amended)) he determines to be consistent with the plan or, if no such plan is in effect, which he determines, after compliance with section 6(c), are consistent with section 4(e). The Administrator shall acquire resources to replace Federal base system resources in accordance with the provisions of section 6 of this Act except in the case of federally constructed resources otherwise authorized by the Congress. Notwithstanding any acquisition of resources, the Administrator shall

not reduce his efforts to achieve conservation savings pursuant to section 6(a).

(c)(1) In proposing to acquire any major resource, the Administrator shall give notice of the proposed action to the Council, his customers and the State in which the resource would be acquired, solicit views and relevant information, conduct a public hearing, and not less than ninety days after such notice may make a decision supported by a written statement, which statement shall include specific findings that the proposed acquisition is consistent with the plan unless such acquisition is proposed pursuant to parts (3) or (4) of this subsection.

(2) The Administrator shall submit to appropriate committees of the Congress the administrative record which shall consist of his written statement in support of any major resource acquisition decision made pursuant to this subsection together with (A) all statements, data, and other information on which the Administrator relies, including information received by him from the Council and his customers; (B) the transcript or other record (including all exhibits) of the hearing; (C) a record of all other relevant views and reactions received by him; and (D) a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act, Public Law 91-190 (as amended). The Administrator thereafter shall publish notice of his decision in the Federal Register. The Administrator may not implement any such decision or make any financial commitment for a major resource acquisition under this subsection prior to ninety days after the date of publication in the Federal Register and until it has been noted in the Administrator's budget submittal made pursuant to Public Law 93-454 (as amended): *Provided*, That in the absence of a plan or if the proposal is inconsistent with the plan, no financial commitment for a major resource acquisition shall be made until the acquisition has been specifically approved by Act of Congress.

(3) If within two years after the effective date of this Act, the Administrator proposes to acquire a major resource, but no plan is yet in effect, the Administrator may acquire such resource by following the procedure set forth in subsection (c) (1) and (2), except that his written statement shall include specific findings that acquisition of the resource is consistent with the criteria of subsection 4(e).

(4) If, subsequent to the adoption of a plan the Administration wishes to be able to acquire a resource or undertake a conservation measure which he determines to be inconsistent with such plan, or in the absence of an adopted plan two years after the effective date of this Act, the Administrator may acquire a resource or undertake a conservation measure pursuant to the following procedure: (A) the Administrator shall propose to the Council a plan, or an amendment to the existing plan, with which the proposed action would be consistent, and submit a written statement to the Council that the plan or proposed amendment is needed to permit the proposed action, that the resource or conservation measure is needed to meet the Administrator's obligations, and that the resource of conservation measure is consistent with the criteria set forth in subsection 4(e); (B) the Council shall proceed with hearings in accordance with provisions of section 4(d)(2); (C) if within ninety days after the submission of the Administration's proposal the Council has not adopted a plan or plan amendment with which, in the Administrator's determination, the proposed action is consistent, the Administrator may proceed with the action after following the procedure established under parts (1) and (2) of this subsection For the acquisition of a resource or implementation of a conservation measure, either of which the Administrator determines to be inconsistent with the plan, public hearings shall be held pursuant to section 556 of title 5, United States Code, and the Administrator shall make a written statement in support of his decision pursuant to section 557 of title 5, United States Code.

(5) The Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest utility for ownership, participation, or other sponsorship but not in excess of the amounts needed to meet its regional load.

(d) The Administrator is authorized to acquire a resource, other than a major resource, which does not meet criteria of section 4 but which he determines is an experimental, developmental, demonstration or pilot project of a type with a potential for providing feasible, cost-effective, and reliable service to the region. The Administrator is authorized to construct such a project if it is a renewable resource and he determines that no utility or political subdivision in the Pacific Northwest is willing to construct such project at reasonable cost. The Administrator shall make no obligation for the acquisition or construction of such a resource until it has been noted in his budget submittal to the Congress pursuant to Public Law 93-454 (as amended).

(e) To the extent conservation measures or acquisition of resources require direct arrangements with consumers of electric power, the Administrator shall make maximum practicable use of his customers and other local entitites capable of administering and carrying out such arrangements.

(f) For resources which the Administrator determines will be not inconsistent with the plan or for which he proposes to follow the procedures of section 6(c) (3) and (4), the Administrator is authorized to enter into agreements with sponsors of (1) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource which may be proposed for acquisition by the Administrator, or (2) any other resource, which on preliminary data he finds would satisfy criteria of this Act, to provide for the reimbursement of the sponsor's investigation and preconstruction expenses (which expenses shall not include procurement of capital equipment or construction material for such resource) if such resource is subsequently denied State siting approval or other necessary Federal or State permits, or if such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of this Act, or is not acceptable because of environmental impacts, or after such investigation the Administrator determines not to purchase the resource and the resource is not constructed: *Provided*, That any such agreements shall provide the Administrator an option to acquire any such resource: *Provided further*, That the Administrator shall terminate his financial commitment as to any further expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after a final denial of application for State siting approval. No further commitment may be made by the Administrator until the Administrator has completed such procedures as may be required by the National Environmental Policy Act, Public Law 91-190 (as amended).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator, shall be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h) The Administrator is authorized to grant billing credits and provide services to any of his customers for independent conservation activities undertaken by such customers or political subdivisions served by a customer and for resources constructed, completed or acquired by a customer or political subdivision after the effective date of this Act which reduce the obligation of the Administrator to acquire resources under this Act. Any such credits which are granted for a major resource shall be granted only if such grant is determined by the Administrator to be not inconsistent with the plan or if such credits are authorized pursuant to the procedures of section 6(c)(4). The Administrator shall be required to grant credits (1) to the extent such customer or political subdivision undertakes independent conservation measures which the Administrator finds will achieve energy savings beyond the measures included in the plan, and (2) for a renewable resource or a multipurpose project uniquely suitable for such customer's or political subdivision's development. The Council may develop and propose guidelines to the Administrator to assist in the determination of the amount of such credits. The Administrator shall determine the amount of credits taking into account guidelines recommended by the Council and the risks and benefits assumed by the entity to be credited and the risks and benefits provided to the Administrator's customers: *Provided*, That any credits under this subsection shall be granted only to the extent they are cost effective.

(i) Contracts for acquisition of resources entered into pursuant to this section shall contain such terms and conditions as the Administrator finds necessary or proper to insure timely construction, scheduling, completion, and operation of new resources, to insure that the costs of any acquisition are as low as reasonably possible, consistent with sound engineering, operating, and safety practices, and to provide the means for the Administrator to exercise effective oversight, audit, and review of all aspects of such construction and operation.

(j) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(1) acquire any electric power required by (A) any customer or group of customers to enable them to replace resources determined to serve firm load under subsection 5(a), or (B) direct service industrial customers, to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power he is himself obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting it: *Provided*, That the Administrator may prescribe policies and conditions for the independent acquisition of replacement power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisitions; and

(2) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable statutes, and with respect to direct service industrial customers, if such sale is under terms and conditions acceptable to the Administrator.

The Administrator shall furnish services, including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing pro-

gram, applicable operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

(k) All obligations incurred by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations shall not be, nor shall they be deemed to be, general obligations of the United States of America.

(l) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

(m)(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's power resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the region, if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor or otherwise develop them. The Administrator shall keep the council informed of such investigations as they progress, and seek from the council its advice as to the desirability of pursuing such investigations further.

(2) The Administrator is authorized to acquire resources of the type identified in this section, and to enter into such contracts or agreements as may be necessary to facilitate such acquisitions, if he determines that such resources meet the criteria of this section and that such acquisitions are consistent with the plan: *Provided*, That if the Administrator determines that such acquisitions are not consistent with the plan or in the absence of a plan, the Administrator may acquire such resources, which he determines, after compliance with section 6(c) are consistent with section 4(e).

(3) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this section with the assistance of those departments or agencies of the Federal Government whose responsibilities include negotiation of the type of contracts or agreements that would be necessary to facilitate an acquisition under this section.

(4) No later than January 1, 1981, and thereafter not less frequently than once each year, the Administrator shall submit to the Congress a report that outlines investigations undertaken pursuant to this section, together with the prospects for obtaining additional resources under the authority granted by this section.

(5) The authority granted in this section shall not diminish or abridge any other authority of the Administrator to carry out similar activities under this Act or other Acts.

RATE DIRECTIVES

SEC. 7. (a) The Administrator shall establish and periodically modify rates for the sale and disposition of electric power and the transmission of non-Federal power. Such rates shall be set to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to law. Such rates shall be established in accordance with sections 9 and 10 of Public Law 93-454 (as amended) and the provisions of this Act, and shall become effective upon confirmation and approval by the Federal Energy Regulatory Commission on the finding that such rates (1) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs, (2) are based upon the Administrator's total system costs including contingencies, and (3) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

(b) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and sold to utilities under section 5(b)(2). Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply the foregoing loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates also shall recover the costs of additional electric power as needed to supply the foregoing loads, first from the electric power purchased by the Administrator under section 5(b)(2) and then from new resources: *Provided*, That after July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under section 7(g) for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, shall in no event exceed in total, as determined by the Administrator, during any year plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, as estimated in accordance with the following assumptions for the same five-year period:

(1) the public body and cooperative customers' general requirements had included the direct service industrial customer loads within or adjacent to the geographic service boundaries of such public bodies and cooperatives during the applicable period;

(2) public bodies, cooperative, and Federal agency customers were served in the applicable period with Federal base system resources not obligated to other parties under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in part (1) above;

(3) no purchases or sales as provided in section 5(b)(2) were made during the applicable period;

(4) all resources that would have been required to meet remaining general requirements of the public body, cooperative and Federal agency customers not met by the available Federal base system resources determined under part (2) above were resources purchased from such customers by the Administrator pursuant to section 6 or resources not committed to load pursuant to section 5(a) and were the least expensive resources owned or purchased by public bodies or cooperatives with any additional needed resources having been obtained at the average cost of all other new resources acquired by the Administrator; and

(5) the quantifiable monetary savings to public body, cooperative, and Federal agency customers resulting from actions of the Administrator under section 6 were not achieved.

Any amounts not charged to such public body, cooperative, and Federal agency customers because of this proviso shall be recovered through supplemental rate charges for all other power sold by the Administrator.

General requirements as used in this section shall be the public body, cooperative, or Federal agency customer's electric power purchased from the Administrator under sections 5(a) and 5(b)(1) exclusive of any new large industrial load that was not contracted for or committed to by the customer by October 1, 1978.

(c) The rate or rates applicable to direct service industrial customers shall be established:

(1) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(b)(2), based upon his projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other classes of power sold by the Administrator; and

(2) for the period after July 1, 1985, at a level which the Administrator determines by rule to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial customers in the region (to be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates) but taking into account (A) the comparative size and character of the loads served, (B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and (C) direct and indirect overhead costs, all as related to the delivery of power to industrial customers: *Provided*, That the Administrator's rates during such period shall in no event be less than his rate in effect for the contract year ending on June 30, 1985.

The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d) In order to avoid adverse impacts on—

(1) retail rates of the Administrator's customers with low system densities, the Administrator is authorized to apply discounts to the rate or rates for such customers;

(2) direct service industrial customers using raw materials indigenous to the region as their primary resource, the Administrator is authorized to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region under contract provisions equivalent to those of present modified firm contracts.

(e) In establishing rate schedules of general application, the Administrator may establish a uniform rate or rates for sale of peaking capacity.

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(b)(2) and additional resources (including new resources) which, in the determination of the Administrator, are applicable to such sales.

The Administrator shall allocate to power rates, as he may determine appropriate, all other costs and benefits including, but not limited to, conservation, uncontrollable even limited to, conservation, uncontrollable events, reserves, the excess costs of experimental resources under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a)), the Administrator shall adjust power rates to include any additional charges arising under section 4(f), and shall allocate any revenues from such charges in a manner he determines will help achieve the purposes of section 4(f).

(i) In establishing rates under this section, the Administrator shall use the following procedures, which procedures shall be established by rule:

(1) publish the initial proposed rates in the Federal Register with a statement of the justification and reasons supporting such rates pursuant to this section;

(2) appoint a hearings officer empowered to conduct ratemaking hearings and to administer oaths;

(3) after a reasonable time, conduct one or more hearings to receive public comment in the form of written and oral presentation of views, data, questions, and argument, related to such proposed rates. In any such hearing any party shall be provided with the opportunity to offer refutation or rebuttal of any material submitted by any other party. The hearings officer, in his discretion, may allow for limited cross examination in any such hearing to develop fully any essential fact which is material and relevant directly to any such proposed rate.

In his discretion, the Administrator may hold such additional hearings as he believes are necessary for the full development of the record;

(4) in addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and argument submitted by interested persons before the close of hearings shall be made a part of the administrative record;

(5) based upon review of the full record adduced at any such hearings and written submissions, the Administrator shall publish the revised proposed rates in the Federal Register. Such rates shall be subject to an additional hearing or hearings using the procedures of (2) and (3) above, after which the Administrator shall make a final decision based on the record of all written submissions and all hearings. The decision shall include a full and complete justification of the final rates pursuant to this section;

(6) the final decision of the Administrator shall be reviewed and approved by the Federal Energy Regulatory Commission pursuant to subsection 7(a). The Commission shall have the authority to approve the final rate submitted by the Administrator on an interim basis, pending its final decision;

(7) judicial review of any rate approved by the Commission shall determine that the Administrator, in establishing such rate, has borne affirmatively the burden of proof on the basis of the administrative record developed pursuant to this subsection.

AMENDMENTS TO EXISTING LEGISLATION

SEC. 8. (a) Section 11(b) of Public Law 93-454 (as amended) is amended by striking the word "and" at the end of subparagraph (10), and by substituting "; and" for the period at the end of subparagraph (11) and adding a new subparagraph (12) as follows:

"(12) making such payments, as shall be required to carry out the purposes of the Pacific Northwest Electric Power Planning and Conservation Act.".

(b) Public Law 93-454 (as amended) is amended by striking subsections 13 (a) and (b) and substituting the following new subsections:

"SEC. 13. (a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of and on behalf of the Bonneville Power Administration bonds, notes, and other evidence of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the construction, acquisition, and replacement of the transmission system, to implement the Administrator's authority (including the provision of financial assistance for conservation measures and renewable resources) pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, 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 may be 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 Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of America 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 but not to exceed the interest rate which would be applied to such bonds if they were purchased by the Federal Financing Bank. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1,250,000,000 prior to October 1, 1980, and $1,750,000,000 thereafter.

"(b) 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 11(b)(2) through 11(b)(7), 11(b)(11) and 11(b)(12), and shall include reserve or other funds created from such receipts.".

(c) Public Law 88-552 (as amended) is amended by striking subsection 1(b) and inserting a new subsection 1(b) as follows:

"(b) 'Pacific Northwest' means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.".

ADMINISTRATIVE SECTIONS

SEC. 9. (a) In carrying out the provisions of this Act, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancellation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary.

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by Public Law 75-329, as amended, this Act and sections 302(a) (2) and (3) of Public Law 95-91. The Secretary of Energy and the Administrator shall take such steps as are necessary to (1) assure the Administrator's timely implementation of this Act and (2) enable the Administrator to operate in a sound and businesslike manner.

(c)(1) As soon as practicable after the effective date of this Act, and in no event later than nine months after the enactment of this Act, the Administrator shall, in addition to offers otherwise authorized or required in other sections of this Act, offer long-term contracts simultaneously to (A) existing public body and cooperative customers and investor-owned utilities under section 5(a); (B) Federal agencies under section 5(b)(1); (C) direct service industrial customers under section 5(c)(1); and (D) utilities under section 5(b)(2).

(2) Each customer offered a power sales contract pursuant to this subsection shall have one year from the date of offer to accept such contract. Such contract shall become effective as follows:

(A) A contract with a public body, cooperative or investor-owned utility pursuant to section 5(a) or a Federal agency pursuant to section 5(b), on the date executed by such public body, cooperative, investor-owned utility or Federal agency, unless otherwise agreed upon by the contracting parties.

(B) A contract with a utility pursuant to section 5(b)(2), on the date executed by the utility, but no earlier than the first day of the tenth month after the effective date of this Act.

(C) A contract with a direct service industrial customer pursuant to section 5(c)(1), on the date agreed upon by the parties, but no later than the first day of the tenth month after the effective date of this Act; such contract when executed may for rate purposes be given retroactive effect to such day.

The Administrator shall be deemed to have sufficient resources for the purpose of entering into the power sales contracts specified in this subsection.

(d) Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of Public Law 88-552 (as amended) for any contract for the sale, delivery or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest: *Provided*, That, for the purposes of this subsection, "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties imposed upon, the Secretary of Energy by sections 5 and 7 of Public Law 88-552 (as amended) shall also apply to the Administrator in connection with resources acquired by the Administrator. The Administrator, in making any determination of the electric power requirements of a Pacific Northwest customer which is a non-Federal utility having its own generation shall exclude, in addition to hydro generated energy excluded in section 3(d) of Public Law 88-552 (as amended), any amounts of energy included in the resources of such utility for service to firm loads in the region which were disposed of by the utility outside the region if and to the extent that as the result of such disposition the firm energy requirements of such utility and other customers on the Administrator are greater than if such energy had been or reasonably could have been conserved or otherwise retained for service to regional loads.

The Administrator may sell as a replacement therefore only that which would be surplus energy.

(e)(1) For purposes of section 701 of title 5, United States Code, and the following acquisition of resources, granting of credits under subsection 6(h), assistance to

sponsors under subsection 6(f), sales of electric power under section 5 (a) through (c), implementation of conservation measures, adoption of the plan or amendments thereto insofar as the plan or such amendments relate to specific resource acquisition or conservation decisions, determinations of the Administrator or the Council under section 4(d), and rate determinations under section 7 shall be final actions subject to judicial review. The record upon review shall compiled in accordance with this Act. The scope of review shall be governed by section 706 (1) and (2) (A) through (D) of title 5, United States Code. The adopted plan or portions thereof shall not be reviewable as a part of a review of a resource acquisition decision or a conservation measure implementation decision.

For purposes of this subsection, (A) resources shall be deemed to be acquired upon publication in the Federal Register of the Administrator's section 6(b) determination or section 6(c)(2) written statement; (B) conservation measures shall be deemed to be implemented upon publication in the Federal Register of the determination of the Administrator pursuant to section 6(a); and (C) the plan or amendments thereto shall be deemed to be adopted upon adoption by the Council and publication of notice of adoption in the Federal Register pursuant to section 4(d), or as otherwise provided for by this Act.

(2) Suits brought to challenge final actions taken pursuant to this Act, or the implementation of such final actions, whether brought pursuant to this Act or Public Law 75-329 (as amended), or Public Law 88-552 (as amended), or Public Law 93-454 (as amended), shall be commenced within ninety days of the action, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days of such notice, or be barred.

(f) For the purpose of enabling the Administrator to acquire resources from State or local governmental units at a cost no greater than the costs which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a)(1) of title 26 of the United States Code shall not be affected by the Administrator's acquisition of such resources if the Administrator, prior to contracting for the acquisition, certifies to his reasonable belief, in accordance with a procedure approved by the Secretary of the Treasury, as to the persons for whom the Administrator is purchasing such resources for sale pursuant to section 5 of this Act and as to the amount for each such person, and if, based upon such certification, which shall be conclusive as to the facts stated therein, the Secretary of the Treasury determines that less than a major portion thereof is to be furnished to persons who are not exempt persons as defined in section 103(b) of such title.

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility under sections 5(b)(2) and 6, the Federal Energy Regulatory Commission shall convene a joint State board pursuant to section 209 of the Federal Power Act (16 U.S.C. 824h), and shall invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h) No "company" (as defined in section 79b(a)(2) of title 15, United States Code), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 79b(a)(3) of title 15, United States Code), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code: *Provided*, That the Administrator shall have approved the organization of such "company" and all material contracts entered into by and between such "company" and any sponsor company: *Provided further*, That (1) participation in any facilities of such "company" shall have been offered to public bodies and cooperatives in the region pursuant to subsection 6(c)(5), and (2) the Administrator shall include in any contract for the purchase of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource. This subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission determines that the "company" no longer operates in accordance with this subsection, and notifies the "company" in writing of such determination, in which event this subsection shall cease to apply to such "company" thirty days after receipt of such notification.

SAVINGS PROVISIONS; WAIVERS OF PREEMPTION

SEC. 10. (a) Nothing in this Act shall alter, diminish, or abridge the right of any State or political subdivision thereof to (1) determine retail electric rates except as provided by section 5(b)(2); (2) develop and implement its own plans and programs for the conservation, development and use of electric power resources or facilities; or (3) make energy facility siting decisions including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the authorities or obligations of the Administrator granted by or arising under any other applicable statute, unless otherwise specifically provided herein.

(c) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any other party under any contract or agreement existing as of the effective date of this Act.

(d) Nothing in this Act shall alter, diminish, abridge or otherwise affect the provisions of other Federal statutes by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(e) Nothing in this Act shall alter, diminish, or abridge the authority of the Administrator to meet with his customers or with other groups or individuals in order to discuss regional power issues or other matters of interest or concern.

(f) Nothing in this Act shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States, or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(g) The reservation under law of electric power for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State, plus 50 per centum of any electric power produced at Libby Reregulating Dam when built, is hereby affirmed. Electric power so reserved shall be sold at the rate or rates act pursuant to section 7.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATFIELD. I move to lay that motion on the table

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar No. 316, Senate Resolution 220, continue to be laid aside temporarily until 2:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' AND SURVIVORS' BENEFITS ADJUSTMENT ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 2282, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2282) to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans.

UP AMENDMENT NO. 513

Mr. CRANSTON. Mr. President, I send to the desk a committee amendment to H.R. 2282, consisting of the text of S. 689 as reported, Calendar No. 297, and a committee amendment that I offer for myself, Senator JAVITS, Senator PERCY, Senator SIMPSON, and Senator MOYNIHAN, which is identical to an amendment adopted on June 18 as part of H.R. 3892.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON on behalf of the Committee on Veterans' Affairs) proposes an unprinted amendment numbered 513.

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) this Act may be cited as the "Veterans' and Survivors' Benefits Adjustment Act of 1979".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended by—

(1) striking out "$44" in subsection (a) and inserting in lieu thereof "$49";

(2) striking out "$80" in subsection (b) and inserting in lieu thereof "$89";

(3) striking out "$121" in subsection (c) and inserting in lieu thereof "$134";

(4) striking out "$166" in subsection (d) and inserting in lieu thereof "$184";

(5) striking out "$232" in subsection (e) and inserting in lieu thereof "$258";

(6) striking out "$292" in subsection (f) and inserting in lieu thereof "$324";

(7) striking out "$346" in subsection (g) and inserting in lieu thereof "$384";

(8) striking out "$400" in subsection (h) and inserting in lieu thereof "$444";

(9) striking out "$450" in subsection (i) and inserting in lieu thereof "$500";

(10) striking out "$809" in subsection (j) and inserting in lieu thereof "$899";

(11) striking out "$1,005" and "$1,408" in subsection (k) and inserting in lieu thereof "$1,117" and "$1,564", respectively;

(12) striking out "$1,005" in subsection (l) and inserting in lieu thereof "$1,117";

resolution, in which it requests the concurrence of the Senate

H.J. Res. 244. A joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September following Labor Day of each year as National Grandparents Day.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 168. A concurrent resolution providing for an adjournment of the House from August 2 to September 5, 1979, and a recess of the Senate from August 3 to September 5, 1979.

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by its title and referred as indicated:

H. Con. Res. 168. A concurrent resolution providing for an adjournment of the House from August 2 to September 5, 1979, and a recess of the Senate from August 3 to September 5, 1979; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on July 30, 1979, he presented to the President of the United States the following enrolled bill:

S. 976. An act to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal year 1980.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment:

S. 885. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes (Rept. No. 96-272).

By Mr. LONG, from the Committee on Finance, with an amendment:

S. 566. A bill to authorize a targeted fiscal assistance program for payment to local governments requiring fiscal relief, an antirecession fiscal assistance program, and for other purposes (Rept. No. 96-273).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

S. 1204. A bill to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes (Rept. No. 96-274).

By Mr. LONG, from the Committee on Finance without amendment:

S. Res. 213. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 566. Referred to the Committee on the Budget.

By Mr. PELL, from the Committee on Rules and Administration:

S. Res. 170. A resolution to require documentation for reimbursements out of Senators' official office expense accounts from the contingent fund of the Senate (Rept. No. 96-275).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Charles William Duncan, Jr., of Texas, to be Secretary of Energy.

(The above nomination from the Committee on Energy and Natural Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. JACKSON. Mr. President, I am today filing the report of the Committee on Energy and Natural Resources on the President's nomination of Charles W. Duncan, Jr., to be Secretary of Energy. The committee unanimously recommends that the Senate confirm Mr. Duncan for this critical job. The committee held hearings on Mr. Duncan's nomination this morning and concluded by recommending approval by a 17 to 0 vote.

As a member of the Committees on Armed Services, I participated in Mr. Duncan's confirmation hearings for his present position. I was impressed at that time by his record of accomplishment in private industry. Since then, Mr. Duncan has performed well at the Department of Defense.

The broad array of programs administered by the Department of Energy, many of which are highly controversial, present a management challenge of the highest order. The Secretary of Energy must be both capable and credible. Mr. Duncan's background indicates that he has the capablity to meet that challenge.

I ask unanimous consent that a biographical sketch of Mr. Duncan be printed in the RECORD at this point.

There being no objection, the biographical sketch was ordered to be printed in the RECORD, as follows:

Charles William Duncan, Jr., Deputy Secretary of Defense, nominated by President Jimmy Carter, January 13, 1977, confirmed by U.S. Senate, January 31, 1977, took oath of office same day at the Pentagon; born in Houston, Tex., September 9, 1926; son of Mr. and Mrs. Charles William Duncan, Sr., of Houston, Tex.; attended public schools in Houston; B.S., chemical engineering, Rice University, 1947; 2 years of graduate study in management, University of Texas; roustabout and chemical engineer, Humble Oil & Refining Co.; served in U.S. Army Air Corps in World War II; joined Duncan Coffee Co., predecessor of Duncan Foods Co., 1948; elected administrative vice president, 1957; president, 1958; elected to the Coca-Cola Co. board of directors when Duncan Foods Co. merged into the Coca-Cola Co., 1964; lived in London, England, for 3 years and had responsibility for the company's European operation; elected executive vice president of Coca-Cola Co., May 1970; elected president, November 1971; resigned in May 1974 to return to Houston; held following positions and board memberships when nominated Deputy Secretary of Defense: chairman and director, Rotan Mosle Financial Corp.; board of directors: A.P.S., Inc., Coca-Cola Co., Great Southern Corp., Southern Railway System; advisor-director, Texas Commerce Bank Shares, Inc.; Advisory Council, Trust Co. of Georgia; member, vice chairman, Rice University; board of trustees: Rice University, St. John's School, Texas Children's Hospital, all of Houston, Tex.; Emory University, Atlanta, Ga.; board of directors: Houston Chamber of Commerce, Rice Center of Community Design and Research, Houston Symphony Society; board of visitors, Cancer Foundation University of Texas; married to the former Anne Smith; two children: Charles William Duncan III, 19; Mary Anne, 17.

ORDER FOR JOINT REFERRAL—S. 1574

Mr. FORD. Mr. President, I ask unanimous consent that a bill introduced by the Senator from Oklahoma (Mr. BELLMON), S. 1574, to amend the Food, Drug, and Cosmetic Act, the Federal Alcohol Administration Act, to provide for health warning labels on alcoholic beverages, which was referred to the Committee on Labor and Human Resources, be re-referred jointly to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation, with instructions that when ordered reported by the Committee on Labor and Human Resources, the Committee on Commerce, Science, and Transportation then have 20 days in which to report the bill.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I will not object—this request has been cleared with the majority, the minority, and the committee chairmen?

Mr. FORD. The Senator is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DANFORTH (for himself, Mr. ARMSTRONG, Mr. BAKER, Mr. BELLMON, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. COCHRAN, Mr. COHEN, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GARN, Mr. GOLDWATER, Mr. HATCH, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mr. JAVITS, Mr. JEPSEN, Mrs. KASSEBAUM, Mr. LAXALT, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. PACKWOOD, Mr. PERCY, Mr. PRESSLER, Mr. ROTH, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SIMPSON, Mr. STAFFORD, Mr. STEVENS, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WARNER, Mr. WEICKER, and Mr. YOUNG):

S. 1597. A bill to amend the Internal Revenue Code of 1954 to provide for the economic stimulation of the economy through increased savings and investment; to the Committee on Finance.

By Mr. NELSON (for himself, Mr. EXON, Mr. MOYNIHAN, Mr. BAUCUS, Mr. HOLLINGS, Mr. LEAHY, Mr. NUNN, Mr. TALMADGE, Mr. COCHRAN, Mr. COHEN, Mr. RANDOLPH, Mr. EAGLETON, Mr. ROTH, Mr. JAVITS, Mr. CHILES, Mr. GOLDWATER, Mr. SCHMITT, Mr. BELLMON, Mr. MCGOVERN, Mr. ZORINSKY, Mr. SARBANES, Mr. LUGAR, Mr. DANFORTH, Mr. WILLIAMS, Mr. STEWART, Mr. DOLE, Mr. HAYAKAWA, Mr. DECONCINI, Mr. LEVIN, Mr. PACKWOOD, Mr. GRAVEL, Mr. DURENBERGER, Mr. DO-

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96TH CONGRESS, 1st Session | SENATE | REPORT No. 96-272

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

JULY 30 (legislative day, JUNE 21), 1979.—Ordered to be printed

Mr. JACKSON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 885]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 885) to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) The Federal Columbia River Power System offers a unique opportunity to encourage policies of conservation and efficiency in the use of electric power within the Pacific Northwest.

(b) The participation and consultation of the Pacific Northwest States, local communities, ratepayers, the Administrator's customers, users of the Columbia River system (including fisheries agencies), and the public at large within the region are essential in development of regional plans and programs related to energy conservation, renewable resources, other generating resources and orderly planning of the Federal Columbia River Power System.

(c) The ratepayers of the Pacific Northwest should continue to pay all costs necessary to produce, transmit, and conserve electric power to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System.

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DEFINITIONS

SEC. 3. As used in this Act—

(a) "Administrator" means the Administrator, Bonneville Power Administration.

(b) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production or distribution.

(c) A conservation measure or any resource is "cost effective" if it is forecast to be available within the time it is needed and if it is forecast to meet or reduce the electric power demand of the consumer at an estimated incremental system cost no greater than that of the least-cost similarly available alternative conservation measure or resource: *Provided*, That such cost estimates shall include estimates of all direct systems costs of the conservation measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer, and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs, and such quantifiable environmental and social costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, are directly attributable to the conservation measure or resource: *Provided further*, That any conservation measure may have an estimated incremental system cost of up to 110 per centum of the least cost alternative nonconservation resource.

(d) "Council" means the Pacific Northwest Electric Power Planning Council established pursuant to this Act.

(e) "Customer" means an entity that contracts for the purchase of power from the Administrator, either for resale or for direct consumption.

(f) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(g) "Electric power" means electric peaking capacity or electric energy or both.

(h) "Federal base system resources" means the Federal Columbia River Power System hydroelectric projects, resources acquired by the Administrator under long-term contracts in force on the effective date of this Act, and resources acquired by the Administrator to replace reductions in capability of the foregoing resources.

(i) "Major resource" means a resource having a capability greater than fifty average megawatts, and, if acquired by the Administrator, is acquired for a period longer than five years.

(j) "New large industrial load" means an industrial load associated with a new industrial plant or an expansion of an existing plant or an existing industrial plant load which is not contracted for or committed to by a public body, cooperative, or Federal agency customer prior to October 1, 1978, any of which will result in an increase in power requirements of ten average megawatts or more in any three-year period: *Provided*, That the Council may recommend to the Congress for approval a different limitation in the maximum size of such new large industrial load.

(k) "Pacific Northwest", "region", or "regional" means:

(1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.

(l) "Plan" means the regional electric power plan prepared and adopted pursuant to this Act.

(m) "Renewable resource" means a resource which utilizes a renewable source of energy, including, but not limited to, solar, wind, hydro, geothermal, and biomass, and which is used for electric power generation or which will reduce the electric power requirements of a consumer by direct application.

(n) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator either from resources or through rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(o) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses, but only the first four hundred horsepower of farm irrigation and pumping for any farm.

(p) "Resource" means (1) electric power, including the actual or planned electric power capability of generating facilities or (2) actual or planned load reduction resulting from direct application of a renewable energy resource, or from a conservation measure.

REGIONAL PLANNING AND PARTICIPATION

SEC. 4. (a) There is established the Pacific Northwest Electric Power Planning Council composed of five members. The Governors of the States of Idaho, Oregon, Montana, and Washington may under applicable State laws each appoint one member to the Council from their respective States. The Administrator shall serve as the fifth member of the Council.

(b) The Council shall select a chairman from among its members. Three members of the Council shall constitute a quorum for conducting business. Decisions of the Council shall be by majority vote: *Provided*, That any action to approve or amend the plan described in subsections (d) and (e) of this section, or any element thereof, must receive the votes of at least three members of the Council, including the vote of the Administrator, to be adopted. The Council shall adopt rules of procedure, including rules applicable to its public hearings.

(c) Each State's member of the Council may request Council approval of funding in support of his State's participation in the Council and activities of his State related thereto. The Administrator shall include in his annual budget submitted pursuant to Public Law 93–454 (as amended), such requests approved by the Council, not to exceed a total amount equal to 0.02 mills per kilowatt-hour of the Administrator's estimated sales in the year the budget is to be effective In order to assist initial State participation in the Council, the Administrator shall prepare and propose an amended annual budget as soon as practicable after the enactment of this Act to expedite payments to the States.

(d) The Council shall direct the preparation of a regional electric power plan, and shall adopt such plan within two years after the effective date of this Act. The adopted plan or any portion thereof may be amended from time to time, and shall be reviewed not less frequently than once every five years. Within one year from the effective date of this Act, and thereafter prior to each review, the Council shall identify major subject areas to be included in the plan. Public hearings shall be held in each member's State on (1) major subject areas to be addressed in the plan, and (2) the plan or amendments to the plan, proposed by the Council for adoption: *Provided*, That a public hearing shall also be held in any other State of the region on the plan, or amendments, proposed for adoption if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. The Council shall take action under this subsection pursuant to section 553 of title 5, United States Code.

The Administrator's implementation of the authorities under this Act shall be consistent, to the extent he determines feasible, with the plan: *Provided*, That the Administrator shall notify the Council of any actions not consistent with the plan together with his reasons for taking such actions: *Provided further*. That the Administrator's implementation of the authorities in sections 6 (a) through (d), (f) and (h) shall be consistent with the plan as he determines or, notwithstanding his determination, as the Council, within 60 days of his determination by majority vote of the full Council, may determine: *Provided however*, That if no plan is in effect or a proposed implementation of a conservation measure or an acquisition of a resource is not consistent with the plan, the Administrator may proceed to implement the conservation measure or acquire the resource pursuant to the procedures in section 6 (a) through (c).

(e) The plan shall give the following priority to resources: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat and generating resources of high fuel conversion efficiency; and fourth, to all other resources: *Provided*, That all such resources shall be cost effective and feasible:

(1) The plan shall set forth a general scheme for implementing conservation and developing resources to reduce or meet the Administrators' obligations with due consideration for environmental quality, compatibility with

the existing regional power system, preservation and enhancement of fisheries, and other criteria which may be set forth in the plan.

(2) The plan shall also include, but not be limited to, model conservation standards, areas for research and development, a methodology for determining the average system cost of resources exchanged under section 5(b)(2), a methodology for determining quantifiable environmental and social costs and benefits under section 3(c), and a twenty-year demand forecast which includes regional reliability and reserve requirements.

(f) Model conservation standards for inclusion in the plan shall (1) include, but not be limited to, standards applicable to new and existing structures, utility, customer and governmental conservation programs, and other consumer actions for achieving conservation, and (2) be designed to produce all power savings that are reasonable, feasible and cost-effective to consumers. If the Council so recommends by majority vote of the full Council, the Administrator may impose additional charges on customers for those portions of their load within the region that are within States or political subdivisions which have not, or on his customers which have not, implemented conservation measures applicable to themselves that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such model conservation standards. Such charges shall be set to recover additional costs the Administrator determines he will incur because such energy savings have not been achieved, but in no case may such charges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof.

(g) To insure widespread public involvement in the formulation of regional power policies, the Administrator (1) shall maintain comprehensive programs, including programs in cooperation with the Council, to inform the Pacific Northwest public of major regional power issues, to obtain public views concerning those issues, and to secure advice and consultation from the Administrator's customers and other parties; and (2) may form advisory committees as appropriate.

(h) The Council shall request annually from the region's State and Federal fisheries agencies and the appropriate Indian tribes their recommendations of measures which would contribute to the preservation and enhancement of the fish resources of the Columbia River and its tributaries for inclusion in the plan and their recommendations for the funding of research and development efforts which have the potential of providing improved passage for anadromous fish migrants at and between the region's hydroelectric dams. The Council shall consider such recommendations in the preparation of the plan or amendments to the plan. Upon the adoption of the plan or amendments to the plan by the Council, the Administrator shall (1) include in his annual budget funds for fisheries research and development to be paid from the Bonneville Power Administration fund, or from appropriations, and (2) acquire and dispose of power and utilize the flexibility of the resources available to him in a manner which will assist in the preservation and enhancement of the anadromous fisheries resource while meeting his other obligations.

SALE OF POWER

SEC. 5. Subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937, Public Law 75-329 (as amended), and, in particular, sections 4 and 5 thereof, and at rates established pursuant to section 7 of this Act—

(a) Whenever requested the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under Public Law 75-329 (as amended), and to each requesting investor-owned utility, electric power to meet such customer's firm power load in the region which is in excess of the capability of such customer's firm resources which such customer had used in the year prior to enactment of this Act to serve its firm load and such other resources as such customer shall determine, pursuant to contracts under this Act, will be used to serve its firm load: *Provided*, That such resources shall continue to be so used except with the consent of the Administrator or because of obsolescence, retirement, loss of resource or loss of contract rights.

The Administrator shall include in contracts executed in accordance with this subsection provisions that enable him to restrict his obligations to meet such loads in the event he determines, after a reasonable period of experience under

this Act, that he cannot be assured of acquiring sufficient resources pursuant to section 6 to meet such loads, but (1) no such restrictions shall be applicable to the Administrator's public body and cooperative customers entitled to preference and priority under Public Law 75–329 (as amended), or to his Federal agency customers, until the Federal base system resources are fully allocated to such customers; and (2) sales to customers pursuant to this subsection shall not be restricted below the amounts of electric power, as specified in such contracts, acquired by the Administrator from or on behalf of such customer pursuant to subsection 5(b)(2) and section 6. The Administrator shall, consistent with the provisions of this Act, insure that any such restrictions pursuant to this subsection are distributed equitably throughout the region.

(b) Additionally, (1) the Administrator is authorized to sell electric power to Federal agencies in the region, and (2) whenever a Pacific Northwest utility offers to sell electric power to the Administrator at the average system cost of resources then available to that utility, the Administrator shall purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region: *Provided*, That (A) such sale shall be limited to an amount not to exceed 50 per centum of each such utility's regional residential load in the year beginning July 1, 1980, and increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985; (B) the cost benefits, as specified in contracts, of any such exchange sale which are attributable to any utility's residential load within a State shall be passed through directly to the utility's residential loads within such State: *Provided*, That a State which lies partially within and partially without the region may require that such benefits be distributed among all of the utility's residential loads in that State; (C) a utility may terminate, upon reasonable terms and conditions, its exchange purchase and sale in the event the supplemental rate charge provided for in section 7(b) is applied and the cost of electric power sold to the utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by the utility to the Administrator under this subsection; and (D) the Administrator may acquire the electric power necessary to carry out the exchange sale from other resources, rather than purchase the electric power offered him by the utility pusuant to this subsection, if the cost of doing so is less than the cost of purchasing the electric power offered by the utility.

The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator, subject to review and approval by the Federal Energy Regulatory Commission as provided in section 9(g), on the basis of a methodology developed for this purpose. Such methodology shall be developed by the Council as part of the regional electric power plan identified in section 4, or, until such a plan has been adopted, shall be developed by the Administrator in consultation with his customers in the region and appropriate State regulatory bodies. Average system cost shall not in any event include: (i) the cost of additional resources in an amount sufficient to serve any new large industrial load of the utility that was not contracted for or committed to prior to October 1, 1978; (ii) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and (iii) any costs of a generating facility which is terminated prior to commercial operation.

(c)(1) The Administrator is authorized to sell electric power to direct service industrial customers which have contracts for the purchase of electric power from him on the effective date of this Act, so long as such sales provide a portion of the reserves for firm power loads within the region. To effectuate the purposes of this subsection the Administrator shall offer to such customers new long term contracts in accordance with section 9(c) that provide such customers an amount of power equivalent to that to which such customers are entitled under present industrial firm contracts. The offer and execution of these initial new contracts shall be deemed to be supported by a sufficiency of electric power available to the Administrator.

(2) The Administrator shall not offer to sell amounts of electric power, including reserves, to new direct service industrial customers or to existing direct service industrial customers in addition to the amounts provided under subsection (c)(1) unless the Council has approved such sale by majority vote of the full Council and the Administrator determines that such proposed sale is consistent with the plan and that (A) additional power system reserves are required for the region's firm loads, (B) additional direct service industrial loads would provide

a feasible and cost-effective method of supplying such reserves, (C) loads of similar character cannot provide equivalent operating or planning benefits to the region if served by a utility, and (D) the Administrator has or can acquire sufficient electric power to serve such loads. After such determination and approval by the Council, the Administrator is authorized to offer to new or existing direct service industrial customers an additional amount of power providing reserves in the amount determined to be necessary.

(d) The Administrator is further authorized to sell or otherwise dispose of electric power, including acquired power, that is surplus to his obligations incurred pursuant to subsections (a), (b), and (c) of this section in accordance with this and other statutes applicable to the Administrator.

CONSERVATION AND RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall, to the maximum extent practicable, implement all conservation measures he determines to be consistent with the plan. If no plan is in effect the Administrator shall implement conservation measures he determines are feasible and consistent with the criteria of section 4(e): *Provided*, That no mandatory conservation requirements shall be set by the Administrator pursuant to this authority in the absence of a plan. Such measures may include, but are not limited to, financial assistance for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application. The Administrator may, in accordance with the provisions of this section, conduct demonstration projects to determine the feasibility of conservation measures and direct application renewable energy resources: *Provided further*, That no obligation may be incurred for any such demonstration project until such proposal is explicitly noted in the Administrator's budget submittal to the Congress pursuant to Public Law 93–454 (as amended). In addition, he shall assist conservation by and among regional consumers by (1) providing technical or financial assistance, (2) cooperating with his customers and governmental authorities to encourage maximum cost-effective voluntary conservation, and (3) aiding his customers and governmental authorities in implementing conservation standards adopted pursuant to section 4(f).

(b) The Administrator shall meet his contractual obligations that remain after taking into account planned savings from conservation measures provided in this section by acquiring additional resources (in addition to electric power acquired on a short term basis pursuant to section 11(b)(6)(i) of Public Law 93–454 (as amended)) he determines to be consistent with the plan or, if no such plan is in effect, which he determines, after compliance with section 6(c), are consistent with section 4(e). The Administrator shall acquire resources to replace Federal base system resources in accordance with the provisions of section 6 of this Act except in the case of federally constructed resources otherwise authorized by the Congress. Notwithstanding any acquisition of resources, the Administrator shall not reduce his efforts to achieve conservation savings pursuant to section 6(a).

(c)(1) In proposing to acquire any major resource, the Administrator shall give notice of the proposed action to the Council, his customers and the State in which the resource would be acquired, solicit views and relevant information, conduct a public hearing, and not less than ninety days after such notice may make a decision supported by a written statement, which statement shall include specific findings that the proposed acquisition is consistent with the plan unless such acquisition is proposed pursuant to parts (3) or (4) of this subsection.

(2) The Administrator shall submit to appropriate committees of the Congress the administrative record which shall consist of his written statement in support of any major resource acquisition decision made pursuant to this subsection together with (A) all statements, data, and other information on which the Administrator relies, including information received by him from the Council and his customers; (B) the transcript or other record (including all exhibits) of the hearing; (C) a record of all other relevant views and reactions received by him; and (D) a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act, Public Law 91–190 (as amended). The Administrator thereafter shall publish notice of his decision in the Federal Register. The Administrator may not implement any such decision or make any financial commitment for a major resource acquisition under this subsection prior to ninety days after the date of publication in the Federal

Register and until it has been noted in the Administrator's budget submittal made pursuant to Public Law 93–454 (as amended): *Provided*, That in the absence of a plan or if the proposal is inconsistent with the plan, no financial commitment for a major resource acquisition shall be made until the acquisition has been specifically approved by Act of Congress.

(3) If within two years after the effective date of this Act, the Administrator proposes to acquire a major resource, but no plan is yet in effect, the Administrator may acquire such resource by following the procedure set forth in subsections (c) (1) and (2), except that his written statement shall include specific findings that acquisition of the resource is consistent with the criteria of subsection 4(e).

(4) If, subsequent to the adoption of a plan the Administrator wishes to be able to acquire a resource or undertake a conservation measure which he determines to be inconsistent with such plan, or in the absence of an adopted plan two years after the effective date of this Act, the Administrator may acquire a resource or undertake a conservation measure pursuant to the following procedure: (A) the Administrator shall propose to the Council a plan, or an amendment to the existing plan, with which the proposed action would be consistent, and submit a written statement to the Council that the plan or proposed amendment is needed to permit the proposed action, that the resource or conservation measure is needed to meet the Administrator's obligations, and that the resource or conservation measure is consistent with the criteria set forth in subsection 4(e); (B) the Council shall proceed with hearings in accordance with provisions of section 4(d)(2); (C) if within ninety days after the submission of the Administrator's proposal the Council has not adopted a plan or plan amendment with which, in the Administrator's determination, the proposed action is consistent, the Administrator may proceed with the action after following the procedure established under parts (1) and (2) of this subsection. For the acquisition of a resource or implementation of a conservation measure, either of which the Administator determines to be inconsistent with the plan, public hearings shall be held pursuant to section 556 of title 5, United States Code, and the Administrator shall make a written statement in support of his decision pursuant to section 557 of title 5, United States Code.

(5) The Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest utility for ownership, participation, or other sponsorship but not in excess of the amounts needed to meet its regional load.

(d) The Administrator is authorized to acquire a resource, other than a major resource, which does not meet criteria of section 4 but which he determines is an experimental, developmental, demonstration or pilot project of a type with a potential for providing feasible, cost-effective, and reliable service to the region. The Administrator is authorized to construct such a project if it is a renewable resource and he determines that no utility or political subdivision in the Pacific Northwest is willing to construct such project at reasonable cost. The Administrator shall make no obligation for the acquisition or construction of such a resource until it has been noted in his budget submittal to the Congress pursuant to Public Law 93–454 (as amended).

(e) To the extent conservation measures or acquisition of resources require direct arrangements with consumers of electric power, the Administrator shall make maximum practicable use of his customers and other local entities capable of administering and carrying out such arrangements.

(f) For resources which the Administrator determines will be not inconsistent with the plan or for which he proposes to follow the procedures of section 6(c) (3) and (4), the Administrator is authorized to enter into agreements with sponsors of (1) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource which may be proposed for acquisition by the Administrator, or (2) any other resource, which on preliminary data he finds would satisfy criteria of this Act, to provide for the reimbursement of the sponsor's investigation and preconstruction expenses (which expenses shall not include procurement of capital equipment or construction material for such resource) if such resource is subsequently denied State siting approval or other necessary Federal or State permits, or if such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of this Act, or is not acceptable because of environmental impacts, or after such investigation the Administrator

determines not to purchase the resource and the resource is not constructed: *Provided*, That any such agreements shall provide the Administrator an option to acquire any such resource: *Provided further*, That the Administrator shall terminate his financial commitment as to any further expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after a final denial of application for State siting approval. No further commitment may be made by the Administrator until the Administrator has completed such procedures as may be required by the National Environmental Policy Act, Public Law 91–190 (as amended).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator, shall be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

(h) The Administrator is authorized to grant billing credits and provide services to any of his customers for independent conservation activities undertaken by such customers or political subdivisions served by a customer and for resources constructed, completed or acquired by a customer or political subdivision after the effective date of this Act which reduce the obligation of the Administrator to acquire resources under this Act. Any such credits which are granted for a major resource shall be granted only if such grant is determined by the Administrator to be not inconsistent with the plan or if such credits are authorized pursuant to the procedures of section 6(c)(4). The Administrator shall be required to grant credits (1) to the extent such customer or political subdivision undertakes independent conservation measures which the Administrator finds will achieve energy savings beyond the measures included in the plan, and (2) for a renewable resource or a multipurpose project uniquely suitable for such customer's or political subdivision's development. The Council may develop and propose guidelines to the Administrator to assist in the determination of the amount of such credits. The Administrator shall determine the amount of credits taking into account guidelines recommended by the Council and the risks and benefits assumed by the entity to be credited and the risks and benefits provided to the Administrator's customers: *Provided*, That any credits under this subsection shall be granted only to the extent they are cost effective.

(i) Contracts for acquisition of resources entered into pursuant to this section shall contain such terms and conditions as the Administrator finds necessary or proper to insure timely construction, scheduling, completion, and operation of new resources, to insure that the costs of any acquisition are as low as reasonably possible, consistent with sound engineering, operating, and safety practices, and to provide the means for the Administrator to exercise effective oversight, audit, and review of all aspects of such construction and operation.

(j) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(1) acquire any electric power required by (A) any customer or group of customers to enable them to replace resources determined to serve firm load under subsection 5(a), or (B) direct service industrial customers, to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power he is himself obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting it: *Provided*, That the Administrator may prescribe policies and conditions for the independent acquisition of replacement power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisitions; and

(2) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable statutes, and with respect to direct service industrial customers, if such sale is under terms and conditions acceptable the Administrator.

The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable

operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return to the Administrator pursuant to this Act and such offer is not accepted within one year.

(k) All obligations incurred by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations shall not be, nor shall they be deemed to be, general obligations of the United States of America.

(l) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

RATE DIRECTIVES

SEC. 7. (a) The Administrator shall establish and periodically modify rates for the sale and disposition of electric power and the transmission of non-Federal power. Such rates shall be set to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to law. Such rates shall be established in accordance with sections 9 and 10 of Public Law 93–454 (as amended) and the provisions of this Act, and shall become effective upon confirmation and approval by the Federal Energy Regulatory Commission on the finding that such rates (1) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs, (2) are based upon the Administrator's total system costs including contingencies, and (3) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

(b) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and sold to utilities under section 5(b)(2). Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply the foregoing loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates also shall recover the costs of additional electric power as needed to supply the foregoing loads, first from the electric power purchased by the Administrator under section 5(b)(2) and then from new resources: *Provided*, That after July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under section 7(g) for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, shall in no event exceed in total, as determined by the Administrator, during any year plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, as estimated in accordance with the following assumptions for the same five-year period:

(1) the public body and cooperative customers' general requirements had included the direct service industrial customer loads located within or adjacent to the geographic service boundaries of such public bodies and cooperatives during the applicable period;

(2) public body, cooperative, and Federal agency customers were served in the applicable period with Federal base system resources not obligated to other parties under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in part (1) above;

(3) no purchases or sales as provided in section 5(b)(2) were made during the applicable period;

(4) all resources that would have been required to meet remaining general requirements of the public body, cooperative and Federal agency customers not met by the available Federal base system resources determined under part (2) above were resources purchased from such customers by the Administrator pursuant to section 6 or resources not committed to load pursuant to section 5(a) and were the least expensive resources owned or purchased by public bodies or cooperatives with any additional needed resources having been obtained at the average cost of all other new resources acquired by the Administrator; and

(5) the quantifiable monetary savings to public body, cooperative, and Federal agency customers resulting from actions of the Administrator under section 6 were not achieved.

Any amounts not charged to such public body, cooperative, and Federal agency customers because of this proviso shall be recovered through supplemental rate charges for all other power sold by the Administrator.

General requirements as used in this section shall be the public body, cooperative, or Federal agency customer's electric power purchased from the Administrator under section 5(a) and 5(b)(1) exclusive of any new large industrial load that was not contracted for or committed to by the customer by October 1, 1978.

(c) The rate or rates applicable to direct service industrial customers shall be established:

(1) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(b)(2), based upon his projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other classes of power sold by the Administrator; and

(2) for the period after July 1, 1985, at a level which the Administrator determines by rule to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial customers in the region (to be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates) but taking into account (A) the comparative size and character of the loads served, (B) the relative costs of electric capacity, energy, transmission, and related delivery facilites provided and other service provisions, and (C) direct and indirect overhead costs, all as related to the delivery of power to industrial customers: *Provided*, That the Administrator's rates during such period shall in no event be less than his rate in effect for the contract year ending on June 30, 1985.

The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d) In order to avoid adverse impacts on—

(1) retail rates of the Administrator's customers with low system densities, the Administrator is authorized to apply discounts to the rate or rates for such customers;

(2) direct service industrial customers using raw materials indigenous to the region as their primary resource, the Administrator is authorized to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region under contract provisions equivalent to those of present modified firm contracts.

(e) In establishing rate schedules of general application, the Administrator may establish a uniform rate or rates for sale of peaking capacity.

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(b)(2) and additional resources (including new resources) which, in the determination of the Administrator, are applicable to such sales.

(g) The Administrator shall allocate to power rates, as he may determine appropriate, all other costs and benefits including, but not limited to, conservation, uncontrollable events, reserves, the excess costs of experimental re-

sources under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a)), the Administrator shall adjust power rates to include any additional charges arising under section 4(f), and shall allocate any revenues from such charges in a manner he determines will help achieve the purposes of section 4(f).

AMENDMENTS TO EXISTING LEGISLATION

SEC. 8. (a) Section 11(b) of Public Law 93–454 (as amended) is amended by striking the word "and" at the end of subparagraph (10), and by substituting "; and" for the period at the end of subparagraph (11) and adding a new subparagraph (12) as follows:

"(12) making such payments, as shall be required to carry out the purposes of the Pacific Northwest Electric Power Planning and Conservation Act.".

(b) Public Law 93–454 (as amended) is amended by striking subsections 13 (a) and (b) and substituting the following new subsections:

"SEC. 13. (a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of and on behalf of the Bonneville Power Administration bonds, notes, and other evidence of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the construction, acquisition, and replacement of the transmission system, to implement the Administrator's authority (including the provision of financial assistance for conservation measures and renewable resources) pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, 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 may be 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 Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of America 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 but not to exceed the interest rate which would be applied to such bonds if they were purchased by the Federal Financing Bank. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1,250,000,000 prior to October 1, 1980, and $1,750,000,000 thereafter.

"(b) 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 11(b)(2) through 11(b)(7), 11(b)(11) and 11(b)(12), and shall include reserve or other funds created from such receipts.".

(c) Public Law 88–552 (as amended) is amended by striking subsection 1(b) and inserting a new subsection 1(b) as follows:

"(b) 'Pacific Northwest' means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.".

ADMINISTRATIVE SECTIONS

SEC. 9. (a) In carrying out the provisions of this Act, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancellation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary.

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by Public Law 75–329,

as amended, this Act and sections 302(a) (2) and (3) of Public Law 95–91. The Secretary of Energy and the Administrator shall take such steps as are necessary to (1) assure the Administrator's timely implementation of this Act and (2) enable the Administrator to operate in a sound and businesslike manner.

(c)(1) As soon as practicable after the effective date of this Act, and in no event later than nine months after the enactment of this Act, the Administrator shall, in addition to offers otherwise authorized or required in other sections of this Act, offer long-term contracts simultaneously to (A) existing public body and cooperative customers and investor-owned utilities under section 5(a); (B) Federal agencies under section 5(b)(1); (C) direct service industrial customers under section 5(c)(1); and (D) utilities under section 5(b)(2).

(2) Each customer offered a power sales contract pursuant to this subsection shall have one year from the date of offer to accept such contract. Such contract shall become effective as follows:

(A) A contract with a public body, cooperative or investor-owned utility pursuant to section 5(a) or a Federal agency pursuant to section 5(b), on the date executed by such public body, cooperative, investor-owned utility or Federal agency, unless otherwise agreed upon by the contracting parties.

(B) A contract with a utility pursuant to section 5(b)(2), on the date executed by the utility, but no earlier than the first day of the tenth month after the effective date of this Act.

(C) A contract with a direct service industrial customer pursuant to section 5(c)(1), on the date agreed upon by the parties, but no later than the first day of the tenth month after the effective date of this Act; such contract when executed may for rate purposes be given retroactive effect to such day.

The Administrator shall be deemed to have sufficient resources for the purpose of entering into the power sales contracts specified in this subsection.

(d) Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of Public Law 88–552 (as amended), for any contract for the sale, delivery or exchange of hydro-electric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest: *Provided*, That for the purposes of this subsection, "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for disposition of such capacity. The authority granted, and duties imposed upon, the Secretary of Energy by sections 5 and 7 of Public Law 88–552 (as amended), shall also apply to the Administrator in connection with resources acquired by the Administrator. The Administrator, in making any determination of the electric power requirements of a Pacific Northwest customer which is a non-Federal utility having its own generation shall exclude, in addition to hydro generated energy excluded in section 3(d) of Public Law 88–552 (as amended), any amounts of energy included in the resources of such utility for service to firm loads in the region which were disposed of by the utility outside the region if and to the extent that as the result of such disposition the firm energy requirements of such utility and other customers on the Administrator are greater than if such energy had been or reasonably could have been conserved or otherwise retained for service to regional loads.

The Administrator may sell as a replacement therefore only that which would be surplus energy.

(e)(1) For the purposes of section 701 of title 5, United States Code, and the following: acquisition of resources, granting of credits under subsection 6(h), assistance to sponsors under subsection 6(f), sales of electric power under section 5 (a) through (c), implementation of conservation measures, adoption of the plan or amendments thereto insofar as the plan or such amendments relate to specific resource acquisition or conservation decisions, determinations of the Administrator or the Council under section 4(d), and rate determinations under section 7 shall be final actions subject to judicial review. The record upon review shall be limited to the administrative record compiled in accordance with this Act. The scope of review shall be governed by section 706 (1) and (2) (A) through (D) of title 5, United States Code, except that review of rate determinations under section 7 shall be on the basis of substantial

evidence on the record. The adopted plan or portions thereof shall not be reviewable as a part of a review of a resource acquisition decision or a conservation measure implementation decision.

For purposes of this subsection, (A) resources shall be deemed to be acquired upon publication in the Federal Register of the Administrator's section 6(b) determination or section 6(c)(2) written statement; (B) conservation measures shall be deemed to be implemented upon publication in the Federal Register of the determination required of the Administrator pursuant to section 6(a); and (C) the plan or amendments thereto shall be deemed to be adopted upon adoption by the Council and publication of notice of adoption in the Federal Register pursuant to section 4(d), or as otherwise provided for by this Act.

(2) Suits brought to challenge final actions taken pursuant to this Act, or the implementation of such final actions, whether brought pursuant to this Act or Public Law 75–329 (as amended), or Public Law 88–552 (as amended), or Public Law 93–454 (as amended), shall be commenced within ninety days of the action, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days of such notice, or be barred.

(f) For the purpose of enabling the Administrator to acquire resources from State or local governmental units at a cost no greater than the costs which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a)(1) of title 26 of the United States Code shall not be affected by the Administrator's acquisition of such resources if the Administrator, prior to contracting for the acquisition, certifies to his reasonable belief, in accordance with a procedure approved by the Secretary of the Treasury, as to the persons for whom the Administrator is purchasing such resources for sale pursuant to section 5 of this Act and as to the amount for each such person, and if, based upon such certification, which shall be conclusive as to the facts stated therein, the Secretary of the Treasury determines that less than a major portion thereof is to be furnished to persons who are not exempt persons as defined in section 103(b) of such title.

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility under sections 5(b)(2) and 6, the Federal Energy Regulatory Commission shall convene a joint State board pursuant to section 209 of the Federal Power Act (16 U.S.C. 824h), and shall invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h) No "company" (as defined in section 79b(a)(2) of title 15, United States Code), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 79b(a)(3) of title 15, United States Code), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code: *Provided,* That the Administrator shall have approved the organization of such "company" and all material contracts entered into by and between such "company" and any sponsor company: *Provided further,* That (1) participation in any facilities of such "company" shall have been offered to public bodies and cooperatives in the region pursuant to subsection 6(c)(5), and (2) the Administrator shall include in any contract for the purchase of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource. This subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission determines that the "company" no longer operates in accordance with this subsection, and notifies the "company" in writing of such determination, in which event this subsection shall cease to apply to such "company" thirty days after receipt of such notification.

SAVINGS PROVISIONS; WAIVERS OF PREEMPTION

SEC. 10. (a) *Nothing in this Act shall alter, diminish, or abridge the right of* any State or political subdivision thereof to (1) determine retail electric rates except as provided by section 5(b)(2); (2) develop and implement its own plans and programs for the conservation, development and use of electric power resources or facilities; or (3) make energy facility siting decisions including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the authorities or obligations of the Administrator granted by or arising under any other applicable statute, unless otherwise specifically provided herein.

(c) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any other party under any contract or agreement existing as of the effective date of this Act.

(d) Nothing in this Act shall alter, diminish, abridge or otherwise affect the provisions of other Federal statutes by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(e) Nothing in this Act shall alter, diminish, or abridge the authority of the Administrator to meet with his customers or with other groups or individuals in order to discuss regional power issues or other matters of interest or concern.

(f) Nothing in this Act shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States, or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

(g) The reservation under law of electric power for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State, plus 50 per centum of any electric power produced at Libby Reregulating Dam when built, is hereby affirmed. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7.

Purpose

S. 885 has several major elements:

—To establish a procedure for the Bonneville Power Administration to participate with regional entities in a public planning process to coordinate the provision of electric power resources to meet the needs of the region.

—To extend the benefits of the Federal Columbia River Power System to the residential and farming consumers of investor-owned utilities.

—To supplement the authority of the Bonneville Power Administration to utilize regional power revenues to assist in the financing of future conservation measures and electric power supply resources development in the region.

Summary of Major Provisions

As amended, S. 885 addresses several major issues related to power problems in the Pacific Northwest, and in some instances would mandate significant departures from past or present practice. Major issues and related provisions of the bill are briefly described as follows:

PUBLIC PARTICIPATION AND CONTROL

Section 4 establishes a Pacific Northwest Electric Power Planning Council to consist of the Administrator of the Bonneville Power Administration and four appointees of the Governors of the States in the region. Using the procedures of the Administrative Procedures Act, the Council is to prepare and adopt a regional electric power plan that will govern most regional conservation efforts and resource acquisitions of the Administrator. The composition, duties and functions of the Council and other public participation provisions are primarily contained in section 4.

PREFERENCE

The preamble of section 5 makes all Bonneville power sales subject to the preference and priority provisions of the existing Bonneville Project Act. Public bodies and cooperatives entitled to preference and priority under that Act may not be subjected to restriction on the amount of power sold them unless and until their loads exceed the amount of Federal base system resources. Section 7(b) provides that rates charged such public bodies and cooperatives may not exceed a limit designed to reflect the power costs such public bodies and cooperatives would have experienced in the absence of this legislation. Section 10(d) preserves the general preference and priority to which public bodies and cooperatives are entitled under other statutes governing the sale of power from federally-owned generating facilities.

ALLOCATION

Sections 5 and 7 contain most provisions related to allocation of the Administrator's existing and newly acquired power and related power costs. Public bodies and cooperatives entitled to preference and priority under the existing Bonneville Project Act are to receive new requirements contracts that provide power at the Administrator's lowest rate (except power needed to serve new large industrial loads). Investor-owned utilities are to receive requirements contracts that provide power at a new resources rate, and are permitted to exchange with the Administrator an amount of power sufficient to serve their residential and small farm loads. The latter power will also be sold at the Administrator's lowest rate, with the cost benefits of the exchange required to be passed through directly to the residential and farm consumers involved. Direct-service industrial customers of the Administrator may surrender existing contracts providing low-cost power in order to receive new long-term contracts, but at substantially higher rates. Such higher rates are to recover to the Administrator his additional costs incurred in making the power exchange with the investor-owned utilities.

ACQUISITION OF RESOURCES

Section 6 grants new authority to the Administrator to acquire resources, including conservation, to meet the loads of his customers. This authority is granted subject to the requirement that the Administrator make such acquisitions subject to the plan developed by the Council in section 4. In the absence of a regional electric power plan or if a proposed resource acquisition is inconsistent with the plan a special procedure, including specific approval of a major resource acquisition by Act of Congress, is provided.

CONSERVATION AND RENEWABLE RESOURCES

Section 4 and 6 require conservation to be treated as the region's first priority resource, and renewable resources to be treated as the second priority resource, ahead of all other resource types. Sections 4 (e) and (f) require model conservation standards to be adopted as part of the Council's regional plan. Savings from such standard

are to be assured by rate surcharges, if recommended by the Council, of up to 50 percent in the event of nonattainment of expected load reductions.

The Administrator is required under sections 4 and 6 to rely upon conservation to the maximum extent it is feasible and cost effective, to provide financial assistance for conservation and renewable resource purposes, and to continue conservation efforts even if he possesses an adequate supply of power. The existing Bonneville Power Administration borrowing authority is increased by $500,000,000 under section 8(a) to aid in the initial funding, after fiscal year 1980, of conservation and renewable resource efforts, as well as other resource activities. Conservation measures, which are treated as a resource, are to be compared with other resources available for acquisition. Conservation resources are to be considered cost-effective under section 3(c) if their life-cycle incremental system costs are less than or equal to 110 percent of the life-cycle incremental system costs of alternative nonconservation resources. The Administrator is required under section 6(h) to grant rate credits to utilities or local governments for conservation efforts that will achieve extra savings, and for renewable resources or multipurpose projects which reduce demand on the Administrator and allow the Administrator to avoid acquiring other resources.

OTHER POWER RESOURCES

Sections 4 and 6 require conventional fueled generating resources, including coal and nuclear, to be treated as the region's lowest priority resources. Section 6(c) sets forth a detailed procedure for the acquisition of any major resource and for acquisitions which are either inconsistent with the regional plan or which are made when a regional plan is not yet adopted; specific approval by Congress is required if no plan is in effect or the proposed acquisition is inconsistent with the plan. Section 6(h) prohibits rate credits being granted to utilities for major resources unless such credits are not inconsistant with the plan or Congressional approval is obtained. The cost-effective determination under section 3(c) would consider all costs associated with conventional resources, including the applicable waste disposal costs, end-of-cycle costs, and fuel costs, among other costs.

FINANCING PROVISIONS

In section 2(c), Congress finds that Northwest ratepayers should continue to pay all costs necessary to meet the region's electric power requirements, including repayment with interest of the Federal investment in the Federal Columbia River Power System. Section 6(k) prohibits Federal "guarantees" of new investments and requires that all obligations of the Administrator incurred under this act be secured solely by his revenues from the sale of power and other services. This provision makes explicit in this act the self-financing requirement of the Federal Columbia River Transmission System Act of 1974, Public Law 93-454 (as amended). Section 8(a) increases Bonneville's present borrowing limit from $1.25 billion to $1.75 billion. Section 9(f) preserves the tax-exempt status of obligations issued by State and local

governments to finance resources that may be acquired by the Administrator primarily for the needs of such entities.

Background

The Bonneville Power Act of 1937 (Act of August 1937, 50 Stat. 731), authorizing the construction of the Bonneville Dam by the Corps of Engineers, provided that the electric power generated at the dam should be marketed by a Bonneville Power Administrator to be appointed by the Secretary of the Interior. The Administrator was authorized to construct, operate, and maintain transmission lines necessary to market the power. The Administrator was not authorized to construct or operate either hydro or thermal electric generating facilities.

The Bonneville Power Administration, through subsequent legislation and interpretation of the Act, has become a major part of the electric power system in the Pacific Northwest. The Federal Columbia River Power System, for which BPA is the marketing agency, had 30 hydroelectric power projects in operation in 1978, with a total generating capacity of 16,441 megawatts. In that year, the system (including federally acquired thermal) generation represented 54 percent of the region's total electric generation. The BPA transmission system includes 12,454 circuit miles with an additional 1,652 miles in various stages of design and construction. The BPA transmission system, containing 80 percent of the region's primary transmission system, forms the backbone for what constitutes a regional grid.

Traditionally, the Pacific Northwest's power needs have been satisfied by the energy produced by large hydroelectric projects. For the most part, the projects were constructed and operated by the Federal Government with the power marketed through the Bonneville Power Administration. However, some of the larger utilities built and operated their own generating facilities and purchased part of their regional power needs from BPA. In the late 1960's projections of future regional power needs by the Bonneville Power Administration indicated that by the mid-1970's, regional loads would exceed system capacity. As a result, in 1969 the "Hydrothermal Power Program" was initiated in the region in an effort to provide an orderly transition from a hydro based system to one using a blend of hydro and thermal resources. By 1970, rising costs associated with thermal plant construction and BPA's inability to acquire thermally generated resources indicated that an alternate to the Hydrothermal Power Programs would be needed if future regional needs were to be met.

By 1973, BPA stopped selling firm low-cost hydro power to investor-owned utilities because of inadequate supplies and the utilities turned to higher cost thermal power. Public utilities also realized that they too faced problems in meeting future demands when in 1976 the BPA issued notices of insufficiency to all public utilities and direct service customers, stating that BPA would not be able to meet new load requirements after 1983. Concern for future sources of electric power lead public and private utilities, industries, and customers to seek legislative assistance from the Congress.

Need for the Legislation

As reported, S. 885 addresses problems associated with the future of electrical energy production and consumption in the Pacific Northwest as identified by interested regional entities. Critical in the problems facing the Northwest are the needs to initiate and carryout a comprehensive regional electric energy conservation program, to extend to residential and rural consumers the benefits of the Federal Columbia River Power System, and to assure future electric supplies for consumers at reasonable rates. Paramount in achieving these goals is the establishment of a mechanism providing for an effective regionwide planning process. S. 885 mandates the preparation of a regional electric energy plan and assures that such a plan will reflect and be responsive to the diverse interests represented in the region.

Traditionally, utility planning in the Pacific Northwest has been geographically fragmented. While in other parts of the Nation large areas may be served by a single utility which generates and distributes electric energy on an areawide basis, the Pacific Northwest has been served by a myriad of small- to medium-sized utilities, which, for the most part, have relied upon the generation and transmission resources of the Federal Columbia River Power System. In spite of this fragmentation, the FCRP, the Bonneville Power Administration, and the distinct needs and resources of the region have served to facilitate a high degree of cooperation between utilities in forecasting regional power requirements and the integration of available resources. However, seriously lacking in the region is a comprehensive planning process providing for the integration of new generating facilities on a regional basis and a lack of opportunity for State and public participation at an early stage in the planning process. The regional electric energy plan which would be prepared pursuant to the Pacific Northwest Electric Power Supply and Conservation Act is conditioned upon these, and other premises.

Without the planning framework and authorities contained in S. 885, the region faces potentially damaging power shortages, an inability to involve on a formalized basis the States and various interest groups in the region in the planning process, and a lack of direction for and financing of a truly regionwide conservation plan which would not only benefit the individual consumers in the area, but could serve as a model for the rest of the Nation as well.

Legislative History

In the 95th Congress, on September 9, 1977, S. 2080, the Pacific Northwest Electric Power Supply and Conservation Act was introduced by Senator Jackson at the request of a group of utilities and industrial users of electric power in the Pacific Northwest. S. 2080 and other various other power planning proposals were the subject of extensive regional discussion and debate, and in April and May of 1978, the Senate Committee on Energy and Natural Resources conducted 4 days of field hearings in the Pacific Northwest on the regional power issue. As evidenced by the record, S. 2080 did not represent a consensus of all interested groups in the region. A redraft of the measures, which recognized many of the concerns expressed in the region, was

prepared and was introduced on August 16, 1978, as S. 3418, by Senators Jackson, Magnuson, Church, Hatfield, Packwood and McClure. Hearings on S. 3418 by the Committee on Energy and Natural Resources were held in Washington, D.C. on August 24 and 25, 1978. The 95th Congress adjourned prior to completion of consideration by the Committee of S. 3418.

On April 5, 1979, S. 885 (identical to S. 3418 of the 95th Congress was introduced by Senators Jackson, Magnuson, Church, Hatfield, McClure, and Packwood. Hearings on S. 885 were held in Washington, D.C. on May 23 and 24, 1979, before the Committee on Energy and Natural Resources. On July 18 and July 27 the measure was considered by the full Committee and was ordered reported with an amendment in the nature of a substitute on July 27, 1979.

Related legislation is presently pending before the House Committee on Interior and Insular Affairs.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on July 27, 1979, by majority vote of a quorum present, recommended that the Senate pass S. 885, if amended as described herein.

The roll call vote on reporting the measure was 14 yeas, 0 nays as follows:

Yeas	Nays
Jackson	
Church	
Johnston	
Bumpers	
Ford*	
Durkin	
Metzenbaum	
Matsunaga*	
Melcher	
Tsongas	
Bradley	
Hatfield	
McClure	
Domenici	
Stevens	

*Indicates vote by proxy.

Section-by-Section Analysis

Committee Amendment

The Committee struck all after the enacting clause of S. 885 and inserted a substitute text in lieu thereof.

Among the changes the Committee substitute makes are the following:

—Definitions of "Council", "customer", "direct service industrial customer", "major resource", "new large industrial load", "plan", and "reserves" are provided in section 3.

—The definition of "cost effective" is substantially expanded in section 3.

—A Pacific Northwest Electric Power Planning Council is established in Section 4 in place of the Bonneville Consumers' Council and Bonneville Utilities' Council of S. 885, as introduced. The Planning Council, consisting of four representatives of the Governors of the States of the region and the Bonneville Power Administrator, is authorized to direct preparation of a regional power plan, among the components of which will be a 20-year load forecast, a scheme for resource acquisitions by the Administrator to meet such loads, and model conservation standards to set the norm for the region in achieving load reductions which will be the priority power-related resource. Public involvement in plan development through regional hearings is mandated.

—The involvement of State and Federal fisheries agencies and affected Indian tribes in plan preparation is provided for in section 4.

—Specific references to the preference and priority provisions of the Bonneville Project Act for the benefit of public bodies and cooperatives are made in section 5 so as to apply clearly to all power sales of the Administrator from the Federal base system.

—Conditions of the power exchange between Bonneville and the investor owned utilities for the purpose of serving their residential and farm loads are spelled out in section 5, and the components of the IOU average system cost of power sold to BPA under this exchange are limited.

—A limitation on Bonneville serving new direct service industries is provided in section 5.

—Specific procedures for the acquisition of major resources by the Administrator are provided in section 6. Assurance is also provided that all utilities in the region will have reasonable opportunity to participate in sponsorship of new resources to meet their loads.

—The Administator is authorized or directed in section 6 to grant billing credits under certain conditions for resources, pursued by utilities and political subdivisions, that he does not acquire.

—Oversight requirements of the Administrator in matters pertaining to development of resources he has committed himself to acquire are enumerated in section 6.

—The securing of the Administrator's obligations is limited in section 6 to the extent of his revenues from power sales and other services he performs.

—A rate test is provided in section 7 to insure that the Administrator's power rates for public bodies and cooperatives entitled to preference and priority under the Bonneville Project Act or no greater than would occur in the absence of the regional program established in S. 885.

—The Administrator is authorized in section 7 to offer one of his direct service industrial customers a special rate, if that customer—the Hanna nickle plant in Riddle, Oregon—accepts a contract in which its entire power supply is interruptible, as is the case under its present contract, and would not be the case under new DSI contracts otherwise anticipated under this act. He is also

authorized to establish special rates for utilities with low system densities.

—The anti-trust exemption provided for the operation of the Utilities' Council in section 9 of S. 885, as introduced, is struck.

—Provisions governing judicial review appear in Section 9.

—A joint state-FERC board is provided for in Section 9 to review rates for sales of power to the Administrator.

—A series of savings clauses is provided in Section 10 to preserve State siting and utility rate regulation authority, BPA authorities under other acts, rights of parties with present contracts with the Administrator, preference and priority for public bodies and cooperatives under all federal statutes where it is provided, the Administrator's authority to meet with his customers or other groups or individuals, the jurisdiction of the states and the United States over stream waters and ground waters, and the Hungry Horse power reservation for Montana.

Section-by-Section Analysis

Section 1.—Self-explanatory.

Section 2(a).—Self-explanatory.

Section 2(b).—This subsection lists entities and individuals whose participation and consultation Congress finds to be essential in the development of a regional power plan and programs related to it. The "fisheries agencies" mentioned here are intended to include Federal and State agencies and appropriate Indian tribes to the extent that they have particular responsibility for anadromous fisheries of the Columbia River and its tributaries. It is intended that all States in the Pacific Northwest should be consulted in the planning process, including those States which are only partially within the region as defined in paragraph 3(k)(1).

Section 2(c).—Self-explanatory.

Section 3(a).—Self-explanatory.

Section 3(b).—The term "conservation" is defined as any reduction in electric power consumption that results from increased efficiency of energy use, production or distribution. This definition is intended to distinguish "conservation", as the term is used in this act, from curtailments of power consumption that do not involve long-term reductions in demand or increased efficiency, and from renewable resources (e.g., solar panel water heating systems) that reduce consumption through direct application.

Section 3(c).—The term "cost effective" is defined to enable cost comparisons among and between alternative conservation measures and resources. A "cost-effective" conservation measure, or any resource, must be forecast to be available for and during the period when it is needed. Cost comparisons of conservation measures and resources are to be made on the basis of their estimated incremental system cost on a per-unit basis for the amount of power produced or conserved. The section provides that a conservation measure or resource is "cost effective" for purposes of the act if its estimated incremental system cost, determined in accordance with this section, is no greater than that of the least-cost alternative conservation measure or resource that is similarly available. The proviso is designed to insure that all direct system costs are included in this comparison, and that such costs are esti-

mated for the full life-cycle of the compared conservation measures and resources. The Council is directed to develop a methodology for determining what quantifiable environmental and social costs and benefits are directly attributable to a conservation measure or resource, and this section directs the Administrator to use that methodology in determining which such costs and benefits to include in the cost effectiveness comparisons. The further proviso of this section is designed to permit a conservation measure to be determined to be "cost effective" even if its estimated incremental system cost is up to 10 percent greater than that of the least-cost, similarly available, nonconservation resource.

Section 3(d).—Self-explanatory.

Section 3(e).—This definition distinguishes "customers"—those with contracts to purchase power from the Administrator—from consumers who buy power from a utility or other similar entity. In general, the distinction is between wholesale and retail purchasers.

Section 3(f).—A list is included in Appendix A of direct service industrial customers which the Committee intends shall be offered long-term contracts pursuant to paragraphs 5(c)(1) and 9(c)(2).

Section 3(g).—The term "electric power" is defined using a standard, utility definition.

Section 3(h).—The term "Federal base system resources" is defined to include three components. First are the Federal Columbia River Power System hydroelectric projects, both existing and future. Second are resources acquired by the Administrator under long-term contracts in force on the effective date of this act, a category including the net-billed thermal plants, other specific generating resources and electric power the Administrator is entitled to receive from the utilities within and outside the region in exchange for services or other consideration. Third are resources acquired to replace reductions in the capability of resources in the first two categories.

Section 3(i).—Self-explanatory.

Section 3(j).—The term "new large industrial load" is defined in terms of load type and load size. Industrial load types to which the definition applies are those of (1) a new plant, (2) an expansion of an existing plant, which includes any type of load increase, and (3) an existing plant load served by a public body, cooperative or Federal agency customer contracted for or committed to on or after October 1, 1978. The foregoing loads are to be considered "new large industrial loads" if they result in an increase in load in excess of 10 average megawatts during any 3-year period. Additionally the Council may recommend to the Congress a different limit which would become effective only upon an act of Congress.

Section 3(k).—The term "Pacific Northwest", and the terms "region" or "regional" are defined for the purposes of this act. A corresponding amendment to conform the definition included in Public Law 88–552 is provided in section 8(c) of this act.

Section 3 (l).—Self-explanatory.

Section 3(m).—The term "renewable resource" is defined to include but is not limited to the utilization of solar, wind, hydro, geothermal, and biomass energy sources. A renewable resource could be utilized by direct application to reduce or displace an electric power load which the Administrator would otherwise be obligated to serve. Alternatively, a renewable resource could be used to generate electric

power. Geothermal energy, while not always technically renewable, is included as a renewable source of energy by this section.

Section 3(n).—The term "reserves" is defined as electric power needed to avert particular planning or operating shortages, for the benefit of firm power customers, and available to the Administrator from specifically identified resources or rights. In this section, the term "firm power customers of the Administrator" is intended to mean the firm power loads of such customers. It is not intended that the Administrator's reserves will be used to protect other than firm loads.

Section 3(o).—The terms "residential use" and "residential load" are defined in terms of "usual" residential, apartment, seasonal dwelling and farm electrical loads or uses. The word "usual" is intended to exclude loads or uses more properly considered commercial or industrial in nature, such as process loads. Only the first 400 horsepower of the irrigation or pumping load of any single farm is to be treated as a "residential use' or "residential load."

Section 3(p).—The term "resource" is defined to include the actual or planned capability of generating facilities, or the actual or planned load reduction resulting from direct application of a renewable energy resource, or from a conservation measure. While the phrase "actual or planned capability" is meant to include the planned output of a generating facility, whether or not operating or operable in whole or in part, and the planned load reduction of direct-application renewable resources or conservation measures, whether or not such resources or measures ultimately meet expectations, it is not intended that the Administrator be authorized to acquire any resource which he knows at the time of acquisition will not operate, or will not reduce load, as the case may be.

Section 4(a).—This section establishes a five member Pacific Northwest Electric Power Planning Council. Appointments by the Governors are to be made under applicable State laws, including in particular any existing or future state law dealing with confirmation of gubernatorial nominees by State legislatures.

Section 4(b).—This section establishes procedures for Council decisionmaking. Adoption of the regional electric power plan or an amendment to the plan requires the affirmative vote of the Administrator and at least two other members.

Section 4(c).—It is intended that funding under this section will be applied to meet expenses directly connected with each state's and its representative's participation in and support of the Council activities. Such funding must be approved by the Council, although the Administrator's vote is not required for approval, and shall be included in the Administrator's annual budget submitted pursuant to Public Law 93–454. The limit on the total of such funding for all States is established at 0.02 mills per kilowatt-hour of estimated power sales of the Administrator; it is intended that such sales figures will be based on the Administrator's estimate of his total firm loads.

Section 4(d).—This section sets forth the procedures for, and content of, the regional electric energy plan and its adoption, as well as the plan's relationship to the activities of the Administrator. The Council is to direct preparation of the plan, and to adopt a plan within 2 years of the effective date of this act; it is intended that the Administrator fully utilize his expertise and staff to assist the Council in

this effort and in any subsequent effort to amend the plan. The Council is to identify promptly the major subject areas of the first plan and commence regional hearings. A second set of hearings, on the proposed plan, is to be held prior to Council action to adopt a final plan. The Council is to conduct a review of the plan no less frequently than once every 5 years. Such review should commence again with regional hearings on the major subjects of the plan and conclude with hearings on a proposed new plan and adoption of a new plan. Amendments to the plan may be made from time to time and are not to be considered a review of the plan unless the process set forth for the periodic review is followed. Public hearings are required in each of the four States representated on the Council, and in other States within the region (i.e., Wyoming, Nevada or Utah) if such States are probable sites of major resources for acquisition in accordance with a plan or plan amendment. The hearings shall be conducted in accordance with section 553 of title 5, United States Code.

The second paragraph of this section sets forth the role of the plan in guiding the actions of the Administrator, and specifies the procedures the Administrator shall follow if no plan is in effect or if a proposed implementation of a conservation measure or acquisition of a resource is not consistent with the plan. The Administrator is to follow the direction and intent of the plan in implementing the new authorities granted him under this act, to the maximum extent feasible. He is to notify the Council promptly of any actions not consistent with the plan, and provide the Council his justification for such actions; this mandatory obligation is intended to supplement the intended regular communication between the Administrator and other members of the Council. A majority vote of the full Council may independently determine whether an action of the Administrator under sections 6(a) through (d), (f) or (h) is consistent with the plan if the Council so determines within 60 days of the Administrator's determination of consistency, and the Council's determination shall control.

A proposed implementation of a conservation measure or acquisition of a resource may be undertaken by the Administrator in the absence of a plan or despite a determination of inconsistency with the plan only under the procedures set forth in sections 6(a) through (c).

The Committee recognizes the administrative difficulties which would be involved if the plan became a highly detailed operational document. It is intended that the plan will not be a highly detailed operational document but instead will be a broad policy document which addresses major issues involved in planning and development of resources including conservation.

Section 4(e).—This section sets forth the conservation and resource priorities to be used in the plan, and lists the elements of the plan.

The elements of the plan are specified in section 4(e) (1) and (2), along with considerations that should guide the Council's development of the plan. A general scheme for implementing conservation and developing resuorces, as well as more specific items such as model conservation standards, a 20-year load forecast, and a methodology for determining average system cost for resources exchanged under section 5(b)(2) are among the most significant required features of the plan. The plan is not intended, however, to inhibit the Admin-

istrator's ability to act in a businesslike and timely manner to carry out the purposes of this act and other applicable statutes.

Section 4(f).—This section governs the model conservation standards to be included in the plan. It is intended that the Council promulgate the standards with technical assistance from the Administrator. The standards are to include those applicable to (1) structures, (2) conservation programs of customers, local governments and others, and (3) other consumer actions for achieving conservation. The standards are to be designed to produce all power savings that are "reasonable, feasible and cost-effective to consumers"; the term "cost-effective to consumers" is intended to mean that the cost of complying with the standards, adjusted to take into account cost savings made possible by conservation financial assistance programs, should not exceed, for the individual or entity to which the standards apply, the direct financial savings produced by compliance.

Upon the recommendation of the Council by majority vote of the full Council the Administrator may, to the extent recommended by the Council, impose the specified rate surcharges either for failure to adopt the standards, or for failure in lieu of such adoption to achieve equivalent conservation savings through other means. It is not intended that the Administrator investigate or monitor the conservation activities or compliance with conservation standards of individual performance of his customers and of political subdivisions within the region, when the Council has recommended implementation of the standards.

Section 4(g).—This section mandates widespread public involvement and public participation programs to be carried out in the region by the Administrator, including programs in cooperation with the Council. It is not intended that these programs be duplicative of the public involvement and participation procedures to be followed prior to adoption of the plan or a plan amendment. Each State is encouraged to establish public involvement and participation programs, including advisory committees, of its own to assist the State's representative in performing Council duties. This section also authorizes the Administrator to form advisory committees as he deems appropriate; such committees would be subject to the Federal Advisory Committee Act, but it is not intended that that act apply to or interfere with the Administrator's normal meetings and contacts with customers, groups of customers, or other individuals or groups within or without the region.

Section 4(h).—This section formalizes the procedure for insuring that the recommendations of fisheries agencies and appropriate Indian tribes are taken into account in the development of the regional plan and plan amendments. The section requires the Administrator, after a plan has been adopted or amended which includes such measures to (1) include funds for fisheries research and development in his annual budget to be acquired from the Bonneville Power Administration Fund or from appropriations, and (2) acquire and dispose of power, and utilize the flexibility of the resources available to him, in a manner that will assist in the preservation of the anadromous fisheries resources while meeting his other obligations.

It is intended that the recommendations of the fisheries agencies and Indian tribes deal with matters within the practical capabilities

of the Administrator and the Council. Any activities funding provided by this authority are not intended to be substitutes for the usual State and Federal fisheries programs.

SECTION 5

The preamble to section 5 is one of several savings provisions which appear in the bill to preserve the "preference clause" of the Bonneville Project Act. The Committee is aware of no inconsistency between the provisions and intent of this Act and the existing preference clause of the Bonneville Project Act. The Committee is aware of no consistency between the provisions and extent of this Act and the existing preference clause of the Bonneville Project Act. This Act and the "preference clause are expected to operate in a mutually compatible manner.

Section 5 (*a*).—This section governs power sales to public bodies and cooperatives entitled to preference and priority under the Bonneville Project Act, and to investor-owned utilities. The term "public body and cooperative entitled to preference and priority" under that act is used here to avoid any change in determining the entities entitled to preference and priority under the Bonneville Project Act.

The Committee decided against requiring a single comprehensive definition by statute or regulation of "firm power load" and "firm resources" because the complexity of the terms would make such a definition extremely lengthy and unnecessarily inflexible. The Committee does, however, intend that for the purposes of this act there should be consistency in the application of these terms in contracts so that the Administrator's customers will be equitably treated.

The section sets forth the manner in which the firm resources of individual customers is to be determined. For purposes of that determination, the term "firm power load" is intended to mean the power the customer is obligated to make continuously available to its purchasers (subject to the effect of any *force majeur* or uncontrollable events clauses), and the term "firm resources" is intended to mean the electric power suitable for providing service to firm power loads. These terms are used commonly by and among the Administrator and his customers and have been included and defined in the Administrator's contracts, and are intended to be incorporated in new contract's offered under this act.

Consistent with the provisions of this act, restrictions on sales imposed in the event of a planning insufficiency are to be equitably distributed throughout the region. A determination to restrict sales shall not be made until the provisions of the act are given an opportunity to function in the manner contemplated. The Committee recognizes that various classes and categories of customers have different rights to power. For example, preference customers have certain rights to the Federal base system resources, and all utilities have certain rights to what they contribute to the regional system through exchange sales under section 5(b)(2) and sales of resources to the Administrator pursuant to section 6. The Committee intends that utilities be able to plan dependably for their power supply and, recognizing the differing rights of various classes and categories of customers, that the criteria applicable to such customers be consistently applied throughout the region. It is expected that the Administrator will give customers rea-

sonable notice of a restriction on his obligation to meet existing requirements and increases in their projected requirements. It is expected that the Administrator will include provisions in contracts tendered pursuant to this act which may be necessary to carry out these purposes.

Section 5(b)(1).—This section permits the Administrator to sell power to Federal agencies in the region, as he does under present law.

Section 5(b)(2).—This section governs the exchange power sales between the Administrator and the utilities, and the determination of the costs of such power sold by the utilities. In the four-part proviso, part (C) permits a utility to terminate such exchange sales under specified circumstances. It is intended that the Administrator include in contracts implementing this section provisions governing termination and resumption of any previously-terminated exchange, for the purpose of minimizing disruption of the Administrator's rate-making or power marketing programs or planning.

The Committee adopted an amendment to make it clear that the Administrator must offer to enter into exchange power sales under Section 5(b)(2) whenever a Pacific Northwest utility makes an offer to sell power to the Administrator which meets the criteria of that subsection. Subpart (D) of the proviso in Section 5(b)(2) allows the Administrator to carry out the exchange power sales by purchasing power other than that offered by the exchanging utility if it is available at lower cost.

The paragraph following the proviso contains a list of costs to be excluded in the determination of "average system cost"; additional exclusions may be incorporated in the methodology for determining average system cost under this section.

Average system cost as used in section 5(b)(2) does not include, among other costs, "the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act." If a utility acquires a resource in part too serve a load in the region and in part to serve an additional load outside the region the costs of that portion of the resource used to serve a regional load would be included in average system cost but the portion used to serve the additional load outside the region could not be included. The Administrator is required to determine "average system cost" on the basis of a methodology developed by the Council as part of the regional electric power plan. The Administrator is required to develop an interum methodology for determination of average system cost prior to the adoption of the plan.

To assure that the full cost benefit of the exchange power sales authorized by section 5(b)(2) are passed on to residential ratepayers in the region the Committee adopted a provision making a pass through an explicit condition of such sales. Where a utility service area within one State is partially within and partially without the region the quantity of power marketed through section 5(b)(2) is limited by existing law reaffirmed in this act to an entitlement based on residential loads within the regional BPA service area. In such cases, to avoid conflict with State ratemaking authority the Committee adopted a proposal to permit a State regulatory body to require that exchange power sale benefits be distributed among all of such utility's residential loads in that State. In the absence of this provision the mandatory pass through would have conflicted with Montana State law which expressly bars

rate discrimination based on geography. This provision is consistent with the existing law and policy with respect to BPA sales to regional investor owned utilities and it assures that both the regional river basin marketing policy and State ratemaking laws are preserved.

Section 5 (c) (1).—This section governs power sales to direct-service industries which have contracts on the effective date of this act (see list in Appendix A). The amount of power to which such customers are entitlted under present industrial firm contracts includes contingent allowances, made available at the discretion of the Administrator, for technological improvement purposes other than plant expansion. The terms and conditions under which such allowances may be provided are intended to be specified in contracts, and the allowances are intend to be available throughout the term of the new contracts.

The power quality provided the direct-service industries is determined by the reserve obligations set forth in their contracts in order to protect service to firm loads of the Administrator. It is intended that these contracts at least provide peaking power reserves similar to those provided in the present contracts, and that the energy reserves shall include a reserve approximately equal to 25 percent of the direct service industrial load to protect firm loads for any reason, including low or critical streamflow conditions, and an additional energy reserve of approxiamtely the same amount to protect firm loads against the delayed completition or unexpectedly poor performance of reginal generating resources or conservation measures, and against the unanticipated growth of regional firm loads. One intended result of these procedures is that there will be no increase in firm power commitments to the direct service industrial customs, except for technological improvements purposes.

Section 5(c) (2).—Self-explanatory.

Section 5(d).—Self-explanatory.

Section 6(a).—This section requires the Administrator to implement conservation measures, including but not limited to financial assistance for insulation and weatherization, increased system efficiency, and waste energy recovery by direct application. Financial assistance also includes technical assistance to consumers.

Waste energy recovery by direct application includes measures such as the recovery of heat produced in lighting or industrial processes and use of the recovered heat to reduce space heating requirements; Waste energy recovery does not include measures such as solar water heating systems which by direct application convert energy for use by consumers, however, such systems could be acquired as a renewable resource under subsection 6(b).

It is expected that in noting proposed conservation measures in his budget submitted to the Congress pursuant to Public Law 93–454, the Arministrator shall describe proposals for demonstration projects in sufficient detail to inform Congress as to the type, geographic application and scope of the proposed demonstration projects, in addition to its cost. It is not necessary that every element or customer expected to participate in a proposal be identified.

Section 6(b).—The authorities in this section are in addition to the Administrator's authorities under other acts. The Admnistrator's authority to acquire electric power on a short term basis pursuant to sec-

tion 11(b)(6)(i) of Public Law 93-454, and the Administrator's authority to acquire electric power in exchange for transmission or other services are not in any manner intended to be affected by this section. Similarly the replacement of Federal base system resources is also intended to be consistent with the plan, and to satisfy the requirements of section 6, excepting resources acquired from projects authorized by Congress.

Section 6(c).—The Committee intends that the Administrator's decision in part (1) to acquire a major resource will be based upon substantial matter in the rulemaking record.

The Committee adopted alternative procedures in part (3) for the Administrator to follow in certain cases when he determines that he must act in the absence of a plan or when it is determined that a proposed action is inconsistent with the plan. In both cases a specific act of Congress is required before such actions can go forward. To develop a record to assist the Congress in its consideration of such requests, the Committee provided that hearings on the proposed action should be held in accordance with sections 556 and 557 of the Federal Administrative Procedures Act in cases where the proposed action is inconsistent with the plan. In the absence of a plan the Administrator would be required to develop a record by using a rulemaking type hearing format.

The purpose of part (5) is to provide an opportunity for customers, and particularly small utilities, to acquire appropriate shares of major resources in relation to their load requirements and not be frozen out of ownership, participation, or other sponsorship. The Committee intends that the offer be made in a timely manner and with reasonable terms and conditions, and acceptance or non-acceptance shall be made after a reasonable period for negotiation. This requirement should not be the basis for unreasonable delay in resource acquisition.

This section is referred to in section 9(h) dealing with the Public Utility Holding Company Act, Chapter 2C of Title 15, United States Code.

Section 6(d).—This section authorizes the Administrator to acquire from regional utilities the output of certain experimental, developmental, demonstration or pilot project resources (other than major resources). In the event no utility or political subdivision is willing to construct such a renewable resource at reasonable cost, the Administrator is authorized to construct such resource. The Committee expects that under most circumstances regional utilities or political subdivisions will offer to construct such facilities, and does not intend that this authority be used as the basis for a large construction program or commitment of financial resources by the Administrator. In addition, this research and development should conform to the plan, where areas of research and development are included in the plan.

Section 6(e).—This section requires the Administrator to make maximum practicable use of his customers and local entities in carrying out programs that require arrangements with consumers. The Committee does not anticipate that it will be necessary for the Administrator to deal directly with consumers in implementing conservation measures or acquiring resources. This provision does not give the Administrator any authority to implement mandatory conservation measures through his customers in the absence of the plan which includes

mandatory conservation measures and a recommendation by the Council under subsection 4(f).

Section 6(f).—This section provides that the Administrator may enter into agreements which enable him to reimburse the resource sponsor's investigation and preconstruction expenses if, among other circumstances, the resource is subsequently denied State siting approval or other necessary State or Federal permits. The intent of this section is to assure that, through the Administrator's agreement with a resource sponsor, an atmosphere is not created which would prejudice a State siting authority's ability to make an independent decision. Investigation and pre-construction expenses include site investigation and preparation, design and engineering work, and preparation and collection of information to comply with Federal or State laws or regulations. Reimbursable expenses shall not include costs of acquisition of capital equipment or construction materials or construction costs.

This section further provides that the Administrator must terminate his financial commitment, except for certain expenses, after a final denial of an application for State siting approval. It is intended that a final denial include judicial review, if sought, of the denial of State siting approval.

Section 6(g).—Self-explanatory

Section 6(h).—The legislation provides that the Administrator shall grant billing credits to encourage independent conservation measures and development of renewable resources or multipurpose projects by his customers or political subdivisions. The Committee intends that these credits are to provide an economic incentive for the development of such resources taking into account the risks and benefits accruing to the entity to be credited and the Administrator's other customers. The Committee is concerned that such resources would not otherwise be developed at an early date because it might be economically disadvantageous for a customer or political subdivision to undertake such measures or resources if the alternative is to rely on the Administrator to serve such loads at a melded rate.

The word independent as used in this section is intended to mean conservation activities or resource acquisitions of a customer or political subdivision outside of the region plan without assistance from the Administrator pursuant to this act.

The Committee has provided discretionary authority for the Administrator to grant billing credits to sponsors of any other resources in cases where the granting of such credits is not inconsistent with the plan, the resources for which the credit is granted reduce the obligation of the the Administrator to acquire resources under this Act, and only to the extent such credits are cost-effective. It is intended that such credits shall be available only to the extent that power is actually available from the resource for which credits are granted. It is further intended that neither this provision nor the authorities in section 6(a) and (b) should be interpreted to authorize the Administrator to construct transmission facilities except pursuant to the Administrator's authorities under Public Law 93–454 (as amended).

The use of the words "cost-effective" in this section is intended to assure that the impact of such credit upon rates charged by the Administrator under section 7 will not exceed the impact on such rates

which would have occurred if the Administrator had acquired an alternative resource in the absense of the customer's independent conservation or resource activity.

Section 6(i).—The Committee has required the Administrator to exercise oversight over the construction, scheduling, completion, and operation of new resources acquired by the Administrator. This authority is not intended to allow the Administrator to become involved in the activities of corporations or constructing entities except as would be the normal practice under the circumstances and as they relate to the construction and operation of the new resource.

Section 6(j).—This section acknowledges and describes the Administrator's existing practices regarding the purchase and sale of electric power for the account of his utility and direct service industrial customers, and the services the Administrator furnishes to such customers. However, a priority for these services is given for the power from projects under construction on the effective date of this Act if such power was offered for sale to the Administrator at cost plus a reasonable rate of return and such offer was not accepted.

Section 6(k).—Self-explanatory.

Section 6(l).—This section requires that financial assistance, credits, and other benefits be equitably distributed throughout the region. The section is intended to assure that all customers in the region will be equitably treated through the consistent application of criteria of eligibility for such assistance throughout the region.

Section 7(a).—This section restates the Administrator's obligation periodically to establish and modify electric power and transmission rates. These rates shall continue to be established at levels to recover revenues sufficient to pay all of the Administrator's costs. The rates will be effective upon confirmation and approval by the Federal Energy Regulatory Commission. The Committee recognizes that prior to the Department of Energy Organization Act, the Federal Power Commission exercised interim rate approval authority with respect to the Administrator's rates, and that the Commission presently grants approval, if necessary, on an interim basis pending final approval. Revenues collected under such interim approvals are subject to refund if the rates finally confirmed and approved are lower than the interim rates. This act is not intended to affect the exercise of this authority by the Commission.

Section 7 (b) through (h).—The description and methodology for developing the revenues to be recovered through rates under this section 7 are covered in Appendix B except as noted below. The specific configuration or form of the rates shall be as adopted by the Administrator under subsection 7(a).

At the request of the Committee, the Administrator has prepared an analysis of the rate provisions of the introduced legislation with certain amendments proposed to the Committee, and it is included as Appendix B. This analysis was widely circulated in the region and has become an important part of the common understanding about how the costs of resources would be distributed as a result of this legislation. The Committee takes notice of these understandings and the importance they played in the development of regional expectations for all classes of customers. In full recognition that as a matter of law under this act rates shall be established pursuant to specific statutory pro-

visions in sections 7 and 9 and that the circumstances which were assumed in preparing this analysis will change over time, the Committee has included the computer analysis and accompanying narrative in the appendix.

Section 7(b).—This section establishes a rate or rates for electric power sold to meet the general requirements (defined in this section) of public body cooperative and Federal agency customers and utilities under section 5(b)(2); a rate test to limit the charges that may be recovered by such rates applicable to public body, cooperative and Federal agency customers after July 1, 1985; and a supplemental rate charge to recover any costs not recovered as a result of the rate test, to be applied through rates to all other power sales of the Administrator which are not limited by the rate test. The supplemental charge in any year should be based on a prospective 5 year average of the amount which the rate without the limit would differ from that as limited by the test rate.

Section 7(c).—Self-explanatory.

Section 7(d)(1).—Self-explanatory.

Section 7(d)(2).—The Administrator is authorized to establish a special rate applicable to an existing direct service industrial customer whose continued operation would otherwise be threatened if: (1) it primarily uses raw materials which are indigenous to the region such as nickel ore, and (2) it accepts a contract similar to its existing modified firm power sales contract with the Administrator which provides that all the customer's power provides reserves to meet firm loads in the region. The Committee is aware of only one direct service customer, Hanna Nickel Mining and Smelting Co., Riddle, Oreg., which would fit the criteria of this section (d)(2). The Committee intends that this provision will apply only to that customer.

Section 7(e).—Self-explanatory.

Section 7(f).—This section specifies rates for firm power sales in the region not covered under subsections 7(b) through 7(d).

Section 7(g).—The costs or benefits under this section 7(g) are intended to be applied in an equitable manner and as appropriate to any or all of the rates for power sales of the Administrator in order to assure that he can meet the requirements of section 7(a) to collect sufficient revenues to recover all of his costs including repayment of the Federal investment in the Federal Columbia River Power System. The excess costs included in this section (g) for experimental resources under section 6 are those costs for electric power produced in excess of the costs for a matching amount of electric power from resources the Administrator determines that would otherwise have been acquired by the Administrator under section 6.

Section 7(h).—The intent is that rate adjustments for the purposes under section 4(f) shall be superimposed on the rates under section 7(b) through 7(g). The total revenues to be collected by the Administrator through rates, however, would remain the same in accordance with section 7(a), so that rates not subject to such adjustments would be reduced in the aggregate.

Section 8(a).—This section amends the Federal Columbia River Transmission System Act of 1974, Public Law 93–454 (as amended), to permit the Administrator to make payments from the existing Bonneville Power Administration Fund in order to carry out the purposes

of this Act. The section does not alter the other purposes for which the Administrator may make such payments under existing law.

Section 8(b).—This section amends Public Law 93–454 (as amended) in four respects. First, it permits the Administrator to use his bond proceeds to implement the authorities granted by this act, including the authority to provide financial assistance for conservation and renewable resources. Second, it specifies that the interest rate for Bonneville bonds shall not exceed the interest rate that would apply to such bonds if they were purchased by the Federal Financing Bank, as are the bonds of certain other federal power marketing or financing agencies. Third, it raises the limit on the amount of Bonneville bonds that may be outstanding at any one time to $1.75 billion from the level of $1.25 billion provided in current law. Finally, it adds the Administrator's payments under this act to his payments and expenses under Public Law 93–454 (as amended) in determining the amount to be deducted from the Administrator's gross receipts in the calculation of the Administrator's net proceeds under Public Law 93–454 (as amended); this means that such payments and expenses takes priority over the Administrator's obligation to pay the principal, premiums (if any) and interest on his bonds. The Administrator's ultimate obligation to repay all expenses, including borrowing costs, is not affected.

Section 8(c).—See analysis of section 3(k).

Section 9(a).—This subsection provides the Administrator the same general contracting authority for actions under the act as is provided under section 2(f) of the Bonneville Project Act, Public Law 75–329 (as amended).

Section 9(b).—This section reaffirms the Bonneville Power Administration as a "separate and distinct" organizational entity. The Administrator currently has the capability to carry out all of his personnel, budget and procurement functions and support activities for his major program functions. The Administrator has always exercised independent responsibility over such matters as the administration of his budget, local labor relations, the procurement of legal services, construction contracts, power marketing contracts, claim settlements, selection of technical experties and utilization of local administrative skills.

In order to meet the changing regional needs and to carry out the provisions of this act and the requirements of other statutes, it is necessary that the Administrator continue to be able to carry out his responsibilities in a businesslike and timely manner. The authority and duties of the Administrator under this act will continue to be subject to the supervision and direction of the Secretary. The Committee intends that the Secretary of Energy will, for all of the Administrator's program functions, act by and through the Administrator.

Section 9(c).—This section requires the Administrator to offer long-term (20 year) contracts as provided in this Act to all of his existing public body, cooperative, Federal agency and direct service industrial customers and regional investor-owned utilities within nine months after enactment of this act. The Committee intends that the Administrator promptly commence negotiating new contracts under this section with each of the authorized parties. It is intended that such contracts contain adequate assurance as to the future power to be supplied to each customer particularly in the event of a regional power plan-

ning deficiency. This will facilitate the exchange of existing contracts for new contracts which carry out the allocation of Federal power as provided in this act.

Section 9(d).—This section requires that all electric power sold by the Administrator. including resources acquired under the act. is sold subject to the requirements of Public Law 88–552 (as amended) regarding the priorities for disposition of power. In addition, the Administrator's obligations to meet a customer's firm load requirements will be limited if that customer disposes of a portion of its own resources outside the region and thereby increases its or another regional customer's firm power purchases from the Administrator.

Section 9(e).—This section is intended to identify specific actions of the Administrator under the act as "final actions" under the Administrative Procedures Act for judicial review purposes. Judicial review of a final action related to rates is intended to be based upon substantial evidence in the rulemaking record. Any suit brought to challenge a final action of the Administrator under the act must be brought within 90 days of the final action. Where notice of the final action is published in the Federal Register, the 90 days begins on the date of publication of the notice.

Section 9(f).—This section is intended to allow State and local governmental units (cities, utility districts, joint operating agencies and other governmental units) to continue to finance regional generating resources to meet the loads of such governmental units with the proceeds of "tax exempt" securities as long as the capability of such resources are primarily purchased by the Administrator to meet the loads of "exempt persons" as defined in section 103(b), title 26 of the United States Code.

Section 9(g).—The Committee expects the Federal Energy Regulatory Commission to make maximum use of the joint State board in reviewing the rates for power sold to the Administrator under sections 5(b)(2) and 6.

Section 9(h).—This section permits the formation and operation of generating subsidiaries by investor-owned utilities in the region primarily for the purpose of developing resources for the Administrator's acquisition and, under numerous safeguards and constraints, grants such subsidiaries a very limited exemption from the Public Utility Holding Company Act. If a revocation of the waiver should occur by either the Administrator or the Securities and Exchange Commission it is intended that the company receiving the revocation be able to reapply for a waiver under this section or under other applicable provisions of the Public Utility Holding Company Act.

The Committee has received an executive communication and an accompanying memorandum from the Securities and Exchange Commission concerning this provision. The materials provided by the Commission have been included in the appendix in an effort to clarify and delineate the policy issues and considerations which the Committee took into account in approving this provision.

Section 9(c) of S. 885 as introduced contained an antitrust immunity provision and an exemption from the Federal Advisory Committee Act. Those provisions were included for the advisory committees created by S. 885, as introduced, to participate in the planning process. As amended, this act does not establish the committees and, therefore, the provision was stricken.

Section 10(a).—This section preserves the right of the states and their political subdivisions to (1) regulate retail electric rates, except that the mandatory "flow through" provision of section 5(b)(2) must be observed, (2) develop and implement plans and programs for the conservation, development and use of electric energy resources and facilities, and (3) make energy facility siting decisions, specifically including determinations of need and evaluations of alternative sites or methods of meeting the determined need.

Section 10(b).—This section preserves the authorities and obligations of the Administrator under other applicable statutes, except to the extent this Act specifically modifies such authorities and obligations.

Section 10(c).—This section preserves the rights and obligations of the Administrator and other parties to contracts existing as of the effective date of this act. This is to ensure that no contract will be deemed to have been abrogated by this legislation, although it is contemplated that many contracts will be surrendered, and new contracts executed, as a result of this legislation.

Section 10(d).—This section preserves the provisions of other Federal power marketing statutes by which public bodies and cooperatives are accorded preference and priority in the sale of power generated at federally-owned projects.

Section 10(e).—This section preserves the Administrators ability to continue meeting with his customers or other groups or individuals in order to discuss regional power issues or other matters of interest or concern. In accordance with existing practice, such meetings may be regular or special, scheduled or unscheduled, in order to allow the Administrator and other individuals or groups appropriate flexibility.

Section 10(f).—This section preserves (1) the respective jurisdictions of the States and the Federal Government over waters of streams and over ground water resources, and (2) any interstate compacts. In addition, this section states that this act does not confer upon any non-Federal entity the ability (or authority) to exercise any Federal right to the waters of streams or to ground water resources. It is the intent of this section to insure that nothing in this Act can be construed to alter the respective rights of States, the Federal Government, and third parties regarding water rights.

Section 10(g).—This section is intended to insure that the operation of this measure will not impair the existing reservation of certain electric power from the Hungry Horse and Libby Dams and to provide that the reservation shall extend to Libby Reregulating Dam when it is completed.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of S. 885 has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 5 of Rule XXIX of the Standing Rules of the Senate, the Committee makes the following evaluation

of the regulatory impact which would be incurred in carrying out the provisions of S. 885.

The bill is not a regulatory measure in the sense of directly imposing Government-established standards or significant economic responsibilities on private individuals and businesses. However, the bill would facilitate the establishment of a regionwide planning process and to the extent that the resultant plan would require citizen or business participation in meeting the goal's established in the plan there could be related responsibilities. Inasmuch as the actual plan has not been formulated, it is impossible to estimate with any accuracy the extent of the regulatory burden imposed.

As for paperwork, this is an inherent requirement of the planning process and the extensive hearings, communications, and planning envisioned in S. 885 will add to the burden of the participants in the region.

Executive Communications

The pertinent legislative reports and communications received by the Committee from the Department of Energy, Department of Justice and the Securities and Exchange Commission setting forth Executive agency recommendations and views relating to S. 885 are set forth below:

Department of Energy,
Washington, D.C., July 15, 1979.

Hon. Henry M. Jackson,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: On May 23, 1979, I appeared before your Committee to present the Administration's views on S. 885. The Pacific Northwest Energy and Conservation and Planning Act. In any statement before the Committee, I expressed Administration support for S. 885, but also stated that the Administration may have more specific comments on several areas of the bill at a later date. The following proposed language changes deal with those areas of the bill.

Issue 1: The bill is not clear that the Bonneville Power Administration (BPA), Administrator will be acting under the direction of the Secretary of Energy.

Proposed Change: Add the following sentence to section 9(b). "The authority and duties of the Administrator referred to herein are subject to the supervision and direction of the Secretary of Energy."

Issue 2: BPA should not be able to construct and own major electrical generating facilities, except for small applications in unusual circumstances.

Proposed Change: Replace section 6(d) with the following: "The Bonneville Power Administration shall not construct or own major resources but is authorized to construct and own such facilities or resources with an average energy capability of less than 25 megawatts, if such facility provides a unique potential for regional development and there is no regional entity sponsor therefor."

Issue 3: As noted in my statement before your committee on May 23, 1979, the Administration is concerned with the Federal Government providing backup for the financing of generating facilities as authorized by S. 885. The Administration recognizes that Bonneville's sys-

tem ratepayers would provide the repayment guarantee for the new resource acquisitions authorized by the bill. The 1974 Federal Columbia River Transmission Act (Public Law 93–454) requires Bonneville system revenues to be sufficient to cover all system debts and other system obligations. That would continue to be the case under S. 885. However, the Administration also recognizes that in the event that Bonneville's system revenues were insufficient to cover all system obligations, Bonneville would be authorized to meet its operating obligations to "implement the Administrator's authority" pursuant to S. 885 by either:

(1) new borrowing from Treasury under S. 885; (such borrowing would be authorized only for investment in conservation and in resources other than major resources by our proposed change below)

(2) delayed repayment of new borrowing from Treasury under S. 885; or

(3) delayed repayment to the Treasury of reimbursable appropriations authorized by previous legislation (such Federal debt would be junior to the new obligations authorized by S. 885).

While the Administration feels that it is very unlikely that Bonneville's system revenues would fail to meet the requirements of Public Law 93–454 to cover all system debt and other obligations, S. 885 would provide an authority for an effective Federal backup under that circumstance. It should be noted that the Department of Energy has embarked on a power marketing repayment study and policy review requested by OMB and supported by the Treasury to improve the consistency of existing repayment policies and procedures with sound repayment of Federal debt (including reimbursable capital appropriations) by the five Federal Power Marketing Administrations.

While the Administration does not believe the backup of tax exempt obligations as called for in S. 885 (even with the proposed limitations on new borrowings from the Treasury), is the most efficient financing approach, we do recognize that Bonneville has, through both legislative and administrative action, been authorized to enter into contracts which result in this type of backup. Bonneville's relationship to the planning and financing of the regions electric power system is unique. S. 885, while it will enhance that role, will not create a new set of tax exempt borrowers. Nor will it allow Bonneville to construct major generating facilities. Therefore, enactment of S. 885 would not set a precedent for tax exempt financing in other Federal programs.

Because the language of Section 8(a) of S. 885 amending Section 13(a) of Public Law 93–454 is somewhat unclear regarding the Administrator's authority to borrow from the Treasury, the provision should be clarified to show that the Administrator is authorized only to borrow from the Treasury for (1) conservation and nonmajor resources (under 25 mw) investment and (2) assistance in financing the construction, acquisition and replacement of the BPA transmission system.

Proposed Change: In the proposed amendment to section 13 of Public Law 93–454 in Section 8(b) of the bill, (A) add the words "conservation" and "small resource acquisition", between the words "administrator's" and "authority" in line 24 on page 15, and (B) insert the words "for investment for conservation and resources constructed

by BPA of 25 MW or less" after "Planning and Conservation Act" on line 1, page 16.

Issue 4: Any direct loans or loan guarantees under sections 6(e) and 6(f) by the BPA fund should be authorized for each fiscal year as provided separately in appropriations acts as required by Administration policy.

Proposed Change: Add the following subsection to section 6:

> "(i) Direct loans or commitments to guarantee loans pursuant to paragraphs (a) or (f) of this section are authorized for any fiscal year only to such extent or in such amounts as are provided separately in appropriations acts."

Issue 5: The interest rate on all bonds, notes and other evidence of indebtedness, made available to assist in financing the construction, acquisition, and replacement of the transmission system and to implement the Administrator's other authority under the bill should be determined by the Secretary of the Treasury to be comparable to those prevailing in the open market for triple–A utility bonds. Also, a formula should be provided for an additional increment, if BPA revenues are not sufficient to meet repayment requirements. Finally, the above borrowing authority should be provided for in appropriations acts as the Congress has required in the Congressional Budget and Impoundment Control Act of 1974.

Proposed Change: In the proposed amendment to section 13(a) of Public Law 93–454 (The Federal Columbia River Transmission System Act) section 8(a): (A) insert on page 15, line 18, after the phrase "The Administrator is authorized", the words: "to such extent and in such amounts as are provided in appropriation acts". (B) on page 16, line 15, after the words "the rates prevailing in the market for" strike the remainder of the subsection through line 24 and insert: "triple–A rated nongovernment utility bonds. Based on information provided by the Administrator to the Secretary of the Treasury, the interest rate determined pursuant to the immediately preceding sentence will be increased by 2½ per centum thereof for each immediately preceding consecutive fiscal year, beginning with the fiscal year in which this Act becomes effective, that the applicable financial reports, including current repayment studies, of the Administrator show repayment criteria not being met. The aggregate principal amount of any such bonds shall not exceed $1,250,000,000.

(Note: The Administration will at a later date consider what additional sums of borrowing authority may be required under this new authority.)

Issue 6: The definition of the term "cost effective" as applied particularly to conservation measures needs to be clarified.

We believe cost-effectiveness should be determined by comparing, on a life-cycle basis, the unmelded cost of generating, transmitting, and distributing electricity from new thermal supply sources with the cost of energy conservation and/or renewable resource alternatives.

Proposed Change: Replace section 3(c) as follows: "A conservation measure or a renewable waste heat or cogeneration resource application is 'cost effective' if it results in costs to the ultimate consumer no greater than the cost on a life cycle basis, of the unmelded cost of generating new thermal supply sources. The cost calculations shall include where possible all direct costs of each type of resource of each

project or program over its effective life, including delivery to the ultimate consumer, end of cycle costs and to the extent practical other quantifiable overhead, environmental and social costs directly attributable to the project or program."

Issue 7: Section 9(c) would needlessly grant immunity from the anti-trust laws to any member of the Bonneville Consumers' Council or Bonneville Utilities' Council for any conduct related to action of either Council.

Proposed Change: Delete section 9(c) from the bill and redesignate the following subsections in section 9 accordingly.

Issued 8: The amendments to S. 885 that have been introduced by Senate Amendment No. 134 would, among other things, provide a rate test "to insure that the present and future preference customers of BPA shall not pay rates for their general requirements greater than they would have paid over any five year period in the absence of the legislation."

BPA analysis indicates that under current estimates of regional load growth, proposed BPA rate increases, and resource costs, the rate test would not be breached.

The Administration would prefer to delete the rate test provision of Amendment No. 134 because it believes this amendment is unnecessary to achieve the purposes of the bill.

The above recommendations reflect the Administration's comments on S. 885 through this time. The Administration is continuing its review of S. 885 and may have additional comments at a later date.

The OMB has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE S. MCISAAC,
Assistant Secretary Resource Applications.

DEPARTMENT OF JUSTICE,
Washington, D.C., July 16, 1979.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter offers the views of the Department of Justice on S. 885, "the Pacific Northwest Electric Power Planning and Conservation Act," and on Amendment No. 134 to S. 885.

This bill, which is virtually identical to H.R. 3508, would establish the Bonneville Power Administration (BPA) as the regional entity within the Pacific Northwest charged with the authority and the responsibility to provide an adequate power supply and to develop and implement energy conservation measures for the region. The bill would also establish two councils, the Bonneville Consumers' Council and the Bonneville Utilities' Council, with which the Administrator of BPA is required to consult before implementing the programs encompassed by the bill. However, the bill recognizes that energy conservation alone may not prevent electric energy demands in the Pacific Northwest from exceeding presently available new sources of electric power as needed to meet customer demand, although BPA is required

to give priority consideration to assisting the development of renewable resources before it supports development of conventional electric power generating resources. In this way, it is intended that BPA will play a major role in assuring that the Pacific Northwest has adequate electric power supplies for all consumers of electricity.

We defer to the other Departments for Administration views on the bill in general, and on certain financing provisions in particular. However, Section 9(c) of the bill, which would exempt the Bonneville Consumers' Council and the Bonneville Utilities Council from the provisions of the Federal Advisory Committee Act and would also exempt from the antitrust laws any conduct by a member of either Council which relates to any action by either Council, is of special concern to the Department of Justice.

The Federal Advisory Committee Act, 5 U.S.C. App. I, contains certain requirements for the establishment and operation of Federal Advisory Committees. For example, advance notice of all committee meetings must be given; subject to certain exemptions, the meetings must be open to the public; interested parties must be given an opportunity to be heard; records of the meetings must be maintained; and subject to the exemptions contained in the Freedom of Information Act, records must be made available to the public. Exempting the two councils established by this bill from the Federal Advisory Committee Act would eliminate the need for these committees to operate according to the requirements contained in that Act.

If the councils are exempted from the requirements of the Federal Advisory Committee Act, we are unaware of any provision of law which would require them to hold their meetings in open session. Although the "Government in the Sunshine Act" requires that meetings of federal agencies be open to the public except in certain prescribed situations, 5 U.S.C. sec. 552b(c), the councils established by S. 885 would not be deemed federal agencies for purposes of that Act. 5 U.S.C. sec 552b(a)(1)

The Department does not believe that the councils should be entirely exempt from the Federal Advisory Committee Act. As stated above, total exemption from the Act would exempt the councils from the requirement of holding open meetings. This situation would make it potentially easier for members of either body to use the council as a forum for discussing or implementing anticompetitive proposals. Open meetings would tend to discourage such behavior. Furthermore, open meetings would result in wider circulation of information regarding conservation and/or resource development projects that the councils may be considering. In addition, open meetings would assist in promoting competition among actual or potential suppliers wishing to supply BPA with goods and services needed to carry out the programs authorized by this bill. Such increased competition may well assist BPA in obtaining the objectives of this bill and should ultimately be reflected in lower energy costs to consumers.

We would, however, have no objection to exempting the councils only from the provisions of sections 10(e) and 10(f) of the Federal Advisory Committee Act, which require that a designated federal official or employee chair or attend each meeting of each advisory committee, which grant him or her authority to adjourn any such meeting, and which prohibit an advisory committee from conducting

a meeting in the absence of such person. If the requirements that such meetings be open to the public, that timely notice of such meetings be published in the Federal Register, and that minutes of such meetings and other relevant documents be maintained and made available to the public remain, the additional necessity of requiring attendance by a federal official contained in sections 10(e) and 10(f) would not appear necessary under the circumstances.

Section 9(c) of this bill also purports to immunize any action of a member of either council from the federal antitrust laws if that action is related to an action taken by the council of which such person is a member. Thus, an anticompetitive agreement and/or act by a council member could be immunized from the antitrust laws if the council member could establish that such agreement and/or act was related to an action taken by the council. The bill does not limit the grant of antitrust immunity to actions taken during meetings if such action is related to council action.

Although this bill does not enumerate the federal antitrust laws which are intended to be encompassed by Section 9(c), the federal antitrust laws are defined in Section 1 of the Clayton Act, 15 U.S.C. sec. 12, to include the Sherman Act (15 U.S.C. secs. 1–7), the Wilson Tariff Act (15 U.S.C. secs. 8–11), and the Clayton Act (15 U.S.C. secs. 12–27), as amended.

The Department is not aware of any reason which would justify granting antitrust immunity to any member of either the proposed Bonneville Utilities Council or Bonneville Consumers' Council. The sole function of both councils is to be available for consultation with the Administrator of BPA. Although the Administrator of BPA is required to consult with each of these councils prior to making decisions to implement the programs encompassed by this bill, the advice of the councils is not binding and may, in appropriate circumstances, be ignored. Moreover, the representatives of the eighteen Pacific Northwest electric utilities who would serve on the Bonneville Utilities' Council are actual or potential competitors of each other and of BPA, and are presently subject to the antitrust laws. *Otter Tail Power Company* v. *United States*, 410 U.S. 366 (1973). In view of the non-binding nature of the advice and recommendations given by the councils, the granting of an antitrust immunity to members of these bodies is entirely unwarranted, and is unnecessary to the achievement of any of the objectives contained in this bill. Consequently, the Department is strongly opposed to such an exemption.

We also note that Section 9(f) of the bill would exempt from the Public Utility Holding Company Act ("PUHCA") utilities which are organized and operated primarily for the purpose of supplying and selling power to BPA. The PUHCA was adopted to address specific abuses in the ownership of private electric utilities. We are continuing to review the implications of this provision and will inform you of any specific views that we might develop on this provision.

The Department of Justice would have no objection to the enactment of S. 885 if the proposed antitrust exemption in Section 9(c) is deleted, and if the proposed exemption from the Federal Advisory Committee Act in Section 9(c) were limited to Sections 10(a)–10(d) of that Act.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ALAN A. PARKER,
Acting Assistant Attorney General.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., May 15, 1979.

Re: "Pacific Northwest Electric Supply And Conservation Act" (S. 885).

Mr. RUSSELL BROWN,
Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. BROWN: This will confirm our telephone conversation of May 14, 1979, regarding S. 885 (the "Bill"). The Bill is identical to H.R. 13931 and S. 3418, which were introduced in the 95th Congress.

As I mentioned to you, the Commission commented on H.R. 13931 in letters dated September 25, 1978, and March 9, 1979, to Congressman John D. Dingell, Chairman of the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce. In those comments we expressed support for the legislative exemption contained in Section 9(f) of the Bill, which is discussed below. I am enclosing copies of those letters for your convenience. Except for Section 9(f), the Bill does not affect our jurisdiction, and, as noted in our letter dated March 9, 1979, the Commission takes no position on whether the creation of an electrical generation company under the conditions proposed in the bill would be in the public interest.

Section 9(f) would exempt from regulation under the Public Utility Holding Company Act of 1935 ("Holding Company Act") any entity organized to own, operate, lease, finance, construct, or manage generation facilities if 75% or more of the power is sold to the Bonneville Power Administration under Section 6 of the Bill. You will note that, while the Commission approves of Section 9(i) in principle, it has suggested that the section be revised to express the exemption in more characteristic Holding Company Act terms, to modify the standard for exemption, and to provide for certification by the Administrator of Bonneville Power Administration to this Commission of the status of any entity organized to carry out the purposes of the Bills.

Since the Commission last commented on Section 9(f) of H.R. 13931, we have discovered an ambiguity and an unintended limitation in the scope of our proposal to revise the Section. To correct these matters, our staff has drafted the following language, which should be substituted for the revision of Section 9(f) appearing on pages 4 and 5 of our letter to Chairman Dingell dated September 25, 1978:

(f) No "company" (as defined in 15 USC 79b(a)(2)) which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities), primarily for sale to the Administrator under Section 6, shall be deemed an "electric utility company" (as defined in 15 USC 79b(a)(3)) within the meaning of any provision or provisions of chapter 2C of title 15 of the United

States Code, provided that the Administrator shall have approved the organization of such company and all material contracts entered into by and between such company and any sponsor company. A company exempted pursuant to this Section shall remain exempt unless the Administrator determines that the company no longer operates in accordance with this Section and Section 6, and notifies the company in writing that such exemption shall terminate 30 days after receipt of such notification.

Please let me know if you need any further assistance in this matter.

Sincerely,

ALAN ROSENBLAT,
Assistant General Counsel.

Enclosures.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C.

Re: H.R. 13931 ("Pacific Northwest Electric Power Planning and Conservation Act").

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN DINGELL: This responds to your request of January 22, 1979, for additional comment on H.R. 13931 (the "Bill"), and for information on the Commission's administration of the Public Utility Holding Company Act of 1935 ("Holding Company Act" or "Act"). Section 9(f) of the Bill would exempt from regulation under the Act a proposed generation company to be organized and jointly owned by certain investor-owned utility systems in the Pacific Northwest and which would supply electric power to the Bonneville Power Administration ("BPA").

In my letter of September 25, 1978, I stated that the Commission had no objection, in principle, to the proposed exemption in Section 9(f) of the Bill, but suggested that it be materially revised. You have sent us a copy of the Justice Department's letter of September 20, 1978, in which the Department questions the appropriateness of the proposed statutory exemption. I appreciate the caution expressed by the Department, and your suggestion that it may not be appropriate to involve the Bonneville Power Administrator in the exemptive process under the Act. We are not strongly committed to Section 9(f) of the Bill, but, for reasons stated in my letter of September 25, 1978, and for the reasons which follow, we continue to support a legislative exemption in this case.

Our Division of Corporate Regulation ("Division") is primarily responsible for the Commission's functions under the Holding Company Act. The Division has prepared the enclosed memorandum responding to your questions on the exercise of our exemptive authority under the Act over the past ten years and addressing the concerns you expressed regarding our position in support of Section 9(f) of the Bill.

As the enclosed memorandum indicates, it does not appear that there is any substantial need to subject the sponsoring parent companies of the proposed generating company to regulation under the Act. All of these companies are fully regulated public utility companies, and the proposed generation company will qualify for exemption only as long

as it serves the purposes of the Bill. The impact of regulation under the Act would relate to matters having little to do with the purpose for which the generation company is to be organized.

We believe that the sponsoring parent companies, at least one of which could not meet all of the requirements for exemption under existing provisions of the Act, would, in the absence of Section 9(f) of the Bill, simply decline to become involved in a generation subsidiary venture. Therefore, this is not a case where registration under the Act is a serious likelihood. The participation of all of these companies is an important objective of the Bill. We express no view on whether the creation of a generation company in the Pacific Northwest is in the public interest, since that is for Congress to decide. Rather, our position is that the application of the Holding Company Act would impose inappropriate and unnecessary obstacles to that participation.

As discussed in more detail in Part 2 of the enclosed memorandum, the Bill deals comprehensively with regulation of a generation company organized to sell power to the BPA. The BPA Administrator will have, among other things, contracting authority and rate making powers. You have expressed concern that our proposal to amend Section 9(f) of the Bill might burden the Administrator with duties and obligations which are not a usual BPA function. We do not believe that the added duties would be unduly burdensome since, as the enclosed memorandum suggests, our proposed revision requires the Administrator only to certify matters with which he will almost certainly be familiar in exercising his other duties under the Bill. To resolve all doubt, however, I have asked Aaron Levy, Director of the Division, to contact the Administrator regarding this matter. If it appears that the revised Section 9(f) will create any significant burdens for the Administrator, we will inform you promptly and make further recommendations respecting Section 9(f).

Finally, in your January 22, 1979 letter you noted the Justice Department has recommended that Section 9(f) be deleted from the Bill, and you requested that we consult with the Department about our views on that Section. Our staff has done so and sent them copies of this correspondence. We understand that the Department will respond to you directly with their views on Section 9(f).

Please contact me if we can be of any further assistance.

Sincerely,

HAROLD M. WILLIAMS,
Chairman.

Enclosure.

MEMORANDUM OF THE DIVISION OF CORPORATE REGULATION OF THE SECURITIES AND EXCHANGE COMMISSION ON H.R. 13931 IN RESPONSE TO A LETTER DATED JANUARY 22, 1979, FROM THE HONORABLE JOHN D. DINGELL, CHAIRMAN OF THE SUBCOMMITTEE ON ENERGY AND POWER OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Part 1: Exemptions and Other Commission Activities under Public Utility Holding Company Act

(1) *Present procedures for exemption.* The 1935 Act contains a number of exemptive provisions which authorize the Commission to exempt, in most cases, by rule *or* order upon application, various

classes of companies or individuals in their capacity as "holding companies," "subsidiary companies" or "affiliates."

The "holding company"-"subsidiary" relationship is defined, in Section 2(a)(7)(A), in terms of the ownership of 10 percent or more of the voting securities of a gas or electric utility company by another company; the "affiliate" relationship requires only 5 percent ownership of voting securities. The definitions of "electric utility company," in Section 2(a)(3), and "gas utility company," in Section 2(a)(4), are exceptionally broad. Congress recognized that a number of entities which it did not intend to regulate as conventional utility companies could fall within the outer limits of these definitions. Accordingly, Congress purposely granted the Commission comprehensive exemptive authority to relieve companies of unintended regulation.

A company which has the requisite stock ownership in a utility may apply for an order declaring it not to be a "holding company" if it can demonstrate that it does not, in fact, exercise control, directly or indirectly, over a public utility company. Similarly, Section 2(a)(8), which defines the term "subsidiary company," authorizes the Commission to declare a company not to be a subsidiary of another company if actual control is absent. The end result is substantially the same.

Section 3(a) permits exemption of five classes of holding companies under the 1935 Act. They are: (1) "intrastate" holding companies; (2) holding companies which are "predominantly" operating utility companies; (3) companies which are only "incidentally" holding companies and are engaged "primarily" in nonutility businesses; (4) "temporary" holding companies; and (5) holding companies which do not derive any material part of their income from public utility subsidiaries in the United States.

Under Section 3(b), the Commission may also exempt a subsidiary from any provision or provisions of the 1935 Act which apply to it as a "subsidiary," if the subsidiary derives no material part of its income from U.S. sources. Broader still is the authority under Section 3(d) to exempt classes of persons as "subsidiary companies" or "affiliates" of other companies "if and to the extent that [the Commission] deems the exemption necessary or appropriate in the public interest or for the protection of investors or consumers and not contrary to the purposes of [the Act]." The Commission's suggested revision of Section 9(f) of H.R. 13931 was modeled on Section 3(d).

Finally, Sections 2(a)(3) and 2(a)(4) authorize the SEC to declare certain companies not to be gas or electric utility companies if they "primarily engaged" in nonutility businesses and sell only a small amount of electricity or gas, as the case may be. These exemptions, along with the exemption in Section 3(a)(3), *above*, were intended to deal with the situation in which a manufacturer or other nonutility enterprise owns, either itself or in a subsidiary, utility facilities to serve its own needs but sells a small amount of excess gas or power to others. Countless instances of this nature were brought to the attention of Congress in 1935. A majority of all applications for exemption processed since 1935 fall into this category.

Two substantive rules are especially important in exercising the Commission's exemptive authority. Rule 2 permits "holding companies" fitting the descriptions in Sections 3(a)(1), *i.e.*, "intrastate" holding companies, and 3(a)(2), *i.e.*, "predominantly" operating companies, mentioned above, to simply "claim" an exemption under either of those sections on an annual basis. No action is called for

on the part of the Commission if, after reviewing the exemptive statement, everything appears in order. Our preference is to encourage new holding companies to avail themselves of this procedure. It is administratively less costly than processing an application, and it provides us with a continuing source of information on the holding company we would otherwise not have. About 55 holding companies now file under Rule 2.

The other major substantive rule is Rule 7. Under Rule 7(a), the Commission has declared certain companies not to be gas or electric utility companies if they are primarily engaged in nonutility businesses and have less than $100,000 in utility revenues annually. No reports are filed by companies coming within the scope of this rule, and we have no accurate information on the number of such companies, but the amount of utility business involved is necessarily negligible. Rule 7(d), promulgated in 1973, deems certain owner-lessors (primarily special purpose lease financing entities) of utility facilities not to be utility companies if a number of conditions are met. These companies must file a statement to qualify under Rule 7(d). About 85 have done so since 1973.

There follows a table listing each of the exemptions enumerated above, the substantive rules which have been promulgated under each section, and an indication of whether the Commission may also grant exemptions by order on a case by case basis.

Section of 1935 Act:	Substantive Rule:	*Authority to issue orders*
2(a)(3)	Rules 7 and 10	Yes.
2(a)(4)	Rules 7 and 10	Yes.
2(a)(7)	No rule making authority	Yes.
2(a)(8)	No rule making authority	Yes.
3(a)(1)	Rule 2	Yes.
3(a)(2)	Rule 2	Yes.
3(a)(3)	Rules 3 and 10	Yes.
3(a)(4)	Rules 3, 4 and 10	Yes.
3(a)(5)	Rules 5 and 10	Yes.
3(b)	Rule 10	Yes.
3(d)	Rules 3, 4, 8, 10 and 12	No.

Exemptive orders are generally effective when issued. However, Section 3(c) provides that the filing of an application in good faith exempts the applicant until the Commission has acted. An exemption granted by order may only be revoked or rescinded under Sections 2(b) or 3(c) when the Commission finds, after opportunity for hearing, that the circumstances upon which the exemption was based have changed. Exemptions under Rules 2, 3, 4, 5 or 10 may be terminated by the Commission under Rule 6 simply by giving a 30-day written notice of such action. This gives the affected party an opportunity to file an application and contest the issue. Exemptions under Rule 7 and 12 are definitional, and are permanent as long as the entity continues to fit the particular definition.

(2) *Costs involved.* Applications for exemption require a $2000 filing fee. There is no additional fee for maintaining the exemption. Statements under Rules 2 and 3 claiming exemption under Sections 3(a)(1), 3(a)(2), (3), and 3(a)(4) require a $20.00 filing fee, in the case of the initial statement, and a $500 filing fee for each succeeding annual statement. A one-time fee of $250 is required by Rule (d).

No estimate can be given for the legal and other costs incurred by applicants for exemption. The Commission does not have jurisdiction over

fees and expenses in these cases, so they are not reported. Generally, however, an application for exemption is a short and simple document, and the only exhibits required are consolidated financial reports. Any additional cost is a function of the complexity of the facts and legal problems involved.

(3) *Delay involved.* The processing of an application for exemption in an uncontested case involving no unique, novel or significant issues usually takes no more than 40–60 days. No estimate can be given in contested cases or cases involving complex issues, but it would be significantly longer. The promulgation of an exemptive rule requires several months, at least, but, again, it depends on the complexity of issues involved and the amount of public interest generated by the proposal.

(4) (5) (6) (7) *Exemptions granted in past ten years.* The following table lists all applications for exemption granted under Sections 2 and 3 of the 1935 Act in the past ten years, the date each application was filed, the identity of the applicant and the basis for exemption. The table does not include applications filed but voluntarily withdrawn, or pending applications which were mooted and dismissed when Rule 7(d) was promulgated in 1973.

Date exemption granted	Date application filed	Applicant	Basis for exemption
Aug. 15, 1969	June 27, 1969	Continental Telephone Corp	Sec. 3(a)(5).
Mar. 23, 1970	June 16, 1966	Boise Cascade Corp	Sec. 3(a)(5).
May 1, 1970	Oct. 28, 1969	Washington Gas Light Co	Sec. 3(a)(2).
June 26, 1970	June 24, 1970	Morgan Gua anty Co	Sec. 2(a)(3).[1]
Jan. 21, 1971	Dec. 9, 1970	No th Carolina National Bank	Sec. 2(a)(3).[1]
Mar. 2, 1971	Feb. 4, 1971	Fi st Chicago Corp	Sec. 2(a)(3).[1]
Apr. 9, 1971	Feb. 26, 1971	Girard Trust Bank	Sec. 2(a)(3).[1]
Apr. 16, 1971	Mar. 17, 1971	First Pennsylvania Bank & Trust Co	Sec. 2(a)(3).[1]
May 4, 1971	Apr. 5, 1971	Chase Manhattan Service Corp	Sec. 2(a)(3).[1]
June 3, 1971	Apr. 1, 1971	Indust ial Leasing Corp	Sec. 2(a)(3).[1]
June 25, 1971	Apr. 27, 1971	Hilo Crest Processing Co	Sec. 2(a)(3).
Aug. 17, 1971	Apr. 8, 1971	Philadelphia National Bank	Sec. 2(a)(3).[1]
Sept. 8, 1971	July 9, 1971	United Virginia Bank/State Planters	Sec. 2(a)(3).[1]
Sept. 15, 1971	June 3, 1971	Walt Disney Productions	Sec. 3(a)(3).
Sept. 24, 1971	July 15, 1971	First Wisconsin Bank of Milwaukee	Sec. 2(a)(3).[1]
Nov. 10, 1971	June 5, 1970	Union Bank	Sec. 2(a)(3).[1]
Apr. 14, 1972	Mar. 9, 1972	Cleveland-Cliffs Iron Co	Sec. 3(a)(3).
Jan. 11, 1973	Jan. 27, 1971	National Utilities & Industries Corp	Sec. 3(a)(1).
Aug. 29, 1973	June 10, 1973	Kekaha Sugar Co	Sec. 2(a)(3).
Feb. 27, 1974	July 26, 1971	Cities Service Oil Co	Sec. 2(a)(4).
Apr. 10 1974	June 22, 1970	Union Elect ic Co	Sec. 3(a)(2).
Sept. 16, 1974	July 1, 1974	Fishers Utility Co	Sec. 3 a)(1).
Feb. 24, 1975	Jan. 17, 1975	TWP, Inc	Sec. 3(a)(1).
Apr. 16, 1975	Mar. 4, 1975	Providence Gas Co	Sec. 3 a)(2).
June 12, 1975	Jan. 10, 1975	American Natural Gas Co	Sec. 3(a)(1).
Nov. 20, 1975	Aug. 26, 1963	Penn Fuel System, Inc	Sec. 3(a)(1).
Nov. 20, 1975	Sept. 29, 1975	St. Regis Paper Co	Sec. 3(a)(3).
Apr. 9, 1976	Jan. 19, 1976	Hammermill Paper Co	Sec. 3(a)(3).
June 24, 1976	Apr. 16, 1976	Youghiogeny & Ohio Coal Co	Sec. 3(a)(3).
Oct. 19, 1976	Aug. 24, 1972	Delmarva Power & Light Co	Sec. 3(a)(2).
Oct. 22, 1976	Ma . 31, 1976	Pennsylvania Power & Light Co	Sec. 3(a)(2).
Dec. 8, 1977	May 24, 1977	Inter-City Gas, Ltd	Sec. 3(b).
Apr. 6, 1978	Jan. 12, 1977	Lykes Bros., Inc	Sec. 3 a)(1).
Aug. 24, 1978	Apr. 30, 1976	National Propane Corp	Sec. 3 a)(3).
Jan. 11, 1979	Dec. 14, 1978	Erie Mining Corp	Sec. 2(a)(3).
Pending	Mar. 11, 1974	McBryde Sugar Co., Ltd	Sec. 2 a)(3).
Pending	Apr. 30, 1975	Consolidated Edison Co. of New York	Sec. 3(a)(2).[2]
Pending	Apr. 30, 1975	Long Island Lighting Co	Sec. 3(a)(2).[2]
Pending	Apr. 30, 1975	New York State Electric & Gas	Sec. 3(a)(2).[2]
Pending	Apr. 30, 1975	Niagara Mohawk Power Corp	Sec. 3(a)(2).[2]
Pending	Apr. 30, 1975	Rochester Gas & Electric Corp	Sec. 3(a)(2).[2]
Pending	Aug. 3, 1977	Volunteer Natural Gas Co	Sec. 3(a)(2).
Pending	Oct. 7, 1977	Colonial Gas Energy System	Sec. 3(a)(1).[3]
Pending	Jan. 19, 1978	Northern States Power Co	Sec. 3(a)(2).
Pending	Jan. 26, 1978	Estacado, Inc	Sec. 3(a)(1).
Pending	Dec. 28, 1978	Ohio Edison Co	Sec. 3 a)(2).[3]
Pending	Jan. 17, 1979	Coastal States Settlement Trust	Sec. 3(a)(4).

[1] These exemptions were for sale and leaseback financing arrangements. Applications of this sort became unnecessary after 1973 when rule 7(d) was adopted.

[2] Pending applications with respect to the proposed co-owned generating company ("ESPRI") to serve New York State The New York Commission has not yet passed on the proposal, so the applications here are in suspense.

[3] Currently registered holding companies.

(8) *Staffing to administer Holding Company Act.* The Commission administers the Holding Company Act through its Division of Corporate Regulation (the "Division"). The Division is now staffed with 12 professional and 3 secretarial employees whose time is devoted exclusively to administering the 1935 Act, and an additional 4 professional and 5 secretarial employees whose time is divided about equally between 1935 Act activities and the Division's other principal function, participation in corporate reorganization proceedings under the Bankruptcy Act. The Division's professional employees include attorneys, financial analysts, accountants and engineers.

(9) *Commission activities during past two fiscal years.* The Division, like the Commission's other divisions and offices, exercises a great deal of delegated authority. Most applications by registered holding companies and their subsidiaries and by companies seeking exemption are processed at the Division level with no further involvement of the Commission.

There are fourteen active registered holding company systems; ten are electric systems and four are gas systems. These companies control a total of 69 public utility companies operating in 25 States. At December 31, 1977, the assets of these companies totalled $42.0 billion. This represents about 30 percent of the assets of the retail gas and 20 percent of the assets of the electric systems in this country.

The overwhelming majority of applications filed with the Commission relate to the financing of the registered systems. Registered systems must also file applications for approval of fuel acquisition programs, acquisitions of utility stocks or assets, service company authorizations, and Section 11 reorganization plans. For the past two fiscal years (ending September 30, 1977 and September 30, 1978, respectively), a total of 628 applications were filed by registered holding companies and their subsidiaries. In this period, the Commission approved applications for the sale of common stock, preferred stock, and bonds and for pollution control financing totaling about $7 billion. We also processed applications for short term borrowings, including commercial paper sales, for maximum borrowings of up to $7.7 billion in the aggregate.

The Division's staff also assists the Division of Corporation Finance in reviewing registration statements filed under the Securities Act of 1933 by all gas and electric utility issuers.

Part 2: The Pacific Northwest Proposal

Independent electric companies frequently find that the savings and economies associated with larger and more efficient electric generating units can only be realized by a pooling of their financial resources and engineering expertise. A new 2500 MW nuclear station can cost $2.5 to $3 billion dollars and require 10 to 12 years to build. Even the larger coal units often require greater financial resources than a single electric company can provide.

Neighboring utilities essentially have two options in planning ownership of new plants. They can build and operate the new facilities as co-tenants, or organize a separate subsidiary company to accomplish the same objective. In either case, the participation of the sponsoring utility companies is usually represented by a power contract and a capital funds agreement. The choice to organize a separate subsidiary

is almost entirely the product of external factors, such as conflicting state laws on ownership of electric facilities, and inconsistent or overly restrictive provisions in the respective mortgage bond indentures of the parent companies which make it difficult or impossible to finance new plant in cotenancy. For all other intents and purposes, including, in most cases, application of the antitrust laws or the effectiveness of local regulation of utilities, it will make no difference if new generating facilities are owned jointly in fee or by a special purpose joint subsidiary.

Of course, one regulatory hurdle to the jointly-owned subsidiary is the Holding Company Act, since any parent company owning 10 percent or more of the voting stock of the entity becomes a "holding company," as defined in Section 2(a)(7)(A). All holding companies must register under the Act, and be regulated as such for all purposes, unless an exemption under Section 3(a) is available. Section 3(a) exempts five classes of holding companies from regulation under the Act (see Part 1, *above*), but only the first two are pertinent to any discussion of generation subsidiaries of investor owned utility companies. They are Section 3(a)(1), which exempts a holding company if

> such holding company, and every subsidiary company thereof which is a public utility company from which such holding company derives, directly or indirectly, any material part of its income, are predominantly intrastate in character and carry on their business substantially in a single State in which such holding company and every such subsidiary company thereof are organized * * *

and Section 3(a)(2), which exempts a holding company if

> such holding company is predominantly a public utility holding company whose operations as such do not extend beyond the State in which it is organized and States contiguous thereto * * *

The Act was passed to eliminate or greatly restrict the operations of holding companies which control utility systems in more than one state. It was directed primarily at the "pure" holding company; that is, the holding company which conducts no utility business of its own but exists only to exercise voting control over its utility subsidiaries. Most of these companies were eliminated during the early days of the Act. All but two of the major remaining nonoperating electric holding companies are registered and regulated fully under the Act. All of the other remaining electric holding companies are themselves regulated electric utility companies. They generally rely for exemption on Section 3(a)(2).

The creation of a generating subsidiary by an operating electric company would ordinarily not be an occasion for subjecting the system to the Act, since it normally involves none of the abuses at which the Act was directed. We regard the generation subsidiary as simply a part of the parent company's construction program. Generation subsidiaries are subject, in most cases, to regulation by state public utility commissions and by the Federal Energy Regulatory Commission. The Holding Company Act leaves utility rate regulation to such rate commissions, even when it otherwise applies.

H.R. 13931 contemplates creation of a new generation subsidiary in the Pacific Northwest to be owned by electric utility companies in the area. It is conceptually similar to the Yankee companies in New England, Ohio Valley Electric Corporation in the Ohio Valley basin, and the proposed Empire State Power Resources, Inc. in New York. It is not a vehicle through which the parent companies will extend their electric operations (as would be the case if one existing electric company acquired another), but a means to plan and build new, larger and more efficient units to serve existing electric loads. Instead of the power generated by the new entity being sold directly to the parent companies, it is to be sold to the Bonneville Power Administration to become part of a pool for resale to all area electric systems, but this refinement is not significant. On the contrary, it eliminates questions of access to the power by neighboring utility systems which sometime arise.

Most of the sponsoring parent electric companies of the proposed Pacific Northwest generating company could claim an exemption under Section 3(a). We are advised, however, that in the course of drafting H.R. 13931, one or two of the electric companies in the area expressed doubt that they could satisfy all the requirements for exemption under Section 3(a), even though there is no apparent reason for distinguishing their status under the Act from the status of the other companies participating in the same venture on substantially the same terms.

The drafters of H.R. 13931 solved the problem by adding a special legislative exemption to deal with the status of the generation company and its parent companies. Ordinarily, we would not support legislative dispensations from the Holding Company Act to deal with special cases. However, the proposed generation company will form an integral part of the generating facilities administered by the United States through the Bonneville Power Administration. The bill establishes that the public interest will be served by this project, and contains adequate safeguards. Under these circumstances, an exception seems appropriate.

The revised Section 9(f) we proposed is conditioned on the Administrator's approval of the organization of such company and of all material contracts entered into by and between such company and any sponsor company. This does not require the Administrator to monitor compliance with the Holding Company Act. It is intended only to make specific the requirement of the original Section 9(f) that the exempt company be "organized and operated primarily for the purpose [of selling power to the Administrator]". This is a factual determination that the Administrator is uniquely qualified to make.

Similarly, the exemption would terminate on a determination by the Administrator that the company no longer serves the purpose of H.R. 13931. He will be the first person to know this. Such determination ends his responsibility. The consequences of the termination of the exemption would have to be dealt with by this Commission under the Holding Company Act.

We do not believe that these conditions on the exemption add to the responsibilities and burdens imposed on the Administrator by H.R. 13931. Section 5(b)(2) of the bill appears to be drawn to deal with the power expected to be supplied by the proposed generating com-

pany and the benefits to the sponsoring utility companies. It provides that

> * * * if the Administrator acquires electric power either from a Pacific Northwest utility at the average cost of resources then available to that utility, or from other resources *at a cost equal to or less than* the average cost of resources then available to that utility, then the Administrator shall offer to sell to such utility for resale to meet the load of its residential customers in the region an equivalent amount of electric power * * * Such electric power shall be sold at rates established pursuant to section 7. (Emphasis supplied.)

Section 6(c) authorizes the Administrator to acquire additional resources, but provides

> All said resources acquired by the Administrator * * * (2) shall be constructed and operated in a manner to provide efficient, economic, and reliable service.

Section 6(f) specifically authorizes the Administrator to contract with sponsors of potential resources as to investigation and initial development thereof in Section 6(g) provides a public review process for Section 6(c) contracts, including publication in the Federal Register and submission to the appropriate Congressional Committees.

Section 7 specifies the manner of fixing the rates to be charged by the Administrator. Although he is setting his own prices, rather than regulating rates proposed by another, the statutory standards parallel the traditional concerns of a rate commission. The rates are cost based, with some modifications. Express recognition is given in Section 7(a) and Section 7(e) to the costs of power from "additional resources."

It is in this context that we view the proposed requirement, in Section 9(f), that the Administrator approve the organization of the generating company and its material contracts with sponsors, as merely a certification of what he is already required to determine under H.R. 13931, rather than as an additional responsibility. Both Sections 5(b)(2) and 6(c)(2), quoted above, would require examination of the reasonableness of material cost creating contracts with sponsors, *i.e.*, affiliates, before the Administrator could agree on the price to be paid for the power. And the impact of such costs on the rate procedure under Section 7 would make this a continuing requirement.

The Holding Company Act does not deal directly with utility rates. H.R. 13931 confers upon the Administrator power and responsibilities equivalent to those of a rate commission in other contexts, so there is no lack of regulatory authority to cast a doubt on the propriety of a Holding Company Act exemption, as long as the generating company satisfies the requirements of H.R. 13931. The exempted company must satisfy the Administrator in order to secure the contract and satisfy the Administrator as to its performance in order to maintain its status. Its obligations appear in the rest of the bill, particularly Section 6(c)(2), and need not be repeated in Section 9(f). It would certainly be in appropriate for this Commission to attempt to review the Administrator's action under H.R. 13931, particularly since these responsibilities and the Administrator's judgments will be directed primarily to operating and rate questions not intended to be regulated by the Holding Company Act.

For reasons already stated, this is the kind of case in which the propriety of an exemption from the Act has been repeatedly recognized. However, at least one of the proposed sponsors, Pacific Power & Light Company, might not qualify for exemption under Section 3(a)(2). Although it is a large operating electric utility company, its service territory extends through six states, and it does not appear to meet the requirement in Section 3(a)(2) that its utility operations "do not extend beyond the State in which it is organized and States contiguous thereto." If unable to secure an exemption under Section 3(a)(2), the likelihood is that PP&L would simply decline to participate in ownership of the generation company.

The exclusion of this important sponsor from participation in the proposed enhancement of Bonneville's ability to supply electric energy in the Pacific Northwest would not, in any sense, serve the public interest. PP&L has, for many years, managed its affairs to avoid subjecting itself to the Holding Company Act and its interest in the proposed generating company would not in itself appear to involve the kind of problems to which the Act is directed. Accordingly, our recommendation was based on acceptance of the bill's premise that the public interest in this project justified a satisfactory exemption for the sponsoring companies.

As noted in Part 1, *above*, the Commission has authority under Section 3(d) of the Act, to exempt from regulation certain classes of entities as "subsidiaries" or "affiliates" (as those terms are defined in Sections 2(a)(8) and 2(a)(11), respectively) of other companies. Our suggested revision of Section 9(f) of H.R. 13931 was modeled on the exemption contemplated by Section 3(d). Unlike Section 3(a), however, Section 3(d) does not authorize the Commission to grant exemption on a case by case basis by order. It only permits us to promulgate rules of general applicability. The Commission has not adopted a rule under Section 3(d) to deal with the status of companies as "subsidiaries" in the circumstances presented by H.R. 13931, largely because a rule of this nature has never been needed. Generally, the Commission is reluctant to exercise rulemaking authority to deal with a special case. The legislative proposal in Section 9(f) of H.R. 13931 seems much more suitable.

Changes in Existing Law

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill S. 14, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 93–454

October 18, 1974

An Act to Enable the Secretary of the Interior to Provide for the Operation, Maintenance, and Continued Construction of the Federal Transmission System in the Pacific Northwest by Use of the Revenues of the Federal Columbia River Power System and the Proceeds of Revenue Bonds, and for Other Purposes.

* * * * * * *

SEC. 11 (b) * * *

(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; [and]

(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 Interior, as the Administrator determines to be necessary or appropriate in carrying out the purposes of this Act [.]*; and*

(12) making such payments, as shall be required to carry out the purposes of the Pacific Northwest Electric Power Planning and Conservation Act.

* * * * * * *

[SEC. 13. (a) 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 Act collectively referred to as "bonds") to assist in financing the construction, acquisition, and replacement of the transmission system, 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 Treasury 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. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1,250,000,000.

(b) 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 11(b)(2) through 11(b)(7) and 11(b)(11), and shall include reserve or other funds created from such receipts.]

SEC. 13. (a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of and on behalf of the Bonneville Power Administration bonds, notes, and other evidence of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the construction, acquisition, and replacement of the transmission system, to implement the Administrator's authority (including the provision of financial assistance for conservation measures and renewable resources) pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, 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 may be 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 Treasury taking into consideration the current acreage market yield on outstanding marketable obligations of the United States of America 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 but not to exceed the interest rate which would be applied to such bonds if they were purchased by the Federal Financing Bank. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1,250,000,000 prior to October 1, 1980, and $1,750,000,000 thereafter.

(b) 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 11(b)(2) through 11(b)(7), 11(b)(11) and 11(b)(12), and shall include reserve or other funds created from such receipts.

PUBLIC LAW 88–552

August 31, 1964

An Act to Guarantee Electric Consumers in the Pacific Northwest First Call on Electric Energy Generated at Federal Hydroelectric Plants in the Region and to Guarantee Electric Consumers in Other Regions Reciprocal Priority, and for Other Purposes.

* * * * * * *

SEC. 1 [(b) "Pacific Northwest" means (1) the region consisting of the States of Oregon and Washington, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming within the Columbia drainage basin and of the State of Idaho as the Secretary may determine to be within the marketing area of the Federal Columbia River power system, and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (i) no generating facilities, and (ii) a distribution system from which it serves both within and without said region.]

(b) "Pacific Northwest" means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.

APPENDIXES

Appendix A.—Direct Service Industrial Customers

1. Aluminum Company of America, Addy, Wenatchee and Vancouver, Washington.
2. The Anaconda Company, Aluminum Division, Colombia Falls, Montana.
3. Carborundum Company, Vancouver, Washington.
4. Crown Zellerbach Corporation, Port Angeles, Washington.
5. Georgia Pacific Corporation, Bellingham, Washington.
6. Hanna Nickel Smelting Company, Riddle, Oregon.
7. Mitalco Aluminum Company, Ferndale, Washington.
8. Martin Marietta Aluminum, Inc., Goldendale, Washington, and Trentwood, Washington.
9. Kaiser Aluminum and Chemical Corporation, Mead, Tacoma, and Trentwood, Washington.
10. Oregon Metalurgical corporation, Albany, Oregon.
11. Pacific Carbide and Alloys Company, Portland, Oregon.
12. Pennwalt Corporation, Portland, Oregon.
13. Stauffer Chemical Company, Silver Bow, Montana.
14. Union Carbide Corporation, Portland, Oregon.
15. Alumax, Inc., Umatilla, Oregon.

Appendix B.—Numerical Analysis of Rate Directives

Proposed Pacific Northwest Electric Power Planning and Conservation Act

Analysis of Rate Directives, Including Preference Customer Rate Limit

This analysis is intended to provide a comparison of wholesale power rates to the various regional customers of the Bonneville Power Administration under the proposed legislation. The base data used to complete the analysis reflects current estimates of costs and loads. The impact of these wholesale power costs upon the retail rates charged by BPA customers is not included in this analysis and will vary from customer to customer depending upon many other utility costs. Ultimate rates to the consumer are determined by Public Utility regulatory bodies, Boards, Commissions, or Councils that have jurisdiction over retail rates.

Under the proposed legislation there are three basic rates for power sold by BPA but no particular rate form has been assumed. One rate (Regional Rate) is calculated on the cost of Federal Base System resources and, as needed, IOU exchange power, and future resource additions and will apply to all preference customer and Federal agency loads, exclusive of new large industrial loads, and to investor owned utilities' (IOU's), residential and small irrigation loads up to the first 400 horsepower for any farm. A second rate (New Resource Rate) is applicable to all other utility sales and will be based on costs of resources acquired by BPA under the proposed legislation, and any FBS resources not required by Regional Rate Customers. Finally, after June 1985 the rate applicable to BPA direct service industrial customers (DSI's) will be based upon the retail rates applicable to industry served by BPA preference utility customers.

Particular attention has been given in this analysis to the "preference customer rate limit" which has been proposed as an amendment to section 7(b) of the proposed legislation. The Public Power Council (PPC) advocates this amendment to assure that BPA preference customers' ratepayers will not lose the financial benefits resulting from the preference clause in the Bonneville Act and tax exempt financing of publicly owned facilities if the legislation becomes law. The amendment would require BPA to test the estimated costs under proposed rates to preference customers under the Act against the costs which these customers would have encountered in the absence of legislation. If the estimated costs under BPA rates for any five year period exceed the estimated costs without legislation, the excess costs would be spread over all other rates of the Administrator. The potential effect of his section and its sensitivity to other factors is discussed in section B of this analysis.

Two sets of detailed tables are also included in this analysis. They analyze wholesale cost impacts of the proposed legislation under two current regional load forecasts, the Pacific Northwest Utilities Conference Committee's (PNUCC) regional load forecast and the Northwest Energy Policy Project (NEPP) forecast which could be termed a conservation load forecast. All load growth in the region is assumed to be met by the program. This reflects a maximum impact of sharing but doesn't preclude individual utility action. The tables cover six sample years in the period from 1980–81 to 1994–95. All were prepared by BPA using to the fullest extent practicable currently published data and estimates available from the regional entities with primary responsibility for such data.

Each of the rate directives contained in section 7 of the proposed legislation, including the rate elements of the proposed PPC amendments and the corollary DSI and IOU rate directives, and their application is discussed in section A. Section B discusses specifically the preference customer rate limit. Basic data used in the analysis listed with explanatory assumptions in section C. Section D provides the "base case" detailed numerical analysis of regional rates under the PNUCC and NEPP forecasts. Lastly, section E summarizes several cases of detailed numerical analyses under varying data assumptions to show the sensitivity of the rate directives to changing conditions.

A. *Basic Rate Directives*—The wholesale power rates to be developed in accordance with these directives will be reviewed and revised as to structure and costs as often as once every year and no less often than once every 5 years. The rate forms (energy, capacity, time differential, conservation, etc.) and levels for each of these rate forms will be determined by the Administrator as presently done through public participation programs in the region and then filed for confirmation and approval with the Federal Energy Regulatory Commission. The overall revenues expected to be collected in accordance with each of these basic sets of rates will correspond to the costs identified in the rate directives.

1. Regional Rate Exclusive of Preference Rate Limit Proviso (see subsection 7(b) of proposed legislation)

a. *Rate Availability*—This rate applies to (1) All public body, cooperative and Federal agency customer (including any new preference customer) loads exclusive of new large industrial loads (also excludes any large industrial loads of a new preference customer) and (2) Residential and small irrigation loads (up to the first 400 horsepower for any farm) of the IOU's to the extent the IOU's make exchange power available to BPA at their average system wholesale power costs. The benefits of this rate are required to be passed through to these customers.

b. *Cost Basis*—The rate levels will be set to recover the costs corresponding to the requirements in this rate group. To the extent power supply is needed the corresponding costs will be included in the following order: (1) Federal Base System resource costs reduced by revenues from the sale of nonfirm attributed to the Federal Base System resources; (2) IOU exchange power at their average system wholesale power costs including reserve costs but reduced by their revenues from sale of their power to entities other than their

own consumers including consumers under long term contracts which provide for resale, and excluding the costs related to serving new large industrial loads, new loads outside the region and costs of construction work in progress except to the extent allowed in their respective rates by the regulatory commissions for plants already licensed and sited but in no event any costs associated with a plant that has been terminated; (3) New resources at the New Resources Rate (see section A.3 below) exclusive of any rate adjustments to the new resources rate that would also apply to these rates; (4) Rate adjustments applied to this rate in accordance with section A5 below; (5) Rate adjustments to any particular utility for compliance or non-compliance with conservation standards; and (6) Rate adjustments to the IOU residential and small irrigation customers due to the preference customer rate limit.

c. *Low System Load Density Discounts and Billing Credits*—The general rates or charges to individual systems within this basic rate directive may be adjusted to accommodate discounts for low system density and credits for conservation in addition to the regional efforts or development of individual resources (both are proposed PPC amendments).

2. *Preference Customer Rate Limit Adjustment (PPC amendment)*

a. *Rate Application*—This special adjustment applies to all public body, cooperative, and Federal agency customers of the Administrator projected to receive power during the particular rate year. It is determined for each year under normal rate proceedings starting with the year 1985–86.

b. *Preference Customer Limit Cost Determination*

(1) The loads for establishing the resource requirements are (a) Public body, cooperative and Federal agency customer total requirements on the Administrator exclusive of new large industrial loads; and (b) DSI total loads within or adjacent to the service territory of the public bodies and cooperatives. (85 percent of existing DSI's as shown in the attached table)

(2) The cost of resources to meet these requirements are (a) the costs of available Federal Base System resources; (b) Costs of new resources, either actual or hypothetical, constructed or acquired by the public bodies and cooperatives as necessary to meet these preference customer load requirements using the financing costs of such agencies that would have resulted if actions of the Administrator under Section 6 of the Bill were not achieved; plus (c) Any other general system operating costs including reserves, related to service to such customers.

(3) The rate adjustment is established by determining the average difference for the specific rate year and each of the ensuing 4 years by subtracting these rate limit costs from the costs of the Regional Rate determined under secion A.1 above exclusive of the A.5.c, A.5.d, A.5.f, and A.1.b(5) adjustments. The preference customer rate limit adjustment is the average of the differences over the 5 years.

(4) If such average difference is positive, it will reduce the revenues to be recovered under the regional rate from the public body, cooper-

ative, and Federal agency customers in a given rate period. The adjustments that were previously applied under A.5.c, A.5.d, A.5.f, and A.1.b(5) are then applied back to the rates for the general requirements of these customers. The balance of the revenues not recovered due to the rate limit adjustment is then spread to rates for all other BPA power sold, including nonfirm.

3. Direct-Service Industry (see proposed amendment)

a. *Rate Availability.* This rate applies to all "Industrial Firm" sales to BPA's direct-service industries which provide planning and operating reserves. The quantity of power for rate purposes is based on the proportion of the total industrial requirement, on a long-term average (currently estimated to be between 85 percent and 96 percent of the total DSI load), that BPA projects it will be able to serve directly. This projected availability is predicated on the continued planning and development of "firm" resources under critical streamflow conditions to carry 75 percent of the total DSI requirements. The balance would be served with resources which are in excess of critical planning amounts but operated to meet the entire DSI load as if it were firm. The operation of the System to carry out this purpose results from treating as a firm load the maximum amount of the DSI load (not all of which can be covered under critical streamflow planning), to the extent that this maximum load can be met in the initial period of the PNW Coordination Agreement Critical Period while protecting firm loads against the worst historical streamflow and maintaining an ability to restrict an equivalent amount of the DSI Loads in the later periods (without provisional or advance energy being made available for this amount of the DSI load). Further, in actual operation DIS power withdrawn or curtailed in excess of interruptions for critical streamflows would be replaced by power purchased by BPA on a short-term basis, if available. The projected amounts estimated for the purposes of this analysis recognize the currently projected resource deficits. However, it assumes that by 1985 under the proposed legislation the System would be in load/resource balance.

b. *Cost Basis.* The rate levels are set under different criteria for two separate periods reflecting the time when significant amounts of power currently under contract to the DSI's would become available through expiration of those current contracts.

(1) *1980–81 through 1984–85.* The industrial rates will be set to the levels estimated to be necessary to offset the increased costs to BPA which result from the purchase of IOU exchange power to the extent those costs are not covered through rates applicable for the other classes of power sold by BPA. Generally the costs will be shared during this period with any sales of excess firm, IOU load growth, new large industrial loads of preference customers, and contract demand sales for other special purposes. The rates will be applied to the entire projected availability. This rate is adjusted for the reserve benefits the DSI contracts provide.

(2) *1985–86 and all future.* The rate will be set at a level no less than that set for the year 1984–85 and that is equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial customers. This level is determined by applying a typical margin of cost ("markup" between the preference customers' retail industrial rates and their respective wholesale power costs) to the BPA wholesale rates to the preference customers for all power used to serve their industries. The rate is then adjusted for reserves.

(3) The rates set under paragraphs (1) and (2) above are adjusted to reflect the credits for the value of power system reserves made available to the region's power system through the ability of BPA to interrupt service to the DSI loads. These credits to the DSI rate are then shared as a cost of reserves to all firm power sales, including that portion of the DSI load considered as not providing these reserves (currently 50 percent of the DSI load).

(4) Revenue adjustments will be made to all sales other than the DSI's to cover the difference after 1984–85 between revenues collected from the DSI rate and all other rates and the cost of power required to serve the regional loads.

(5) Rate adjustments applicable in accordance with section A.5 below are reflected directly in the DSI rate through 1984–85 but only indirectly beginning in 1985–86 to the extent they modify the rates from BPA to public bodies and cooperatives for power that serves retail industrial customers.

(6) Rate adjustments to recover revenues not recovered from the public body, cooperative, and Federal agency customers because of the preference customer rate limit and any adjustments for compliance or noncompliance with conservation standards are reflected directly in the DSI rate. At-site discounts apply for the duration of present contracts that contain them.

4. New Resources Rate (see subsection 7(f) of the proposed legislation)

a. *Rate Availability.* This rate applies to all other firm sales including but not limited to (1) Investor-owned utility *total* load growth (including residential and small irrigation prior to exchange under subsection 5(b)(2) of the bill) beyond that met with their own resources; (2) New Large Industrial loads served by preference customers; (3) Amounts of additional power needed by Regional Rate loads (section A.1.b(3)) once such loads exceed the capability of the Federal Base System resources and the IOU Exchange Power; and (4) Contract demand type supplies for replacement resources, sales of excess firm or special purpose sales.

b. *Cost Basis.* The rate levels are set to recover the costs of (1) Any balance of Federal Base System resources in excess of the loads served at the Regional Rate; (2) Any balance of IOU exchange power at average system wholesale power cost (section A.1.b(2)); (3) New resources acquired by the Administrator; (4) Rate adjustments applied to this rate in accordance with section A.5 below; (5) Rate adjustments to any particular utility for compliance or noncompliance with conservation standards; and (6) Rate adjustments to recover revenues not recovered from the public body, cooperative, and Federal agency customers because of the preference customer rate limit (A.2 above).

5. *General Costs* (see subsection 7(g) of the proposed legislation).

The following costs/benefits would also be included as an overall rate adjustment applied to all firm power sales under any rate.

a. Rate adjustment associated with the difference between the revenues from all sales and the cost of resources required for such sales.

b. The cost of reserves associated with firm sales. (Not charged to that portion of the DSI load providing such reserves.)

c. The cost of conservation commensurate with the benefits to those acquiring power under the respective rates.

d. The costs of research and development including pilot project costs to the extent these projects are not cost effective.

e. The revenue benefits from the sale of excess firm and nonfirm—generally allocated in accordance with the resources contributing to such revenues.

f. The costs of uncontrollable events.

g. Rate adjustments for general overhead and from all other costs and benefits as appropriate.

h. The costs of billing credits pursuant to subsection 6(h) of the proposed legislation.

B. Preference Customer Rate Limit—Application and Sensitivities

The preference customer rate limit is intended to assure that the financial benefits of the preference clause in the Bonneville Act will continue to accrue to BPA preference customers. It is based on the assumptions that: (1) ultimately all of BPA's base system resources would be sold to preference customers and Federal agencies, (2) BPA's total DSI load within and adjacent to preference customer service area (currently 85 percent per attached table) would be served by those preference customers, (3) preference customers would construct new generating resources to meet their loads in excess of the Federal Base System Resources using tax exempt bonds and REA/CFC loans to finance such construction, and (4) there would be some fixed and variable cost savings to such customers which would not be available without the regional purchase program envisaged under the proposed legislation.

Additionally the rate limit assures preference agencies their consumers' rates will not be affected if, in the future, IOU new resource costs are higher than anticipated, either through higher financing, construction, or operating costs. In turn, the resource costs of the IOU's will continue to be the concern of the state PUC's. If IOU costs are high compared to preference customers the IOU residential customers, as well as the IOU commercial and industrial rates will be directly affected.

The specific rate limit factors are objective in nature. The first, the size and cost of the Federal Base System Resources, will be determinable in much the same way that BPA applies in its current power marketing operations and ratemaking. The size and location of DSI loads with respect to preference customer service areas are also easily identified. The amount of new resources needed to meet preference customer load growth, including the applicable DSI load, and its cost may require some minor estimating. This is principally because preference customer resource construction probably will never exactly match preference customer load growth (high or low). The monetary benefits which would not be available to preference customers without the program will be the hardest to determine. This analysis limits its consideration to two specific areas; lower financing costs and lower system planning and operating reserve costs. Consideration of other savings may be appropriate if they can be stated and quantified in an objective manner and they are not recognized in A.5. All these items will be fully reviewed in the normal rate setting process.

BPA has run several sensitivity analyses of the proposed limit to determine how it may be a factor in the rates. Case studies were made to determine the general effect of variations in load growth, various increases in cost of resources, new preference customers, lower DSI loads, increased inflation costs, and varied cost of exchange power. As might be anticipated, if the IOU annual costs for new resource developments are substantially higher than those of preference customers

due to higher interest rates, lower than anticipated tax benefits and higher than expected capital costs, then the rate limit triggers in the later years of the analysis, after 1994–95. This impact seems reasonable since (1) Congress has granted tax exemption to public bodies and it makes sense if this financing benefit actually causes a substantial difference in program resource costs between public and IOU financed resources that the benefits should flow back to preference agencies, (2) the incentive to obtain tax benefits and apply them to annual resource costs will be clearly placed on IOU participants in the program, (3) the efficiency of the IOU's design and construction and the cost and feasibility of proposed resources becomes not only in the interest of the IOU's but the state regulatory bodies responsible for approving IOU rates. The rate limit would reinstate the yardstick principle which has traditionally been used to support the multiple kind of utility ownership which exists in the Pacific Northwest today. Other areas which appear to cause the rate limit to apply are slower preference customer load growth than IOU load growth, lower DSI loads, and increased IOU exchange power costs.

C. Assumptions Used in Development of the Base Data for Numerical Analysis

Resources

1. Federal Base System. These amounts are estimates of the total Federal hydro and net-billed thermal expected to be available for sale under the program. Associated costs of Fedeeral Base System power shown are derived by estimating the cost of transmitting Federal power on the BPA grid, the cost of generating Federal power from hydroelectric projects, and the cost of operating the net-billed thermal plants. The following schedule of future wholesale power rate increases was used to determine cost levels through 1986:

Rate adjustment date	1st year of study affected	Effective percentage increase over present level
December 1979	1980–81	90
July 1981	1981–82	99
July 1982	1982–83	122
July 1983	1983–84	132
July 1985	1985–86	134

The costs of these resources are spread over total estimated Federal energy resources including secondary resources in arriving at the expected sales rate.

2. IOU Base System. These amounts are the IOU system resources planned to be in service by 1983. Prior to 1983, the level of resource was set equal to the IOU total system load. The rates associated with these resources are estimates of the average delivered cost, in the year shown, of all private utility resources expected to be operating by 1983.

3. PA Base System. Estimates of public agencies' own system resource dedicated to their loads as of July 1, 1976.

4. Incremental New Resource Costs. The incremental cost of new resources for each sample year was established for effective interest costs on the capital portions at 7.0, 7.25, 7.50 and 9.0 percent all at 100 percent debt financing. The effective interest costs were derived from a Lehman Bros, Kuhn Loeb study dated November 1978. The public agency financing costs with the regional backup (not Federal guarantee) were estimated at 7.00 percent; without regional backup, but all public agency and cooperative backup, at 7.25 percent. The

IOU financing cost at 100 percent debt with regional backup was estimated at 9.00 percent.

The 7.50 percent effective interest rate for IOU new resources in the base case was determined by 100 percent debt at 9.0 percent interest less ⅛ of the possible investment tax credits and rapid depreciation allowances assuming a 46 percent tax rate. A similar result obtains from 90 percent debt at 9.0 percent interest (could include preferred stock) and 10 percent equity at 18.25 percent interest with ½ of the available tax benefits. No credit was given for lower capital costs resulting from possible IOU advantages in construction. The capital and O&M costs exclusive of financing is estimated here to be the same for both public and IOU plants.

The incremental costs of new resources were based on known, conventional thermal. These costs were also considered to be reasonably representative of renewable resource costs. Estimates of incremental costs for a typical nuclear plant, a typical mine-mouth coal plant, and a typical coal plant located at load center were made for each of the interest rate levels for each of the three years 1985, 1990 and 1995. The resulting incremental costs for each year were determined by weighting the costs of the three types of plant—50 percent nuclear, 33⅓ percent coal-fired (mine-mouth) and 16⅔ percent coal-fired (load center).

The average new resource costs which appear in the study cases are calculated by bringing on resources in the initial year they are needed at the incremental cost of new resources in that year. One-third of the incremental cost is assumed to be O&M including fuel expense. The O&M portion is escalated at 7 percent annually from the year the resource is brought on. Therefore the average cost of new resources in any year is a weighted average of already installed new resources with O&M escalated at 7 percent up to the given year and any additional new resources needed costed at the incremental cost of new resources for that year. The public costs were assumed for preference customer load growth and the IOU costs for IOU growth. The DSI growth was assumed to be met by public and IOU plants in proportion to their respective growth rates, and to include the full amount of all conditional allowances for technological improvement processes (not plant expansion).

5. Reserves.

a. The value of reserves provided by the right to interrupt the DSI load was calculated for each year in the following manner (no attempt was made to treat energy and capacity reserves separately):

1. The average megawatts of regional reserves being provided are normally considered to be one-half the DSI load. A more precise estimate is determined by taking one quartile of the DSI load plus whatever portion of the top quartile is assumed to be available in the given year.

2. The average cost of each megawatt of reserves is estimated by determining the capital costs (no O&M) associated with all of the 'new resources' that are in place in the given year and the total Federal Base System costs in that year.

3. Applying the resultant average cost to the amount of reserves provided yields the total number of dollars associated with these reserves. The method described here does not establish the only way to evaluate the value of the reserves, but instead is an attempt to arrive at a reasonable estimate for purposes of this numerical analysis.

b. The amount of reserves applied to the preference customer rate limit computation is determined by:

1. reducing the average cost of each megawatt of reserves by the ratio of the total rate limit load to the total program resources;

2. reducing the megawatts of reserves provided by the DSIs by the percent DSIs within or adjacent to preference customers (85 percent assumed);

3. applying the average cost to the number of reserve megawatts.

c. The amount of Reserve Adjustment credited to the DSIs under this study of the program is equal to one-half of the total value of the reserves. Thus approximately one-half of the savings to the region, in not building standby generation reserves, was credited to the DSIs for providing these reserves, and the remaining one-half was shared among the region's firm loads including 50 percent of the DSI load. The crediting of 50 percent of the value of the reserves to the DSIs does not set a precedent for future BPA rate cases. The form of availability credit or other reserve credit mechanism to be applied is not meant to be specified or prejudiced by the assumptions that are here.

Loads

PNUCC Loads

6. IOU. Forecasts for both the domestic and rural loads as well as the commercial and industrial loads were provided by representatives of the IOUs. Loads shown are for both east group and west group utilities. West group forecasts are consistent with loads appearing in the 1979 Bluebook.

7. PA. Total load forecasts are taken from the 1978 Bluebook. Net requirements on BPA are derived by netting the PA base system resources from their total load.

8. FA. Forecasts taken from 1978 Bluebook.

9. DSI. Forecasts taken from 1978 Bluebook, and based on DSI contract entitlement, assuming full qualification for technological improvement allowances. The load of the Alumax plant is not included here prior to 1983.

10. The Federal agency customer and DSI load forecasts under both the PNUCC and NEPP forecasts were considered to be the same since they are principally a contract load.

NEPP Loads

11. IOU. Forecasts for domestic and rural loads were made by applying a 3.90 percent growth rate per year to the PNUCC 1979–80 load of 3451 megawatts. For the loads of the commercial and industrial customers, a composite growth rate of 2.53 percent was applied to the PNUCC 1979–80 load of 4537 magawatts.

12. PA. By a cursory evaluation of some typical utility systems, the domestic and rural or residential component of load was found to approximate 40 percent of the utility class total load. Therefore, we assumed that 40 percent of the public agency PNUCC 1979–80 load was domestic and rural, and the remaining 60 percent was commercial and industrial. NEPP forecasts were derived by applying a 3.90 percent growth rate per year to the domestic and rural base load for 1979–80 of 2742 megawatts and a 2.53 percent growth rate per year to the commercial and industrial base load of 4112 megawatts.

BASE DATA

	1980–81		1982–83		1984–85		1985–86		1989–90		1994–95	
	MW	m/kWh	MW	m/kWh	MW	m/kWh	MW	m/kWh	MW	m/kWh	MW	m/kWh
RESOURCES												
Federal base system	8,199	6.5	8,740	7.6	9,750	7.9	9,870	8.0	9,520	8.7	9,470	10.0
Secondary	1,660		1,780		1,780		1,780		1,780		1,780	
IOU base system	8,404	16.2	9,176	18.0	9,176	20.3	9,176	20.9	9,176	23.1	9,176	26.3
PA base system	2,320		2,340		2,360		2,362		2,370		2,390	
Incremental new resource costs (100 percent debt):												
7 percent		21.5		25.1		28.7		30.5		37.7		48.3
7.25 percent		23.2		25.9		29.0		30.7		38.3		49.2
7.50 percent		23.9		26.6		29.7		31.3		38.8		49.7
9 percent		26.4		29.5		33.0		34.9		43.7		56.3
Value of regional reserves (millions)	$59.8		$85.0		$112.2		$157.8		$242.0		$360.0	
Reserves supplied by PA under rate ceiling (millions)							$124.8		$168.0		$222.0	
Reserve adjustment credit to DSI's under program (millions)	$29.9		$42.5		$56.1		$78.9		$121.0		$180.0	
LOADS												
PNUCC loads:												
IOU D+R	3,736		4,072		4,415		4,598		5,375		6,421	
IOU C+I	4,468		5,104		5,567		5,798		6,933		8,601	
IOU total	8,404		9,716		9,982		10,396		12,308		15,022	
PA total	7,171		7,659		7,172		8,624		10,145		12,319	
PA net requirements	4,851		5,319		5,912		6,262		7,775		9,929	
FA total	221		259		275		284		305		326	
DSI, 75 percent	2,618		3,049		3,108		3,137		3,256		3,405	
DSI, 25 percent	1,073		1,065		1,085		1,095		1,135		1,184	
DSI total	3,691		4,114		4,193		4,232		4,391		4,589	
NEPP loads:												
IOU D+R	3,700		3,996		4,316		4,485		5,130		6,339	
IOU D+R	4,538		4,765		5,004		5,128		5,755		6,388	
IOU total	8,238		8,761		9,320		9,613		10,885		12,727	
PA total	7,065		7,508		7,979		8,227		9,299		10,850	
PA net requirements	4,745		5,168		5,619		5,865		6,929		8,460	

DSI CUSTOMERS

	Megawatts[1]	Percent of BPA total DSI megawatts
I. Within BPA preference customers' service areas:		
Alcoa—Vancouver	238.5	7.2
Alcoa—Wenatchee	213.1	6.4
Kaiser—Tacoma	152.0	4.6
Martin-Marietta—The Dalles	168.0	5.1
Martin-Marietta—Goldendale	210.9	6.4
Reynolds—Longview	414.0	12.5
Carborundum—Vancouver	28.1	.9
Subtotal	1,424.6	43.1
II. Adjacent to BPA preference customers' service areas:		
Anaconda—Columbia Falls	337.8	10.2
Kaiser—Spokane	449.6	13.6
Kaiser—Trentwood	62.1	1.9
Stauffer—Silver Bow	61.3	1.8
Georgia Pacific—Bellingham	20.3	.6
Oremet—Albany	3.4	.1
Intalco—Ferndale	422.4	12.8
Subtotal	1,356.9	41.0
III. Could not readily be served by BPA preference customers:		
Crown Zellerbach—Port Townsend	13.2	.4
Hanna Nickel—Riddle	114.0	3.4
Pacific Carbide	9.0	.3
Pennwalt	45.7	1.4
Reynolds—Troutdale	271.6	8.2
Union Carbide	20.3	.6
Alcoa—Addy	53.2	1.6
Subtotal	527.0	15.9
Total	3,308.5	100.2

[1] Industrial firm contract demand as of Mar. 29, 1978.

D. Regional Program Study Cases

Footnotes to Regional Program Study Case

Line No.	
2, 5, 6	"PNUCC Base Case" from 1978 PNUCC West Group Forecast. "NEPP Base Case from Northwest Energy Policy Project 1978 median load estimate.
3	Own Resources dedicated to preference customer loads as of July 1, 1976.
6, 9	"PNUCC Base Case" from 1979 PNUCC West Group Forecast and the East Group Forecast. "NEPP Base Case" from Northwest Energy Policy Project 1978 median loan estimate.
7	Own resources from PNUCC West Group and the East Group Forecast limited to July 1, 1983, resource amounts.
10–12	From 1978 PNUCC West Group Forecast.
14	The sum of lines 4, 5, 8, and 12.
15	The sum of lines 4, 5, 8, and 10.
16–26	Preference customer rate limit calculation. For purposes of this analysis this is only a single year calculation. The averages of the cost differences over a five year period are not reflected here.
18	Rate estimated on average kilowatt hour cost based upon sale of all Federal hydro and net-billed resource energy including median year nonfirm energy.

19	Assumes PA 100 percent debt financed 7.25 percent interest cost. O&M costs for generating resources estimated to escalate at 7 percent annum. Capital Costs Assumption No. 4 in Base Data.
20	See Base Data Assumption No. 5.
25	85 percent of DSI Industrial Firm power contract demand.
27–40	Breakdown of Regional Rate directive components.
31, 45	Blended PA and IOU resource cost. See Base Data Assumption No. 4.
32, 52	Adjustment for difference between anticipated revenues from all rates and the net cost of resources.
33, 49, 51	Adjustment for cost of reserves furnished by DSI loads. Spread among all utility firm loads and 50 percent of DSI load.
36	Preference customer rate limit credit (if any) is applied here.
39, 53, 65	Increase of other rates for preference customer rate limit (if any) is applied here.
41–56	Breakdown of New Resource Rate components.
57–60	Breakdown of IOU Exchange Rate components. See Base Data Assumption No. 4.
61–68	Breakdown of DSI Rate components.
62	Prior to July 1, 1985, the DSI rate is set to recover the net costs of the IOU exchange not covered by other rates. For the purpose of this study the costs allocated to supplying the DSI load are an average rate which, if broken down, would be equivalent to 75 percent of DSI load served at the New Resource Rate and 55 percent of the top quartile served from Federal Base System secondary power. All costs are then spread over the total power projected to be made available to the DSI's.

After July 1, 1985, the DSI rate for this case is assumed to be 133 percent of the applicable wholesale power costs from BPA to preference customers. No attempt is made here to carry out the cost of service adjustments of proposed section 7(c)i. This cost was estimated by assuming industrial sales will represent 25 percent of preference customer loads in 1983. Thereafter 10 percent of preference customer load growth is assumed to be large new industrial load served at the New Resources Rate. The remaining 15 percent of industrial load growth and the pre-1983 industrial load was served at the regional rate. No specific size for large new industrial loads was assumed. An attempt is made to reflect projected total industrial load growth, and not the precise split between large and new industrial loads and the remaining industrial load growth. For statistical purposes under this study, the DSI rate is then constructed on a weighted average of the Regional Rate and the New Resources Rate using the above assumptions.

63	Rate credit to DSI rate for value of reserves furnished by DSI loads. (See Base Data Assumption No. 5).
67	Estimated at 125 percent of new resources cost.
72	Until July 1, 1985, the costs shown represent a blend of BPA Regional Rate costs and IOU average resource costs. (50/50 in 1980–81 to 100 percent BPA Regional Rate beginning July 1, 1985, and thereafter).

E. Sensitivity Analysis Cases

A sensitivity analysis of the rates under varying load and resource cost conditions is necessary to evaluate the stability of the rate directives in relation to each other. It is also important to avoid a reliance

on the absolute amounts of the rate computations. The sensitivity variations hopefully provide a reasonable range of values and risks within which to evaluate the rate directive consequences.

Each of the variations listed below keep all assumptions the same except for the one identified. Each variation is then evaluated under both the PNUCC and the NEPP (conservation) load forecasts. Only the summaries of each analysis is listed.

Case No.	*Variation*
1, 2	Base case.
3, 4	The IOU incremental new resource costs are set equal to the preference customer new resource costs.
5, 6	Incremental new resource costs for both preference customer and IOU new resources are increased by 5 percent in 1984–85, by 6 percent in 1985–86, by 10 percent in 1989–90, and by 15 percent in 1994–95.
7, 8	A new preference customer is formed beginning in 1984–85 out of the IOU loads equal to 5 percent of the preference customer load.
9, 10	The Federal Base System rates are set assuming WPPSS financing of IDC for the Net Billed projects (39 percent rate increase in 1980–81).
11, 12	Beginning in 1984 the IOU exchange rate increases, reaching a level of 5 percent higher than in the base case in the year 1989–90. A 5 percent increase is used for 1994–95 as well.
13, 14	The DSI load is reduced by 10 percent beginning in 1982–83. This could approximate the DSI load without Alumax.
15, 16	The IOU new resource costs are assumed without the tax benefits (accelerated depreciation and investment tax credits).
17, 18	The markup applied to the typcial public agency industrial customer average cost to determine the DSI rate is assumed to be 25 percent rather than 33 percent.

REGIONAL PROGRAM STUDY CASE

Line		1980–81		1982–83		1984–85		1985–86		1989–90		1994–95	
		MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh
	PNUCC BASE CASE—90 PERCENT RATE INCREASE, PNUCC LOADS, CASE 1												
1	Regional loads:												
2	Preference customers total	7,171		7,659		8,272		8,624		10,145		12,319	
3	Own resources	2,320		2,340		2,360		2,362		2,370		2,390	
4	Net requirements	4,851		5,319		5,912		6,262		7,775		9,929	
5	Federal agencies	221		259		275		284		305		326	
6	IOU total	8,404		9,176		9,982		10,396		12,308		15,022	
7	Own resources	8,404		9,176		9,176		9,176		9,176		9,176	
8	Net requirements	0		0		806		1,220		3,132		5,846	
9	IOU resources and family farm irrigation	3,736		4,072		4,415		4,593		5,375		6,421	
10	DSI:												
11	75 percent	2,618		3,049		3,108		3,137		3,256		3,405	
	25 percent	1,073		1,065		1,085		1,095		1,135		1,184	
12	Total	3,691		4,114		4,193		4,232		4,391		4,589	
13	Net requirements on BPA:												
14	Total	7,763		9,692		11,186		11,998		15,603		20,690	
15	Without DSI 25 percent	7,690		8,627		10,001		10,903		14,468		19,506	
16	Preference customer rate limit												
17	resources:												
18	Federal base system	8,190		8,740		9,750		9,476	8.0	9,436	8.7	9,470	12.2
19	Additional resources	19		335		1		667	29.8	2,376	35.6	4,686	43.9
20	Reserve costs								1.4		1.6		1.8
21	Total	8,209		9,075		9,751		10,143	10.8	11,812	15.7	14,156	23.0
22	Loads:												
23	Preference customer net requirements	4,851		5,319		5,912		6,262		7,775		9,929	
24	Federal agencies	221		259		275		284		305		326	
25	35 percent DSI	3,137		3,497		3,564		3,597		3,732		3,901	
26	Total	8,209		9,075		9,751		10,143		11,812		14,156	

REGIONAL PROGRAM STUDY CASE—Continued

Line		1980–81		1982–83		1984–85		1985–86		1989–90		1994–95	
		MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh
27	Regional rate resources:												
28	Federal base system	6,940	6.5	8,428	7.6	9,750	7.9	9,870	8.0	9,520	8.7	9,470	10.0
30	IOU exchange	0		0		411	20.4	1,274	21.3	3,935	26.3	6,421	33.7
31	New resources	0		0		0		0		0		785	44.2
32	Revenue adjustment								.4		1.1		.4
33	Reserve adjustment		.4		.5		.5		.6		.7		.8
34	Total	6,940	6.9	8,428	8.1	10,161	8.9	11,144	10.5	13,455	15.7	16,676	22.0
35	Loads:												
36	Preference rate credits												
37	Preference customers	4,851	6.9	5,319	8.1	5,912	8.9	6,262	10.5	7,775	15.7	9,929	22.0
38	Federal agencies	221	6.9	259	8.1	275	8.9	284	10.5	305	15.7	326	22.0
39	Preference rate adjustment												
40	IOU (residential and irrigation)	1,868	6.9	2,850	8.1	3,974	8.9	4,598	10.5	5,375	15.7	6,421	22.0
41	New resources rate:												
42	Resources:												
43	Federal base system	1,250	6.5	312	7.6	0		0		0		0	
44	IOU exchange	1,868	16.2	2,850	18.0	3,563	20.4	3,324	21.3	1,440	26.3	0	
45	New resources	0	22.5	0	25.6	351	28.8	1,033	30.4	4,948	38.1	10,036	44.2
46	Total	3,118	12.3	3,162	17.0	3,914	21.2	4,357	23.5	6,388	33.9	10,036	44.2
47	Loads:												
48	Regional rate	0		0		0		0		0		785	44.2
49	Reserve adjustment		.3		.3		.3		.4		.5		.6
50	DSI 75 percent	2,618	12.6	3,049	17.3	3,108	21.5	3,137	23.9	3,256	34.4	3,405	44.7
51	Reserve adjustment		.4		.5		.5		.6		.7		.8
52	Revenue adjustment								.4		1.1		.4
53	Preference rate adjustment												
54	IOU load growth	0		0		806	21.7	1,220	24.5	3,132	35.0	5,846	45.4
55	Excess resources	500	12.7	113	17.4	0		0		0		0	
56	Total	3,118		3,162		3,914		4,357		6,388		10,036	
57	IOU exchange rate:												
58	Base resources	8,404	16.2	9,176	18.0	9,176	20.3	9,176	20.9	9,176	23.1	9,176	26.3
59	New resources rate	0		0		806	21.7	1,220	24.5	3,132	35.8	5,846	45.4
60	Total	8,404	16.2	9,176	18.0	9,982	20.4	10,396	21.3	12,308	26.3	15,022	33.7
61	DSI:												
62	Loads	3,208	11.5	3,635	15.7	3,705	19.3	3,958	19.3	4,107	24.2	4,293	35.1
63	Reserve credit		−1.1		−1.3		−1.7		−2.3		−3.4		−4.5
64	Reserve adjustment		.2		.2		.2		.3		.4		.4
65	Preference rate adjustment												

66	Net	3,208	10 6	3,635	14 6	3,705	17 8	3,958	17 3	4,107	21 2	4,293	36 7
67	IRE	483	28 1	479	32 1	488	38 0	274	36 0	284	45 2	296	55 2
58	Composite	3,691	12 9	4,114	16 6	4,193	19 9	4,232	18 7	4,391	22 6	4,589	32 3
69	Summary												
70	Preference customers from program	4,851	6 9	5,319	8 1	5,912	8 9	6,262	10 5	7,775	15 7	9,929	22.0
71	Federal agency customers	221	6 9	259	8 1	275	8 9	234	10 5	305	15 7	326	22 0
72	IOU (residential and irrigation)	3,736	11 5	4,072	11 0	4,415	10 0	4,598	10 5	5,375	15 7	6,421	22 0
73	IOU (commerical and industrial)	4,668	16 2	5,104	18 0	5,567	20 4	5,793	21 3	6,933	26 3	8,801	33 7
74	IOU composite	8,404	14 1	9,178	14 9	9,982	15 8	10,396	16 5	12,386	21 7	15,822	28 7

NEPP BASE CASE—90 PERCENT RATE INCREASE, NEPP LOADS CASE 2

1	Regional loads											
2	Preference customers total	7,065		7,508		7,979		8,227		9,299		10,870	
3	Own resources	2,320		2,340		2,360		2,362		2,370		2,390	
4	Net requirements	4,745		5,168		5,619		7,865		6,929		8,450	
5	Federal agencies	221		259		275		284		305		326	
6	IOU total	8,238		8,761		9,320		9,613		10,885		12,727	
7	Own resources	8,404		9,176		9,176		9,176		9,176		9,176	
8	*Net requirements*	0		0		144		437		1,709		3,551	
9	IOU residential and family farm irrigation	3,700		3,996		4,316		4,485		5,130		6,339	
	DSI												
10	75 percent	2,618		3,049		3,108		3,137		3,256		3,405	
11	25 percent	1,073		1,065		1,085		1,095		1,135		1 184	
12	Total	3,691		4,114		4,193		4,232		4,391		4,589	
13	Net requirements on BPA												
14	Total	8,657		9,541		10,231		10,818		13,334		16,926	
15	Without DSI 25 percent	7,584		8,476		9,146		9,723		12 199		15,742	
16	Preference customer rate limit resources												
17													
18	Federal base system	8 103		8,740		9,458		9,476	8 0	9,436	8 7	9,470	10 0
19	Additional resources	0		184		0		270	29 5	1 530	36 0	3,217	44 2
20	Reserve costs								1 6		1 9		2 2
21	Total	8,103		9,824		9,458		9,746	10 2	10,966	14 4	12,687	20 9
22	Loans												
23	Preference customer net requirements	4,745		5,168		5,619		5,865		6,929		8,460	
24	Federal agencies	221		259		275		284		305		326	
25	85 percent DSI	3,137		3,497		3,564		3,597		3,732		3,901	
26	Total	8,103		8,924		9,458		9 736		10,966		12,687	

REGIONAL PROGRAM STUDY CASE

Line		1980–81		1982–83		1984–85		1985–86		1989–90		1994–95	
		MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh
27	Regional rate resources												
28													
29	Federal base system	6,816	6 5	8,224	7 6	9,750	7 9	9,870	8 0	9,520	8 7	9,470	10 0
30	IOU exchange	0		0		28	20 3	764	20 9	2,844	24 7	5,655	31 7
31	New resources	0		0		0		0		0		0	
32	Revenue adjustmeets								0		1 4		1 1
33	Reserve adjustment		4		5		5		7		8		1 0
34	Total	6,816	6 9	8,224	8 1	9,778	8 4	10,634	9 6	12,364	14 6	15,125	20 1
35	Loads.												
36	Preference rate credits										— 2		
37	Preference customers	4,745	6 9	5,168	8 1	5,619	8 4	5,865	9 6	6,929	14. 4	8,460	20 1
38	Federal agencies	221	6 9	259	8 1	275	8 4	284	9 6	305	14 4	326	20 1
39	Preference rate adjustment										1		
40	IOU (residential and irrigation)	1,850	6 9	2,797	8 1	3,884	8 4	4,485	9 6	5,130	14. 7	6,339	20 1
41	New Resources rate												
42	Resources												
43	Federal base system	1,374	6. 5	516	7. 6	0		0		0		0	
44	IOU exchange	1,850	16. 2	2,797	18 0	3,856	20 3	3,721	20. 9	2,286	24. 7	684	31 7
45	New resources	0	22. 4	0	25 6	0	28 8	0	30 4	2,679	36 6	6,272	44. 8
46	Total	3,224	12 1	3,313	16. 4	3,856	20. 3	3,721	20 9	4,965	31. 2	6,956	43 5

Loads:												
Regional rate	0		0		0		0		0		0	
Reserve adjustment		.3		.3		.3		.5		.6		.7
DSI 75 percent	2,618	12.3	3,049	16.7	3,188	20.7	3,137	21.4	3,256	31.8	3,405	44.2
Reserve adjustment		.4		.5		.5		.7		.8		1.0
Revenue adjustment								.0		1.4		1.1
Preference rate adjustment										.1		
IOU load growth	0		0		144	20.8	467	21.6	1,709	33.6	3,551	45.6
Excess resources	606	12.4	264	16.8	604	20.8	147	21.6	0		0	
Total	3,224		3,313		3,856		3,721		4,965		6,956	
IOU exchange rate:												
Base resources	8,404	16.2	9,176	18.0	9,176	20.3	9,176	20.9	9,176	23.1	9,176	26.3
New resources rate	0		0		144	20.6	437	21.6	1,709	33.6	3,551	45.6
Total	8,404	16.2	9,176	18.0	9,320	20.3	9,613	20.9	10,885	24.7	12,727	31.7
DSI:												
Loads	3,208	11.3	3,635	15.2	3,705	18.6	3,958	18.6	4,107	21.8	4,293	32.1
Reserve credit		−1.1		−1.3		−1.7		−2.3		−3.4		−4.3
Reserve adjustment		.2		.2		.3		.3		.4		.5
Preference rate adjustment										.1		
Net	3,208	10.4	3,635	14.1	3,705	17.1	3,958	16.7	4,107	19.0	4,293	27.8
IRE	483	28.0	479	32.0	488	36.0	274	38.0	284	46.0	296	58.0
Composite	3,691	12.7	4,114	16.2	4,193	19.3	4,232	18.8	4,391	20.7	4,589	29.0
Summary:												
Preference customer from program	4,745	6.9	5,163	8.1	5,619	8.4	5,865	9.6	6,929	14.4	8,460	20.1
Federal agency customer	221	6.9	259	8.1	275	8.4	284	9.6	305	14.4	326	20.1
IOU (residential and irrigation)	3,700	11.5	3,996	11.0	4,316	9.6	4,485	9.6	5,136	14.7	6,339	20.1
IOU (community and industry)	4,538	16.2	4,765	18.0	5,004	20.3	5,128	20.9	5,755	24.7	6,388	31.7
IOU composite	8,238	14.1	8,761	14.8	9,320	15.4	9,613	15.6	10,885	20.6	12,727	25.9

REGIONAL PROGRAM STUDY CASE SUMMARY

	1980–81		1982–83		1984–85		1985–86		1989–90		1994 95	
	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh
PNUCC base case—90 percent rate increase PNUCC loads (case No 1)												
Preference rate credits												
Pref cust from program	4 851	6 9	5, 319	8 1	5 912	8 9	6, 262	10 5	7, 775	15 7	9, 929	22 0
Fed agency cust	221	6 9	259	8 1	275	8 9	284	10 5	305	15 7	326	22 0
Preference rate adj												
IOU (resid and irrig)	3 736	11 5	4, 072	11 0	4, 415	10 0	4, 598	10 5	5 375	15 7	6 421	22 0
IOU (comm and ind)	4, 668	16 2	5, 104	18 0	5, 567	20 4	5 798	21 3	6, 933	26 3	8 601	33 7
IOU composite	8 404	14 1	9 176	14 9	9 982	15 8	10 396	16 5	12, 308	21 7	15, 022	28 7
Pref rate adj												
DSI from program	3, 208	10 6	3, 635	14 6	3 705	17 8	3, 958	17 3	4 107	21 2	4 293	30 7
Composite	3 691	12 9	4, 114	16 6	4, 193	19 9	4, 232	18 7	4, 391	22 8	4 589	32 3
NEPP base case—90 percent rate increase NEPP loads (case No 2)												
Preference rate credits										— 2		
Pref cust from program	4, 745	6 9	5, 168	8 1	5, 619	8 4	5 865	9 6	6 929	14 4	8 460	20 1
Fed agency cust	221	6 9	259	8 1	275	8 4	284	9 8	305	14 4	326	20 1
Preference rate adj												
IOU (resid and irrig)	3 708	11 5	3, 996	11 0	4, 316	9 6	4 485	9 6	5 130	14 7	6, 339	20 1
IOU (comm and ind)	4, 538	16 2	4 765	18 0	5, 004	20 3	5, 128	20 9	5 755	24 7	6 388	31 7
IOU composite	8, 238	14 1	8 761	14 8	9, 320	15 4	9, 613	15 6	10 885	20 0	12 727	25 9
Pref rate adj										1		
DSI from program	3, 208	10 4	3, 635	14 1	3, 705	17 1	3 958	16 7	4 107	19 0	4 293	27 8
Composite	3 691	12 7	4, 114	16 2	4 193	19 3	4 232	18 0	4 391	20 7	4 589	29 6
7 percent new resource rate for both PA and IOU PNUCC loads (case No 3)												
Preference rate credits												
Pref cust. from program	4 851	6 9	5 319	8 1	5, 912	8 9	6, 262	10 5	7 775	15 6	9 929	21 8
Fed agency cust	221	6 9	259	8 1	275	8 9	284	10 5	305	15 6	326	21 8
Preference rate adj												
IOU (resid and irrig)	3 736	11 5	4, 072	11 0	4 415	10 0	4 598	10 5	5 375	15 6	6 421	21 8
IOU (comm and ind)	4, 668	16 2	5 104	18 0	5, 567	20 4	5 798	21 3	6, 933	26 2	8 601	33 5
IOU composite	8 404	14 1	9 176	14 9	9, 982	15 8	10 396	16 5	12 308	21 6	15 022	28 5
Pref rate adj												
DSI from program	3 208	10 6	3, 635	14 6	3, 705	17 8	3 958	17 3	4, 107	21 0	4 293	30 3
Composite	3 F91	12 7	4, 114	16 5	4, 193	19 8	4 232	18 6	4 391	22 6	4 589	31 9

7 percent new resource rate for both PA and IOU NEPP loads (case No 4)												
Preference rate credits										— 1		
Pref cust from program	4,745	6 9	5,168	8 1	5,619	8 4	5,865	9 6	6,929	14 4	8,460	20 0
Fed agency cust	221	6 9	259	8 1	275	8 4	284	9 6	305	14 4	326	20 0
Preference rate adj										1		
IOU (resid. and irrig)	3,700	11 5	3,99€	11 0	4 316	9 6	4,485	9 6	5,130	14 6	6,339	20 0
IOU (comm and ind)	4,538	16 2	4,765	18 0	5,004	20 3	5 124	20 9	5,755	24 7	6,388	31 5
IOU composite	8,238	14 1	8,761	14 8	9,320	15 4	9,613	15 6	10,885	19 9	12,727	25 8
Pref rafe adj										1		
DSI from program	3,208	10 4	3,635	14 1	3,705	17 1	3,958	16 7	4,107	18 8	4 293	27 5
Composite	3,691	12 6	4,114	16 1	4,193	19 3	4,232	18 0	4,391	20 6	4,589	29 3
New resource costs incur. by 5, 6, 10, 15 times (85 95) PNUCC loads (case no. 5)												
Preference rate credits												
Pref cust. from program	4,851	6 9	5,319	8 1	5,912	8 9	6,262	10 8	7,775	16 1	9,929	23 2
Fed agency cust	221	6 9	259	8 1	275	8 9	204	10 6	385	16 1	326	23 2
Preference rate adj												
IOU (resid and irrig)	3,736	11 5	4,072	11 0	4,415	10 0	4,598	10 6	5,374	16 1	6 421	23 2
IOU (com. and ind)	4,668	16 2	5,104	18 0	5,567	20. 4	5,798	21 4	6,933	17 8	3,601	35 7
IOU composite	8,404	14 1	9,176	14 9	9,982	15 8	10,396	16 6	12,308	22 2	15,022	30 4
Pref rate adj												
DSI from program	3,208	10 6	3,635	14 8	3,705	17 9	3,958	17 4	4,107	22 2	4,293	33 2
Composite	3,691	12 7	4,114	16 7	4 193	20 2	4,232	18 9	4,391	23 9	4,589	35 0
New resource costs incur. by 5, 6, 10, 15 times (85 95) NEPP loads (case No. 6)												
Preference rate credits										0		
Pref cust from program	4,745	6 9	5,169	8 1	5 619	8 4	5,865	9 6	6,929	14 8	8,460	21 0
Fed agency cust	221	6 9	259	8 1	275	8 4	284	9 6	305	14 8	326	21 0
Preference rate adj										0		
IOU (resid and irrig)	3,708	11 5	3,996	11 0	4,316	9 6	4,485	9 6	5,130	14 9	6,339	21 0
IOU (com and ind)	4,538	16 2	4,765	18 0	5,004	20 3	5,128	20 9	5,755	25 1	6,388	33 1
IOU composite	8,238	14 1	8,761	14 8	9,320	15 4	9,613	15 6	10,885	20 3	12,727	27 1
Pref. rate adj										0		
DSI from program	3,208	10 4	3,635	14 1	3,705	17 1	3,958	16 7	4,107	19 6	4,293	29 8
Composite	3 691	12 6	4,114	16 3	4,193	19 5	4,232	18 2	4,391	21 6	4,589	31 9
PA loads incr by 5 percent and IOU loads reduced PNUCC loads (case No 7)												
Preference rate credits												
Pref cust. from program	4,851	8 9	5,319	8 1	6,325	9 4	6,694	10 9	8,282	16 0	10,545	22 5
Fed agency cust	221	6 9	259	8 1	275	9 4	284	10 9	305	16 0	326	22 5
Preference rate adj												
IOU (resid and irrig)	3,736	11 5	4,072	11 0	4,415	10 4	4,598	10 9	5,375	16 0	6,421	22 5
IOU (comm and ind)	4,668	16 2	5,104	18 0	5,567	20 5	5,798	21 4	6,933	26 4	8,691	33 6
IOU composite	8,404	14 1	9,176	14 9	9,982	16 0	10,396	16 3	12,308	21 9	15,022	28 9
Pref rate adj												
DSI from program	3,208	10 5	3,635	14. 6	3,785	18 6	3,958	18 1	4,107	22. 1	4,293	31 5
Composite	3,691	12 9	4,114	16 7	4 193	20 6	4,272	19 3	4,391	23 6	4,589	33 0

REGIONAL PROGRAM STUDY CASE SUMMARY

	1980–81		1982–83		1984–85		1985–86		1989–90		1994–95	
	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh
PA loads incr by 5 percent and IOU loads reduced NEPP loads (case No 8)												
Preference rate credits												
Pref cust from program	4,745	6 9	5,168	8 1	6,018	8.9	6,277	10 2	7,394	14.9	9.002	20 5
Fed agency cust	221	6 9	259	8 1	275	8 9	284	10 2	305	14.9	326	20 5
Preference rate adj												
IOU (resid and irrig)	3,700	11 5	3,996	11 0	4,316	10 1	4,485	10 2	5,130	14 9	5,339	20 5
IOU (comm. and ind)	4,538	16 2	4,765	18 0	5,004	20 3	5,128	21 0	5,755	24 9	6,388	31 8
IOU composite	8,238	14 1	8,761	14 8	9,320	15 6	9,613	16 0	10,885	20 2	12,727	26 2
Pref rate adj												
DSI from program	3,208	10 4	3,635	14 1	3,705	17.1	3,958	16 7	4,107	20 0	4,293	28.8
Composite	3,691	12 9	4,114	16.3	4,193	19 4	4,232	18 1	4,391	21 7	4,589	30 5
PNUCC with 40 percent BPA rate increase PNUCC loads (case No. 9)												
Preference rate credits												
Pref cust from program	4,851	5 1	5,319	6 6	5,912	8 5	6,262	11 1	7,775	16 0	9,929	22 3
Fed agency cust	221	5.1	259	6 6	275	6 5	254	11 1	305	16 0	326	22 3
Preference rate adj												
IOU (resid and irrig)	3,736	10 6	4,072	10 0	4,415	9 7	4,598	11 1	5,375	16.0	6,421	22 3
IOU (comm and ind)	4,668	16 2	5,104	18 0	5,567	20 4	5,798	21 3	6,933	26 3	8,601	33 7
IOU composite	8,404	13 7	9,176	14 4	9,982	15 7	10,396	16 8	12,308	21 8	15,022	28 9
Pref. rate adj												
DSI from program	3,208	9 7	3,635	14 2	3,705	17 8	3,958	17 3	4,107	21 6	4,293	31 0
Composite	3,691	12 1	4,114	16 3	4,193	19 9	4,232	18 6	4,391	23 2	4,589	32 6
NEPP with 40 percent BPA rate increase NEPP loans (case No 10)												
Preference rate credits												
Pref cust from program	4,745	5 1	5,168	6 6	5,619	8 0	5,865	10 2	6,929	14 9	8,460	20 5
Fed agency cust	221	5 1	259	6 6	275	8 0	284	10 2	305	14 9	326	20 5
Preference rate adj												
IOU (resid and irrig)	3,700	10 6	3,996	10 9	4,316	9 3	4,485	10 2	5,130	14 9	6,339	20 5
IOU (comm and ind)	4,538	16 2	4,765	18 0	5,004	20 3	5,128	20 9	5,755	24 7	6,388	31 7
IOU Composite	8,238	13 7	8,761	14 3	9,320	15 2	9,613	15 9	10,885	20 1	12,727	26 1
Pref rate adj												
DSI from program	3,208	9 4	3,635	13 7	3,705	17 1	3,958	16 5	4,107	19 4	4,293	28 1
Composite	3,691	11 8	4,114	15 8	4,193	19 3	4,232	18 0	4,391	21 1	4,589	29 9

IOU base resource rate incr. from 0–5 percent (84–95) PNUCC loads (case No. 11):												
Preference rate credits										−.2		
Pref. cust. from program	4,851	6.9	5,319	8.1	5,912	8.9	6,262	10.6	7,775	15.7	9,929	22.3
Fed. agency cust	221	6.9	259	8.1	275	8.9	284	10.8	305	15.7	326	22.3
Preference rate adj										.2		
IOU (resid. and irrig.)	3,736	11.5	4,072	11.0	4,415	10.1	4,598	10.8	5,375	16.1	6,421	22.3
IOU (comm. and ind.)	4,668	16.2	5,104	18.0	5,567	20.6	5,798	21.7	6,933	27.3	8,601	34.5
IOU composite	8,404	14.1	9,176	14.9	9,982	15.9	10,396	16.8	12,308	22.4	15,022	29.3
Pref. rate adj										.2		
DSI from program	3,208	10.6	3,635	14.6	3,705	18.0	3,958	17.5	4,107	21.5	4,293	31.0
Composite	3,691	12.9	4,114	16.6	4,193	20.1	4,232	18.8	4,391	23.1	4,589	32.5
IOU base resource rate incr. from 0–5 percent (84–95 (NETP loads (case No. 12):												
Preference rate credits										−.5		
Pref. cust. from program	4,745	6.9	5,168	8.1	5,819	8.4	5,865	9.7	6,929	14.4	8,460	20.4
Fed. agency cust	221	6.9	259	8.1	275	8.4	284	9.7	305	14.4	326	20.4
Preference rate adj										.3		
IOU (resid. and irrig.)	3,700	11.5	3,996	11.0	4,316	9.7	4,485	9.7	5,130	15.3	6,338	20.4
IOU (comm. and ind.(	4,538	16.2	4,765	18.0	5,804	20.5	5,128	21.3	5,755	25.9	6,388	32.6
IOU composite	8,238	14.1	8,761	14.8	9,820	15.5	9,613	15.9	10,885	20.9	12,727	28.6
Pref. rate adj										.3		
DSI from program	3,208	10.4	3,635	14.1	3,705	17.3	3,958	16.0	4,107	19.3	4,293	28.1
Composite	3,691	12.7	4,114	16.2	4,193	19.5	4,232	18.2	4,391	21.0	4,589	29.9
DSI load reduced by 10 percent from 1983 and on PNUCC loads (case No. 13):												
Preference rate credits								−.9		−.5		
Pref. cust. from program	4,851	6.9	5,319	8.1	5,912	8.9	6,262	10.2	7,775	15.2	9,929	22.0
Fed. agency cust	221	6.9	259	8.1	275	8.9	284	10.2	305	15.2	326	22.0
Preference rate adj								.3		.4		
ICU (resid. and irrig.)	3,736	11.5	4,072	11.0	4,415	10.0	4,598	10.5	5,375	16.1	6,421	22.0
IOU (comm. and ind.)	4,668	16.2	5,104	18.0	5,567	20.4	5,798	21.3	6,933	26.4	8,601	33.8
IOU composite	8,404	14.1	9,176	14.9	9,982	15.8	10,396	16.6	12,308	21.9	15,022	29.9
Pref. rate adj								.3		.4		
DSI from program	3,208	10.6	3,271	14.5	3,334	17.0	3,562	16.8	3,696	20.7	3,864	30.2
Composite	3,691	13.7	3,702	17.0	3,773	19.5	3,808	18.2	3,951	22.3	4,130	31.6
DSI load reduced by 10 percent from 1983 and on NEPP loads (case No. 14):												
Preference rate credits										−.9		
Pref. cust. from program	4,745	6.9	5,168	8.1	5,619	8.4	5,065	9.6	6,929	13.7	8,460	20.1
Fed. agency cust	221	6.9	259	8.1	275	8.4	284	9.6	305	13.7	326	20.1
Preference rate adj										.6		
IOU (resid. and irrig.)	3,700	11.5	3,996	11.0	4,316	9.6	4,485	9.8	5,130	15.2	6,339	20.1
IOU (comm. and ind.)	4,538	16.2	4,765	18.0	5,004	20.3	5,128	20.9	5,755	24.8	6,388	31.7
IOU composite	8,238	14.1	8,761	14.8	9,320	15.4	9,613	15.6	10,885	20.3	12,727	25.9
Pref. rate adj										.6		
DSI from program	3,208	10.4	3,271	14.0	3,334	16.9	3,562	16.4	3,696	18.3	3,864	27.1
Composite	3,691	12.7	3,702	16.1	3,773	14.1	3,808	17.8	3,951	20.0	4,130	29.0

REGIONAL PROGRAM STUDY CASE SUMMARY

	1980–81		1982–83		1984–85		1985–86		1989–90		1994–95	
	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh	MW	M/kWh
9 percent new resource rate for IOU's PNUCC loads (case No. 15):												
Preference rate credits										−.4		
Pref. cust. from program	4,851	6.9	5,319	8.1	5,912	8.9	6,262	10.6	7,775	15.7	9,929	22.8
Fed. agency cust	221	6.9	259	8.1	275	8.9	284	10.6	305	15.7	326	22.8
Preference rate adj										.2		
IOU (resid. and irrig.)	3,736	11.5	4,072	11.0	4,415	10.0	4,598	10.6	5,375	16.4	6,421	22.8
IOU (conn. and ind.)	4,668	16.2	5,104	18.0	5,567	20.4	5,798	21.4	6,933	27.0	8,601	35.0
IOU composite	8,404	14.1	9,176	14.9	9,982	15.8	10,396	16.6	12,308	22.3	15,022	29.8
Pref. rate adj										.2		
DSI from program	3,208	10.6	3,635	14.6	3,705	18.0	3,950	17.5	4,107	22.0	4,293	32.4
Composite	3,691	13.1	4,114	16.9	4,193	20.3	4,232	19.0	4,391	23.7	4,589	34.1
9 percent new resource rate for IOU's NEPP loads (case No. 16):												
Preference rate credits										−.5		
Pref. cust. from program	4,745	6.9	5,168	8.1	5,619	8.4	5,865	9.6	6,929	14.4	8,460	20.7
Fed. agency cust	221	6.9	259	8.1	275	8.4	284	9.6	305	14.4	326	20.7
Preference rate adj										.3		
IOU (resid. and irrig.)	3,700	11.5	3,996	11.0	4,316	9.6	4,485	9.6	5,130	15.2	6,339	20.7
IOU (comm. and ind.)	4,538	16.2	4,765	18.0	5,004	20.3	5,128	20.9	5,755	25.0	6,388	32.6
IOU composite	8,238	14.1	8,761	14.8	9,320	15.4	9,613	15.6	10,885	20.4	12,727	26.6
Pref. rate adj										.3		
DSI from program	3,208	10.4	3,639	14.1	3,705	17.1	3,958	16.7	4,107	19.4	4,293	29.0
Composite	3,691	12.9	4,114	16.4	4,193	19.6	4,232	18.2	4,391	21.3	4,589	31.0

Mark-up on DSI rate changed from 133 percent to 125 percent PNUCC loads (case No 17)												
Preference rate credits										−0 3		
Pref cust from program	4, 851	6 9	5, 319	8 1	5, 912	8 9	6 262	10 5	7, 775	15 7	9 929	22 4
Fed agency cust	221	6 9	259	8 1	275	8 9	284	10 5	305	15 7	326	22 4
Preference rate adj										2		
IOU (resid and irrig)	3, 736	11 5	4, 072	11 0	4, 415	10 0	4 598	10 9	5, 375	16 2	6, 421	22 4
IOU (comm and ind)	4, 668	16 2	5, 104	18 0	5, 567	20 4	5, 798	21 3	6, 933	26 4	8, 601	33 9
IOU composite	8, 404	14 1	9, 176	14 9	9, 982	15 8	10, 396	16 5	12, 308	22 0	15 022	28 9
Pref rate adj										2		
DSI from program	3, 208	10 6	3, 635	14 6	3 705	17 8	3, 958	17 2	4, 107	20 1	4 293	29 0
Composite	3, 691	12 9	4 114	16 6	4, 193	19 9	4, 232	18 7	4, 391	21 7	4 589	30 7
Mark-up on DSI rate changed from 133 percent to 125 percent NEPP loads (case No 18)												
Preference rate credits										− 5		
Pref dust from program	4, 745	6 9	5, 168	8 1	5, 619	8 9	5, 865	9 6	6 929	14 4	8 460	20 5
Fed agency cust	221	6 9	259	8 1	275	8 4	284	9 6	305	14 4	326	20 5
Preference rate adj										3		
IOU (resid and irrig)	3, 780	11 5	3, 996	11 0	4, 316	9 6	4, 485	9 5	5 130	15 3	6 339	20 5
IOU (comm and ind)	4, 538	16 2	4, 765	15 0	5, 004	20 3	5, 128	20 9	5, 755	23 3	6 388	31 8
IOU composite	8, 238	14 1	8, 761	14 8	9, 320	15 4	9, 613	15 6	10, 885	20 3	12, 727	26 2
Pref rate adj										3		
DSI from program	3, 208	10 4	3, 635	14 1	3 705	17 1	3 958	16 7	4 017	18 3	4, 293	26 3
Composite	3, 691	12 7	4, 114	16 2	4, 193	19 3	4, 232	18 0	4 391	19 8	4 589	28 2

C.R.— INTRODUCTION STATEMENTS

bile plant on the city's west side as a lure to the then relatively new Carrier Air Conditioning Corp. Their move from New Jersey to Syracuse meant more jobs in the late 1930's, and resulted, ultimately, in developing one of today's industrial giants.

He was instrumental in the Federal Government's decision to build the model pioneer homes public housing project in Syracuse, one of the first in the Nation.

Mayor Rolland B. Marvin's accomplishments are many. Suffice it to say he was a tough, inspiring leader at a time when tough, inspiring leaders were needed. The depression years demanded faith and trust in our elected officials—to avert a sense of despondency that well may have resulted in a loss of unity. Mayor Marvin had that faith and that trust from the people of Syracuse. He brought the city through its darkest times, when as many as 30,000 were unemployed.

Born in 1897 on the outskirts of Syracuse, he worked his way through college and law school at Syracuse University. After establishing a law partnership with the late Horace M. Stone, Marvin, whose father had been a county sheriff, was elected a Republican committeeman. At 29, he was elected president of the Syracuse Common Council, and 4 years later ran for mayor and won in 1929.

After leaving office, Mayor Marvin devoted most of his time to his law practice. His office in the State Tower Building was a place of refuge and counsel for political leaders of both parties in recent years. And I am proud to count myself among those who sought the benefits of the Marvin perspective.

Certainly, it would be appropriate to say Mayor Marvin was to Syracuse, what Franklin Roosevelt was to the Nation in the depths of the depression—a resourceful, inspiring leader who helped a shaken people rise up in unity and strength.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LENT) is recognized for 5 minutes.

● Mr. LENT. Mr. Speaker, on rollcall vote No. 422 on August 1, 1979, I am listed as not voting. Had I been present, I would have voted "aye" on the Moffett amendment directing the President to establish and maintain a national set aside program to provide middle distillates for residential heating purposes.●

GENERAL LEAVE

Mr. RATCHFORD. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentlewoman from Illinois (Mrs. COLLINS).

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. CHAPPELL (at the request of Mr. WRIGHT), for today on account of official business.

To Mr. CAMPBELL (at the request of Mr. RHODES), until 2:15 p.m. today on account of effects of Hurricane David.

To Mr. WOLFF (at the request of Mr. WRIGHT), for today on account of medical reasons.

To Mr. RODINO (at the request of Mr. WRIGHT), for today on account of illness in the family.

To Mrs. HOLT (at the request of Mr. RHODES), for today and the balance of the week, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GINGRICH) to revise and extend their remarks and include extraneous material:)

Mr. LENT, for 5 minutes, today.

Mr. EDWARDS of Oklahoma, for 60 minutes, September 11.

(The following Members (at the request of Mr. RATCHFORD) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. BROOKS, for 5 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today.

Mr. ROSENTHAL, for 5 minutes, today.

Mr. OTTINGER, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 5 minutes, today.

Mr. ADDABBO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. AKAKA, prior to the vote on the Long of Maryland amendment to H.R. 4473 in the Committee of the Whole today.

(The following Members (at the request of Mr. GINGRICH) and to include extraneous matter:)

Mr. MICHEL in two instances.

Mr. ROYER.

Mr. LEWIS.

Mr. LENT in two instances.

Mr. GRADISON.

Mr. CONTE in three instances.

Mr. COLLINS of Texas in three instances.

Mr. PAUL in three instances.

Mr. ERLENBORN.

Mr. WHITEHURST.

Mr. DERWINSKI in three instances.

Mr. DORNAN in two instances.

Mr. TAUKE.

Mr. ARCHER.

Mr. DANIEL B. CRANE.

Mr. GILMAN.

Mr. WYDLER.

Mr. REGULA.

Mr. KEMP.

Mr. QUAYLE.

Mr. BROOMFIELD.

Mr. CONABLE.

Mr. ASHBROOK in two instances.

(The following Members (at the request of Mr. RATCHFORD) and to include extraneous matter:)

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mrs. BYRON in 10 instances.

Mr. ROSENTHAL in 10 instances.

Mrs. BOUQUARD in five instances.

Mr. HAMILTON in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. CAVANAUGH in five instances.

Mr. MCDONALD in 10 instances.

Mr. PEPPER in five instances.

Mr. NOWAK in five instances.

Mr. HOLLAND in five instances.

Mr. COELHO.

Ms. OAKAR in two instances.

Mr. SEIBERLING in 10 instances.

Mr. DRINAN in five instances.

Mr. YOUNG of Missouri.

Mr. HARRIS.

Mr. GUARINI.

Mr. ROE.

Mr. MAZZOLI.

Mr. BREAUX.

Mr. STUMP in two instances.

Mr. BRINKLEY in two instances.

Mr. LEHMAN.

Mrs. COLLINS of Illinois.

Mr. LEACH of Louisiana.

Mr. HALL of Ohio.

Mr. DELLUMS in three instances.

Mr. WAXMAN.

Mr. STARK.

Mr. BENNETT.

Mr. RANGEL.

Mr. ZABLOCKI in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 88. An act for the relief of Soerjanti Bonzoumet-Soetarto; to the Committee on the Judiciary;

S. 151. An act for the relief of Jerry W. Manandic and Ceferino W. Manandic; to the Committee on the Judiciary;

S. 216. An act for the relief of Chong Hui Schrein; to the Committee on the Judiciary;

S. 319. An act for the relief of Chan Siu Ha (also known as Linda Chan); to the Committee on the Judiciary;

S. 566. An act to authorize a targeted fiscal assistance program for payments to local governments requiring fiscal relief, an anti-recession fiscal assistance program, and for other purposes; to the Committee on Government Operations;

S. 707. An act for the relief of certain aliens; to the Committee on the Judiciary;

S. 885. An act to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes; to the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs;

S. 974. An act for the relief of Tin Foo

To make effective judgments regarding the delivery of these much needed services, Congress has an obligation to request and a right to receive the best thinking and recommendations from the department of Government charged with their administration.

In its "Home Health" Report, the Department of Health, Education, and Welfare (DHEW) has failed to provide the Congress with the legislative recommendations it requested regarding improvements in the delivery of home health care services. In view of the seriousness of this subject, I see no alternative but to return the report to its authors and request that a new, more responsive document be submitted for the Congress' consideration.

I firmly believe it most appropriate that the Congress reestablish the precedent of carefully scrutinizing reports submitted by executive departments in response to congressional requests. This report cost more than $60,000 to prepare and yet failed to comply with the most basic requirements of Congress' request.

Departments and agencies must be held to a high standard of accountability if the Congress is to have confidence in the quality of work submitted for its use. I want to urge the House to join with our colleagues in the other body in sending this inadequate document back to DHEW and require the resubmission of a new, more responsive home health report by November 1, 1979.●

The committee amendments were agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 357.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WITHDRAWAL OF MEMBER AS COSPONSOR OF H.R. 4360

Mr. BAUMAN. Madam Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 4360.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

REVISED VERSION OF PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, in order to facilitate House review of a matter that is of critical importance to the Pacific Northwest, I am introducing a revised version of the Pacific Northwest Electric Power Planning and Conservation Act.

The bill is similar to H.R. 3508, legislation I introduced earlier this year in cooperation with several Members from the Northwest. The new bill, however, reflects changes agreed to in recent weeks by the Senate Committee on Energy and Natural Resources.

It is my understanding that introduction of this bill will facilitate consideration of regional energy legislation by committees and Members of the House, and I hope that is the case.●

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Pennsylvania (Mr. MURTHA) is recognized for 5 minutes.

[Mr. MURTHA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CONGRESS AND ENERGY: A PARTNERSHIP WITH THE PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, congressional initiatives to find solutions to the U.S.'s critical energy shortage and end the dangerous dependence on foreign suppliers of oil are receiving the strong support of the American people.

With this firm backing by Americans indicated by the polls, the House over the past 2 months has taken major steps forward on important energy production and conservation programs—both short-range and long-range—in a partnership with the people.

The congressional initiatives were taken under the firm direction of the House Democratic leadership and a special energy task force appointed by Speaker O'NEILL in June. They are closely related to proposals made by President Carter in his landmark energy messages to the American people 2 weeks ago.

Starting its work at a time when there was widespread disbelief that the energy crisis was real, and when there was little sense of direction on solutions to energy shortfalls, the leadership both has confirmed that bold action was needed, and has taken major strides in that direction.

Mr. Speaker, the result has been action—by the full House, by major House committees, or by the appropriate subcommittees—on a major synthetic fuel-producing program; windfall profits tax; standby gasoline rationing authority; State and Federal conservation authority; additional funding for mass transit; new programs to encourage production of more efficient vehicles; steps to improve railway service, solar initiatives, efforts to promote safer and more reliable nuclear energy, and other action.

In turn, Mr. Speaker, Americans are showing through their responses in the polls that they want leadership in attacking the Nation's energy crisis, and that they are giving strong backing to the leadership coming from Congress.

For example, in voicing overwhelming support to the House-passed windfall profits tax on the oil companies—which have been reaping large profits this year even before full Federal decontrol of oil pricing is phased in—Americans strongly agree that revenues from these taxes should be used to help solve the energy crisis.

A recent ABC News-Harris survey—1,496 adults were polled nationwide—indicates 80 percent of the American people favor use of windfall profit tax revenue for more mass transit to travel to work; 77 percent favor Government use of the funds for more alternative energy sources; 70 percent favor a government-industry partnership toward new energy sources; and 82 percent favor using money generated by the tax to help the poor, elderly, and others hardest hit by the energy crunch.

Mr. Speaker, other strong support for Democratic energy initiatives is indicated by Lou Harris' surveying. A recent poll indicates 83 percent of those polled favor the synthetic fuels program initiated by House Democratic leaders. Another 86 percent favor the goal of a 50 percent reduction in imported oil by 1990, which Congress supports as a target through synthetics, conservation, and alternative fuel and motorized-equipment initiatives, solar biomass projects, and increased domestic production of crude oil, coal, and natural gas.

Also reflecting their response to leadership, Americans—67 percent—favor granting the President standby authority to impose gasoline rationing in an emergency; 76 percent favor a $10 billion mass transit program; 74 percent favor a national Energy Security Corporation; and 65 percent favor establishment of conservation goals.

Just a relatively few weeks ago, Mr. Speaker, Americans were doubting the existence of an energy shortage, were unaware of the threat posed by continued dependence on foreign oil for half the Nation's supply, and were relatively oblivious of the scars being imposed on the body of the American economy by the policies of the Organization of Petroleum Exporting Countries.

Today, Americans indicate they are willing to make sacrifices, support conservation, use alternative transportation if it is made available, support expensive research and experimentation for alternative fuels and methods of using them, and cut oil imports in half within 10 years.

This change in the perception of the scope of the problem and the potential solutions prove Americans want leadership on energy, and will support leadership on energy. Congress is providing that leadership. Working together, President Carter, Congress, and the American people can be an unbeatable combination.

Mr. Speaker there have been major energy achievements in the House so far in the 96th Congress. Here are some major ones:

WINDFALL PROFITS TAX

Under current law, Federal price controls on oil produced in the United States are scheduled to expire September 30, 1981. On June 1, President Carter started using his authority, gradually, to phase

Administration S 832 An act to extend the authorization for the Federal Election Commission, with amendment (Rept No 96-408) Referred to the Committee of the Whole House on the State of the Union

Mr BOLAND Committee of conference Conference report on H R 4394 (Rept No 96-409) And ordered to be printed

Mr UDALL Committee on Interior and Insular Affairs H R 4985 A bill to establish a coordinated prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities and for other purposes (Rept No 96-410, pt I) And ordered to be printed

Mr UDALL Committee on Interior and Insular Affairs H R 2759 A bill to promote the orderly development of hard mineral resources in the deep seabed pending adoption of an international regime relating thereto, with amendment (Rept No 96-411, Pt I) And ordered to be printed

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows

By Mr BALDUS (for himself, Mr ANTHONY, Mr JONES of Tennessee, Mr AKAKA and Mr COELHO)

H R 5069 A bill to amend the Egg Research and Consumer Information Act, to the Committee on Agriculture

By Mr BARNES

H R 5070 A bill to amend the Railroad Retirement Act of 1974 to provide that a current connection with the railroad industry is not lost by reason of certain employment with the Department of Energy to the Committee on Interstate and Foreign Commerce

By Mr BIAGGI

H R 5071 A bill to provide for an increase in the rate of interest which is payable on savings accounts and certain other types of accounts and for other purposes to the Committee on Banking Finance and Urban Affairs

By Mr BINGHAM

H R 5072 A bill to amend section 235 of the Foreign Assistance Act of 1961 relating to the Overseas Private Investment Corporation to the Committee on Foreign Affairs

By Mr BLANCHARD (for himself, Mr MINETA and Mr ALBOSTA)

H R 5073 A bill to require the use of solar energy systems to provide a certain percentage of the energy used in new Federal buildings and federally leased building space for heating water and for heating and cooling to the Committee on Public Works and Transportation

By Mr BRODHEAD

H R 5074 A bill to establish a compensation system for victims of toxic substance pollution jointly to the Committees on Interstate and Foreign Commerce and Ways and Means

By Mr BUTLER

H R 5075 A bill to amend the Patent Laws, title 35 of the United States Code, to the Committee on the Judiciary

By Mr CONABLE (for himself and Mr JONES of Oklahoma)

H R 5076 A bill to amend the Internal Revenue Code of 1954 to clarify the extent to which a State, or political subdivision, may tax certain income from sources outside the United States, to the Committee on Ways and Means

By Mr CORRADA

H R 5077 A bill to promote the development of an American fishing industry in certain underutilized species, to the Committee on Merchant Marine and Fisheries

By Mr DANNEMEYER:

H R 5078. A bill to provide that no agency shall issue any order or promulgate any rule or regulation which would have the same legal effect as any provision of any bill or joint resolution disapproved by the Congress during the 3-year period following the date of such disapproval, to the Committee on the Judiciary

By Mr DUNCAN of Tennessee

H R 5079 A bill to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes, to the Committee on Foreign Affairs

By Mr ERLENBORN (for himself and Mr HINSON)

H R 5080 A bill to amend the Fair Labor Standards Act of 1938 to provide a special minimum wage for the employment for limited periods of time of youth under the age of 19, to broaden the authority for the employment of full-time students at a special minimum wage to establish standards for the application of the child labor provisions to employment in retail and service establishments, to delay for 2 years the increases in the minimum wage under the act scheduled to take effect in 1980 and 1981, to provide for a maximum tip credit of 50 percent and for other purposes, to the Committee on Education and Labor

By Mr ERLENBORN (for himself and Mr RAILSBACK)

H R 5081 A bill to amend the Federal Election Campaign Act of 1971 to prohibit certain political committees from making contributions to any candidate and for other purposes, to the Committee on House Administration

By Mr ERTEL

H R 5082 A bill to amend title I United States Code to provide a procedure for reviewing ratifications of amendments to the Constitution of the United States and rescissions of such ratification to the Committee on the Judiciary

By Mr FASCELL (for himself Mr BUCHANAN, and Mr BARNES)

H R 5083 A bill to amend the Immigration and Nationality Act to permit the waiver of certain nonimmigrant visa requirements to the Committee on the Judiciary

By Mr FOWLER

H R 5084 A bill to amend the Internal Revenue Code of 1954 to increase to 40 percent the investment tax credit for solar energy property, to allow the investment tax credit to noncorporate lessors of solar energy property to allow the residential energy credit with respect to solar energy property to the extent such property performs a solar function and to allow the amortization of solar energy property based on a 36-month period to the Committee on Ways and Means

By Mr GIBBONS

H R 5085 A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of pension payments made to nonresident aliens, to the Committee on Ways and Means

By Mr GRADISON:

H R 5086 A bill to provide for a National Commission on Hospital Cost Containment and for the funding of State mandatory hospital cost containment programs, jointly to the Committees on Ways and Means and Interstate and Foreign Commerce

By Ms HOLTZMAN

H R 5087 A bill to amend the Immigration and Nationality Act, and for other purposes, to the Committee on the Judiciary

By Mr HOWARD (for himself and Mr BEDELL)

H R 5088 A bill to establish national standards for weight and length of vehicles using the National System of Interstate and Defense Highways during fuel emergencies, to the Committee on Public Works and Transportation

By Mr JENKINS (for himself and Mr CONABLE)

H R 5089 A bill proposing an amendment to the Constitution to protect the people of the United States against excessive governmental burdens and unsound fiscal and monetary policies by limiting total outlays of the Government, to the Committee on the Judiciary

By Mr KRAMER

H R 5090 A bill to amend the Internal Revenue Code of 1954 to encourage the expansion of domestic fossil and synthetic fuels production, and for other purposes jointly, to the Committees on Ways and Means, Armed Services, Banking Finance and Urban Affairs, Foreign Affairs, Government Operations, Interstate and Foreign Commerce, Interior and Insular Affairs and Science and Technology

By Mr MARTIN (for himself Mr GLICKMAN, Mr BUCHANAN Mr SYMMS, Mr MCKINNEY, Mr ROBINSON, Mr QUILLEN Mr O BRIEN Mrs HOLT, Mr MOLLOHAN, Mr HYDE Mr GOLDWATER, Mr KINDNESS Mr WHITEHURST, Mr WAMPLER Mr LOTT, Mr ASHLEY, Mr GRADISON, Mr LAGOMARSINO Mr REGULA Mr DUNCAN of Tennessee Mr SEBELIUS Mr BROYHILL, Mr FRENZEL Mr BADHAM, Mr GINGRICH Mr MILLER of Ohio Mr ROUSSELOT, Mr CORCORAN, and Mr COLLINS of Texas)

H R 5091 A bill to amend the Federal Food, Drug and Cosmetic Act to authorize the issuance of a regulation for a food additive on the basis of an evaluation of the risks and benefits of the additive and to allow the continued use of saccharin to the Committee on Interstate and Foreign Commerce

By Mr MAVROULES

H R 5092 A bill to amend title II of the Social Security Act to eliminate the offset against social security benefits which is presently imposed in the case of spouses and surviving spouses receiving certain Government pensions, to the Committee on Ways and Means

By Ms MIKULSKI

H R 5093 A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for individuals who perform voluntary services for certain public service organizations, to the Committee on Ways and Means

H R 5094 A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit for use of a passenger automobile for charitable purposes to the Committee on Ways and Means

By Mr MYERS of Pennsylvania (for himself Mr GRAY Mr LEDERER Mr DOUGHERTY, and Mr GARCIA)

H R 5095 A bill to provide a special program of financial assistance to Opportunities Industrialization Centers and other national community-based organizations in order to provide new motivational and skills training opportunities for welfare recipients and new incentives for business and industry to coordinate their employment plans and job creation efforts with Opportunities Industrialization Centers and national community based organizations which have demonstrated effectiveness in developing cooperative relationships with the private sector to the Committee on Education and Labor

By Mr NOWAK

H R 5096 A bill to amend the Internal Revenue Code of 1954 to allow a deduction as an expense for certain amounts of office equipment and pollution control equipment and to allow rapid amortization for machinery and equipment and motor vehicles to the Committee on Ways and Means

H R 5097. A bill to amend the Internal Revenue Code of 1954 to allow nonrecognition of gain on the sale or exchange of stock in small business corporations, to the Committee on Ways and Means

By Mr OBEY:

H R 5098 A bill to authorize the transfer of a vessel by the Secretary of Commerce to the Superior-Douglas County Musuem for use as a maritime museum; to the Committee on Merchant Marine and Fisheries

By Mr OTTINGER (for himself, Mr MIKVA, Mr RINALDO, Mr. BRODHEAD, Mr ROSE, and Mr FLORIO).

H R 5099 A bill to correct inequities in the relationship between sales representatives and other principals and for other purposes to the Committee on Interstate and Foreign Commerce

By Mr REGULA

H R 5100 A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $400 of interest in the case of an individual taxpayer, to the Committee on Ways and Means

H R 5101 A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $200 of dividends in the case of an individual taxpayer, to the Committee on Ways and Means

By Mr SEBELIUS

H R 5102 A bill to amend the Food and Agriculture Act of 1977 relating to increases in the target prices of the 1980 crops of wheat corn and other crops under certain circumstances and for other purposes, to the Committee on Agriculture

Mr SMITH of Iowa (for himself and Mr McDADE)

H R 5103 A bill to provide for better access to the Federal courts for small businesses and others with small to moderate size claims to expand the duties of the Office of Advocacy of the Small Business Administration, and for other purposes, jointly to the Committees on the Judiciary and Small Business

By Mr TREEN

H R 5104 A bill to amend the National Labor Relations Act to provide that a labor organization is not required to provide representation to an employee in a grievance procedure if such employee is not a member of such labor organization, and for other purposes, to the Committee on Education and Labor

H R 5105 A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain amounts of interest for individuals who have not attained age 65 and to exclude from gross income all interest for individuals who have attained age 65 to the Committee on Ways and Means

By Mr WEISS

H R 5106 A bill to amend part C of title IV of the Higher Education Act of 1965 relating to college work-study programs, to the Committee on Education and Labor

By Mr BOB WILSON

H R 5107 A bill to establish the John J Montgomery National Monument, to the Committee on Interior and Insular Affairs

By Mr YOUNG of Alaska:

H R 5108 A bill to provide for the disenrollment of certain Alaska Natives from the Alaska Native Roll and to allow their enrollment with the Metlakatla Indian Community to the Committee on Interior and Insular Affairs

By Mr ABDNOR (for himself and Mr DASCHLE):

H R 5109 A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Grass Rope Unit of the Pick-Sloan Missouri Basin Program, South Dakota, and for other purposes, to the Committee on Interior and Insular Affairs

By Mr ASHLEY:

H R 5110 A bill to amend the U.S Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes, to the Committee on Agriculture

By Mr BINGHAM:

H R 5111. A bill to establish a National Mutual Housing Corporation; to the Committee on Banking, Finance and Urban Affairs

By Mr BLANCHARD:

H R. 5112. A bill to amend title XVI of the Social Security Act to provide for a more complete exchange of information between the Secretary of Health, Education, and Welfare and the Immigration and Naturalization Service with respect to all aliens who are applicants for or recipients of SSI benefits, and to amend section 212 of the Immigration and Nationality Act to provide for the exclusion from the United States of aliens who are determined by the Attorney General to be likely to receive such benefits within 6 months of their entry, jointly, to the Committees on Ways and Means and the Judiciary

By Mrs BOGGS (for herself and Mr TRIBLE)

H R 5113 A bill to promote orderly and efficient ocean transportation of bulk commodities in the foreign commerce of the United States and for other purposes, jointly, to the Committees on Merchant Marine and Fisheries and Rules

By Mr BURGENER (for himself, Mr BOB WILSON, Mr VAN DEERLIN, Mr COELHO, Mrs BYRON, Mr CLAUSEN, Mr DANNEMEYER Mr DORNAN, Mr ERLENBORN, Mr GRISHAM, Mr HOLLENBECK, Mrs HOLT, Mr JEFFRIES, Mr LAGOMARSINO, Mr LEWIS, Mr LLOYD, Mr LOTT, Mr MCCLOSKEY, Mr MOLLOHAN, Mr MOORHEAD of California, Mr MURPHY of Pennsylvania, Mr PANETTA, Mr ROUSSELOT, Mr ROYER, Mr SOLOMON, Mr THOMAS Mr WALKER Mr WHITEHURST, Mr CHARLES H WILSON of California, Mr WOLFF, and Mr WON PAT).

H R 5114 A bill to amend the Immigration and Nationality Act to prevent the illegal entry and employment of aliens in the United States, to facilitate the admission of aliens for temporary employment to regulate the issuance and use of social security account cards, and for other purposes, jointly to the Committees on the Judiciary, Education and Labor and Ways and Means

By Mr CAVANAUGH.

H R 5115 A bill to amend title 17 of the United States Code to provide that persons reprinting certain uncopyrighted Government publications place certain information about the availability of those publications from the Government on the reprinted copies to the Committee on the Judiciary

By Mr DUNCAN of Tennessee

H R 5116 A bill to provide for assistance to certain urban counties under title I of the Housing and Community Development Act of 1974, to the Committee on Banking, Finance and Urban Affairs

By Mr EMERY (for himself and Mr WINN).

H R 5117 A bill to provide for research and development to encourage and promote the production of synthetic fuels, and for other purposes jointly, to the Committees on Banking Finance and Urban Affairs, Science and Technology, Interior and Insular Affairs Interstate and Foreign Commerce, and Government Operations

By Mr FISHER (for himself and Mr BARNES)

H R 5118 A bill to authorize funds for the Interstate Commission on the Potomac River for the purpose of developing a plan for the cooperative management by Federal, State, District of Columbia, and local authorities of certain areas along the Potomac River, and for other purposes, to the Committee on Interior and Insular Affairs

By Mr GUARINI.

H R 5119 A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for hiring unemployed individuals in redevelopment areas; to the Committee on Ways and Means.

H R 5120 A bill to amend title II of the Social Security Act to increase from $255 to $750 the lump sum death payment which will be made in the case of an insured individual who dies leaving a relatively small estate; to the Committee on Ways and Means

By Mr HARKIN

H.R 5121 A bill to amend the Older Americans Act of 1965 to require States receiving certain grants under such act to establish home maintenance assistance programs to enable older persons to continue living independently in a home environment, to the Committee on Education and Labor

By Mr HEFTEL.

H R 5122 A bill to amend section 203 of the Federal Property and Administrative Services Act of 1949 to authorize the donation of surplus real or personal property for use in connection with a public harbor, to the Committee on Government Operations

By Mr LEDERER (for himself, Mr SCHULZE Mr JACOBS, Mr HOLLAND, Mr JENKINS, Mr CONABLE, Mr DUNCAN of Tennessee, Mr ARCHER, Mr. VANDER JAGT, Mr PHILIP M CRANE, Mr FRENZEL, Mr MARTIN, Mr BAFALIS, Mr GRADISON, Mr ROUSSELOT, and Mr MOORE)

H R 5123 A bill to amend Section 4943 of the Internal Revenue Code relating to excess business holdings to the Committee on Ways and Means

By Mr LEDERER (for himself and Mr MURPHY of Pennsylvania)

H R 5124 A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of a transfer of proven oil and gas properties by persons to a controlled corporation, to the Committee on Ways and Means

By Mr LEWIS.

H R 5125 A bill to improve the quality of table grapes for marketing in the United States, to the Committee on Agriculture.

H R 5126 A bill to amend the Small Business Act to strengthen significantly the role of small, innovative firms in federally funded research and development, to promote a higher level of innovation and productivity in the Nation's economy, to the Committee on Small Business

By Mr LOEFFLER (for himself, Mr ROUSSELOT, Mr STENHOLM, and Mr SYMMS).

H R 5127 A bill to impose quantitative restrictions on the importation of lamb meat, to the Committee on Ways and Means

By Mr LUNGREN (for himself, Mr BADHAM, and Mr DANNEMEYER);

H R 5128 A bill to amend the Immigration and Nationality Act to establish a program to permit nationals of Mexico to enter the United States to perform temporary services or labor to the Committee on the Judiciary

By Mr McCLORY (for himself, Mr RHODES Mr ASHBROOK, Mr ROBINSON, Mr YOUNG of Florida, Mr WHITEHURST, Mr ICHORD Mr DERWINSKI Mr COLLINS of Texas Mr WINN, Mr HYDE, Mr LAFALCE, Mr RUDD Mr SENSENBRENNER Mr LUNGREN Mr REGULA Mr DANNEMEYER, Mr ROYER and Mr McDONALD)

H R 5129 A bill to enhance the foreign intelligence and law enforcement activities of the United States by improving the protection of information necessary to their effective operation, jointly, to the Permanent Select Committee on Intelligence and Government Operations

By Mr McKAY (for himself, Mr. WRIGHT, Mr RHODES, Mr CHARLES H WILSON of California, Mr ROBERTS, Mr ARCHER Mr HANCE, Mr YOUNG of Alaska, Mr RUDD, Mr COELHO, Mr. PASHAYAN, Mr ROUSSELOT, Mr BURGENER, Mr KOGOVSEK, Mr JOHNSON of Colorado, Mr DUNCAN of Oregon, Mr HANSEN, Mr DANNEMEYER, Mr. MARRIOTT, Mr RUNNELS, and Mr. WYATT).

H R 5130 A bill to amend title 28 of the United States Code to provide for special venue provisions in cases relating to the environment, to the Committee on the Judiciary.

By Mr. MICA:

H R. 5131. A bill to amend the Internal Revenue Code of 1954 to allow individuals a

refundable tax credit for amounts paid for electricity or natural gas under fuel adjustment clauses; to the Committee on Ways and Means.

By Mr. MOORE:

H.R. 5132. A bill to amend the Tariff Act of 1930 to exempt from the definition of vessels non-self-propelled barges under certain conditions; to the Committee on Ways and Means.

By Mr. OBERSTAR:

H.R. 5133. A bill to amend title II of the Social Security Act to provide full benefits for disabled wives, husbands, widows, and widowers without regard to age (and without regard to any previous reduction in their benefits), to provide benefits for essential spouses of disability beneficiaries without regard to age or children in care, to provide that all divorced spouses and former spouses (including husbands and fathers) may qualify for benefits and to liberalize eligibility for disability benefits; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 5134. A bill to repeal the Military Selective Service Act of 1967; to the Committee on Armed Services.

By Mr. PEPPER:

H.R. 5135. A bill to transfer to the District of Columbia certain real property of the United States located in the District of Columbia for the purpose of providing for senior citizens' housing, to the Committee on Public Works and Transportation.

By Mr. PERKINS:

H.R. 5136. A bill to amend section 110 of title 38, United States Code, to liberalize the standard for preservation of disability evaluations for compensation purposes; to the Committee on Veterans' Affairs.

By Mr. RICHMOND:

H.R. 5137. A bill to improve the nutritional labelling of food, to the Committee on Agriculture.

By Mrs. SCHROEDER (for herself, Mr. HANLEY, Mr. UDALL, Mr. HARRIS, Mr. CLAY, Mr. YATRON, and Mr. LEACH of Iowa):

H.R. 5138. A bill to authorize certain appropriations to the Office of Personnel Management, the Merit Systems Protection Board, the Special Counsel of the Merit Systems Protection Board, and the Federal Labor Relations Authority; to the Committee on Post Office and Civil Service.

By Mr. SEIBERLING:

H.R. 5139. A bill to amend the National Historic Preservation Act of 1966, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SHARP:

H.R. 5140. A bill to amend title V of the Motor Vehicle Information and Cost Savings Act; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ (for himself, Mr. MARKEY, Mr. LAFALCE, Mr. SABO, and Mr. WEISS):

H.R. 5141. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for amounts paid or incurred for certain State and local individual income taxes, and to repeal the deduction for such taxes, State and local general sales taxes, and State and local taxes on gasoline and other motor fuels; to the Committee on Ways and Means.

By Mrs. SPELLMAN:

H.R. 5142. A bill to revise certain provisions of title 5, United States Code, relating to per diem and mileage expenses of Government employees, and for other purposes; to the Committee on Government Operations.

By Mr. STACK:

H.R. 5143. A bill to amend section 101(a)(2)(B)(ii) of the Rehabilitation Act of 1973, relating to State agency organization requirements, to provide that the Secretary of Health, Education, and Welfare may waive the requirements of such section whenever such waiver is determined to be consistent with the objectives of title I of such act; to the Committee on Education and Labor.

By Mr. STAGGERS (for himself and Mr. MADIGAN):

H.R. 5144. A bill to amend the Railroad Retirement Act of 1974, the Internal Revenue Code of 1954, and the Railroad Unemployment Insurance Act to assure sufficient resources to pay current and future benefits, by increasing revenues, reducing costs, simplifying administration, and improving benefits; and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. TRIBLE (for himself and Mrs. BOGGS):

H.R. 5145. A bill to promote competitive U.S. flag bulk cargo carrying vessels in world trade, to stimulate construction of modern bulk cargo carrying vessels for domestic and foreign trade built in shipyards of the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ULLMAN:

H.R. 5146. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. VANIK:

H.R. 5147. A bill to change the tariff treatment of parts used for the manufacture or repair of certain pistols and revolvers; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself and Mr. RANGEL):

H.R. 5148. A bill to set limits on increases in hospital capital stock, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. WHITTEN:

H.R. 5149. A bill to establish the Reconstruction Finance Corporation to make loans and loan guarantees to business concerns which would otherwise be unable to obtain needed financing, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WILLIAMS of Montana:

H.R. 5150. A bill to establish the National Forest Systems Investment Fund, and for other purposes; to the Committee on Agriculture.

By Mr. CHARLES H. WILSON of California (for himself and Mrs. SPELLMAN):

H.R. 5151. A bill to provide a prepaid dental care program for Federal employees; to the Committee on Post Office and Civil Service.

By Mr. GLICKMAN (for himself and Mr. QUAYLE):

H.R. 5152. A bill to terminate the Franklin Delano Roosevelt Memorial Commission; to the Committee on House Administration.

By Mr. NEDZI (for himself, Mr. ALBOSTA, Mr. ANNUNZIO, Mr. ASHLEY, Mr. BLANCHARD, Mr. BONIOR of Michigan, Mr. BRODHEAD, Mr. BROOMFIELD, Mr. DERWINSKI, Mr. DINGELL, Mr. DOWNEY, Mr. FARY, Mr. FORD of Michigan, Mr. KAZEN, Mr. KILDEE, Mr. KOSTMAYER, Mr. LUKEN, Mr. LUNGREN, Ms. MIKULSKI, Mr. MOAKLEY, Mr. MURPHY of Illinois, Mr. NOWAK, Mr. PATTEN, Mr. PRICE, Mr. ROSTENKOWSKI, Mr. ST GERMAIN, Mr. THOMPSON, Mr. TRAXLER, and Mr. ZABLOCKI):

H.R. 5153. A bill to amend the Immigration and Nationality Act to include in the definition of special immigrant an immigrant entering the United States to pursue a course of religious study in order to carry on the vocation of minister; to the Committee on the Judiciary.

By Mr. SIMON (for himself and Mr. BUCHANAN):

H.R. 5154. A bill to amend the Higher Education Act of 1965 to strengthen and improve the student loan programs so as to assure the availability of funds to students to attend the institution of higher education of their choice, to strengthen the procedures for the repayment of such loans, and for other purposes; to the Committee on Education and Labor.

By Mr. FOWLER:

H.J. Res. 388. Joint resolution designating the month of September 1980 as "National Rehabilitation Month"; to the Committee on Post Office and Civil Service.

By Mr. DORNAN:

H. Con. Res. 173. Concurrent resolution expressing the sense of the Congress that the President should extend recognition to a future, free Cuban Government in exile, to the Committee on Foreign Affairs.

By Mr. FINDLEY:

H. Con. Res. 174. Concurrent resolution disapproving the proposed sale to Israel of Improved Hawk air defense missiles (Transmittal No. 79-49); to the Committee on Foreign Affairs.

H. Con. Res. 175. Concurrent resolution disapproving the proposed sale to Israel of Dragon anti-tank missiles (Transmittal No. 79-50); to the Committee on Foreign Affairs.

H. Con. Res. 176. Concurrent resolution disapproving the proposed sale to Israel of M113A2 armored personnel carriers, M577A2 command post carriers, M548 cargo carriers, supporting equipment, and spare parts (Transmittal No. 79-58); to the Committee on Foreign Affairs.

H. Con. Res. 177. Concurrent resolution disapproving the proposed sale to Israel of M60A3 tanks (Transmittal No. 79-59); to the Committee on Foreign Affairs.

H. Con. Res. 178. Concurrent resolution disapproving the proposed sale to Israel of M109A1B 155mm self-propelled howitzers (Transmittal No. 79-60); to the Committee on Foreign Affairs.

By Mr. FISHER:

H. Con. Res. 179. Concurrent resolution urging the President to take all appropriate steps to bring about the convening of an international conference for the purpose of negotiating an agreement to provide protection under international law for members of the press, and for international observers and other persons acting under international auspices, in times of civil war or other hostilities; to the Committee on Foreign Affairs.

By Mr. KEMP:

H. Con. Res. 180. Concurrent resolution expressing the sense of the Congress that, in hosting the 1980 Olympic Games, the Soviet Government should adhere to the Helsinki Accords and the Olympic spirit of fair play and equality of opportunity; to the Committee on Foreign Affairs.

H. Con. Res. 181. Concurrent resolution urging the President to take new steps to aid Vietnamese refugees; to the Committee on Foreign Affairs.

By Mr. BRADEMAS:

H. Res. 397. Resolution providing for the printing of the report of the official visit by the Speaker's Delegation to the Union of Soviet Socialist Republics; to the Committee on House Administration.

By Mr. FINDLEY:

H. Res. 398. Resolution directing the Secretary of State to provide to the House of Representatives certain information with respect to the use in hostilities by Israel of aircraft of U.S. origin; to the Committee on Foreign Affairs.

By Mr. MICA (for himself, Mr. VENTO, Mr. WEAVER, Mr. CORCORAN, Mr. STOKES, Mr. PEPPER, Mr. DASCHLE,

defended this country in time of war, or with the benefit guaranteed America's veterans by law; now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the Congress of the United States is hereby memorialized to provide at least two additional national cemeteries in Virginia, one of which should be located in Southwest Virginia; and, be it

"Resolved further, That the Clerk of the House of Delegates is hereby instructed to transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and to members of the Virginia delegation to the Congress of the United States, in order that they may be apprised of the sense of this body."

POM 142. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on Finance:

"HOUSE JOINT RESOLUTION No. 296

"Whereas, a bill was introduced in the Second Session of the Ninety-Fifth Congress by the Honorable Mario Biaggi which would serve to return to the states revenues derived from the federal tax of fuel used to power motorboats; and

"Whereas, these revenues, once returned to the states, would be dedicated to the improvement of boating facilities and safety programs; and

"Whereas, the enactment of this or similar legislation would serve to redress the inequity resulting from the use of revenues generated by taxes on boaters for the support of programs unrelated to boating; now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the Congress of the United States of America is hereby memorialized to enact legislation which would return to the several states for their use in supporting boating-related programs the federal tax on fuel used to power motorboats; and, be it

"Resolved further, That the Clerk of the House of Delegates is hereby instructed to transmit copies of this resolution to the Speaker of the House of Representatives, the President of the Senate of the United States, the Honorable Mario Biaggi, and the members of the Virginia delegation to the Congress in order that they may be apprised of the sense of this body."

POM-143. A petition from a citizen of the United States, relating to diplomatic relations with the Republic of China; to the Committee on Foreign Relations.

POM-144. A resolution adopted by the city of Big Timber, Mont., requesting the continuation of Amtrack service along the Chicago to Seattle segment of the basic Amtrak System; to the Committee on Commerce, Science, and Transportation.

POM-145. A resolution adopted by the Board of Directors, Yonkers Chamber of Commerce, Yonkers, N.Y., relating to weekend gasoline sales restrictions; to the Committee on Energy and Natural Resources.

POM-146. A resolution from the Philippine-American Society, Inc., relating to United States-Philippine relationships; to the Committee on Foreign Relations.

POM-147. A resolution adopted by the town of Three Forks, Mont., opposing the abandonment by Amtrak of the Southern route through Montana; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHILES, from the Special Committee on Aging:

Special report entitled "Part 2—Appendixes, Developments in Aging: 1978" (Rept. No. 96-55).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S 447. A bill to provide authorization of appropriations for the U.S. Railway Association, and for other purposes (Rept. No. 96-57).

H. Con Res. 3. Concurrent resolution expressing the sense of the Congress that "Our Merchant Marine March" as written and composed by Earl W. Clark be recognized as the official march of the American merchant marine (Rept. No. 96-58).

Special report entitled "Report on the Activities of the Committee on Commerce, Science, and Transportation" (Rept. No. 96-59).

Mr. CANNON. Mr. President, in accordance with the requirements of section 136(b) of the Legislative Reorganization Act of 1946, as amended, submitted herewith is the report on the activities of the Committee on Commerce, Science, and Transportation during the 95th Congress.

EXCUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Lawrence Connell, Jr., of the District of Columbia, to be a member of the National Credit Union Administration Board.

The following-named persons to be members of the Board of Directors of the National Institute of Building Sciences:

Blanca G. Cedeno, of New York;
Guy O Mabry, of Ohio;
Leonard Miller, of Florida; and
Joseph Herbert Newman, of New Jersey.

(The above nominations from the Committee on Banking, Housing and Urban Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JACKSON (for himself, Mr. MAGNUSON, Mr. CHURCH, Mr. HATFIELD, Mr. McCLURE, and Mr. PACKWOOD):

S. 885. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROBERT C. BYRD (for Mr. TALMADGE) (for himself, Mr. BELLMON, Mr. CULVER, Mr. HUDDLESTON, Mr. LUGAR, Mr. McGOVERN, Mr. STEWART, and Mr. ZORINSKY):

S. 886. A bill to protect the public health by providing flexibility in the regulatory process to prevent the occurrence of botulism if the prohibition of nitrites and nitrates becomes necessary based on the results of studies of their carcinogenicity or other toxic effect; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources, jointly, by unanimous consent.

By Mr CRANSTON:

S. 887. A bill to authorize the Secretary of the Army to construct improvements on Redbank and Fancher Creeks, Calif.; to the Committee on Environment and Public Works.

By Mr. BENTSEN:

S. 888. A bill for the relief of Dr. Lesley B. Tiongko Serrano, and her son Kenneth Neil Serrano; to the Committee on the Judiciary.

By Mr. STEWART (for himself and Mr. HEFLIN):

S. 889. A bill for the relief of the estate of Harry Eugene Walker, deceased, formerly of Anniston, Ala.; to the Committee on the Judiciary.

By Mr. McCLURE:

S. 890. A bill to amend the Internal Revenue Code of 1954 in order to tax excess petroleum industry profits, to encourage investments in the expansion of domestic energy supplies, and to create an incentive tax credit for research and development of new or expanded energy sources; to the Committee on Finance.

By Mr. ROBERT C. BYRD:

S. 891. A bill to establish a Department of International Trade in the executive branch to provide for the effective management of international trade and industry development programs, and for other purposes; to the Committee on Governmental Affairs.

By Mr. LEAHY (for himself and Mr. STEWART):

S 892. A bill to extend the authorization of appropriations for carrying out rural development research, small farm research, and small farm extension programs; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HEFLIN:

S. 893. A bill to require the Federal Bureau of Investigation to classify the offense of arson as a part I offense for purposes of the uniform crime reporting program and the uniform crime reports for the United States; to the Committee on the Judiciary.

By Mr. BURDICK (for himself and Mr. YOUNG):

S. 894. A bill amending the conveyance of property to Mountrail County Park Commission, North Dakota, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURKIN:

S. 895. A bill to amend the Internal Revenue Code of 1954 to increase the dividend exclusion from $100 to $250; to the Committee on Finance.

By Mr. NELSON (for himself, Mr. TOWER, Mr. PROXMIRE, Mr. MAGNUSON, Mr. CRANSTON, Mr. MORGAN, Mr. BENTSEN, Mr. SASSER, Mr. GARN, and Mr. LAXALT):

S. 896: A bill to amend the Interstate Land Sales Full Disclosure Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURKIN:

S. 897. A bill to amend the Internal Revenue Code of 1954 to provide that the Internal Revenue Service shall not assess any deficiency or interest in the case of returns based upon written and certain oral advice of the Internal Revenue Service; to the Committee on Finance.

By Mr. COCHRAN:

S. 898. A bill to amend title 39, United States Code, to prevent deceptive business solicitations by providing that any such solicitation which is designed to resemble a bill or statement of account shall be non-

mailable matter; to the Committee on Governmental Affairs.

By Mr. DURKIN:

S 899. A bill to extend the authority under the Emergency Petroleum Allocation Act of 1973; to the Committee on Energy and Natural Resources.

By Mr. RIBICOFF:

S 900. A bill to provide for the establishment of an energy production, conservation, and conversion trust fund; to the Committee on Finance.

By Mr. CHAFEE (for himself and Mr PRESSLER):

S. 901. A bill to amend Section 204 of the Clean Water Act to repeal certain grant conditions, and for other purposes; to the Committee on Environment and Public Works.

By Mr. JACKSON:

S 902. A bill to establish an oil and gas leasing program on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STEWART (by request):

S. 903. A bill to extend the crime insurance and riot reinsurance program under title XII of the National Housing Act, the national flood insurance program under the National Flood Insurance Act of 1968, to authorize appropriations for studies under the National Flood Insurance Act of 1968 for the fiscal years 1980 and 1981, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DANFORTH (for himself, Mr. HEINZ, Mr. DOMENICI, Mr. GARN, Mr. ROTH, and Mr. LUGAR):

S 904. A bill to relieve State and local governments, especially small communities, of the regulatory and paperwork burden associated with Federal assistance, and for other purposes; to the Committee on Governmental Affairs.

By Mr. EAGLETON:

S. 905. A bill to authorize additional appropriations for the Temporary Commission on Financial Oversight of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DOLE:

S. 906. A bill to amend the Internal Revenue Code of 1954 to allow an additional credit of 10 percent for investment in equipment used in the production of certain alcohol fuels, to provide a 5-percent investment credit for buildings used in such production, to provide loan guarantees for investment in such production, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 907 A bill to amend title II of the Social Security Act to provide benefits for widowed fathers with minor children, and to make certain other changes so that benefits for husbands, widowers, and fathers will be payable on the same basis as benefits for wives, widows, and mothers; to the Committee on Finance

By Mr. SCHMITT (for himself and Mr WALLOP):

S 908. A bill to amend title II of the Social Security Act to provide for annual reporting, to the employees and self-employed individuals concerned, of the amounts of the social security tax contributions made or imposed with respect to their wages and self-employment income and of the amounts of the wages and self-employment income for which they have been credited; to the Committee on Finance.

By Mr. INOUYE:

S 909. A bill to authorize the Secretary of the Army to make available to the State of Hawaii certain physical facilities not needed by the Army at Fort DeRussy, Hawaii, for the establishment of a mental health clinic in such facilities; to the Committee on Armed Services.

By Mr. NELSON (for himself, Mr. MCGOVERN, Mr. MELCHER, Mr. MOYNIHAN, Mr. PROXMIRE, and Mr. LEAHY):

S. 910. A bill to amend section 201 of the Agricultural Act of 1949 to require that the price of milk be supported at not less than 80 percentum of the parity price therefor, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 911. A bill to direct the Secretary of the Navy to develop the technology necessary for clearing unexploded ordnance from land and waters with certain characteristics in order to determine the feasibility and cost of clearing the island of Kahoolawe, Hawaii, and adjacent waters of ordnance and other debris; to the Committee on Armed Services

By Mr. BURDICK (by request):

S. 912. A bill to amend title V of the Public Works and Economic Development Act of 1965, as amended, by creating a nationwide system of multistate regional development commissions to promote balanced growth and development in the regions of the Nation; to the Committee on Environment and Public Works

By Mr. MATSUNAGA (for himself and Mr. INOUYE):

S. 913. A bill to amend the Social Security Act with respect to health programs authorized under it, and for other purposes; to the Committee on Finance.

By Mr. BURDICK (for himself and Mr RANDOLPH) (by request):

S. 914. A bill to provide public works, business financing, and other development assistance to alleviate economic distress; to the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works, jointly, by unanimous consent, with titles I and II of the bill to be considered by the Committee on Environment and Public Works, title III to be considered by the Committee on Banking, Housing, and Urban Affairs, and all other portions of the bill to be jointly considered by the two committees.

By Mr. INOUYE:

S. 915. A bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos who assert that they performed military service on behalf of the United States during World War II, and for other purposes; to the Committee on Armed Services.

By Mr. INOUYE (for himself and Mr MATSUNAGA):

S 916 A bill to amend the act of September 30, 1950 (Public Law 874, Eighty-first Congress) to provide education programs for Native Hawaiians, and for other purposes, to the Select Committee on Indian Affairs.

By Mr. HEINZ (for himself and Mr STONE):

S J. Res 56. A joint resolution proposing an amendment to the Constitution to protect the people of the United States against excessive governmental burdens and unsound fiscal and monetary policies by limiting total outlays of the Government; to the Committee on the Judiciary

By Mr. PELL:

S.J. Res. 57. A joint resolution to authorize the President to proclaim the week of April 16–22, 1979, as "National Education for Business Week"; to the Committee on the Judiciary.

By Mr. DURKIN:

S.J. Res. 58. A joint resolution urging the President of the United States, the President of Mexico, and the Prime Minister of Canada to appoint a North American Energy Alliance Commission; to the Committee on Foreign Relations.

By Mr. INOUYE (for himself and Mr. COCHRAN):

S.J. Res. 59. A joint resolution to authorize and request the President to issue annually a proclamation designating the second week in May of each year as "Municipal Clerks Week"; to the Committee on the Judiciary

By Mr. RANDOLPH:

S.J. Res. 60 A joint resolution to authorize the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day", to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (for himself, Mr. MAGNUSON, Mr. CHURCH, Mr. MCCLURE, and Mr. PACKWOOD):

S. 885. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes; to the Committee on Energy and Natural Resources.

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

Mr. JACKSON. Mr. President, today I am introducing legislation to address the complex regional electric power planning and production problems facing the Pacific Northwest. This bill is identical to S. 3418 which was introduced in the 95th Congress. I am joined by my colleagues from the Northwest, Senators MAGNUSON, CHURCH, HATFIELD, MCCLURE, and PACKWOOD.

Over the past few years groups and individuals concerned about the future development of the electric power system in the Northwest have been working to develop a legislative solution to the power planning and distribution problems of the region. In September of 1977 I introduced S. 2080. I did this at the request of utilities and industrial users of electric power in the Northwest. That proposal represented the best efforts of those people to come to grips with the electric power problems of the Northwest.

S. 2080 and various other power planning proposals were the subject of extensive regional discussion and debate. In April and May of 1978 the Senate Energy Committee held 4 days of hearings in the Northwest on the regional power issue.

As a result of the extensive regional discussion and of the committee's field hearings I introduced S. 3418 in August of last year. I introduced this legislation on behalf of myself and the five other Senators from Washington, Oregon, and Idaho. Senate hearings were held on S. 3418 by the committee during August but it was not possible to complete committee consideration of this complex legislation before the adjournment of the 95th Congress in October. At that time Northwest members of the committee met and concluded that the regional

power bill should be a "first order" of business during the 96th Congress.

Companion legislation to S. 2080 and S. 3418 was also introduced in the House of Representatives and hearings were held in the region and in Washington, D.C., by the appropriate subcommittees of the House Interior Committee and the House Interstate and Foreign Commerce Committee.

To date a total of 22 days of hearings have been held by the respective Senate and House committees, the majority in the Northwest, to consider the electric power planning future of the region.

I am reintroducing S. 3418 unaltered from the 95th Congress so that the committee and the many interested parties in the region may pick up the discussion where we left it when the Congress adjourned. S. 3418 is the most appropriate legislative vehicle for the committee to consider for several reasons. Most importantly, regional discussion of power planning has focused on S. 3418 and recommendations of the committee have all been based on that legislation. Reintroducing S. 3418 will allow us to continue a regional dialog which began with its introduction and has continued since the adjournment of the 95th Congress.

During consideration of S. 2080 and S. 3418 paramount concern was expressed within the region and from other parts of the Nation concerning the impact of the legislation on historic Federal power marketing policies which grant preferential access to federally marketed power to publicly and cooperatively owned utilities. Under S. 3418 all sales of power by the Bonneville Power Administration were subject to the preference clause of the Bonneville Project Act.

However, public agencies expressed the view that language should be added to the bill which would specifically delineate that point. Accordingly, I asked the Public Power Council which represents all publicly and cooperatively owned utilities in the Northwest to draft amendments which would satisfy concerns of preference customers and to formally transmit those amendments to me as chairman of the Senate Energy Committee.

Over a period of several months the Public Power Council worked out a series of amendments to address their concerns. These amendments primarily address the preference clause but they relate to other issues as well. They were formally transmitted to me in February of this year. Because I specifically requested that the PPC prepare these proposals I am introducing the amendments by request of the PPC. I ask that they be printed and referred to the committee for consideration.

I have received many other proposals for amending S. 3418. Most of these proposals were received last year as a result of the August hearings which the committee held; however, additional amendments have been proposed this year by the city of Seattle and the city of Portland. In addition, I expect to receive joint proposals from the four governors of the region. I have also been advised that the Sierra Club intends to submit specific amendments and I expect that additional amendments from many other groups and individuals will be proposed in the weeks and months ahead.

The Committee on Energy and Natural Resources will have a further hearing before beginning a markup of the bill. By the time that hearing is concluded, I expect to have the latest views and specific recommendations of all concerned parties, and all such recommendations will be given consideration in the markup.

MAJOR ELEMENTS OF NORTHWEST REGIONAL POWER PLANNING ACT

Regional power planning and production legislation is inherently complex. There are many economic, environmental and other issues involved, there are many groups and individuals concerned about how the issues are resolved, and there is a great deal of history which has shaped our power system in the Northwest. It is virtually impossible to explain in a short statement all the intricacies of this legislation.

Nevertheless, I will attempt to briefly describe the highlights of the proposed bill.

BPA PURCHASE AUTHORITY

The most significant benefit provided by the bill for the region in the long run is the extension of the principle of regional self-financing embodied in the Transmission Act of 1974 to non-Federal additions to the regional power system. The Administrator would be authorized to acquire for the region, and at the region's expense, additional resources to meet load growth. The full cost of resources acquired by the Administrator would be recovered through BPA rates as are the costs of the Federal system at present.

BPA will become the principal bulk power supplier to all utilities in the region and thus the power revenues of the entire region will be available to assure repayment of bonds issued by utilities. This will result in lower interest rates which will be reflected in substantially lower costs for all of the power consumers of the region.

Regional revenues would be available on an equal basis for any type of resource purchase including conservation projects, renewable resources, and conventional thermal plants. The basic criteria for deciding among resources would be "cost effectiveness" and "feasibility"; however, if a conservation project or renewable resource is equally cost effective and feasible as a conventional resource it would be preferred over the conventional resource.

POWER ALLOCATION AND RATE DISPARITIES

At present Federal system power is sold to preference customers and to direct service industrial customers of BPA. Although the actual mechanics are more complex, the immediate practical impact of the proposed regional legislation would be to authorize BPA to take low cost federal power now being sold to industrial customers of BPA and make it available to investor owned utilities for the benefit of their residential and small farm customers. The industries, in turn, would receive an equal quantity of higher cost power sold to BPA by the investor owned utilities at their average system cost in "exchange" for the Federal power.

The bill would also eliminate the need for BPA to allocate its limited supply of Federal system power as of July 1, 1983, as is currently required, with all the lengthy legal battles that administrative allocation would entail. The bill accomplishes this by authorizing BPA to purchase new non-Federal sources of power to augment its limited existing supply and to enter power supply contracts with all Northwest utilities pursuant to rate directives in the bill. Without purchase authority BPA would be required to fully allocate Federal system resources to preference agencies and would not be able to enter the power sales arrangements which are contemplated under the bill with investor owned utilities to resolve the rate disparity problem.

REGIONAL PLANNING

The legislation proposes establishing a regional power planning process with public representation through public hearings and participation by state and local elected officials. At present regional planning is an individual utility responsibility with no comprehensive mandate for public involvement. The regional legislation would mandate the development of a regional power plan which would include: regional load forecasts, regional conservation standards, overall resource aquisition plans including a proposed resource mix, and other matters. Proposals to acquire a particular new resource would then have to be consistent with the regional plan and could be made by BPA only after consultation with the advisory council, the Governors, and public hearings.

Recommendations by the Administrator to acquire a major resource would be referred to the Congress for consideration before any contractual commitment to acquire resources or any financial commitment could be executed.

A great deal of discussion has occurred in the region since the Congress adjourned concerning the planning process aspect of the legislation. It is generally agreed that meaningful regional involvement in the planning process is an essential element of any regional legislation. It is also essential that whatever planning process is eventually agreed upon must be workable and timely.

In recent weeks, the Governors of the four Northwest States have come together in an effort to develop a consensus on regional power legislation. It is my understanding that the Governors will soon submit proposals for amending the bill including a proposed regional planning procedure.

It goes without saying that any proposals submitted by the Governors will have great credibility and weight and will receive extremely careful consideration by the committee. I want to congratulate the Governors for their effort to resolve outstanding issues and to develop a consensus position. Their partic-

ipation in the legislative process is welcomed and appreciated.

CONSERVATION

Conservation is an integral part of the regional power program established in this legislation. This bill will result in the most comprehensive and aggressive electric power conservation program in the United States.

At present the region has no comprehensive conservation program. Individual utilities have undertaken conservation projects but there are many barriers to an effective region-wide program. Public agencies in several states face State constitutional restrictions which limit their lending of credit to private individuals for the purpose of installing insulation or other conservation investments. There are no regional conservation standards. There is no mechanism for enforcing conservation standards or for requiring utilities to make cost effective investments in conservation.

Under this legislation the full revenues of the Northwest power system are made available for cost effective conservation investments. Conservation investments have a preferred status over investments in conventional generating resources assuming that both are equally cost effective and feasible. Because BPA will be meeting the requirements of utilities for additional electric power resources, BPA will be able to implement cost-effective conservation on a regional basis.

PUBLIC POWER COUNCIL AMENDMENTS

PREFERENCE CLAUSE AND RATE LIMIT AMENDMENTS

Publicly owned utilities in the region and nationally have expressed concern that the proposed regional legislation adversely affects the preference clause. Northwest preference customers have sought to address this issue through amendments to establish a "preference customer rate limit" which would preserve the financial benefits of the preference clause for public agencies. The public power council amendments would require BPA to test the estimated power costs to preference customers under the bill against the costs which these customers would have encountered in the absence of legislation.

A number of specific assumptions are set forth in the amendments which would guide BPA in making the determination of costs in the absence of legislation.

BPA has run several computer analyses of the proposed rate limit to estimate its probable actual impact. Based on estimates of load growth by the utilities (4.0 percent) and the Northwest Regional Commission study (2.9 percent) BPA has estimated that the rates available to preference customers under the bill with the proposed rate limit would at all times be less than or equal to the rates that would occur wihout legislation.

Other PPC amendments related to the preference clause clarify the bill's original intent. Under the bill all BPA power sales would have been subject to the preference provisions of the Bonneville Project Act. The PPC has made that assumption a specific qualification for all sales under the act.

The PPC also proposes amending the bill to assure that preference customers would continue to have a right to receive the full amount of resources which are part of BPA's base system in the event BPA encounters long-term inability to meet regional requirements.

Finally, the PPC has proposed a nonapplicability clause to assure that there is no inference the legislation applies to any other area than the Pacific Northwest.

AMENDMENTS RELATED TO RATE LIMIT

The need for the preference customer rate limit is the most sensitive issue to other BPA customers, particularly the investor-owned utilities and the affected States. The IOU's and the States have indicated they would accept the rate limit if, under reasonable assumptions, it would have no more than a minimal impact on their rates. Additionally, the direct service industries also are concerned that a rate ceiling might act to make their rates exceed the cost of even new regional power resources. The Public Power Council has accepted limitations upon the application of the rate ceiling which are responsive to these two concerns.

CONSERVATION AMENDMENT

The PPC amendments propose that the Administrator be authorized to grant rate credits and services to those utilities that undertake implementation of conservation measures above and beyond those otherwise called for by the act.

In addition, it is my understanding that the Governors have been studying the advisability of applying a rate surcharge to States or areas which do not conform with regional conservation standards.

Mr. President, I want to reiterate that the introduction of this legislation is intended to recommence in the Congress the dialog on regional power planning issues which has been underway for the past 2½ years. This legislation will be the subject of exceedingly careful consideration in the weeks and months ahead. I hope that by working together we can build on and improve what I believe is the most efficient and reliable power system in the Nation. I thank my colleagues who have joined with me in proposing this legislation.

Mr. President, I ask unanimous consent that the text of the bill and amendment be printed in the RECORD.

There being no objection, the bill and amendment were ordered to be printed in the RECORD, as follows:

S. 885

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) The Federal Columbia River Power System offers a unique opportunity to encourage policies of conservation and efficiency in the use of electric power within the Pacific Northwest region and to demonstrate the effectiveness of such policies to the Nation at large.

(b) The participation and consultation of the States, local communities, ratepayers, and the public at large are essential in developemnt of regional plans and programs related to energy conservation, renewable resources, and other generating resources and orderly planning of the Federal Columbia River Power System.

(c) The ratepayers of the Pacific Northwest should continue to pay all costs necessary to produce, transmit, and conserve electric power to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Administrator" means the Administrator, Bonneville Power Administration.

(b) "Conservation" means any appropriate improvements in the power system or investment which increases the efficiency of energy production or use.

(c) A conservation measure or a renewable, waste heat or cogeneration resource application is "cost effective" if it results in costs to the Administrator no greater than the cost of the least cost feasible alternative resource, waste heat or cogeneration or resources that the Administrator determines is or can be available for acquisition, and if it provides comparable power benefits, giving full recognition to prospective cost escalations and future availability of fuels.

(d) "Electric power" means electric peaking capacity or electric energy or both.

(e) "Federal base system resources" means the Federal Columbia River Power System hydroelectric projects which on the effective date of this Act are in operation or are scheduled for operation on or before June 30, 1983, electric power resources acquired by the Administrator under long-term contracts which are in force on the effective date of this Act, and new resources acquired by the Administrator to replace reductions in capability of the foregoing resources.

(f) "New resources" means all electric power resources acquired by the Administrator, except resources which are Federal base system resources or resources acquired at average cost from the investor-owned utilities pursuant to section 5(b)(2) of this Act.

(g) "Pacific Northwest, region, or regional", means

(1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.

(h) "Renewable resources" means a renewable source of energy, including, but not limited to, solar, wind, hydro, geothermal, and biomass, which is used for electrical generation or which will reduce the electrical requirements of a consumer by direct application.

(i) "Residential use or load" means all usual residential, apartment, seasonal dwelling, and farm building, electrical loads or uses, and not to exceed a total of one hundred horsepower of farm irrigation and pumping loads for any farm.

(j) "Resources" means electric power, facilities that produce electric power, planned electric power capability of generating facilities whether operating or operable, electric power conserved, and measures to conserve electric power.

REGIONAL PARTICIPATION

SEC. 4. (a) The Administrator shall establish a Bonneville Consumers' Council and a Bonneville Utilities' Council.

(1) The Bonneville Consumers' Council shall be composed of two persons from each congressional district in the States of Washington, Oregon, and Idaho, and the State of Montana west of the Continental Divide, who shall be appointed by the Governors of the State in which each such congressional district is located within ninety days of notification by the Administrator of a vacancy on the Bonneville Consumers' Council. One such person appointed to the Bonneville Consumers' Council from each district shall be an elected official of a local government within such district, and the other person shall be appointed from the general public with a view to diversity of backgrounds and interests.

(2) The Bonneville Utilities' Council shall be comprised of eighteen representatives of Pacific Northwest electric utilities to be selected by these utilities and not more than three representatives of the direct service industrial customers to be selected by them, such selections to be under rules established by the Administrator.

(3) The Administrator shall establish terms and other conditions of service for members of both Councils, and shall fill vacancies on the Councils in the absence of appointments by a Governor or failure of utilities to select persons.

(b) In order to further insure widespread and representative public involvement in formulation of regional power programs and policies, the Administrator shall establish and maintain comprehensive programs designed to inform the Pacific Northwest public of major regional electric power issues and to obtain public views and reactions concerning those issues.

(c) The Administrator shall prepare a regional power planning and conservation program to carry out the purposes of this Act. Such program shall be developed in consultation with the Governors of the States of Idaho, Montana, Oregon, and Washington, the Bonneville Consumers' Council and the Bonneville Utilities' Council and with general public involvement programs. The regional power planning and conservation program shall include a twenty-year regional load/resource forecast, proposed conservation programs, proposed renewable, waste, cogeneration and other resources, acquisitions, proposed major transmission system additions and such other program proposals as the Administrator deems appropriate. Such program or any part thereof, may be revised from time to time as the Administrator deems appropriate after consultation with the Governors, the Councils and public involvement as provided in this section.

SALE OF POWER

SEC. 5. (a) The Administrator shall offer to sell electric power to each Pacific Northwest utility, at rates established pursuant to section 7, to meet its firm power load in the region which is in excess of such utility's resources committed to such load, subject to the provisions of subsection (b)(2) of this section: *Provided*, That the Administrator determines that he has or can acquire adequate resources to meet such requirements.

(b) Additionally, (1) the Administrator is authorized to sell electric power to regional Federal agencies, and (2) if the Administrator acquires electric power either from a Pacific Northwest utility at the average cost of resources then available to that utility, or from other resources at a cost equal to or less than the average cost of resources then available to that utility, then the Administrator shall offer to sell to such utility for resale to meet the load of its residential customers in the region an equivalent amount of electric power: *Provided*, That such sale shall be limited to an amount not to exceed 50 per centum of each such utility's residential loads in the year beginning July 1, 1979, and increasing such percentage in equal annual increments to 100 per centum of such load in the year beginning July 1, 1984. Such electric power shall be sold at rates established pursuant to section 7.

(c) The Administrator is authorized to sell to direct-service industrial customers electric power to meet their load requirements so long as such sales provide a portion of the planning and operating reserves for the Federal Columbia River Power System. The Administrator shall offer to those direct-service industrial customers receiving electric power from the Federal Columbia River Power System on the effective date of this act new long-term power sales contracts effectuating the purposes of this section. Such offer shall expire one year from the date it is tendered by the Administrator. Such electric power shall be sold at rates established pursuant to section 7.

(d) The Administrator is further authorized to sell or otherwise dispose of electric power that is surplus to his obligations incurred pursuant to subsections (a), (b), and (c) of this section in accordance with other statutes related to disposition of power from the Federal Columbia River Power System. Such electric power shall be sold at rates established pursuant to section 7.

RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall conserve electric power through implementation of measures the Administrator determines are feasible and cost-effective including, but not limited to programs for financing residential insulation, increased system efficiency and waste energy recovery. The Administrator shall develop conservation proposals and programs which assist the region's electric power consumers to make efficient use of energy. In addition, he shall assist the promotion of conservation by and among regional consumers by providing technical or financial assistance, and by cooperating with his customer and governmental authorities to encourage voluntary conservation and to devise effective mechanisms for establishing, enforcing, and achieving compliance with mandatory conservation standards.

(b) In the event that the Administrator determines conservation will be insufficient to meet the electric power obligations incurred under section 5, the Administrator shall acquire additional resources from Federal or non-Federal entities to meet the remainder of such obligations. Such acquisition shall be obtained from waste heat, cogeneration or renewable resources the Administrator determines are feasible and cost-effective.

(c) If resources in addition to such resources are needed, then the Administrator shall acquire additional electric power resources giving priority to high efficiency resources, such as combined cycle and magnetohydrodynamic generation, which he determines to be feasible and cost-effective. All such resources acquired by the Administrator:

(1) shall be consistent with the provisions of the power program for the Pacific Northwest developed pursuant to section 4; and

(2) shall be constructed and operated in a manner to provide efficient, economic, and reliable service.

(d) The Administrator is hereby authorized to construct and operate generating facilities, with the exception of constructing hydroelectric resources, utilizing renewable resources; and to construct such other generating resources as he determines are necessary to assure transmission system reliability.

(e) To the extent conservation or acquisition of resources under this Act require direct arrangements with the ultimate consumers of electric power, the Administrator shall make maximum practicable use of existing institutions able to supply credit to such consumers.

(f) The Administrator is authorized to enter into agreements with sponsors of resources which may be proposed for acquisition by the Administrator to fund or secure debt incurred in the investigation and initial development of such resources.

(g) Prior to the execution of any contract for the acquisition of major resources pursuant to subsection (c) of this section, the Administrator shall have reviewed the proposed acquisitions with the Governors of Idaho, Montana, Oregon, and Washington, the Bonneville Consumers' Council and the Bonneville Utilities' Council pursuant to section 4; and he shall submit any comments or recommendations received from the Governors and the councils along with the proposed contracts and evidence of compliance with the National Environmental Policy Act of 1969, to the Senate Energy and Natural Resources Committee and to the House Interior Committee for review. Thereafter, the Administrator shall publish notice of his intention to acquire such resources in the Federal Register. No such contract shall be executed by the Administrator until ninety days after the date of submittal to the Congress pursuant to this subsection and no financial commitment shall be incurred under this authority until it has been noted in the Administrator's budget submittal made pursuant to section 11 of Public Law 93-454.

(h) The Administrator, at the request and expense of a Pacific Northwest customer, shall acquire, to the extent practicable, any electric power which is required by such customer to replace electric power curtailed or interrupted by the Administrator: *Provided*, That such customer may elect to acquire independently replacement power under terms and conditions as prescribed by the Administrator.

RATE DIRECTIVES

SEC. 7. (a) The Administrator shall establish and periodically modify rates for the sale and disposition of electric power to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power including the amortization of the Federal investment in the Federal Columbia River Power System over as reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to law. In addition, prior to July 1, 1982, such rates shall recover revenues in amounts that the Administrator determines are necessary to provide all or a portion of the initial funding for conservation programs to be implemented pursuant to section 6(a). Such rates shall become effective upon confirmation and approval by the Federal Energy Regulatory Commission and shall be established in accordance with sections 9 and 10 of Public Law 93-454 and the provisions of this Act on the finding that such rates (1) are sufficient to assure repayment of the Federal investment after first meeting the Administrator's other costs; (2) are based upon the Administrator's total costs of service, including contingencies and initial conservation funding; and (3) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal uses.

(b) The Administrator shall establish a rate or rates applicable to the electric power sold for the general requirements of public body, cooperative and Federal agency customers, and to the electric power sold under section 5(b)(2) for the requirements of residential customers in the region. Such rate or rates shall recover the costs of that portion of the Federal base system resources needed until such requirements exceed the Federal base system resources. Thereafter, such rate also shall recover the costs of additional electric power as needed, first from the electric power purchased by the Administrator under section 5(b)(2), and then from new resources.

General requirements as used in this section shall be that portion of a public body's, cooperative's, or Federal agency's directly served electric power load in excess of its own resources that are dedicated to meet such load and exclusive of any large new industrial load whose service is contracted for after October 1, 1978.

(c) The rate or rates applicable to direct-service industrial customers shall be established at a level which the Administrator determines is equitable in relation to the rates charged by the region's electric utilities to their major industrial customers, taking into account the value of power system reserves made available to the Administrator through his rights to curtail or interrupt service to such direct-service industrial customers; the comparative size and character of the loads served; the relative costs of electric capacity, energy, transmission, and related delivery facilities provided, and other service provisions, all as related to the delivery of power to such customers: *Provided*, That prior to July 1, 1984, the rate or rates applicable to direct-service industrial customers shall be established to recover the costs incurred by the Administrator pursuant to section 5(b)(2) and not recoverd through rates applicable for other classes of power sold by the Administrator; and such rate or rates shall be established at a level no lower than the weighted average wholesale power costs to the investor owned utilities from their own resource costs and purchases from the Administrator pursuant to section 5(b)(2) for their residential loads in the region as determined by the Administrator: *Provided further*, That for the period prior to July 1, 1981, such rate or rates may be in the form of a surcharge on rates then applicable to direct-service industrial customers.

(d) In establishing rate schedules of general application, the Administrator may establish a uniform rate or rates for sale of capacity.

(e) Rates for all other firm power sold by the Administrator shall be based upon the cost of the portions of Federal base system resources and additional resources, including new resources, which the Administrator determines are required to support such sales.

(f) The Administrator shall allocate to power rates, as he may determine appropriate, all other costs and benefits including, but not limited to, conservation, uncontrollable events, reserves, operating services, and the sale of excess electric power.

AMENDMENTS TO EXISTING LEGISLATION

SEC. 8. (a) Section 11(b) of Public Law 93-454 is amended by adding a new subparagraph (12) as follows:

"(12) making such payments as shall be required to carry out the purposes of the Pacific Northwest Electric Power Planning, and Conservation Act".

(b) Public Law 93-454 is amended by striking subsections 13 (a) and (b) and substituting the following new subsections:

"SEC. 13 (a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of, and on behalf of the Bonneville Power Administration bonds, notes, and other evidences of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the constructing, acquisition, and replacement of the transmission system, to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power and Planning Act, 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 Treasury 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 not to exceed the interest rate which would be applied to such bonds if they were purchased by the Federal Financing Bank. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1,250,000,000 plus the principal amount of any bonds outstanding which shall have been issued to finance or assist in financing the Administrator's implementation of the purposes set forth in the Pacific Northwest Electric Power Planning, and Conservation Act.

"(b) The principal of, premiums, if any, and on such bond 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 11(b)(2) through 11(b)(7), 11(b)(11), and 11(b)(12), and shall include reserve or other funds created from such receipts.".

(c) Public Law 88 552 is amended by striking subsection 1(b) and inserting a new subsection (b) as follows:

"(b) Pacific Northwest means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region".

(d) Public Law 88-552 is amended by adding a new section 10 as follows:

"SEC. 10 All references in sections 1, 2, 3, 5, and 7 of this Act to 'plants', 'energy', 'peaking capacity', and 'generating facilities' shall be applicable to all types of generation and not solely to hydroelectric generation"

ADMINISTRATIVE SECTIONS

SEC 9 (a) In carrying out the provisions of this Act, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancellation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary.

(b) Except as specifically provided herein, the authority and duties of the Secretary of Energy and the Administrator shall not be affected by this Act.

(c) The Bonneville Consumers' Council and the Bonneville Utilities' Council shall not be subject to the provisions of the Federal Advisory Committee Act, and any action of a member of such Council related to an action of such Council shall not be deemed to be a violation of Federal or State antitrust laws

(d) No later than March 1, 1979, the Administrator shall offer to enter into power sales tand purchase contracts to be effective July 1, 1979, with utilities pursuant to section 5(b)(2).

(e) For the purpose of enabling the Adminisrator to acquire resources from State and local governmental units at a cost no greater than the costs which would be applicable in the absence of such acquisition, the debt obligations described in section 103(a)(1) of title 26 of the United States Code shall not be affected by any contract or agreement regarding the Administrator's acquisition of resources constructed by a State or local governmental unit and for which the Administrator determines at the time the commiment for such acquisition is made will not be utilized over the life of the project in whole or in major part by a person who is not an exempt person, as defined in section 103(c)(3) of title 26 of the United States Code.

(f) No proivsion of chapter 2C of title 5 of the United States Code shall apply to or be deemed to include any "person" or "company" (as defined in 15 U S C. 79(a) (1) and (2)) organized and operated primarily for the purpose of financing, leasing, constructing, owning, managing, or operating part of an interest in, or all of, facilities used for the generation of electricity (together with associated transmission and other facilities), 75 per centum or more of the power from which, or from the part or interest so financed, leased, constructed, owned, managed, or operated, is or will be sold to the Administrator under section 6.

AMENDMENT NO 134

On page 2, line 3, after the word region add a period and delete the balance of the sentence

On page 2, after line 19, insert the following new subsection and redesignate the succeeding subsections accordingly:

"(b) 'capability' means the assured peaking and energy capability determined for each operating year from (1) hydrogenerating plants, whether owned or contracted for, based upon the most critical water conditions and (2) thermal generating plants, whether owned or contracted for, based on the most adverse fuel or other conditions reasonably anticipated. Where capability is affected by controlled storage releases, the term 'critical water conditions' means those water conditions resulting from releases that result in flows less than the planned critical period flows for the month"

On page 6, line 21, delete subsection 5(a) and insert in lieu thereof the following:

"SEC. 5 Subject at all times to the preference and priority accorded public bodies and cooperatives under the Bonneville Project Act of 1937, P L 75-329, and, in particular, Sections 4 and 5 thereof:

(a) The Administrator shall offer to sell electric power to each Pacific Northwest utility, at rates established pursuant to Section 7, to meet its firm power load in the region which is in excess of the capability of such utility's firm resources which the utility as of December 31, 1976 had determined or which the utility shall after the effective date of this Act, determine to use to serve its firm load Provided:

(1) Such Resources used to serve firm loads shall, except with the consent of the Administrator, continue to be used to meet the utility's firm load except for obsolesence, retirement, or loss of resource or contract rights,

(2) The Administrator shall include provisions in contracts executed in accordance with this Section to enable him to restrict his obligations to meet such loads in the event he determines he cannot acquire sufficient resources pursuant to Section 6 to meet such loads, but no such restrictions shall be imposed against the Administrator's public body, cooperative and Federal agency customers until the Federal base system resources are fully allocated to such customers; and

(3) Sales to a utility pursuant to this Section 5(a) shall not be restricted below the amount of resources acquired by the

Administrator from such utility pursuant to Section 6.

On page 7, after line 19, add the following:

"Average system cost of resources as used in this subsection shall not include: (1) the cost of resources acquired by a utility to meet any large new industrial load that was not contracted for or committed to by October 1, 1978; (2) the cost of resources acquired to meet any firm power sales to ultimate consumers outside the region; and (3) [costs associated with uncontrollable events.]

On page 7, line 21, between the word "customers" and the word "electric" insert the phrase: "with existing contracts as of the date of this Act".

On page 9, line 5, between the word "In" and the word "the" insert the phrase: "addition to the rights to purchase resources under existing law and in".

On page 9, after line 12, insert the following new subsection and redesignate the succeeding subsections accordingly:

"(c) To encourage conservation and the construction of desirable resources by utilities, the Administrator may grant credits and provide services to those utility customers who undertake additional conservation measures or construct firm resources, and use such resources in their loads or in any manner that reduces the obligation of the Administrator under this Act to acquire additional resources."

On page 9, line 17, after the word "cost-effective." and before the word "All" insert the following new sentence:

"In determining the cost-effectiveness of resources proposed to be acquired by the Administrator under this Section 6(d), for any resource built for regional needs the Administrator shall deduct the cost incurred prior to the date of the Act in estimating the total costs of such project."

On page 9, line 24, delete subsection (d) and insert in lieu thereof the following new subsection (d):

"(d) The Administrator is authorized to acquire planned electric capability from a generating facility which does not meet the cost-effective and reliability critera of this Section but is an experimental, developmental, demonstraton or pilot facility with a potential for providing feasible, cost-effective and reliable service.

On page 11, line 10, delete subsection (h) and insert in lieu thereof the following new subsection (h):

"(h) At the request and expense of any Pacific Northwest customer or group of customers, the Administrator shall, to the extent practicable:

(i) acquire any electric power required by (A) utility customers to enable such customental, demonstration or pilot facility with the region, or (B) direct service industrial customers, to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power the Administrator is himself obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting it: *Provided*, That the Administrator may prescribe terms and conditions for the acquisition of replacement power by any direct service industrial customer or group of such customers; and

(ii) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such sale is consistent with the Administrator's other marketing obligations and the policies of this Act.

To carry out the requirements of this paragraph (h), the Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his then existing contractual obligation except for non-firm power; Provided, that the Administrator shall provide such services to firm power from projects under construction on the effective date of this Act, and provided further that such priority shall apply only to that portion of such firm power that has previously been offered at cost plus a reasonable rate of return for sale and use within the Pacific Northwest and that no Pacific Northwest customer is willing to purchase upon substantially simular terms."

On page 12, beginning on line 21, strike the phrase "for the requirements of residential customers in the region."

On page 13, after line 3, insert the following:

"Provided, however, in no event shall the estimated amounts charged for firm power under rates applicable to the general requirements of such public body, cooperative, and federal agency customers of the Administrator under this Act, excluding costs for conservation or uncontrollable events which have been included as part of such rates, exceed in any five year period beginning July 1, 1985, an amount equal to the estimated costs for such customers that would have obtained if (1) the public body and cooperative customers' general requirements had included the direct service industrial customers' loads located within or adjacent to the geographic service boundaries of such public bodies and cooperatives during the applicable period, (2) public body, cooperative and federal agency customers had been served with federal base system resources, less firm power contractual commitments as of the date of this Act to direct service industrial customers not located within or adjacent to the service area of a public body or cooperative customer of the Administrator, (3) no purchase or sale as provided in Section 5(b)(2) had been made, (4) all resources that would have been required to meet the general requirements of the public body, cooperative and federal agency customers in excess of federal base system resources were resources of public bodies and cooperatives completed after the effective date of this Act, and (5) the monetary savings to public body, cooperative and federal agency customers that resulted from actions of the Administrator under Section 6 were not achieved. Any amounts not charged to such public body, cooperative, and federal agency customers pursuant to this Section 7(b) shall be recovered from the rates applicable to all other power sold.

On page 13, line 7, between the words "own" and "resources" insert the word "firm".

On page 13, lines 8 and 9, strike the phrase "whose services were contracted for after October 1, 1978." and insert in lieu thereof the following:

"that was not contracted for or committed to by the public bodies or cooperatives by October 1, 1978."

On page 13, after line 9, insert the following new subsection and redesignate the succeeding subsections accordingly:

"(c) In order to avoid adverse impacts on retail rates to public bodies and cooperatives with low system load densities, the Administrator is authorized to apply discounts to the rate or rates for such customers."

On page 18, lines 11 through 23, delete subsection (c) and insert in lieu thereof the following new subsection (c):

"(c) To enable the Administrator to acquire resources from state or local governmental units at a cost no greater than the costs which would be applicable in the absence of such acquisition, for the purpose of Section 103(b) of Title 26 of the United States Code the Administrator shall be deemed to be an exempt person with respect to the Administrator's acquisition of electric energy from a facility therefor if the Administrator determines, prior to contracting for the acquisition, that such electric energy is not being acquired for the purpose of furnishing a major portion thereof to persons who are not exempt persons, each of which is expected to be furnished more than three percent of the electric energy; provided that in computing the portion of the proceeds of an issue of obligations to be used in any trade or business by persons who are not exempt persons, the amount of electric energy the Administrator determines will be furnished by it to such persons shall be treated as sold to such persons by the issuer of the obligations."

On page 19, after line 9, add new Section 10 as follows:

"SEC. 10. Neither the provisions of this Act empowering the Administrator to market resources to entities other than public bodies and cooperatives nor the implementation of these provisions shall, or shall affect, alter or diminish the provisions of other Federal laws in which preferential entitlement to purchase Federally generated power and energy is accorded to public bodies and cooperatives."

On page 13, beginning with line 10, delete subsection 7(c) as originally proposed, insert the following new subsection, and redesignate the succeeding subsections accordingly:

(c) The rate or rates to direct-service industrial customers shall be established:

(i) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the net costs incurred pursuant to section 5(b)(2), based upon his projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other classes of power sold by the Administrator; and.

(ii) for the period after July 1, 1985, at a level which the Administrator determines to be equitable in relation to the retail rates charged by the region's public bodies and cooperatives to their industrial customers. [to be based upon the Administrator's applicable wholesale rates to such public bodies and cooperatives and the typical margins included by such public bodies and cooperatives in their retail industrial rates] but taking into account (A) the comparative size and character of the loads served, (B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and (C) direct and indirect overhead costs, all as related to the delivery of power to such customers; [*provided*, that the Administrator's rates during such period shall in no event be less than his rate in effect for the contract year ending on June 30, 1985].

The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtain service to such direct-service industrial customers.

● Mr. MAGNUSON. Mr. President, I am pleased to join Senator JACKSON and the Senators from Oregon and Idaho in cosponsoring this legislation. The Pacific Northwest electric power planning and conservation bill was the subject of numerous hearings in the Pacific Northwest and here in Washington, D.C. last year. Those hearings produced many useful suggestions and amendments to improve the bill.

The legislation being introduced today is still a working document and further changes will no doubt be made in it by the Energy and Natural Resources Committee after it holds the additional

hearings it plans on the bill. It is necessary, however, that the energy needs of the Northwest be dealt with by this Congress, and therefore I commend Senator JACKSON for his efforts in getting the legislative process underway early in the session.●

Mr. HATFIELD. Mr. President, will the Senator yield for 1 minute?

Mr. JACKSON. I yield to my distinguished colleague from Oregon.

The PRESIDING OFFICER. The Senator from Washington has 5 minutes remaining.

Mr. HATFIELD. Mr. President, I commend the Senator from the State of Washington (Senator JACKSON), who as Chairman of our Energy and Natural Resources Committee has made possible again through his leadership a proposal to deal with the electrical program of the Pacific Northwestern States. I do not think that anyone outside the Northwest can fully appreciate the difficulty that has been overcome by the Senator from Washington State in drawing together diverse interest groups, public utilities, private investor-owned utilities, co-ops and the various other systems of power distribution into a coalition of support for this proposal.

We are not in total agreement at this point but the fact that we have a general agreement on this proposal is no mean feat. It is an extraordinary example of the kind of respect and high regard the people of the Northwest hold Senator JACKSON and speaks to his skill and leadership of bringing diverse groups together. So I am proud to be associated with my colleague in the presentation of this bill today and feel that it is the major step in resolving a major problem in the Pacific Northwest. I thank him for his leadership.

Mr. JACKSON. Mr. President, I appreciate the kind comments of my good friend and ranking member on the minority side of the Energy and Natural Resources Committee.

Mr. President, whatever we have been able to do has been all made possible by the strong bipartisan support that we have been able to achieve in the committee and in the Northwest community.

That leadership has been in the hands of the able and distinguished senior Senator from Oregon (Mr. HATFIELD), and I am most grateful for his strong support in all of these endeavors.

Mr. HATFIELD. I thank the Senator.

By Mr. ROBERT C. BYRD (for Mr. TALMADGE (for himself, Mr. BELLMON, Mr. CULVER, Mr. HUDDLESTON, Mr. LUGAR, Mr. MCGOVERN, Mr. STEWART, and Mr. ZORINSKY)):

S. 886. A bill to protect the public health by providing flexibility in the regulatory process to prevent the occurrence of botulism if the prohibition of nitrites and nitrates becomes necessary based on the results of studies of their carcinogenicity or other toxic effect; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources, jointly, by unanimous consent.

NITRITE MORATORIUM AND FOOD SAFETY ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator TALMADGE, I send to the desk the Nitrite Moratorium and Food Safety Act, and I ask unanimous consent that it be jointly referred to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources. I have been notified that it has been cleared with the chairmen of those committees, Mr. TALMADGE being one of them.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. TALMADGE. Mr. President, I join with a number of my colleagues in introducing the Nitrite Moratorium and Food Safety Act, a bill designed to bring stability and commonsense to the current Government deliberations over the continued use of nitrite in cured meats, poultry, fish, and cheese.

The bill was developed jointly by the Department of Agriculture and the Department of Health, Education, and Welfare, because of the possibility that current food safety statutes could force the Government to ban the use of nitrite, thereby exposing consumers to the danger of botulism poisoning.

The bill provides these departments greater flexibility by imposing a 1-year moratorium on any ban by the Department of Agriculture or the Food and Drug Administration on the use of nitrite.

The bill also provides that, if the current review of nitrite shows it to be unsafe, the Food and Drug Administration and the Department of Agriculture would be authorized to phase out the use of nitrite over a period of time if a feasible alternative protection against botulism is available.

Mr. President, nitrite is among the oldest food preservatives and curing agents known to man. It has been used since the days of the Greek and Roman empires. Nitrite provides protection against botulism—a deadly food poisoning. Current food processing and handling practices make the protection provided by nitrite essential to the public health. Its immediate elimination would subject the public to a grave risk of botulism.

Recently, a study was completed at the Massachusetts Institute of Technology implicating nitrite as a possible carcinogen. The MIT study is being reviewd by independent scientists and by the administration through an interagency task force. If the review sustains the findings of the MIT study, current law would—in the opinion of the Department of Justice—require that regulatory action be taken to ban nitrite use.

Because of the public health risk of such an action, the Department of Agriculture and the Department of Health, Education, and Welfare asked the Department of Justice whether a gradual phaseout of nitrite, to permit the development of feasible alternatives, would be permitted under current law. The Office of Legal Counsel of the Department of Justice has ruled that such action would not be permissible and that only Congress, through legislative action, may authorize a postponement.

Consequently, statutory authority is necessary to permit the use of nitrite until feasible alternatives to protect the public against botulism are developed.

The proposal I am introducing would avoid an abrupt and unwise disruption of the food supply and customary storage and use practices. It would also avoid a serious health hazard by permitting the continued use of nitrite until feasible alternative protections against botulism are available.

In summary, Mr. President, the legislation would work as follows:

(1) No action would be taken either by the Department of Agriculture or the Food and Drug Administration to ban nitrite from foods in which it is used to prevent botulism until May 1, 1980. Under the legislation, the Department of Agriculture and the Food and Drug Administration would be allowed to enforce existing or already proposed regulations, including those that require reductions in the amount of nitrite permitted in bacon.

(2) Between now and May 1, 1980, the Department of Agriculture and the Food and Drug Administration would collect and evaluate information about the uses and risks of nitrite and its alternatives.

(3) At the end of the moratorium, if the agencies conclude that nitrite poses a health hazard, they would propose an orderly phaseout of its use.

(4) To effect this phaseout, the agencies would be required to assure that any alternative to nitrite would provide full protection against botulism and also could be implemented on a commercial basis.

Mr. President, the legislation we are proposing is reasonable, appropriate, and timely. I am asking Senator STEWART, chairman of the Subcommittee on Agricultural Research and General Legislas soon as possible. The Committee on Agriculture, Nutrition, and Forestry will move as quickly as possible to consider this legislation.

Mr. President, I ask unanimous consent that the text of the bill, a section-by-section analysis, and the opinion of the Office of the Legal Counsel of the Department of Justice be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nitrite Moratorium and Food Safety Act".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "food" (except as used in the term "meat food product") has the same meaning as is assigned to that term by section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f));

(2) "meat food product" has the same meaning as is assigned to that term by section 601(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j));

(3) "poultry product" has the same meaning as is assigned to that term by section 453(f) of the Poultry Products Inspection Act (21 U.S.C. 453(f));

(4) "commerce" means the introduction or delivery for introduction of a meat food product, poultry product, or other article of food into interstate commerce, its receipt in interstate commerce, or its manufacture for such

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

[Ms. HOLTZMAN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

PROTECTION FOR CIA EMPLOYEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, today I am introducing legislation authored by Senator LLOYD BENTSEN which would protect the confidentiality of the identities of certain employees of the Central Intelligence Agency.

As you know, Mr. Speaker, the safety and position, as well as the effectiveness, of certain U.S. intelligence officers have been compromised in the past several years by the disclosure of those officers' identities by former CIA employees. Incredible as it seems, it is possible that such exposures by former intelligence agency personnel are not illegal. This bill will clarify the law and make it a criminal offense—punishable by up to 10 years in prison or up to $10,000 in fines or both—for former CIA employees to identify certain intelligence officials or to reveal information which can lead to the identification of those officials. The bill will cover the identities of those intelligence officials who have been designated, by an Executive order of the President, as in need of protection. The information which would be confidential would include names, addresses and telephone numbers.

It is important to note that the provisions of this legislation will apply only to those persons authorized to have the confidential information. Those not authorized—for example, reporters—could not be prosecuted under the bill.

Mr. Speaker, it is very unfortunate that there is a need for this legislation. But since there is, and with the consequences for our intelligence community so severe if we do not act, I urge support of this bill.●

ITALIAN CULTURE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 5 minutes.

● Mr. ADDABBO. Mr. Speaker, in New York City this week we are celebrating Italian Culture Week. These 7 days bring together not only those of us of Italian-American heritage but all of those from other ethnic backgrounds who have, at least for a brief moment, enjoyed being Italian too.

Those of us who are of Italian extraction are very proud of our Heritage and what it means to our family in todays fast pace life. We have taken part in the number of public and private ceremonies throughout this week which have deliniated the contributions to American life that have been made by those of Italian background. Our forefathers who first came to this country helped build the subways and the bridges of America's great cities, while others—skilled artisans at their trades—sculpted works of art that still remain and others, through their music, writing or other talents provided beauty that enhanced the world around us.

But the real contribution of Italian culture has dealt with the family. To the immigrants who arrived penniless in this country seeking opportunity and to those of us who enjoy the benefits of American life today, it has always been the family unit which held the Italian culture together. It is one of the joys and one of the foundations of Italian life that no matter how difficult the world outside may become, the family is there to provide warmth and support to whoever needs it. If we can do nothing else, we would be happy to show that concept of our life so that others may benefit from it.

But, as you know, Mr. Speaker, there is so much more to the Italian way of life than just that. We deal in day to day realities too and even as we celebrate this commemorative week, we must also think of events now occurring in Italy as it once more faces critical elections just a few weeks from now.

Our parental nation faces many great problems, internally and outside its borders, which have a distinct bearing on U.S. foreign policy in Europe.

It is in the interest of this country to provide strong support to the people of Italy as they go through the difficult times. I believe that the Carter administration is making a mistake to seek to close its consulate office in Turviv, Italy at this time when the Communist Party has placed such a great emphasis on political activity in that great industrial city.

Our removal can be interpreted as our withdrawal of U.S. interest in Italy which I know is not our policy.

Mr. Speaker, our participation in remembering Italy's contributions I hope will continue not only this week but always for Italy is an important ally in our NATO alliance.●

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. SWIFT) is recognized for 5 minutes.

[Mr. SWIFT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 60 minutes.

[Mr. LAFALCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE PACIFIC NORTHWEST ELECTRIC POWER SUPPLY AND CONSERVATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 30 minutes.

Mr. ULLMAN. Mr. Speaker, earlier today I introduced the Pacific Northwest Electric Power Supply and Conservation Act. The fact that I am joined in this action by 11 of my colleagues from the States of Oregon, Washington, and Idaho eloquently attests to the critical importance of this bill to our part of the country.

As a region, we stand on the verge of a long and bitter battle over the traditional power supplies that have been so important to our development. The introduction of this bill is intended as a first step toward averting that divisive and potentially destructive battle.

It is by no means the final answer to our unique, regional problems. I think that every cosponsor of this bill will agree that there is a long, legislative path to travel before we have that answer.

But we are unanimously agreed that a legislative solution to our regional energy problems is essential. And our sponsorship of this bill represents our firm commitment to take the time and expend the effort necessary to find that solution with the help, and hopefully the support, of our colleagues in the House.

The bill we have introduced has two significant advantages:

First, it is identical to legislation that was proposed in the last Congress and it has had considerable exposure both in the Pacific Northwest and in the Congress. In short, it is a familiar legislative vehicle.

Second, and more important, it addresses each major aspect of the energy problem that confronts the region, including:

The issue sharply different and growing rate disparities among individual consumers throughout the Northwest;

The question of public participation in the critical energy decisionmaking process within the region;

The need for a coordinated, aggressive conservation effort; and

The question of obtaining future power supplies in an economical and environmentally responsible manner.

Mr. Speaker, this bill provides a solid foundation on which to resolve our intraregional conflicts and build a responsible program for the future. It enables us to get to the difficult work at hand. We intend to do just that, and we ask the indulgence and the assistance of our colleagues as we proceed.

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Mr. Speaker, I want to recognize at this time our colleague from Oregon (Mr. DUNCAN), who has taken a role of leadership in this effort to put together a regional power program.

Mr. DUNCAN of Oregon. Mr. Speaker, I thank the gentleman for yielding, and I want to thank him and Mr. FOLEY, our other colleagues from the State of Washington, the State of Idaho, and the State of Oregon, for the leadership that they have demonstrated in bringing this bill once again before the Congress.

Mr. Speaker, I am pleased to join with all of my colleagues from Oregon, Washington, and Idaho, with the exception of

Congressman WEAVER of Oregon who will be introducing his own bill, in the introduction of the Pacific Northwest Electric Power Planning and Conservation Act. This is identical to H.R. 13931 of the 95th Congress.

In introducing this legislation, my colleagues and I are demonstrating our conviction that a legislative solution to the energy problem of the Pacific Northwest is essential and a problem demanding the highest level of our legislative abilities. We have introduced last year's bill because it has been the vehicle for some 22 days of public hearings, mostly in the region, but also here in Washington, and because it is the framework to which the many disparate interested groups have referred, in working out amendments which will be offered.

Each of the sponsors recognizes that many amendments must be considered and that the bill will undoubtedly be extensively amended in the legislative process. We also recognize, however, that this is the nature of legislation; that the final compromises will not and cannot be forged outside of the legislative crucible; that those hard decisions will not be made except under the pressure of time and the almost universally held view that legislation is essential. We cannot finish the job unless we commence it. It is on the commencement that we agree and not, necessarily, the finished product.

The legislation is required because of a number of problems which the region faces; some in common with the rest of the country, others unique to our own situation. Among those are current unavailability of further low cost hydroelectric power production; the uncertainties and high cost of providing additional power production from other sources in face of rising demands. This has created increasing competition for a comparatively static supply. In effect, we are faced with trying to divide up a shortage; long since has Bonneville terminated its contracts with the investor-owned customers. The direct-service industries are faced with a termination of their contracts as they expire in the 1980's. A substantial percentage of the Nation's production of aluminum and all the domestic production of nickel depends upon this power, so we have here a national interest involved. In June of 1976, the public preference agencies were notified that their additional requirements from low cost hydroelectric cannot be met after 1983.

Because of this situation, the disparity in rates charged to the same class of customers by the investor-owned-utilities, as opposed to those of the public preference agencies, has grown increasingly large, creating a very unfair situation that cannot long be tolerated.

Everyone agrees that conservation is the cheapest and best way of extending our supply. The people in our area have moved ahead in this direction, but without legislation of this sort, the effort is bound to be piecemeal, uncoordinated, and less effective. And finally, it has been recognized that we need to forecast our needs and plan how to meet them on a regional basis with close consultation and participation of the States, interested local units of government and the public generally.

This legislation addresses all of these problems. Key to the success of the bill is the extension of the regional self-financing principle, permitting the administrator to acquire, at the region's expense, additional resources to meet load growth, the cost to be recovered through the rates. No one type of energy is mandated, or preferred, except as hereinafter noted. Rather the criteria of cost effectiveness and feasibility is set up to determine the type of resource to be used to meet the need. If a conservation project or a renewable resource is equally as cost effective and feasible as a conventional resource, it will be preferred under this law.

The rate disparity is substantially reduced as the need for BPA to allocate its limited supply of vital power is eliminated. Regional planning is established, with provisions for participation by the public and local government. Conservation will become an integral part of the regional planning.

Last year, Congressman Meeds' committee was in the process of markup when the session ended. A number of amendments were considered and adopted by the committee at that time. I assume that many, if not all of those, will be offered as efforts are made to improve this bill.

The Public Power Council, at Senator JACKSON'S request, has prepared an amendment that has come to be known as the "rate cap" amendment to insure that preference customers will pay no more under this bill than they would without it. The investor-owned utilities and the industrial users, being convinced that the impact on their rates will be minimal, if any, have agreed to this proposal. Likewise, the industrial users are prepared to surrender their low cost power in exchange for higher cost power under a longer term contract. These higher rates will, in effect, finance the cost of lowering the rates to home and farm customers of the investor-owned utilities.

While the waters of the Columbia have been divided between conflicting uses, for example, energy, fish, irrigation, recreation, and so forth, on a reasonably satisfactory basis through the years, it has been on a more or less ad hoc basis. Some procedure for allocating this resource during a time of shortage should be set up. While it can be argued that this is not the most appropriate vehicle for such, it is an opportunity to accomplish what should be done and I fully expect such an amendment to be a part of the final bill.

Other amendments which will be offered and will be considered will involve further refinements in the conservation provisions and a resolution of the extent and nature of the local participation in the planning and managerial function.

As I have indicated, many problems remain. The job, however, is well begun. There is a feeling today in the Northwest that a legislative solution to our problems is the only practicable one. The alternatives of endless litigation, the swallowing up of our system in a national grid, and the increased alienation of the various interested groups is an unacceptable alternative. Soon the jockeying for a little more advantage must and will cease, whether the objective is a little more energy, a little better price, a little more political power, or what. Each of these lesser concerns must be submerged to the common interest.

Our job as legislators is ultimately to reconcile these remaining differences in a fashion so that while none may be completely satisfied, each can live with the result. To this effort, my colleagues and I pledge our best efforts.

□ 1820

Mr. ULLMAN. Mr. Speaker, I thank the gentleman from Oregon (Mr. DUNCAN).

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I am glad to yield to our colleague, the gentleman from Washington (Mr. DICKS), who has also worked very aggressively on this matter.

(Mr. DICKS asked and was given permission to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, first of all I would like to thank my esteemed colleague, the gentleman from Oregon (Mr. ULLMAN), for his leadership in this legislative effort. I think he has provided the kind of leadership in trying to build a cohesive regional viewpoint which I think is absolutely essential.

Mr. Speaker, I rise in support of this legislation.

It is my hope that this action, undertaken simultaneously in the House and Senate today, will commit my colleagues in the Pacific Northwest delegation to begin one of the most crucial debates in this Congress; to reach a workable agreement on how the Northwest will plan to make the hard energy supply and conservation choices we must all make before the turn of the century.

If we do not act now; if we, in this Congress, fail to provide timely leadership, events will simply overtake us.

In planning for energy, we are irrevocably under a time crunch. Somehow, we must give regional and national officials the tools with which to make decisions about who uses what kinds of energy and when in a near-future of vanishing options. We are in a race against having to make intolerable compromises.

There are a hundred good technical rationales which justify a legislated energy planning agreement in the Northwest, and I hope we will have the opportunity to express them; but the best reason is a simple one: The growing lack of time to make policy, to act on it and to apply it.

If we do not begin now to find out how we can best make energy policy choices we will have no choices to make. I urge my colleagues to support this effort.

Mr. Speaker, I would like to make one final point. I, too, as my colleague, the gentleman from Oregon (Mr. DUNCAN), pointed out, want to emphasize the fact that this is the beginning point. We have had hearings. We know basically where

we are going, but I believe that compromise and amendments must be considered and considered thoroughly.

There has also been some discussion to the effect that this legislation in some way would make it easier to finance nuclear power plants in the future, I would suggest that the events at Harrisburg, in my judgment, make it even more essential that we get this bill enacted because as the nuclear options become such that there is much more question about them, it is even more essential that we have a mechanism to provide the conservation and the energy alternatives which are necessary to meet our regional requirements.

Mr. Speaker, this is not a bill designed to build nuclear power plants. It is a bill to try to take care of our regional energy problems and to emphasize conservation and alternatives. I think those two points should be stressed.

Again, Mr. Speaker, I want to thank my colleague, the gentleman from Oregon (Mr. ULLMAN), for the leadership he has provided in this regard.

Mr. ULLMAN. Mr. Speaker, I thank my friend, the gentleman from Washington (Mr. DICKS).

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I am pleased to yield to the gentleman from Washington.

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

Mr. SWIFT. Mr. Speaker, as we face the problem of meeting electrical energy needs for the coming years, it becomes clear we must have an overall design to meet those needs. It is something that is essential to our economy and to the well-being to our people in the Pacific Northwest.

We need a Pacific Northwest regional power plan.

But we must be prepared to compromise to reach this goal. The bill I am cosponsoring today is a basic frame; it is not the finished product. We must complete a great deal of legislative carpentry before this project is done. Some of that work has been already done through difficult but fruitful negotiations over rate structure. Amendments will be added to this bill to preserve and protect public power preference and set a rate structure both public and private utilities can live with. Much of this initial legislative craftsmanship can be credited to the guidance and help of Senator JACKSON. Given what seemed to be impossible disagreements, this accord is very impressive. The Senator and all the parties showed there was a strength in compromise.

But there are other differences that must be resolved. And we in the Pacific Northwest must do the work of resolving them. We cannot expect the House to pass the bill if we cannot find effective compromises of our differences. And there are several key points that must be resolved.

Is the conservation section strong enough? I believe it might be. It certainly represents more real authority to mandate conservation than any other entity in the Pacific Northwest. Without it, we face a hopeless hodgepodge of overlapping, expensive, and possibly unnecessary power generation facilities that might well thwart conservation rather than encourage it. However, some feel this provision must be strengthened even more. It is a legitimate concern.

How will be the public be represented in the decisionmaking process? The bill would give the Bonneville Power Administration, the only existing body with jurisdiction throughout the region, very substantial authority to direct the future of electrical power generation, distribution, and planning.

The various States and the public must be effectively plugged into the decisionmaking process. But it must be done in such a way that we avoid trying to run a very complex energy system by committee—and have the framework collapse in chaos. It is an important question, one over which there is no universally accepted answer. We must build a steady and sturdy frame for public participation.

These are the major areas of concern. There are others. In the end, the people of the Northwest carry the responsibility of presenting the House a bill in which there is substantial agreement.

As we work on this, we must recognize there is an urgency in establishing a regional plan that provides a reliable electrical energy system. We will work hard to resolve the legitimate differences within our delegation and with various groups in our region.

Compromise, here, is not a dirty word. It is an essential method by which we can achieve a very important goal for all the people in the Pacific Northwest.

☐ 1825

Mr. ULLMAN. I thank the gentleman.

I now yield to my friend, the gentleman from Washington (Mr. BONKER).

Mr. BONKER. I thank the chairman and express my appreciation for making available this time for those of us in the Northwest to express our views on a proposal that has gone into the hopper today that would deal effectively with our regional energy problems.

Mr. Speaker, some of us in the Northwest have been reluctant to endorse a bill that essentially has flaws and one which we cannot fully support until after it has made its way through the process and we have had an opportunity to perfect the bill. But we also feel that it is important that there be a demonstration of support within our region among the congressional delegation that we are serious about coming to grips with the energy-related problems in the Pacific Northwest. With that in mind, I join my colleagues from Oregon, Washington, and Idaho in support of this legislation as a vehicle for us to seriously address the issues. I will submit my statement for the RECORD, but I would like to express continuing concerns I have with a regional energy bill, the foremost of which is the need to find a way to involve the public in regional energy decisionmaking. I am sure that most of my colleagues realize the abundant cheap energy we have in the Northwest and the fact that hydroelectricity has really blessed our area with cheap utility rates.

☐ 1830

But those of us who also pay rates in the Northeast realizes just how extensive energy has become. My energy bill in Washington, D.C., is higher than my tax obligations to local government.

I think the time is going to come in the Pacific Northwest when citizens will be paying more in utility rates than they are in property taxes.

Now, when I pay property taxes I have an idea where the money goes. We have elected officials in city and in school districts that give us an opportunity to have oversight responsibility when it comes to those budgets and the expenditure of funds; but when we pay money into the utility bills, we have no idea where that money goes, whether it is being wisely managed, whether the investments are good, whether the decisions about energy resources are valid. We are going to find that people will demand a voice in these energy decisions.

In the Northwest, we have an opportunity in developing legislation that would give us a regional approach to energy problems to involve the public in a substantive way; so one of the real challenges that we have with respect to this legislation is to find a way to involve the public, both in terms of reflecting their constituents in energy-related decisions and in terms of oversight, over management of our energy resources; so that when it comes to energy planning, the projection and the forecasting of energy needs, the decisions about whether we should go with thermal power or renewable resources or a heavy emphasis on conservation, that the public has an opportunity for that input.

The second concern that I have relates to energy conservation. One of the great merits of this legislation is that it tends to statutorily place our energy needs in priority, that the greatest investment will be in energy conservation to be followed by investment in renewable resources and only as a last resort in thermal power.

I think those priorities are correct; but the provisions that relate to conservation are weak. We do not have any assurance that those utilities who are serious about energy conservation are going to practice it or will be rewarded for achieving energy conservation; so we will be looking at amendments that will build in those incentives, so that those utilities that are wasteful and inefficient will be penalized and those who seriously practice energy conservation will be rewarded.

The third concern that I have and I will be addressing through amendments to this proposal relates to our fishery resources. It seems that every means of energy that we develop has an impact on our fishery resources. The hydro dams in the Northwest which have given us a cheap and abundant source of energy has had its impact on the anadromous fish population.

Each dam on the upper river destroys up to 10 or 15 percent of the fish runs that pass through those streams; so we are going to be looking for some assessments of cost to benefit and adverse beneficial impact on fish runs as they

make their way down the Columbia River and to the streams in the Northwest.

I am sure my colleagues are going to have other constructive amendments that are going to be offered as we take up this important issue; but I think it is vitally important that the rest of the Congress realize that the Northwest delegation is fully committed to finding a solution to our energy dilemma, that we can bring together a full range of energy resources at our disposal and we can find a way of involving the public in a meaningful way toward making those energy related decisions.

Mr. Speaker, I want to thank the chairman once again for making available this time to the Northwest delegation.

Mr. Speaker, I joined today with many of my colleagues from the Pacific Northwest in reintroducing the Pacific Northwest Electric Power Planning and Conservation Act.

I did so to show my support for a constructive effort to fashion during this Congress an innovative, progressive solution to many of the special energy problems that confront my region.

However, I did not cosponsor identical legislation that was introduced late last year, and I must note that my cosponsorship this year does not in any way signify that I have abandoned several serious, longstanding concerns about the bill. The problems I perceive in this bill parallel problems that I encountered during the 95th Congress.

Major features of this legislation do not have consensus support or anything approaching it in the Pacific Northwest. Certain provisions are also troublesome for important organizations and interests outside the Northwest. I am committed to addressing the concerns that exist both within and without my region, for I know that only in that manner can this proposal be perfected to best serve the people of the Northwest and to prove acceptable to this Congress.

HISTORY AND BACKGROUND

Passage of the Bonneville Project Act in 1937 was the first step toward creating for the Northwest an electric power situation that is unique in the United States. The act authorized construction of Bonneville Dam, the first of many major hydroelectric generating facilities that have blessed the region with an historic abundance of very cheap power. A mix of public, cooperative, and investor-owned utilities are linked to these dams and intertied with one another through an extensive transmission system operated by the Bonneville Power Administration.

However, dams now occupy all the prime sites in the region, and, for the first time, the hydropower supply has been deemed insufficient to meet all future demands. A search for alternative energy supplies and a scramble among competing interests in the region for shares of the very cheap hydroresource are the primary driving forces behind the proposed bill.

The Northwest, like the rest of the Nation, is also increasingly aware of the importance of energy conservation and of nontraditional energy resources. There is growing concern, too, about the need to give the consuming public a greater voice in energy decisions that so dramatically affect their lives. And the deteriorating cost competitiveness of nuclear energy has fostered a desire among some in the region to develop financial incentives for such construction. All of these issues are embodied in the bill.

ISSUES

PUBLIC PARTICIPATION

Participation by a broad segment of the public in setting basic policy is essential to developing a regional program and to implementing it through resource acquisition proposals. These key decisions otherwise quite likely will not be acceptable to nor supported by the people of the region.

A public participation structure tends to become unwieldy if it involves the very large councils or commissions necessary to give direct representation to all interests in a region.

An alternative relies upon a process that satisfactorily guarantees the involvement of interested parties from the outset and throughout the deliberations on key decisions and that insures that decisions will be based on the record with full justifications for the choices made.

Reasonable deadlines for action and the commencement of any ensuing judicial review need not be inimical to full and complete access and participation.

Effective public participation in complex energy decisions depends upon providing interested parties with sufficient independent information and resources to make informed analyses.

FISHERY RESOURCES

The hydrodams on the upper Columbia River have contributed to depleting of the river's anadromous fish species populations. Each dam on the upper river can destroy 10 to 15 percent of the fish that pass over it enroute to the sea. On the return to spawning grounds, the loss of potential egg deposit can be 25 percent, according to a study conducted at Bonneville Dam. Despite mitigating efforts, a continued loss of 7 or 8 percent can still be experienced under relatively good conditions. Thermal power plants and other energy facilities have a potential to cause damage, too, although their full effect is not yet documented.

All assessments of costs/benefits or adverse/beneficial impacts of actions taken under terms of the bill should specifically include fishery resources.

Regional power planning should include a fishery component that assesses the current condition of the fish resources, projects all benefits and adverse impacts on these resources as a result of policies or actions included in the plan, lists plans and methods that mitigate any adverse impacts, suggests a timetable for initiating such mitigating measures and proposes, when appropriate, allocation of the funds necessary to finance them.

Federal management of the Columbia River should be conducted so as to optimize production of salmon and steelhead as well as hydroelectricity. The bills goal of promoting conservation and renewable resources should be strengthened.

PROMOTING LOCAL INITIATIVE

Experience with energy conservation programs indicates that best results are obtained from a combination of price incentives and adoption of appropriate conservation standards.

Local utilities and State and local governments are ultimately responsible for the success of a conservation program, and the bill should direct itself toward insuring their leadership.

In addition to providing positive incentives, the bill should not erect any disincentives to local conservation efforts.

CONCLUSION

I will be offering major amendments to the bill on each of the issues mentioned above. While I am prepared today to accept this legislation as a framework for fashioning a workable compromise bill, it should be noted that the need for substantive improvement remains uppermost in my mind.

(Mr. BONKER asked and was given permission to revise and extend his remarks.)

☐ 1835

Mr. ULLMAN. I want to commend my friend for his statement. The reservations that he has suggested are shared in part by all of us. Because of that I want to particularly commend him for joining in sponsoring the legislation.

Mr. Speaker, at this time I would like to read a joint statement of myself, Congressmen FOLEY, MCCORMACK, DUNCAN of Oregon, HANSEN, PRITCHARD, SYMMS, AUCOIN, BONKER, DICKS, LOWRY, and SWIFT.

COSPONSORS OF THE PACIFIC NORTHWEST ELECTRIC POWER SUPPLY AND CONSERVATION ACT

Our sponsorship of this legislation represents our firm commitment to work together to resolve a series of regional energy problems that are growing worse.

It does not indicate unanimous support for each and every provision of the Pacific Northwest Electric Power Supply and Conservation Act as it is now proposed. Far from it.

We anticipate that the bill will be amended in the course of the legislative process—perhaps extensively. Most of us have specialized concerns which we will pursue on an individual or joint basis.

But we are unanimously agreed that a legislatice solution to our regional energy problems is essential; and we are committed to taking the time and expending the effort necessary to resolve our differences.

The bill we have introduced addresses each major aspect of the energy problem that confronts the Pacific Northwest:

The need for a coordinated conservation effort;

The question of obtaining future power supplies in an economical and environmentally responsible manner;

The issue of rate disparities within the region; and

The question of public participation in the critical energy decisions of the region.

It is a framework within which we and others throughout the region can forge a compromise that will serve the best interests of the people of the Pacific Northwest.

Now I will yield to my friend from Idaho (Mr. HANSEN), a cosponsor of this legislation.

Mr. HANSEN. I thank the gentleman

and commend the gentleman from Oregon and our fellow Representatives from Washington, Oregon, and Idaho in both Houses where there is progressive action being taken.

My colleague, the gentleman from Idaho (Mr. SYMMS), has asked that I speak for us both in indicating our sponsorship of this legislation, the Pacific Northwest Electric Power Supply and Conservation Act which represents our firm commitment to work together to resolve a series of regional energy problems that are growing worse.

As has been said this sponsorship does not indicate unanimous support for each and every provision of this act as it is now prepared. We anticipate that the bill will be altered and amended in the course of the legislative process, perhaps extensively.

We all unanimously agreed that a legislative solution to our regional energy problems is essential and we are committed to extending the effort necessary here in the Congress to resolve our differences and secure a workable program and forge a compromise that will serve the best interests of the people of the Pacific Northwest.

It is by necessity that we unite and hope sincerely for success.

Again I thank the gentleman from Oregon for his cooperation and efforts in renewing this legislative proposal.

● Mr. LOWRY. Mr. Speaker, today I have joined with most of my colleagues from the congressional delegations of Washington, Oregon, and Idaho to introduce the Pacific Northwest Electric Power Supply and Conservation Act of 1979.

This will serve as a vehicle to resolve the electric power problems of the Pacific Northwest region. The bill is by no means perfect, and it is very clearly understood that I and other Northwest Congressmen will work hard to amend parts of the bill to better reflect the needs and interests of our constituents.

But, I am joining in introducing the bill because if we are to have any chance of persuading the rest of Congress, particularly the House of Representatives, to pass legislation aimed at solving the Northwest's critical and unique energy problems, there must be a regional consensus on the need for a bill.

Specific improvements in the bill which I will work for include:

Stronger conservation measures, including mandatory conservation actions. The regional power authority must be required, rather than just encouraged, to institute cost-effective conservation efforts. This will mean insulation programs and more emphasis on development of renewable energy and alternative energy resources.

Strong and clear guarantees of meaningful public input in decisionmaking by the regional power authority, particularly as this relates to the need to construct new generating facilities.

A resolution of the doubts I have that provisions in this bill may constitute a Government guarantee or subsidy of the profits or viability of privately owned utility companies. Unless I am convinced this is not the case, I will work to change that provision of the current bill or, if it is not changed, I will vote against the bill on the floor of the House.

Also, I am joining with Congressman AL SWIFT in introducing additional, complementary legislation to incorporate much of what the city of Seattle has accomplished in the area of energy conservation techniques. I strongly feel that conservation incentives associated with the rate structures can serve to strengthen this bill.

The public should realize that the bill we are all sponsoring is simply a legislative vehicle, a framework for constructive action. It is a draft bill to get the ball rolling so that this session of Congress will address the power problems we face in our region. The fact that the Northwest delegation agrees on the need for power legislation constitutes a major step toward the passage of legislation beneficial to the entire region by the rest of the Congress. Introduction of the bill in this way will insure that all of my constructive amendments will be fairly and fully considered.●

● Mr. AUCOIN. Mr. Speaker, today, I am joining with other members of the delegations from Oregon, Washington, and Idaho in introducing the Pacific Northwest Electric Power Supply and Conservation Act. The bill is an attempt to address the difficult regional electric power planning and production problems the Northwest faces.

This bill, identical to one introduced in the last Congress, represents our commitment to the need to resolve these problems. It demonstrates our pledge to work together on the legislation to iron out specific concerns that each of us has about meeting our regional energy needs.

We do not see it as the final answer to our needs. But it is a beginning and our cosponsorship represents our belief that we must take this very important first step on behalf of our region and its electric power consumers and producers.

Mr. Speaker, as this legislation is introduced, I want to share the statement signed by my colleagues from the Northwest regarding the action we take.●

Mr. ULLMAN. I want to express my appreciation to my colleagues for their statements.

At this point I include the text of the bill that we have been discussing:

H.R. 3508

A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River power system to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act."

FINDINGS

SEC. 2. The Congress finds that—

(a) The Federal Columbia River power system offers a unique opportunity to encourage policies of conservation and efficiency in the use of electric power within the Pacific Northwest region and to demonstrate the effectiveness of such policies to the Nation at large.

(b) The participation and consultation of the States, local communities, ratepayers, and the public at large are essential in development of regional plans and programs related to energy conservation, renewable resources, and other generating resources and orderly planning of the Federal Columbia River power system.

(c) The ratepayers of the Pacific Northwest should continue to pay all costs necessary to produce, transmit, and conserve electric power to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River power system.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Administrator" means the Administrator, Bonneville Power Administration.

(b) "Conservation" means any appropriate improvements in the power system or investment which increases the efficiency of energy production or use.

(c) A conservation measure or a renewable, waste heat or cogeneration resource application is "cost effective" if it results in costs to the Administrator no greater than the cost of the least cost feasible alternative resource, waste heat or cogeneration or resources that the Administrator determines is or can be available for acquisition, and if it provides comparable power benefits, giving full recognition to prospective cost escalations and future availability of fuels.

(d) "Electric power" means electric peaking capacity or electric energy or both.

(e) "Federal base system resources" means the Federal Columbia River power system hydoelectric projects which on the effective date of this Act are in operation or are scheduled for operation on or before June 30, 1983, electric power resources acquired by the Administrator under long-term contracts which are in force on the effective date of this Act, and new resources acquired by the Administrator to replace reductions in capability of the foregoing resources.

(f) "New resources" means all electric power resources acquired by the Administrator, except resources which are Federal base system resources or resources acquired at average cost from the investor-owned utilities pursuant to section 5(b)(2) of this Act.

(g) "Pacific Northwest, region, or regional" means—

(1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.

(h) "Renewable resources" means a renewable source of energy, including, but not limited to, solar, wind, hydro, geothermal, and biomass, which is used for electrical generation or which will reduce the electrical requirements of a consumer by direct application.

(i) "Residential use or load" means all usual residential, apartment, seasonal dwelling and farm building, electrical loads or uses, and not be exceed a total of one hundred horsepower of farm irrigation and pumping loads for any farm.

(j) "Resources" means electric power facilities that produce electric power planned electric power capability of generat-

ing facilities whether operating or operable, electric power conserved, and measures to conserve electric power.

REGIONAL PARTICIPATION

SEC. 4. (a) The Administrator shall establish a Bonneville Consumers' Council and a Bonneville Utilities' Council.

(1) The Bonneville Consumers' Council shall be composed of two persons from each congressional district in the States of Washington, Oregon, and Idaho, and the State of Montana west of the Continental Divide, who shall be appointed by the Governors of the State in which each such congressional district is located within ninety days of notification by the Administrator of a vacancy on the Bonneville Consumers' Council. One such person appointed to the Bonneville Consumers' Council from each district shall be an elected official of a local government within such district, and the other person shall be appointed from the general public with a view to diversity of backgrounds and interests.

(2) The Bonneville Utilities' Council shall be comprised of eighteen representatives of Pacific Northwest electric utilities to be selected by these utilities and not more than three represenatives of the direct service industrial customers to be selected by them, such selections to be under rules established by the Administrator.

(3) The Administrator shall establish terms and other conditions of service for members of both councils, and shall fill vacancies on the councils in the absence of appointments by a Governor or failure of utilities to select persons.

(b) In order to further ensure widespread and representative public involvement in formulation of regional power programs and policies, the Administrator shall establish and maintain comprehensive programs designed to inform the Pacific Northwest public of major regional electric power issues and to obtain public views and reactions concerning those issues.

(c) The Administrator shall prepare a regional power planning and conservation program to carry out the purposes of this Act. Such program shall be developed in consultation with the Governors of the States of Idaho, Montana, Oregon, and Washington, the Bonneville Consumers' Council and the Bonneville Utilities' Council, and with general public involvement programs. The regional power planning and conservation program shall include a twenty-year regional load/resource forecast, proposed conservation programs, proposed renewable waste, cogeneration and other resources, acquisitions, proposed major transmission system additions and such other program proposals as the Administrator deems appropriate. Such program or any part thereof, may be revised from time to time as the Administrator deems appropriate after consultation with the Governors, the councils and public involvement as provided in this section.

SALE OF POWER

SEC. 5. (a) The Administrator shall offer to sell electric power to each Pacific Northwest utility, at rates established pursuant to section 7, to meet its firm power load in the region which is in excess of such utility's resources committed to such load, subject to the provisions of subsection (b)(2) of this section: *Provided*, That the Administrator determines that he has or can acquire adequate resources to meet such requirements.

(b) Additionally, (1) the Administrator is authorized to sell electric power to regional Federal agencies, and (2) if the Administrator acquires electric power either from a Pacific Northwest utility at the average cost of resources then available to that utility, or from other resources at a cost equal to or less than the average cost of resources then available to that utility, then the Administrator shall offer to sell to such utility for resale to meet the load of its residential customers in the region an equivalent amount of electric power: *Provided*, That such sale shall be limited to an amount not to exceed 50 per centum of each such utility's residential loads in the year beginning July 1, 1979, and increasing such percentage in equal annual increments to 100 per centum of such load in the year beginning July 1, 1984. Such electric power shall be sold at rates established pursuant to section 7.

(c) The Administrator is authorized to sell to direct-service industrial customers electric power to meet their load requirements so long as such sales provide a portion of the planning and operating reserves for the Federal Columbia River power system. The Administrator shall offer to those direct-service industrial customers receiving electric power from the Federal Columbia River power system on the effective date of this Act new long-term power sales contracts effectuating the purposes of this section. Such offer shall expire one year from the date it is tendered by the Administrator. Such electric power shall be sold at rates established pursuant to section 7.

(d) The Administrator is further authorized to sell or otherwise dispose of electric power that is surplus to his obligations incurred pursuant to subsections (a), (b), and (c) of this section in accordance with other statutes related to disposition of power from the Federal Columbia River power system. Such electric power shall be sold at rates established pursuant to section 7.

RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall conserve electric power through implementation of measures the Administrator determines are feasible and cost-effective including, but not limited to programs for financing residential insulation, increased system efficiency and waste energy recovery. The Administrator shall develop conservation proposals and programs which assist the region's electric power consumers to make efficient use of energy. In addition, he shall assist the promotion of conservation by and among regional consumers by providing technical or financial assistance, and by cooperating with his customers and governmental authorities to encourage voluntary conservation and to devise effective mechanisms for establishing, enforcing, and achieving compliance with mandatory conservation standards.

(b) In the event that the Administrator determines conservation will be insufficient to meet the electric power obligations incurred under section 5, the Administrator shall acquire additional resources from Federal or non-Federal entities to meet the remainder of such obligations. Such acquisition shall be obtained from waste heat, cogeneration or renewable resources the Administrator determines are feasible and cost-effective.

(c) If resources in addition to such resources are needed, then the Administrator shall acquire additional electric power resources giving priority to high efficiency resources, such as combined cycle and magneto hydro-dynamic generation, which he determines to be feasible and cost-effective. All such resources acquired by the Administrator:

(1) shall be consistent with the provisions of the power program for the Pacific Northwest developed pursuant to section 4; and

(2) shall be constructed and operated in a manner to provide efficient, economic, and reliable service.

(d) The Administrator is hereby authorized to construct and operate generating facilities, with the exception of constructing hydroelectric resources, utilizing renewable resources; and to construct such other generating resources as he determines are necessary to assure transmission system reliability.

(e) To the extent conservation or acquisition of resources under this Act require direct arrangements with the ultimate consumers of electric power, the Administrator shall make maximum practicable use of existing institutions able to supply credit to such consumers.

(f) The Administrator is authorized to enter into agreements with sponsors of resources which may be proposed for acquisition by the Administrator to fund or secure debt incurred in the investigation and initial development of such resources.

(g) Prior to the execution of any contract for the acquisition of major resources pursuant to subsection (c) of this section, the Administrator shall have reviewed the proposed acquisitions with the Governors, the Bonneville Consumers' Council and the Bonneville Utilities' Council pursuant to section 4; and he shall submit any comments or recommendations received from the Governors and the Councils along with the proposed contracts and evidence of compliance with the National Environmental Policy Act of 1969, to the Senate Energy and Natural Resources Committee and to the House Interior Committee for review. Thereafter, the Administrator shall publish notice of his intention to acquire such resources in the Federal Register. No such contract shall be executed by the Administrator until ninety days after the date of submittal to the Congress pursuant to this subsection and no financial commitment shall be incurred under this authority until it has been noted in the Administrator's budget submittal made pursuant to section 11 of Public Law 93-454.

(h) The Administrator, at the request and expense of a Pacific Northwest customer, shall acquire, to the extent practicable, any electric power which is required by such customer to replace electric power curtailed or interrupted by the Administrator: *Provided*, That such customer may elect to acquire independently replacement power under terms and conditions as prescribed by the Administrator.

RATE DIRECTIVES

SEC. 7. (a) The Administrator shall establish and periodically modify rates for the sale and disposition of electric power to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power including the amortization of the Federal investment in the Federal Columbia River power system over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to law. In addition, prior to July 1, 1982, such rates shall recover revenues in amounts that the Administrator determines are necessary to provide all or a portion of the initial funding for conservation programs to be implemented pursuant to section 6(a). Such rates shall become effective upon confirmation and approval by the Federal Energy Regulatory Commission and shall be established in accordance with sections 9 and 10 of Public Law 93-454 and the provisions of this Act on the finding that such rates (1) are sufficient to assure repayment of the Federal investment after first meeting the Administrator's other costs; (2) are based upon the Administrator's total costs of service, including contingencies and initial conservation funding; and (3) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal uses.

(b) The Administrator shall establish a rate or rates applicable to the electric power sold for the general requirements of public body, cooperative and Federal agency cus-

tomers, and to the electric power sold under section 5(b)(2) for the requirements of residential customers in the region. Such rate or rates shall recover the costs of that portion of the Federal base system resources needed until such requirements exceed the Federal base system resources. Thereafter, such rate or rates also shall recover the costs of additional electric power as needed, first from the electric power purchased by the Administrator under section 5(b)(2) and then from new resources.

General requirements as used in this section shall be that portion of a public body's, cooperative's, or Federal agency's directly served electric power load in excess of its own resources that are dedicated to meet such load and exclusive of any large new industrial load whose service is contracted for after October 1, 1978.

(c) The rate or rates applicable to direct-service industrial customers shall be established at a level which the Administrator determines is equitable in relation to the rates charged by the region's electric utilities to their major industrial customers, taking into account the value of power system reserves made available to the Administrator through his rights to curtail or interrupt service to such direct-service industrial customers; the comparative size and character of the loads served; the relative costs of electric capacity, energy, transmission, and related delivery facilities provided, and other service provisions, all as related to the delivery of power to such customers: *Provided*, That prior to July 1, 1984, the rate or rates applicable to direct-service industrial customers shall be established to recover the costs incurred by the Administrator pursuant to section 5(b)(2) and not recovered through rates applicable for other classes of power sold by the Administrator; and such rate or rates shall be established at a level no lower than the weighted average wholesale power costs to the investor owned utilities from their own resource costs and purchases from the Administrator pursuant to section 5(b)(2) for their residential loads in the region as determined by th Administrator: *Provided further*, That for the period prior to July 1, 1981, such rate or rates may be in the form of a surcharge on rates then applicable to direct-service industrial customers.

(d) In establishing rate schdules of general application, the Administrator may establish a uniform rate or rates for sale of capacity.

(e) Rates for all other firm power sold by the Administrator shall be based upon the cost of the portions of Federal base system resources and additional resources, including new resources, which the Administrator determines are required to support such sales

(f) The Administrator shall allocate to power rates, as he may determine appropriate, all other costs and benefits including, but not limited to, conservation, uncontrollable events, reserves, operating services, and the sale of excess electric power.

AMENDMENTS TO EXISTING LEGISLATION

SEC. 8. (a) Section 11(b) of Public Law 93-454 is amended by adding a new subparagraph (12) as follows:

"(12) making such payments as shall be required to carry out the purposes of the Pacific Northwest Electric Power Planning, and Conservation Act.".

(b) Public Law 93-454 is amended by striking subsections 13(a) and (b) and substituting the following new subsections:

"SEC. 13. (a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of, and on behalf of the Bonneville Power Administration bonds, notes, and other evidences of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the constructing, acquisition, and replacement of the transmission system, to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, 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 Treasury 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 not to exceed the interest rate which would be applied to such bonds if they were purchased by the Federal Financing Bank. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1,250,000,000 plus the principal amount of any bonds outstanding which shall have been issued to finance or assist in financing the Administrator's implementation of the purposes set forth in the Pacific Northwest Electric Power Planning, and Conservation Act.

"(b) 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 11(b)(2) through 11(b)(7), 11(b)(11) and 11(b)(12), and shall include reserve or other funds created from such receipts.".

(c) Public Law 88-552 is amended by striking subsection 1(b) and inserting a new subsection (b) as follows:

"(b) Pacific Northwest means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region".

(d) Public Law 88-552 is amended by adding a new section 10 as follows:

"SEC 10 All references in sections 1, 2, 3, 5, and 7 of this Act to 'plants', 'energy', 'peaking capacity', and 'generating facilities' shall be applicable to all types of generation and not solely to hydroelectric generation '.

ADMINISTRATIVE SECTIONS

SEC 9 (a) In carrying out the provisions of this Act, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancellation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary.

(b) Except as specifically provided herein, the authority and duties of the Secretary of Energy and the Administrator shall not be affected by this Act.

(c) The Bonneville Consumers' Council and the Bonneville Utilities' Council shall not be subject to the provisions of the Federal Advisory Committee Act, and any action of a member of such council related to an action of such council shall not be deemed to be a violation of Federal or State antitrust laws.

(d) No later than March 1, 1979, the Administrator shall offer to enter into power sales and purchase contracts to be effective July 1, 1979, with utilities pursuant to section 5(b)(2).

(e) For the purpose of enabling the Administrator to acquire resources from State and local governmental units at a cost no greater that the costs which would be applicable in the absence of such acquisition, the debt obligations described in section 103(a)(1) of title 26 of the United States Code shall not be affected by any contract or agreement regarding the Administrator's acquisition of resources constructed by a State or local governmental unit and for which the administrator determines at the time the commitment for such acquisition is made will not be utilized over the life of the project in whole or in major part by a person who is not an exempt person, as defined in section 103(c)(3) of title 26 of the United States Code.

(f) No provision of chapter 2C of title 15 of the United States Code shall apply to or be deemed to include any "person" or "company" (as defined in 15 U.S.C. 79b(a)(1) and (2)) organized and operated primarily for the purpose of financing, leasing, constructing, owning, managing, or operating part of an interest in, or all of, facilities used for the generation of electricity (together with associated transmission and other facilities), 75 per centum or more of the power from which, or from the part or interest so financed, leased, constructed, owned, managed, or operated, is or will be sold to the Administrator under section 8

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks on the subject matter just discussed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

WINDFALL PROFITS TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. SHANNON) is recognized for 5 minutes.

● Mr. SHANNON. Mr. Speaker, yesterday I joined with two of my colleagues on the Ways and Means Committee in introducing the Crude Oil Windfall Profits Tax Act of 1979. Quite simply, this bill would impose an 85-percent windfall profits tax on any increased revenues the domestic oil industry will receive under the decontrol plans being considered by the President.

It is not yet clear if the President will propose phased or complete decontrol. In some respects this decision is not important. The oil industry's own figures show they are now making record profits and under either form of decontrol these profits will increase dramatically.

The oil industry maintains that they must have adequate incentives to explore for new oil. Many people would contend that the incentives under recent

Mr ROSTENKOWSKI
Mr MANN
Mr HAWKINS
Mr BRADEMAS
Mr RUSSO in three instances.
Mr MATHIS in three instances.
Mr EVANS of Indiana
Mr CONYERS
Mr MIKVA

ENROLLED BILL SIGNED

Mr THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker

H R 8771 An act to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.

ADJOURNMENT

Mr AKAKA Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore Pursuant to the provisions of House Concurrent Resolution 696, 95th Congress, the House stands adjourned until 12 o'clock meridian, Wednesday, September 6, 1978

Thereupon (at 5 o'clock and 57 minutes p m), pursuant to House Concurrent Resolution 696, the House adjourned until Wednesday, September 6 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4836 A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U S readiness of the Army's proposed sale of certain defense equipment and services to Saudi Arabia (transmittal No 78-95), pursuant to section 813 of Public Law 94-106, to the Committee on Armed Services.

4837. A letter from the Secretary of the Interior, transmitting the annual report for calendar year 1977 on administration of the Federal Metal and Nonmetallic Mine Safety Act pursuant to section 20 of the act (Public Law 89-577), to the Committee on Education and Labor.

4838 A letter from the Deputy Under Secretary of State for Management, transmitting notice of a proposed change in a records system, pursuant to 5 U S C. 552a(o); to the Committee on Government Operations.

4839 A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense services to Saudi Arabia (transmittal No. 78-81), pursuant to section 36(b) of the Arms Export Control Act, to the Committee on International Relations.

4840 A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Saudi Arabia (transmittal No 78-95), pursuant to section 36(b) of the Arms Export Control Act, to the Committee on International Relations

4841 A letter from the Secretary of Agriculture, transmitting notice of a delay in preparation of the report on the review of primitive areas in the National Forest System to determine appropriate areas for redesignation to class I where air quality related values are important attributes of the area, required by section 164(d) of the Clean Air Act, as amended to the Committee on Interstate and Foreign Commerce

4842 A letter from the Administrator, U S Environmental Protection Agency, transmitting the first annual report of the Task Force on Environmental Cancer and Heart and Lung Disease, pursuant to section 402 of Public Law 95-95, to the Committee on Interstate and Foreign Commerce

4843 A letter from the Secretary of the Army, transmitting a final environmental impact statement and supplemental information on the Theodore Ship Channel, Mobile Harbor, Ala , pursuant to section 404(r) of the Federal Water Pollution Control Act as amended (86 Stat 884, 91 Stat 1605); jointly, to the Committees on Public Works and Transportation, and Appropriations

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows

Mr DIGGS: Committee on the District of Columbia S 3120 An act to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia (Rept No 95-1504) Referred to the Committee of the Whole House on the State of the Union

Mr BOLLING Committee on Rules House Resolution 1323 Resolution providing for the consideration of H R 1 A bill to require candidates for Federal office, Members of the Congress and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions (Rept No 95-1505) Referred to the House Calendar

Mr BOLLING: Committee on Rules House Resolution 1324 Resolution providing for the consideration of H R 12611 A bill to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares Rept No 95-1506) Referred to the House Calendar

Mr LONG of Louisiana Committee on Rules House Resolution 1325 Resolution providing for the consideration of H R 13059 A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood controls, and for other purposes (Rept No 95-1507) Referred to the House Calendar

Mr MURPHY of Illinois Committee on Rules House Resolution 1326 Resolution providing for the consideration of H R 11733 A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes (Rept No 95-1508) Referred to the House Calendar

Mr TEAGUE Committee of conference Conference report on H R 11401 (Rept No 95-1509) Ordered to be printed

Mr UDALL Committee on Interior and Insular Affairs H R 9945 A bill to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the 2 years following their terms of office; with amendment (Rept. No 95-1510). Referred to the House Calendar.

Mr JOHNSON of California Committee on Public Works and Transportation H R 13597 A bill to authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex No 2, and for other purposes, with amendment (Rept No 95 1513) Refered to the Committee of the Whole House on the State of the Union

Mr UDALL Committee on Interior and Insular Affairs H R 13096 A bill to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members, with amendment (Rept No 95-1511) Referred to the Committee of the Whole House on the State of the Union

Mr TEAGUE Committee on Science and Technology H R 12559 A bill to establish a research and development effort resulting in the commercialization of native latex rubber, with amendment (Rept No 95-1512 Pt I) Ordered to be printed

Mr. JOHNSON of California: Committee on Public Works and Transportation H R 13808 A bill to designate the "Omar Burleson Federal Building ', with amendment (Report No 95-1514) Referred to the House Calendar

Mr JOHNSON of California: Committee on Public Works and Transportation H R 13809 A bill to designate the 'George H Mahon Building", with amendment (Rept No 95-1515) Referred to the House Calendar

Mr ULLMAN Committee of conference Conference report on H R 8149 (Rept No 95-1517) Ordered to be printed

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows

Mr ULLMAN Committee on Ways and Means H R 13814 A bill to amend section 8 of Public Law 93-233 to permit California to continue cash payments to SSI recipients in lieu of food stamps with amendment (Rept No 95-1615, pt I) Referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr ANDERSON of California (for himself, Mr JOHNSON of California, and Mr HANNAFORD):

H R 13908 A bill to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes, to the Committee on Public Works and Transportation

By Mr ANDERSON of Illinois

H R 13909 A bill to secure and protect the freedom of the press from unwarranted intrusions by persons acting under color of law, to the Committee on the Judiciary

By Mr AUCOIN

H R 13910. A bill to amend the Tariff Schedules of the United States to provide a temporary suspension of the duty on certain

freight car parts, to the Committee on Ways and Means

By Mr BIAGGI (for himself, Mr MURPHY of New York, and Mr TREEN)

H R 13911 A bill to improve recreational boat safety through the financing of boating safety services projects and recreational boating facilities, and for other purposes, to the Committee on Merchant Marine and Fisheries

By Mr BURKE of Florida

H R 13912 A bill to amend title 39 of the United States Code to provide free postal service to the States and political subdivisions thereof for the mailing of sample ballots in connection with elections conducted by such States and political subdivisions, to the Committee on Post Office and Civil Service

By Mr CONABLE (for himself and Mr CORMAN)

H R 13913 A bill to amend sections 856 and 857 of the Internal Revenue Code of 1954 to exclude from the application of the 100 percent tax on prohibited transactions the sale of certain property held for more than 4 years and to extend the period during which property may be treated as foreclosure property to the Committee on Ways and Means

By Mr CORCORAN of Illinois

H R 13914 A bill to amend the Internal Revenue Code of 1954 to allow a retirement savings deduction for persons covered by certain pension plans to the Committee on Ways and Means

By Mr CORMAN (for himself and Mr ROSE)

H R 13915 A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors, jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce

By Mr CORMAN (for himself Mr AUCOIN, Mr PRITCHARD and Mr RYAN)

H R 13916 A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care, jointly, to the Committee on Ways and Means and Interstate and Foreign Commerce

By Mr CORMAN (for himself, Mr MURPHY of Illinois, Mr PEPPER, and Mr SHARP)

H R 13917 A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title, jointly to the Committees on Ways and Means and Interstate and Foreign Commerce

By Mr CRANE

H R 13918 A bill to protect the freedom of the press under the first amendment to the Constitution to the Committee on the Judiciary

By Mr DE LA GARZA (for himself, Mr ANDREWS of North Dakota Mr BAFALIS Mr IRELAND and Mr ROGERS)

H R 13919 A bill to make storage space available for 1978 crop sugar to the Committee on Agriculture

By Mr GORE

H R 13920 A bill to direct the President to seek an agreement with other countries to prohibit restrictive business practices to amend the Trade Act of 1974 to allow the President to take certain actions against countries engaging in restrictive business practices and for other purposes jointly to the Committees on International Relations the Judiciary and Ways and Means

By Mr GORE (for himself and Mr Moss)

H R 13921 A bill to amend the Federal Trade Commission Act to impose certain reporting requirements on U S persons with respect to restrictive business practices abroad and for other purposes, jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary

H R 13922 A bill to amend the Federal Trade Commission Act to impose certain reporting requirements on U S persons with respect to restrictive business practices abroad, to direct the President to seek an agreement with other countries to prohibit restrictive business practices, and for other purposes jointly, to the Committees on International Relations, Interstate and Foreign Commerce, the Judiciary, and Ways and Means

By Mr GRADISON (for himself, Mr BARNARD, Mr BEARD of Tennessee, Mr BUTLER, Mr MCCLOSKEY, Mr. RUDD Mr BOB WILSON, Mr WAMPLER, and Mr SEBELIUS)

H R 13923 A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates, to the Committee on Ways and Means

By Mr HAMMERSCHMIDT

H R 13924 A bill to authorize veterans loan guaranty benefits notwithstanding usury provisions of State constitutions or statutes, and for other purposes, to the Committee on Veterans Affairs

By Mrs HOLT (for herself, Mr BADHAM Mr BROWN of Ohio, Mr CEDERBERG Mr COCHRAN of Mississippi, Mr. DERWINSKI, Mr GEPHARDT, Mr GRASSLEY, Mr GUYER, Mr KINDNESS, Mr LAFALCE Mrs LLOYD of Tennessee, Mr LOTT, Mr ROBINSON, Mr RUDD, Mr STANGELAND, and Mr TRIBLE)

H R 13925 A bill to improve the congressional budget process by the establishment in the House of Representatives of a two-step budget procedure for the consideration of a first required concurrent resolution on the budget to the Committee on Rules

By Mr HORTON

H R 13926 A bill to amend section 131(c) of title 23, United States Code, to permit nonprofit organizations to advertise the availability of free coffee for individuals traveling on highways on the Interstate System or the primary system, to the Committee on Public Works and Transportation

By Mr JACOBS (for himself, Mr. BENJAMIN, Mr CHAPPELL, Mr CORNWELL, Mr COTTER, Mr MARTIN, Mr PICKLE, Mr SAWYER, Mr STEIGER, and Mr WHITEHURST)

H R 13927 A bill to amend title II of the Social Security Act to provide that renewal commissions, received by a retired insurance agent from life insurance policies which were sold by him before his retirement, shall not be taken into account in determining his net earnings from self-employment for purposes of the earnings test, to the Committee on Ways and Means

By Mr JEFFORDS (for himself and Mr HOLLENBECK)

H R 13928 A bill to provide for the timely and safe disposal of radioactive ores minerals, and mill tailings as well as physical facilities and material wastes of all types which are produced as a result of the use of nuclear energy, jointly, to the Committees on Armed Services Interior and Insular Affairs International Relations and Interstate and Foreign Commerce

By Mr LENT

H R 13929 A bill to amend the Trade Act of 1974 to the Committee on Ways and Means

By Mr MITCHELL of New York (for himself Mr KETCHUM Mr NEAL Mr MCDONALD Mr LEGGETT Mr LOTT Mr WALSH Mr TRIBLE Mr MANN Mr WHITEHURST Mr HALL Mr JENRETTE Mr EDWARDS of Oklahoma Mr SPENCE Mr ROSE, Mr BOB WILSON, Mr CORCORAN of Illinois, and Mr DE LUGO).

H R 13930. A bill to amend the Federal Civil Defense Act of 1950 to authorize appropriations for the purposes of such act for fiscal years 1979 through 1985, to the Committee on Armed Services.

By Mr MEEDS (for himself, Mr ULLMAN, Mr FOLEY, Mr DUNCAN of Oregon, Mr DICKS, Mr MCCORMICK, Mr CUNNINGHAM, Mr HANSEN, and Mr SYMMS)

H R 13931 A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a represenative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes, jointly to the Committee on Interior and Insular Affairs, and Interstate and Foreign Commerce

By Mr MOTTL (for himself, Mr. BROOMFIELD Mr BRODHEAD, Mr ASPIN, Ms OAKAR, and Mrs SPELLMAN)

H R 13932 A bill to direct the Civil Aeronautics Board to disapprove any renewal and terminate any effect of the Airlines Mutual Aid Pact and to prohibit the approval by the Civil Aeronautics Board of any agreement or pact the purposes of which are similar to the Airlines Mutual Aid Pact to the Committee on Public Works and Transportation

By Mr PICKLE (for himself, Mr FORD of Tennessee and Mr JONES of Oklahoma)

H R 13933 A bill to provide for the deferral of proposed arbitrage bond regulations, to the Committee on Ways and Means

By Mr PURSELL (for himself, Mr OTTINGER, Mr WHITEHURST, Mr LAGOMARSINO Mr EILBERG, Mr COLEMAN, Mr WON PAT Mr KREBS, Mr HOWARD Mr FRENZEL, Mr MILFORD, Mr DOWNEY Mr YATRON, Mr CONTE, Mr HUGHES Mrs SPELLMAN, Mr. PATTISON of New York, and Mr FOUNTAIN)

H R 13934 A bill to encourage on-the-scene emergency care aboard aircraft by relieving physicians, registered nurses, and aircraft employees from civil liability for damages resulting from any act or omission in rendering such care, to the Committee on the Judiciary

By Mr QUAYLE

H R 13935 A bill entitled the "Fair Treatment for Skilled Trades Act of 1978", to the Committee on Education and Labor

By Mr SAWYER (for himself, Mr MCCLOSKEY, Mr FRENZEL, Mr JOHNSON of Colorado, Mr MCCLORY, Mr HYDE, Mr BUTLER, Mr LEACH, Mr PRITCHARD, Mr GRADISON, Mr WHITEHURST, Mr COCHRAN of Mississippi, Mr HILLIS, Mr ANDERSON of Illinois, and Mr ANDREWS of North Dakota)

H R 13936 A bill to amend title 18, United States Code, to restrict the issuance of search warrants with respect to certain property possessed by persons who are not suspects in a criminal investigation to the Committee on the Judiciary

By Mr SEIBERLING

H R 13937 A bill to amend title 28 of the United States Code to make certain changes in the division within the Northern District of Ohio, to the Committee on the Judiciary

By Mrs SPELLMAN

H R 13938 A bill to amend title 5 United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement and for other purposes to the Committee on Post Office and Civil Service

By Mr TEAGUE (by request)

H R 13939 A bill to provide for the establishment of a Commission on the Impact of Science and Technology on Society in or-

on Banking, Housing, and Urban Affairs, with amendments

S 3036 A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes (Rept No 95–1120)

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted

By Mr RANDOLPH, from the Committee on Environment and Public Works

Karl Smith Bowers, of South Carolina, to be Administrator of the Federal Highway Administration

Jane Hurt Yarn of Georgia to be a member of the Council on Environmental Quality

(The above nominations from the Committee on Environment and Public Works were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent the second time, and referred as indicated

By Mr DANFORTH (for himself Mr BELLMON, and Mr PROXMIRE)

S 3416 A bill to control excessive government spending, to the Committee on Finance

By Mr ANDERSON (for himself Mr BENTSEN, Mr BURDICK Mrs HUMPHREY, Mr McGOVERN, Mr MATSUNAGA, Mr ZORINSKY, Mr HODGES and Mr MORGAN)

S 3417 A bill to increase the amount for which loans may be made by the Commodity Credit Corporation to farmers for the construction or remodeling of grain storage facilities on the farm, to the Committee on Agriculture, Nutrition and Forestry

By Mr JACKSON (for himself Mr MAGNUSON Mr CHURCH Mr MARK O HATFIELD, Mr PACKWOOD and Mr McCLURE)

S 3418 A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process to assure the region of an efficient and adequate power supply, and for other purposes to the Committee on Energy and Natural Resources

By Mr CULVER (for himself, Mr CLARK, Mr McGOVERN Mr METZENBAUM, and Mrs HUMPHREY)

S 3419 A bill to amend the Internal Revenue Code of 1954 to exclude from gross income a portion of payments made under certain Federal and State cost-sharing programs the primary purpose of which is conservation of soil and water resources environmental protection or restoration, forest enhancement, or the provision of wildlife habitat, to the Committee on Finance

By Mr HATHAWAY

S 3420 A bill to amend the Internal Revenue Code of 1954 to reduce individual and corporate income tax reductions and for other purposes, to the Committee on Finance

By Mr. DOLE (for himself and Mr PEARSON):

S 3421 A bill to authorize establishment of the Fort Scott National Historic Site Kansas, and for other purposes to the Committee on Energy and Natural Resources

By Mr WALLOP (for himself, Mr BROOKE, Mr BARTLETT, Mr BELLMON, Mr BENTSEN, Mr CASE, Mr DANFORTH, Mr GARN, Mr HATCH Mr PAUL G HATFIELD, Mr HAYAKAWA Mr HEINZ, Mr INOUYE, Mr JAVITS Mr LAXALT, Mr LUGAR, Mr McCLURE, Mr. McINTYRE, Mr. MATHIAS, Mr. PERCY, Mr RIEGLE, Mr SCHMITT Mr STAFFORD, and Mr STEVENS)

S 3422 A bill to establish a congressional award program for the purpose of recognizing excellence and leadership among young people to the Committee on Governmental Affairs

By Mr BROOKE

S 3423 A bill to amend the Disaster Relief Act of 1974 and the Small Business Act to increase disaster relief assistance, and for other purposes, to the Committee on Environment and Public Works and the Select Committee on Small Business jointly by unanimous consent

By Mr CRANSTON

S 3424 A bill to amend section 8 of Public Law 92-223 to permit California to continue cash payments to SSI recipients in lieu of food stamps, to the Committee on Finance

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr DANFORTH (for himself, Mr BELLMON, and Mr PROXMIRE)

S 3416 A bill to control excessive Government spending, to the Committee on Finance

(The remarks of Mr DANFORTH when he introduced the bill appear elsewhere in today's proceedings)

By Mr ANDERSON (for himself, Mr BENTSEN, Mr BURDICK, Mrs HUMPHREY, Mr McGOVERN, Mr MATSUNAGA, Mr ZORINSKY, Mr HODGES, and Mr MORGAN)

S 3417 A bill to increase the amount for which loans may be made by the Commodity Credit Corporation to farmers for the construction or remodeling of grain storage facilities on the farm, to the Committee on Agriculture, Nutrition, and Forestry.

CCC FARM STORAGE LOANS

● Mr ANDERSON Mr President, today I am introducing a bill to amend the Commodity Credit Corporation (CCC) Charter Act to authorize an increase in the ceiling on CCC farm storage facility loans from the present $50,000 to $100,000

The CCC storage facility loan program has been very successful, enjoying a high participation rate among our Nation's family farmers Family farmers have shown that they like to have the ability to store their crops on their farms and to market their crops when it best suits their needs Like other businessmen, the farmer who knows exactly the amount of his product he has on hand can better make decisions about future production and marketing of his crops My bill is designed to assure that this program remains an effective aid for our family farmers

Under present law, a farmer can receive low-interest loans from the CCC for the construction of on-the-farm storage facilities. These loans can be used for storage buildings and drying equipment for wheat, corn, oats, barley, grain, sorghum, rye, soybeans, flaxseed, rice, dry edible beans, peanuts, sunflower seeds, and high-moisture forage Up to 85 percent of the eligible cost of structures and equipment can be financed with up to 8 years allowed the individual farmer to repay the loan. At this time the total outstanding balance of all storage loans to an individual cannot exceed $50,000.

The demand for and the cost of these on-the-farm storage facilities are up Many commercial elevators remain full from last year's bumper crop, causing farmers to look for alternative storage space Those farmers who have access to commercial space feel they cannot depend on the transportation network to move their crops when needed. These farmers fear the crops they have worked so very hard to produce will be left lying on the ground to spoil unless they have reliable storage space on their farms

Like everything else, the cost of drying equipment and the construction of storage buildings has increased Many farmers who have outstanding loans and feel they could use more space cannot build additional storage since another loan would push them over the present loan ceiling

Mr President, the current $50,000 ceiling on these loans is inadequate to meet the increased cost and demand I urge my colleagues to recognize the need to increase this ceiling and to support this bill

I ask unanimous consent that the bill be printed in the RECORD

There being no objection, the bill was ordered to be printed in the RECORD, as follows

S 3417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last proviso of the second sentence of section 4(h) of the Commodity Credt Corporation Charter Act (15 U S C 714b(h)) is amended by striking out "$50 000" each time such figure appears and inserting in lieu thereof $100 000

SEC 2 The amendment made by the first section shall be effective only with respect to the fiscal years beginning October 1 1978 and ending September 30, 1981 ●

By Mr JACKSON (for himself, Mr MAGNUSON, Mr CHURCH Mr MARK O. HATFIELD, Mr PACKWOOD, and Mr McCLURE) ·

S 3418. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources to establish a representative regional power planning process to assure the region of an efficient and adequate power supply, and for other purposes, to the Committee on Energy and Natural Resources

PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION ACT

● Mr JACKSON. Mr. President, today, on behalf of myself and Mr. MAGNUSON, Mr CHURCH, Mr MARK O. HATFIELD, Mr PACKWOOD, and Mr. McCLURE, I introduce a new proposal for a comprehensive

Pacific Northwest region electric power program.

As my colleagues will recall, on September 9, 1977, I introduced S. 2080, the Pacific Northwest Electric Power Supply and Conservation Act at the request of a consortium of Northwestern regional utilities. During the intervening year, field hearings have been held by the Senate Committee on Energy and Natural Resources in the State of Washington, Oregon, Idaho, and Montana, and the House Interior and Insular Affairs Committee has also held field hearings on a companion measure. An impressive record has been compiled containing the views and expressing the concerns of interested parties throughout the Pacific Northwest. There has been continued discussion of the legislation in the region and the debate was intense. Clearly, the energy future of the Pacific Northwest is of singular importance to the area and the concerns and suggestions expressed by citizens, business, and the utilities have been carefully reviewed and have been given consideration in the preparation of the new proposal which I introduce today.

This new bill, based upon the plan originally proposed, reflects the addition of constructive suggestions offered during the field hearings and the ongoing dialog taking place in the Pacific Northwest today. This substitute bill would implement the best thinking as to how to solve the power planning problems and needs in the Pacific Northwest and reflects the long experience and knowledge of many individuals and entities familiar with the unique energy resource base of the region.

As I have stated before, we in the Pacific Northwest are proud of the highly efficient utility system which we have developed with the cooperation of Federal, State, and local government, public and private utilities, and all of the citizens of the region. Working to solve our problems together has been the key to our success. I believe that the bill I introduce today exemplifies and perpetuates the spirit of cooperation which has so much distinguished our efforts in the past.

As is evidenced by the support shown by my distinguished colleagues from the Pacific Northwest who have joined in cosponsoring this measure; the spirit of cooperation in solving regional needs knows no state boundaries or political differences and is as strong now as ever.

I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) The Federal Columbia River Power System offers a unique opportunity to encourage policies of conservation and efficiency in the use of electric power within the Pacific Northwest region and to demonstrate the effectiveness of such policies to the Nation at large.

(b) The participation and consultation of the States, local communities, ratepayers, and the public at large are essential in development of regional plans and programs related to energy conservation, renewable resources, and other generating resources and orderly planning of the Federal Columbia River Power System.

(c) The ratepayers of the Pacific Northwest should continue to pay all costs necessary to produce, transmit, and conserve electric power to meet the region's electric power requirements, including the amortization of the Federal investment in the Federal Columbia River Power System.

DEFINITIONS

SEC 3. As used in this Act—

(a) "Administrator" means the Administrator, Bonneville Power Administration.

(b) "Conservation" means any appropriate improvements in the power system or investment which increases the efficiency of energy production or use.

(c) A conservation measure or a renewable, waste heat or cogeneration resource application is "cost effective" if it results in costs to the Administrator no greater than the cost of the least cost feasible alternative resource, waste heat or cogeneration or resources that the Administrator determines is or can be available for acquisition, and if it provides comparable power benefits, giving full recognition to prospective cost escalations and future availability of fuels.

(d) "Electric power" means electric peaking capacity or electric energy or both.

(e) "Federal base system resources" means the Federal Columbia River Power System hydroelectric projects which on the effective date of this Act are in operation or are scheduled for operation on or before June 30, 1983, electric power resources acquired by the Administrator under long-term contracts which are in force on the effective date of this Act, and new resources acquired by the Administrator to replace reductions in capability of the foregoing resources.

(f) "New resources" means all electric power resources acquired by the Administrator, except resources which are Federal base system resources or resources acquired at average cost from the investor-owned utilities pursuant to section 5(b)(2) of this Act.

(g) "Pacific Northwest, region, or regional", means

(1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.

(h) "Renewable resources" means a renewable source of energy, including, but not limited to, solar, wind, hydro, geothermal, and biomass, which is used for electrical generation or which will reduce the electrical requirements of a consumer by direct application.

(i) "Residential use or load" means all usual residential, apartment, seasonal dwelling, and farm building, electrical loads or uses, and not to exceed a total of one hundred horsepower of farm irrigation and pumping loads for any farm.

(j) "Resources" means electric power, facilities that produce electric power, planned electric power capability of generating facilities whether operating or operable, electric power conserved, and measures to conserve electric power.

REGIONAL PARTICIPATION

SEC. 4. (a) The Administrator shall establish a Bonneville Consumers' Council and a Bonneville Utilities' Council.

(1) The Bonneville Consumers' Council shall be composed of two persons from each congressional district in the States of Washington, Oregon, and Idaho, and the State of Montana west of the Continental Divide, who shall be appointed by the Governors of the State in which each such congressional district is located within ninety days of notification by the Administrator of a vacancy on the Bonneville Consumers' Council. One such person appointed to the Bonneville Consumer's Council from each district shall be an elected official of a local government within such district, and the other person shall be appointed from the general public with a view to diversity of backgrounds and interests.

(2) The Bonneville Utilities' Council shall be comprised of eighteen representatives of Pacific Northwest electric utilities to be selected by these utilities and not more than three representatives of the direct service industrial customers to be selected by them, such selections to be under rules established by the Administrator.

(3) The Administrator shall establish terms and other conditions of service for members of both Councils, and shall fill vacancies on the Councils in the absence of appointments by a Governor or failure of utilities to select persons.

(b) In order to further insure widespread and representative public involvement in formulation of regional power programs and policies, the Administrator shall establish and maintain comprehensive programs designed to inform the Pacific Northwest public of major regional electric power issues and to obtain public views and reactions concerning those issues.

(c) The Administrator shall prepare a regional power planning and conservation program to carry out the purposes of this Act. Such program shall be developed in consultation with the Governors of the States of Idaho, Montana, Oregon, and Washington, the Bonneville Consumers' Council and the Bonneville Utilities' Council and with general public involvement programs. The regional power planning and conservation program shall include a twenty-year regional load/resource forecast, proposed conservation programs, proposed renewable, waste, cogeneration and other resources, acquisitions, proposed major transmission system additions and such other program proposals as the Administrator deems appropriate. Such program or any part thereof, may be revised from time to time as the Administrator deems appropriate after consultation with the Governors, the Councils and public involvement as provided in this section.

SALE OF POWER

SEC. 5. (a) The Administrator shall offer to sell electric power to each Pacific Northwest utility, at rates established pursuant to section 7, to meet its firm power load in the region which is in excess of such utility's resources committed to such load, subject to the provisions of subsection (b)(2) of this section: *Provided*, That the Administrator determines that he has or can acquire adequate resources to meet such requirements.

(b) Additionally, (1) the Administrator is authorized to sell electric power to regional Federal agencies, and (2) if the Administrator acquires electric power either from a Pacific Northwest utility at the average cost of resources then available to that utility, or from other resources at a cost equal to or less than the average cost of resources then available to that utility, then the Administrator shall offer to sell to such utility for resale to meet the load of its residential customers in the region an equivalent amount

of electric power: *Provided*, That such sale shall be limited to an amount not to exceed 60 per centum of each such utility's residential loads in the year beginning July 1, 1979, and increasing such percentage in equal annual increments to 100 per centum of such load in the year beginning July 1, 1984. Such electric power shall be sold at rates established pursuant to section 7.

(c) The Administrator is authorized to sell to direct-service industrial customers electric power to meet their load requirements so long as such sales provide a portion of the planning and operating reserves for the Federal Columbia River Power System The Administrator shall offer to those direct-service industrial customers receiving electric power from the Federal Columbia River Power System on the effective date of this act new long-term power sales contracts effectuating the purposes of this section. Such offer shall expire one year from the date it is tendered by the Administrator. Such electric power shall be sold at rates established pursuant to section 7.

(d) The Administrator is further authorized to sell or otherwise dispose of electric power that is surplus to his obligations incurred pursuant to subsections (a), (b), and (c) of this section in accordance with other statutes related to disposition of power from the Federal Columbia River Power System. Such electric power shall be sold at rates established pursuant to section 7.

RESOURCE ACQUISITION

SEC. 6. (a) The Administrator shall conserve electric power through implementation of measures the Administrator determines are feasible and cost-effective including, but not limited to programs for financing residential insulation, increased system efficiency and waste energy recovery. The Administrator shall develop conservation proposals and programs which assist the region's electric power consumers to make efficient use of energy. In addition, he shall assist the promotion of conservation by and among regional consumers by providing technical or financial assistance, and by cooperating with his customers and governmental authorities to encourage voluntary conservation and to devise effective mechanisms for establishing, enforcing, and achieving compliance with mandatory conservation standards.

(b) In the event that the Administrator determines conservation will be insufficient to meet the electric power obligations incurred under section 5, the Administrator shall acquire additional resources from Federal or non-Federal entities to meet the remainder of such obligations. Such acquisition shall be obtained from waste heat, cogeneration or renewable resources the Administrator determines are feasible and cost-effective.

(c) If resources in addition to such resources are needed, then the Administrator shall acquire additional electric power resources giving priority to high efficiency resources, such as combined cycle and magneto-hydrodynamic generation, which he determines to be feasible and cost-effective All such resources acquired by the Administrator:

(1) shall be consistent with the provisions of the power program for the Pacific Northwest developed pursuant to section 4; and

(2) shall be constructed and operated in a manner to provide efficient, economic, and reliable service.

(d) The Administrator is hereby authorized to construct and operate generating facilities, with the exception of constructing hydroelectric resources, utilizing renewable resources; and to construct such other generating resources as he determines are necessary to assure transmission system reliability.

(e) To the extent conservation or acquisition of resources under this Act require direct arrangements with the ultimate consumers of electric power, the Administrator shall make maximum practicable use of existing institutions able to supply credit to such consumers.

(f) The Administrator is authorized to enter into agreements with sponsors of resources which may be proposed for acquisition by the Administrator to fund or secure debt incurred in the investigation and initial development of such resources.

(g) Prior to the execution of any contract for the acquisition of major resources pursuant to subsection (c) of this section, the Administrator shall have reviewed the proposed acquisitions with the Governors of Idaho, Montana, Oregon, and Washington, the Bonneville Consumers' Council and the Bonneville Utilities' Council pursuant to section 4; and he shall submit any comments or recommendations received from the Governors and the councils along with the proposed contracts and evidence of compliance with the National Environmental Policy Act of 1969, to the Senate Energy and Natural Resources Committee and to the House Interior Committee for review. Thereafter, the Administrator shall publish notice of his intention to acquire such resources in the Federal Register. No such contract shall be executed by the Administrator until ninety days after the date of submittal to the Congress pursuant to this subsection and no financial commitment shall be incurred under this authority until it has been noted in the Administrator's budget submittal made pursuant to section 11 of Public Law 93–454.

(h) The Administrator, at the request and expense of a Pacific Northwest customer, shall acquire, to the extent practicable, any electric power which is required by such customer to replace electric power curtailed or interrupted by the Administrator: *Provided*, That such customer may elect to acquire independently replacement power under terms and conditions as prescribed by the Administrator.

RATE DIRECTIVES

SEC. 7. (a) The Administrator shall establish and periodically modify rates for the sale and disposition of electric power to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power including the amortization of the Federal investment in the Federal Columbia River Power System over as reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to law. In addition, prior to July 1, 1982, such rates shall recover revenues in amounts that the Administrator determines are necessary to provide all or a portion of the initial funding for conservation programs to be implemented pursuant to section 6(a). Such rates shall become effective upon confirmation and approval by the Federal Energy Regulatory Commission and shall be established in accordance with sections 9 and 10 of Public Law 93–454 and the provisions of this Act on the finding that such rates (1) are sufficient to assure repayment of the Federal investment after first meeting the Administrator's other costs, (2) are based upon the Administrator's total costs of service, including contingencies and initial conservation funding; and (3) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal uses

(b) The Administrator shall establish a rate or rates applicable to the electric power sold for the general requirements of public body, cooperative and Federal agency customers, and to the electric power sold under section 5(b)(2) for the requirements of residential customers in the region. Such rate or rates shall recover the costs of that portion of the Federal base system resources needed until such requirements exceed the Federal base system resources. Thereafter, such rate or rates also shall recover the costs of additional electric power as needed, first from the electric power purchased by the Administrator under section 5(b)(2) and then from new resources.

General requirements as used in this section shall be that portion of a public body's, cooperative's, or Federal agency's directly served electric power load in excess of its own resources that are dedicated to meet such load and exclusive of any large new industrial load whose service is contracted for after October 1, 1978.

(c) The rate or rates applicable to direct-service industrial customers shall be established at a level which the Administrator determines is equitable in relation to the rates charged by the region's electric utilities to their major industrial customers, taking into account the value of power system reserves made available to the Administrator through his rights to curtail or interrupt service to such direct-service industrial customers; the comparative size and character of the loads served; the relative costs of electric capacity, energy, transmission, and related delivery facilities provided, and other service provisions, all as related to the delivery of power to such customers: *Provided*, That prior to July 1, 1984, the rate or rates applicable to direct-service industrial customers shall be established to recover the costs incurred by the Administrator pursuant to section 5(b)(2) and not recovered through rates applicable for other classes of power sold by the Administrator; and such rate or rates shall be established at a level no lower than the weighted average wholesale power costs to the investor owned utilities from their own resource costs and purchases from the Administrator pursuant to section 5(b)(2) for their residential loads in the region as determined by the Administrator: *Provided further*, That for the period prior to July 1, 1981, such rate or rates may be in the form of a surcharge on rates then applicable to direct-service industrial customers.

(d) In establishing rate schedules of general application, the Administrator may establish a uniform rate or rates for sale of capacity.

(e) Rates for all other firm power sold by the Administrator shall be based upon the cost of the portions of Federal base system resources and additional resources, including new resources, which the Administrator determines are required to support such sales

(f) The Administrator shall allocate to power rates, as he may determine appropriate, all other costs and benefits including, but not limited to, conservation, uncontrollable events, reserves, operating services, and the sale of excess electric power.

AMENDMENTS TO EXISTING LEGISLATION

SEC 8 (a) Section 11(b) of Public Law 93–454 is amended by adding a new subparagraph (12) as follows:

"(12) making such payments as shall be required to carry out the purposes of the Pacific Northwest Electric Power Planning, and Conservation Act.".

(b) Public Law 93–454 is amended by striking subsection 13 (a) and (b) and substituting the following new subsections.

"SEC 13(a) The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name of, and on behalf of the Bonneville Power Administration bonds, notes, and other evidences of indebtedness (in this Act collectively referred to as 'bonds') to assist in financing the constructing, acquisition, and replacement of the transmission system, to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power and Planning Act, 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 Treasury 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 not to exceed the interest rate which would be applied to such bonds if they were purchased by the Federal Financing Bank. The aggregate principal amount of any such Bonds outstanding at any one time shall not exceed $1,250,000,000 plus the principal amount of any bonds outstanding which shall have been issued to finance or assist in financing the Administrator's implementation of the purposes set forth in the Pacific Northwest Electric Power Planning, and Conservation Act.

"(b) The principal of, premiums, if any, and on such bond 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 11(b)(2) through 11(b)(7), 11(b)(11), and 11(b)(12), and shall include reserve or other funds created from such receipts.".

(c) Public Law 88-552 is amended by striking subsection 1(b) and inserting a new subsection (b) as follows:

"(b) Pacific Northwest means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without said region.".

(d) Public Law 88-552 is amended by adding a new section 10 as follows:

"SEC. 10. All references in sections 1, 2, 3, 5, and 7 of this Act to 'plants', 'energy', 'peaking capacity', and 'generating facilities' shall be applicable to all types of generation and not solely to hydroelectric generation.".

ADMINISTRATIVE SECTIONS

SEC. 9. (a) In carrying out the provisions of this Act, the Administrator is authorized to enter into such contracts, agreements, and arrangements, including the amendment, modification, adjustment, or cancellation thereof and the compromise or final settlement of any claim arising thereunder, and to make such expenditures, upon such terms and conditions and in such manner as he may deem necessary.

(b) Except as specifically provided herein, the authority and duties of the Secretary of Energy and the Administrator shall not be affected by this Act.

(c) The Bonneville Consumers' Council and the Bonneville Utilities' Council shall not be subject to the provisions of the Federal Advisory Committee Act, and any action of a member of such Council related to an action of such Council shall not be deemed to be a violation of Federal or State antitrust laws.

(d) No later than March 1, 1979, the Administrator shall offer to enter into power sales and purchase contracts to be effective July 1, 1979, with utilities pursuant to section 5(b)(2).

(e) For the purpose of enabling the Administrator to acquire resources from State and local governmental units at a cost no greater than the costs which would be applicable in the absence of such acquisition, the debt obligations described in section 103(a)(1) of title 26 of the United States Code shall not be affected by any contract or agreement regarding the Administrator's acquisition of resources constructed by a State or local governmental unit and for which the Administrator determines at the time the commitment for such acquisition is made will not be utilized over the life of the project in whole or in major part by a person who is not an exempt person, as defined in section 103(c)(3) of title 26 of the United States Code.

(f) No provision of chapter 2C of title 15 of the United States Code shall apply to or be deemed to include any "person" or "company" (as defined in 15 U.S.C. 79(a)(1) and (2)) organized and operated primarily for the purpose of financing, leasing, constructing, owning, managing, or operating part of an interest in, or all of, facilities used for the generation of electricity (together with associated transmission and other facilities), 75 per centum or more of the power from which, or from the part or interest so financed, leased, constructed, owned, managed, or operated, is or will be sold to the Administrator under section 6.

● Mr. MARK O. HATFIELD. Mr. President, I am pleased to join with the Senator from Washington (Mr. JACKSON) as a cosponsor of the Pacific Northwest Electric Power Planning and Conservation Act. I believe this legislation will prove to be the most significant bill affecting the Northwest to be considered in the remaining years of this century.

In the past few years, we have had ample opportunity to view the important relationship between energy supply and our way of life in this country. The economic well-being of the Nation, our relationships with other countries, the lifestyles we as individuals live, are all related to the supply of energy resources. The oil embargo of 1973 and the drastic cost increases of foreign oil have indicated very clearly to us that we can no longer take energy for granted as a cheap resource which will always be available at a low social and economic cost. For well over a year, the Congress of the United States has been considering and debating the President's national energy plan.

The Pacific Northwest has been fortunate to have renewable hydroelectric resources at our disposal, but this picture is changing. The likelihood of significant new baseload generation from the construction of large dams is small. We must now reexamine our options for the future, which include more aggressive conservation programs, low-head hydroelectric generation, and development of alternative resources which have not received adequate attention in the past. Each of these options, which are not mutually exclusive, raises questions of financing, impact upon the environment, and cost to consumers. Allocation to and uses of the various types of power generated is one of the most controversial of the issues but one which must be resolved in a timely fashion.

In November of 1976, I called for a regional approach to these issues. As I indicated at that time, the Pacific Northwest is one region, tied together by one transmission system. The legislation being introduced today continues the regional approach to Northwest energy problems and treats the current issues in a fair and equitable manner. It recognizes the importance of conservation and development of alternative energy resources. It treats residential users of electricity fairly, no matter which utility serves them. It provides for improved planning so that the region can make rational choices to insure adequate supplies of electrical energy.

Mr. President, it is my belief that this legislation is another indication of the ability of the Pacific Northwest to work together as a region. I urge my colleagues in the Senate to join us in support of this legislation.●

By Mr. CULVER (for himself, Mr. CLARK, Mr. MCGOVERN, Mr. METZENBAUM, and Mr. HUMPHREY):

S. 3419. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income a portion of payments made under certain Federal and State cost sharing programs the primary purpose of which is conservation of soil and water resources, environmental protection or restoration, forest enhancement, or the provision of wildlife habitat; to the Committee on Finance.

● Mr. CULVER. Mr. President, I am introducing today legislation to exempt from Federal income taxation Federal and State cost-sharing payments for soil and water conservation, environmental protection, and the provision of wildlife habitat.

The U.S. Department of Agriculture currently administers a variety of programs under which it pays part of the cost of implementing measures to enhance natural resource and wildlife protection. Several States, including my own State of Iowa, provide funds for similar purposes. The basis of public support for these programs is that they yield broad societal benefits beyond those which accrue to individual landowners.

For example, it is clearly in our economic and environmental interest that cropland be adequately protected from soil erosion. This soil is the foundation of our food production capacity. Without it, food costs would soar and our very ability to provide food for ourselves would be jeopardized. Yet, soil conserving measures are often too expensive for the individual landowner, and the return on investment is usually delayed for many years. In the high competitve world of food production, farmers rarely can make these investments in conservation with any hope of recovering their cost through the prices received for their products. Our cost-sharing programs are designed to overcome these financial barriers to good conservation and environmental protection by providing financial incentives to install effective soil conservation measures.

Under current tax law, however, Federal and State cost-sharing payments are considered gross income to the farmer or landowner and subsequently,

EXECUTIVE COMMUNICATIONS, ETC

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows

2578 A letter from the Secretary of Agriculture transmitting a draft of proposed legislation to amend the Federal Crop Insurance Act and for other purposes to the Committee on Agriculture

2579 A letter from the District of Columbia Auditor, transmitting copies of three reports entitled Comprehensiveness of Calendar 1975 Real Estate Tax Assessment Program Limitations of Existing Employment Ceilings, and Employment Practices in the Assessment Administration' pursuant to section 455 of Public Law 93-198 to the Committee on the District of Columbia

2580 A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of changes in two existing records systems pursuant to 5 USC 552a(o) to the Committee on Government Operations

2581 A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by E Gregory Kryza and Oliver S Crosby Ambassador-designate to Maurinia and Guinea respectively and by members of their families, pursuant to section 6 of Public Law 93-126 to the Committee on International Relations

2582 A letter from the Executive Secretary to the Department of Health Education and Welfare, transmitting notice of proposed final regulations governing the Noncommercial Educational Broadcasting Facilities program pursuant to section 431(d)(1) of the General Education Provisions Act as amended to the Committee on Interstate and Foreign Commerce

2583 A letter from the Acting Assistant Secretary of the Army (Civil Works) transmitting the annual report for calendar year 1976 on the administration of ocean-dumping activities pursuant to section 112 of the Marine Protection Research and Sanctuaries Act of 1972 as amended (86 Stat 1060 90 Stat 725) to the Committee on Merchant Marine and Fisheries

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows

Mr THOMPSON Committee on House Administration Report pursuant to section 302(B) of the Congressional Budget Act of 1974 (Rept No 95-725) Referred to the Committee of the Whole House on the State of the Union

Mr MOAKLEY Committee on Rules House Resolution 848 Resolution providing for the consideration of H R 9179 A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation (Rept No 95-726) Referred to the House Calendar

Mr MURPHY of New York Committee on Merchant Marine and Fisheries H R 7278 A bill to amend section 510 of the Merchant Marine Act of 1936 with amendment (Rept No 95-727) Referred to the Committee of the Whole House on the State of the Union

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII reports of committees were delivered to the Clerk for printing and reference to the proper calendar as follows

Mr KINDNESS Committee on the Judiciary H R 5099 A bill for the relief of Brian Hall and Vera W Hall (Rept No 95-728) Referred to the Committee of the Whole House

Mr HARRIS Committee on the Judiciary H R 5097 A bill for the relief of Dr Daryl C Johnson with amendment (Rept No 95-729) Referred to the Committee of the Whole House

Mr DANIELSON Committee on the Judiciary H R 7162 A bill for the relief of Stephanie Johnson (Rept No 95-730) Referred to the Committee of the Whole House

Mr HARRIS Committee on the Judiciary S 1269 An act for the relief of Camilla A Hester with amendment (Rept No 95-731) Referred to the Committee of the Whole House

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII public bills and resolutions were introduced and severally referred as follows

By Mrs BURKE of California (for herself Mr HARRINGTON Mr LONG of Louisiana Mr PRESSLER Mr RUPPE Mr SEIBERLING Mr WALGREN and Mr WALKER)

H R 9662 A bill to provide for the establishment of Multipurpose Service Centers for displaced homemakers and for other purposes to the Committee on Education and Labor

By Mr DERRICK (for himself Mr REUSS Mr ASHLEY Mr FAUNTROY Mr STANTON Mr HUBBARD Mr NEAL Mr HANLEY Mr MITCHELL of Maryland Mr MOORHEAD of Pennsylvania Ms OAKAR Mr MINISH Mr HOLLENBECK Mr BARNARD Mrs FENWICK Mr CAVANAUGH Mr VENTO Mr MATTOX Mrs SPELLMAN Mr TSONGAS Mr D AMOURS Mr STEERS Mr KELLY Mr MCKINNEY and Mr EVANS of Delaware)

H R 9663 A bill to amend the Federal Home Loan Mortgage Corporation Act to the Committee on Banking Finance and Urban Affairs

By Mr. DICKS (for himself, Mr FOLEY, and Mr. McCORMACK):

H R 9664 A bill to make the Federal Columbia River Power System available for maximum electric efficiency for future essential power supply, to promote conservation, and for other purposes jointly, to the Committees on Interiors and Insular Affairs, Interstate and Foreign Commerce, and Ways and Means

By Mr DRINAN (for himself Mr BINGHAM Mr CONYERS Mr EDWARDS of California Ms HOLTZMAN Mr MIKVA Mr SOLARZ Mr STARK Mr WEISS Mr BEDELL Mr DELLUMS Mr HAWKINS Mr KOSTMAYER Mr LEHMAN Mr MITCHELL of Maryland Mr OTTINGER Mr ROSENTHAL Mr SCHEUER Mr SEIBERLING Mr STEERS Mr BONIOR and Mr MOFFETT)

H R 9665 A bill to carry out the principles of the Helsinki Final Act pertaining to freedom of travel and emigration by providing that aliens who are associated with certain political organizations or who advocate certain political beliefs shall not be ineligible to receive visas and excluded from admission into the United States or deported from the United States because of such association or beliefs to the Committee on the Judiciary

By Mr MOAKLEY

H R 9666 A bill to amend title XVI of the Social Security Act to provide that interest on bank deposits shall not be considered income for purposes of determining an individual's eligibility for supplemental security income benefits or the amount of such benefits to the Committee on Ways and Means

By Mr PATTISON of New York

H R 9667 A bill to amend the Internal Revenue Code of 1954 to discourage interstate bootlegging of cigarettes by increasing the Federal tax on cigarettes and to provide certain repayments of such tax to States to the Committee on Ways and Means

By Mr PEPPER (for himself Mr BRADEMAS Ms OAKAR and Mr LE FANTE)

H R 9668 A bill making a supplemental appropriation for payments under home health service grants and making an appropriation for payments under multipurpose senior center grants to the Committee on Appropriations

By Mr PEPPER (for himself Mr BRADEMAS Ms OAKAR Mr LE FANTE and Mrs SCHROEDER)

H R 9669 A bill to amend the National Housing Act and other acts for the purpose of providing assistance for outpatient geriatric clinics and for multipurpose senior centers and for other purposes to the Committee on Banking Finance and Urban Affairs

By Mr PEPPER (for himself Mr BRADEMAS Ms OAKAR and Mr CORRADA)

H R 9670 A bill to amend the Older Americans Act to provide expanded counseling assistance for the elderly sick and disabled to the Committee on Education and Labor

By Mr PEPPER (for himself Mr BRADEMAS Mr LUKEN Mr CONTE and Mr CORNWELL)

H R 9671 A bill to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age to the Committee on Education and Labor

By Mr PEPPER (for himself Mr BRADEMAS Ms OAKAR Mr LE FANTE and Mr CORRADA)

H R 9672 A bill to promote the provision and availability of necessary health services for the elderly by expanding existing programs of grants for home health services requiring the inclusion of specified preventive and home health services under the medicaid program and making various improvements in the administration of such program providing assistance to demonstration and pilot projects for home health and supportive services (including demonstration grants for community care) and authorizing grants for annual health fairs and mobile geriatric health units and for other purposes to the Committee on Interstate and Foreign Commerce

By Mr PEPPER (for himself Mr BRADEMAS and Ms OAKAR)

H R 9673 A bill to amend title XIX of the Social Security Act to provide that medicaid is a payor of last resort and to permit recovery by States from certain estates of medicaid expenses incurred by individuals before reaching the age of 65 to the Committee on Interstate and Foreign Commerce

By Mr PEPPER (for himself Mr BRADEMAS Ms OAKAR Mr LE FANTE and Mr CORRADA)

H R 9674 A bill to amend the Public Health Service Act to provide additional programs of assistance for health personnel training programs and for other purposes to the Committee on Interstate and Foreign Commerce

By Mr PEPPER (for himself Mr BRADEMAS Ms OAKAR and Mrs SCHROEDER)

H R 9675 A bill to amend the Federal Aviation Act of 1958 to authorize reduced rate transportation for certain additional persons on a space-available basis to the Committee on Public Works and Transportation

by Paul H Boeker, Ambassador-designate to Bolivia, and members of his family, pursuant to section 6 of Public Law 93–126, to the Committee on International Relations

2297 A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intent to offer to sell certain defense articles to the United Kingdom (transmittal No 77–68), pursuant to section 36(b) of the Arms Export Control Act to the Committee on International Relations

2298 A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intent to offer to sell certain defense articles to Iran (transmittal No 77–69), pursuant to section 36(b) of the Arms Export Control Act, to the Committee on International Relations

2299 A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy s intent to offer to sell certain defense services to Iran (transmittal No 77–70), pursuant to section 36(b) of the Arms Export Control Act, to the Committee on International Relations

2300 A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy s intent to offer to sell certain defense equipment to Spain (transmittal No 77–71), pursuant to section 36(b) of the Arms Export Control Act to the Committee on International Relations

2301 A letter from the Director Defense Security Assistance Agency, transmitting notice of the Army s intent to offer to sell certain defense articles and services to Thailand (transmittal No 77–72), pursuant to section 36(b) of the Arms Export Control Act, to the Committee on International Relations

2302 A letter from the Director Defense Security Assistance Agency transmitting notice of the Army s intent to offer to sell certain defense articles to the Republic of China (transmittal No 77–73), pursuant to section 36(b) of the Arms Export Control Act, to the Committee on International Relations

2303 A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intent to offer to sell certain defense articles to Thailand (transmittal No 77–74), pursuant to section 36(b) of the Arms Export Control Act to the Committee on International Relations

2304 A letter from the Director Defense Security Assistance Agency transmitting notice of the Army s intent to offer to sell certain defense articles to Israel (transmittal No 77–75) pursuant to section 36(b) of the Arms Export Control Act, to the Committee on International Relations

2305 A letter from the Director Defense Security Assistance Agency, transmitting notice of the Army's intent to offer to sell certain defense articles to Pakistan (transmittal No 77–81), pursuant to section 36(b) of the Arms Export Control Act, to the Committee on International Relations

2306 A letter from the Secretary of Health, Education and Welfare, transmitting a report on his determination specifying the conditions of persons which should be included in the definition of developmental disabilities together with the report on the first annual review of such determination, pursuant to section 301(a) of Public Law 94–103 to the Committee on Interstate and Foreign Commerce

2307 A letter from the Executive Director, Federal Communications Commission transmitting a report on the backlog of pending applications and hearing cases in the Commission as of May 31, 1977, pursuant to section 5(e) of the Communications Act as amended to the Committee on Interstate and Foreign Commerce

2308 A letter from the Chairman Federal Power Commission, transmitting a report by the National Gas Survey Advisory Committee's Transmission, Distribution and Storage Technical Advisory Task Force on rate design, to the Committee on Interstate and Foreign Commerce

2309 A letter from the Acting Secretary, Interstate Commerce Commission transmitting notice of the Commission s determination to extend the time period for acting upon the appeal pending in *Ex Parte No 331, Expeditious Procedures for Permitting Publication of Separate Rates for Distinct Rail Services*, pursuant to section 17(9)(e) of the Interstate Commerce Act, as amended (90 Stat 49), to the Committee on Interstate and Foreign Commerce

2310 A letter from the Commissioner, Immigration and Naturalization Service Department of Justice transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens pursuant to section 212(d)(6) of the act (66 Stat 182) to the Committee on the Judiciary

2311 A letter from the Chairman U S Commission on Civil Rights transmitting a report on women and minorities in television pursuant to section 104(b) of Public Law 85–315, to the Committee on the Judiciary

2312 A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved pursuant to section 244(c) of the act (66 Stat 214 76 Stat 1247), to the Committee on the Judiciary

2313 A letter from the Comptroller General of the United States transmitting a report on shortcomings in HUD s efforts to collect delinquent mortgage insurance premiums (FGMSD-77 33, September 8 1977), jointly to the Committees on Government Operations and Banking, Finance and Urban Affairs

2314 A letter from the Comptroller General of the United States transmitting a report on problems and needed improvements in the Office of Education's evaluations of its programs (HRD-76 165 September 8, 1977), jointly to the Committees on Government Operations and Education and Labor

2315 A letter from the Comptroller General of the United States transmitting a report on the objectives, direction and pace of the equal employment opportunity program for Federal employees and job applicants (FPCD–76–85 September 9, 1977), jointly to the Committees on Government Operations Education and Labor and Post Office and Civil Service

2316 A letter from the Comptroller General of the United States transmitting a report on stopping unnecessary and harmful levels of domestic sewage chlorination (CED–77–108 August 30 1977), jointly to the Committees on Government Operations Interstate and Foreign Commerce, and Public Works and Transportation

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr ALEXANDER

H R 9006 A bill to amend the Age Discrimination in Employment Act of 1967 to provide that Federal employees who are 40 years of age or older shall be protected by the provisions of section 15 of such act, and for other purposes jointly, to the Committees on Education and Labor, and Post Office and Civil Service

By Mr BRINKLEY (for himself and Mr Davis)

H R 9007 A bill to amend title 10 of the United States Code to provide essential medical and dental care to members or former members of a uniformed service and their dependents where the member is entitled to retired or retainer pay or equivalent pay, to the Committee on Armed Services

By Mr CORRADA

H R 9008 A bill to amend title 38 of the United States Code so as to protect and preserve determinations by the Veterans' Administration with regard to service connection and disability ratings, to the Committee on Veterans Affairs

By Mr DUNCAN of Tennessee

H R 9009 A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so, to the Committee on Education and Labor

By Mr HAGEDORN

H R 9010 A bill to amend the Congressional Budget Act of 1974 to limit increases in levels of total budget outlays and total new budget authority established in concurrent budget resolutions, to the Committee on Rules

By Mr HAMMERSCHMIDT

H R 9011 A bill to amend sections 1662 and 1663 of title 38, United States Code, in order to provide for a conditional extension of the delimiting period for receiving educational assistance in the case of certain Vietnam era veterans and to improve counseling for certain veterans, to the Committee on Veterans Affairs

By Mr HOLLENBECK (for himself, Mr CONTE and Mr MINISH)

H R 9012 A bill to amend the Internal Revenue Code of 1954 to permit individuals to deduct qualified smoke detector expenses, to the Committee on Ways and Means

By Mr JACOBS

H R 9013 A bill to amend the Internal Revenue Code of 1954 to provide for the nonrecognition of gain from the sale of stock in a domestic corporation engaged in a trade or business related to energy if within 90 days after the sale the proceeds are invested in stock of another such corporation to the Committee on Ways and Means

By Mr LAGOMARSINO

H R 9014 A bill to amend title II of the Social Security Act to provide that child's insurance benefits shall not be payable to an insured individual s stepchild after such child s natural parent and the insured individual are divorced, for any period during which such child is receiving support from another source, to the Committee on Ways and Means

By Mr LATTA

H R 9015 A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to guarantee notes issued to State and local taxing authorities to secure payment of real property tax obligations owed by a railroad in reorganization to the Committee on Interstate and Foreign Commerce

By Mr LEDERER

H R 9016 A bill to amend the Tariff Act of 1930 with respect to the marking of wearing apparel assembled abroad from U S products exported for purposes of such assembly, to the Committee on Ways and Means

By Mr McDADE

H R 9017 A bill to amend title 38, United States Code to provide that the recipient of a veterans' pension or dependency and indemnity compensation will not have the amount of such pension or compensation reduced because of cost-of-living increases in social security benefits, railroad retirement annuities, or other retirement benefits to the Committee on Veterans' Affairs

H R 9018 A bill to amend title 38, United States Code, to provide for the payment of

service pensions to veterans of World War I and the surviving spouses and children of such veterans to the Committee on Veterans' Affairs

By Mr MAHON

H R 9019 A bill to rescind certain budget authority continued in the message of the President of July 19 1977 (H Doc 95-188) transmitted pursuant to the Impoundment Control Act of 1974, to the Committee on Appropriations

By Mr. MEEDS (by request):

H.R. 9020. A bill to make the Federal Columbia River Power System available for future essential power supply, to promote conservation, and for other purposes: jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Ways and Means.

By Mr MINETA (for himself, Ms HOLTZMAN, Mr RONCALIO, Mr NEAL, Mr ALEXANDER, and Mr UDALL)·

H R 9021 A bill to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps, to the Committee on Post Office and Civil Service

By Mr GARY A MYERS

H R 9022 A bill to amend the Trade Act of 1974 to provide that the President may not reduce or terminate import relief if the Congress disapproves such action, to the Committee on Ways and Means

By Ms OAKAR (for herself, Mr RODINO, Mr WHALEN, Mr MILLER of Ohio, Mr NIX, Mr BROWN of Ohio, Mr MICHAEL O MYERS Mr GUYER, Mr LEDERER, Mr EILBERG, Mr EDGAR, Mr KOSTMAYER, Mr FLOOD, Mr ERTEL, Mr AMMERMAN Mr WALGREN, Mr HOLLENBECK, Mr MARKEY, Mr LUNDINE, Mrs HECKLER, Ms MIKULSKI, Mrs SPELLMAN, Mr McDADE, Mr MITCHELL of Maryland, and Mr BEARD of Rhode Island)

H R 9023 A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to guarantee notes issued to State and local taxing authorities to secure payment of real property tax obligations owed by a railroad in reorganization, to the Committee on Interstate and Foreign Commerce

By Ms OAKAR (for herself, Mr GILMAN, Mr FISH, Mr LE FANTE, Mr NOWAK, Mr ST GERMAIN, Mr DRINAN, Mr FORSYTHE, Mr STRATTON Mr HARSHA, and Mr YATRON)

H R 9024 A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to guarantee notes issued to State and local taxing authorities to secure payment of real property tax obligations owned by a railroad in reorganization to the Committee on Interstate and Foreign Commerce

By Mr OBERSTAR (for himself and Mr BLANCHARD)

H R 9025 A bill to provide for unbiased consideration of applicants to medical schools, to the Committee on Interstate and Foreign Commerce

By Mr PERKINS

H R 9026 A bill to provide for orderly trade in iron and steel products to the Committee on Ways and Means

By Mr STAGGERS

H R 9027 A bill to amend the Federal Railroad Safety Act of 1970 to require certain minimum safety standards and for other purposes to the Committee on Interstate and Foreign Commerce

By Mr WHITEHURST

H R 9028 A bill to revive the provisions of section 514 of the Public Works and Economic Development Act of 1965, to the Committee on Public Works and Transportation

By Mr MINETA (for himself, Mr PHILLIP BURTON, Mr HEFTEL, Mr AKAKA, Mr BRADEMAS, Mr HANNAFORD, Mr RANGEL, Mr ANDERSON of California, Mrs BURKE of California, Ms HOLTZMAN, Mrs COLLINS of Illinois, Mr WAXMAN, Mr SIMON, Mr WON PAT, Mr ROE, Mr ROYBAL, Mr EDWARDS of California, Mr HUGHES, Ms MIKULSKI, Mr LLOYD of California, and Mr HARRINGTON)·

H J Res 588 Joint resolution relating to the publication of economic and social statistics for Americans of East Asian or Pacific Island origin or descent, jointly, to the Committees on Education and Labor and Post Office and Civil Service

By Mr CORRADA

H Con Res 345 Concurrent resolution expressing the sense of Congress that the value of military exchange and commissary privileges should not be considered by any Federal agency in determining the entitlement of any retired or former member of the Armed Forces to any other Federal benefit or in determining the amount of any other Federal benefit to the Committee on Post Office and Civil Service

By Mr DON H CLAUSEN

H Con Res 346 Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone, to the Committee on Merchant Marine and Fisheries

By Mr HANSEN (for himself, Mr KEMP, Mr KINDNESS Mr KETCHUM, Mr CRANE, Mr DORNAN Mr ZEFERETTI Mr EDWARDS of Oklahoma Mr FLOOD, Mr STUMP, Mr SYMMS, Mr LIVINGSTON, Mr GOLDWATER Mr MARRIOTT Mr EVANS of Delaware, Mr MCDONALD, Mr ABDNOR, Mr DUNCAN of Tennessee, Mr QUAYLE, Mr SNYDER, Mr COLLINS of Texas, Mr WINN, Mr SCHULZE, Mr RINALDO, and Mr ROUSSELOT)

H Con Res 347 Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone to the Committee on Merchant Marine and Fisheries

By Mr HANSEN (for himself, Mr ASHBROOK, Mrs HOLT Mr BAUMAN Mr LOTT Mr LAGOMARSINO Mr DEL CLAWSON, Mrs SMITH of Nebraska Mr LUJAN, Mr WAGGONNER Mr ICHORD, Mr WHITE Mr SHUSTER Mr LATTA Mr RUDD Mr JOHN T MYERS Mr GRASSLEY Mr HILLIS, Mr YOUNG of Florida Mr HAGEDORN Mr MONTGOMERY, Mr THONE, Mr GUYER Mr SAWYER, and Mr DEVINE)

H Con Res 348 Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to or interest in the property of Canal Zone agencies and any real property located in the Canal Zone to the Committee on Merchant Marine and Fisheries

By Mr LEHMAN·

H Con Res 349 Concurrent resolution disapproving the proposed sales to Egypt of 14 C-130 aircraft and 12 "Firebee" remotely piloted vehicles to the Committee on International Relations

By Mr HAGEDORN

H Res 755 Resolution to amend the Rules of the House of Representatives to require that each introduced bill and resolution contain a statement of the constitutional basis of authority for the bill, to the Committee on Rules

By Mr HANNAFORD

H Res 756 Resolution designating the second Sunday of each April as Grandparents' Day, to the Committee on Post Office and Civil Service

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SENATE—*Friday, September 9, 1977*

The Senate met at 9 a m , on the expiration of the recess, and was called to order by Hon DENNIS DECONCINI, a Senator from the State of Arizona

PRAYER

The Chaplain, the Reverend Edward L R Elson, D D , offered the following prayer:

Wait on the Lord; be of good courage and He shall strengthen thine heart· Wait, I say, on the Lord —Psalm 27 14

Our Father-God Thou art never far from any of us; but often we seem to be far from Thee Yet as we open the door of our hearts Thy spirit meets us to quicken and renew our bodies, our minds, and our hearts May Thy sustaining grace which has brought us to this hour undergird our thoughts, our words, our action, until evening comes and our work is done Then in Thy mercy grant us souls at peace with Thee and with all men

Through Him whose name is above every name Amen

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER The clerk will please read a communication to the Senate from the President pro tempore (Mr EASTLAND)

The assistant legislative clerk read the following letter.

U S SENATE,
PRESIDENT PRO TEMPORE,
Washington, D C , September 9 1977
To the Senate

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair

JAMES O EASTLAND
President pro tempore

Mr DECONCINI thereupon assumed the chair as Acting President pro tempore

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore The Senator from West Virginia

THE JOURNAL

Mr ROBERT C BYRD Mr President, I ask unanimous consent that the Journal of the proceedings of yesterday, September 8, 1977, be approved

The ACTING PRESIDENT pro tempore Without objection, it is so ordered

sented to the President of the United States the enrolled bill (S 1153) to abolish the Joint Committee on Atomic Energy and to reassign certain functions and authorities thereof, and for other purposes

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated.

By Mr DECONCINI (for himself, Mr GOLDWATER, and Mr HANSEN)

S 2076 A bill to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Grand Canyon National Park, Ariz to the Grand Canyon Unified School District, Ariz and for other purposes, considered and passed

By Mr ABOUREZK

S 2077 A bill to designate the Kent State National Historic Site, and for other purposes, to the Committee on Energy and Natural Resources

By Mr SCHWEIKER

S 2078 A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide an exemption from coverage under the social security program, through a tax refund procedure for employees who are members of religious faiths which oppose participation in such program and to provide a similar exemption on a current basis (pursuant to waiver certificates filed in advance) for employers engaged in farming and their employees in cases where both are members of such faiths and to make the existing exemption for self-employed members of such families available to certain additional individuals, to the Committee on Finance

By Mr METCALF

S 2079 A bill for the relief of Lawrence Youngman to the Committee on the Judiciary

By Mr. JACKSON (by request):

S. 2080. A bill to make the Federal Columbia River Power System available for maximum electric efficiency for future essential power supply to promote conservation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr CRANSTON

S 2081 A bill to provide for the extension and expansion of the Headstart program to the Committee on Human Resources

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr ABOUREZK·

S. 2077 A bill to designate the Kent State National Historic Site, and for other purposes, to the Committee on Energy and Natural Resources

Mr ABOUREZK Mr President, the Secretary of the Interior recently announced that the Department would undertake a study to determine the historic significance of the "Blanket Hill" area on the Kent State University campus As you know, this is the site where four Kent State students were shot to death on May 4, 1970

Following completion of the Department's study the Secretary would then be in a position to determine whether or not the site should be designated as a national historic landmark The Secretary agreed to undertake such a study when it became clear that the university was planning to proceed with construction of a new gymnasium on the "Blanket Hill" site thereby destroying any historic character which the site might possess

Although I have not reached any final decision myself regarding designation of the area as an historic landmark or site it is my view that the Secretary should be given the opportunity to conduct his study and report his findings to the Congress before the area is destroyed through the construction of the gym While construction has been postponed on several occasions as a result of various court-ordered injunctions there is no assurance that construction will not begin in earnest as soon as the latest injunction is lifted

I am introducing legislation today designed to maintain the status quo in the area until the Secretary at least has an opportunity to complete his study Under the provisions of my bill, the Secretary is directed to undertake and complete a study of the "Blanket Hill" site within 90 days from the date of enactment of the act Pending completion of this study, the Secretary is further directed to promulgate and enforce such reasonable restrictions on the use of the site as may be necessary to preserve historic values present at the site The Secretary is to request the Attorney General to initiate an action for injunctive relief to prohibit any violation or anticipated violation of such restrictions

Should the Secretary, on the basis of this study, conclude that the site does possess outstanding historic values, he is directed to designate the area as a national historic site and administer the site in accordance with various existing authorities

Mr President I ask unanimous consent that the text of the bill be printed in the RECORD at this point

There being no objection, the bill was ordered to be printed in the RECORD, as follows·

S 2077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress hereby finds and declares—

(a) that the spirit and direction of the Nation are founded upon and reflected in its historic past

(b) that the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people,

(c) that the Federal Government has a responsibility to preserve and protect such values,

(d) that, through the Antiquities Act of 1906 (35 Stat 225), the Historic Sites Act of 1935 (49 Stat 666), the Historic Preservation Act of 1966 (80 Stat 915) as amended and other legislation, the Federal Government has developed a program which can protect and preserve such values,

(e) that the site locally known as "Blanket Hill ' at Kent State University at Kent, Ohio, holds great significance for a number of Americans as the site of the Kent State deaths occurring on May 4, 1970, in terms of political, cultural, social and other values and aspirations of this Nation,

(f) that the Secretary of the Interior (hereinafter referred to as the 'Secretary") is presently undertaking a study to determine whether the values present at such site possess the requisite national significance that the area should be preserved for this and future generations in accordance with existing law, and

(g) that the construction of a gymnasium on the site of "Blanket Hill" will irretrievably destroy those values thereby irrevocably foreclosing and frustrating any national interest in the preservation of such site

SEC 2(a) Within 90 days from the date of enactment of this Act, the Secretary shall complete a study of the national significance of the 'Blanket Hill" site (hereinafter referred to as the "site") and make a finding as to whether the site possesses the requisite national significance to be designated as a National Historic Site in accordance with the standards and criteria developed pursuant to the Historic Site Act of 1935 (49 Stat 666)

(b) Pending completion of the study provided for in Subsection (a) of this Section, the Secretary is directed to promulgate and enforce such reasonable restrictions on the use of the site as may be necessary to preserve the values present at the site and shall request the Attorney General of the United States to initiate an action for injunctive relief to prohibit any violation or anticipated violation of such restrictions

SEC 3 (a) If the Secretary finds that the site possesses the requisite national significance he shall (1) designate the site as a National Historic Site to be known as the "Kent State National Historic Site" [by publication of a notice in the Federal Register] and (2) prepare and make available a map depicting the area so designated, which map shall be on file and available for public inspection in the Office of the Secretary of the Interior

(b) The Secretary is authorized to acquire such lands and interests in lands, including any improvements thereon by donation, purchase with donated or appropriated funds, or exchange, within the Historic Site as he deems necessary

(c) Except as otherwise provided in this Act, the site shall be administered by the Secretary in accordance with the provisions of this Act, the Act of August 25, 1916 (39 Stat 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat 666), as amended

SEC 4 (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act

(b) Within two years from the effective date of this Act the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the use and development of the site consistent with the purposes of this Act indicating

(1) the lands and interests in lands adjacent or related to the site which he deems necessary or desirable to be acquired for the purposes of resource protection, scenic integrity or management and administration of the area in furtherance of the purposes of this Act and the estimated cost thereof,

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources, and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses

By Mr SCHWEIKER

S 2078 A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide an exemption

vision for its elderly members This condition would probably be considered a necessary and proper public policy consideration and therefore a reasonable condition upon which to base eligibility for exemption The purpose of Congress in this legislation would be to assure the fulfillment of the welfare purpose of social security while relaxing that feature of social security which impinges on the free exercise of religion Moreover since individuals can seldom guarantee their own future against deprivation and need it would be reasonable for Congress to provide that to qualify for an exemption a person must be a member of a sect which shares the religious commitment both with respect to refusing State insurance and providing for that sect s welfare Consequently since the sect aspect is essential it would seem re sonable to limit the qualification for exemption to persons who are members of a qualifying sect As said by Justices Black and Douglas in *Board of Education* v *Barnette* 319 U S 624 643 (1943) No well-ordered society can leave to the individuals an absolute right to make final decisions unassailable by the State as to everything they will or will not do '

(d) Limitation to sects which require members to follow the occupation of farming as a matter of religious principle This limitation as phrased would not be appropriate on the basis of the facts given in the joint statement It is there stated that most old-order Amish communities permit members to make their living as self-employed carpenters or masons (p 9) The possibility of limiting the exemption to sects which are established in farming communities for religious reasons is suggested and discussed below

(e) Limitation to religious groups which were established before 1935 Any limitation which designates a cutoff date would generally be less reasonable than one which on its face shows some relationship to the public purpose of the statute For example a requirement that the sect shall have demonstrated over a period of years its ability to take care of its own members would probably be more acceptable as a classification The text of certain of the legislative proposals already contain this principle in that they refer to the sect to be exempted as one which is established I would see no reason why the extent or the text of establishment might not be specifically spelled out There is some authority that a "classification which draws a line in favor of existing businesses as against those later entering the field will be upheld if any reasonable and substantial basis can be found to justify the classification *Del Mar Canning Co* v *Payne* 29 Cal 2d 380 175 P 2d 231 232 (1964 The circumstances justifying such a discrimination must provide substantial reasons *Mayflower Farms* v *Ten Eyck* 297 U S 266 (1936) It is probable that the unusual situation of the Amish with respect to social security would be considered a substantial reason for a limitation of the classification to established sects

(f) Limitation to sect established in farming communities for religious reasons The faith the members of which are to be exempted might be described not only as one whose established tenets would be violated by the acceptance of insurance and one which provides for elderly and dependent members but as one which for religious reasons is established in farming communities These limitations might be reasonable if Congress found after sufficient inquiry that they were necessary to assure that the exemption would be confined to sects which were religiously motivated and responsible and to assure that the welfare purpose of social security would be fulfilled Congress might reasonably find that the restriction of the exemption to those sects established in farming communities would be justified on the ground that such a sect could be more certainly relied upon to identify and provide for its dependent and elderly members than those in the mobile and transient urban environment Conversely the limitation would have the effect of excluding sects which subsequently organize for the purpose of exemption from social security as it is unlikely that those would or could establish themselves in farming communities for religious or other reasons The limitation would exclude other present separatist groups whose principles might but do not specifically include refusal of social security benefits Legislation which distinguishes farming situations from others because of sociological and economic differences and taken many forms and has been accepted by the courts See for example *Tigner* v *Texas* 310 U S 141 (1940) rehearing denied 310 U S 659 (1940)

G D ANDRIOT BELIN
General Counsel

By Mr JACKSON (by request)

S 2080 A bill to make the Federal Columbia River Power System available for maximum electric efficiency for future essential power supply to promote conservation and for other purposes, to the Committee on Energy and Natural Resources

Mr JACKSON Mr President, at the request of the Pacific Northwest Utilities Conference Committee and the Snohomish County Public Utility District I am introducing two separate legislative proposals for a comprehensive Northwest regional electric power planning program

During the past 8 months, utility organizations and various other parties have been working to develop a comprehensive regional power program to be forwarded to the Congress for consideration The result of these efforts are the two proposals which I am introducing These proposals diverge on important elements, however they reflect the best thinking concerning power planning problems and needs in the Northwest of a large number of individuals and entities with long experience and great knowledge in the utility field Together they represent a point of departure for the Congress to begin consideration of the many complex and important issues which the proposals address

Considerable interest has already developed in the Northwest about the subject of regional power plan legislation Many individuals groups and elected representatives at the State and local level have indicated their intention to participate in the process of congressional consideration of this proposal Undoubtedly the result of this participation will be a number of additional constructive suggestions for modifying or improving the plan as originally proposed

I intend to take a judicious approach to consideration of this legislation and the problems it addresses I believe that it is essential that the Energy Committee, which I chair take a thorough look at the proposals the problems they address, and alternative proposals and suggestions which are brought to our attention by interested parties in the region and to develop appropriate legislation to meet these needs

We in the Northwest are proud of the highly efficient utility system which we have developed with the cooperation of Federal State and local governments public and private utilities and all of the citizens of the region Working to solve our problems together has been the key to our success

I believe that we need to approach the present issues and problems confronting the region in the same spirit of cooperation which has marked our past efforts in this area

I believe it is important to assure the widest possible public understanding of the proposals which the PNUCC and the Snohomish County Public Utility District have made and the reasons which they identify concerning the need for their proposals

Accordingly the RECORD should include materials concerning these proposals which these organizations have provided to me Therefore I ask unanimous consent that the following documents be reprinted in the RECORD at the conclusion of my remarks letters from the authorized representatives of the PNUCC and the Snohomish County PUD requesting that the proposals be introduced as legislation a list of utility organizations participating in the PNUCC, explanatory materials from the PNUCC and Snohomish County describing their proposals and the full text of their proposals as introduced

There being no objection the material was ordered to be printed in the RECORD as follows

AMENDMENT NO 848

1 Amend Sec 5 to read as follows

Authority to Purchase In addition to authority under existing law BPA may purchase power provided that power purchased under new contracts for a term in excess of five years shall be purchased only as provided in Section 6 BPA may sell such purchased power together with or separately from power from the Federal Columbia River Power System Power sold for a term in excess of two years shall be sold at rates no less than the rates applicable to other sales under this Act Sales for a term longer than five years are to be made only to entities and under terms and conditions provided in this Act

2 Amend Sec 7(b) to read as follows

Rate Group A Actual requirements up to the firm energy capability of the hydroelectric generating resources of the Federal Columbia River Power System to public bodies and cooperatives that are obligated as of the effective date of this Act to make payments under net billing agreements There will be allocated in each contract year to each such public body and cooperative executing a contract referred to in Sec 7(g) an amount of power determined by multiplying the firm energy requirements for such year of such public body or cooperative by a fraction whose numerator is the total power available in that contract year under this subsection and whose denominator is the estimated total firm energy requirements of all such public bodies and cooperatives Such estimates will be made annually for the ensuing ten years Firm energy requirements as used in this subsection has the same meaning as Sum Energy Requirements as the latter term is defined in contracts referred to in Sec 7(g)

3 Amend Sec 9(a) to read as follows

BPA s obligation to deliver in any period

power sold under Sec 8 shall be subject to limitation as provided in this section to the extent that BPA finds that it shall have an insufficiency of supply, provided that deliveries to any customer which has sold, or which has arranged for the sale of, power to BPA for such period from a designated plant shall not be reduced below the amount of power so sold

4 Amend Sec 10(a)(1), to read as follows

"'Federal Base System Cost' (FBS cost) means cost (including repayment and interest) of the Federal Columbia River Power System hydrogenerating projects allocated to power (including irrigation costs assigned for repayment out of power revenues) less estimated revenues from the sale of non-firm power"

5. Amend Sec. 10(a)(3), to read as follows

"'New resource cost' means cost of all power purchased or otherwise acquired by BPA less FBS cost, net billed thermal costs and system cost of power provided that, the cost of power purchased for a term of five years or less shall not be a new resource cost except to the extent such power is used to meet obligations of BPA incurred pursuant to Sections 7 and 8 Costs of power purchased from public bodies and cooperatives shall be separately determined from cost and power purchased from private utilities"

6 After Sec. 10(a)(3) insert new subsection (4) to read as follows:

"'Net billed thermal costs' means costs of power acquired by BPA under the net billing agreements"

Renumber the existing subsections (4) and (5) as "(5)" and "(6)" accordingly.

7 Amend Sec 10(c) by redesignating references to Sec 10(a)(4) and Sec 10(a)(5) as "(a)(5)" and "(a)(6)" respectively.

8 Amend Sec 10(d), to read as follows:

"Rate Group B shall recover the allocated cost of capacity, and the balance of FBS cost allocated to energy, system cost allocated to energy (including annual charges for the portion of systems costs treated by BPA as capital), net billed thermal costs allocated to energy and the proportion of new resource cost allocated to energy that the amount of power from such resources to be sold under Sec 8 (b) through (e) in each year bears to the total amount of power to be sold from such resources in such year, plus the portions of transmission cost allocated under subsection (a)(5) and other cost under subsection (a)(6). Adjustment in Rate Group B shall be made as provided in subsection (j)."

9 Amend Sec 10(e) by redesignating references to Sec. 10(a)(4) and Sec 10(a)(5) as "(a)(5)" and "(a)(6)" respectively.

10 Delete subsection 10(n).

11. Delete subsection 18(e).

12 Amend section references throughout the bill accordingly.

S. 2080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Pacific Northwest Electric Power Supply and Conservation Act"

SEC 2 FINDINGS —The Congress finds that—

(a) The Hydro-Thermal Power Program for providing future power supplies was developed in the late 1960's by the utility systems of the Pacific Northwest and the Bonneville Power Administration to meet future energy needs through bulk power supply facilities to be constructed and operated by the utility systems of the region in coordination with the hydroelectric generating resources of the Federal Columbia River Power System

(b) Congress approved certain agreements implementing the Hydro-Thermal Power Program, but radical increases in costs of new thermal generation and unexpected delays in licensing and authorization of new thermal generation have imposed major unanticipated difficulties in achieving the objectives of such program.

(c) Regional development of hydroelectric resources, particularly additional capacity on the Federal Columbia River Power System, will be essential to an economic power supply with minimum environmental impacts

(d) The Federal Columbia River Power System, operating in coordination with electric generation resources of utility systems of the region, provides a basic means for storing, regulating, and interchanging power supplies which, if fully utilized together with the further ability to provide for spreading planning burdens and costs of future power supply facilities, can support the effort of the region to cover costs of future bulk power supply

(e) BPA purchase authority will facilitate regional pooling which will strengthen the financial ability of the utility systems to construct new resources. The regional pool so formed can also provide important financial support for effective conservation of energy through increases in efficiency of use

(f) BPA has not notified its public body and cooperative customers that BPA does not have sufficient firm power to meet their anticipated load growth after July 1, 1983 BPA has notified its direct-service industrial customers that it will not be able to renew existing contracts after their expiration

(g) It is in the public interest that essential future power supplies be available on a sound economic basis and that public bodies and cooperatives have available to them a future power supply from BPA

(h) The inability of BPA to renew contracts with existing direct-service industrial customers threatens the Pacific Northwest with loss of employment vital to the region's economy and its workers, and threatens the production of 30 percent of the nation's primary aluminum, all of its ferronickel production, and substantial portions of its production of carbide, chlorine, ferro-alloys, and other materials vital to the national economy, the national energy-conservation effort, and the national defense It is in the public interest that a power supply be continued to be made available to such customers as provided in this Act

(i) It is in the public interest that existing regional cooperation and coordination among the utility systems and BPA be continued, and it is in the public interest that public and private utility systems jointly participate in the planning and designation of future power supplies through the Pacific Northwest Electric Planning and Conservation Organization

(j) In order to carry out its functions and to implement the objectives of this Act it is necessary that PNEPCO prepare and publish forecasts of Pacific Northwest Power loads and resources; conduct programs to promote efficiency in power consumption in the Pacific Northwest; conduct studies and analyses of alternative sources of energy, including costs, timing, and availability, review long-range bulk power supply planning of utility systems; provide oversight services as specified in contracts with BPA, conduct or participate in plant siting studies and determinations; and take such other actions, consistent with this Act, as may be necessary or advisable in the performance of the foregoing functions

(k) To provide for more efficient planning and utilization of generating resources to minimize demands on capital and scarce fuel supplies and to promote conservation and efficient use of electrical energy, it is in the public interest that agreements, action or conduct be undertaken by persons or entities, acting alone or together, for the purpose of complying with or implementing the provisions or objectives of this Act

(l) The Pacific Northwest has the unique opportunity to combine the ability of the coordinated hydroelectric resources of the region systems to store and manage power supplies, the ability to achieve, on a regional basis, reduced usage of fuels and investment capital and the ability to jointly support other power-related programs. This potential will be more fully utilized for the public benefit by a limited authorization to BPA to make long-term power purchases as provided in this Act.

SEC 3 DEFINITIONS —As used in this Act—

(a) "Average megawatts" (avg mw) means average annual firm energy (expressed in thousands of kilowatts)

(b) "BPA" means the Bonneville Power Administration, and the Administrator of the Bonneville Power Administration

(c) "Contract demand contract" means a contract for a sale of power in specified amounts for specified years.

(d) "Customer" means a public body, cooperative, private utility, Federal agency or direct-service industrial, purchaser of power from BPA for use within the Pacific Northwest

(e) "Date of continuous operation" means the date certain determined by the owner(s) of a designated plant as the point in time when the plant is ready to be operated and the output scheduled on a continuous basis

(f) "Designated plant" means all or any part of a generating facility to the extent designated by PNEPCO for the purpose of this Act

(g) "Load growth" means an increase of power requirements of a BPA customer due to increase in consumption within the Pacific Northwest

(h) "Net billing agreements" means agreements existing as of the date of this Act between certain public bodies and cooperatives and BPA under which Participants Shares and/or Owner's Shares of certain thermal generating plants have been assigned to BPA, compensation for such assignment being made by crediting the annual costs of each such share against the cost of power purchased by such Participant or Owner from BPA

(i) "Pacific Northwest" means (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia drainage basin and (2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has a distribution system from which it serves both within and without said region, and (3) the service area in California on the effective date of this Act of a utility system which serves a contiguous area both within and without said region.

(j) "PNEPCO" means Pacific Northwest Electric Planning and Conservation Organization, the nonprofit corporation described in section 17

(k) "Power" means electric capacity or electric energy, or both, including the electric generating capability of a plant whether or not such plant is operable or the operation thereof is suspended, interrupted, interfered with, reduced or curtailed, in each case in whole or in part for any reason whatsoever

(l) "Private utilities" means publicly held stock corporations organized under general business laws operating utility systems within the Pacific Northwest

(m) "Public bodies and cooperatives" means public bodies and cooperatives as those terms are defined in Public Law 75-329, as amended, which sell power within or pur-

chase power for direct consumption within the Pacific Northwest

(n) Requirements contract means a contract for sale of power to meet a customer's varying power requirements in excess of the purchasers own resources, if any

(o) 'Utility system' means a system operated by a public body cooperative or private utility which sells power to ultimate consumers

Sec 4 Conservation —(a) BPA shall in consultation with the States of Washington, Oregon Montana and Idaho (hereinafter called the States) PNEPCO and other interested parties develop programs and methods by which BPA customers and ultimate consumers may conserve and efficiently use power In each budget submitted following the effective date of this Act BPA shall include proposed expenditures for conservation programs provided that expenditures under this section 4(a) shall take into account the amount of each utility system s purchases of power under this Act Such programs may provide for grants or loans including interest-free loans, to ultimate consumers served by utility systems Funds for grants or loans may and funds for loans to the ultimate consumers shall be administered through utility systems Total funds shall not at any given time exceed $300 - 000 000 total commitment for and balance of loans outstanding

(b) BPA shall include in an annual report a description of regional conservation activity conservation standards established and implemented and estimated costs and savings therefrom The report also shall compare on a regional basis the cost amount and timing of power available from conventional electric generation technologies with the cost amount and timing of power available from alternative technologies and power savings which will result from potential conservation programs

(c) BPA customers within a State specified in subsection (a) shall be subject to the surcharge provided for in this section if such State has failed to enact legislation or take other appropriate action consistent with the uniform regional standards for efficient use of power (hereinafter 'standards") within two years after the initial establishment of standards or, if standards are amended requiring additional State action two years after the date of amendment the surcharge to continue until the State adopts legislation or takes other appropriate action

(d) Standards under subsection (e) may be adopted by the states in consultation with BPA, acting through such officers or agents as may be determined by each state, or if the states do not act within two years of the effective date of this Act BPA shall establish such Standards within one year thereafter The states may adopt Standards or amended Standards established by BPA Standards shall be periodically reviewed and amended as necessary

(e) Standards shall be set as appropriate for the categories (including appropriate subcategories) including but not limited to the following

(1) New residential commercial industrial and agricultural structures

(2) Existing residential, commercial industrial and agricultural structures

(f) The States shall review new and existing industrial commercial and agricultural processes to determine whether state-adopted standards would be appropriate for any such process If the states determine such state standards should be adopted they shall proceed as appropriate Unless and until the states adopt such standards any applicable mandatory federal energy conservation standard shall become a Standard for the purposes of this section

(g) For the purpose of achieving optimum conservation levels Standards established under this section shall in order to meet the requirements of this section be at least equal to any mandatory federal energy conservation standards shall be practicable and reasonable and shall be based on all the following

(1) Demonstrable cost-effectiveness of power savings to the region upon implementation Except for cause shown the level of conservation to be derived from Standards shall be that which yields the highest net benefit (savings less cost) The power savings shall be valued at the delivered cost of new sources of power

(2) Geographic climatic and other differences within the region

(3) Social and environmental impacts

(h) In the absence of certification by the states that a state has enacted legislation or taken other appropriate action consistent with the Standards power sold for use in such state pursuant to Sections 7 and 8 will be sold subject to a surcharge BPA shall waive the surcharge with respect to any political subdivision which the states determine has substantially complied with the Standards If the states have failed to establish Standards and BPA has acted in their absence BPA shall determine substantial compliance The surcharge to any one customer shall be the greater of (1) an amount equal to 50 percent of the total cost of power purchased by such customer under this Act and subject to surcharge or (2) an amount calculated by applying to such power purchased a rate determined by taking the difference between the basic rate based on Rate Group A and the basic rate based on Rate Group C and dividing by two Revenues from the surcharge shall be used to defray the costs of conservation programs under subsection (a) Revenues in excess of these requirements shall be distributed annually through billing credits to each customer not subject to such surcharge and shall be allocated in the proportion that the cost of power sold to such customer bears to the total cost of power sold to all such customers

(i) The States may allow exceptions for good cause from Standards and thereupon BPA may waive the surcharge provided for in this section

(j) Provisions implementing the surcharge and other features of this section as appropriate shall be included in BPA s power sales contracts

(k) No action by the States to (1) establish adopt or amend Standards (2) certify that a State or political subdivision thereof has acted consistently with Standards or (3) allow exceptions shall be effective except upon unanimous agreement of the States of Oregon Washington Idaho and Montana

Sec 5 Authority to Purchase —In addition to authority under existing law BPA may purchase power provided that power purchased for a term in excess of five years shall be purchased only as provided in Section 6 BPA may sell such purchased power together with or separately from power from the Federal Columbia River Power System Power sold for a term in excess of two years shall be sold at rates no less than the rates applicable to other sales under this Act Sales for a term longer than five years are to be made only to entities and under terms and conditions provided in this Act

Sec 6 Purchases for Term Longer Than Five Years —(a) BPA may purchase power (1) from a designated plant from the Owner of such plant or any other person having an interest in such power or (2) from a system designated by PNEPCO

(b) In addition to purchases under subsection (a) BPA shall and is directed to purchase at system cost (as defined in Section 10) power offered for sale by private utilities but not to exceed 4000 avg mw

Sec 7 Basic Entitlements to Power — Section 10 assigns costs of power to three groups—A B and C—as the basis for schedules of rates and charges for sale of power Each class of sale in this section and Section 8 is classified to its Rate Group at the beginning of each paragraph

(a) BPA shall and is directed to, sell power as provided in this section

(b) Rate Group A Actual power requirements (not more than 5700 avg mw such limit increasing beginning July 1 1984 in 10 equal annual increments to a total of 6090 avg mw) to public bodies and cooperatives that are obligated as of the effective date of this Act to make payments under net billing agreements There will be allocated in each contract year to each such public body and cooperative executing a contract referred to in Section 7(g) an amount of power determined by multiplying the firm energy requirements for such year of such public body or cooperative by a fraction whose numerator is the total power available in that contract year under this subsection and whose denominator is the estimated total firm energy requirements of all such public bodies and cooperatives Such estimates will be made annually for the ensuing 10 years Firm energy requirements as used in this subsection has the same meaning as Sum Energy Requirement, a the latter term is defined in contracts referred to in Section 7(g)

(c) Rate Group B (Adjusted) 2800 avg mw in the year ending June 30 1979 increasing in equal annual increments to 4000 avg mw in the year ending June 30 1985 or such lesser amount of power equal to that offered for sale for such years to BPA under Section 6(b) to private utilities

(d) Rate Group B Actual requirements as of June 30 1983 but not more than 260 avg mw to Federal agencies

(e) Rate Group B Not more than 3000 avg mw to direct-service industrial customers with power sales contracts with BPA as of the effective date of this Act

(f) Rate Group C Not more than 1000 avg mw as determined by BPA to be available from new resources to direct-service industrial customers identified in subsection (e) to be used for production purposes specified in existing power sales contracts If BPA makes non firm power available to such customers in lieu of all or a portion of sales under this subsection the total in any year of sales under this subsection and of such sales of non firm power so made available shall not exceed 1000 avg mw

(g) Contracts for sale of power under this section and for purchase of power Section 6(b) shall be in substantially the form of the several draft contracts appropriate for each transaction included in the committee report on this Act Promptly after the effective date of this Act BPA shall execute and tender contracts for execution to all entities entitled to purchase power under this section or to sell power under Section 6 (b) No such contract may be executed by a purchaser or seller on a date more than six months after the date of tender

(h) Sales under this section shall include during the term of the contract the amount of capacity as provided in such contract

Sec 8 Additional Power Sales —(a) BPA, subject to the availability of power is authorized to sell power as provided in this section in addition to the power which BPA is directed to sell under Section 7

(b) Rate Group B (Adjusted) Not more than one-half of actual load growth to each utility system Load growth of public bodies and cooperatives shall be the load growth commencing in the first year during which the total load of each public body or cooperative respectively equals or exceeds the power made available under Section 7(b) and non-federal hydro resources utilized to

meet such loads in 1975–76. Load growth of public bodies and cooperatives may be determined collectively. Load growth of private utilities shall be the load growth occurring after June 30, 1983.

(c) Rate Group B. (Adjusted) Not more than one-half of total load as of the date of initial service by BPA under a contract entered into under this Act, other than under Section 7, and not more than one-half of load growth thereafter, to public bodies and cooperatives which do not receive service under a contract authorized in Section 7; provided, that prior to June 30, 1983, total load of such a customer shall be at Rate Group B.

(d) Rate Group B. Increased requirements of customers described in Section 7(c) due to technological reasons, at the annual rate of 0.5 percent, cumulative to the extent not used, of the total contract demand for all such customers as a group during the preceding contract year beginning July 1, 1978.

(e) Rate Group B. One-half of load growth after June 30, 1983, to Federal agencies.

(f) Rate Group C. (Adjusted) All other sales of firm power, to utility systems and other customers.

(g) Utility systems purchasing power at the same Rate Group may interchange entitlements under such Rate Group so long as the total purchased power that BPA is obligated to sell under any Rate Group is not increased.

SEC. 9. INSUFFICIENCY OF SUPPLY.—(a) BPA's obligation to deliver in any period power sold under Section 8 shall be subject to limitation as provided in this section to the extent that BPA finds that it shall have an insufficiency of supply, provided that deliveries to any customer which has sold, which has arranged for the sale of, power by BPA for such period shall not be reduced below the amount of power so sold.

(b) BPA shall give notice ten years in advance of such limitation, or such shorter period not less than seven years if BPA determines adequate alternate generating facilities can be secured in such period. No such notice may be given prior to July 1, 1982.

(c) "The amount of power so sold" shall be based upon the designated plant's estimated actual capability in the eleventh year following such notice of insufficiency. Each year thereafter such "amount of power so sold" shall be revised as necessary to take to account any changes in the estimated actual capability. Such revision shall be effective ten years from the date of the revision.

SEC. 10. RESOURCE COST BASES OF RATE SCHEDULES.—(a) BPA resources shall be classified, for cost purposes, in the following resource cost groups:

(1) "Federal Base System Cost" (FBS cost) means cost (including repayment and interest) of the Federal Columbia River power System hydrogenerating projects allocated to power (including irrigation costs assigned for repayment out of power revenues) in operation on or before June 30, 1983 (including facilities initially scheduled for service by June 30, 1983, but delayed beyond that date), and costs of power acquired from projects under net billing agreements, all as adjusted for replacement resources. BPA shall acquire resources to replace the capability of resources included in FBS cost to the extent of any reduction in such capability.

(2) "System cost" means the full cost to a private utility of acquiring, owning and operating the power facilities used or to be used to supply power purchased under section 6(b) and shall be the sum of the following:

(A) fixed costs, (B) operating expenses, including fuel, depreciation, taxes other than federal income taxes, Federal and State income taxes, purchased and interchanged power costs, and wheeling costs, and (C) any other expenses related to the purchase of power, the construction, ownership, operation and maintenance of generating plants to the extent not included in (A) and (B) above.

(3) "New resource cost" means cost of all power purchased or otherwise acquired by BPA less costs included in FBS cost and system cost of power, provided that, the cost of power purchased for a term of five years or less shall not be a new resource cost except to the extent such power is used to meet obligations of BPA incurred pursuant to sections 7 and 8. Cost of power purchased from public bodies and cooperatives shall be separately determined from cost of power purchased from private utilities.

(4) Cost of transmission to be paid by BPA customers shall be determined in accordance with Public Law 93-454 and allocated by BPA among Rate Groups A, B and C.

(5) All other cost, including administrative and general, shall be appropriately allocated by BPA.

(b) Resource costs shall be allocated by BPA between capacity and energy. Whenever a single capacity rate is in effect, capacity costs shall be totaled and allocated to Rate Groups in proportion to capacity sales of each Rate Group.

(c) Rate Group A shall recover the allocated cost of capacity, and that portion of the FBS cost allocated to energy, that is related to power sold in each year under section 7(b) and section 11(b), plus the portions of transmission cost allocated under subsection (a)(4), and other cost allocated under subsection (a)(5).

(d) Rate Group B shall recover the allocated cost of capacity, and the balance of FBS cost allocated to energy, system cost allocated to energy (including annual charges for the portion of system cost treated by BPA as capital), and the proportion of new resource cost allocated to energy that the amount of power from such resources to be sold under Section 8(b) through (e) in each year bears to the total amount of power to be sold from such resources in such year, less estimated revenues for sales of non-firm power as provided in subsection (n), plus the portions of transmission cost allocated under subsection (a)(4) and other cost under subsection (a)(5). Adjustment in Rate Group B shall be made as provided in subsection (j).

(e) Rate Group C shall recover the allocated cost of capacity, and the proportion of new resource cost allocated to energy that the amount of power from such resources to be sold under Sections 7(f) and 8(f) in each year bears to the total amount of power to be sold from such resources in such year, plus the portions of transmission cost allocated under subsection (a)(4) and other cost under subsection (a)(5). Adjustment in Rate Group C shall be made as provided in subsection (j).

(f) In establishing rate schedules, BPA shall establish a single rate for sale of capacity common to Rate Groups A, B and C. If, thereafter, BPA determines that costs associated with supplying capacity make such single rate inequitable, as compared with separate capacity rates for each rate group, it shall establish separate capacity rates for each Rate Group. Cost of capacity reserves and surplus capacity shall be included in the capacity rate, appropriately allocated in case of multiple rates.

(g) Revenues from sales of firm power under existing contracts which continue in effect, and net revenues from wheeling on the Pacific Northwest-Pacific Southwest Intertie shall be credited against FBS cost.

(h) BPA shall allocate among Rate Groups A, B and C in proportion to the avg. mw purchased under each group (i) the fixed cost of any plant that is abandoned or terminated other than for obsolescence, (ii) the fixed cost of a plant which is inoperable, or a portion of fixed cost of any plant to the extent its operation is substantially limited, and (iii) to the extent determined by PNEPCO, that portion of fixed cost related to a reasonably unforeseen replacement or addition of a major plant component.

(i) Any cost and any revenue, the allocation of which is not specifically provided for in this Act, may be allocated by BPA among Rate Groups A, B or C as appropriate.

(j) For the purpose of this subsection, Public Bodies and Cooperatives are one customer class, and private utilities are another customer class. Rate schedules established for sales under Rate Groups B and C to such classes shall provide for annual adjustment in the component of such rate schedule that is based on new resource cost. If the estimated average cost of power of all new resources purchased from a customer class is more than 1 percent in a year less than the estimated average cost of power of all new resources, in all cases excluding plants designated under section 17(c), the estimated average cost of power of new resources purchased from such class shall be used instead of the estimated average cost of power of all new resources in determining the rate applicable to such class in such year, and the rates to the other class shall be increased to not more than the estimated average cost of power sold by such class to recover any resulting loss in revenue, with any remaining deficit from estimated average cost of power from all new resources allocated among all customers purchasing power under rate schedules pursuant to Rate Group B or C.

(k) BPA may change rates for the sale of electric power and for the transmission of non-Federal electric power over the Federal transmission system not more frequently than annually upon not less than 12 months' notice, or such lesser time agreed to by the affected customers, except that such notice shall not be required for interim rates under Section 18(a) which are to be effective not later than October 1, 1978.

(l) Schedules of rates and charges shall be established by BPA in conformity with this Act and Public Law 93-454 having regard, in addition to the provisions of section 9 of Public Law 93-454, to the recovery of the costs of purchased power under sections 5 and 6, the costs of conversion programs under section 4, and other costs authorized to be incurred by this Act.

(m) All costs shall be recovered and cost of service computed, without any annual requirement, within the repayment period or periods provided by law. The existing method of determining repayment obligation of costs of the Federal Columbia River Power System allocated to power (including irrigation costs assigned for repayment out of power revenues) and of determining applicable interest cost shall not be changed because of this Act

(n) Estimated revenues from sales of non-firm power shall be credited to FBS costs through June 30, 1980. Thereafter, allocation of such estimated revenues shall be made in equal annual increments so that in the year ending June 30, 1985, and thereafter all such estimated revenues are allocated as provided in subsection (d).

SEC. 11. CONTRACT TERM.—(a) Sales under Section 7 shall be for a term of 35 years from the effective date of the contract or such lesser period that the purchaser may desire. Sales under Section 8 may be for a term ending not later than 35 years after the first delivery under the contract or, where a sale is related to a designated plant, or the useful life of the plant, whichever is longer. Subject to the provisions of Section 9, contracts providing for sales under Sections 7

and 8 shall not be subject to cancellation in whole or in part to satisfy the requirements of any other customers

(b) BPA power sales contracts existing on the date of this Act with customers which do not elect to execute contracts tendered under Section 7(g) shall not be extended or renewed The basis of the rate applicable to such existing contracts with public bodies and cooperatives shall be Rate Group A, and the amount of power shall be deducted from the limits in Section 7(b), during the remaining term of the contract, and the basis of the rate applicable to such existing contracts with Federal agencies and direct-service industrial customers shall be Rate Group B

(c) Agreements executed by BPA as an implementation of the Treaty between Canada and the United States of America Relating to the Cooperative Development of the Water Resources of the Columbia River Basin, and the Pacific Northwest Coordination Agreement shall continue in force in accordance with their terms

SEC 12 ASSIGNMENTS —(a) A contract for the sale of power under Section 7 or 8 shall not be assigned without the consent of BPA if BPA determines such assignment will (1) require additional BPA facilities to enable BPA to deliver power pursuant to such contract, or (2) make unusable existing BPA facilities, or (3) increase the total amount of power BPA is obligated to deliver

(b) A contract for sale of power under Section 7(b), (e), or (f) shall not be assigned to any other entity, except (1) in the case of a sale under Section 7(b), to another purchaser under such section, or to a successor-in-interest to the utility system or to the facilities being served, or (2) in case of a sale under Section 7(e) or (f), to a successor-in-interest to the business, or (3) as a pledge of a security interest

SEC 13 LARGE LOAD LIMITATION —BPA shall not increase the contract demand established pursuant to a contract demand contract and shall not supply power to a requirements contract customer for that part of load growth which is created by a new single load of such customer in excess of 35 avg mw in any 12 months, or 100 avg mw in any 60 month period, if BPA had not previously determined that firm power would be available for such load, provided that power may be made available on the condition that it be interruptible for a period measured by the time required to acquire the necessary resources but not exceeding ten years, or until the scheduled date of continuous operation of resources to be available to supply such load, whichever is earlier If interruption is required for several such loads each load will be curtailed in its entirety in inverse order in which the commitment to customers was made Interruption of all such loads shall be made prior to restriction of power sold under Sections 7 (e) and (f) and Sections 8 (d) and (f)

SEC 14 CONTINUATION OF SERVICES —BPA shall continue to make available to its customers those services necessary to enable BPA to carry out its statutory responsibilities Such services shall include but not be limited to load forecasting load factoring, storage dispatching, scheduling transmission, coordination, emergency and breakdown relief, and conservation programs BPA shall make such services available in a fair and equitable manner among all its customers

SEC 15 BPA FUNDING —(a) In addition to the purposes for which BPA is authorized to expend funds from the Bonneville Power Administration Fund as enumerated in Section 11(b) of P L 93-454 BPA is authorized to expend from such Fund such amounts as may be required to pay (1) the costs associated with purchases under Sections 5 and 6 of this Act, including advance payments for power on account of costs of acquisition of fuels for plants the output of which is purchased in whole or in part by BPA under Sections 5 and 6 and (2) costs associated with the conservation programs referred to in Section 4 of this Act

(b) In addition to the purposes for which BPA is authorized to issue and sell bonds under Section 13(a) of P L 93 454, BPA is authorized to issue and sell bonds subject to the conditions in P L 93-454, (1) to provide loan funds under Section 4(a) of this Act, provided that bonds outstanding for such purpose shall not at any time exceed the sum set forth in Section 4(a), and (2) to pay that portion of costs of acquisition of power which may be treated as capital cost under generally accepted utility accounting practice, exclusive of such costs for fuel

SEC 16 CONSTRUCTION —(a) This Act shall be liberally construed to preserve and encourage regional initiative, flexibility, and cooperation in dealing with the subject matter of this Act and to realize and effectuate the purposes and objects of the Act as found and declared by Congress

(b) No agreement, action, or course of conduct by any person or entity which is undertaken for the purpose of complying with or implementing the provisions or objectives of this Act shall be deemed to be a violation of the Act of July 2, 1890, as amended (the Sherman Antitrust Act), the Act of October 15, 1914, as amended (the Clayton Act), the Act of September 26, 1914, as amended (the Federal Trade Commission Act), the Act of May 26, 1938, as amended (the Robinson-Patman Antidiscrimination Act), or any other similar Federal or State laws

(c) PNEPCO shall promptly transmit to BPA and the Attorney General a written notice, by registered mail, return receipt requested, of any designation or refusal to designate under section 17 (b) or (c). No action or proceeding brought under the laws referred to in subsection (b) arising out of such PNEPCO action shall be commenced after the expiration of six months from the latest date either such agency received such written record of PNEPCO action

SEC 17 REGIONAL ORGANIZATION —A valid designation can be made by PNEPCO only so long as it has the characteristics, and its articles of incorporation require or authorize functions, as set forth in this section

(a) PNEPCO is organized and existing as a nonprofit corporation under the laws of the State of Washington and its articles of incorporation provide that each utility system in the Pacific Northwest has the right at all times to name a natural person to be a member of PNEPCO

(b) PNEPCO shall designate a plant or system for purchase of all or part of the power therefrom by BPA on such conditions and for such terms as are consistent with this Act and if such purchase meets the following standards

(1) such purchase shall be consistent with provision of an adequate power supply for the Pacific Northwest in light of forecasted power loads and resources, taking into account programs developed under section 4 for the efficient use and conservation of electric energy,

(2) each utility system has been or will be given reasonable opportunity for participation in the proposed facility or other resources purchased by BPA sufficient to meet its forecasted resource deficiencies, and

(3) such purchase would be consistent with providing economic and reliable service to the customers of the utility systems and BPA

(c) PNEPCO may designate a plant for purchase of all or part of the power therefrom which plant does not meet the criteria of subsection (b)(3) but is an experimental, developmental, or pilot plant intended to develop new technologies of generating economic and reliable electric service

(d) All meetings for the purpose of designating plants or adopting regional forecasts of loads and resources shall be open to the public

(e) BPA and the Governors of Oregon Washington Idaho, and Montana may designate representatives to participate as members in all PNEPCO committees and task forces and to attend, observe and engage in discussions at all meetings of the Board of Directors of PNEPCO or its members Invitations may be extended to other civil authorities of the Pacific Northwest to participate as appropriate in PNEPCO committees and task forces

SECTION 18 MISCELLANEOUS —(a) BPA may, without approval of the Federal Power Commission, apply its existing rates to, and thereafter establish interim rates under Rate Groups A and B for, contracts under Section 7(g) during the period from the effective date of the Act to the date when rate schedules prepared pursuant to this Act are first filed with and approved by the Federal Power Commission pursuant to P L 93-454, which date of filing shall be no later than 18 months after the effective date of this Act provided that no such interim rates may be established after such filing

(b) A copy of each purchase contract under Section 6(a) substantially in the form proposed for signature, shall be transmitted by BPA to Congress and thereafter BPA shall publish notice thereof in the Federal Register not less than 60 days prior to the proposed date of execution of such contract Any such contract executed more than 60 days after the date of such publication shall be valid for all purposes under this Act and the statutes and laws of the United States and its validity shall not be questioned in any court of the United States unless prior to the execution thereof, suit has been filed in a court of the United States challenging the validity of such contract

(c) The Secretary of PNEPCO shall certify to BPA the designation of a plant or system under Section 17 together with any conditions of such designation Thirty days after the date of such certification, such certification shall be conclusive for all purposes that a valid designation of a plant or system under Section 17 has been made in accordance with the requirements of this Act and with the Articles and Bylaws of PNEPCO, and after such certification such designation may not be withdrawn modified, or revoked without consent of the owner or owners of the plant or system

(d) No provision of Chapter 2C, Title 15, U S C shall apply to or be deemed to include (1) PNEPCO or (2) any "person" or "company (as defined in 16 U S C section 79b(a) (1) and (2)) organized and operated primarily for the purpose of financing leasing constructing, owning managing or operating part of, an interest in or all of facilities used for the generation of electricity (together with associated transmission and other facilities), 50 percent or more of the power from which, or from the part or interest so financed leased constructed owned managed or operated, is or will be sold to BPA under section 5 or 6

(e) If after July 1, 1982, and prior to June 30, 1988, BPA gives a notice of insufficiency to all its requirements customers and, prior to June 30 1988 BPA either has refused to purchase power from designated plants or is legally disabled from purchasing power adequate to cover such insufficiency, then during the period of insufficiency estimated revenues from sales of nonfirm power shall, in lieu of the provisions of section 10(d), be credited one-half to Rate Group A and one-half to Rate Group B if the in-

sufficiency is caused by a BPA refusal to purchase, and shall be credited entirely to Rate Group A if the insufficiency is caused by such legal disability

SEC. 19 SEVERABILITY AND CONTINUATION OF RIGHTS —If any part of this Act is declared unlawful, then all remaining parts shall remain in full force and effect, provided that, if any part of either section 5 or section 6 is declared unlawful, any obligations entered into pursuant to section 5 or 6 shall remain in full force and effect in accordance with their terms, and provided further that, if the provisions of section 7(b) are declared unlawful, then section 10(c) and that portion of section 10(d) relating to FBS cost shall be void.

SEC 20. TAX-EXEMPT BONDS IN THE CASE OF CERTAIN REGIONAL ELECTRIC ENERGY PROGRAMS.—(a) Subsection (b) of section 103 of the Internal Revenue Code of 1954 (relating to industrial development bonds) is amended by inserting after paragraph (3)(B) the following new paragraph

"(C) An agency of the United States administering a program approved by an Act of Congress for purposes of meeting the electric energy needs of one or more regions of the United States (but only with respect to the agency's acquisition of electric energy from a facility therefor if the agency determines, prior to contracting for the acquisition, that such electric energy is not being acquired for the purposes of furnishing a major portion thereof to persons who are not exempt persons (within the meaning of paragraphs A and B), each of which is expected to be furnished more than 3 percent of the electric energy, provided that in computing the portion of the proceeds of an issue of obligations to be used in any trade or business by persons who are not exempt persons, the amount of electric energy the agency determines will be furnished by it to such persons shall be treated as sold to such persons by the issuer of the obligations) "

(b) The amendments made by this section shall apply to acquisitions of electric energy after the effective date of this Act

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PACIFIC NORTHWEST UTILITIES CONFERENCE COMMITTEE,
September 8, 1977.

Hon HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U S. Senate, Dirksen Senate Office Building, Washington, D C.

DEAR MR CHAIRMAN. We enclose a copy of draft legislation called the Pacific Northwest Electric Power Supply and Conservation Act, together with a description of the major features of the draft and the needs to which they are addressed. We respectfully request the introduction of the legislation and its consideration as expeditiously as the business of the Congress permits

This legislation was prepared under the auspices of the Policy Committee of the Pacific Northwest Utilities Conference Committee (PNUCC), an informal organization which includes representation from Pacific Northwest public bodies, cooperatives and private utilities and from industrial customers purchasing power directly from Bonneville Power Administration (BPA) A list of represented organizations is enclosed.

Several committees composed of technical and managerial personnel, made available from all segments of the industry to PNUCC for the drafting effort, worked intensively for about seven months preparing this legislative proposal and analyzing many alternative approaches to its various elements. The work sessions and general meetings were covered and extensively reported throughout the region by the news media during the period of the PNUCC efforts. Representatives of the State Governments of Oregon, Washington, Idaho and Montana, and of the City of Portland, Oregon, participated in and made important contributions to the discussions Also, representatives of at least seven environmental organizations (including the Sierra Club and the Environmental Councils of Washington and Oregon) participated extensively in the discussions and received all work products as they were produced Finally, BPA supplied very valuable technical assistance and advice as requested by PNUCC and others.

Those and other non-utility representatives provided substantial input to the process and made many suggestions, some of which are incorporated in the draft. But the proposal remains that of PNUCC.

The 112 public agencies and cooperatives have worked on this matter through the Public Power Council—their planning group—which is governed by an elected Executive Committee of 18 members equally divided between municipalities, public utility districts, and electric cooperatives By a vote of 16 to 1, with one abstaining, the Public Power Council has determined that the enclosed draft is ready for introduction and consideration by the Congress The Snohomish County PUD representative cast the sole vote against releasing the draft in this form, and the Seattle City Light representative abstained on instructions from the Seattle City Council pending further study and formulation of policy positions by the City Council Both the Seattle City Council and Snohomish County PUD confirm that a regional program is necessary, however

The listed investor-owned utilities and Bonneville direct service industrial customers have all approved introduction of the bill and commencement of the legislative process.

Neither PNUCC nor the Public Power Council has been advised of opposition from any other utility in the Pacific Northwest. The proposal is under study by many others, including local governments in addition to the elected Boards of public systems, and we assume their views will be expressed in the normal course of the legislative process

If further information is desired, we will supply it promotly In the meantime, we appreciate your assistance.

Sincerely yours,
GORDON C CULP, *Counsel.*

LIST OF ORGANIZATIONS WITH REPRESENTATION ON THE POLICY COMMITTEE—PACIFIC NORTHWEST UTILITIES CONFERENCE COMMITTEE

PUBLIC AGENCIES AND COOPERATIVES

Albion, City of
Bandon, City of
Benton County PUD
Benton Rural Electric Association
Big Bend Electric Cooperative, Inc
Blancly-Lane Electric Cooperative Association
Blaine City Light
Bonners Ferry, City of
Burley Municipal Distribution System
Canby Utility Board
Cascade Locks City Light
Central Electric Cooperative, Inc
Central Lincoln PUD
Centralia, City of
Chelan County PUD
Cheney, City of
Challam County PUD
Clark County PUD
Clatskanie PUD
Clearwater Power Company
Columbia Basin Electric Cooperative, Inc
Consumers Power, Inc
Coos-Curry Electric Cooperative, Inc
Coulee Dam, City of
Cowlitz County PUD
Declo, City of
Douglas County PUD
Douglas Electronic Cooperative, Inc
Drain, City of
East End Mutual Electric Company Ltd.
Eatonville Power & Light Company
Ellensburg, City of
Elmhurst Mutual Power & Light
Eugene Water & Electric Board
Fall River Rural Electric Cooperative, Inc.
Ferry County PUD
Fircrest, Town of
Flathead Electric Cooperative, Inc
Forest Grove, City of
Franklin County PUD
Glacier Electric Cooperative, Inc.
Grant County PUD
Grays Harbor County PUD
Harney Electric Cooperative, Inc.
Heyburn, City of
Hood River Electric Cooperative
Idaho County Light & Power Cooperative Association, Inc
Idaho Falls City of
Inland Power & Light Company
Kittitas County PUD
Klickitat County PUD
Kootenai Electric Cooperative, Inc
Lane Electric Cooperative, Inc
Lewis County PUD
Lincoln Electric Cooperative, Inc.
Lincoln Electric Cooperative, Inc (Montana)
Lincoln Electric Cooperative, Inc (Washington)
Lost River Electric Cooperative, Inc.
Lower Valley Power & Light, Inc.
Mason County PUD No. 1
Mason County PUD No. 3
McCleary Light & Power
McMinnville, City of
Midstate Electric Cooperative, Inc.
Milton-Freewater Light & Power
Minidoka, City of
Missoula Electric Cooperative, Inc
Monmouth, City of
Nespelem Valley Electric Cooperative, Inc
Northern Lights, Inc
Northern Wasco County PUD
Okanogan County Electric Cooperative, Inc.
Okanogan County PUD
Orcas Power & Light Company
Pacific County PUD No 2
Parkland Light & Water Company
Pend Oreille County PUD
Peninsula Light Company, Inc.
Port Angeles, City of
Prairie Power Cooperative, Inc.
Raft River Rural Electric Cooperative, Inc
Ravalli County Electric Cooperative, Inc.
Richland, City of
Riverside Electric
Rupert, City of
Rural Electric Company
Salem Electric
Salmon River Electric Cooperative, Inc
Seattle, City of
Skamania County PUD
Shohomish County PUD
South Side Electric Lines, Inc
Springfield Utility Board
Sumas, City of
Surprise Valley Electrification Corp
Tacoma, City of
Tanner Electric
Tillamook PUD
Umatilla Electric Cooperative Association
Unity Light & Power Company
Vera Irrigation District No 15
Vigilante Electric Cooperative, Inc
Wahkiakum County PUD
Wasco Electric Cooperative, Inc
Wells Rural Electric Company
West Oregon Electric Cooperative, Inc
Whatcom County PUD

INVESTOR-OWNED UTILITIES

Idaho Power Company
The Montana Power Company
Pacific Power & Light Company
Portland General Electric Company

Puget Sound Power & Light Company
The Washington Water Power Company

BONNEVILLE DIRECT SERVICE INDUSTRIAL CUSTOMERS

Aluminum Company of America
Alumax Inc
Anaconda Aluminum Company
The Carborundum Company
Crown Zellerbach Corporation
Georgia-Pacific Corporation
Hanna Nickel Smelting Company
Intalco Aluminum Corporation
Kaiser Aluminum & Chemical Corporation
Martin Marietta Aluminum Inc
Oregon Metallurgical Corporation
Pacific Carbide & Alloys Company
Pennwalt Corporation
Reynolds Metals Company
Stauffer Chemical Company
Union Carbide Corporation

PACIFIC NORTHWEST UTILITIES CONFERENCE COMMITTEE
September 9 1977

PNUCC LEGISLATIVE PROPOSAL FACT SHEET

A TRADITIONAL BULK POWER SUPPLIES AND SALES POLICIES

For forty years the Bonneville Power Administration (BPA) has been the major supplier of bulk power in the Pacific Northwest BPA does not own any generating facilities has no authority to construct such facilities and only limited authority to purchase the output of generating facilities constructed by others Its principal role is to market the power produced at hydroelectric dams constructed by other federal agencies and to operate a regional transmission system capable of accommodating both federal and non-federal power deliveries

The chief purchasers of bulk power in the Northwest fall into three categories consumer-owned utilities (including municipal systems public utility districts and cooperatives) investor-owned utilities and certain industries that purchase power directly from BPA The consumer-owned utilities (publics") have a statutory preference to purchase federal power so'd by BPA neither the investor-owned utilities (privates) nor the direct-service industries have such rights

The distribution of public and private utilities is not uniform throughout the Pacific Northwest Washington State consumers are served mostly by publics while Oregon consumers are served mostly by privates Historically, disparities in bulk power costs as between publics and privates were substantially less than those that exist today partly because BPA had sufficient federal power to permit some sales to privates as well as publics and partly because the cost of constructing non-federal generating resources was relatively low, compared with the cost of constructing new generating resources today

The direct-service industries play an important—and frequently misunderstood—role in the BPA bulk power marketing program Their relatively large and constant power demand made construction of large federal facilities more economically feasible at an early date The industries purchased large amounts of federal power not suitable for utility use that otherwise would have been wasted in years of abnormally high streamflows These purchases contributed revenues to the federal system that reduced costs for other bulk power purchasers

Most important perhaps the industrial contracts have also provided substantial reserves for the entire region since certain power sales to those industries can be interrupted when necessary to meet the requirements of utilities that purchase federal power and for system emergencies Without their presence the full cost of maintaining adequate reserves would be borne by the utilities and their consumers

B WHY NEW FEDERAL LEGISLATION IS NEEDED

Two basic facts underlie all the major power problems in the Pacific Northwest today the firm energy generating potential of the Columbia River and its tributaries has been largely developed and the cost of building new generating facilities to meet the region's needs is astronomical The day of cheap and abundant power is over Today there is an urgent need for conservation programs for efficient management of the region's generating resources and for planning mechanisms that insure the availability of the power we do need at the lowest attainable costs

The following problems are very serious and will rapidly become acute if the present regional power supply framework remains unchanged

1 *Uncertain Supply of Federal Power* For the first time in history BPA has been forced to notify its preference customers (the publics) that it will be unable to supply their requirements for more power after 1983 This is serious news for the publics most of whom have depended principally on BPA for power supply

Since BPA cannot increase the amount of power available to the publics it must soon reallocate the limited amount available To the extent new publics may be created (see below) the BPA pie would be cut into smaller and smaller pieces The reallocation process would take years to complete and competing claims would likely have to be resolved in the courts Utility managers would not know how much power they might have when the process ends so they would be unable to plan on a firm basis for additional sources of supply they will need

2 *Termination of Supply to Direct-Service Industries* BPA has informed its direct-service industrial customers that it cannot renew their power contracts when those contracts expire beginning in 1981 since BPA does not have sufficient power to meet the needs of its preference customers These industries—which produce 30 % of the nation's aluminum, 100% of its nickel and other products—need a source of power at a price they can afford They must know very soon whether that power will be available to them in order to plan future investments in the Northwest or the possible relocation of their plants elsewhere

3 *Large Cost Disparities Within the Region* Until 1973 a substantial part of private utility requirements was supplied by BPA But since then they have been unable to purchase any firm power from BPA Their necessary investment in new and higher-cost generating facilities translates into higher costs for bulk power especially in comparison with public systems that still obtain bulk power from BPA Bulk costs for the privates are several times those for public agencies This growing disparity affects the entire region but its impact is spread very unevenly particularly as between Washington and Oregon Disparities in bulk power costs convert into disparities in consumer rates As a result, in any Pacific Northwest state a given community may have electric rates that are more than twice as high as rates in a neighboring community This disparity will increase and the resulting political stresses will probably become unbearable in the absence of new legislation

4 *Creation of New Preference Customers* As a result of the higher rates of private utilities and the fact that private utilities predominate in the State of Oregon Oregon's Governor has proposed and its legislature has passed a bill creating a new public agency to purchase power directly from BPA and sell it to those domestic and rural consumers in Oregon who now receive their electricity from private utilities (Nearly 80% of Oregon's domestic and rural customers are served by privates) This new agency the Domestic Rural and Power Authority (DRPA), would complicate the legal fight over reallocation but it would not solve other serious problems The legal battles over reallocation itself would raise issues of national significance likely to be carried to the U S Supreme Court If DRPA is activated—which will not occur if the regional bill is adopted—Washington Idaho and Montana could decide to create DRPAs of their own to protect their citizen's rights to a proportionate share of BPA's power

The City of Portland has applied to BPA for a power supply as a preference customer of BPA and has threatened to bring suit against BPA for signing contracts with certain preference customers many of them in Washington

These actions would each complicate and prolong the uncertainties of the reallocation process without creating any additional power supplies and without producing lower costs for the region as a whole

5 *Limitations on BPA's Ability to Play a Constructive Role* Despite the severity of the problems outlined above BPA—the region's major bulk power supplier and the sole supplier to a majority of the region's public utilities—is statutorily precluded from resolving differences within the region or even from playing an effective role in finding the needed solutions

Meanwhile the historic cooperation within the region threatens to break down entirely just when the need for cooperation is greatest Not only is coherent planning becoming impossible but the very ability of the system to finance essential generation may become seriously impaired The opportunity still exists to develop reasonable and regional solutions by building constructively on existing planning and facilities but that opportunity is rapidly diminishing

C HOW THE PNUCC LEGISLATIVE PROPOSAL WAS DEVELOPED

Many different groups recognized these problems and several years ago started examining potential solutions The private utilities looked at pooling Various bodies examined new BPA authority and the direct service industries formulated a legislative proposal The Governor of Oregon began work on his DRPA legislation The City of Portland explored the prospects of becoming a preference agency

These various activities were not coordinated however and their many technical and economic impacts presented formidable problems Last fall in response to requests from public officials and a variety of BPA customers BPA prepared a study paper analyzing power costs resulting from many concepts that had been discussed earlier but the study paper did not describe any alternative that produced agreement In late 1976 the effort came under the auspices of PNUCC and has resulted in the draft legislation called Pacific Northwest Electric Power Supply and Conservation Act

The fact that individuals representing a large number of divergent and competing interests were able to cooperate in creating a single legislative proposal indicates how serious the Pacific Northwest's power problems have become The same fact necessarily means that the consensus embodied in the PNUCC proposal does not—and cannot—fully satisfy any particular group including the groups that came together to draft it It should be emphasized however that the proposal was conceived and written within the PNUCC and that PNUCC members believe it to be the best attainable solution that is in the interests of the region as a whole Whether governing councils and boards of individual utilities can support it will have to await their decision

D WHAT THE PNUCC LEGISLATIVE PROPOSAL CONTAINS

The legislation would

Establish the nation's first region-wide conservation program,

Create a much earlier and much enlarged role in the electric energy planning process for state and local governments and public groups,

Grant BPA limited authority to purchase power,

Establish rate groups for BPA's sale of power to different classes of bulk power purchasers,

Recognize the role of a regional utility planning body controlled equally by consumer-owned and investor-owned systems,

Reduce the costs of essential new power resources and

Maintain a balanced decision-making process among federal, state and local governments, public agencies, private utilities and other responsible bodies

Some of these elements would combine to remove supply uncertainties facing public agencies and direct service industries and reduce the intolerable rate disparities that would otherwise prevail within the region

The bill would *not*

Authorize the construction of generating plants, or of any type of generating plants,

Foreclose development of other effective methods of participation in planning by state or local governments,

Establish either the need or the lack of need for additional generating plants or

Eliminate any presently required federal, state or local permits, licenses consents or other authorizations

1 *The Conservation Program* Conservation standards for efficiency in energy use must be promptly adopted and implemented Standards would be established for a broad range of uses—residential commercial industrial and agricultural The four Northwest States are to agree on regional standards but if they fail BPA would establish them If any state or political subdivision failed to adopt the standards after they had been established utility systems within that state or subdivision would be able to purchase power from BPA only at a minimum surcharge of 50 percent Proceeds of the surcharge would finance conservation programs and reduce power rates in complying areas

The bill sets up a $300 million revolving loan fund for conservation loans permitting such programs as interest-free insulation loans to consumers Grants could also be made and BPA could fund conservation investments that promise significant gains in efficiencies

2 *Pooling—Allocation of Costs* The bill authorizes BPA to purchase the output of new plants when designated by PNEPCO the regional planning body to acquire up to 4000 mw of capacity from the private companies at average system cost and to sell such power under three Rate Groups A B and C

a Rate Group A would be an existing preference agency pool and would be the lowest cost pool It would recover costs of up to 6090 mw of the Federal Base System—about two-thirds of present BPA capacity, including Federal hydro and thermal capacity previously acquired from public agencies under a limited hydro-thermal program developed earlier

b Rate Group B would be a blended pool of the costs of existing Federal hydro public thermal, private hydro and thermal and new resources sufficient for one-half of post-1983 load growth It would carry higher costs than Rate Group A Rate Group B would recover

(i) The remaining Federal system costs (net—over a period of time—of secondary revenues),

(ii) The cost of up to 4000 mw of relatively inexpensive private utility power to be sold to BPA, and

(iii) The portion of costs of new resources related to one-half of the load growth of all utilities

c Rate Group C would recover costs not included in Rate Groups A and B and would be the highest cost pool

d Subsection 10(j) of the legislation provides that public bodies and cooperatives and/or private utilities—each as a class—would be ensured of whatever advantages might accrue to them from the costs of their own new resources, when the difference between the costs of all new resources as a whole was one percent or more greater than costs from their new resources as a class

Chart 1, attached, depicts the costs and distribution of costs of the three rate groups

3 *PNEPCO—The Regional Planning Organization* The legislation recognizes a new regional planning body, the Pacific Northwest Electric Planning and Conservation Organization ("PNEPCO") PNEPCO would be a non-profit corporation with membership open to all utilities in the region Under PNEPCO, power planning would be more regional and more open than ever before. The PNEPCO board of directors would be evenly divided between public and private utility representatives BPA and the Governors of each Northwest state could designate representatives to attend and participate in all PNEPCO meetings PNEPCO's most important responsibilities would include preparation of regional load forecasts (taking into account the effects of conservation) and designation of the generating facilities or systems from which BPA may make long-term power purchases All PNEPCO board meetings at which load forecasts or resource designation decisions are considered would be open to the public Standards are included in the legislation to insure that no unnecessary new plants are built that necessary plants are built without unnecessary costs, and that promising new technologies can be developed

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Chart 2, attached, depicts the steps required for designation of new resources.

[Charts not printed in RECORD]

SNOHOMISH COUNTY,
PUBLIC UTILITY DISTRICT No 1,
Everett, Wash , September 8, 1977

Hon HENRY M JACKSON,
U S Senator
Russell Building,
Washington D C

DEAR SENATOR JACKSON It is our understanding that you will be introducing by request on September 9, 1977, a regional power bill drafted by the Pacific Northwest Utilities Conference Committee (PNUCC) As you know, the Public Utility District of Snohomish County (the 'District") has certain reservations about the PNUCC legislation, particularly regarding its adver e impact on power costs of public utilities and the national public power concern over its effect upon the preference rights of public agencies to Federal hydro-electric power

Accordingly, the District has drafted amendments to the PNUCC legislation and we enclose copies of the same The purpose of this letter is to respectfully request you to introduce these proposed amendments at the same time as you introduce the PNUCC legislative proposal

We are also enclosing a statement explaining our amendments and further request that you file this explanatory statement when you introduce our amendments

Thank you for your assistance

Yours very truly

W G HULBERT, Jr ,
Manager

STATEMENT OF PUBLIC UTILITY DISTRICT NO. 1 OF SNOHOMISH COUNTY IN SUPPORT OF ITS REQUESTED AMENDMENTS TO PACIFIC NORTHWEST UTILITIES CONFERENCE COMMITTEE (PNUCC) REGIONAL POWER LEGISLATION

A group consisting of representatives of public and private power and aluminum industries of the Northwest known as the Pacific Northwest Utilities Conference Committee (PNUCC), has drafted regional power legislation and requested its introduction in Congress Although the Public Utility District No 1 of Snohomish County, Washington, (the District") strongly supports the concept of a regional power program for the Pacific Northwest and participated in the PNUCC, the District early announced its reservations concerning certain aspects of the proposed legislation, stating it would withhold approval until the complicated plan documents were completed Upon reviewing the final draft, the District determined that it could not support the PNUCC legislative proposal in its entirety, although many aspects merited the District s support Generally, the District concluded the final draft overall was not fair and equitable to public power in the Northwest, requiring public power to concede too much for the benefit of private power and the aluminum industry At the same time the District was also concerned about the PNUCC bill's effect upon the preference rights of public agencies and cooperatives to power generated by Federal hydroelectric facilities The District's concern over the PNUCC bill s effect upon the preference clause was subsequently shared by public power throughout the nation as they become familiar with the details of the PNUCC proposal

Clearly, many aspects of the PNUCC proposal have merit. For example, the proposed legislation includes a strong regional conservation program, will result in regional power planning for the Pacific Northwest, will minimize the environmental impacts through more efficient operation of existing generating facilities and better planning for new generating facilities, and will establish a framework for Federal, state and local cooperation which could serve as a model for other regions of the country Accordingly the District has analyzed the PNUCC proposal carefully with a view towards developing amendments which would preserve the many advantages of the proposed legislation yet resolve the national concern over preference power and, also provide a more fair and equitable allocation of the costs and benefits from a regional power program between public and private power interests in the Pacific Northwest

The District has drafted amendments to the PNUCC legislation which it believes satisfy those objectives The purpose of this Statement is to explain in some detail the nature of the amendments, provide some additional background and explain the impact of the District s amendments upon the PNUCC legislation Preliminarily, it should also be observed that the PNUCC group has been pushing for prompt introduction of its bill in Congress which has restricted the scope of the District s ability to develop amendments As a result, the District has tried to keep its amendments simple and within the framework of the existing PNUCC legislation Also the District has not attempted to amend the numerous proposed contracts and other plan documents prepared by the PNUCC group to implement the proposed legislation Those documents of course, must be modified in accordance with any amendments to the PNUCC bill

Generally the District's amendments simply change certain sections of the PNUCC bill to alter the flow of Federally generated hydro power (preference power), resulting in

deterrent from being wiped out in a single strike

The juxtaposition of ordinary and exotic materials inside the smaller of these complex warheads causes strange things to happen giving each a maximum estimated shelf life " Radioactivity from materials like uranium and plutonium has increased the possibility of malfunctions by making metals and rubber brittle, various metals have been found to corrode more quickly than predicted Inside a warhead even gold has been known to corrode, something thought to be impossible If the correction of such conditions involves substituting new materials or a new design, the only assurance that the weapon will function is a test shot

An eloquent example of the risk involved in not testing showed up during the moratorium declared by President Eisenhower in 1958 The powerful, precise explosion necessary to start a chain reaction in the core of a nuclear weapon requires plastic-like explosives formed and shaped to surround the fissionable material like the snugly fitting parts of a Chinese puzzle On February 24, 1959, two men at Los Alamos Scientific Laboratory in northern New Mexico were forming a section of PBX 9404 (plastic-bonded explosive) when it went off, killing them instantly Eight months later, two men at a Los Alamos disposal site dropped a 180-pound piece of PBX 9404 and blew themselves and two other men to bits

Because of the accidents, it was decided that PBX 9404, then being used in the U S Army "Sergeant" nuclear missile, should be reformulated to be more shock-resistant But because of the moratorium, the modified PBX 9404 was substituted in Sergeant purely on the basis of theoretical laboratory calculations Then, in August 1961, the Soviet Union broke the moratorium The United States resumed testing, but scientists were so "sure" of the Sergeant warheads that it wasn't until 1963 that this new explosive was tested All the Sergeants, deployed around the world, had to be called back and fitted with an improved warhead after additional tests located and corrected the problem

Harsh Truths Today, some disarmament advocates believe that, under a test ban, warhead updating could be done relying on past experience with already tested weapons But Robert Thorn associate director of weapons development at Los Alamos, answers "It's virtually impossible to make carbon copies of past weapons In some cases the same materials are no longer available In others, new safety and environmental rules prevent duplicating past processes Experience has shown that such changes can result in a weapon that just doesn't work "

Most experts agree with Thorn that, in the absence of testing, the American weapons stockpile might remain at least partially effective for ten years at the most Many believe it would significantly deteriorate within three years Another problem is that, during the inactivity of a test ban, highly motivated and skilled scientists and technicians will move to other jobs In contrast, the Soviet government can, by mere fiat, maintain an extensive testing apparatus during such a ban

Not the least of reasons to pause in considering a comprehensive test ban is our past experinece with the Soviets They violated the Anti-Ballistic Missile Treaty by secretly testing the radars on one of their anti-aircraft missile systems in an ABM mode and stopped such testing only after protests by the United States Although Strategic Arms Limitations (SALT) I agreements limited the number of ICBM launchers, not missiles themselves, the Soviets strained the intent of the agreement by providing many of their launchers with a reload capacity as great as four or five missiles per launcher

CTB advocates argue the Soviets could not cheat because advances in long-range seismic detection enable us to distinguish a covert underground test from an earthquake But many seismological experts disagree, pointing out that low-yield nuclear explosions, below ten kilotons, are extremely difficult to detect by seismological means Yet such low-yield tests are militarily significant By carrying on such tests, the Soviets could solve problems that arise from stockpile "aging," deveop significant new battlefield weapons, make nuclear weapons less vulnerable and safer to handle, and develop new trigger devices

A CTB must also be considered in relation to the ongoing SALT talks The whole logic of our agreements with the Soviets is based on our supposedly having qualitative (i e, technological) superiority Therefore, we have allowed Moscow quantitative superiority (more and bigger delivery vehicles) Yet by definition a test ban degrades quality while not affecting quantity Thus our crucial technological advantage—particularly smaller warhead size—would be jeopardized in a test ban

Finally, since a CTB is not likely to be linked to significant or equitable reductions in conventional arms, the United States must confront the problem articulated by Prof William R Van Cleave, former delegate to the SALT I talks, now director of Defense and Strategic Studies at the University of Southern California 'We cannot hope to maintain reliable nuclear weapons for more than a few years without a test program Thus we will eventually come to a state of ineffective and inferior nuclear forces Even if the Russians comply strictly with a ban and their nuclear weapons deteriorate, too they emerge on top by virtue of sheer preponderance of forces

This is a harsh truth And it is one that has to be weighed not only by the arms-control negotiators but by the American people themselves For it is their elected representatives who must ratify any agreement in the U S Senate

(About The Author Ralph Kinney Bennett, a Senior Editor in the Reader's Digests' Washington Bureau wrote "The Hidden Issues Behind a Nuclear-Test Ban" (page 124), which probes in remarkable detail the realities of atomic-weapons testing Says Bennett "When I first got on to this story, there was nothing in the newspapers, and only the faintest tremors were passing through this rumor mill of a city One of our most reliable people on Capitol Hill had met with some scientists from Los Alamos who were concerned about the evident desire within the Carter Administration to try for a comprehensive test ban I met with these scientists in late March After the first interview, and in some followup work I did during the next few days, I became convinced of their sincere concern In a reserved but articulate way they opened up the coldly eerie world of atomic weapons to me It quickly became apparent that we had an important story to tell

("What followed for me was a crash course in nuclear weapons Within a two-week period I consulted experts on Capitol Hill, in the nuclear laboratories, at several universities, and in the State Department, the Pentagon, think tanks and several private defense consulting firms I spoke, too, with a number of retired military and civilian personnel who had been in the nuclear-weapons program from the beginning The real problem was *secrecy* Not only the justifiable secrecy surrounding our weapons program, but the secretive tendency of those who had worked in this atmosphere so long that they were by nature or training reluctant to impart even the most basic information

("My sessions with scientists in Los Alamos were long and many They consisted of extracting bit after bit of information, teetering on the brink of classified material I came away impressed with their dedication and professionalism, impressed with the general atmosphere of the place, its cluttered offices and math-festooned blackboards It reminded me a little of a science department of a large university

("The circumstances under which I researched the piece were fascinating, the material was, too And the implications of the story are, I think, very important But it could not have been written without our contacts—which in some cases were made years ago and carefully maintained It's that sort of preparation that makes these stories possible ")

INTRODUCTION OF PACIFIC NORTHWEST ELECTRIC POWER SUPPLY AND CONSERVATION ACT

(Mr. MEEDS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter)

Mr MEEDS Mr. Speaker, I am introducing today at the request of the Pacific Northwest Utilities Conference Committee for appropriate reference the Pacific Northwest Electric Power Supply and Conservation Act This legislation has been developed by the Pacific Northwest Utilities Conference Committee, citizens representing every sector of the electric energy industry in the Pacific northwest

The subject matter of this bill is a matter of transcending importance to the continuing economic welfare of the four-State area of Washington, Oregon, Idaho, and Montana and represents the first time, as far as I can learn, that such a far-reaching attempt has been made cooperatively to solve the problems of future electric power supply for everyone within the entire region

In introducing the measure today, it is not my intent to imply that there is unanimous agreement on all aspects of the measure within the region There is not I do feel, however, that its introduction will serve to foster a continuing dialogue on the salient issues to the end that they are resolved satisfactorily in a minimum period of time Moreover I am aware that there is the need to consider a number of refinements and technical changes in the text of the measure as Committee consideration progresses in the House and in the U S. Senate

Among the significant participants in the development of this legislation who retain some reservations about certain aspects of the bill is the Snohomish County Public Utility District, a major consumer-owned utility in my district. In this interest of affording an early opportunity for expression of all viewpoints on the issues, I ask unanimous consent to include as an attachment to these remarks a statement and proposed amendment prepared by Snohomish County PUD Similarly, I also ask unanimous consent to include a copy of the proposed bill and a legislative proposal fact sheet prepared by the Pacific Northwest Utilities Conference Committee.

Lastly, for the information of all my colleagues the major objectives of the legislative proposal are as follows·

First. Establish the Nation's first regionwide conservation program;

Second. Grant Bonneville Power Administration the authority to purchase power;

Third. Establish rate groups for BPA's sale of power to different classes of bulk power purchasers;

Fourth. Recognize the role of a regional utility planning body controlled equally by consumer-owned and investor-owned systems; and

Fifth. Help reduce the costs of new power resources when such resources are needed.

H.R. 9020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, To make the Federal Columbia River Power System available for maximum electric efficiency for future essential power supply, to promote conservation,

SHORT TITLE

SECTION 1. This Act may be cited as the Pacific Northwest Electric Power Supply and Conservation Act.

FINDINGS

SEC. 2. Congress finds that:

(a) The Hydro Thermal Power Program for providing future power supplies was developed in the late 1960's by the utility systems of the Pacific Northwest and BPA to meet future energy needs through bulk power supply facilities to be constructed and operated by the utility systems of the region in coordination with the hydroelectric generating resources of the Federal Columbia River Power System.

(b) Congress approved certain agreements implementing the Hydro Thermal Power Program, but radical increases in costs of new thermal generation and unexpected delays in licensing and authorization of new thermal generation have imposed major anticipated difficulties in achieving the objectives of such program.

(c) Regional development of hydroelectric resources, particularly additional capacity on the Federal Columbia River Power System, will be essential to an economic power supply with minimum environmental impacts.

(d) The Federal Columbia River Power System, operating in coordination with electric generation resources of utility systems of the region, provides a basic means for storing, regulating, and interchanging power supplies which, if fully utilized together with the further ability to provide for spreading planning burdens and costs of future power supply facilities, can support the effort of the region to cover costs of future bulk power supply.

(e) BPA purchase authority will facilitate regional pooling which will strengthen the financial ability of the utility systems to construct new resources. The regional pool so formed can also provide important financial support for effective conservation of energy through increases in efficiency of use

(f) BPA has notified its public body and cooperative customers that BPA does not have sufficient firm power to meet their anticipated load growth after July 1, 1983. BPA has notified its direct-service industrial customers that it will not be able to renew existing contracts after their expiration.

(g) It is in the public interest that essential future power supplies be available on a sound economic basis and that public bodies and cooperatives have available to them a future power supply from BPA.

(h) The inability of BPA to renew contracts with existing direct-service industrial customers threatens the Pacific Northwest with loss of employment vital to the region's economy and its workers, and threatens the production of 30 percent of the nation's primary aluminum, all of its ferro-nickel production, and substantial portions of its production of carbide, chlorine, ferro-alloys, and other materials vital to the national economy, the national energy-conservation effort, and the national defense. It is in the public interest that a power supply be continued to be made available to such customers as provided in this Act.

(i) It is in the public interest that existing regional cooperation and coordination among the utility systems and BPA be continued, and it is in the public interest that public and private utility systems jointly participate in the planning and designation of future power supplies through the Pacific Northwest Electric Planning and Conservation Organization.

(j) In order to carry out its functions and to implement the objectives of this Act it is necessary that PNEPCO prepare and publish forecasts of Pacific Northwest Power loads and resources; conduct programs to promote efficiency in power consumption in the Pacific Northwest; conduct studies and analyses of alternative sources of energy, including costs, timing, and availability; review long-range bulk power supply planning of utility systems; provide oversight services as specified in contracts with BPA; conduct or participate in plant siting studies and determinations; and take such other actions, consistent with the Act, as may be necessary or advisable in the performance of the foregoing functions.

(k) To provide for more efficient planning and utilization of generating resources, to minimize demands on capital and scarce fuel supplies and to promote conservation and efficient use of electrical energy, it is in the public interest that agreements, action or conduct be undertaken by persons or entities, acting alone or together, for the purpose of complying with or implementing the provisions or objectives of this Act.

(l) The Pacific Northwest has the unique opportunity to combine the ability of the coordinated hydroelectric resources of the region systems to store and manage power supplies, the ability to achieve, on a regional basis, reduced usage of fuels and investment capital and the ability to jointly support other power-related programs. This potential will be more fully utilized for the public benefit by a limited authorization to BPA to make long-term power purchases as provided in this Act.

DEFINITIONS

SEC. 3. As used in this Act:

(a) "Average megawatts" (avg. mw) means average annual firm energy (expressed in thousands of kilowatts).

(b) "BPA" means the Bonneville Power Administration, and the Administrator of the Bonneville Power Administration.

(c) "Contract demand contract" means a contract for a sale of power in specified amounts for specified years.

(d) "Customer" means a public body, cooperative, private utility, Federal agency, or direct-service industrial, purchaser of power from BPA for use within the Pacific Northwest.

(e) "Date of continuous operation" means the date certain determined by the owner(s) of a designated plant as the point in time when the plant is ready to be operated and the output scheduled on a continuous basis.

(f) "Designated plant" means all or any part of a generating facility to the extent designated by PNEPCO for the purpose of this Act.

(g) "Load growth" means increase of power requirements of a BPA customer due to increase in consumption within the Pacific Northwest.

(h) "Net billing agreements" means agreements existing as of the date of this Act between certain public bodies and cooperatives and BPA under which Participant's Shares and/or Owner's Shares of certain thermal generating plants have been assigned to BPA, compensation for such assignment being made by crediting the annual costs of each such share against the cost of power purchased by such Participant or Owner from BPA.

(i) "Pacific Northwest" means (i) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has a distribution system from which it serves both within and without said region, and (ii) the service area in California on the effective date of this Act of a utility system which serves a contiguous area both within and without said region.

(j) "PNEPCO" means Pacific Northwest Electric Planning and Conservation Organization, the nonprofit corporation described in section 17.

(k) "Power" means electric capacity or electric energy, or both, including the electric generating capability of a plant whether or not such plant is operable or the operation thereof is suspended, interrupted, interfered with, reduced or curtailed, in each case in whole or in part for any reason whatsoever.

(l) "Private utilities" means publicly held stock corporations organized under general business laws operating utility systems within the Pacific Northwest.

(m) "Public bodies and cooperatives" means public bodies and cooperatives as those terms are defined in P.L. 75-329, as amended, which sell power within or purchase power for direct consumption within the Pacific Northwest.

(n) "Requirements contract" means a contract for sale of power to meet a customer's varying power requirements in excess of the purchasers' own resources, if any.

(o) "Utility system" means a system operated by a public body, cooperative, or private utility which sells power to ultimate consumers.

CONSERVATION

SEC. 4. (a) BPA shall, in consultation with the states of Washington, Oregon, Montana, and Idaho (hereinafter called "the states"), PNEPCO, and other interested parties, develop programs and methods by which BPA customers and ultimate consumers may conserve and efficiently use power. In each budget submitted following the effective date of this Act, BPA shall include proposed expenditures for conservation programs; provided that expenditures under this Section 4(a) shall take into account the amount of each utility system's purchases of power under this act. Such programs may provide for grants or loans, including interest-free loans, to ultimate consumers served by utility systems. Funds for grants or loans may, and funds for loans to the ultimate consumers shall, be administered through utility systems. Total funds shall not at any given time exceed $300,000,000 total commitment for, and balance of, loans outstanding.

(b) BPA shall include in an annual report a description of regional conservation activity, conservation standards established and implemented, and estimated costs and savings therefrom. The report also shall compare, on a regional basis, the cost, amount, and timing of power available from conventional electric generation technologies with the cost, amount and timing of power available from alternative technologies, and power

savings which will result from potential conservation programs

(c) BPA customers within a state specified in subsection (a) shall be subject to the surcharge provided for in this section if such state has failed to enact legislation or take other appropriate action consistent with the uniform regional standards for efficient use of power (hereinafter "Standards") within two years after the initial establishment of Standards or, if Standards are amended requiring additional state action, two years after the date of amendment, the surcharge to continue until the state adopts legislation or takes other appropriate action

(d) Standards under subsection (e) may be adopted by the states in consultation with BPA, acting through such officers or agents as may be determined by each state; or if the states do not act within two years of the effective date of this Act, BPA shall establish such Standards within one year thereafter The states may adopt Standards or amended Standards established by BPA Standards shall be periodically reviewed and amended as necessary

(e) Standards shall be set as appropriate for the categories (including appropriate subcategories) including but not limited to the following

(1) New residential, commercial, industrial and agricultural structures

(2) Existing residential, commercial, industrial and agricultural structures

(f) The states shall review new and existing industrial, commercial and agricultural processes to determine whether state-adopted standards would be appropriate for any such process If the states determine such state standards should be adopted, they shall proceed as appropriate Unless and until the states adopt such standards, any applicable mandatory federal energy conservation standard shall become a Standard for the purposes of this section

(g) For the purpose of achieving optimum conservation levels, Standards established under this section shall, in order to meet the requirements of this section, be at least equal to any mandatory federal energy conservation standards, shall be practicable and reasonable, and shall be based on all the following

(1) Demonstrable cost-effectiveness of power savings to the region upon implementation Except for cause shown, the level of conservation to be derived from Standards shall be that which yields the highest net benefit (savings less cost) The power savings shall be valued at the delivered cost of new sources of power

(2) Geographic, climatic, and other differences within the region

(3) Social and environmental impacts

(h) In the absence of certification by the states that a state has enacted legislation or taken other appropriate action consistent with the Standards, power sold for use in such state pursuant to Sections 7 and 8 will be sold subject to a surcharge BPA shall waive the surcharge with respect to any political subdivision which the states determine has substantially complied with the Standards If the states have failed to establish Standards and BPA has acted in their absence, BPA shall determine substantial compliance The surcharge to any one customer shall be the greater of (i) an amount equal to 50 percent of the total cost of power purchased by such customer under this Act and subject to surcharge, or (ii) an amount calculated by applying to such power purchased a rate determined by taking the difference between the basic rate based on Rate Group A and the basic rate based on Rate Group C and dividing by two Revenues from the surcharge shall be used to defray the costs of conservation programs under subsection (a) Revenues in excess of these requirements shall be distributed annually, through billing credits, to each customer not subject to such surcharge and shall be allocated in the proportion that the cost of power sold to such customer bears to the total cost of power sold to all such customers

(i) The states may allow exceptions for good cause from standards and thereupon BPA may waive the surcharge provided for in this section

(j) Provisions implementing the surcharge and other features of this section, as appropriate, shall be included in BPA's power sales contracts

(k) No action by the states to (i) establish, adopt, or amend Standards, (ii) certify that a state or political subdivision thereof has acted consistently with Standards, or (iii) allow exceptions shall be effective except upon unanimous agreement of the states of Oregon, Washington, Idaho and Montana

AUTHORITY TO PURCHASE

SEC 5 In addition to authority under existing law, BPA may purchase power, provided that power purchased for a term in excess of five years shall be purchased only as provided in Section 6 BPA may sell such purchased power together with or separately from power from the Federal Columbia River Power System Power sold for a term in excess of two years shall be sold at rates no less than the rates applicable to other sales under this Act Sales for a term longer than five years are to be made only to entities and under terms and conditions provided in this Act

PURCHASES FOR TERM LONGER THAN FIVE YEARS

SEC 6 (a) BPA may purchase power (i) from a designated plant from the Owner of such plant or any other person having an interest in such power or (ii) from a system designated by PNEPCO.

(b) In addition to purchases under subsection (a), BPA shall, and is directed to, purchase at system cost (as defined in Section 10) power offered for sale by private utilities but not to exceed 4000 avg mw

BASIC ENTITLEMENTS TO POWER

SEC 7 Section 10 assigns costs of power to three groups—A, B and C—as the basis for schedules of rates and charges for sale of power Each class of sale in this section and Section 8 is classified to its Rate Group at the beginning of each paragraph

(a) BPA shall, and is directed to, sell power as provided in this section

(b) RATE GROUP A —Actual power requirements (not more than 5700 avg mw, such limit increasing beginning July 1, 1984 in 10 equal annual increments to a total of 6090 avg mw), to public bodies and cooperatives that are obligated, as of the effective date of this Act, to make payments under net billing agreements There will be allocated in each contract year to each such public body and cooperative executing a contract referred to in Section 7(g), an amount of power determined by multiplying the firm energy requirements for such year of such public body or cooperative by a fraction whose numerator is the total power available in that contract year under this subsection, and whose denominator is the estimated total firm energy requirements of all such public bodies and cooperatives Such estimates will be made annually for the ensuing 10 years Firm energy requirements as used in this subsection has the same meaning as "Sum Energy Requirements' as the latter term is defined in contracts referred to in Section 7(g)

(c) RATE GROUP B (adjusted) —2800 avg mw in the year ending June 30 1979, increasing in equal annual increments to 4000 avg mw in the year ending June 30 1985, or such lesser amount of power equal to that offered for sale for such years to BPA under Section 6(b), to private utilities

(d) RATE GROUP B —Actual requirements as of June 30, 1983, but not more than 260 avg mw, to Federal agencies

(e) RATE GROUP B —Not more than 3 000 avg mw to direct-service industrial customers with power sales contracts with BPA as of the effective date of this Act

(f) RATE GROUP C —Not more than 1,000 avg mw as determined by BPA to be available from new resources, to direct-service industrial customers identified in subsection (e) to be used for production purposes specified in existing power sales contracts If BPA makes non-firm power available to such customers in lieu of all or a portion of sales under this subsection, the total in any year of sales under this subsection and of such sales of non-firm power so made available shall not exceed 1,000 avg mw

(g) Contracts for sale of power under this section and for purchase of power under Section 6(b) shall be in substantially the form of the several draft contracts appropriate for each transaction included in the committee report, Report Promptly after the effective date of this Act, BPA shall execute and tender contracts for execution to all entities entitled to purchase power under this section or to sell power under Section 6(b) No such contract may be executed by a purchaser or seller on a date more than six months after the date of tender

(h) Sales under this section shall include during the term of the contract the amount of capacity as provided in such contract

ADDITIONAL POWER SALES

SEC 8 (a) BPA, subject to the availability of power, is authorized to sell power as provided in this section in addition to the power which BPA is directed to sell under Section 7

(b) RATE GROUP B (adjusted) —Not more than one-half of actual load growth, to each utility system Load growth of public bodies and cooperatives shall be the load growth commencing in the first year during which the total load of each public body or cooperative, respectively, equals or exceeds the power made available under Section 7(b) and non-federal hydro resources utilized to meet such loads in 1975–76 Load growth of public bodies and cooperatives may be determined collectively Load growth of private utilities shall be the load growth occurring after June 30 1983

(c) RATE GROUP B (adjusted) —Not more than one-half of total load as of the date of initial service by BPA under a contract entered into under this Act other than under Section 7, and not more than one-half of load growth thereafter, to public bodies and cooperatives which do not receive service under a contract authorized in Section 7, provided, that prior to June 30, 1983, total load of such a customer shall be at Rate Group B.

(d) RATE GROUP B —Increased requirements of customers described in Section 7(e) due to technological reasons, at the annual rate of 0 5 percent, cumulative to the extent not used, of the total contract demand for all such customers as a group during the preceding contract year beginning July 1, 1978

(e) RATE GROUP B —One-half of load growth after June 30 1983, to Federal agencies

(f) RATE GROUP C (Adjusted) —All other sales of firm power, to utility systems and other customers

(g) Utility systems purchasing power at the same Rate Group may interchange entitlements under such Rate Group so long as the total purchased power that BPA is obligated to sell under any Rate Group is not increased

INSUFFICIENCY OF SUPPLY

SEC 9 (a) BPA's obligation to deliver in any period power sold under Section 8 shall be subject to limitation as provided in this section to the extent that BPA finds that it shall have an insufficiency of supply, provided that deliveries to any customer which

has sold, or which has arranged for the sale of, power to BPA for such period shall not be reduced below the amount of power so sold.

(b) BPA shall give notice ten years in advance of such limitation, or such shorter period not less than seven years if BPA determines adequate alternate generating facilities can be secured in such period No such notice may be given prior to July 1, 1982

(c) "The amount of power so sold" shall be based upon the designated plant's estimated actual capability in the eleventh year following such notice of insufficiency Each year thereafter such "amount of power so sold" shall be revised as necessary to take into account any changes in the estimated actual capability Such revision shall be effective ten years from the date of the revision.

RESOURCE COST BASES OF RATE SCHEDULES

SEC. 10 (a) BPA resources shall be classified, for cost purposes, in the following resource cost groups:

(1) "Federal Base System Cost" (FBS cost) means cost (including repayment and interest) of the Federal Columbia River Power System hydrogenerating projects allocated to power (including irrigation costs assigned for repayment out of power revenues) in operation on or before June 30, 1983 (including facilities initially scheduled for service by June 30, 1983, but delayed beyond that date), and costs of power acquired from projects under net billing agreements, all as adjusted for replacement resources. BPA shall acquire resources to replace the capability of resources included in FBS cost to the extent of any reduction of such capability.

(2) "System cost" means the full cost to a private utility of acquiring, owning and operating the power facilities used or to be used to supply power purchased under Section 6(b) and shall be the sum of the following: (i) fixed costs, (ii) operating expenses, including fuel, depreciation, taxes other than Federal income taxes, Federal and state income taxes, purchased and interchanged power costs, and wheeling costs, and (iii) any other expenses related to the purchase of power, the construction, ownership, operation and maintenance of generating plants to the extent not included in (i) and (ii) above

(3) "New resource costs" means cost of all power purchased or otherwise acquired by BPA less costs included in FBS cost and system cost of power, provided that, the cost of power purchased for a term of five years or less shall not be a new resource cost except to the extent such power is used to meet obligations of BPA incurred pursuant to Sections 7 and 8. Cost of power purchased from public bodies and cooperatives shall be separately determined from cost of power purchased from private utilities.

(4) Cost of transmission to be paid by BPA customers shall be determined in accordance with P.L. 93-454 and allocated by BPA among Rate Groups A, B and C

(5) All other cost, including administrative and general shall be appropriately allocated by BPA.

(b) Resource costs shall be allocated by BPA between capacity and energy. Whenever a single capacity rate is in effect, capacity costs shall be totaled and allocated to rate Groups in proportion to capacity sales of each Rate Group

(c) Rate Group A shall recover the allocated cost of capacity, and that portion of the FBS cost allocated to energy, that is related to power sold in each year under Section 7(b) and Setcion 11(b), plus the portions of transmission cost allocated under subsection (a)(4), and other cost allocated under subsection (a)(5)

(d) Rate Group B shall recover the allocated cost of capacity, and the balance of FBS cost allocated to energy, system cost allocated to energy (including annual charges for the portion of system cost treated by BPA as capital), and the proportion of new resource cost allocate to energy that the amount of power from such resources to be sold under section 8 (b) through (e) in each year bears to the total amount of power to be sold from such resources in such year, less estimated revenues for sales of nonfirm power as provided in subsection (n), plus the portions of transmission cost allocated under subsection (a)(4) and other cost under subsection (a)(5) Adjustment in Rate Group B shall be made as provided in subsection (j)

(e) Rate Group C shall recover the allocated cost of capacity, and the proportion of new resource cost allocated to energy that the amount of power from such resources to be sold under sections 7(f) and 8(f) in each year bears to the total amount of power to be sold from such resources in such year, plus the portions of transmission cost allocated under subsection (a)(4) and other cost under subsection (a)(5) Adjustment in Rate Group C shall be made as provided in subsection (j).

(f) In establishing rate schedules, BPA shall establish a single rate for sale of capacity common to Rate Groups A, B and C If, thereafter, BPA determines that costs associated with supplying capacity make such single rate inequitable, as compared with separate capacity rates for each rate group, it shall establish separate capacity rates for each Rate Group. Cost of capacity reserves and surplus capacity shall be included in the capacity shall be included in the capacity rate, appropriately allocated in case of multiple rates.

(g) Revenues from sales of firm power under existing contracts which continue in effect, and net revenues from wheeling on the Pacific Northwest-Pacific Southwest Intertie shall be credited against FBS cost

(h) BPA shall allocate among Rate Groups A, B and C in proportion to the avg mw purchased under each group (i) the fixed cost of any plant that is abandoned or terminated other than for obsolescence, (ii) the fixed cost of a plant which is inoperable, or a porton of fixed cost of any plant to the extent its operation is substantially limited, and (iii) to the extent determined by PNEPCO, that portion of fixed cost related to a reasonably unforeseen replacement or addition of a major plant component.

(i) Any cost and any revenue, the allocation of which is not specifically provided for in this Act, may be allocated by BPA among Rate Groups A, B or C as appropriate.

(j) For the purpose of this subsection, Public Bodies and Cooperatives are one customer class, and private utilities are another customer class. Rate schedules established for sales under Rate Groups B and C to such classes shall provde for annual adjustment in the component of such rate schedule that is based on new resource cost. If the estimated average cost of power of all new resources purchased from a customer class is more than 1 percent in a year less than the estimated average cost of power of all new resources, in all cases excluding plants designated under Section 17(c), the estimated average cost of power of new resources purchased from such class shall be used instead of the estimated average cost of power of all new resources in determining the rate applicable to such class in such year, and the rates to the other class shall be increased to not more than the estimated average cost of power sold by such class to recover any resulting loss in revenue, with any remaining deficit from estimated average cost of power from all new resources allocated among all customers purchasing power under rate schedules pursuant to Rate Group B or C.

(k) BPA may change rates for the sale of electric power and for the transmission of non-Federal electric power over the Federal transmisson system not more frequently than annually upon not less than 12 months' notice, or such lesser time agreed to by the affected customers, except that such notice shall not be required for interim rates under Section 18(a) which are to be effective not later than October 1, 1978.

(l) Schedules of rates and charges shall be established by BPA in conformity with this Act and P L. 93-454 having regard, in addition to the provisions of Section 9 of P.L. 93 454, to the recovery of the costs of purchased power under Sections 5 and 6, the costs of conservation programs under Section 4 and other costs authorized to be incurred by this Act.

(m) All costs shall be recovered and cost of service computed, without any annual requirement, within the repayment period or periods provided by law. The existng method of determining repayment obligation of costs of the Federal Columbia River Power System allocated to power (including irrigation costs assigned for repayment out of power revenues) and of determining applicable interest cost shall not be changed because of this Act.

(n) Estimated revenues from sales of nonfirm power shall be credited to FBS costs through June 30, 1980. Thereafter, allocation of such estimated revenues shall be made in equal annual increments so that in the year ending June 30, 1985, and thereafter all such estimated revenues are allocated as provided in subsection (d).

CONTRACT TERM

SEC. 11. (a) Sales under Section 7 shall be for a term of 35 years from the effective date of the contract or such lesser period that the purchaser may desire Sales under Section 8 may be for a term ending not later than 35 years after the first delivery under the contract or, where a sale is related to a designated plant, for the useful life of the plant, whichever is longer. Subject to the provisions of Section 9, contracts providing for sales under Sections 7 and 8 shall not be subject to cancellation in whole or in part to satisfy the requirements of any other customers.

(b) BPA power sales contracts existing on the date of this Act with customers which do not elect to execute contracts tendered under Section 7(g) shall not be extended or renewed The basis of the rate applicable to such existing contracts with public bodies and ccoperatives shall be Rate Group A, and the amount of power shall be deducted from the limits in Section 7(b), during the remaining term of the contract, and the basis of the rate applicable to such existing contracts with Federal agencies and direct-service industrial customers shall be Rate Group B.

(c) Agreements executed by BPA as an implementation of the Treaty between Canada and the United States of America Relating to the Cooperative Development of the Water Resources of the Columbia River Basin, and the Pacific Northwest Coordination Agreement shall continue in force in accordance with their terms.

ASSIGNMENTS

SEC. 12 (a) A contract for the sale of power uner Section 7 or 8 shall not be assigned without the consent of BPA if BPA determines such assignment will (i) require additional BPA facilities to enable BPA to deliver power pursuant to such contract, or (ii) make unusable existing BPA facilities, or (iii) increase the total amount of power BPA is obligated to deliver

(b) A contract for sale of power under Section 7 (b), (e), or (f) shall not be assigned to any other entity, except (i) in the case of a sale under Section 7(b), to another purchaser under such section, or to a successor-in-interest to the utility system or to the facilities being served, or (ii) in case of a sale under Section 7 (e) or (f), to a successor-in-interest to the business, or (iii) as a pledge of a security interest.

LARGE LOAD LIMITATION

SEC. 13. BPA shall not increase the contract demand established pursuant to a contract demand contract and shall not supply power to a requirements contract customer for that part of load growth which is created by a new single load of such customer in excess of 35 avg. mw in any 12 months, or 100 avg. mw in any 60 month period, if BPA had not previously determined that firm power would be available for such load, provided that power may be made available on the condition that it be interruptible for a period measured by the time required to acquire the necessary resources but not exceeding ten years or until the scheduled date of continuous operation of resources to be available to supply such load, whichever is earlier. If interruption is required for several such loads, each load will be curtailed in its entirety in inverse order in which the commitment to customers was made. Interruption of all such loads shall be made prior to restriction of power sold under Sections 7 (e) and (f) and Sections 8 (d) and (f).

CONTINUATION OF SERVICES

SEC. 14. BPA shall continue to make available to its customers those services necessary to enable BPA to carry out its statutory responsibilities. Such services shall include, but not be limited to, load forecasting, load factoring, storage, dispatching, scheduling, transmission, coordination, emergency and breakdown relief, and conservation programs. BPA shall make such services available in a fair and equitable manner among all its customers.

BPA FUNDING

SEC. 15. (a) In addition to the purposes for which BPA is authorized to expend funds from the Bonneville Power Administration Fund as enumerated in Section 11(b) of P.L. 93-454, BPA is authorized to expend from such Fund such amounts as may be required to pay: (i) the costs associated with purchases under Sections 5 and 6 of this Act, including advance payments for power on account of costs of acquisition of fuels for plants the output of which is purchased in whole or in part by BPA under Sections 5 and 6 and (ii) costs associated with the conservation programs referred to in Section 4 of this Act.

(b) In addition to the purposes for which BPA is authorized to issue and sell bonds under Section 13(a) of P.L. 93-454, BPA is authorized to issue and sell bonds, subject to the conditions in P.L. 93-454, (i) to provide loan funds under Section 4(a) of this Act, provided that bonds outstanding for such purpose shall not at any time exceed the sum set forth in Section 4(a), and (ii) to pay that portion of costs of acquisition of power which may be treated as capital cost under generally accepted utility accounting practice, exclusive of such costs for fuel.

CONSTRUCTION

SEC. 16. (a) This Act shall be liberally construed to preserve and encourage regional initiative, flexibility, and cooperation in dealing with the subject matter of this Act, and to realize and effectuate the purposes and objects of the Act as found and declared by Congress.

(b) No agreement, action, or course of conduct by any person or entity which is undertaken for the purpose of complying with or implementing the provisions or objectives of this Act shall be deemed to be a violation of the Act of July 2, 1890, as amended, (the Sherman Antitrust Act), the Act of October 15, 1914, as amended, (the Clayton Act), the Act of September 26, 1914, as amended, (the Federal Trade Commission Act), the Act of May 26, 1938, as amended, (the Robinson-Patman Antidiscrimination Act), or any other similar Federal or state laws.

(c) PNEPCO shall promptly transmit to BPA and the Attorney General a written notice, by registered mail, return receipt requested, of any designation or refusal to designate under Section 17(b) or (c). No action or proceeding brought under the laws referred to in subsection (b) arising out of such PNEPCO action shall be commenced after the expiration of six months from the latest date either such agency received such written record of PNEPCO action.

REGIONAL ORGANIZATION

SEC. 17. A valid designation can be made by PNEPCO only so long as it has the characteristics, and its Articles of Incorporation require or authorize functions, as set forth in this section.

(a) PNEPCO is organized and existing as a nonprofit corporation under the laws of the State of Washington and its Articles of Incorporation provide that each utility system in the Pacific Northwest has the right at all times to name a natural person to be a member of PNEPCO.

(b) PNEPCO shall designate a plant or system for purchase of all or part of the power therefrom by BPA on such conditions and for such terms as are consistent with this Act and if such purchase meets the following standards:

(1) Such purchase shall be consistent with provision of an adequate power supply for the Pacific Northwest in light of forecasted power loads and resources, taking into account programs developed under Section 4 for the efficient use and conservation of electric energy;

(2) Each utility system has been or will be given reasonable opportunity for participation in the proposed facility or other resources purchased by BPA sufficient to meet its forecasted resource deficiencies;

(3) Such purchase would be consistent with providing economic and reliable service to the customers of the utility systems and BPA.

(c) PNEPCO may designate a plant for purchase of all or part of the power therefrom which plant does not meet the criteria of subsection (b)(3) but is an experimental, developmental, or pilot plant intended to develop new technologies of generating economic and reliable electric service.

(d) All meetings for the purpose of designating plants or adopting regional forecasts of loads and resources shall be open to the public.

(e) BPA and the Governors of Oregon, Washington, Idaho, and Montana may designate representatives to participate as members in all PNEPCO committees and task forces and to attend, observe, and engage in discussions at all meetings of the Board of Directors of PNEPCO or its members. Invitations may be extended to other civil authorities of the Pacific Northwest to participate as appropriate in PNEPCO committees and task forces.

MISCELLANEOUS

SEC. 18. (a) BPA may, without approval of the Federal Power Commission, apply its existing rates to, and thereafter establish interim rates under Rate Groups A and B for, contracts under Section 7(g) during the period from the effective date of the Act to the date when rate schedules prepared pursuant to this Act are first filed with and approved by the Federal Power Commission pursuant to P.L. 93-454, which date of filing shall be no later than 18 months after the effective date of this Act, provided that no such interim rates may be established after such filing.

(b) A copy of each purchase contract under Section 6(a) substantially in the form proposed for signature, shall be transmitted by BPA to Congress, and thereafter BPA shall publish notice thereof in the Federal Register not less than 60 days prior to the proposed date of execution of such contract. Any such contract executed more than 60 days after the date of such publication shall be valid for all purposes under this Act and the statutes and laws of the United States, and its validity shall not be questioned in any court of the United States unless, prior to the execution thereof, suit has been filed in a court of the United States challenging the validity of such contract.

(c) The Secretary of PNEPCO shall certify to BPA the designation of a plant or system under Section 17 together with any conditions of such designation. Thirty days after the date of such certification, such certification shall be conclusive for all purposes that a valid designation of a plant or system under Section 17 has been made in accordance with the requirements of this Act and with the Articles and Bylaws of PNEPCO, and after such certification such designation may not be withdrawn, modified, or revoked without consent of the owner or owners of the plant or system.

(d) No provision of Chapter 2C, Title 15, U.S.C., shall apply to or be deemed to include: (i) PNEPCO; or (ii) any "person" or "company" (as defined in 15 U.S.C., Section 79b (a)(1) and (2)) organized and operated primarily for the purpose of financing, leasing, constructing, owning, managing, or operating part of, an interest in, or all of, facilities used for the generation of electricity (together with associated transmission and other facilities), 50 percent or more of the power from which, or from the part or interest so financed, leased, constructed, owned, managed, or operated, is or will be sold to BPA under Section 5 or 6.

(e) If after July 1, 1982, and prior to June 30, 1988, BPA gives a notice of insufficiency to all its requirements customers and, prior to June 30, 1968, BPA either has refused to purchase power from designated plants or is legally disabled from purchasing power adequate to cover such insufficiency, then during the period of insufficiency estimated revenues from sales of nonfirm power shall, in lieu of the provisions of section 10(d), be credited one-half to Rate Group A and one-half to Rate Group B if the insufficiency is caused by a BPA refusal to purchase, and shall be credited entirely to Rate Group A if the insufficiency is caused by such legal disability.

SEVERABILITY AND CONTINUATION OF RIGHTS

SEC. 19. If any part of this Act is declared unlawful, then all remaining parts shall remain in full force and effect, provided that, if any part either section 5 or section 6 is declared unlawful, any obligations entered into pursuant to section 5 or 6 shall remain in full force and effect in accordance with their terms, and provided further that, if the provisions of section 7(b) are declared unlawful, then section 10(c) and that portion of section 10(d) relating to FBS cost shall be void.

TAX-EXEMPT BONDS IN THE CASE OF CERTAIN REGIONAL ELECTRIC ENERGY PROGRAM

SEC. 20. (a) Subsection (b) of section 103 of the Internal Revenue Code of 1954 (relating to industrial development bonds) is amended by inserting after paragraph (3)(B) the following new paragraph:

"(C) An agency of the United States administering a program approved by an Act of Congress for purposes of meeting the electric energy needs of one or more regions of the United States (but only with respect

to the agency's acquisition of electric energy from a facility therefor if the agency determines, prior to contracting for the acquisition, that such electric energy is not being acquired for the purposes of furnishing a major portion thereof to persons who are not exempt persons (within the meaning of paragraphs A and B), each of which is expected to be furnished more than 3 percent of the electric energy; provided that in computing the portion of the proceeds of an issue of obligations to be used in any trade or business by persons who are not exempt persons, the amount of electric energy the agency determines will be furnished by it to such persons shall be treated as sold to such persons by the issuer of the obligations)."

(b) Effective Date. The amendments made by this section shall apply to acquisitions of electric energy after

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STATEMENT OF PUBLIC UTILITY DISTRICT NO. 1 OF SNOHOMISH COUNTY IN SUPPORT OF ITS REQUESTED AMENDMENTS TO PACIFIC NORTHWEST UTILITIES CONFERENCE COMMITTEE (PNUCC) REGIONAL POWER LEGISLATION

A group consisting of representatives of public and private power and aluminum industries of the Northwest, known as the Pacific Northwest Utilities Conference Committee (PNUCC), has drafted regional power legislation and requested its introduction in Congress. Although the Public Utility District No. 1 of Snohomish County, Washington, (the "District") strongly supports the concept of a regional power program for the Pacific Northwest and participated in the PNUCC, the District early announced its reservations concerning certain aspects of the proposed legislation, stating it would withhold approval until the complicated plan documents were completed. Upon reviewing the final draft, the District determined that it could not support the PNUCC legislative proposal in its entirety, although many aspects merited the District's support. Generally, the District concluded the final draft overall was not fair and equitable to public power in the Northwest, requiring public power to concede too much for the benefit of private power and the aluminum industry. At the same time, the District was also concerned about the PNUCC bill's effect upon the preference rights of public agencies and cooperatives to power generated by Federal hydroelectric facilities. The District's concern over the PNUCC bill's effect upon the preference clause was subsequently shared by public power throughout the nation as they become familiar with the details of the PNUCC proposal.

Clearly, many aspects of the PNUCC proposal have merit. For example, the proposed legislation includes a strong regional conservation program, will result in regional power planning for the Pacific Northwest, will minimize the environmental impacts through more efficient operation of existing generating facilities and better planning for new generating facilities, and will establish a framework for Federal, state and local cooperation which could serve as a model for other regions of the country. Accordingly, the District has anayized the PNUCC proposal carefully with a view towards developing amendments which would preserve the many advantages of the proposed legislation, yet resolve the national concern over preference power and, also, provide a more fair and equitable allocation of the costs and benefits from a regional power program between public and private power interests in the Pacific Northwest.

The District has drafted amendments to the PNUCC legislation which it believes satisfy those objectives. The purpose of this Statement is to explain in some detail the nature of the amendments, provide some additional background, and explain the impact of the District's amendments upon the PNUCC legislation. Preliminarily, it should also be observed that the PNUCC group has been pushing for prompt introduction of its bill in Congress which has restricted the scope of the District's ability to develop amendments. As a result, the District has tried to keep its amendments simple and within the framework of the existing PNUCC legislation. Also, the District has not attempted to amend the numerous proposed contracts and other plan documents prepared by the PNUCC group to implement the proposed legislation. Those documents, of course, must be modified in accordance with any amendments to the PNUCC bill.

Generally, the District's amendments simply change certain sections of the PNUCC bill to alter the flow of Federally generated hydro power (preference power), resulting in the existing public agencies of the Pacific Northwest receiving their preference rights to hydro power at the hydro cost. This amendment satisfies the primary objectives of the District. First, by increasing the amount of lower cost hydroelectric power available to the public agencies over the duration of the regional power proposal, the District shifts the balance of benefits and costs under the PNUCC bill to achieve a more fair and equitable accommodation of the interests and rights of public power vis-a-vis those of private power and the aluminum industry. From an economic standpoint, the practical effect of the District's amendments is to lower the bulk power costs of the public agencies and increase the amount of such low-cost power available. Correlatively, the power costs of private power in the Pacific Northwest is increased slightly and the power costs of the aluminum industries are increased slightly more.

But the District does not believe that this shifting of benefits alters the feasibility of the regional power program. Clearly, the aluminum industry and private power will not get as good a deal as they would under the PNUCC proposal. But there are still substantial benefits for private power and the aluminum industry. For example, the District believes that the primary need of the aluminum industry in the Pacific Northwest is an assurance of a future power supply. The District's proposed amendments do not alter the amount of power made available to the aluminum industry under the PNUCC bill; instead, the District's amendments merely increase slightly the cost of such power without reducing the amount of power available. Likewise, although the District's amendments will increase slightly the power costs of private power as compared to private power costs under the PNUCC bill, there still remain the benefits to private power including Federally backed financing of new generating facilities. The overall effect of the District's amendments merely adjusts the benefits from a regional power program which the District believes is more fair and equitable to public power in the region, while still preserving the basic overall benefits to the region.

Secondly, by reserving the low-cost hydroelectric power for the existing public agencies of the Northwest, the District's amendments preserve public power's preference rights and therefore satisfy the national concern of public power to the PNUCC bill. In that regard, we would be remiss if we did not comment upon the strong opposition to the PNUCC proposal manifested by public power across the nation because of the preference problem. Indeed, the District became concerned that the PNUCC proposal could not be passed in Congress with the national public power opposition which was developing.

The District's awareness of the preference problem led to a detailed study of the entire concept of preference power. Our research disclosed that more than 30 pieces of national legislation establish the preference concept.

By way of background, the Bonneville Project Act includes a most explicit and clear statement of the preference clause. In directing the BPA Administrator to give preference to public bodies and cooperatives for electric energy generated by the Federal hydroelectric facilities of the Bonneville Project, Congress specifically stated:

"In order to insure that the facilities for the generation of electric energy at the Bonneville Project shall be operated for the benefit of the general public, and particularly domestic and rural consumers, the Administrator shall at all times in disposing of electric energy generated at the Project give preference and priorities to the public bodies and cooperatives."

Thus, Congress has made clear its intent that public bodies and cooperatives shall have preference rights to Federally generated hydro power. The District and national public power representatives became concerned that the PNUCC bill, by authorizing private power and the aluminum industry to obtain Federally generated hydroelectric power at the expense of public power, constituted an erosion of the preference rights of public agencies to Federally generated hydroelectric power.

Perhaps a brief comment on the historical origin of the preference concept is in order. Similar preference clauses appear in numerous Federal power marketing acts. Generally, the preference concept is based upon the long-standing philosophy that the benefits derived from Federal investment on the free-flowing rivers of the United States must be reserved for the public; such benefits should not enure to the stockholders of private companies. This concept, of course, applies to the PNUCC bill which, as presently drafted, would permit the stockholders of the private power companies and aluminum companies of the Pacific Northwest to share in the benefits of the Federally generated hydroelectric power.

With this background, let's take a closer look at the District's amendments. The District proposes to amend the PNUCC legislation to redefine Federal Base System cost as being the cost associated with the Federal hydroelectric system on the Columbia River. Thus, Rate Group A of the PNUCC bill would consist entirely of Federal hydro power at the Federal hydro cost and the entire capability of the Federal hydro system would be available as needed by the existing preference agencies of the Northwest.

We would be remiss if we did not acknowledge that the District's amendments do raise additional questions. For example, questions have been asked concerning the impact of our amendments upon the tax-exempt status of previously issued bonds. To those questions, we have received informal opinions from competent attorneys that our proposed amendments would have no greater effect upon the tax-exempt status of such bonds than the "gating" operation or other aspects of the PNUCC proposal. To the questions of the status of existing net billing contracts, it is our opinion that such contracts can remain in effect and operable under our amendments. It is probable that payments will have to be made by the BPA Administrator in accordance with Section 7 of the net billing agreement, but that is not a detriment. We are also convinced that the BPA payout schedule is not affected by our amendments because BPA will recover its costs associated with the net billed plants from Rate Group B as part of the overall revenue income.

Moreover, there may be additional questions raised by our amendments. But the PNUCC proposal itself raises many questions.

By proposing these amendments, the District does not purport to have answers to all of the questions asked or likely to be asked in the future, nor to suggest that its amendments answer all of the questions. Instead, it is our hope and belief that our proposed amendments will lead to a fair and equitable balancing of the costs and benefits of a regional power program throughout the Pacific Northwest and, most importantly, result in a regional plan which can be supported by public power nationally and gain approval of Congress.

PROPOSED AMENDMENT OF PUBLIC UTILITY DISTRICT NO. 1 OF SNOHOMISH COUNTY TO THE PACIFIC NORTHWEST UTILITIES CONFERENCE COMMITTEE REGIONAL POWER BILL

(New material in italics; canceled material in brackets.)

1. Page , section 5, to read as follows:

AUTHORITY TO PURCHASE

SEC. 5. In addition to authority under existing law, BPA may purchase power, provided that power purchased *under new contracts* for a term in excess of five years shall be purchased only as provided in Section 6. BPA may sell such purchased power together with or separately from power from the Federal Columbia River Power System. Power sold for a term in excess of two years shall be sold at rates no less than the rates applicable to other sales under this Act. Sales for a term longer than five years are to be made only to entities and under terms and conditions provided in this Act.

2. Page , section 7(b), amended as follow:

(b) RATE GROUP A.—Actual requirements [not more than 5700 avg mw such limit increasing beginning July 1, 1984 in 10 equal annual increments to a total of 6000 avg. mw,] *up to the firm energy capability of the hydroelectric generating resources of the Federal Columbia River Power System,* to public bodies and cooperatives that are obligated, as of the effective date of this Act, to make payments under net billing agreements. There will be allocated in each contract year to each such public body and cooperative executing a contract referred to in Section 7(g), an amount of power determined by multiplying the firm energy requirements for such year of such public body or cooperative by a fraction whose numerator is the total power available in that contract year under this subsection, and whose denominator is the estimated total firm energy requirements of all such public bodies and cooperatives. Such estimates will be made annually for the ensuing 10 years. Firm energy requirements as used in this subsection has the same meaning as "Sum Energy Requirements" as the latter term is defined in contracts referred to in Section 7(g).

3. Page , section 9(a), to read as follows:

(a) BPA's obligation to deliver in any period power sold under Section 8 shall be subject to limitation as provided in this section to the extent that BPA finds that it shall have an insufficiency of supply, provided that deliveries to any customer which has sold, or which has arranged for the sale of, power to BPA for such period *from a designated plant* shall not be reduced below the amount of power so sold.

4. Page , section 10(a)(1), to read as follows:

(1) "Federal Base System Costs" (FBS cost) means cost (including repayment and interest) of the Federal Columbia River Power System hydrogenerating projects allocated to power (including irrigation costs assigned for repayment out of power revenues) *less estimated revenues from the sale of nonfirm power.* [In operation on or before June 30, 1983 (including facilities initially scheduled for service by June 30, 1983, but delayed beyond that date), and costs of power acquired from projects under net billing agreements, all as adjusted for replacement resources. BPA shall acquire resources to replace the capability of resources included in FBS cost to the extent of any reduction for such capability.]

5. Page , section 10(a)(3), to read as follows:

(3) "New resource cost" means cost of all power purchased or otherwise acquired by BPA less *FBS cost, net billed thermal costs* [costs included in FBS cost] and system cost of power provided that, the cost of power purchased for a term of five years or less shall not be a new resource cost except to the extent such power is used to meet obligations of BPA incurred pursuant to Sections 7 and 8. Costs of power purchased from public bodies and cooperatives shall be separately determined from cost and power purchased from private utilities.

6. Page , new section 10(a)(4), to read as follows:

(4) *"Net billed thermal costs" means costs of power acquired by FPA under net billing agreements.*

7. Page , former Section 10(a)(4) to be new Section 10(a)(*5*).

8. Page , former Section 10(a)(5) to be new Section 10(a)(*6*).

9. Page , Section 10(c), all references to Section (a)(4) will be changed to Section (a)(*5*); and all references to Section (a)(5) will be changed to Section (a)(*6*).

10. Page , section 10(d), to read as follows:

(d) Rate Group B shall recover the allocated cost of capacity, and the balance of FBS cost allocated to energy, system cost allocated to energy (including annual charges for the portion of systems costs treated by BPA as capital), *net billed thermal costs allocated to energy* and the proportion of new resource cost allocated to energy that the amount of power from such resources to be sold under Section 8(b) through (3) in each year bears to the total amount of power to be sold from such resources in such year, [less estimated revenues for sales of non-firm power as provided in subsection (n),] plus the portions of transmission cost allocated under subsection (a)[4](*5*) and other cost under subsection (a)[5](*6*). Adjustment in Rate Group B shall be made as provided in subsection (j).

11. Page , sections 10(d) and 10(e), references to Section (a)(4) shall be changed to (a)(*5*); and references to Section (a)(5) shall be changed to (a)(*6*).

12. Page , section 10(n), will be completely deleted. Section 10(n) previously read as follows:

[(n) Estimated revenues from sales of nonfirm power shall be credited to FBS costs through June 30, 1980. Thereafter, allocation of such estimated revenues shall be made in equal annual increments so that in the year ending June 30, 1985, and thereafter all such estimated revenues are allocated as provided in subsection (d).]

13. Page , section 18(e), will be completely deleted. Section 18(e) previously read as follows:

[(e) If after July 1, 1982, and prior to June 30, 1988, BPA gives a notice of insufficiency to all its requirements customers, and prior to June 30, 1988, BPA either has refused to purchase power from designed plants or is legally disabled from purchasing power adequate to cover such insufficiency, then during the period of insufficiency estimated revenues from sales of non-firm power shall, in lieu of the provisions of Section 10(d), be credited one-half to Rate Group A and one-half to Rate Group B if the insufficiency is caused by a BPA refusal to purchase, and shall be credited entirely to Rate Group A if the insufficiency is caused by such legal disability.]

PACIFIC NORTHWEST UTILITIES CONFERENCE COMMITTEE,
September 9, 1977.

PNUCC LEGISLATIVE PROPOSAL FACT SHEET

A. TRADITIONAL BULK POWER SUPPLIES AND SALES POLICIES

For forty years, the Bonneville Power Administration (BPA) has been the major supplier of bulk power in the Pacific Northwest BPA does not own any generating facilities has no authority to construct such facilities and only limited authority to purchase the output of generating facilities constructed by others. Its principal role is to market the power produced at hydroelectric dams constructed by other federal agencies, and to operate a regional transmission system capable of accommodating both federal and nonfederal power deliveries.

The chief purchasers of bulk power in the Northwest fall into three categories: consumer-owned utilities (including municipal systems, public utility districts, and cooperatives), investor-owned utilities, and certain industries that purchase power directly from BPA. The consumer-owned utilities ("publics") have a statutory preference to purchase federal power sold by BPA; neither the investor-owned utilities ("privates") nor the direct-service industries have such rights.

The distribution of public and private utilities is not uniform throughout the Pacific Northwest. Washington State consumers are served mostly by publics, while Oregon consumers are served mostly by privates. Historically, disparities in bulk power costs as between publics and privates were substantially less than those that exist today, partly because BPA had sufficient federal power to permit some sales to private as well as publics, and partly because the cost of constructing non-federal generating resources was relatively low, compared with the cost of constructing new generating resources today.

The direct-service industries play an important—and frequently misunderstood—role in the BPA bulk power marketing program. Their relatively large and constant power demand made construction of large federal facilities more economically feasible at an early date. The industries purchased large amounts of federal power not suitable for utility use that otherwise would have been wasted in years of abnormally high streamflows. These purchases contributed revenues to the federal system that reduced costs for other bulk power purchasers.

Most important, perhaps, the industrial contracts have also provided substantial reserves for the entire region, since certain power sales to these industries can be interrupted when necessary to meet the requirements of utilities that purchase federal power and for system emergencies. Without their presence the full cost of maintaining adequate reserves would be borne by the utilities and their consumers.

B. WHY NEW FEDERAL LEGISLATION IS NEEDED

Two basic facts underlie all the major power problems in the Pacific Northwest today: the firm energy generating potential of the Columbia River and its tributaries has been largely developed and the cost of building new generating facilities to meet the region's needs is astronomical. The day of cheap and abundant power is over. Today there is an urgent need for conservation programs, for efficient management of the region's generating resources, and for planning mechanisms that insure the availability of the power we do need at the lowest attainable costs.

The following problems are very serious, and will rapidly become acute if the present regional power supply framework remains unchanged:

1. *Uncertain Supply of Federal Power.* For the first time in history, BPA has been forced

to notify its preference customers (the publics) that it will be unable to supply their requirements for more power after 1983. This is serious news for the publics, most of whom have depended principally on BPA for power supply.

Since BPA cannot increase the amount of power available to the publics, it must soon reallocate the limited amount available. To the extent new publics may be created (see below), the BPA "pie" would be cut into smaller and smaller pieces. The reallocation process would take years to complete, and competing claims would likely have to be resolved in the courts. Utility managers would not know how much power they might have when the process ends, so they would be unable to plan on a firm basis for additional sources of supply they will need.

2. *Termination of Supply to Direct-Service-Industries.* BPA has informed its direct-service industrial customers that it cannot renew their power contracts when those contracts expire, beginning in 1981, since BPA does not have sufficient power to meet the needs of its preference customers. These industries—which produce 30% of the nation's aluminum, 100% of its nickel, and other products—need a source of power at a price they can afford. They must know very soon whether that power will be available to them in order to plan future investments in the Northwest, or the possible relocation of their plants elsewhere.

3. *Large Cost Disparities Within the Region.* Until 1973, a substantial part of private utility requirements was supplied by BPA. But since then, they have been unable to purchase any firm power from BPA. Their necessary investment in new and higher-cost generating facilities translates into higher costs for bulk power, especially in comparison with public systems that still obtain bulk power from BPA. Bulk costs for the privates are several times those for public agencies. This growing disparity affects the entire region, but its impact is spread very unevenly, particularly as between Washington and Oregon. Disparities in bulk power costs convert into disparities in consumer rates. As a result, in any Pacific Northwest state, a given community may have electric rates that are more than twice as high as rates in a neighboring community. This disparity will increase and the resulting political stresses will probably become unbearable in the absence of new legislation.

4. *Creation of New Preference Customers.* As a result of the higher rates of private utilities and the fact that private utilities predominate in the State of Oregon, Oregon's Governor has proposed, and its legislature has passed, a bill creating a new public agency to purchase power directly from BPA and sell it to those domestic and rural consumers in Oregon who now receive their electricity from private utilities. (Nearly 80% of Oregon's domestic and rural customers are served by privates.) This new agency, the Domestic Rural and Power Authority ("DRPA"), would complicate the legal fight over reallocation, but it would not solve other serious problems. The legal battles over reallocation itself would raise issues of national significance likely to be carried to the U.S. Supreme Court. If DRPA is activated—which will not occur if the regional bill is adopted—Washington, Idaho and Montana could decide to create DRPAs of their own to protect their citizen's rights to a proportionate share of BPA's power.

The City of Portland has applied to BPA for a power supply as a preference customer of BPA, and has threatened to bring suit against BPA for signing contracts with certain preference customers, many of them in Washington.

These actions would each complicate and prolong the uncertainties of the reallocation process, without creating any additional power supplies and without producing lower costs for the region as a whole.

5. *Limitations on BPA's Ability to Play a Constructive Role.* Despite the severity of the problems outlined above, BPA—the region's major bulk power supplier, and the sole supplier to a majority of the region's public utilities—is statutorily precluded from resolving differences within the region or even from playing an effective role in finding the needed solutions.

Meanwhile, the historic cooperation within the region threatens to break down entirely, just when the need for cooperation is greatest. Not only is coherent planning becoming impossible, but the very ability of the system to finance essential generation may become seriously impaired. The opportunity still exists to develop reasonable and regional solutions by building constructively on existing planning and facilities, but that opportunity is rapidly diminishing.

C. HOW THE PNUCC LEGISLATIVE PROPOSAL WAS DEVELOPED

Many different groups recognized these problems and, several years ago, started examining potential solutions. The private utilities looked at pooling. Various bodies examined new BPA authority, and the direct service industries formulated a legislative proposal. The Governor of Oregon began work on his DRPA legislation. The City of Portland explored the prospects of becoming a preference agency.

These various activities were not coordinated, however, and their many technical and economic impacts presented formidable problems. Last fall, in response to requests from public officials and a variety of BPA customers, BPA prepared a study paper analyzing power costs resulting from many concepts that had been discussed earlier, but the study paper did not describe any alternative that produced agreement. In late 1976, the effort came under the auspices of PNUCC and has resulted in the draft legislation called Pacific Northwest Electric Power Supply and Conservation Act.

The fact that individuals representing a large number of divergent and competing interests were able to cooperate in creating a single legislative proposal indicates how serious the Pacific Northwest's power problems have become. The same fact necessarily means that the consensus embodied in the PNUCC proposal does not—and cannot—fully satisfy any particular group, including the groups that came together to draft it. It should be emphasized, however, that the proposal was conceived and written within the PNUCC, and that PNUCC members believe it to be the best attainable solution that is in the interests of the region as a whole. Whether governing councils and boards of individual utilities can support it will have to await their decision.

D. WHAT THE PNUCC LEGISLATIVE PROPOSAL CONTAINS

The legislation would:

Establish the nation's first region-wide conservation program;

Create a much earlier and much enlarged role in the electric energy planning process for state and local governments and public groups;

Grant BPA limited authority to purchase power;

Establish rate groups for BPA's sale of power to different classes of bulk power purchasers;

Recognize the role of a regional utility planning body controlled equally by consumer-owned and investor-owned systems;

Reduce the costs of essential new power resources; and

Maintain a balanced decision-making process among federal, state and local governments, public agencies, private utilities and other responsible bodies.

Some of these elements would combine to remove supply uncertainties facing public agencies and direct service industries and reduce the intolerable rate disparities that would otherwise prevail within the region.

The bill would *not:*

Authorize the construction of generating plants, or of any type of generating plants;

Foreclose development of other effective methods of participation in planning by state or local governments;

Establish either the need or the lack of need for additional generating plants; or

Eliminate any presently required federal, state, or local permits, licenses, consents or other authorizations.

1. *The Conservation Program.* Conservation standards for efficiency in energy use must be promptly adopted and implemented. Standards would be established for a broad range of uses—residential, commercial, industrial and agricultural. The four Northwest States are to agree on regional standards, but if they fail, BPA would establish them. If any state or political subdivision failed to adopt the standards after they had been established, utility systems within that state or subdivision would be able to purchase power from BPA only at a minimum surcharge of 50 percent. Proceeds of the surcharge would finance conservation programs and reduce power rates in complying areas.

The bill sets up a $300 million revolving loan fund for conservation loans, permitting such programs as interest-free insulation loans to consumers. Grants could also be made and BPA could fund conservation investments that promise significant gains in efficiencies.

2. *Pooling—Allocation of Costs.* The bill authorizes BPA to purchase the output of new plants when designated by PNEPCO, the regional planning body; to acquire up to 4,000 mw of capacity from the private companies at average system cost; and to sell such power under three Rate Groups, A, B and C.

a. Rate Group A would be an existing preference agency pool and would be the lowest cost pool. It would recover costs of up to 6090 mw of the Federal Base System—about two-thirds of present BPA capacity, including Federal hydro and thermal capacity previously acquired from public agencies under a limited hydro-thermal program developed earlier.

b. Rate Group B would be a blended pool of the costs of existing Federal hydro, public thermal, private hydro and thermal, and new resources sufficient for one-half of post-1983 load growth. It would carry higher costs than Rate Group A. Rate Group B would recover:

(i) The remaining Federal system costs (net—over a period of time—of secondary revenues);

(ii) The cost of up to 4000 mw of relatively inexpensive private utility power to be sold to BPA; and

(iii) The portion of costs of new resources related to one-half of the load growth of all utilities.

c. Rate Group C would recover costs not included in Rate Groups A and B and would be the highest cost pool.

d. Subsection 10(j) of the legislation provides that public bodies and cooperatives and/or private utilities—each as a class—would be ensured of whatever advantages might accrue to them from the costs of their own new resources, when the difference between the costs of all new resources, as a whole, was one percent or more greater than costs from their new resources as a class.

3. *PNEPCO—The Regional Planning Organization.* The legislation recognizes a new regional planning body, the Pacific Northwest Electric Planning and Conservation Or-

ganization ("PNEPCO"). PNEPCO would be a non-profit corporation with membership open to all utilities in the region. Under PNEPCO, power planning would be more regional and more open than ever before. The PNEPCO board of directors would be evenly divided between public and private utility representatives. BPA and the Governors of each Northwest state could designate representatives to attend and participate in all PNEPCO meetings. PNEPCO's most important responsibilities would include preparation of regional load forecasts (taking into account the effects of conservation) and designation of the generating facilities or systems from which BPA may make long-term power purchases. All PNEPCO board meetings at which load forecasts or resource designation decisions are considered would be open to the public. Standards are included in the legislation to insure that no unnecessary new plants are built, that necessary plants are built without unnecessary costs, and that promising new technologies can be developed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. CORMAN (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. DORNAN (at the request of Mr. RHODES), for today, on account of the death of a close, personal friend.

Mr. GILMAN (at the request of Mr. RHODES), for today, on account of official business.

Mr. ZEFERETTI (at the request of Mr. BRINKLEY), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EVANS of Delaware) to revise and extend their remarks and include extraneous material:)

Mr. QUIE, for 10 minutes, today.

Mr. SEBELIUS, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

Mr. MCDADE, for 5 minutes, today.

(The following Members (at the request of Mr. BEILENSON) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LEDERER, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. PREYER, for 15 minutes, today.

Mr. STAGGERS, for 5 minutes, today.

Mr. DODD, for 10 minutes, today.

Mr. MCHUGH, for 5 minutes, on September 12.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MEEDS, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $2,495.50.

(The following Members (at the request of Mr. EVANS of Delaware) and to include extraneous matter:)

Mr. BAUMAN.

Mr. LATTA.

Mr. JOHNSON of Colorado in two instances.

Mr. BOB WILSON.

Mr. ABDNOR in two instances.

Mr. HILLIS.

Mr. RUDD.

Mr. MARKS in 10 instances.

Mr. MICHEL.

Mr. CRANE.

Mr. FINDLEY in two instances.

Mr. BUCHANAN.

Mr. KEMP in two instances.

Mr. WALSH.

Mr. ASHBROOK in three instances.

Mr. DERWINSKI in two instances.

Mr. MILLER of Ohio in four instances.

Mr. HAGEDORN.

Mr. WHALEN.

Mr. SHUSTER.

Mr. BURGENER.

Mr. COUGHLIN.

Mr. BURKE of Florida.

(The following Members (at the request of Mr. BEILENSON), and to include extraneous matter:)

Mr. FRASER.

Mr. EILBERG.

Mr. MURPHY of Illinois.

Mr. RUSSO in two instances.

Mr. HAMILTON.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. LEDERER.

Mr. JACOBS in two instances.

Mr. WOLFF.

Mr. HAWKINS.

Mr. REUSS.

Mr. PHILLIP BURTON.

Mr. FORD of Tennessee.

Mr. STAGGERS.

Mr. CARNEY.

Mr. EDGAR.

Mr. ULLMAN in six instances.

Mr. MCDONALD in three instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1560. An act to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5294. An act to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors; and

H.R. 7933. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

ADJOURNMENT

Mr. BEILENSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 41 minutes p.m.), under its previous order, the House adjourned until Monday, September 12, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2285. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Naval and Marine Corps Reserve, pursuant to 10 U.S.C. 2233a(1), to the Committee on Armed Services.

2286. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the proposed sale by the Air Force of certain defense articles and services to Iran (transmittal No. 77-46A), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2287. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the proposed sale by the Army of certain defense articles to Switzerland (transmittal No. 77-51), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2288. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-62, "To amend the Rental Accommodations Act of 1975," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2289. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-68, "To amend the District of Columbia Health Care Facilities Regulation (Reg. No. 74-15) to provide for licensing community residence facilities, and for related purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2290. A letter from the Assistant Secretary of Commerce for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2291. A letter from the Assistant Secretary of Commerce for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2292. A letter from the Assistant Secretary of Commerce for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2293. A letter from the Assistant Secretary of Commerce for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2294. A letter from the Assistant Secretary of Commerce for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2295. A letter from the Assistant Secretary of Commerce for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Commerce on Government Operations.

2296. A letter from the Assistant Secretary of State for Congressional Relations, transmittting a report on political contributions

the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr ZABLOCKI (for himself, Mr. BINGHAM, Mr ROSENTHAL, Mr FINDLEY, Mr. FASCELL, Mr DIGGS, Mr NIX, Mr FRASER, Mr WOLFF, Mr SOLARZ, Mr WINN, Mr STUDDS, Mr LAGOMARSINO, Mr GILMAN, Mr WHALEN, Mr PEASE, Mr IRELAND, Mr CAVANAUGH, Mrs MEYNER, and Mr BURKE of Florida).

H R 5840 A bill to amend the Export Administration Act of 1969 in order to extend the authorities of that act and improve the administration of export controls under that act, and to strengthen the antiboycott provisions of that act, to the Committee on International Relations

By Mr. DINGELL (for himself, Mr Moss, Mr OTTINGER, Mr MOFFETT, Mr MAGUIRE, Mr FLORIO, and Mr TRAXLER):

H R 5841 A bill to increase the efficiency of the production and use of electric energy, and for other purposes, to the Committee on Interstate and Foreign Commerce

By Mr BIAGGI

H R 5842 A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid, jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce

By Mr BROOMFIELD

H R 5843 A bill to amend the Internal Revenue Code of 1954 to exempt farmers from the highway use tax on heavy trucks used for farm purposes, to the Committee on Ways and Means

By Mr BROWN of California:

H R 5844 A bill to establish a demonstration farm program, to the Committee on Agriculture

By Mr COHEN

H R 5845 A bill to amend the Internal Revenue Code of 1954 to provide tax credits and deductions for the expenses of periodic physical examinations and to amend the Social Security Act to provide for coverage of periodic physical examinations in the medicare and medicaid programs, to the Committee on Ways and Means

By Mr CORNWELL (for himself Mr LE FANTE, Mr HUGHES Mr MOSS Mr DELLUMS, Mr BENNETT, Mr HANNAFORD, Mr MAZZOLI, Mr. ANDERSON of Illinois, Mr MATHIS Mr ST GERMAIN Mr JOHN L BURTON Mr STARK, Mr RAILSBACK, Mr LEACH and Mrs SIKES)

H R 5846 A bill to provide for the exclusion of industrially funded personnel in computing the total number of civilian personnel authorized by law for the Department of Defense in any fiscal year, to the Committee on Armed Services

By Mr DANIELSON

H R 5847 A bill to amend the Internal Revenue Code of 1954 to allow an itemized deduction for certain salaries and other compensation paid for personal services to the Committee on Ways and Means

By Mr DENT (for himself Mr MURPHY of Pennsylvania and Mr LEDERER)

H R 5848 A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce, to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest, to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service, to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers, and for other purposes, to the Committee on Interstate and Foreign Commerce

By Mr ECKHARDT (for himself, Mr BEDELL, Mrs COLLINS of Illinois, Mr EDWARDS of California, Mr HARRIS, Mr PICKLE, Mr ROSENTHAL, Mr SCHULZE, Mr TUCKER, and Mr WALKER).

H R 5849 A bill to amend the Budget and Accounting Act, 1921, to provide the Comptroller General additional authority to audit certain expenditures, to the Committee on Government Operations

By Mr FORD of Tennessee (for himself, Mr CONTE, Mr ALLEN, Mr BOLAND Mr CLEVELAND, Mr FITHIAN, Mr GORE, Mr MARKEY, Mr OBEY, Mr C BRIEN, Mr PATTERSON of California, Mr RANGEL, Mr RUDD, Mr STOCKMAN, and Mr ZABLOCKI)

H R 5850 A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits, to the Committee on Veterans' Affairs

By Mr FORSYTHE (for himself, Mr MURPHY of New York, Mr LEGGETT, Mr BREAUX, Mr PRITCHARD, Mr AKAKA, Mr AUCOIN, Mr BAUMAN, Mr EMERY Mr EVANS of Delaware, Mrs FENWICK, Mr FLORIO Mr HUGHES, Mr LENT, Mr MCCLOSKEY, Mr MAGUIRE Mrs MEYNER, Ms MIKULSKI, Mr OBERSTAR Mr RODINO, Mr RINALDO, Mr RUPPE, Mr STUDDS, Mr TRIBLE, and Mr ZFFERETTI)

H R 5851 A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 regarding the issuance of interim permits for ocean dumping and for other purposes, to the Committee on Merchant Marine and Fisheries

By Mr HAMMERSCHMIDT

H R 5852 A bill to amend title 38 of the United States Code to deny veterans benefits to certain individuals whose discharges from service during the Vietnam era under less than honorable conditions are administratively upgraded under temporarily revised standards to discharge under honorable conditions to the Committee on Veterans' Affairs

By Mr JONES of Oklahoma

H R 5853 A bill to provide for annual authorizations for appropriations to the U S Customs Service, to the Committee on Ways and Means

By Mr KILDEE (for himself, Mr MURPHY of New York Mr BAUCUS, Mr HANNAFORD Mr TRAXLER Mr BRODHEAD Ms OAKAR and Mr COUGHLIN)

H R 5854 A bill to amend title 18, United States Code to prohibit the sexual exploitation of children and the transportation in interstate or foreign commerce of photographs or films depicting such exploitation to the Committee on the Judiciary

By Mr KINDNESS (for himself, Mr HORTON, Mr MCCLORY, Mr MOORHEAD of California, Mr ERTEL, Mr BUTLER, Mr STEERS, Mr LAFALCE, Mr KETCHUM Mr KEMP, Mrs MEYNER, and Mr ROBINSON):

H R 5855 A bill to provide for the resolution of claims and disputes relating to the Government contracts awarded by executive agencies, to the Committee on the Judiciary

By Mr MARLENEE

H R 5856 A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care, jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr MICHEL

H R 5857 A bill to provide emergency drought assistance by authorizing the Secretary of Agriculture to pay certain costs of transporting water, to the Committee on Agriculture

By Mr. QUIE (for himself, Mr. ANDREWS of North Dakota, Mr FRASER, Mr. HAGEDORN, Mr STANGELAND, Mr. VENTO, Mr OBERSTAR, Mr MARLENEE, Mr FRENZEL, and Mr NOLAN):

H R 5858 A bill to amend the Tariff Schedules of the United States to permit the free entry of Canadian petroleum (including reconstituted crude petroleum) and crude shale oil, provided that an equivalent amount of the same kind and quality of domestic or duty-paid foreign crude petroleum (including reconstituted crude petroleum) and crude shale oil has been exported to Canada, to the Committee on Ways and Means.

By Mr STARK:

H R 5859. A bill to extend the age limitation before which certain passenger vessels can qualify for operating-differential subsidies from 25 years to 30 years, to the Committee on Merchant Marine and Fisheries.

By Mr VANIK

H R 5860 A bill to provide for annual authorizations for appropriations to the U S Customs Service, to the Committee on Ways and Means

By Mr WAGGONNER (for himself, Mr MOORE, and Mr TREEN)

H R 5861 A bill to prohibit the Federal Trade Commission from promulgating trade regulation rules which repeal or limit use of holder in due course defenses in connection with the sale or lease of goods or services to consumers, to the Committee on Interstate and Foreign Commerce

By Mr. WEAVER:

H.R. 5862. A bill to establish a regional energy corporation with power to generate and purchase, integrate and pool, and market all the electric energy in the Pacific Northwest Region with emphasis on conservation of energy and a preferental rate for residential consumers, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Public Works and Transportation

By Mr WEAVER (for himself, Mr ULLMAN, Mr DUNCAN of Oregon, Mr SYMMS, Mr SKELTON, Mr HUCKABY, Mr RICHMOND Mr SEBELIUS, Mr MEEDS, and Mr JOHNSON of Colorado)

H R 5863 A bill to establish an Advisory Committee on Timber Sales Procedure appointed by the Secretary of Agriculture for the purposes of studying and making recommendations with respect to, procedures by which timber is sold by the Forest Service and to provide an opportunity for congressional review, to the Committee on Agriculture

By Mr MANN (for himself Mr HOLTZMAN, Mr HALL, Mr GUDGER, Mr EVANS of Georgia, Mr WIGGINS, and Mr HYDE)

H R 5864 A bill to approve with modifications certain proposed amendments to the Federal Rules of Criminal Procedures to disapprove other such proposed amendments, and for other related purposes, to the Committee on the Judiciary

By Mr MANN

H R 5865 A bill to amend title 18 of the United States Code to provide a procedure for obtaining search warrants on the basis of oral testimony, to the Committee on the Judiciary

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