

Public Law 88-552

August 31, 1964
[S. 1007]

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.

Pacific North-
west.
Federal hydro-
electric plants.
Definitions.

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.

(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.

SEC. 2. Subject to the provisions of this Act, the sale, delivery, and exchange of electric energy generated at, and peaking capacity of, Federal hydroelectric plants in the Pacific Northwest for use outside the Pacific Northwest shall be limited to surplus energy and surplus peaking capacity. At least 30 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 Booneville Power Administration written 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.

SEC. 3. (a) Any contract for the sale or exchange of surplus energy for use outside the Pacific Northwest, or as replacement, directly or

Notice to
purchasers.

Deliveries.

indirectly, within the Pacific Northwest for hydroelectric 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 the effective date of this Act) shall not be deemed deliveries by such utility for use outside the Pacific Northwest.

(b) Electric energy generated at Federal hydroelectric 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.

Contracts.

(d) The Secretary, in making any determination of the energy requirements of any Pacific Northwest customer which is a non-Federal utility having hydroelectric generating facilities, shall exclude any amounts of hydroelectric 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.

SEC. 4. Any contract of the Secretary for the sale or exchange of electric energy generated at, or peaking capacity of, Federal hydroelectric 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 2 and 3 for any contract for the sale or exchange of hydroelectric energy or peaking

Limitations.

capacity generated within the Pacific Northwest for use outside the Pacific Northwest.

Exchange con-
tracts.

SEC. 5. Without regard to the limitations specified in sections 2 and 3 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 hydroelectric 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 draw-down period, (3) any hydroelectric energy which will be returned to the Pacific Northwest in equal amounts during the same Pacific Northwest storage drawdown period, (4) hydroelectric 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.

SEC. 6. 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 9, shall 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 9, or other electric energy.

Rates.

SEC. 7. The Secretary shall offer to amend, without imposing any other requirement as a condition to such amendment, all existing contracts for the sale or exchange of electric power generated at Federal hydroelectric plants in the Pacific Northwest to include, and shall include in all new contracts, provisions giving the purchaser priority on electric power generated at such plants in conformity with the provisions of this Act.

SEC. 8. 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 of the Interior to construct transmission lines to market power and energy.

Nonapplicabil-
ity.

SEC. 9. The provisions of this Act shall not be applicable to (1) the Canyon Ferry project and (2), except as provided in section 6, 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), as amended.

Approved August 31, 1964.

43 USC 593a,
593b, and notes.

Public Law 88-553

AN ACT

August 31, 1964
[H. R. 12278]

To authorize the Secretary of the Navy to convey to the city of Sunnyvale, State of California, certain lands in the county of Santa Clara, State of California, in exchange for certain other lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provisions of law, the Secretary of the Navy, or his designee, is authorized to convey to the city of Sunnyvale, State of California, subject to the terms and conditions hereinafter stated, and to such other terms and conditions as the Secretary of the Navy, or his designee, shall deem to be in the public interest, all right, title, and interest of the United States in and to lands located in the county of Santa Clara, State of California, described substantially as follows:

Sunnyvale, Calif.
Land exchange.

A parcel of land situate in the Rancho Pastoria de las Borregas, Santa Clara County, California, said parcel being a portion of that certain 153.133 acre tract of land described in judgment entered August 26, 1952, in civil action numbered 31783 had in the District Court of the United States in and for the Northern District of California, Southern Division, a copy of said judgment being recorded in book 2477, official records, at page 487, Records of Santa Clara County, and the boundaries of said parcel being described as follows:

Beginning at a granite monument set at the point of intersection of the northerly line of Maude Avenue with the centerline of Mountain View and Alviso Road as said monument is shown on that certain map entitled, "Map of the Partition of Part of the Rancho Pastoria de las Borregas Patented to Martin Murphy, Jr." filed April 29, 1893, in the office of the recorder, Santa Clara County, California, in book G of maps at pages 74 and 75, from said point of beginning; thence,

- (1) north 57 degrees 00 minutes 30 seconds east, 54.33 feet to a point in the centerline of Mountain View and Alviso Road; thence
- (2) north 15 degrees 21 minutes east, 1,757.62 feet to a point; thence
- (3) north 74 degrees 44 minutes 10 seconds west, 432.23 feet to a point; thence
- (4) north 16 degrees 24 minutes east, 430.00 feet to a point; thence
- (5) north 74 degrees 44 minutes 10 seconds west, 415.16 feet to a point; thence
- (6) north 16 degrees 24 minutes east, 555.00 feet to the northerly terminus of the course designated as "(16)" in the aforesaid judgment; thence
- (7) south 74 degrees 44 minutes 10 seconds east, along the course designated as "(15)" in the aforesaid judgment, 800.00 feet to a point; thence