

104TH CONGRESS
1ST SESSION

S. 92

To provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. HATFIELD (for himself and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bonneville Power
5 Administration Appropriations Refinancing Act”.

6 **SEC. 2. DEFINITIONS.**

7 For the purposes of this Act—

1 (1) “Administrator” means the Administrator
2 of the Bonneville Power Administration;

3 (2) “capital investment” means a capitalized
4 cost funded by Federal appropriations that—

5 (A) is for a project, facility, or separable
6 unit or feature of a project or facility;

7 (B) is a cost for which the Administrator
8 is required by law to establish rates to repay to
9 the United States Treasury through the sale of
10 electric power, transmission, or other services;

11 (C) excludes a Federal irrigation invest-
12 ment; and

13 (D) excludes an investment financed by the
14 current revenues of the Administrator or by
15 bonds issued and sold, or authorized to be is-
16 sued and sold, by the Administrator under sec-
17 tion 13 of the Federal Columbia River Trans-
18 mission System Act (16 U.S.C. 838(k));

19 (3) “new capital investment” means a capital
20 investment for a project, facility, or separable unit
21 or feature of a project or facility, placed in service
22 after September 30, 1995;

23 (4) “old capital investment” means a capital in-
24 vestment whose capitalized cost—

1 (A) was incurred, but not repaid, before
2 October 1, 1995, and

3 (B) was for a project, facility, or separable
4 unit or feature of a project or facility, placed in
5 service before October 1, 1995;

6 (5) “repayment date” means the end of the pe-
7 riod within which the Administrator’s rates are to
8 assure the repayment of the principal amount of a
9 capital investment; and

10 (6) “Treasury rate” means—

11 (A) for an old capital investment, a rate
12 determined by the Secretary of the Treasury,
13 taking into consideration prevailing market
14 yields, during the month preceding October 1,
15 1995, on outstanding interest-bearing obliga-
16 tions of the United States with periods to matu-
17 rity comparable to the period between October
18 1, 1995, and the repayment date for the old
19 capital investment; and

20 (B) for a new capital investment, a rate
21 determined by the Secretary of the Treasury,
22 taking into consideration prevailing market
23 yields, during the month preceding the begin-
24 ning of the fiscal year in which the related
25 project, facility, or separable unit or feature is

1 placed in service, on outstanding interest-bear-
2 ing obligations of the United States with peri-
3 ods to maturity comparable to the period be-
4 tween the beginning of the fiscal year and the
5 repayment date for the new capital investment.

6 **SEC. 3. NEW PRINCIPAL AMOUNTS.**

7 (a) Effective October 1, 1995, an old capital invest-
8 ment has a new principal amount that is the sum of—

9 (1) the present value of the old payment
10 amounts for the old capital investment, calculated
11 using a discount rate equal to the Treasury rate for
12 the old capital investment; and

13 (2) an amount equal to \$100,000,000 multi-
14 plied by a fraction whose numerator is the principal
15 amount of the old payment amounts for the old cap-
16 ital investment and whose denominator is the sum of
17 the principal amounts of the old payment amounts
18 for all old capital investments.

19 (b) With the approval of the Secretary of the Treas-
20 ury based solely on consistency with this Act, the Adminis-
21 trator shall determine the new principal amounts under
22 section 3 and the assignment of interest rates to the new
23 principal amounts under section 4.

24 (c) For the purposes of this section, “old payment
25 amounts” means, for an old capital investment, the annual

1 interest and principal that the Administrator would have
2 paid to the United States Treasury from October 1, 1995,
3 if this Act were not enacted, assuming that—

4 (1) the principal were repaid—

5 (A) on the repayment date the Adminis-
6 trator assigned before October 1, 1993, to the
7 old capital investment, or

8 (B) with respect to an old capital invest-
9 ment for which the Administrator has not as-
10 signed a repayment date before October 1,
11 1993, on a repayment date the Administrator
12 shall assign to the old capital investment in ac-
13 cordance with paragraph 10(d)(1) of the ver-
14 sion of Department of Energy Order RA
15 6120.2 in effect on October 1, 1993; and

16 (2) interest were paid—

17 (A) at the interest rate the Administrator
18 assigned before October 1, 1993, to the old cap-
19 ital investment, or

20 (B) with respect to an old capital invest-
21 ment for which the Administrator has not as-
22 signed an interest rate before October 1, 1993,
23 at a rate determined by the Secretary of the
24 Treasury, taking into consideration prevailing
25 market yields, during the month preceding the

1 beginning of the fiscal year in which the related
2 project, facility, or separable unit or feature is
3 placed in service, on outstanding interest-bear-
4 ing obligations of the United States with peri-
5 ods to maturity comparable to the period be-
6 tween the beginning of the fiscal year and the
7 repayment date for the old capital investment.

8 **SEC. 4. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.**

9 As of October 1, 1995, the unpaid balance on the
10 new principal amount established for an old capital invest-
11 ment under section 3 bears interest annually at the Treas-
12 ury rate for the old capital investment until the earlier
13 of the date that the new principal amount is repaid or
14 the repayment date for the new principal amount.

15 **SEC. 5. REPAYMENT DATES.**

16 As of October 1, 1995, the repayment date for the
17 new principal amount established for an old capital invest-
18 ment under section 3 is no earlier than the repayment date
19 for the old capital investment assumed in section 3(c)(1).

20 **SEC. 6. PREPAYMENT LIMITATIONS.**

21 During the period October 1, 1995, through Septem-
22 ber 30, 2000, the total new principal amounts of old cap-
23 ital investments, as established under section 3, that the
24 Administrator may pay before their respective repayment
25 dates shall not exceed \$100,000,000.

1 **SEC. 7. INTEREST RATES FOR NEW CAPITAL INVESTMENTS**
2 **DURING CONSTRUCTION.**

3 (a) The principal amount of a new capital investment
4 includes interest in each fiscal year of construction of the
5 related project, facility, or separable unit or feature at a
6 rate equal to the one-year rate for the fiscal year on the
7 sum of—

8 (1) construction expenditures that were made
9 from the date construction commenced through the
10 end of the fiscal year, and

11 (2) accrued interest during construction.

12 (b) The Administrator is not required to pay, during
13 construction of the project, facility, or separable unit or
14 feature, the interest calculated, accrued, and capitalized
15 under subsection (a).

16 (c) For the purposes of this section, “one-year rate”
17 for a fiscal year means a rate determined by the Secretary
18 of the Treasury, taking into consideration prevailing mar-
19 ket yields, during the month preceding the beginning of
20 the fiscal year, on outstanding interest-bearing obligations
21 of the United States with periods to maturity of approxi-
22 mately one year.

23 **SEC. 8. INTEREST RATES FOR NEW CAPITAL INVESTMENTS.**

24 The unpaid balance on the principal amount of a new
25 capital investment bears interest at the Treasury rate for
26 the new capital investment from the date the related

1 project, facility, or separable unit or feature is placed in
2 service until the earlier of the date the new capital invest-
3 ment is repaid or the repayment date for the new capital
4 investment.

5 **SEC. 9. APPROPRIATED AMOUNTS.**

6 The Confederated Tribe of the Colville Reservation
7 Grand Coulee Dam Settlement Act (Public Law No. 103-
8 436) is amended by striking section 6 and its catchline
9 and inserting the following:

10 **“SEC. 6. APPROPRIATED AMOUNTS.**

11 “(a) Without fiscal year limitation, there are appro-
12 priated to the Administrator \$15.25 million in fiscal year
13 1996, \$15.86 million in fiscal year 1997, \$16.49 million
14 in fiscal year 1998, \$17.15 million in fiscal year 1999,
15 \$17.84 million in fiscal year 2000, and \$4.10 million in
16 each succeeding fiscal year so long as the Administrator
17 makes annual payments to the Tribes under the settle-
18 ment agreement.

19 “(b) For the purposes of this section—

20 “(1) ‘settlement agreement’ means that settle-
21 ment agreement between the United States of Amer-
22 ica and the Confederated Tribes of the Colville Res-
23 ervation signed by the Tribes on April 16, 1994, and
24 by the United States of America on April 21, 1994,
25 which settlement agreement resolves claims of the

1 Tribes in Docket 181–D of the Indian Claims Com-
2 mission, which docket has been transferred to the
3 United States Court of Federal Claims; and

4 “(2) ‘Tribes’ means the Confederated Tribes of
5 the Colville Reservation, a federally recognized In-
6 dian Tribe.”.

7 **SEC. 10. CONTRACT PROVISIONS.**

8 In each contract of the Administrator that provides
9 for the Administrator to sell electric power, transmission,
10 or related services, and that is in effect after September
11 30, 1995, the Administrator shall offer to include, or as
12 the case may be, shall offer to amend to include, provisions
13 specifying that after September 30, 1995—

14 (1) the Administrator shall establish rates and
15 charges on the basis that—

16 (A) the principal amount of an old capital
17 investment shall be no greater than the new
18 principal amount established under section 3 of
19 this Act;

20 (B) the interest rate applicable to the un-
21 paid balance of the new principal amount of an
22 old capital investment shall be no greater than
23 the interest rate established under section 4 of
24 this Act;

1 (C) any payment of principal of an old
2 capital investment shall reduce the outstanding
3 principal balance of the old capital investment
4 in the amount of the payment at the time the
5 payment is tendered; and

6 (D) any payment of interest on the unpaid
7 balance of the new principal amount of an old
8 capital investment shall be a credit against the
9 appropriate interest account in the amount of
10 the payment at the time the payment is ten-
11 dered;

12 (2) apart from charges necessary to repay the
13 new principal amount of an old capital investment as
14 established under section 3 of this Act and to pay
15 the interest on the principal amount under section 4
16 of this Act, no amount may be charged for return
17 to the United States Treasury as repayment for or
18 return on an old capital investment, whether by way
19 of rate, rent, lease payment, assessment, user
20 charge, or any other fee;

21 (3) amounts provided under section 1304 of
22 title 31, United States Code, shall be available to
23 pay, and shall be the sole source for payment of, a
24 judgment against or settlement by the Administrator

1 or the United States on a claim for a breach of the
2 contract provisions required by this Act; and

3 (4) the contract provisions specified in this Act
4 do not—

5 (A) preclude the Administrator from recov-
6 ering, through rates or other means, any tax
7 that is generally imposed on electric utilities in
8 the United States, or

9 (B) affect the Administrator’s authority
10 under applicable law, including section 7(g) of
11 the Pacific Northwest Electric Power Planning
12 and Conservation Act (16 U.S.C. 839e(g)), to—

13 (i) allocate costs and benefits, includ-
14 ing but not limited to fish and wildlife
15 costs, to rates or resources, or

16 (ii) design rates.

17 **SEC. 11. SAVINGS PROVISIONS.**

18 (a) This Act does not affect the obligation of the Ad-
19 ministrator to repay the principal associated with each
20 capital investment, and to pay interest on the principal,
21 only from the “Administrator’s net proceeds,” as defined
22 in section 13 of the Federal Columbia River Transmission
23 System Act (16 U.S.C. 838k(b)).

24 (b) Except as provided in section 6 of this Act, this
25 Act does not affect the authority of the Administrator to

- 1 pay all or a portion of the principal amount associated
- 2 with a capital investment before the repayment date for
- 3 the principal amount.

