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### WESTERN AREA POWER ADMINISTRATION TRANSPARENCY ACT

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JULY 31, 2018.—Ordered to be printed

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Ms. MURKOWSKI, from the Committee on Energy and Natural  
Resources, submitted the following

### R E P O R T

[To accompany S. 930]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 930) to require the Administrator of the Western Area Power Administration to establish a pilot project to provide increased transparency for customers, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

#### AMENDMENT

The amendment is as follows:  
Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Western Area Power Administration Transparency Act”.

#### SEC. 2. WESTERN AREA POWER ADMINISTRATION PILOT PROJECT.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Administrator of the Western Area Power Administration (referred to in this section as the “Administrator”) shall—

(1) establish a pilot project, as part of the continuous process improvement program and to provide increased transparency for customers

(A) to make available a database of information relating to the Western Area Power Administration in accordance to paragraph (2); and

(B) to provide annual updates to the database in accordance with subsection (b); and

(2) publish on a publically available website of the Western Area Power Administration, a database of the following information, beginning with fiscal year 2008, relating to the Western Area Power Administration:

(A) By power system and in a consistent format, rates charged to customers for power and transmission service.

(B) By power system, the amount of capacity or energy sold.

(C) By region, an accounting, at the task level, budget activity level, organizational code level, and object class level, of all expenditures, including—

(i) indirect costs, including overhead costs;

(ii) direct charges and direct allocations;

(iii) costs related to contract staff;

(iv) costs related to independent consultants;

(v) the number of full-time equivalents;

(vi) charges to the regions from the headquarters office of the Western Area Power Administration for all annual and capital costs; and

(vii) expenses incurred on behalf of other Federal agencies or programs or third parties for the administration of programs not related to the marketing, transmission, or wheeling of Federal hydropower resources within the Western Area Power Administration marketing area, including—

(I) indirect costs, including overhead costs;

(II) direct charges and allocations;

(III) costs related to contract staff; and

(IV) the number of full-time equivalents.

(D) For the headquarters office of the Western Area Power Administration, an accounting, at the task level, budget activity level, organizational code level, and object class level, of all expenditures, including—

(i) indirect costs, including overhead costs;

(ii) direct charges and direct allocations;

(iii) costs related to contract staff;

(iv) costs related to independent consultants’

(v) the number of full-time equivalents;

(vi) a summary of any expenditures described in this paragraph, with the total amount paid by each region and power system; and

(vii) expenses incurred on behalf of other Federal agencies or programs or third parties for the administration of programs not related to the marketing, transmission, or wheeling of Federal hydropower resources within the Western Area Power Administration marketing area, including—

(I) indirect costs, including overhead costs;

(II) direct charges and allocations;

(III) costs related to contract staff; and

(IV) the number of full-time equivalents.

(E) Capital expenditures for each project, including—

(i) Capital investments delineated by the year in which each investment is placed into service; and

(ii) the sources of capital for each investment.

(b) ANNUAL SUMMARY.—

(1) IN GENERAL.—Not later than 120 days after the end of each fiscal year in which the pilot project is being carried out under this section, the Administrator shall make available on a publicly available website—

(A) updates to documents made available on the date of the initial publication of the information on the website under subsection (a)(2);

(B) an identification of the annual changes in the information published on the website under subsection (a)(2);

(C) the reasons for the changes identified under subparagraph (B);

(D) subject to paragraph (2), the total amount of the unobligated balances retained by the Western Area Power Administration at the end of the prior fiscal year within each project and headquarters by—

(i) purpose or function;

(ii) source of funding;

(iii) anticipated program allotment; and

(iv) underlying authority for each source of funding; and

(E) the anticipated level of unobligated balances that the Western Area Power Administration expects to retain at the end of the fiscal year in which the annual summary is published, as delineated by each of the categories described in clauses (i) through (iv) of subparagraph (D).

(2) LIMITATION.—Amounts in the Upper Colorado River Basin Fund established by section 5(a) of the Act of April 11, 1956 (commonly known as the “Col-

orado River Storage Project Act”) (43 U.S.C. 620d(a)), shall not be considered to be an unobligated balance retained by the Western Area Power Administration for purposes of paragraph (1)(D).

(c) TERMINATION.—The pilot project under this section shall terminate on the date that is 7 years after the date of enactment of this Act.

#### PURPOSE

The purpose of S. 930 is to require the Administrator of the Western Area Power Administration (WAPA) to establish a pilot project to provide increased transparency for customers.

#### BACKGROUND AND NEED

WAPA is one of four Power Marketing Administrations charged with the marketing and transmission of hydropower from federal facilities. WAPA markets power from 56 hydropower plants to nearly 700 wholesale customers, serving over 40 million people in 15 states across the western United States.

WAPA’s roughly \$1 billion annual budget is funded through a combination of direct appropriations and revenues collected from its customers. Over time, differences between budgeted and executed amounts have built up large “unobligated balances.” Certain levels of unobligated balances are a necessary financing tool that agencies like WAPA use to avoid sudden spikes in needed appropriations or electric rates for both planned and unanticipated capital projects. However, in an October 2015 report entitled “2013 Sequestration and Shutdown,” the Government Accountability Office found that WAPA’s unobligated balances exceeded the levels it needed to execute its mission.

In response to calls for increased transparency, WAPA created an online repository of financial information. This repository has helped improve transparency, but additional steps would allow a more detailed understanding of how WAPA is using taxpayer and ratepayer funds and ensure that customers have the ability to engage constructively with WAPA on operations and spending decisions.

#### LEGISLATIVE HISTORY

S. 930 was introduced by Senator Flake on April 25, 2017. The Subcommittee on Water and Power held a legislative hearing on S. 930 on June 14, 2017.

A similar measure, H.R. 2371, was introduced by Representative Gosar in the House of Representatives on May 4, 2017. The Natural Resources Committee’s Subcommittee on Water, Power and Oceans held a hearing on H.R. 2371 on May 18, 2017. The bill was reported by the Natural Resources Committee by unanimous consent on July 26, 2017, and was passed by the House of Representatives by voice vote on February 7, 2018.

In the 114th Congress, a similar provision was included in S. 2012, the Energy Policy Modernization Act of 2016, which the Senate passed on April 20, 2016 by a vote of 85–12.

The Committee on Energy and Natural Resources met in open business session on May 17, 2018, and ordered S. 930 favorably reported, as amended.

## COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on May 17, 2018, by a majority voice vote of a quorum present recommends that the Senate pass S. 930, if amended as described herein.

## COMMITTEE AMENDMENT

During its consideration of S. 930, the Committee adopted an amendment in the nature of a substitute. For purposes of accounting for regional and WAPA headquarters-related costs, the amendment deleted the terms “functional level,” “capital costs,” and “staffing costs” and inserted the terms “task level,” “organizational code level,” and “object class level.” The amendment is further described in the section-by-section analysis.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

Section 1 sets forth a short title.

*Section 2. Western Area Power Administration Pilot Project*

Section 2(a) directs the WAPA Administrator to establish a pilot project to provide increased transparency for customers by making an information database available and annually updating the database with the following WAPA-related information, beginning with fiscal year 2008: rates charged to customers for power and transmission service by power system; the amount of capacity or energy sold by power system; and an accounting at the task level, budget activity level, organizational code level, and object class level of all expenditures by region and for the headquarters office; and capital expenditures for each project.

Subsection (b) directs the Administrator to update the information provided on the publically available website on an annual basis, including changes published by the Administration and the rationale for such changes; the total amount of unobligated balances retained at the end of the prior fiscal year within each project and at headquarters, excluding amounts in the Upper Colorado River Basin Fund (43 U.S.C. 620d(a)); and the anticipated level of unobligated balances WAPA expects to retain at the end of the fiscal year. Updates must be completed within 120 days after the end of the fiscal year.

Subsection (c) terminates the pilot project seven years after the Act’s enactment.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

S. 930 would direct the Western Area Power Administration (WAPA) to make more information about its financial operations available to the public. WAPA is an agency within the Department of Energy that markets electricity produced at federally owned dams in several western states. WAPA’s expenditures are funded by annual appropriations and are offset over time by income from the sale of electricity.

Using information from WAPA, CBO estimates that implementing S. 930 would cost less than \$500,000 over the 2019–2023 period, subject to the availability of appropriated funds, and would primarily involve making existing data available in new formats. According to WAPA, much of that work is being done under current law. Enacting [Title] would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 930 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 930 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On August 16, 2017, CBO transmitted a cost estimate for H.R. 2371 as ordered reported by the House Committee on Natural Resources on July 26, 2017. The provisions in the two bills are similar and the estimated costs are the same.

The CBO staff contact for this estimate is Kathleen Gramp. The estimate was reviewed by Theresa Gullo, Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 930. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 930, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 930, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the U.S. Department of Energy at the June 14, 2017, hearing on S. 930 follows:

STATEMENT OF MR. MARK A. GABRIEL, ADMINISTRATOR,  
WESTERN AREA POWER ADMINISTRATION, U.S. DEPARTMENT OF ENERGY, BEFORE THE SUBCOMMITTEE ON WATER AND POWER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE

Mr. Chairman and members of the subcommittee, I am Mark A. Gabriel, Administrator of Western Area Power Administration (WAPA)—one of four power marketing administrations within the Department of Energy whose role is to market and transmit wholesale electricity from multi-use Federal water projects.

For the past 40 years WAPA has supplied at-cost electricity to hundreds of municipalities, rural electric coopera-

tives, public utilities, irrigation districts, Federal and state agencies, military installations, and Native American tribes across 15 states. Forty million people benefit from the Federal hydropower and transmission services WAPA provides.

They depend on us to provide reliable service, not only today, but also into the future. Low-cost Federal hydropower was a cornerstone in the development of the West, and it remains a key element of the economic life in maintaining strong communities. WAPA serves a diverse customer base across a 15-state territory the size of Paris to Moscow and Athens to Oslo. We are a complex organization with 10 rate-setting systems. Our employees work tirelessly to maximize the value of the hydropower we market. We do this by offering the lowest-cost rates consistent with sound business principles.

Let me begin by saying that WAPA is committed to transparency, and so am I. In the four years I have served as the head of the organization, we have proactively taken multiple steps to evolve and increase our transparency efforts, and we will continue to do so.

Now, I would like to address what I believe has prompted this proposed legislation: Some of our customers want access to more information that informs our planning and operations at our Headquarters office and an understanding of how it relates to our annual budget and ultimately, their rates. This is a reasonable request and we are working toward that end with many of our customers through our multiple processes.

I understand customer concern for rates. As consumers, they are right to ask questions. Our rates, are extremely competitive. For example, our customers in Arizona benefit from rates that are significantly less than comparable wholesale and retail rates. In our Upper Great Plains Region, due to partnership and forward-looking planning, customers will be seeing rate reductions in 2018, the second year in a row.

Now back to our growth. Our Headquarters staff and budget has, in fact, grown over the past decade. It is bringing value to our organization—and customers—and keeps us well-positioned amid changing times in our dynamic industry. It is aligned with our commitment to business excellence and sound business practices, and enables us to continue delivering our mission and maximize the value of hydropower for all of our customers.

Our growth in headquarters staff has allowed us to build a Continuous Process Improvement Program that has resulted in \$34 million in cost-avoidance and cost-savings—a 217-percent return on investment. Some of our “growth,” is not growth at all, but an organizational realignment and shifting of budget that resulted in increased efficiencies, and allows us to improve our ability to adhere to mandatory compliance standards and laws, such as Critical Infrastructure Protection and the Federal Information Technology Acquisition Reform Act. Some of our customers may

not agree with the changes that we have made. I believe it is, in part, because we did not do a good enough job communicating early and sufficiently.

We have already begun to increase transparency specifically regarding our headquarters budget. I am proud of the efforts that began three years ago to address transparency and communication gaps, and the incremental progress we have since made.

Customers have stated they are already seeing improvements in how we engage with them on budget issues. We are working well with the Mid-West Electric Consumers Association, our California customer base, and the Colorado River Energy Distributors Association. Thanks to our customers in Arizona we are now partners in a Customer Technical Committee to address a number of improvement opportunities including financial transparency.

We developed a more consistent 10-Year Planning process across our regional offices, hosted annual all-customer meetings since 2014, and, last year, opened up our Headquarters 10-Year Planning process to customers with more engagement in the coming year. Additionally, we host or attend more than 300 meetings with customers every year to share information and answer questions.

Just over a year ago we launched The Source—a page on our website dedicated to sharing operational and auditable financial statements. Much of the information was already on our website, but we brought it to one convenient location and put it front and center. It includes annual reports, presentations, a searchable index of power system data, rates information, key topics and customer news.

We have produced and made available reams of data. We have memorandums of understanding in place with many customer groups, agreeing to share and discuss financial information. We are exploring ways to further expand our engagement.

Our recent transparency efforts are consistent with the spirit of the proposed transparency legislation.

We are committed to sharing information openly and honestly and providing a mechanism for feedback. As an organization, we are accountable for delivering on our mission and responsible for the stewardship of our program and resources for all of our region's customers.

As a public servant charged with leading a federal organization—a utility—I am ultimately responsible for the safe and reliable operation of our large and interconnected generation and transmission system. I take my responsibility in earnest.

Thank you for the opportunity to speak with you today. I look forward to answering your questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill as ordered reported.

