

any of the bonds acquired by him under this chapter. 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.

(Pub. L. 93-454, §13, Oct. 18, 1974, 88 Stat. 1380; Pub. L. 96-501, §8(c), (d), Dec. 5, 1980, 94 Stat. 2728, 2729.)

REFERENCES IN TEXT

The Pacific Northwest Electric Power Planning and Conservation Act, referred to in subsec. (a), is Pub. L. 96-501, Dec. 5, 1980, 94 Stat. 2697, which is classified principally to chapter 12H (§839 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 839 of this title and Tables.

CODIFICATION

In subsec. (c), “chapter 31 of title 31” substituted for “the Second Liberty Bond Act” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-501, §8(d), inserted provision relating to the implementation of the Administrator’s authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, inserted “issued by Government corporations” after “rates prevailing in the market for similar bonds”, increased the existing \$1,250,000,000 aggregate principal limitation by an additional \$1,250,000,000 after Oct. 1, 1981, to be used to provide funds for conservation and renewable resource loans and grants in a special revolving account created for that purpose, and inserted provision that, 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 that year to be repaid to the Treasury by the end of that year under the repayment criteria of the Secretary of Energy and if that failure is due to reasons other than a decrease in power sale revenues due to fluctuating streamflows or 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 that fiscal year.

Subsec. (b). Pub. L. 96-501, §8(c), substituted “, (b)(11), and (b)(12) of this title,” for “and (b)(11) of this title,”.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-501 effective Dec. 5, 1980, see section 11 of Pub. L. 96-501, set out as an Effective Date note under section 839 of this title.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 838i, 838l, 839e of this title; title 2 section 905.

§ 838l. Bonneville Power Administration refinancing

(a) Definitions

For the purposes of this section—

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

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

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

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

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 838k of this title;

(3) “new capital investment” means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1996;

(4) “old capital investment” means a capital investment the capitalized cost of which—

(A) was incurred, but not repaid, before October 1, 1996, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1996;

(5) “repayment date” means the end of the period within which the Administrator’s rates are to assure the repayment of the principal amount of a capital investment; and

(6) “Treasury rate” means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1996, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1996, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

(b) New principal amounts

(1) Principal amount

Effective October 1, 1996, an old capital investment has a new principal amount that is the sum of—

(A) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(B) an amount equal to \$100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(2) Determination

With the approval of the Secretary of the Treasury based solely on consistency with this section, the Administrator shall determine the new principal amounts under subsection (b) of this section and the assignment of interest rates to the new principal amounts under subsection (c) of this section.

(3) Old payment amounts

For the purposes of this subsection, “old payment amounts” means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1996, if this section had not been enacted, assuming that—

(A) the principal were repaid—

(i) on the repayment date the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1994, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1994; and

(B) interest were paid—

(i) at the interest rate the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1994, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

(c) Interest rate for new principal amounts

As of October 1, 1996, the unpaid balance on the new principal amount established for an old capital investment under subsection (b) of this section bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

(d) Repayment dates

As of October 1, 1996, the repayment date for the new principal amount established for an old capital investment under subsection (b) of this section is no earlier than the repayment date for the old capital investment assumed in subsection (b)(3)(A) of this section.

(e) Prepayment limitations

During the period October 1, 1996, through September 30, 2001, the total new principal amounts of old capital investments, as established under

subsection (b) of this section, that the Administrator may pay before their respective repayment dates shall not exceed \$100,000,000.

(f) Interest rates for new capital investments during construction**(1) New capital investment**

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

(A) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(B) accrued interest during construction.

(2) Payment

The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (f)(1) of this section.

(3) One-year rate

For the purposes of this section, “one-year rate” for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

(g) Interest rates for new capital investments

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

(h) Omitted**(i) Contract provisions**

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1996, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1996—

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

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under subsection (b) of this section;

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under subsection (c) of this section;

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

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under subsection (b) of this section and to pay the interest on the principal amount under subsection (c) of this section, no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31 shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this Part;¹ and

(4) the contract provisions specified in this Part¹ do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 839e(g) of this title, to—

- (i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or
- (ii) design rates.

(j) Savings provisions

(1) Repayment

This section does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 838k(b) of this title.

(2) Payment of capital investment

Except as provided in subsection (e) of this section, this section does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

(Pub. L. 104-134, title III, §3201, Apr. 26, 1996, 110 Stat. 1321-350.)

CODIFICATION

Section was enacted as part of the Omnibus Consolidated Recissions and Appropriations Act of 1996, and not as part of the Federal Columbia River Transmission System Act which comprises this chapter.

Section is comprised of section 3201 of Pub. L. 104-134. Subsec. (h) of section 3201 of Pub. L. 104-134 amended section 6 of Pub. L. 103-436, which is not classified to the Code.

CHAPTER 12H—PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION

Sec. 839. Congressional declaration of purpose.

¹ So in original. Probably should be "section;" or "section".

- Sec. 839a. Definitions.
- 839b. Regional planning and participation.
 - (a) Pacific Northwest Electric Power and Conservation Planning Council; establishment and operation as regional agency.
 - (b) Alternative establishment of Council as Federal agency.
 - (c) Organization and operation of Council.
 - (d) Regional conservation and electric power plan.
 - (e) Plan priorities and requisite features; studies.
 - (f) Model conservation standards; surcharges.
 - (g) Public information; consultation; contracts and technical assistance.
 - (h) Fish and wildlife.
 - (i) Review.
 - (j) Requests by Council for action.
 - (k) Review and analysis of 5-year period of Council activities.
- 839c. Sale of power.
 - (a) Preferences and priorities.
 - (b) Sales to public bodies, cooperatives, and Federal agency customers.
 - (c) Purchase and exchange sales.
 - (d) Sales to existing direct service industrial customers.
 - (e) Contractual entitlements to firm power.
 - (f) Surplus power.
 - (g) Long-term contracts.
- 839d. Conservation and resource acquisition.
 - (a) Conservation measures; resources.
 - (b) Acquisition of resources.
 - (c) Procedure for acquiring major resources, implementing conservation measures, paying or reimbursing investigation and preconstruction expenses, or granting billing credits.
 - (d) Acquisition of resources other than major resources.
 - (e) Effectuation of priorities; use of customers and local entities.
 - (f) Agreements; investigation and initial development of renewable resources other than major resources; reimbursement of investigation and preconstruction expenses.
 - (g) Environmental impact statements.
 - (h) Billing credits.
 - (i) Contracts.
 - (j) Obligations not to be considered general obligations of United States or secured by full faith and credit of United States.
 - (k) Equitable distribution of benefits.
 - (l) Investigations.
 - (m) Offering of reasonable shares to each Pacific Northwest electric utility.
- 839d-1. Federal projects in Pacific Northwest.
- 839e. Rates.
 - (a) Establishment; periodic review and revision; confirmation and approval by Federal Energy Regulatory Commission.
 - (b) General application of rates to meet general requirements.
 - (c) Rates applicable to direct service industrial customers.
 - (d) Discount rates; special rates.
 - (e) Uniform rates; rates for sale of peaking capacity; time-of-day, seasonal, and other rates.
 - (f) Basis for rates.
 - (g) Allocation of costs and benefits.
 - (h) Surcharges.