Energy Regulatory Commission, but in the event of any conflict, the provisions of this chapter shall govern in respect of the project herein authorized.

(Pub. L. 85–159, § 2, Aug. 21, 1957, 71 Stat. 402; Pub. L. 95–91, title IV, § 402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583.)

TRANSFER OF FUNCTIONS

''Federal Energy Regulatory Commission'' substituted for ''Federal Power Commission'' in subsecs. (a) and (b) pursuant to Pub. L. 95–91, § 402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

CHAPTER 12F—PACIFIC NORTHWEST CONSUMER POWER PREFERENCE; RECIPROCAL PRIORITY IN OTHER REGIONS

Sec.
837. Definitions.
837a. Limitation of sale, delivery, and exchange of electric energy and electric peaking capacity for use outside Pacific Northwest to surplus energy and surplus peaking capacity; notice to customers; inspection of contract drafts.
837b. Contract terms and conditions for use of electric energy outside Pacific Northwest.
837c. Contract limitations and conditions for use of electric energy and peaking capacity of plants in other marketing areas for use within Pacific Northwest.
837d. Exchange contracts.
837e. Transmission lines for other electric energy; rates.
837f. Purchaser priority on Pacific Northwest power; amendment of existing contracts and new contracts to include priority provisions.
837g. Transmission lines between Pacific Northwest and Pacific Southwest; prohibition against construction of lines or related facilities; exceptions of lines and facilities recommended by Secretary or authorized by Congress; authority of Secretary to construct other transmission lines unaffected.
837g–1. Construction of additional facilities by Secretary of Energy for mutually beneficial power sales between Pacific Northwest and California; contribution of funds by non-Federal entities.
837h. Provisions not applicable to Canyon Ferry project or benefits and exchanges under Treaty between Canada and United States; preference of power users in Montana not modified.

§ 837. Definitions

As used in this chapter—

(a) ''Secretary'' means the Secretary of Energy.

(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 rural electric cooperative served by the Administrator on December 5, 1980, 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.

(Pub. L. 88–552, § 1, Aug. 31, 1964, 78 Stat. 756; Pub. L. 95–91, title III, § 302(a), Aug. 4, 1977, 91 Stat. 578; Pub. L. 96–501, § 8(e), Dec. 5, 1980, 94 Stat. 2729.)

AMENDMENTS

1980—Subsec. (b)(2). Pub. L. 96–501 substituted ''(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 December 5, 1980, which has a distribution system from which it serves both within and without said region'' for ''(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''.

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

''Secretary of Energy'' substituted for ''Secretary of the Interior'' in subsec. (a) pursuant to Pub. L. 95–91, § 302(a), which is classified to section 7152(a) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and the functions, personnel, property, funds, etc., thereof trans-

ferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

§ 837a. Limitation of sale, delivery, and exchange of electric energy and electric peaking capacity for use outside Pacific Northwest to surplus energy and surplus peaking capacity; notice to customers; inspection of contract drafts

Subject to the provisions of this chapter, 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 Bonneville 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.

(Pub. L. 88–552, § 2, Aug. 31, 1964, 78 Stat. 756.)

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.

§ 837b. Contract terms and conditions for use of electric energy outside Pacific Northwest

(a) Surplus energy; discontinuance of deliveries to maintain ability to meet requirements of Pacific Northwest customers; purchaser's responsibility for hardships; deliveries by non-Federal utility for use on contiguous distribution system not deemed deliveries for use outside Pacific Northwest

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 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 August 31, 1964) shall not be deemed deliveries by such utility for use outside the Pacific Northwest.

(b) Conservable electric energy; provisional basis for delivery; return of energy to meet requirements of Pacific Northwest customers; time and extent of return of energy

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) Surplus peaking capacity; termination clause; advance or return of energy; time of return of energy; sale under subsection (a) conditions

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) Determination of energy requirements of Pacific Northwest non-Federal utility customer; exclusion of conservable energy; sale of surplus energy to the utility

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.

(Pub. L. 88–552, § 3, Aug. 31, 1964, 78 Stat. 756.)

§ 837c. Contract limitations and conditions for use of electric energy and peaking capacity of plants in other marketing areas for use within Pacific Northwest

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 837a and 837b of this title for any contract for the sale or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest.

(Pub. L. 88–552, § 4, Aug. 31, 1964, 78 Stat. 757.)

§ 837d. Exchange contracts

Without regard to the limitations specified in sections 837a and 837b of this title, 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 drawdown 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.

(Pub. L. 88–552, § 5, Aug. 31, 1964, 78 Stat. 758.)

§ 837e. Transmission lines for other electric energy; rates

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 837h of this title, 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 837h of this title, or other electric energy.

(Pub. L. 88–552, § 6, Aug. 31, 1964, 78 Stat. 758.)

§ 837f. Purchaser priority on Pacific Northwest power; amendment of existing contracts and new contracts to include priority provisions

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 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 chapter.

(Pub. L. 88–552, § 7, Aug. 31, 1964, 78 Stat. 758.)

§ 837g. Transmission lines between Pacific Northwest and Pacific Southwest; prohibition against construction of lines or related facilities; exceptions of lines and facilities recommended by Secretary or authorized by Congress; authority of Secretary to construct other transmission lines unaffected

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 Energy to construct transmission lines to market power and energy.

(Pub. L. 88–552, § 8, Aug. 31, 1964, 78 Stat. 758; Pub. L. 95–91, title III, § 302(a), Aug. 4, 1977, 91 Stat. 578.)

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Secretary of the Interior" in the proviso in text pursuant to Pub. L. 95–91, § 302(a), which is classified to section 7152(a) of Title 42, The Public Health and Welfare.

§ 837g–1. Construction of additional facilities by Secretary of Energy for mutually beneficial power sales between Pacific Northwest and California; contribution of funds by non-Federal entities

Notwithstanding the provisions of section 837g of this title, the Secretary of Energy is authorized to construct or participate in the construction of such additional facilities as he deems necessary to allow mutually beneficial power sales between the Pacific Northwest and California and to accept funds contributed by non-Federal entities for that purpose.

(Pub. L. 98–360, title III, July 16, 1984, 98 Stat. 416.)

CODIFICATION

Section was not enacted as part of Pub. L. 88–552 which comprises this chapter.

§ 837h. Provisions not applicable to Canyon Ferry project or benefits and exchanges under Treaty between Canada and United States; preference of power users in Montana not modified

The provisions of this chapter shall not be applicable to (1) the Canyon Ferry project and (2), except as provided in section 837e of this title, 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 chapter 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.

(Pub. L. 88–552, § 9, Aug. 31, 1964, 78 Stat. 758.)

REFERENCES IN TEXT

The Hungry Horse Dam Act (Act of June 4, 1944, 58 Stat. 270), as amended, referred to in text, probably means act June 5, 1944, ch. 234, 58 Stat. 270, as amended, which is classified to sections 593a and 593b of Title 43, Public Lands.

CHAPTER 12G—PACIFIC NORTHWEST FEDERAL TRANSMISSION SYSTEM

Sec.
838. Congressional findings; authority and duties of Secretary of Energy relating to Federal Columbia River Power System unaffected.
838a. Definitions.
838b. Operation and maintenance of Federal transmission system; construction of improvements, betterments, additions and replacements; criteria.
838c. Acquisition by condemnation of transmission facilities.
838d. Transmission of non-Federal power.
838e. Acquisition of property.
838f. Marketing of Federal power; sales agent.
838g. Schedules of rates and charges for sale of Federal power and transmission of non-Federal power; confirmation and approval; criteria for modification and establishment.
838h. Uniform schedules of rates and charges for sale of Federal power and transmission of non-Federal power; allocation of cost recovery.
838i. Bonneville Power Administration fund.
838j. Investment of excess moneys; deposit of moneys.
838k. Bonneville Power Administration bonds.
838*l*. Bonneville Power Administration refinancing.

§ 838. Congressional findings; authority and duties of Secretary of Energy relating to Federal Columbia River Power System unaffected

(a) Congress finds that in order to enable the Secretary of Energy to carry out the policies of Public Law 88–552 [16 U.S.C. 837 et seq.] relating to the marketing of electric power from hydroelectric projects in the Pacific Northwest, Public Laws 89–448 and 89–561 relating to use of revenues of the Federal Columbia River Power System to provide financial assistance to reclamation projects in the Pacific Northwest, the treaty between the United States and Canada relating to the cooperative development of the resources of the Columbia River Basin, and other applicable law, it is desirable and appropriate that the revenues of the Federal Columbia River Power System and the proceeds of revenue bonds be used to further the operation, maintenance, and further construction of the Federal transmission system in the Pacific Northwest.

(b) Other than as specifically provided herein, the present authority and duties of the Secretary of Energy relating to the Federal Columbia River Power System shall not be affected by this chapter. The authority and duties of the Administrator referred to herein are subject to the supervision and direction of the Secretary.

(Pub. L. 93–454, § 2, Oct. 18, 1974, 88 Stat. 1376; Pub. L. 95–91, title III, § 302(a)(1)(D), Aug. 4, 1977, 91 Stat. 578.)

REFERENCES IN TEXT

Public Law 88–552, referred to in subsec. (a), is act Aug. 31, 1964, 78 Stat. 756, as amended, which is classified generally to chapter 12F (§ 837 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

Public Law 89–448, referred to in subsec. (a), is Pub. L. 89–448, §§ 1–3, June 14, 1966, 80 Stat. 200, as amended, which enacted sections 835j and 835k of this title and amended section 832h of this title.

Public Law 89–561, referred to in subsec. (a), is Pub. L. 89–561, §§ 1–6, Sept. 7, 1966, 80 Stat. 707, which enacted sections 835*l* and 835m of this title and section 1962d–6 of Title 42, The Public Health and Welfare, and amended sections 835j and 835k of this title.

SHORT TITLE

Section 1 of Pub. L. 93–454 provided that: ''This Act [enacting this chapter] may be cited as the 'Federal Columbia River Transmission System Act'.''

TRANSFER OF FUNCTIONS

''Secretary of Energy'' substituted in text for ''Secretary of the Interior'' pursuant to Pub. L. 95–91, § 302(a)(1)(D), which is classified to section 7152(a)(1)(D) of Title 42, The Public Health and Welfare.

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, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 838a. Definitions

As used in this chapter—

(a) The term ''Administrator'' means the Administrator, Bonneville Power Administration.

(b) The term ''electric power'' means electric peaking capacity or electric energy, or both.

(c) The term ''major transmission facilities'' means transmission facilities intended to be used to provide services not previously provided by the Bonneville Power Administration with its own facilities.

(Pub. L. 93–454, § 3, Oct. 18, 1974, 88 Stat. 1376.)

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