

SALES OF ELECTRICITY BY THE BONNEVILLE POWER
ADMINISTRATION TO JOINT OPERATING ENTITIES

SEPTEMBER 6, 2000.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany S. 1937]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 1937) to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for sales of electricity by the Bonneville Power Administration to joint operating entities, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 1937 is to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for sales of electricity by the Bonneville Power Administration to joint operating entities.

BACKGROUND AND NEED FOR LEGISLATION

S. 1937 allows for consumer-owned utility systems in the Northwest to aggregate their power contracts from the Bonneville Power Administration (BPA) into a single contract through an entity referred to as a Joint Operating Entity. The purpose is to provide administrative and operational efficiencies for the power purchasers and for the BPA.

Under the bill a joint operating entity must be in existence before the date of enactment of this Act and comprised solely of public bodies and cooperatives of the Pacific Northwest region that are qualified to purchase requirements firm electric power service from BPA. Other federal power marketing agencies currently make ag-

gregated power sales to such entities for public bodies and cooperatives.

The bill does not expand any customer's rights to purchase requirements firm power from BPA and does not allow resale by the joint operating entity of such power to customers that are not its members or participants. The public bodies and cooperatives to which such an entity sells are prohibited from resale of that power except to their own retail customers, to another member or participant of the same joint operating entity, or as otherwise permitted by law. The joint operating entity cannot purchase from BPA more power than its members could purchase if acting individually.

The House companion measure to S. 1937 is H.R. 3447, introduced by Congressman Doc Hastings (R-WA).

COMMITTEE ACTION

S. 1937 was introduced on November 17, 1999, by Senator Larry Craig (R-ID). On November 19, 1999, the Senate passed S. 1937 without an amendment by unanimous consent. The bill was referred to the Committee on Resources, and additionally to the Committee on Commerce. Within the Committee on Resources, the bill was referred to the Subcommittee on Water and Power. On July 19, 2000, the Full Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged from further consideration of the bill by unanimous consent. No amendments were offered and the bill then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1

This section authorizes the Administrator of the Bonneville Power Administration to sell at wholesale to a joint operating entity, electric power solely for the purpose of meeting the regional firm power consumer loads of regional public bodies and cooperatives that are members of or participants in the joint operating entity.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of Rule X and clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of Rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill pre-

pared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

S. 1937—An act to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for sales of electricity by the Bonneville Power Administration to joint operating entities

S. 1937 would amend the Pacific Northwest Electric Power Planning and Conservation Act to allow joint operating entities to purchase electricity from the Bonneville Power Administration (BPA). Under current law, BPA is obligated to meet the power needs of its preference customers (public utilities and cooperatives) before all other power sales. Under this act, two or more entities that were preference customers as of January 1, 1999, could form a new type of preference customer, a joint operating entity, which could aggregate its members' contracts for the purchase of power from BPA.

Utilities participating in a joint operating entity might realize some operating efficiencies and reductions in overhead costs, but BPA's receipts from the sale of power would not be affected. Therefore, CBO estimates that S. 1937 would have no impact on the federal budget. Because S. 1937 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Lisa Cash Driskill. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**SECTION 5 OF THE PACIFIC NORTHWEST ELECTRIC
POWER PLANNING AND CONSERVATION ACT**

SALE OF POWER

SEC. 5. (a) * * *

(b)(1) * * *

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(7) *REQUIRED SALE.*—

(A) DEFINITION OF A JOINT OPERATING ENTITY.—In this section, the term “joint operating entity” means an entity that is lawfully organized under State law as a public body or cooperative prior to the date of enactment of this paragraph, and is formed by and whose members or participants are two or more public bodies or cooperatives, each of which was a customer of the Bonneville Power Administration on or before January 1, 1999.

(B) SALE.—Pursuant to paragraph (1), the Administrator shall sell, at wholesale to a joint operating entity, electric power solely for the purpose of meeting the regional firm power consumer loads of regional public bodies and cooperatives that are members of or participants in the joint operating entity.

(C) NO RESALE.—A public body or cooperative to which a joint operating entity sells electric power under subparagraph (B) shall not resell that power except to retail customers of the public body or cooperative or to another regional member or participant of the same joint operating entity, or except as otherwise permitted by law.

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A P P E N D I X

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, July 24, 2000.

Hon. TOM BLILEY,
*Chairman, Committee on Commerce,
Washington, DC.*

DEAR MR. CHAIRMAN: On July 19, 2000, the Committee on Resources ordered favorably reported without amendment S. 1937, to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for sales of electricity by the Bonneville Power Administration to joint operating entities. This bill was referred to the Committee on Resources and additionally to the Committee on Commerce, where the Subcommittee on Energy and Power has marked up and forwarded the bill to the Full Commerce Committee.

Given the rapidly approaching adjournment date for the 106th Congress, and several of our Pacific Northwest Congressional Members' wish to move this bill as quickly as possible, I ask that you allow the Committee on Commerce to be discharged from further consideration of the bill. We can then schedule it for Floor consideration as soon as possible and send it onto the President.

Of course, by allowing this to occur, the Committee on Commerce does not waive its jurisdiction over S. 1937 or any other similar matter. Although I have no reason to believe that the bill would not be passed without amendment and signed into law by the President, if a conference on the bill became necessary, I would support the Committee on Commerce's request to be named to the conference. Finally, this action should not be seen as precedent for any other Senate bill which affects the Committee on Commerce's jurisdiction. I would be pleased to place this letter and your response in the Committee on Resources' report on the bill to document this agreement.

As always, I appreciate your cooperation and that of your staff in moving this bill.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, July 24, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources,
Washington, DC.

DEAR DON: Thank you for your recent letter regarding your committee's action on S. 1937, a bill to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for sales of electricity by the Bonneville Power Administration to joint operating entities. As you know, Rule X of the Rules of the House of Representatives grants the Committee on Commerce jurisdiction over the generation and marketing of power and the legislation was additionally referred to the Committee on Commerce. As you also noted, the Subcommittee on Energy and Power approved the bill for consideration by the Full Committee on May 16, 2000.

Because of the importance of this legislation, I recognize your desire to bring it before the House in an expeditious manner, and I will not exercise the Committee's right to further consideration of this legislation. By agreeing to waive its consideration of the bill, however, the Committee on Commerce does not waive its jurisdiction over S. 1937. In addition, the Commerce Committee reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I appreciate your commitment to support any request by the Commerce Committee for conferees on S. 1937 or similar legislation.

I request that you include this letter and your response in your committee report on the bill and as part of the *Record* during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

TOM BLILEY,
Chairman.