

manner: One-half of said payment shall be apportioned by paying to each State the percentage thereof which the gross proceeds of the power sales by the Corporation within said State during the preceding fiscal year bears to the total gross proceeds from all power sales by the Corporation during the preceding fiscal year; the remaining one-half of said payment shall be apportioned by paying to each State the percentage thereof which the book value of the power property held by the Corporation within said State at the end of the preceding fiscal year bears to the total book value of all such property held by the Corporation on the same date. The book value of power property shall include that portion of the investment allocated or estimated to be allocable to power: *Provided*, That the minimum annual payment to each State (including payments to counties therein) shall not be less than an amount equal to the two-year average of the State and local ad valorem property taxes levied against power property purchased and operated by the Corporation in said State and against that portion of reservoir lands related to dams constructed by or on behalf of the United States Government and held or operated by the Corporation and allocated or estimated to be allocable to power. The said two-year average shall be calculated for the last two tax years during which said property was privately owned and operated or said land was privately owned: *Provided further*, That the minimum annual payment to each State in which the Corporation owns and operates power property (including payments to counties therein) shall not be less than \$10,000 in any case: *Provided further*, That the corporation<sup>1</sup> shall pay directly to the respective counties the two-year average of county ad valorem property taxes (including taxes levied by taxing districts within the respective counties) upon power property and reservoir lands allocable to power, determined as above provided, and all payments to any such county within a State shall be deducted from the payment otherwise due to such State under the provisions of this section. The determination of the Board of the amounts due hereunder to the respective States and counties shall be final.

The payments above provided shall in each case be made to the State or county in equal monthly installments beginning not later than July 31, 1940.

Nothing herein shall be construed to limit the authority of the Corporation in its contracts for the sale of power to municipalities, to permit or provide for the resale of power at rates which may include an amount to cover tax-equivalent payments to the municipality in lieu of State, county, and municipal taxes upon any distribution system or property owned by the municipality, or any agency thereof, conditioned upon a proper distribution by the municipality of any amounts collected by it in lieu of State or county taxes upon any such distribution system or property; it being the intention of Congress that either the municipality or the State in which the municipality is situated shall provide for the proper distribution to the State and county

of any portion of tax equivalent so collected by the municipality in lieu of State or county taxes upon any such distribution system or property.

The Corporation shall, not later than January 1, 1945, submit to the Congress a report on the operation of the provisions of this section, including a statement of the distribution to the various States and counties hereunder; the effect of the operation of the provisions of this section on State and local finances; an appraisal of the benefits of the program of the Corporation to the States and counties receiving payments hereunder, and the effect of such benefits in increasing taxable values within such States and counties; and such other data, information, and recommendations as may be pertinent to future legislation.

(May 18, 1933, ch. 32, § 13, 48 Stat. 66; June 26, 1940, ch. 432, § 39, 54 Stat. 626; Pub. L. 108-447, div. C, title VI, § 603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

#### AMENDMENTS

2004—Pub. L. 108-447 substituted “Board” for “board” in first and second pars.

1940—Act June 26, 1940, amended section generally.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108-447 take office or May 18, 2005, see section 604(b) of Pub. L. 108-447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

### **§ 831m. Allocation and charge of value and cost of plants to particular objects; cost accounting; reports of costs of operation; sale of surplus power at profit**

The Board shall make a thorough investigation as to the present value of Dam Numbered 2, and the steam plants at nitrate plant numbered 1, and nitrate plant numbered 2, and as to the cost of Cove Creek Dam, for the purpose of ascertaining how much of the value or the cost of said properties shall be allocated and charged up to (1) flood control, (2) navigation, (3) fertilizer, (4) national defense, and (5) the development of power. The findings thus made by the Board, when approved by the President of the United States, shall be final, and such findings shall thereafter be used in all allocation of value for the purpose of keeping the book value of said properties. In like manner, the cost and book value of any dams, steam plants, or other similar improvements hereafter constructed and turned over to said Board for the purpose of control and management shall be ascertained and allocated. The Board shall, on or before January 1, 1937, file with Congress a statement of its allocation of the value of all such properties turned over to said Board, and which have been completed prior to the end of the preceding fiscal year, and shall thereafter in its annual report to Congress file a statement of its allocation of the value of such properties as have been completed during the preceding fiscal year.

For the purpose of accumulating data useful to the Congress in the formulation of legislative policy in matters relating to the generation, transmission, and distribution of electric energy and the production of chemicals necessary to

<sup>1</sup> So in original. Probably should be capitalized.

national defense and useful in agriculture, and to the Federal Power Commission and other Federal and State agencies, and to the public, the Board shall keep complete accounts of its costs of generation, transmission, and distribution of electric energy and shall keep a complete account of the total cost of generating and transmission facilities constructed or otherwise acquired by the Corporation, and of producing such chemicals, and a description of the major components of such costs according to such uniform systems of accounting for public utilities as the Federal Power Commission has, and if it have none, then it is empowered and directed to prescribe such uniform system of accounting, together with records of such other physical data and operating statistics of the Authority as may be helpful in determining the actual cost and value of services, and the practices, methods, facilities, equipment, appliances, and standards and sizes, types, location, and geographical and economic integration of plants and systems best suited to promote the public interest, efficiency, and the wider and more economical use of electric energy. Such data shall be reported to the Congress by the Board from time to time, with appropriate analyses and recommendations, and, so far as practicable, shall be made available to the Federal Power Commission and other Federal and State agencies which may be concerned with the administration of legislation relating to the generation, transmission, or distribution of electric energy and chemicals useful to agriculture. It is declared to be the policy of this chapter that, in order, as soon as practicable, to make the power projects self-supporting and self-liquidating, the surplus power shall be sold at rates which, in the opinion of the Board, when applied to the normal capacity of the Authority's power facilities, will produce gross revenues in excess of the cost of production of said power and in addition to the statement of the cost of power at each power station as required by section 831h of this title, the Board shall file with each annual report, a statement of the total cost of all power generated by it at all power stations during each year, the average cost of such power per kilowatt hour, the rates at which sold, and to whom sold, and copies of all contracts for the sale of power.

(May 18, 1933, ch. 32, §14, 48 Stat. 66; Aug. 31, 1935, ch. 836, §8, 49 Stat. 1077.)

#### AMENDMENTS

1935—Act of Aug. 31, 1935, inserted provision requiring the Board to report to Congress on the allocation of the value of the properties turned over to the Board and paragraph requiring the Board to keep complete accounts on the cost of generation, transmission and distribution of electric energy and production of chemicals necessary to national defense and useful to agriculture and to report to Congress the total cost of all power generated by all power stations and authorized the sale of surplus power.

#### TRANSFER OF FUNCTIONS

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, The Public Health and Welfare.

### § 831m-1. Tennessee Valley Authority least-cost planning program

#### (a) In general

The Tennessee Valley Authority shall conduct a least-cost planning program in accordance with this section.

#### (b) Conduct of program

##### (1) In general

In conducting a least-cost planning program under subsection (a) of this section, the Tennessee Valley Authority shall employ and implement a planning and selection process for new energy resources which evaluates the full range of existing and incremental resources (including new power supplies, energy conservation and efficiency, and renewable energy resources) in order to provide adequate and reliable service to electric customers of the Tennessee Valley Authority at the lowest system cost.

##### (2) Planning and selection process

The planning and selection process referred to in paragraph (1) shall—

(A) take into account necessary features for system operation, including diversity, reliability, dispatchability, and other factors of risk;

(B) take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and

(C) treat demand and supply resources on a consistent and integrated basis.

##### (3) "System cost" defined

As used in paragraph (1), the term "system cost" means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

#### (c) Participation by distributors

##### (1) In general

In conducting a least-cost planning program under subsection (a) of this section, the Tennessee Valley Authority shall—

(A) provide an opportunity for distributors of the Tennessee Valley Authority to recommend cost-effective energy efficiency opportunities, rate structure incentives, and renewable energy proposals for inclusion in such program; and

(B) encourage and assist such distributors in the planning and implementation of cost-effective energy efficiency options.

##### (2) Assistance

The Tennessee Valley Authority shall provide appropriate assistance to distributors under paragraph (1)(B). Such assistance shall, where cost effective, be provided by the Tennessee Valley Authority acting through, or in cooperation with, an association of distributors. Such assistance may include publications, workshops, conferences, one-on-one as-