

Sec.

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 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.

### § 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