

(B) efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practice;

(4) will be operated by, or in conformance with the rules of, the appropriate (A) Transmission Organization, if any, or (B) if such an organization does not exist, regional reliability organization; and

(5) will not duplicate the functions of existing transmission facilities or proposed facilities which are the subject of ongoing or approved siting and related permitting proceedings.

**(c) Other funds**

**(1) In general**

In carrying out a Project under subsection (a) or (b), the Secretary may accept and use funds contributed by another entity for the purpose of carrying out the Project.

**(2) Availability**

The contributed funds shall be available for expenditure for the purpose of carrying out the Project—

(A) without fiscal year limitation; and

(B) as if the funds had been appropriated specifically for that Project.

**(3) Allocation of costs**

In carrying out a Project under subsection (a) or (b), any costs of the Project not paid for by contributions from another entity shall be collected through rates charged to customers using the new transmission capability provided by the Project and allocated equitably among these project beneficiaries using the new transmission capability.

**(d) Relationship to other laws**

Nothing in this section affects any requirement of—

(1) any Federal environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) any Federal or State law relating to the siting of energy facilities; or

(3) any existing authorizing statutes.

**(e) Savings clause**

Nothing in this section shall constrain or restrict an Administrator in the utilization of other authority delegated to the Administrator of WAPA or SWPA.

**(f) Secretarial determinations**

Any determination made pursuant to subsections<sup>1</sup> (a) or (b) shall be based on findings by the Secretary using the best available data.

**(g) Maximum funding amount**

The Secretary shall not accept and use more than \$100,000,000 under subsection (c)(1) for the period encompassing fiscal years 2006 through 2015.

(Pub. L. 109–58, title XII, §1222, Aug. 8, 2005, 119 Stat. 952.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsections (a)(2)(A) and (b)(2)(A), is act June 10, 1920, ch. 285, 41

<sup>1</sup> So in original. Probably should be “subsection”.

Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (d)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

SHORT TITLE

For short title of title XII of Pub. L. 109–58, which enacted this subchapter, as the “Electricity Modernization Act of 2005”, see section 1201 of Pub. L. 109–58, set out as a note under section 15801 of this title.

**§ 16421a. Western Area Power Administration borrowing authority**

**(a) Definitions**

In this section:

**(1) Administrator**

The term “Administrator” means the Administrator of the Western Area Power Administration.

**(2) Secretary**

The term “Secretary” means the Secretary of the Treasury.

**(b) Authority**

**(1) In general**

Notwithstanding any other provision of law, subject to paragraphs (2) through (5)—

(A) the Western Area Power Administration may borrow funds from the Treasury; and

(B) the Secretary shall, without further appropriation and without fiscal year limitation, loan to the Western Area Power Administration, on such terms as may be fixed by the Administrator and the Secretary, such sums (not to exceed, in the aggregate (including deferred interest), \$3,250,000,000 in outstanding repayable balances at any one time) as, in the judgment of the Administrator, are from time to time required for the purpose of—

(i) constructing, financing, facilitating, planning, operating, maintaining, or studying construction of new or upgraded electric power transmission lines and related facilities with at least one terminus within the area served by the Western Area Power Administration; and

(ii) delivering or facilitating the delivery of power generated by renewable energy resources constructed or reasonably expected to be constructed after February 17, 2009.

**(2) Interest**

The rate of interest to be charged in connection with any loan made pursuant to this subsection shall be fixed by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date of the loan.

**(3) Refinancing**

The Western Area Power Administration may refinance loans taken pursuant to this section within the Treasury.

**(4) Participation**

The Administrator may permit other entities to participate in the financing, construction and ownership projects financed under this section.

**(5) Congressional review of disbursement**

Effective upon February 17, 2009, the Administrator shall have the authority to have utilized \$1,750,000,000 at any one time. If the Administrator seeks to borrow funds above \$1,750,000,000, the funds will be disbursed unless there is enacted, within 90 calendar days of the first such request, a joint resolution that rescinds the remainder of the balance of the borrowing authority provided in this section.

**(c) Transmission line and related facility projects****(1) In general**

For repayment purposes, each transmission line and related facility project in which the Western Area Power Administration participates pursuant to this section shall be treated as separate and distinct from—

(A) each other such project; and

(B) all other Western Area Power Administration power and transmission facilities.

**(2) Proceeds**

The Western Area Power Administration shall apply the proceeds from the use of the transmission capacity from an individual project under this section to the repayment of the principal and interest of the loan from the Treasury attributable to that project, after reserving such funds as the Western Area Power Administration determines are necessary—

(A) to pay for any ancillary services that are provided; and

(B) to meet the costs of operating and maintaining the new project from which the revenues are derived.

**(3) Source of revenue**

Revenue from the use of projects under this section shall be the only source of revenue for—

(A) repayment of the associated loan for the project; and

(B) payment of expenses for ancillary services and operation and maintenance.

**(4) Limitation on authority**

Nothing in this section confers on the Administrator any additional authority or obligation to provide ancillary services to users of transmission facilities developed under this section.

**(5) Treatment of certain revenues**

Revenue from ancillary services provided by existing Federal power systems to users of transmission projects funded pursuant to this section shall be treated as revenue to the existing power system that provided the ancillary services.

**(d) Certification****(1) In general**

For each project in which the Western Area Power Administration participates pursuant

to this section, the Administrator shall certify, prior to committing funds for any such project, that—

(A) the project is in the public interest;

(B) the project will not adversely impact system reliability or operations, or other statutory obligations; and

(C) it is reasonable to expect that the proceeds from the project shall be adequate to make repayment of the loan.

**(2) Forgiveness of balances****(A) In general**

If, at the end of the useful life of a project, there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven.

**(B) Unconstructed projects**

Funds expended to study projects that are considered pursuant to this section but that are not constructed shall be forgiven.

**(C) Notification**

The Administrator shall notify the Secretary of such amounts as are to be forgiven under this paragraph.

**(e) Public processes****(1) Policies and practices**

Prior to requesting any loans under this section, the Administrator shall use a public process to develop practices and policies that implement the authority granted by this section.

**(2) Requests for interest**

In the course of selecting potential projects to be funded under this section, the Administrator shall seek Requests For Interest from entities interested in identifying potential projects through one or more notices published in the Federal Register.

(Pub. L. 98-381, title III, §301, as added Pub. L. 111-5, div. A, title IV, §402, Feb. 17, 2009, 123 Stat. 141.)

## CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Electricity Modernization Act of 2005, which comprises this subchapter, or the Energy Policy Act of 2005, which comprises this chapter.

**§ 16422. Advanced transmission technologies****(a) Definition of advanced transmission technology**

In this section, the term “advanced transmission technology” means a technology that increases the capacity, efficiency, or reliability of an existing or new transmission facility, including—

(1) high-temperature lines (including superconducting cables);

(2) underground cables;

(3) advanced conductor technology (including advanced composite conductors, high-temperature low-sag conductors, and fiber optic temperature sensing conductors);

(4) high-capacity ceramic electric wire, connectors, and insulators;