

Subcommittee on Water, Power and Oceans

John Fleming, Chairman

Hearing Memorandum

April 18, 2016

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Committee Staff
Subcommittee on Water, Power and Oceans (x58331)

Hearing: Legislative Hearing on H.R. 1869 (Rep. Paul Gosar, R-AZ), To provide for transparency and reporting related to direct and indirect costs incurred by the Bonneville Power Administration, the Western Area Power Administration, the Southwestern Power Administration, and the Southeastern Power Administration related to compliance with any Federal environmental laws impacting the conservation of fish and wildlife, and for other purposes.
April 20, 2016 at 10:00 a.m. in 1324 Longworth

H.R. 1869 (Rep. Paul Gosar), “*Environmental Compliance Cost Transparency Act of 2015*”

Bill Summary:

H.R. 1869 requires the four federal Power Marketing Administrations (PMAs), which sell electricity generated at federal dams and reservoirs, to estimate and report in monthly billing statements to customers the direct and indirect costs associated with any Federal environmental laws impacting the conservation of fish and wildlife.

This one-panel hearing will also include consideration of two other bills.

Cosponsors:

Reps. Mark Amodei (R-NV), Rod Blum (R-IA), Ken Buck (R-CO), John Duncan Jr. (R-TN), Trent Franks (R-AZ), Morgan Griffith (R-VA), Tim Huelskamp (R-KS), Walter Jones (R-NC), Doug Lamborn (R-CO), Mia Love (R-UT), Blaine Luetkemeyer (R-MO), Cynthia Lummis (R-WY), Tom McClintock (R-CA), David McKinley (R-WV), Randy Neugebauer (R-TX), Dan Newhouse (R-WA), Stevan Pearce (R-NM), Kurt Schrader (D-OR), Chris Stewart (R-UT), Scott Tipton (R-CO) and Ryan Zinke (R-MT).

Invited Witnesses (listed in alphabetical order):

Mr. Bo Downen
Senior Policy Analyst
Public Power Council
Portland, Oregon

Mr. Patrick F. Ledger
Chief Executive Officer
Arizona G&T Cooperatives
Benson, Arizona

The Honorable Ernest Moniz
Secretary
Department of Energy
Washington, D.C.

Background:

The PMAs (the Bonneville Power Administration, the Western Area Power Administration, the Southwestern Power Administration and the Southeastern Power Administration) market and deliver (via transmission lines) electricity generated at federal dams and reservoirs operated by the Bureau of Reclamation (Reclamation) and the U.S. Army Corps of Engineers (Corps).¹ See map below for each PMA service territory.

Hydropower generated at these facilities, particularly in the western United States, is first used to provide electricity to operate irrigation pumps affiliated with Reclamation projects.² Any excess power is then primarily sold by the PMAs to preference customers, which, by federal statute, are non-profit rural electric cooperatives, public utility districts, Indian tribes, municipalities, and some irrigation districts.³

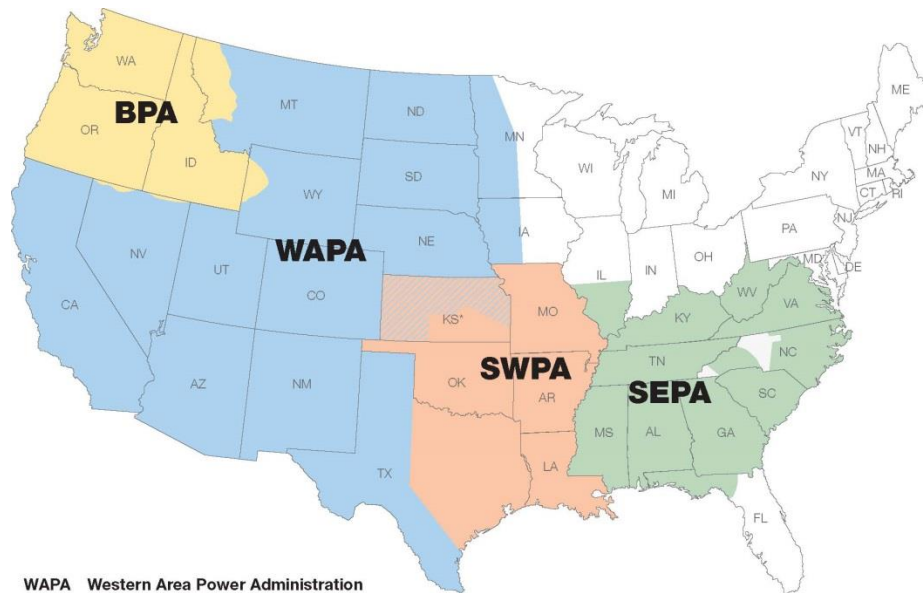
Under numerous authorizing statutes, the power is sold at rates designed to repay the federal capital investment in federal electricity generation and transmission facilities, annual operation and maintenance of such facilities and federal staffing. These rates also include the costs of environmental regulations and replacement power services resulting from these mandates. In certain regions of the country, such as the Pacific Northwest, the Intermountain West and the Upper Midwest, federal power generation and transmission services play a very significant regional role in their respective electricity markets.

¹ Bracmort, Kelsi. "Hydropower: Federal and Nonfederal Investment." 22 January 2013. R42579. Pg. 9

² *Id.* at 1

³ Submitted Testimony of Mr. Victor S. Rezendes, Director, Energy, Resources, and Science Issues, Resources Community and Economic Development Division, U.S. General Accounting Office, before the House Subcommittee on Water and Power, note 5. Released June 24, 1999.

PMA Service Areas:



There are numerous federal environmental statutes impacting the PMAs, including the Endangered Species Act (ESA), the Central Valley Project Improvement Act (P.L. 102-575)⁴ and the Grand Canyon Protection Act (P.L. 102-575)⁵, which have ultimately altered some federal power generation due to modification of water releases from dams. Since the PMAs are typically under contract with their customers to provide a set amount of power, the PMAs have to purchase generally more expensive replacement power on the open market to make up for lost federal generation to meet these contractual needs.

Environmental costs can have impacts on the Bonneville Power Administration (Bonneville) and the Western Area Power Administration (Western). Bonneville, created in 1937, markets and delivers wholesale electrical hydropower generated at 31 Reclamation and Corps facilities (known as the Federal Columbia River Power System or FCRPS) to wholesale customers in Oregon, Washington and parts of Idaho, Montana, Wyoming and Nevada with a population of about 12.9 million people.⁶

Bonneville has a large impact on the region's electricity market, providing nearly a third of the region's electricity sales and almost three-fourths of its transmission capacity.⁷ The

⁴ http://www.usbr.gov/mp/cvpia/title_34/public_law_complete.html

⁵ <http://www.usbr.gov/uc/legal/gcpa1992.html>

⁶ <https://www.bpa.gov/Finance/FinancialInformation/AnnualReports/Documents/AR2015.pdf>, at 2

⁷ *Id.*

agency also sells a significant amount of “surplus” energy to California utilities in some water years. Like the other PMAs, Bonneville is required to set power rates sufficient to repay the federal investment and recover costs associated with the operation and maintenance of the federal facilities. Costs associated with fish and wildlife enhancement and protection attributable to power production in the Columbia/Snake River system are imposed on wholesale customers who then pass it on to their retail customers.

Since the passage of the Northwest Power Act (P.L. 96-501)⁸ in 1980, Bonneville ratepayers have financed the agency’s Fish and Wildlife Program.⁹ This program was created to “protect, mitigate and enhance” fish and wildlife populations and their habitat in the Columbia Basin.¹⁰ The costs of this program include lost power generation caused by water spillage used for environmental purposes, power purchases to replace lost generation, and on-the-ground work including structural modifications at dams, habitat protection, predator mitigation, research and fish hatcheries.¹¹ The majority of these costs are dedicated to federally listed endangered fish compliance.

At a June 2013 Water and Power Subcommittee hearing, Mr. Scott Corwin, Executive Director of the Public Power Council which represents consumer-owned utilities in the Pacific Northwest, testified: “These efforts cost around \$700 million per year (about 25 to 30 percent of the wholesale power cost), and some of the measures impose large constraints on the production of clean hydropower.”¹² In fiscal year 2014, the total fish and wildlife costs including forgone revenue and power purchases for Bonneville was reported to be **\$782.3 million**. Much of that cost involves ESA-listed salmon.¹³

Western, created in 1977, markets and delivers an average of 10,000 megawatts of hydroelectricity produced at Reclamation and Corps dams.¹⁴ Western serves about 700 wholesale customers over 1.3 million square miles in Arizona, California, Colorado, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Texas, Utah and Wyoming through a 17,000-mile federal transmission system.¹⁵ These wholesale customers, in turn, supply 50 million retail customers.¹⁶ Western is financed by annual customer funding and advance payments and appropriations, which are then reimbursed with interest through customer contractual repayment obligations. Since Reclamation and the Corps are required to modify their hydropower generation services and flow requirements to account for

⁸ <https://www.gpo.gov/fdsys/pkg/STATUTE-94/pdf/STATUTE-94-Pg2697.pdf>

⁹ <https://www.bpa.gov/efw/FishWildlife/Pages/default.aspx>

¹⁰ <https://www.bpa.gov/news/pubs/FactSheets/fs-201305-BPAs-Fish-and-Wildlife-Program-the-Northwest-working-together.pdf>

¹¹ <https://www.bpa.gov/news/pubs/FactSheets/fs-201601-BPA-invests-in-fish-and-wildlife.pdf>

¹² Testimony of Mr. Scott Corwin before the House Water and Power Subcommittee, June 26, 2013, p. 5.

¹³ <https://www.nwcouncil.org/media/7149305/2015-06.pdf>, p. 6

¹⁴ <https://www.wapa.gov/about/Pages/about.aspx>

¹⁵ <https://www.wapa.gov/newsroom/Publications/Documents/HowWesternDoesBusiness.pdf>

¹⁶ *Id.* at 1

ESA and other federal mandates, Western has lost base hydropower and must purchase replacement power in some cases.

Western customers are impacted by a number of environmental requirements, including but not limited to constraints on releases of water from dams, aimed at recovering different varieties of salmon and steelhead (Central Valley Project in California), the least tern and pallid sturgeon (Platte and Missouri River basins), and the humpback chub (Colorado River basin). At a 2011 House Water and Power Subcommittee legislative hearing on a similar bill, Ms. Leslie James, Executive Director of the Colorado River Energy Distributors Association (CREDA), testified: “Specific examples of the environment-related costs assessed to the CRSP [Colorado River Storage Project] are the programmatic (i.e., “direct”) costs of the Glen Canyon Adaptive Management Program (AMP) and the Upper Basin Endangered Fish Recovery Implementation Program (RIP). Since approximately \$743 million in purchased power costs have been incurred by WAPA since 2000, CREDA believes it is important that the customers have visibility of those costs, which are included in their firm power rates.”¹⁷

H.R. 1869, the “Environmental Compliance Cost Transparency Act of 2015”

Some PMA customers have called for greater transparency in the way such costs are reported. For example, the Northwest RiverPartners, a consortium of water and power users, found in a 2005 poll that “more than 70% either don’t know how much they pay for salmon recovery or believe less than 5% of their monthly bills go to salmon recovery” in the Northwest.¹⁸

As a result, H.R. 1869 requires the PMAs to estimate and report the direct and indirect costs associated with any Federal environmental laws impacting the conservation of fish and wildlife to each wholesale firm power customer on a monthly billing basis. Direct costs are defined as “Federal agency obligations related to costs of studies; capital, operation, maintenance, and replacement costs; and staffing costs.”¹⁹ Indirect costs are defined as “foregone generation and replacement power costs; including the net costs of any transmission.”²⁰ Under the bill, the PMAs provide the information to their wholesale customers, who can then decide how or whether to report this information to their retail consumers.

¹⁷ Testimony of Ms. Leslie James before the House Water and Power Subcommittee, September 22, 2011, p. 1.

¹⁸ http://mcmorris.house.gov/mcmorris_rodgers_introduces_legislation_to_shed_light_on_esa_compliance_costs-3/

¹⁹ H.R. 1869, Section 2(b)

²⁰ H.R. 1869, Section 2(c)

Major Provisions/Analysis of H.R. 1869:

Section 2 directs the Administrators of each of the four PMAs to report both the direct and indirect costs associated with any Federal environmental law associated with the conservation of fish and wildlife to their wholesale power customers monthly billing statement, and directs the PMA Administrators, in coordination with Reclamation and other affected Federal agencies, to provide an annual report on such costs and the sources of replacement power, to the appropriate committees in both the House and Senate.

Cost:

The Congressional Budget Office has not completed a cost estimate of this bill at this time.

Administration Position:

Unknown.