

HOOVER POWER PLANT ACT OF 1984

(5) By deleting the final period at the end of section 6 (43 U.S.C. § 618e) and inserting in lieu thereof the following: "**Provided**, That the respective rates of interest on appropriated funds advanced for the visitor facilities program, as described in section 101(a) of the Hoover Power Plant Act of 1984, shall be determined by the Secretary of the Treasury, taking into consideration average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the program during the month preceding the fiscal year in which the costs of the program are incurred. To the extent that more than one interest rate is determined pursuant to the preceding sentence, the Secretary of the Treasury shall establish for repayment purposes an interest rate at a weighted average of the rates so determined."

(6) In section 12 (43 U.S.C. § 618k), in the paragraph beginning with "Replacements", by deleting "during the period from June 1, 1937, to May 31, 1987, inclusive" and inserting in lieu thereof "beginning June 1, 1937".

(b) Except as amended by this Act, the Boulder Canyon Project Adjustment Act of 1940 (54 Stat. 774, as amended, 43 U.S.C. 618), as amended and supplemented (43 U.S.C. § 618 note; 43U.S.C. § 618o), shall remain in full force and effect. (98 Stat. 1334)

EXPLANATORY NOTE

<p>Reference in the Text. The Boulder Canyon Project Adjustment Act of 1940 (54 Stat. 774, as amended, 43 U.S.C. 4 618), as amended and supplemented, referenced above, appears in Volume I at page 697. The</p>	<p>referenced sections 1, 2, 6, and 12 appear at pages 697, 698, 701, and 703, respectively. Amendments and annotations of the 1940 Act appear in Supplement II at page S857.</p>
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Sec. 105. [Renewal contracts.]—(a) (1) The Secretary of Energy shall offer (43 U.S.C. § 619a.):

(A) To each contractor for power generated at Hoover Dam a renewal contract for delivery commencing June 1, 1987, of the specific amount of capacity and firm energy specified for that contractor in the following table:

SCHEDULE A

LONG TERM CONTINGENT CAPACITY AND ASSOCIATED FIRM ENERGY
RESERVED FOR RENEWAL CONTRACT OFFERS TO CURRENT BOULDER CANYON
PROTECT CONTRACTORS

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		Total
		Summer	Winter	
Metropolitan Water District of Southern California.....	247,500	904,382	387,592	1,291,974
City of Los Angeles	490,875	488,535	209,658	698,193
Southern California Edison.....	277,500	175,486	75,208	250,694
City of Glendale.....	18,000	47,398	20,313	67,711
City of Pasadena	11,000	40,655	17,424	58,079
City of Burbank.....	5,125	14,811	6,347	21,158
Arizona Power Authority	189,000	452,192	193,797	645,989
Colorado River Commission of Nevada	189,000	452,192	193,797	645,989
United States, for Boulder City	20,000	56,000	24,000	80,000
Totals	1,448,000	2,631,651	1,128,136	3,759,787

(B) To purchasers in the States of Arizona, Nevada and California eligible to enter into such contracts under section 5 of the Boulder Canyon Project Act (43 U.S.C. § 617d), contracts for delivery commencing June 1, 1987, or as it thereafter becomes available, of capacity resulting from the uprating program and for delivery commencing June 1, 1987, of associated firm energy as specified in the following table:

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SCHEDULE B

CONTINGENT CAPACITY RESULTING FROM THE UPRATING PROGRAM
AND ASSOCIATED FIRM ENERGY

State	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
Arizona	188,000	148,000	64,000	212,000
California	127,000	99,850	43,364	143,214
Nevada	188,000	288,000	124,000	412,000
Totals	503,000	535,850	231,364	767,214

Provided, however, That in the case of Arizona and Nevada, such contracts shall be offered to the Arizona Power Authority and the Colorado River Commission of Nevada, respectively, as the agency specified by State law as the agent of such State for purchasing power from the Boulder Canyon project. *Provided further,* That in the case of California, no such contract under this subparagraph (B) shall be offered to any purchaser who is offered a contract for capacity exceeding 20,000 kilowatts under subparagraph (A) of this paragraph.

(C) To the Arizona Power Authority and the Colorado River Commission of Nevada and to purchasers in the State of California eligible to enter into such contracts under section 5 of the Boulder Canyon Project Act, contracts for delivery commencing June 1, 1987, of such energy generated at Hoover Dam as is available respectively to the States of Arizona, Nevada, and California in excess of 4,501.001 million kilowatthours in any year of operation (hereinafter called excess energy) in accordance with the following table:

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SCHEDULE C

Excess Energy

Priority of entitlement to excess energy	State
<p>First: Meeting Arizona's first priority right to delivery of excess energy which is equal in each year of operation to 200 million kilowatthours. <i>Provided, however,</i> That in the event excess energy in the amount of 200 million kilowatthours is not generated during any year of Arizona shall accumulate a first right to delivery of excess energy subsequently generated in an amount not to exceed 600 million kilowatthours, inclusive of the current year 200 million. Said first right of delivery shall accrue at a rate of 200 million kilowatthours per year for each year excess energy in the amount of 200 million kilowatthours is not generated, less amounts of excess energy delivered.</p>	<p>Arizona</p>
<p>Second: Meeting Hoover Dam contractual obligations under schedule A of section 105(a)(1)(A) and under schedule B of section 105(a)(1)(B) not exceeding 26 million kilowatthours in each year of operation.</p>	<p>Arizona, Nevada, California</p>
<p>Third: Meeting the energy requirements of the three States, such available excess energy to be divided equally among the States.</p>	

(2) The total obligation of the Secretary of Energy to deliver firm energy pursuant to schedule A of section 105(a)(1)(A) and schedule B of section 105(a)(1)(B) is 4,527.001 million kilowatthours in each year of operation. To the extent that the actual generation at Hoover Powerplant in any year of operation (less deliveries thereof to Arizona required by its first priority under schedule C of section 105(a) (1)(C) whenever actual generation in any year of operation is in excess of 4,501.001 million kilowatthours) is less than 4,527.001 million kilowatthours, such deficiency shall be borne by the holders of contracts under said schedules A and B in the ratio that the sum of the quantities of firm energy to which each contractor is entitled pursuant to said schedules bears to 4,527.001 million kilowatthours. At the request of any such contractor, the Secretary of Energy will purchase energy to meet that contractor's deficiency at such contractor's expense.

(3) Subdivision E of the "General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects" published in the Federal Register May 9, 1983 (48 Federal Register commencing at 20881), hereinafter as the "Criteria" as the "Regulations" shall be deemed to have been modified to conform to this section. The Secretary of Energy shall cause to be included in the Federal Register a notice conforming the text of said Regulations to such modifications.

(4) Each contract offered under subsection (a) (1) of this section shall:

(A) expire September 30, 2017;

(B) not restrict use to which the capacity and energy contracted for by the Metropolitan Water District of Southern California may be placed within the State of California: *Provided*, That to the extent practicable and consistent with sound water management and conservation practice, the Metropolitan Water District of Southern California shall use such capacity and energy to pump available Colorado River water prior to using such capacity and energy to pump California State water project water; and

(C) conform to the applicable provisions of subdivision E of the Criteria, commencing at 48 Federal Register 20881, modified as provided in this section. To the extent that said provisions of the Criteria, as so modified, are applicable to contracts entered into under this section, those provisions are hereby ratified.

(b) Nothing in the Criteria shall be construed to prejudice any rights conferred by the Boulder Canyon Project Act (43 U.S.C. § 617t), as amended and supplemented, on the holder of a contract described in subsection (a) of this section not in default thereunder on September 30, 2017.

(c)(1) The Secretary of Energy shall not execute a contract described in subsection (a)(1)(A) of this section with any entity which is a party to the action entitled the "State of Nevada, et al. against the United States of America, et al." in the United States District Court for the District of Nevada, case numbered CV LV '82 441 RDF, unless that entity agrees to file in that action a stipulation for voluntary dismissal with prejudice of its claims, or counterclaims, or crossclaims, as the case may be, and also agrees to file with the Secretary a document releasing the United States, its officers and agents, and all other parties to that action who join in that stipulation from any claims arising out of the disposition under this section of capacity and energy from the Boulder Canyon project. The Attorney General shall join on behalf of the United States, its officers and agents, in any such voluntary dismissal and shall have the authority to approve on behalf of the United States the form of each release.

(2) If after a reasonable period of time as determined by the Secretary, the Secretary is precluded from executing a contract with an entity by reason of paragraph (1) of this subsection, the Secretary shall offer the capacity and energy thus available to other entities in the same State eligible to enter into such contracts under section 5 of the Boulder Canyon Project Act (43 U.S.C. § 617d).

(d) The uprating program authorized under section 101(a) of this Act shall be undertaken with funds advanced under contracts made with the Secretary of the Interior by non-Federal purchasers described in subsection (a)(1)(B) of this section. Funding provided by non-Federal purchasers shall be advanced to the Secretary of the Interior pursuant to the terms and conditions of such contracts.

(e) Notwithstanding any other provisions of the law, funds advanced by non-Federal purchasers for use in the uprating program shall be deposited in the Colorado River Dam Fund and shall be available for the uprating program.

(f) Those amounts advanced by non-Federal purchasers shall be financially integrated as capital costs with other project costs for rate-setting purposes, and shall be returned to those purchasers advancing funds throughout the contract period through credits which include interest costs incurred by such purchasers for funds contributed to the Secretary of the Interior for the uprating program.

(g) The provisions of this section constitute an exercise by the Congress of the right reserved by it in section 5(b) of the Boulder Canyon Project Act, as amended and supplemented, to prescribe terms and conditions for the renewal of contracts for electrical energy generated at Hoover Dam. This section constitutes the exclusive method for disposing of capacity and energy from Hoover Dam for the period beginning June 1, 1987, and ending September 30, 2017.

(h)(1) Notwithstanding any other provision of law, any claim that the provisions of subsection (a) of this section violates any rights to capacity or energy from the Boulder Canyon project is barred unless the complaint is filed within one year after the date of enactment of this Act in the United States Claims Court which shall have exclusive jurisdiction over this action. Any claim that actions taken by any administrative agency of the United States violates any right under this title or the Boulder Canyon Project Act (43 U.S.C. § 617t) or the Boulder Canyon Project Adjustment Act (43 U.S.C. 618o) is barred unless suit asserting such claim is filed in a Federal court of competent jurisdiction within one year after final refusal of such agency to correct the action complained of.

(2) Any contract entered into pursuant to section 105 or section 107 of this Act shall contain provisions by which any dispute or disagreement as to interpretation or performance of the provisions of this title or of applicable regulations or of the contract may be determined by arbitration or court proceedings. The Secretary of Energy or the Secretary of the Interior, as the case may be, if authorized to act for the United States in such arbitration or court proceedings and, except as provided in paragraph (1) of this subsection, jurisdiction is conferred upon any district court of the United States of proper venue to determine the dispute.

(i) It is the purpose of subsections (c), (g), and (h) of this section to ensure that the rights of contractors for capacity and energy from the Boulder Canyon project for the period beginning June 1, 1987, and ending September 30, 2017, will vest with certainty and finality. (98 Stat. 1335)

Sec. 106. [Repayment requirements.]—Reimbursement of funds advanced by non-Federal purchasers for the uprating program shall be a repayment requirement of the Boulder Canyon project beginning with the first day of the