

104TH CONGRESS  
2D SESSION

# H. R. 3878

To privatize the Federal Power Marketing Administrations and certain facilities of the Tennessee Valley Authority and, in the interim, to provide for a transition to market-based rates for such power, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 23, 1996

Mr. FRANKS of New Jersey (for himself, Mr. MEEHAN, Mr. ZIMMER, Mr. MARTINI, Mr. FRELINGHUYSEN, Mr. SAXTON, Mr. FOLEY, Mr. KLUG, Mr. KENNEDY of Massachusetts, and Mr. BARRETT of Wisconsin) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Transportation and Infrastructure and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To privatize the Federal Power Marketing Administrations and certain facilities of the Tennessee Valley Authority and, in the interim, to provide for a transition to market-based rates for such power, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Power Marketing Ad-  
5 ministration Privatization and Reform Act of 1996”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to—

3 (1) dispose of, through a competitive bidding  
4 procedure, all Federally-owned generation and trans-  
5 mission facilities used to generate and transmit  
6 power sold by the Federal Power Marketing Admin-  
7 istrations and thereafter terminate the Federal  
8 Power Marketing Administrations,

9 (2) to dispose of, through a competitive bidding  
10 procedure, all the hydroelectric generation facilities  
11 of the Tennessee Valley Authority, and

12 (3) in the interim period before full  
13 privatization of the Federally-owned generation and  
14 transmission facilities used to generate and transmit  
15 power sold by the Federal Power Marketing Admin-  
16 istrations, to provide for full cost recovery rates for  
17 power sold by Federal Power Marketing Administra-  
18 tions and a transition to market-based rates for such  
19 power.

20 **TITLE I—FULL COST RECOVERY**  
21 **AND MARKET RATES**

22 **SEC. 101. CONGRESSIONAL FINDINGS.**

23 (a) **EXISTING UNDER-ALLOCATIONS AND UNDER-**  
24 **RECOVERY OF COSTS OF POWER MARKETING.**—The Con-  
25 gress finds that the use of fixed allocations of joint multi-  
26 purpose project costs and the failure to provide for the

1 recovery of actual interest costs and depreciation have re-  
2 sulted in substantial failures to recover costs properly re-  
3 coverable through power rates by the Federal Power Mar-  
4 keting Administrations and have resulted in the imposition  
5 of unreasonable burdens on the taxpaying public.

6 (b) MARKET PRICING PROPERLY ALLOCATES  
7 COSTS.—The Congress further finds that, with the emer-  
8 gence of open access to power transmission and competi-  
9 tive bulk power markets, market prices will provide the  
10 lowest reasonable rates consistent with sound business  
11 principles, consistent with maximum recovery of costs  
12 properly allocated to power production and consistent with  
13 encouraging the most widespread use of power marketed  
14 by Federal Power Marketing Administrations.

15 **SEC. 102. MODIFICATION OF EXISTING POWER MARKETING**  
16 **ADMINISTRATIONS.**

17 (a) FULL COST RECOVERY RATES.—The Secretary  
18 of Energy shall develop and implement interim and final  
19 rates for power sales by Federal Power Marketing Admin-  
20 istrations designed to recover all power related operations  
21 and maintenance expenses and the project investment cost  
22 pertaining to power production, such project power pro-  
23 duction investment to include all powerhouse, water con-  
24 duit, dams and appurtenant works and structures, all stor-  
25 age, diverting, or forebay reservoirs connected therewith,

1 the interconnected transmission system and switchyards,  
2 all miscellaneous structures used and useful in connection  
3 with power production and all water rights, rights-of-way,  
4 ditches, dams, reservoirs, lands, or interests in land there-  
5 of which are necessary or appropriate to the project power  
6 production capability, the cost of which is to be deter-  
7 mined according to generally accepted accounting prin-  
8 ciples, including the accrual of actual interest costs during  
9 construction and pending repayment. The Secretary of  
10 Energy may reallocate project investment previously allo-  
11 cated as joint costs to other functions in order to imple-  
12 ment full power production cost recovery and full cost re-  
13 covery rate schedules. Until market pricing for such power  
14 sales is fully implemented, such full cost recovery rates  
15 shall be implemented for all new contracts for power sales  
16 by the Federal Power Marketing Administrator and for  
17 existing contracts for power sales by Federal Power Mar-  
18 keting Administrations.

19 (b) TRANSITION TO MARKET-BASED RATES.—If the  
20 transition to full cost recovery rates would result in rates  
21 that exceed market rates, the Secretary of Energy is au-  
22 thorized to price power sold by Federal Power Marketing  
23 Administrations at market rates if—

24 (1) operation and maintenance costs are recov-  
25 ered;

1           (2) the contribution toward recovery of invest-  
2           ment pertaining to power production is maximized;  
3           and

4           (3) purchasers of power under existing con-  
5           tracts consent to the remarketing by the relevant  
6           Federal Power Marketing Administration of such  
7           power not later than 3 years thereafter through  
8           competitive bidding. Competitive bidding shall be  
9           utilized to remarket power that is not accepted by  
10          existing customers under this section.

11          (c) MARKET-BASED PRICING.—The Secretary of  
12          Energy shall develop and implement procedures to assure  
13          that all power sold by Federal Power Marketing Adminis-  
14          trations is sold at prices set by demand and supply within  
15          the relevant bulk power supply market. The Secretary of  
16          Energy shall establish through notice and comment rule-  
17          making bid and auction procedures to implement market-  
18          based pricing for power marketing, including power that  
19          is under contract but which is declined by the party enti-  
20          tled to purchase such power and remarketed and power  
21          sold pursuant to any power sales contract entered into by  
22          a Federal Power Marketing Administration after the en-  
23          actment of this Act.

24          (d) ACCOUNTING.—Federal Power Marketing Admin-  
25          istrations shall utilize generally accepted accounting prin-

1 ciples, including the accrual of actual interest costs during  
2 construction and pending repayment for any project and  
3 recognition of depreciation expenses as well as generally  
4 accepted accounting principles concerning cost recovery by  
5 electric utilities. The Secretary of Energy may reallocate  
6 project investment previously allocated as joint costs to  
7 other functions in order to implement full power produc-  
8 tion cost recovery and full cost recovery rate schedules,  
9 and in order to disclose the full costs associated with Fed-  
10 eral power production and marketing.

11 (e) PREFERENCE.—Public bodies and cooperatives  
12 shall be given a preference to future power allocations or  
13 reallocations of Federal power through a right of first re-  
14 fusal at market prices. Power obtained through preference  
15 rights shall be consumed by the preference customer or  
16 resold for consumption by the constituent end-users of the  
17 preference customer and may not be resold to other enti-  
18 ties.

19 (f) REFORMS.—The Secretary of Energy shall re-  
20 quire each Federal Power Marketing Administration to  
21 implement—

22 (1) program management in order to assign  
23 personnel and incur expenses for authorized power  
24 marketing, reclamation, and flood control activities  
25 only, and not diversification into ancillary activities

1 including consulting or operating services for other  
2 entities; and

3 (2) annual reporting plainly disclosing to the  
4 American public, the activities of the Power Market-  
5 ing Administration including, but not limited to, the  
6 full cost of such power projects and power marketing  
7 programs.

8 (g) CONTRACT RENEWAL.—After the enactment of  
9 this Act, no Federal Power Marketing Administration may  
10 enter into or renew any power marketing contract for a  
11 term that exceeds 5 years.

12 (h) RESTRICTIONS.—Excepting only the Bonneville  
13 Power Administration, each Federal Power Marketing Ad-  
14 ministration shall be subject to the restrictions on the con-  
15 struction of transmission and additional facilities estab-  
16 lished by section 5 of the Flood Control Act of 1944.

17 (i) SUNSET.—The provisions of this section shall  
18 cease to apply to a Federal Power Marketing Administra-  
19 tion immediately following the sale under title II of all  
20 electric power generation and transmission facilities used  
21 to generate or transmit power sold by such Administra-  
22 tion.

1 **SEC. 103. FEDERAL ENERGY REGULATORY COMMISSION**  
2 **JURISDICTION OVER TRANSMISSION SERV-**  
3 **ICE PROVIDED BY POWER MARKETING AD-**  
4 **MINISTRATIONS AND TVA.**

5 Transmission service provided by Federal Power  
6 Marketing Administrations or the Tennessee Valley Au-  
7 thority shall be provided on an open access basis and at  
8 just and reasonable rates approved or established by the  
9 Federal Energy Regulatory Commission under part II of  
10 the Federal Power Act in the same manner as such service  
11 is provided pursuant to Commission rules by any public  
12 utility subject to the jurisdiction of the Commission under  
13 such Part II. The preceding sentence shall not require any  
14 Federal Power Marketing Administration to expand trans-  
15 mission or interconnection capabilities or transmissions in  
16 the absence of other authority of law.

17 **SEC. 104. IMPLEMENTATION BY THE FEDERAL ENERGY**  
18 **REGULATORY COMMISSION.**

19 Pending the implementation of market-based pricing,  
20 the Federal Energy Regulatory Commission shall have au-  
21 thority to review and approve, reject, or revise power rate  
22 schedules recommended for approval by the Secretary of  
23 Energy, and existing rate schedules, for power sales by  
24 the Federal Power Marketing Administrations. The Fed-  
25 eral Energy Regulatory Commission shall base its ap-  
26 proval of final rates upon the protection of the public in-

1 terest and shall undertake to protect the interest of the  
2 taxpaying public as well as the interests of consumers. The  
3 Federal Energy Regulatory Commission may review the  
4 factual basis for determinations made by the Secretary of  
5 Energy and may revise or modify those findings as appro-  
6 priate and may revise proposed or effective rate schedules  
7 or remand the rate schedules to the Secretary of Energy  
8 as the Federal Energy Regulatory Commission determines  
9 is necessary to protect the public interest until a full tran-  
10 sition is made to market-based rates for power sold by  
11 Federal Power Marketing Administrations. The Federal  
12 Energy Regulatory Commission is authorized to proceed  
13 pursuant to informal notice and comment rulemaking pur-  
14 suant to section 553(e) of title 5, United States Code. Any  
15 affected party, including a taxpayer, bidder, preference  
16 customer, or affected competitor may seek a rehearing and  
17 judicial review of a final decision of the Federal Energy  
18 Regulatory Commission pursuant to section 313 of the  
19 Federal Power Act (16 U.S.C. 8251).

20 **SEC. 105. AMENDMENT OF DEPARTMENT OF ENERGY ORGA-**  
21 **NIZATION ACT.**

22 The last sentence of section 302(a)(3) of the Depart-  
23 ment of Energy Organization Act is repealed.

1 **SEC. 106. REPEAL.**

2 Section 505 of Public Law 102–377 is hereby re-  
3 pealed.

4 **SEC. 107. EFFECTIVE DATE.**

5 Except as otherwise specifically provided in this title,  
6 the provisions of this title and the amendments made by  
7 this title shall take effect on the date of enactment of this  
8 Act.

9 **TITLE II—PRIVATIZATION OF**  
10 **PMA AND TVA ASSETS**

11 **SEC. 201. SALE OF FEDERAL HYDROELECTRIC GENERA-**  
12 **TION AND TRANSMISSION FACILITIES.**

13 (a) SALE OF PMA AND TVA FACILITIES.—

14 (1) PMA FACILITIES.—The Secretary of En-  
15 ergy is authorized and directed to sell the hydro-  
16 electric power generation facilities used to generate  
17 the electric power marketed by the Federal Power  
18 Marketing Administrations, together with all con-  
19 tracts, marketing agreements, and any and all other  
20 rights, interests, and obligations held or owed by the  
21 Federal Power Marketing Administrations and all  
22 electric power transmission facilities owned by the  
23 United States and operated by a Federal Power  
24 Marketing Administrations.

25 (2) TVA FACILITIES.—The Tennessee Valley  
26 Authority is authorized and directed to sell the hy-

1 hydroelectric power generation facilities owned and op-  
2 erated by the Authority.

3 (b) WATER STORAGE RIGHTS.—Each sale under this  
4 Act shall be subject to all existing water storage rights  
5 in reservoirs used in connection with such power genera-  
6 tion facilities which rights have been acquired by local in-  
7 terests pursuant to the Water Supply Act of 1958 (Public  
8 Law 85–500; 43 U.S.C. 390b) and sections 1, 2, and 3  
9 of Public Law 88–140 (43 U.S.C. 390c through 390e) for  
10 water supply or other purposes and all such rights shall  
11 survive such sale. All obligations of the United States  
12 under contracts with such local interests for the use of  
13 such storage shall be assumed by any purchaser so that  
14 such local interests may continue to operate and utilize  
15 their storage in accordance with their existing contracts  
16 with the United States without entering into an additional  
17 contract with the United States or the purchaser, notwith-  
18 standing any provision of law or contract to the contrary.

19 (c) COMPETITIVE BIDDING.—The Secretary and the  
20 Authority shall restrict the sale of any Federal Power  
21 Marketing Administration or Tennessee Valley Authority  
22 asset to only domestic entities or United States citizens  
23 who reside principally within the United States. In order  
24 to assure that the facilities are transferred in a manner  
25 that provides a reasonable payment to the United States,

1 sales under this section shall be made through a competi-  
2 tive bidding process open to all bidders determined by the  
3 Secretary (or the Authority in the case of facilities sold  
4 by the Authority) to be financially qualified and who have  
5 the experience and resources necessary to manage the  
6 transferred assets. No facility or group of facilities may  
7 be sold for an amount less than the minimum bid estab-  
8 lished and published by the Secretary (or the Authority  
9 in the case of facilities sold by the Authority). The mini-  
10 mum bid for any facility sold by the Secretary shall be  
11 equal to the net present value of the outstanding debt re-  
12 payable to the United States and attributable to the facil-  
13 ity or group of facilities concerned.

14 (d) COOPERATION OF OTHER AGENCIES.—The heads  
15 of other affected Federal departments and agencies shall  
16 assist the Secretary and the Authority in implementing  
17 the sales authorized by this section. Upon receiving a writ-  
18 ten request from the Secretary or the Authority, the head  
19 of any such department or agency having administrative  
20 jurisdiction over any facility to be sold under this section  
21 shall transfer (at such time as may be specified by the  
22 Secretary or the Authority in such request) such facility  
23 to the Secretary or the Authority for purposes of effectuat-  
24 ing such sale.

25 (e) FINANCIAL AND BID MANAGEMENT ADVISOR.—

1           (1) RETENTION OF ADVISOR.—Within 6  
2 months after the date of enactment of this Act, the  
3 Secretary (or the Authority in the case of facilities  
4 sold by the Authority) shall retain an experienced  
5 private sector firm to serve as financial, bid manage-  
6 ment, and technical advisor (hereinafter referred to  
7 in this Act as the “advisor”) to the Secretary (or the  
8 Authority) with respect to such sales. The advisor  
9 shall not have any substantial financial interest in  
10 the existing assets, their operation or the ultimate  
11 purchasers.

12           (2) NOTICE.—Within 6 months after the date  
13 of enactment of this Act, the Secretary and the Au-  
14 thority shall each publish a notice in the Federal  
15 Register soliciting all parties which have an oper-  
16 ational or ownership interest in facilities to be sold  
17 under this Act to provide evidence of such interest  
18 within 90 days of the published notice.

19           (3) ADVISOR’S REPORT.—Within 6 months of  
20 being retained by the Secretary or the Authority and  
21 based on information provided by the Secretary or  
22 the Authority and the information obtained in para-  
23 graph (2), the advisor shall provide to the Secretary  
24 (or the Authority in the case of facilities sold by the  
25 Authority) a report containing each of the following:

1 (A) A plan for the competitive sale of all  
2 facilities and other assets and interests referred  
3 to in subsection (a).

4 (B) An estimate of the net present value of  
5 the income expected to be derived over the next  
6 50 years from each facility or group of facilities  
7 to be sold under this section.

8 (C) An estimate of the net present value of  
9 the expenses expected to be incurred over the  
10 next 50 years in connection with each facility or  
11 group of facilities to be sold under this section.

12 (D) A comparison between the net of sub-  
13 paragraphs (B) and (C) and the net present  
14 value of the outstanding debt which the Federal  
15 government attributes to the asset being sold.

16 (E) The options for the grouping of facili-  
17 ties to be sold under this section. The transfer  
18 shall be structured to transfer assets and inter-  
19 ests by watershed or by project unless the Advi-  
20 sor can provide satisfactory information to the  
21 Secretary or the Authority that another alter-  
22 native should be used. Groupings of assets shall  
23 specifically be designed to transfer all assets in  
24 a manner that provides reasonable payment to  
25 the United States for all assets.

1                   (F) A plan that takes into consideration  
2                   the use of tax exempt and government financ-  
3                   ing for purposes of maximizing the return to  
4                   the American public.

5           (f) PROCEEDS.—The Secretary may use up to  
6 \$6,000,000 from unobligated balances available to the De-  
7 partment of Energy to fund any sale preparation costs  
8 provided for in this section, and shall provide an account-  
9 ing of all sale preparation costs and studies to the Com-  
10 mittee on Resources and the Committee on Transportation  
11 and Infrastructure of the House of Representatives, and  
12 to the Committee on Energy and Natural Resources and  
13 the Committee on Public Works and the Environment of  
14 the Senate within 60 days after completion of the sale.  
15 The proceeds of any sale by the Secretary of a facility  
16 or group of facilities under this section shall be used first  
17 to offset the costs of carrying out such sale and the re-  
18 maining net proceeds shall be deemed to extinguish the  
19 outstanding debt repayable to the United States and at-  
20 tributable to such facility or group of facilities. Any por-  
21 tion of such net proceeds which exceeds the net present  
22 value of the outstanding debt repayable to the United  
23 States and attributable to the facility or group of facilities  
24 concerned shall be deposited in the Treasury of the United  
25 States as miscellaneous receipts.

1 (g) TREATMENT OF SALES FOR PURPOSES OF CER-  
2 TAIN LAWS.—The sales of assets under this Act shall not  
3 be considered a disposal of Federal surplus property under  
4 the following provisions of law:

5 (1) Section 203 of the Federal Property and  
6 Administrative Services Act of 1949 (40 U.S.C.  
7 484).

8 (2) Section 13 of the Surplus Property Act of  
9 1944 (50 U.S.C. App. 1622).

10 (h) EXISTING CONTRACTS, USES, ETC.—All sales of  
11 assets and rights under this section shall be subject to all  
12 contracts, debt obligations to non-Federal entities, oper-  
13 ational objectives, and other binding agreements which  
14 apply, as of the date of such sale, to the facilities con-  
15 cerned and to the sale of electric power from such facili-  
16 ties. The purchaser of each such facility shall assume all  
17 liabilities and obligations of the United States (including  
18 the Tennessee Valley Authority) under such contracts, ob-  
19 ligations or other agreements. Neither any Federal Power  
20 Marketing Administration nor the Authority shall, after  
21 the date of enactment of this Act, enter into a long-term  
22 agreement, contract, or other long-term obligation or re-  
23 sponsibility, except to the extent that such an obligation  
24 will significantly enhance or maintain the value of a facil-  
25 ity after it is transferred. The United States (including

1 the Tennessee Valley Authority) shall remain responsible  
2 for concluding all lawsuits associated with the assets which  
3 are the subject of a transfer and which are extant as of  
4 the date of the enactment of this Act, whether in its capac-  
5 ity of plaintiff or defendant. Any right, title, or interest  
6 of the United States (including the Tennessee Valley Au-  
7 thority) which exists at the conclusion of such lawsuits and  
8 which would otherwise have been transferred, but for the  
9 lawsuit, shall be transferred to the party in interest who  
10 acquired the related asset from the United States (includ-  
11 ing the Tennessee Valley Authority). The United States  
12 shall remain responsible for any outstanding Indian trust  
13 responsibilities, unless the transfer in question specifically  
14 identifies the obligation being transferred.

15 (i) REPORT TO FERC.—Not later than June 30,  
16 1997, the Secretary (or the Authority in the case of facili-  
17 ties sold by the Authority) shall provide each of the follow-  
18 ing to the Federal Energy Regulatory Commission:

19 (1) A description of—

20 (A) all the assets tangible and intangible  
21 that comprise each power generation or trans-  
22 mission facility or group of power generation or  
23 transmission facilities to be sold under this sec-  
24 tion;

1 (B) the existing terms of operation with  
2 respect to such facilities; and

3 (C) any other interest being proposed for  
4 transfer.

5 (2) The information pertaining to such facilities  
6 required by title 18 of the Code of Federal Regula-  
7 tions, subparts B and F, or G, as appropriate, ex-  
8 cept exhibit E.

9 (3) The date when an offer for purchase of the  
10 assets must be submitted.

11 (j) NOTICE OF SALE AND SOLICITATION OF BIDS.—

12 Not later than March 31, 1998, the Secretary (or the Au-  
13 thority in the case of facilities sold by the Authority) shall  
14 publish a notice in the Federal Register which includes  
15 each of the following:

16 (1) A description of—

17 (A) all the assets tangible and intangible  
18 that comprise each power generation facility or  
19 group of power generation facilities to be sold  
20 under this section;

21 (B) the existing terms of operation with  
22 respect to such facilities; and

23 (C) any other interest being proposed for  
24 transfer.

1           (2) The date, time, and conditions of the bids  
2           that must be met to submit a successful bid for the  
3           assets to be sold under this Act.

4           (3) The terms and conditions identified in the  
5           proposed license provided from the Federal Energy  
6           Regulatory Commission to the Secretary (or the Au-  
7           thority in the case of facilities to be sold by the Au-  
8           thority) under this Act.

9           (k) DATE OF SALE.—All sales under this section  
10          shall be completed between July 1, 1999, and September  
11          30, 1999.

12          (l) TERMINATION OF THE FEDERAL PMAS AND  
13          TVA.—Following the sale of all facilities and other assets  
14          referred to in the first sentence of subsection (a), the Sec-  
15          retary shall complete the business of and close out the  
16          Federal Power Marketing Administrations and return the  
17          unexpended balances of funds appropriated for the Admin-  
18          istrations to the Treasury of the United States. To the  
19          extent practical, the purchasers under this section should,  
20          consistent with good business practices, attempt to offer  
21          to employ those former employees of the United States  
22          who are necessary to the continued operation of such fa-  
23          cilities following the sale of the facilities.

1 **SEC. 202. FEDERAL ENERGY REGULATORY COMMISSION**  
2 **JURISDICTION.**

3 (a) REGULATION OF RATES AND CHARGES.—All  
4 rates and charges established for the wholesale sale of  
5 electric power from facilities sold under section 201 shall  
6 be subject to part 2 of the Federal Power Act. This sub-  
7 section shall take effect upon the expiration of any con-  
8 tract which is applicable to the sale of such electric power  
9 on the date of the sale of the facility concerned.

10 (b) ORIGINAL LICENSE.—Not later than January 1,  
11 1998, the Federal Energy Regulatory Commission shall  
12 provide the Secretary (or the Authority in the case of fa-  
13 cilities to be sold by the Authority) with a proposed license  
14 for each power generation facility to be sold under section  
15 1. Not later than September 30, 1999, the Commission  
16 shall issue to the purchaser of each power generation facil-  
17 ity sold under section 1 a license under part I of the Fed-  
18 eral Power Act (16 U.S.C. 791a–823b) authorizing the  
19 continued operation and maintenance of such facility for  
20 a term of 10 years. Such license shall—

21 (1) be for the project purposes established by  
22 the existing terms of operation and shall be consist-  
23 ent with the proposed license provided to the Sec-  
24 retary or the Authority;

25 (2) be conditioned upon the requirement that  
26 the licensed facility continue to be operated and

1 maintained in accordance with the existing terms of  
2 operation, except that the licensee may make im-  
3 provements to the project which increase capacity  
4 without amendment to the license so long as existing  
5 minimum flows are not affected;

6 (3) be subject only to the appropriate standard  
7 “L-Form” license conditions, published at 54 FPC  
8 1792–1928 (1975), except that the license may not  
9 be reopened for any purpose for the first 10 years  
10 of the license;

11 (4) not be subject to: the word “constructed” in  
12 section 3(10), the 4 provisos of section 4(e); section  
13 6 to the extent it requires the licensee’s acceptance  
14 of those terms and conditions of the Act that this  
15 subsection waives; section 10(e) as it concerns an-  
16 nual charges for the use and occupancy of Federal  
17 lands and facilities; section 10(f), section 10(j), sec-  
18 tion 18, section 19, section 20, and section 22 of the  
19 Federal Power Act (16 U.S.C. 796(10), 797(e), 799,  
20 803(e), 803(f), 803(j), 811, 812, 813, and 815); and

21 (5) contain minimum flow restrictions no more  
22 restrictive than those currently in effect, if any, such  
23 minimum flow restrictions may not be altered during  
24 the primary term of the license.

1           (c) ACTS APPLICABLE TO LICENSING.—The issuance  
2 of a license pursuant to subsection (b) shall not be subject  
3 to the provisions of the Federal Land Policy and Manage-  
4 ment Act of 1976, section 2402 of the Energy Policy Act  
5 of 1992, the National Environmental Policy Act of 1969,  
6 the Endangered Species Act of 1973, the Wild and Scenic  
7 Rivers Act, the Federal Water Pollution Control Act, the  
8 National Historic Preservation Act, the Coastal Zone  
9 Management Act, the Fish and Wildlife Coordination Act,  
10 or any other Act otherwise applicable to the licensing of  
11 the projects. Subsequent operations shall be consistent  
12 with all applicable rules and regulations.

13           (d) EFFECT OF LICENSE.—A license issued under  
14 subsection (b)—

15                 (1) shall be deemed to meet the licensing stand-  
16 ards of the Federal Power Act, including section  
17 10(a) and the last sentence of section 4(e) (16  
18 U.S.C. 797(e)); and

19                 (2) shall constitute the sole and exclusive source  
20 for transferred power generation facilities of author-  
21 izations and requirements with respect to facility op-  
22 eration.

23           (e) RESERVATIONS.—Any power site reservation es-  
24 tablished by the President, the Department of the Interior,  
25 or pursuant to section 24 of the Federal Power Act (16

1 U.S.C. 818), or any other law, which exists on any lands,  
2 whether Federally or privately owned, that are included  
3 within the final project boundaries of a transferred hydro-  
4 electric project as approved by the Commission shall be  
5 vacated by operation of law upon issuance of a license for  
6 such project.

7 (f) RELICENSING.—All requirements of part I of the  
8 Federal Power Act and of any other Act applicable to the  
9 licensing of a hydroelectric project shall apply to a trans-  
10 ferred power generation facility upon expiration of an  
11 original license issued under this section.

12 (g) DEFINITIONS.—For purposes of this section:

13 (1) The term “Commission” means the Federal  
14 Energy Regulatory Commission.

15 (2) The term “existing terms of operation”  
16 means any applicable statutes, executive department  
17 regulations, orders, rule curves and the like, memo-  
18 randa of agreement, operating manuals, and con-  
19 tractual arrangements pertaining to a transferred  
20 power generation facility that were in effect as of  
21 the date of enactment of this Act.

22 (3) The term “power generation facility” means  
23 the facilities, real property interests, and other as-  
24 sets sold or to be sold to a transferee under this Act,  
25 including any such real property interests, facilities,

1 or assets that comprise a project as defined in sec-  
2 tion 3(11) of the Federal Power Act (16 U.S.C.  
3 796(11)). If any portion of a structure or other fa-  
4 cility is used for flood control, water supply or other  
5 purposes in addition to the generation of electric en-  
6 ergy, such term refers only to that portion of the  
7 structure or facility used primarily for the genera-  
8 tion of electric energy, including turbines, genera-  
9 tors, controls, substations, and primary lines used  
10 for transmitting electric energy therefrom to the  
11 point of juncture with the interconnected primary  
12 transmission system. Such term shall not include  
13 any portion of a facility used for navigation, flood  
14 control, irrigation, water supply, or recreation.

15 (4) The term “Secretary” means the Secretary  
16 of Energy.

17 (5) The term “Authority” means the Tennessee  
18 Valley Authority.

19 (6) The term “Federal Power Marketing Ad-  
20 ministration” means the Southeastern Power Ad-  
21 ministration, the Southwestern Power Administra-  
22 tion, the Western Area Power Administration, and  
23 the Bonneville Power Administration.

○