

118TH CONGRESS
2D SESSION

S. 3581

To direct the Administrator of the Western Area Power Administration to reduce rates for firm electric service customers due to shortfalls in generation from certain Bureau of Reclamation hydroelectric facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 11, 2024

Mr. KELLY (for himself and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To direct the Administrator of the Western Area Power Administration to reduce rates for firm electric service customers due to shortfalls in generation from certain Bureau of Reclamation hydroelectric facilities, 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 “Hydropower Delivery
5 Rate-reduction Offset Act of 2024” or the “HYDRO Act
6 of 2024”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the sale of hydropower from Federal facili-
4 ties at cost-based rates to project use and firm elec-
5 tric service customers has financed Federal projects
6 and programs that are not strictly necessary for, or
7 related to, the production of hydropower;

8 (2) maintaining a mutually beneficial contrac-
9 tual relationship with project use and firm electric
10 service customers is beneficial for the integrity of
11 the Federal hydropower program;

12 (3) long-term drought conditions in the Western
13 United States have produced untenable conditions
14 for the delivery of hydropower; and

15 (4) the conditions referred to in paragraph (3)
16 make the recovery of costs unrelated to the produc-
17 tion of Federal hydropower inconsistent with sound
18 business principles.

19 **SEC. 3. SENSE OF CONGRESS RELATING TO THE ADMINIS-**
20 **TRATOR OF THE WESTERN AREA POWER AD-**
21 **MINISTRATION.**

22 It is the sense of Congress that—

23 (1) the Administrator of the Western Area
24 Power Administration (referred to in this Act as the
25 “Administrator”) has the discretion to exclude

1 nonpower-related costs from power rate repayment
2 studies; and

3 (2) the Administrator should exercise the dis-
4 cretion of the Administrator—

5 (A) to reduce unnecessary expenditures
6 during periods of extreme drought; and

7 (B) to exclude costs from hydropower rates
8 that are inconsistent with an equitable alloca-
9 tion or assignment of nonpower-related costs to
10 project use and firm electric service rates.

11 **SEC. 4. HYDROPOWER DROUGHT MITIGATION.**

12 (a) NOTIFICATION OF PREDICTED AVAILABLE
13 POWER.—

14 (1) IN GENERAL.—Not later than 30 days after
15 the date of enactment of this Act, and each January
16 1 thereafter, the Administrator shall notify project
17 use and firm electric service customers of each of the
18 Bureau of Reclamation projects described in para-
19 graph (2) of the quantity of energy predicted to be
20 available for delivery from the applicable Bureau of
21 Reclamation project during the 1-year period begin-
22 ning on the date of the notification, based on the
23 most recent August 24-month study of the Bureau
24 of Reclamation.

(2) DESCRIPTION OF PROJECTS.—The Bureau of Reclamation projects referred to in paragraph (1) are the following:

(A) The Colorado River Storage Project, the Collbran Project, and the Rio Grande Project (collectively referred to in this Act as the “Salt Lake City Area Integrated Projects”).

(B) The Boulder Canyon Project.

(C) The Parker-Davis Project.

(b) CONDITIONS WARRANTING RATE REDUCTION.—

(1) SALT LAKE CITY AREA INTEGRATED PROJECTS.—If a notification under subsection (a)(1) indicates that the annual quantity of energy produced by the Salt Lake City Area Integrated Projects is predicted to be less than 4,900,000 MWh, the Administrator shall reduce rates for each project use and firm electric service customer of the Salt Lake City Area Integrated Projects in each monthly invoice for firm electric service until such time as the expected annual energy production returns to levels equal to or greater than 4,900,000 MWh.

(2) BOULDER CANYON PROJECT.—If a notification under subsection (a)(1) indicates that the annual quantity of energy produced by the Boulder

1 Canyon Project is predicted to be less than
2 3,600,000 MWh, the Administrator shall reduce
3 rates for each project use and firm electric service
4 customer of the Boulder Canyon Project in each
5 monthly invoice for firm electric service until such
6 time as the expected annual energy production re-
7 turns to levels equal to or greater than 3,600,000
8 MWh.

9 (3) PARKER-DAVIS PROJECT.—If a notification
10 under subsection (a)(1) indicates that the annual
11 quantity of energy produced by the Parker-Davis
12 Project is expected to be less than 1,400,000 MWh,
13 the Administrator shall reduce rates for each project
14 use and firm electric service customer of the Parker-
15 Davis Project in each monthly invoice for project use
16 and firm electric service until such time as the ex-
17 pected annual energy production returns to levels
18 equal to or greater than 1,400,000 MWh.

19 (c) RATE REDUCTION.—

20 (1) IN GENERAL.—For purposes of calculating
21 a rate reduction required under subsection (b), the
22 Administrator shall reduce rates for each project use
23 and firm electric service customer in accordance with
24 the principles described in sections 2 and 3.

1 (2) LIMITATION ON RATE REDUCTION.—The
 2 Administrator may not reduce rates as required
 3 under subsection (b) by an aggregate amount great-
 4 er than any unobligated balances associated with the
 5 projects described in subsection (a)(2).

6 (d) TERMINATION OF EFFECTIVENESS.—Subsections
 7 (a) through (c) shall cease to be effective on December
 8 31, 2031.

9 **SEC. 5. EFFECT.**

10 (a) COST RECOVERY.—Nothing in this Act preempts
 11 the obligations of the Administrator to set rates to recover
 12 costs as may be required by law.

13 (b) FUNDING.—

14 (1) IN GENERAL.—Nothing in this Act author-
 15 izes additional appropriations for the Western Area
 16 Power Administration.

17 (2) USE OF EXISTING FUNDS.—The Adminis-
 18 trator shall use any funds authorized and appro-
 19 priated to the Western Area Power Administration
 20 on an annual basis to carry out the duties of the Ad-
 21 ministrator under this Act.

22 (c) NO RETROACTIVE RATES.—Notwithstanding any
 23 other provision of law, the Administrator shall not recover
 24 any rate reduction provided pursuant to this section in fu-
 25 ture rates.

1 (d) EFFECT ON WATER RIGHTS.—Nothing in this
2 Act—

3 (1) alters or affects any water rights held by—

4 (A) the United States;

5 (B) any Indian Tribe, band, or community;

6 (C) any State or political subdivision of a
7 State; or

8 (D) any person;

9 (2) authorizes the Secretary of the Interior to
10 change or otherwise modify operations at Bureau of
11 Reclamation facilities in the Colorado River Basin;
12 or

13 (3) authorizes a change in the terms of the
14 agreement entitled the “Second Memorandum of
15 Agreement Concerning the Upper Colorado River
16 Basin Fund” and dated June 10, 2020.

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