

Union Calendar No. 287

111TH CONGRESS
2^D SESSION

H. R. 4349

[Report No. 111-502]

To further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2009

Mrs. NAPOLITANO (for herself, Mr. BACA, Mr. BECERRA, Ms. BERKLEY, Mr. BERMAN, Mr. BILBRAY, Mrs. BONO MACK, Mr. CALVERT, Mr. CAMPBELL, Mrs. CAPPS, Ms. CHU, Mr. COSTA, Mrs. DAVIS of California, Mr. DREIER, Mr. FRANKS of Arizona, Mr. GALLEGLY, Mr. GARAMENDI, Mr. GRIJALVA, Ms. HARMAN, Mr. HELLER, Mr. HONDA, Mr. HUNTER, Mr. ISSA, Ms. LEE of California, Mr. LEWIS of California, Ms. MATSUI, Mr. MCCARTHY of California, Mr. MCKEON, Mr. GARY G. MILLER of California, Mr. GEORGE MILLER of California, Ms. RICHARDSON, Ms. ROYBAL-ALLARD, Mr. ROYCE, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SHADEGG, Mr. SHERMAN, Mr. SCHIFF, Ms. TITUS, Ms. WATERS, Ms. WATSON, Mr. WAXMAN, Ms. WOOLSEY, and Mr. FLAKE) introduced the following bill; which was referred to the Committee on Natural Resources

MAY 28, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on December 16, 2009]

A BILL

To further allocate and expand the availability of hydroelectric power generated at Hoover Dam, 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 “Hoover Power Allocation*
 5 *Act of 2010”.*

6 **SEC. 2. ALLOCATION OF CONTRACTS FOR POWER.**

7 *(a) SCHEDULE A POWER.—Section 105(a)(1)(A) of*
 8 *the Hoover Power Plant Act of 1984 (43 U.S.C.*
 9 *619a(a)(1)(A)) is amended—*

10 *(1) by striking “renewal”;*

11 *(2) by striking “June 1, 1987” and inserting*
 12 *“October 1, 2017”; and*

13 *(3) by striking Schedule A and inserting the fol-*
 14 *lowing:*

“Schedule A

Long-term Schedule A contingent capacity and associated firm energy for offers of contracts to Boulder Canyon project contractors

<i>Contractor</i>	<i>Contingent capacity (kW)</i>	<i>Firm energy (thousands of kWh)</i>		
		<i>Summer</i>	<i>Winter</i>	<i>Total</i>
<i>Metropolitan Water District of Southern California</i>	<i>249,948</i>	<i>859,163</i>	<i>368,212</i>	<i>1,227,375</i>
<i>City of Los Angeles</i>	<i>495,732</i>	<i>464,108</i>	<i>199,175</i>	<i>663,283</i>
<i>Southern California Edison Company</i>	<i>280,245</i>	<i>166,712</i>	<i>71,448</i>	<i>238,160</i>
<i>City of Glendale</i>	<i>18,178</i>	<i>45,028</i>	<i>19,297</i>	<i>64,325</i>
<i>City of Pasadena</i>	<i>11,108</i>	<i>38,622</i>	<i>16,553</i>	<i>55,175</i>
<i>City of Burbank</i>	<i>5,176</i>	<i>14,070</i>	<i>6,030</i>	<i>20,100</i>
<i>Arizona Power Authority</i>	<i>190,869</i>	<i>429,582</i>	<i>184,107</i>	<i>613,689</i>
<i>Colorado River Commission of Nevada</i>	<i>190,869</i>	<i>429,582</i>	<i>184,107</i>	<i>613,689</i>
<i>United States, for Boulder City</i>	<i>20,198</i>	<i>53,200</i>	<i>22,800</i>	<i>76,000</i>
<i>Totals</i>	<i>1,462,323</i>	<i>2,500,067</i>	<i>1,071,729</i>	<i>3,571,796”.</i>

1 (b) *SCHEDULE B POWER.*—Section 105(a)(1)(B) of
 2 the Hoover Power Plant Act of 1984 (43 U.S.C.
 3 619a(a)(1)(B)) is amended to read as follows:

4 “(B) To each existing contractor for power generated
 5 at Hoover Dam, a contract, for delivery commencing Octo-
 6 ber 1, 2017, of the amount of contingent capacity and firm
 7 energy specified for that contractor in the following table:

“Schedule B

Long-term Schedule B contingent capacity and associated firm energy for offers of contracts to Boulder Canyon project contractors

<i>Contractor</i>	<i>Contingent capacity (kW)</i>	<i>Firm energy (thousands of kWh)</i>		
		<i>Summer</i>	<i>Winter</i>	<i>Total</i>
<i>City of Glendale</i>	<i>2,020</i>	<i>2,749</i>	<i>1,194</i>	<i>3,943</i>
<i>City of Pasadena</i>	<i>9,089</i>	<i>2,399</i>	<i>1,041</i>	<i>3,440</i>
<i>City of Burbank</i>	<i>15,149</i>	<i>3,604</i>	<i>1,566</i>	<i>5,170</i>
<i>City of Anaheim</i>	<i>40,396</i>	<i>34,442</i>	<i>14,958</i>	<i>49,400</i>
<i>City of Azusa</i>	<i>4,039</i>	<i>3,312</i>	<i>1,438</i>	<i>4,750</i>
<i>City of Banning</i>	<i>2,020</i>	<i>1,324</i>	<i>576</i>	<i>1,900</i>
<i>City of Colton</i>	<i>3,030</i>	<i>2,650</i>	<i>1,150</i>	<i>3,800</i>
<i>City of Riverside</i>	<i>30,296</i>	<i>25,831</i>	<i>11,219</i>	<i>37,050</i>
<i>City of Vernon</i>	<i>22,218</i>	<i>18,546</i>	<i>8,054</i>	<i>26,600</i>
<i>Arizona</i>	<i>189,860</i>	<i>140,600</i>	<i>60,800</i>	<i>201,400</i>
<i>Nevada</i>	<i>189,860</i>	<i>273,600</i>	<i>117,800</i>	<i>391,400</i>
<i>Totals</i>	<i>507,977</i>	<i>509,057</i>	<i>219,796</i>	<i>728,853</i> ”.

8 (c) *SCHEDULE C POWER.*—Section 105(a)(1)(C) of the
 9 Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(C))
 10 is amended—

11 (1) by striking “June 1, 1987” and inserting
 12 “October 1, 2017”; and

13 (2) by striking Schedule C and inserting the fol-
 14 lowing:

“Schedule C

Excess Energy

<i>Priority of entitlement to excess energy</i>	<i>State</i>
<i>First: Meeting Arizona’s first priority right to delivery of excess energy which is equal in each year of operation to 200 million kilowatthours: Provided, That in the event excess energy in the amount of 200 million kilowatthours is not generated during any year of operation, 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’s 200 million kilowatthours. Said first right of delivery shall accrue at a rate of 200 million kilowatthours per year for each year excess energy in an amount of 200 million kilowatthours is not generated, less amounts of excess energy delivered.</i>	<i>Arizona</i>
<i>Second: Meeting Hoover Dam contractual obligations under Schedule A of subsection (a)(1)(A), under Schedule B of subsection (a)(1)(B), and under Schedule D of subsection (a)(2), not exceeding 26 million kilowatthours in each year of operation. ...</i>	<i>Arizona, Nevada, and California</i>
<i>Third: Meeting the energy requirements of the three States, such available excess energy to be divided equally among the States.</i>	<i>Arizona, Nevada, and California”.</i>

1 (d) *SCHEDULE D POWER.*—Section 105(a) of the Hoo-
2 *ver Power Plant Act of 1984 (43 U.S.C. 619a(a)) is amend-*
3 *ed—*

4 (1) *by redesignating paragraphs (2), (3), and (4)*
5 *as paragraphs (3), (4), and (5), respectively; and*
6 (2) *by inserting after paragraph (1) the fol-*
7 *lowing:*

8 “(2)(A) *The Secretary of Energy is authorized to and*
9 *shall create from the apportioned allocation of contingent*
10 *capacity and firm energy adjusted from the amounts au-*
11 *thorized in this Act in 1984 to the amounts shown in Sched-*

1 *ule A and Schedule B, as modified by the Hoover Power*
 2 *Allocation Act of 2010, a resource pool equal to 5 percent*
 3 *of the full rated capacity of 2,074,000 kilowatts, and associ-*
 4 *ated firm energy, as shown in Schedule D (referred to in*
 5 *this section as ‘Schedule D contingent capacity and firm*
 6 *energy’):*

“*Schedule D*

Long-term Schedule D resource pool of contingent capacity and associated firm energy for new allottees

<i>State</i>	<i>Contingent capacity (kW)</i>	<i>Firm energy (thousands of kWh)</i>		
		<i>Summer</i>	<i>Winter</i>	<i>Total</i>
<i>New Entities Allocated by the Secretary of Energy</i>	69,170	105,637	45,376	151,013
<i>New Entities Allocated by State</i>				
<i>Arizona</i>	11,510	17,580	7,533	25,113
<i>California</i>	11,510	17,580	7,533	25,113
<i>Nevada</i>	11,510	17,580	7,533	25,113
<i>Totals</i>	103,700	158,377	67,975	226,352

7 “(B) *The Secretary of Energy shall offer Schedule D*
 8 *contingency capacity and firm energy to entities not receiv-*
 9 *ing contingent capacity and firm energy under subpara-*
 10 *graphs (A) and (B) of paragraph (1) (referred to in this*
 11 *section as ‘new allottees’) for delivery commencing October*
 12 *1, 2017 pursuant to this subsection. In this subsection, the*
 13 *term ‘the marketing area for the Boulder City Area Projects’*
 14 *shall have the same meaning as in appendix A of the Gen-*
 15 *eral Consolidated Power Marketing Criteria or Regulations*
 16 *for Boulder City Area Projects published in the Federal*

1 *Register on December 28, 1984 (49 Federal Register 50582*
2 *et seq.) (referred to in this section as the ‘Criteria’).*

3 “(C)(i) *Within 36 months of the date of enactment of*
4 *the Hoover Power Allocation Act of 2010, the Secretary of*
5 *Energy shall allocate through the Western Area Power Ad-*
6 *ministration (referred to in this section as ‘Western’), for*
7 *delivery commencing October 1, 2017, for use in the mar-*
8 *keting area for the Boulder City Area Projects 66.7 percent*
9 *of the Schedule D contingent capacity and firm energy to*
10 *new allottees that are located within the marketing area*
11 *for the Boulder City Area Projects and that are—*

12 “(I) *eligible to enter into contracts under section*
13 *5 of the Boulder Canyon Project Act (43 U.S.C.*
14 *617d); or*

15 “(II) *federally recognized Indian tribes.*

16 “(ii) *In the case of Arizona and Nevada, Schedule D*
17 *contingent capacity and firm energy for new allottees other*
18 *than federally recognized Indian tribes shall be offered*
19 *through the Arizona Power Authority and the Colorado*
20 *River Commission of Nevada, respectively. Schedule D con-*
21 *tigent capacity and firm energy allocated to federally rec-*
22 *ognized Indian tribes shall be contracted for directly with*
23 *Western.*

24 “(D) *Within 1 year of the date of enactment of the*
25 *Hoover Power Allocation Act of 2010, the Secretary of En-*

1 *ergy also shall allocate, for delivery commencing October*
2 *1, 2017, for use in the marketing area for the Boulder City*
3 *Area Projects 11.1 percent of the Schedule D contingent ca-*
4 *capacity and firm energy to each of—*

5 *“(i) the Arizona Power Authority for allocation*
6 *to new allottees in the State of Arizona;*

7 *“(ii) the Colorado River Commission of Nevada*
8 *for allocation to new allottees in the State of Nevada;*
9 *and*

10 *“(iii) Western for allocation to new allottees*
11 *within the State of California, provided that Western*
12 *shall have 36 months to complete such allocation.*

13 *“(E) Each contract offered pursuant to this subsection*
14 *shall include a provision requiring the new allottee to pay*
15 *a proportionate share of its State’s respective contribution*
16 *(determined in accordance with each State’s applicable*
17 *funding agreement) to the cost of the Lower Colorado River*
18 *Multi-Species Conservation Program (as defined in section*
19 *9401 of the Omnibus Public Land Management Act of 2009*
20 *(Public Law 111–11; 123 Stat. 1327)), and to execute the*
21 *Boulder Canyon Project Implementation Agreement Con-*
22 *tract No. 95–PAO–10616 (referred to in this section as the*
23 *‘Implementation Agreement’).*

24 *“(F) Any of the 66.7 percent of Schedule D contingent*
25 *capacity and firm energy that is to be allocated by Western*

1 *that is not allocated and placed under contract by October*
2 *1, 2017, shall be returned to those contractors shown in*
3 *Schedule A and Schedule B in the same proportion as those*
4 *contractors' allocations of Schedule A and Schedule B con-*
5 *tingent capacity and firm energy. Any of the 33.3 percent*
6 *of Schedule D contingent capacity and firm energy that is*
7 *to be distributed within the States of Arizona, Nevada, and*
8 *California that is not allocated and placed under contract*
9 *by October 1, 2017, shall be returned to the Schedule A and*
10 *Schedule B contractors within the State in which the Sched-*
11 *ule D contingent capacity and firm energy were to be dis-*
12 *tributed, in the same proportion as those contractors' allo-*
13 *cations of Schedule A and Schedule B contingent capacity*
14 *and firm energy.”.*

15 *(e) TOTAL OBLIGATIONS.—Paragraph (3) of section*
16 *105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C.*
17 *619a(a)) (as redesignated as subsection (d)(1)) is amend-*
18 *ed—*

19 *(1) in the first sentence, by striking “schedule A*
20 *of section 105(a)(1)(A) and schedule B of section*
21 *105(a)(1)(B)” and inserting “paragraphs (1)(A),*
22 *(1)(B), and (2)”;* and

23 *(2) in the second sentence—*

24 *(A) by striking “any” and inserting “each”;*

1 (B) by striking “schedule C” and inserting
2 “Schedule C”; and

3 (C) by striking “schedules A and B” and
4 inserting “Schedules A, B, and D”.

5 (f) *POWER MARKETING CRITERIA.*—Paragraph (4) of
6 section 105(a) of the Hoover Power Plant Act of 1984 (43
7 U.S.C. 619a(a)) (as redesignated as subsection (d)(1)) is
8 amended to read as follows:

9 “(4) Subdivision E of the Criteria shall be deemed to
10 have been modified to conform to this section, as modified
11 by the Hoover Power Allocation Act of 2010. The Secretary
12 of Energy shall cause to be included in the Federal Register
13 a notice conforming the text of the regulations to such modi-
14 fications.”.

15 (g) *CONTRACT TERMS.*—Paragraph (5) of section
16 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C.
17 619a(a)) (as redesignated as subsection (d)(1)) is amend-
18 ed—

19 (1) by striking subparagraph (A) and inserting
20 the following:

21 “(A) in accordance with section 5(a) of the Boul-
22 der Canyon Project Act (43 U.S.C. 617d(a)), expire
23 September 30, 2067;”;

24 (2) in the proviso of subparagraph (B)—

1 (A) by striking “shall use” and inserting
2 “shall allocate”; and

3 (B) by striking “and” after the semicolon at
4 the end;

5 (3) in subparagraph (C), by striking the period
6 at the end and inserting a semicolon; and

7 (4) by adding at the end the following:

8 “(D) authorize and require Western to collect
9 from new allottees a pro rata share of Hoover Dam
10 repayable advances paid for by contractors prior to
11 October 1, 2017, and remit such amounts to the con-
12 tractors that paid such advances in proportion to the
13 amounts paid by such contractors as specified in sec-
14 tion 6.4 of the Implementation Agreement;

15 “(E) permit transactions with an independent
16 system operator; and

17 “(F) contain the same material terms included
18 in section 5.6 of those long-term contracts for pur-
19 chases from the Hoover Power Plant that were made
20 in accordance with this Act and are in existence on
21 the date of enactment of the Hoover Power Allocation
22 Act of 2010.”.

23 (h) *EXISTING RIGHTS*.—Section 105(b) of the Hoover
24 Power Plant Act of 1984 (43 U.S.C. 619a(b)) is amended
25 by striking “2017” and inserting “2067”.

1 (i) *OFFERS.*—Section 105(c) of the Hoover Power
2 *Plant Act of 1984 (43 U.S.C. 619a(c)) is amended to read*
3 *as follows:*

4 “(c) *OFFER OF CONTRACT TO OTHER ENTITIES.*—If
5 *any existing contractor fails to accept an offered contract,*
6 *the Secretary of Energy shall offer the contingent capacity*
7 *and firm energy thus available first to other entities in the*
8 *same State listed in Schedule A and Schedule B, second*
9 *to other entities listed in Schedule A and Schedule B, third*
10 *to other entities in the same State which receive contingent*
11 *capacity and firm energy under subsection (a)(2) of this*
12 *section, and last to other entities which receive contingent*
13 *capacity and firm energy under subsection (a)(2) of this*
14 *section.”.*

15 (j) *AVAILABILITY OF WATER.*—Section 105(d) of the
16 *Hoover Power Plant Act of 1984 (43 U.S.C. 619a(d)) is*
17 *amended to read as follows:*

18 “(d) *WATER AVAILABILITY.*—*Except with respect to*
19 *energy purchased at the request of an allottee pursuant to*
20 *subsection (a)(3), the obligation of the Secretary of Energy*
21 *to deliver contingent capacity and firm energy pursuant*
22 *to contracts entered into pursuant to this section shall be*
23 *subject to availability of the water needed to produce such*
24 *contingent capacity and firm energy. In the event that*
25 *water is not available to produce the contingent capacity*

1 *and firm energy set forth in Schedule A, Schedule B, and*
2 *Schedule D, the Secretary of Energy shall adjust the contin-*
3 *gent capacity and firm energy offered under those Schedules*
4 *in the same proportion as those contractors' allocations of*
5 *Schedule A, Schedule B, and Schedule D contingent capac-*
6 *ity and firm energy bears to the full rated contingent capac-*
7 *ity and firm energy obligations.”.*

8 *(k) CONFORMING AMENDMENTS.—Section 105 of the*
9 *Hoover Power Plant Act of 1984 (43 U.S.C. 619a) is*
10 *amended—*

11 *(1) by striking subsections (e) and (f); and*

12 *(2) by redesignating subsections (g), (h), and (i)*
13 *as subsections (e), (f), and (g), respectively.*

14 *(l) CONTINUED CONGRESSIONAL OVERSIGHT.—Sub-*
15 *section (e) of section 105 of the Hoover Power Plant Act*
16 *of 1984 (43 U.S.C. 619a)) (as redesignated by subsection*
17 *(k)(2)) is amended—*

18 *(1) in the first sentence, by striking “the renewal*
19 *of”; and*

20 *(2) in the second sentence, by striking “June 1,*
21 *1987, and ending September 30, 2017” and inserting*
22 *“October 1, 2017, and ending September 30, 2067”.*

23 *(m) COURT CHALLENGES.—Subsection (f)(1) of sec-*
24 *tion 105 of the Hoover Power Plant Act of 1984 (43 U.S.C.*
25 *619a) (as redesignated by subsection (k)(2)) is amended in*

1 *the first sentence by striking “this Act” and inserting “the*
2 *Hoover Power Allocation Act of 2010”.*

3 (n) *REAFFIRMATION OF CONGRESSIONAL DECLARA-*
4 *TION OF PURPOSE.—Subsection (g) of section 105 of the*
5 *Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as redes-*
6 *ignated by subsection (k)(2)) is amended—*

7 (1) *by striking “subsections (c), (g), and (h) of*
8 *this section” and inserting “this Act”; and*

9 (2) *by striking “June 1, 1987, and ending Sep-*
10 *tember 30, 2017” and inserting “October 1, 2017, and*
11 *ending September 30, 2067”.*

Union Calendar No. 287

11TH CONGRESS
2^D Session

H. R. 4349

[Report No. 111-502]

A BILL

To further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

MAY 28, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed