Public Law 112–72
112th Congress

An Act

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hoover Power Allocation Act of 2011".

SEC. 2. ALLOCATION OF CONTRACTS FOR POWER.

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

(1) by striking "renewal";
(2) by striking "June 1, 1987" and inserting "October 1, 2017"; and
(3) by striking Schedule A and inserting the following:

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

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Contingent capacity (kW)</th>
<th>Firm energy (thousands of kWh)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Summer</td>
</tr>
<tr>
<td>Metropolitan Water District of Southern California</td>
<td>249,948</td>
<td>859,163</td>
</tr>
<tr>
<td>City of Los Angeles</td>
<td>495,732</td>
<td>464,108</td>
</tr>
<tr>
<td>Southern California Edison Company</td>
<td>280,245</td>
<td>166,712</td>
</tr>
<tr>
<td>City of Glendale</td>
<td>18,178</td>
<td>45,028</td>
</tr>
<tr>
<td>City of Pasadena</td>
<td>11,108</td>
<td>38,622</td>
</tr>
<tr>
<td>City of Burbank</td>
<td>5,176</td>
<td>14,070</td>
</tr>
<tr>
<td>Arizona Power Authority</td>
<td>190,869</td>
<td>429,582</td>
</tr>
<tr>
<td>Colorado River Commission of Nevada</td>
<td>190,869</td>
<td>429,582</td>
</tr>
<tr>
<td>United States, for Boulder City</td>
<td>20,198</td>
<td>53,200</td>
</tr>
<tr>
<td>Totals</td>
<td>1,462,323</td>
<td>2,500,067</td>
</tr>
</tbody>
</table>
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(b) SCHEDULE B POWER.—Section 105(a)(1)(B) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(B)) is amended to read as follows:
“(B) To each existing contractor for power generated at Hoover Dam, a contract, for delivery commencing October 1, 2017, of the amount of contingent capacity and firm 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

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Contingent capacity (kW)</th>
<th>Firm energy (thousands of kWh)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Summer</td>
<td>Winter</td>
</tr>
<tr>
<td>City of Glendale</td>
<td>2,020</td>
<td>2,749</td>
</tr>
<tr>
<td>City of Pasadena</td>
<td>9,089</td>
<td>2,399</td>
</tr>
<tr>
<td>City of Burbank</td>
<td>15,149</td>
<td>3,604</td>
</tr>
<tr>
<td>City of Anaheim</td>
<td>40,396</td>
<td>34,442</td>
</tr>
<tr>
<td>City of Azusa</td>
<td>4,039</td>
<td>3,312</td>
</tr>
<tr>
<td>City of Banning</td>
<td>2,020</td>
<td>1,324</td>
</tr>
<tr>
<td>City of Colton</td>
<td>3,030</td>
<td>2,650</td>
</tr>
<tr>
<td>City of Riverside</td>
<td>30,296</td>
<td>25,831</td>
</tr>
<tr>
<td>City of Vernon</td>
<td>22,218</td>
<td>18,546</td>
</tr>
<tr>
<td>Arizona</td>
<td>189,860</td>
<td>140,600</td>
</tr>
<tr>
<td>Nevada</td>
<td>189,860</td>
<td>273,600</td>
</tr>
<tr>
<td>Totals</td>
<td>507,977</td>
<td>509,057</td>
</tr>
</tbody>
</table>

(c) Schedule C Power.—Section 105(a)(1)(C) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(C)) is amended—

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

(2) by striking Schedule C and inserting the following:

“Schedule C

Excess Energy

<table>
<thead>
<tr>
<th>Priority of entitlement to excess energy</th>
<th>State</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td>Arizona</td>
</tr>
<tr>
<td>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.</td>
<td>Arizona, Nevada, and California</td>
</tr>
</tbody>
</table>
“Schedule C—Continued
Excess Energy

<table>
<thead>
<tr>
<th>Priority of entitlement to excess energy</th>
<th>State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third: Meeting the energy requirements of the three States, such available excess energy to be divided equally among the States.</td>
<td>Arizona, Nevada, and California</td>
</tr>
</tbody>
</table>

(d) SCHEDULE D POWER.—Section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

“(2)(A) The Secretary of Energy is authorized to and shall create from the apportioned allocation of contingent capacity and firm energy adjusted from the amounts authorized in this Act in 1984 to the amounts shown in Schedule A and Schedule B, as modified by the Hoover Power Allocation Act of 2011, a resource pool equal to 5 percent of the full rated capacity of 2,074,000 kilowatts, and associated firm energy, as shown in Schedule D (referred to in this section as ‘Schedule D contingent capacity and firm energy’):

<table>
<thead>
<tr>
<th>State</th>
<th>Contingent capacity (kW)</th>
<th>Firm energy (thousands of kWh)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Summer</td>
</tr>
<tr>
<td>New Entities Allocated by the Secretary of Energy</td>
<td>69,170</td>
<td>105,637</td>
</tr>
<tr>
<td>New Entities Allocated by State</td>
<td>11,510</td>
<td>17,580</td>
</tr>
<tr>
<td>Arizona</td>
<td>11,510</td>
<td>17,580</td>
</tr>
<tr>
<td>California</td>
<td>11,510</td>
<td>17,580</td>
</tr>
<tr>
<td>Nevada</td>
<td>11,510</td>
<td>17,580</td>
</tr>
<tr>
<td>Totals</td>
<td>103,700</td>
<td>158,377</td>
</tr>
</tbody>
</table>

“(B) The Secretary of Energy shall offer Schedule D contingency capacity and firm energy to entities not receiving contingent capacity and firm energy under subparagraphs (A) and (B) of paragraph (1) (referred to in this section as ‘new allottees’) for delivery commencing October 1, 2017 pursuant to this subsection. In this subsection, the term ‘the marketing area for the Boulder City Area Projects’ shall have the same meaning as in appendix A of the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects published in the Federal Register on December 28, 1984 (49 Federal Register 50582 et seq.) (referred to in this section as the ‘Criteria’).

“(C)(i) Within 36 months of the date of enactment of the Hoover Power Allocation Act of 2011, the Secretary of Energy shall allocate through the Western Area Power Administration (referred to in

Deadline. Effective date.
this section as ‘Western’), for delivery commencing October 1, 2017, for use in the marketing area for the Boulder City Area Projects 66.7 percent of the Schedule D contingent capacity and firm energy to new allottees that are located within the marketing area for the Boulder City Area Projects and that are—

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

“(II) federally recognized Indian tribes.

“(ii) In the case of Arizona and Nevada, Schedule D contingent capacity and firm energy for new allottees other than federally recognized Indian tribes shall be offered through the Arizona Power Authority and the Colorado River Commission of Nevada, respectively. Schedule D contingent capacity and firm energy allocated to federally recognized Indian tribes shall be contracted for directly with Western.

“(D) Within 1 year of the date of enactment of the Hoover Power Allocation Act of 2011, the Secretary of Energy also shall allocate, for delivery commencing October 1, 2017, for use in the marketing area for the Boulder City Area Projects 11.1 percent of the Schedule D contingent capacity and firm energy to each of—

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

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

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

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

“(F) Any of the 66.7 percent of Schedule D contingent capacity and firm energy that is to be allocated by Western that is not allocated and placed under contract by October 1, 2017, shall be returned to those contractors shown in Schedule A and Schedule B in the same proportion as those contractors’ allocations of Schedule A and Schedule B contingent capacity and firm energy. Any of the 33.3 percent of Schedule D contingent capacity and firm energy that is to be distributed within the States of Arizona, Nevada, and California that is not allocated and placed under contract by October 1, 2017, shall be returned to the Schedule A and Schedule B contractors within the State in which the Schedule D contingent capacity and firm energy were to be distributed, in the same proportion as those contractors’ allocations of Schedule A and Schedule B contingent capacity and firm energy.”.

(e) TOTAL OBLIGATIONS.—Paragraph (3) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated by subsection (d)(1)) is amended—
(1) in the first sentence, by striking “schedule A of section 105(a)(1)(A) and schedule B of section 105(a)(1)(B)” and inserting “paragraphs (1)(A), (1)(B), and (2)”;
and
(2) in the second sentence—
   (A) by striking “any” each place it appears and inserting “each”;
   (B) by striking “schedule C” and inserting “Schedule C”; and
   (C) by striking “schedules A and B” and inserting “Schedules A, B, and D”.

(f) Power Marketing Criteria.—Paragraph (4) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated by subsection (d)(1)) is amended to read as follows:
“(4) Subdivision C of the Criteria shall be deemed to have been modified to conform to this section, as modified by the Hoover Power Allocation Act of 2011. The Secretary of Energy shall cause to be included in the Federal Register a notice conforming the text of the regulations to such modifications.”.

(g) Contract Terms.—Paragraph (5) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated by subsection (d)(1)) is amended—
   (1) by striking subparagraph (A) and inserting the following:
      “(A) in accordance with section 5(a) of the Boulder Canyon Project Act (43 U.S.C. 617d(a)), expire September 30, 2067;”;
   (2) in the proviso of subparagraph (B)—
      (A) by striking “shall use” and inserting “shall allocate”;
      and
      (B) by striking “and” after the semicolon at the end;
   (3) in subparagraph (C), by striking the period at the end and inserting a semicolon; and
   (4) by adding at the end the following:
      “(D) authorize and require Western to collect from new allottees a pro rata share of Hoover Dam repayable advances paid for by contractors prior to October 1, 2017, and remit such amounts to the contractors that paid such advances in proportion to the amounts paid by such contractors as specified in section 6.4 of the Implementation Agreement;
      “(E) permit transactions with an independent system operator; and
      “(F) contain the same material terms included in section 5.6 of those long-term contracts for purchases from the Hoover Power Plant that were made in accordance with this Act and are in existence on the date of enactment of the Hoover Power Allocation Act of 2011.”.

(h) Existing Rights.—Section 105(b) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(b)) is amended by striking “2017” and inserting “2067”.

(i) Offers.—Section 105(c) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(c)) is amended to read as follows:
“(c) Offer of Contract to Other Entities.—If any existing contractor fails to accept an offered contract, the Secretary of Energy shall offer the contingent capacity and firm energy thus available first to other entities in the same State listed in Schedule A and Schedule B, second to other entities listed in Schedule A and Schedule B, third to other entities in the same State which receive contingent capacity and firm energy under subsection (a)(2) of this

Federal Register, publication.
Notice.
section, and last to other entities which receive contingent capacity
and firm energy under subsection (a)(2) of this section.”.

(j) Availability of Water.—Section 105(d) of the Hoover
Power Plant Act of 1984 (43 U.S.C. 619a(d)) is amended to read
as follows:

“(d) Water Availability.—Except with respect to energy pur-
chased at the request of an allottee pursuant to subsection (a)(3),
the obligation of the Secretary of Energy to deliver contingent
capacity and firm energy pursuant to contracts entered into pursu-
ant to this section shall be subject to availability of the water
needed to produce such contingent capacity and firm energy. In
the event that water is not available to produce the contingent
capacity and firm energy set forth in Schedule A, Schedule B,
and Schedule D, the Secretary of Energy shall adjust the contingent
capacity and firm energy offered under those Schedules in the
same proportion as those contractors’ allocations of Schedule A,
Schedule B, and Schedule D contingent capacity and firm energy
bears to the full rated contingent capacity and firm energy obliga-
tions.”.

(k) Conforming Amendments.—Section 105 of the Hoover
Power Plant Act of 1984 (43 U.S.C. 619a) is amended—

(1) by striking subsections (e) and (f); and
(2) by redesignating subsections (g), (h), and (i) as sub-
sections (e), (f), and (g), respectively.

(l) Continued Congressional Oversight.—Subsection (e) of
619a) (as redesignated by subsection (k)(2)) is amended—

(1) in the first sentence, by striking “the renewal of”; and
(2) in the second sentence, by striking “June 1, 1987, and
ending September 30, 2017” and inserting “October 1, 2017,
and ending September 30, 2067”.

(m) Court Challenges.—Subsection (f)(1) of section 105 of
the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as redesig-
nated by subsection (k)(2)) is amended in the first sentence by
striking “this Act” and inserting “the Hoover Power Allocation Act
of 2011”.

(n) Reaffirmation of Congressional Declaration of Pur-
pose.—Subsection (g) of section 105 of the Hoover Power Plant
Act of 1984 (43 U.S.C. 619a) (as redesignated by subsection (k)(2))
is amended—

(1) by striking “subsections (c), (g), and (h) of this section”
and inserting “this Act”; and
(2) by striking “June 1, 1987, and ending September 30,
2017” and inserting “October 1, 2017, and ending September
30, 2067”.

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SEC. 3. PAYGO.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Approved December 20, 2011.