



BPA and 4(h)(10)(C) “Fish” Credits

Background

The Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Regional Act) directs that the BPA Administrator shall use the Bonneville Fund to, among other things, protect, mitigate, and enhance fish and wildlife affected by the development and operation of federal hydroelectric projects in the Columbia River and its tributaries in a manner consistent with the program adopted by the Northwest Power and Conservation Council and other purposes of the Act. The Bonneville Fund is made up of revenues collected from BPA customers for power and transmission services.

The Administrator must recover through rates the costs attributable to the power function of the federal dams from which BPA markets power. BPA ratepayers are not required to pay for costs allocated to non-power uses of the dams. These non-power uses include flood control, irrigation¹, recreation and navigation. Section 4(h)(10)(C) of the Regional Act directs the BPA Administrator to allocate expenditures attributable to fish and wildlife mitigation and enhancement among the various power and non-power purposes in accordance with the accounting procedures used for the Federal Columbia River Power System (FCRPS). Since 1995, BPA has taken credits for the portion of the expenditures allocated to non-power purposes as a way to ensure that BPA's customers pay only the power share of the fish and wildlife mitigation costs. Essentially, 4(h)(10)(C) is a “true-up” between BPA's broader funding obligations and its narrower rate directives.

Prior to 1995, BPA earned but did not take or receive credits for expenditures made on behalf of the non-power uses of the hydrosystem. By administrative agreement, in 1995–1997 those unused credits, totaling \$325 million including interest, were placed in the Fish Cost Contingency Fund (FCCF). The terms of this interagency agreement allowed BPA to access the FCCF if court-ordered changes increased the average cost of BPA's fish and wildlife program to more than \$435 million, if a natural disaster or fishery emergency was declared; or if adverse hydro

conditions existed, equivalent to the worst 25–30 percent of the 50 years on the hydro record, that reduced non-firm revenues and/or increase power purchases. The FCCF was first accessed under extremely adverse hydro conditions the region experienced in 2001. The roughly \$79 million that remained in the fund was finally expended two years later under less severe, but still adverse hydro conditions.

Composition of the 4(h)(10)(C) Credits

The 4(h)(10)(C) credits include 22.3² percent of BPA's expenditures for:

- Fish and wildlife and for operations and maintenance expenses stemming from fish and wildlife activities, including those related to the Endangered Species Act, that are consistent with the Council's program;
- Capital expenditures for tributary passage habitat construction; and
- Net replacement power purchase expenses (power purchases made to make up firm system capability lost due to fish mitigation measurexxs) assessed at prevailing market values for power.

The 22.3 percent represents the FCRPS-wide proportion of hydro project costs that are allocated to non-power uses of the dams.

Not a Subsidy

The 4(h)(10)(C) credits are not a form of subsidy from U.S. taxpayers to Northwest ratepayers. Quite the contrary, BPA implements system-wide mitigation for the entire Columbia River federal hydrosystem—i.e., mitigation for power and non-power purposes of the dams, and credits are the mechanism by which BPA and the region's ratepayers are temporarily reimbursed for having funded fish and wildlife measures on behalf of the non-power purposes of the hydroelectric projects.

Fish and wildlife federal protection, mitigation, and enhancement were key objectives of the Regional Act. Prior to the Act's passage in 1980, fish mitigation costs were relatively low, and the language in the Act reflected recognition by Congress of the need for more vigorous efforts.

¹ A portion, although not all, of irrigation costs is recovered from irrigators. Under some circumstances BPA makes up the difference and in this way pays irrigation costs as well as power costs.

² Prior to 2001, 27% of the FCRPS-wide proportion of hydro project costs was allocated to non-power uses of the dams. This value was reduced to 22.3% as a result of changes in allocation of purposes at Grand Coulee.



The hydroelectric projects in the FCRPS serve multiple official “purposes,” only one of which is power generation. As previously indicated, flows are also regulated to serve such additional project purposes as navigation, recreation, irrigation, and flood control. These other purposes have traditionally been the responsibility of other Federal agencies: the Army Corps of Engineers, the U.S. Fish and Wildlife Service, Bureau of Reclamation, and the National Marine Fisheries Service. But addressing impacts of such an extensive hydrosystem on a piecemeal basis was cumbersome and less effective than Congress wanted.

Rather than deal with the costs of mitigating the fish impacts of hydroelectric power purposes by separate appropriations to each of the Federal agencies involved in the operation of the FCRPS, Congress included provisions in the Regional Act to provide the needed funding and mitigation on a system-wide basis.

- Section 4(h)(10)(A) directed the BPA Administrator to use the Bonneville Fund for mitigating the fish impacts of the hydroelectric projects in a manner consistent with the Council’s fish and wildlife program and the other purposes of the Act.
- Section 4(h)(8)(B) directed the Council in developing the program to recognize that BPA’s customers could bear the costs of mitigation caused by the development and operation of electric power facilities and programs only.

- Section 4(h)(10)(C) directed the BPA Administrator to use existing FCRPS accounting principles to allocate the expenditures among the various power and nonpower purposes.

4(h)(10)(C) credits were the mechanism that BPA, the U.S. Treasury, and the U.S. Office of Management and Budget agreed would be used to reimburse the Bonneville Fund for expenditures made on behalf of mitigation for non-power purposes. BPA’s reserves become artificially low because some of the revenues collected from its customers have already been spent on behalf of non-power purposes. In effect, BPA has taken money from the Bonneville Fund and loaned it to other projects to help mitigate the impacts from the other project purposes. The credits are used to repay these “loaned” funds by applying them to BPA’s end-of-year payment.

How BPA Implements the Credits

BPA earns 4(h)(10)(C) credits whenever it funds fish and wildlife measures because 22.3 percent of the cost of those measures is considered to serve the non-power purposes of the federal dams. The credits serve as a source of funding for other BPA costs, and BPA treats the credits as revenue in revenue forecasts, budgets and accounting. BPA’s practice has been to implement the credits by reducing its scheduled cash transfers to the U.S. Treasury. The credits do not reduce BPA’s payment obligation; rather, they serve as another source of funding to meet the obligation.

Fish-Related Credits (in millions)

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
4(h)(10)(c) credits	45.2	25.5	29.7	35.7	46.0	50.4	336.6	66.4	73.6	75.1
Fish Cost Contingency Fund (FCCF)	0	0	0	0	0	0	246.5	0	78.7	0