



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON 25

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The Honorable,

The Secretary of the Interior.

My dear Mr. Secretary:

I have your letter of January 3, 1947, as follows:

"A pipe line company has requested electric service from the Bureau of Reclamation of this Department at its proposed oil pipe line pumping plant near Casper, Wyoming. Service to this customer from the Bureau's existing Kendrick project power transmission system will require additional facilities consisting of approximately 8 miles of 69 kilovolt feeder transmission line together with a delivery substation of 1000 kilovolt-ampere capacity for 440-volt secondary service. The estimated cost of these facilities is \$87,500, and under the standard project rate schedule the estimated annual revenue is approximately \$40,000. As the customer will desire service by September 1, 1947, there is insufficient time to construct the necessary facilities if the Bureau is to await the appropriation of funds for the needed facilities.

"As the Bureau is desirous of serving this customer, it is proposed, unless you have objection, to accept an advance of funds from the customer under authority conferred by the Act of March 4, 1921, (41 Stat. 1104) reading as follows:

"All moneys hereafter received from any State, municipality, corporation, association, firm, district, or individual for investigations, surveys, construction work, or any other development work incident thereto involving operations similar to those provided for by the reclamation law shall be covered into the reclamation fund and shall be available for expenditure for the purposes for which contributed in like manner as if said sums had been specifically appropriated for said purposes."

"This Act, in proper cases, renders inapplicable the requirement of Section 16 of the Act of August 13, 1914 (38 Stat. 686, 690) that expenditures from the Reclamation Fund may be made only out of appropriated funds. Electric service would be rendered the customer under a contract, and at rates fixed, pursuant to Section 9 (c) of the Act of August 4, 1939 (53 Stat. 1187).

"The mechanics of the plan are as follows:

"(a) A contract for electric service would be entered into with the customer which would specifically provide for, among other things, a cash advance to the United States by the customer in the amount of \$87,500, the advance being premised and made contingent upon its use for the construction of electric facilities above specified. The United States would agree to its expenditure for the purposes for which the advance was made, and the facilities so constructed would be and remain the property of the United States.

"(b) The contract would provide in the article entitled, 'Rates for Service' that in recognition of the advance of funds the customer would be afforded a discount of a specified percentage from the standard project rate schedule which discount would continue in effect until the customer has, for power received, paid to the United States in the form of the reduced rate schedule plus the advanced funds an amount equal to that which the customer would have paid for the identical amount of service had the United States constructed the additional facilities with appropriated funds and had the customer been billed at the standard project rate schedule. At such time the discount would terminate. Stated in another way, the discount would remain in effect until the cumulated amounts thereof equal the customer's advance.

"A discount in the rate schedule is justified because the standard project rate schedule is premised upon the construction of all necessary facilities with funds provided by the United States and the further fact that over a period of time the customer will have paid the United States an amount equal to that which it would have paid had it been billed under the standard rate schedule.

"(c) In the event that the contract is for any reason terminated prior to such time as the customer has paid for the power in the form of the advance and payments under the discounted rate schedule an amount equivalent to the payments that would have been made under the standard rate schedule, the customer shall have no further right to service under a discounted rate schedule nor to any refund from the United States.

"Your views are requested as to whether the Act of March 4, 1921, above referred to, authorizes the receipt and expenditure of advanced funds in the manner herein set forth. The decision is requested because the customer, before committing itself by entering into a contract, has expressed a desire for assurance as to the authority of the Bureau of Reclamation to accept and expend the proposed advance of funds in the circumstances referred to.

"As I am advised that the customer must make a decision between electrical operation of its pumping plant and other installation of internal combustion equipment not later than January 15, your early consideration of this matter will be greatly appreciated."

Section 9(c) of the act of August 4, 1939, cited in your

letter, provides, in pertinent part, as follows:

"\* \* \* Any sale of electric power or lease of power privileges made by the Secretary in connection with the operation of any project or division of a project, shall be for such periods, not to exceed forty years, and at such rates as in his judgment will produce power revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost, interest on an appropriate share of the construction investment at not less than 3 per centum per annum, and such other fixed charges as the Secretary deems proper \* \* \*."

Since, under the plain terms of the said 1921 statute, quoted in your letter, there is authorized the receipt of funds from outside sources to finance construction work under the reclamation laws, and the disbursement thereof "as if said sums had been specifically appropriated for said purposes," there is perceived no legal objection to the receipt and expenditure of the funds proposed to be advanced as outlined in your letter.

Presumably, any doubt you may entertain in the matter arises by reason of the circumstance that by affording the pipeline company a discount from the standard project rate schedule for the service until such time as the sum of said discounts equals the advance in question, the company, in effect, will be reimbursed the amount of its cash outlay. But, aside from the fact that nothing in the terms of the 1921 statute would appear to preclude such a result, there would appear to be no doubt that the granting of said discounts is

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consistent with the broad authority vested in you by the act of August 4, 1939, supra, to fix the rates at which electric power is to be sold.

Accordingly, and in specific answer to the question set forth in the penultimate paragraph of your letter, I have to advise that the receipt and expenditure of the funds to be advanced by the customer under the circumstances presented would appear to be within your authority.

Respectfully,

(Signed) Lindsay C. Warren

Comptroller General  
of the United States.