

DEPARTMENT OF ENERGY
REDELEGATION ORDER NO. 00-002.10E
TO THE ASSISTANT SECRETARY FOR ELECTRICITY

1. DELEGATION. Under the authority vested in me as Under Secretary (of Energy) and pursuant to section 642 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7252), I delegate to the Assistant Secretary for Electricity authority to take the following actions:
 - 1.1 Under section 643 of the Department of Energy Organization Act (42 U.S.C. 7253), establish, alter, consolidate, or discontinue such second tier or below organizational units or components within the Assistant Secretary for Electricity's assigned programs and organizational elements as the Assistant Secretary for Electricity may deem to be necessary or appropriate.
 - A. In exercising this authority, or as redelegated pursuant thereto, the Assistant Secretary for Electricity will be limited by approved budgets, staffing level allocations, and Senior Executive Service and other executive resource position allocations. Organizational changes shall not be announced or implemented until appropriate union coordination and other pre-release clearances have been obtained.
 - B. This authority does not include approval of additions, deletions, or transfers of mission and functions of or between Departmental Headquarters or Field Elements, which authority is reserved to the Secretary.
 - C. The authority to alter or consolidate second tier or below organizational elements may be redelegated, in whole or in part consistent with the terms of the Department of Energy Organization Act, to assigned Heads of Departmental Field Elements and to an official or officials one level below the Head of the Departmental Element.
 - D. The authority to establish or discontinue organizational elements at the second tier or below may be redelegated only to the Heads of Departmental Field Elements.
 - 1.2 Formulate and establish enforcement policy; initiate and conduct investigations; conduct conferences, administrative hearings, and public hearings; prepare required reports; issue orders; and take such other action as may be necessary or appropriate to perform any of the functions in this Redelegation.

Office of Electricity

1.3 In reference to fuel use under the Powerplant and Industrial Fuel Use Act (FUA), (Public Law 95-620, 42 U.S.C. 8301 et seq.) as amended:

- A. Monitor compliance with the prohibition against the construction of new powerplants without the capability to use coal or another alternate fuel as a primary energy source, pursuant to section 201 of FUA; grant or deny exemptions from such prohibition, pursuant to sections 211 through 214 of FUA; issue prohibitions against the use of oil or natural gas to certifying existing electric powerplants under section 301 of FUA; grant or deny exemptions to certifying existing electric powerplants under sections 311 through 314 of FUA; and take such other actions as may be necessary or appropriate to perform any of the above functions pursuant to section 701 of FUA.
- B. Issue notices of effectiveness, modification, or rescission to coal conversion orders issued pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974 (Public Law 93-319, 15 U.S.C. 791 et seq.), as amended.

1.4 In reference to electric power regulations under the Federal Power Act (FPA), (16 U.S.C. 791(a)-825(r)).

- A. Implement section 206(d) of the FPA to investigate and determine, upon the Assistant Secretary for Electricity's or a delegate's own motion or the request of any State commission, the cost of production or transmission of electric energy by means of facilities that are subject to the jurisdiction defined by section 201 of the FPA, as the Assistant Secretary for Electricity or a delegate determines is necessary or appropriate to perform his or her functions.
- B. Implement section 311 of the FPA to conduct investigations regarding the generation, transmission, distribution, and sale of electric energy, however produced, throughout the United States and its possessions, including the generation, transmission, distribution, and sale of electric energy by any agency, authority, or instrumentality of the United States, or by any State or municipality or other political subdivision of a State, as the Assistant Secretary for Electricity or a delegate determines is necessary or appropriate to perform these functions.
- C. Implement section 307 of the FPA to investigate any facts, conditions, or practices which the Assistant Secretary for Electricity or a delegate may find necessary or proper in order to determine whether any person has

violated or is about to violate any provision of the FPA or any rule, regulation, or order thereunder; or to aid in the enforcement of the provisions of the FPA or in prescribing rules or regulations thereunder; or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which the FPA relates.

- D. Regulate the export of electric energy to a foreign country, pursuant to the provisions of sections 202(e) and 202(f) of the FPA, and authorize the construction, operation, maintenance, or connection of facilities, at the borders of the United States, for the transmission of electric energy between the United States and a foreign country, pursuant to the provisions of Executive Order 10485, as amended by Executive Order 12038.
- E. After issuance of an order pursuant to section 202(c) or 207 of the FPA, by the Secretary or Deputy Secretary, review compliance filings, and issue implementing letters and directives; and take such other actions as are necessary and appropriate to implement and administer the FPA order.
- F. Implement paragraphs (c) through (e) of section 215A of the FPA: designate critical defense facilities; designate, protect, and share critical electric infrastructure information; and facilitate and expedite the acquisition of security clearances by key personnel subject to the requirements of section 215A.
- G. Exercise the authority under section 216(h) of the FPA for the coordination of Federal authorizations for transmission facilities.

1.5 In reference to energy emergency preparedness:

- A. Exercise the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.) authorities under sections 201 - 203 and section 701 of Executive Order 13603 (National Defense Resources Preparedness); or section 4 of Executive Order 11790 (Providing for the effectuation of the Federal Energy Administration Act of 1974), as amended, except insofar as those responsibilities have been assigned to the Under Secretary for Nuclear Security. Exercise the authority under titles I and VII of the Defense Production Act of 1950, delegated to the Secretary in Department of Commerce Defense Priorities and Allocations System (DPAS) Delegation 2, as amended, which authorizes action pursuant to the Department of Commerce DPAS regulation at 15 C.F.R. Part 700. The exercise of any of these authorities is subject to the concurrence of the General Counsel.

- B. Carry out the responsibilities assigned to the Secretary in section 61003(c) of the FAST Act (Public Law 114-94, 129 Stat. 1778, 6 U.S.C. 121 note), sections 701(1)(b)-(c), (2), (5), (7), and 702(2) of Executive Order 12656 (Assignment of Emergency Preparedness Responsibilities), and Presidential Policy Directive-21 (Critical Infrastructure Security and Resilience), except insofar as those responsibilities have been assigned to the Under Secretary for Nuclear Security.
 - C. Exercise the authority under section 209(b) of the Public Utility Regulatory Policies Act (16 U.S.C. 824a-2(b)) with respect to the reliability of the interstate electricity transmission system.
 - D. Carry out the responsibilities assigned to the Secretary under section 211(c) of the Clean Air Act to provide concurrence on an action by the Environmental Protection Agency to waive a fuel or fuel additive requirement if doing so will alleviate a fuel supply emergency.
- 1.6 Participate in any proceeding before the Federal Energy Regulatory Commission, pursuant to the provisions of section 405 of the Department of Energy Organization Act (42 U.S.C. 7175), or in any proceeding before any Federal or State agency or commission, whenever such participation is related to the exercise of authority delegated to the Assistant Secretary for Electricity.

Power Marketing Administrations

- 1.7 Under sections 302(a), 641, 643, and 644 of the Department of Energy Organization Act (42 U.S.C. 7152, 7251, 7253, and 7254):
- A. On a nonexclusive basis, confirm, approve, and place into effect on an interim basis power and transmission rates for the Southeastern, Southwestern, and Western Area Power Administrations for such periods as the Assistant Secretary for Electricity may provide. In addition, under the authority vested in me as Under Secretary (of Energy) and pursuant to sections 202 and 642 of the Department of Energy Organization Act (42 U.S.C. 7132 and 7252), I delegate to the Assistant Secretary for Electricity the authority vested in me with respect to the Southeastern, Southwestern, and Western Area Power Administrations, and the Bonneville Power Administration.
 - B. Develop and place into effect on a final basis rates for short-term sales of capacity, energy, or transmission service. Short-term sales are those sales that last no longer than one year.

1.8 Pursuant to section 202(a) of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7132(a)), perform the function specified in the Delegation of Authority for the Bonneville Power Administration Building from the General Services Administration (GSA) to the Department of Energy, dated March 31, 2011.

1.9 Perform all functions delegated to the Secretary of Energy by the Assistant Attorney General, Land and Natural Resources Division, on December 1, 1980, relating to approving the sufficiency of the title to land being acquired by purchase or condemnation by the United States for the use of the Department of Energy in connection with acquisition of lands by the Bonneville Power Administration, the Western Area Power Administration, and the Southwestern Power Administration.

This delegation of authority is limited to: (a) the acquisition of land for which the title evidence consists of a certificate of title, title insurance policy, or an owner's duplicate Torrens certificate of title; and (b) the acquisition of lands valued at \$100,000 or less, for which the title evidence consists of abstracts of title or other types of title evidence prepared in compliance with the Regulations of the Attorney General Governing the Review and Approval of Title for Federal Land Acquisitions (2016). Any further delegate(s) shall be governed by the applicable regulations and requirements of the Department of Justice.

1.10 Pursuant to sections 1605(b)(2), 1605(b)(3), and 1605(c) of the American Recovery and Reinvestment Act of 2009 ("Recovery Act")(Public Law 111-5), waive, after making the specified findings, the application of section 1605(a) of the Recovery Act to BPA expenditures and publish in the Federal Register a detailed written justification for each waiver as to why the provision is being waived. Section 1605(a) requires that none of the funds appropriated or otherwise made available under the Recovery Act may be used for construction, alteration, maintenance or repair of a public building or public work unless all of the iron, steel and manufactured goods are produced in the United States.

1.11 With respect to purchase power and wheeling transactions for the Southeastern Power Administration, Southwestern Power Administration and the Western Area Power Administration, make the determination, on a case by case basis, that compliance with the three full business days advance notification requirements of section 311 of title III of the Energy and Water Development and Related Agencies Appropriations Act, 2010 (P.L. 111-85) would pose a substantial risk to human life, health, or safety and make post-award notifications to the Committees on Appropriations of the Senate and House of Representatives not later than 5 full business days after such award is made or letter issued.

1.12 Determine, on a nonexclusive basis, that an expenditure of funds appropriated to the Southeastern Power Administration, Southwestern Power Administration, or Western Area Power Administration for emergency purposes is required to ensure continuity of service.

1.13 Including, but not limited to the provision of the Declaration of Taking Act of February 26, 1931, Chapter 302, section 1, 46 Stat. 1421, 40 U.S.C. 3114, on a nonexclusive basis, perform all functions vested in the Secretary of Energy by law to initiate condemnation proceedings, to sign and submit directly to the Department of Justice declarations of taking related to such proceedings, to execute all correspondence and other documents in connection with such proceedings, and to take all other necessary and appropriate actions to acquire, in connection with the government's power of eminent domain, real or personal property or interests therein for transmission lines and related facilities for the Southwestern Power Administration and the Western Area Power Administration.

The authority hereby delegated to the Assistant Secretary for Electricity to initiate condemnation proceedings and execute declarations of taking may only be redelegated to the Administrators of the Southwestern Power Administration and the Western Area Power Administration.

1.14 With respect to the Western Area Power Administration and Southwestern Power Administration, and pursuant to the authority under 42 U.S.C. § 7278, accept lands, buildings, equipment, and other contributions from public and private sources and prosecute projects in cooperation with other agencies, Federal, State, private or foreign provided that the acceptance of lands shall be subject to existing laws, regulations, and policies pertaining to the Government's acquisition of real property. This authority is expressly limited to the acceptance of lands, buildings, equipment, and other contributions directly associated with the transmission systems owned by the Western Area Power Administration or the Southwestern Power Administration, and shall only be exercised after consultation with the General Counsel of the Power Administration.

The authority hereby delegated to the Assistant Secretary for Electricity to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private or foreign may only be redelegated to the Administrators of the Western Area Power Administration and the Southwestern Power Administration.

2. RESCISSION. Redelegation Order 00-002.10D is hereby rescinded.

3. LIMITATION.

- 3.1. In exercising the authority delegated in this Order, a delegate shall be governed by the rules and regulations of the Department of Energy and the policies and procedures prescribed by the Secretary or delegate(s).
- 3.2. Nothing in this Order precludes the Secretary or the Under Secretary (of Energy) from exercising any of the authority delegated by this Order.
- 3.3. Nothing in this Order shall be construed as to supersede or otherwise interfere with the authorities delegated to the Administrator for Nuclear Security by law or by delegation. Furthermore, nothing herein constitutes authority to exercise authority, direction, or control of an employee of the National Nuclear Security Administration or its contractors.
- 3.4. Any amendments to this Order shall be made in consultation with the Department of Energy General Counsel.

4. AUTHORITY TO REDELEGATE.

- 4.1. Except as expressly prohibited by law, regulation, or this Order, the Assistant Secretary for Electricity may delegate this authority further, in whole or in part.
- 4.2. Copies of redelegations and any subsequent redelegations shall be provided to the Office of Management, which manages the Secretarial Delegations of Authority system.

5. DURATION AND EFFECTIVE DATE.

- 5.1. All actions pursuant to any authority delegated prior to this Order or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order are ratified and remain in force as if taken under this Order, unless or until rescinded, amended or superseded.
- 5.2. This Order is effective 2/14/2020 ____.


Mark W. Menezes
Under Secretary (of Energy)