



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Payment by National Guard to Western Area Power Administration for Damage to Transmission Pole

**File:** R-253291.2

**Date:** February 14, 1994

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### DIGEST

The Wyoming National Guard has the authority to pay claim made by the Western Area Power Administration (WAPA) for costs of repairing an electrical transmission structure that collapsed when struck by a National Guard truck during training exercises. Since WAPA's power operations are wholly consumer-financed and WAPA's customers would ultimately bear the costs of a disallowed claim, the interdepartmental waiver doctrine does not apply. 71 Comp. Gen. 1 (1991).

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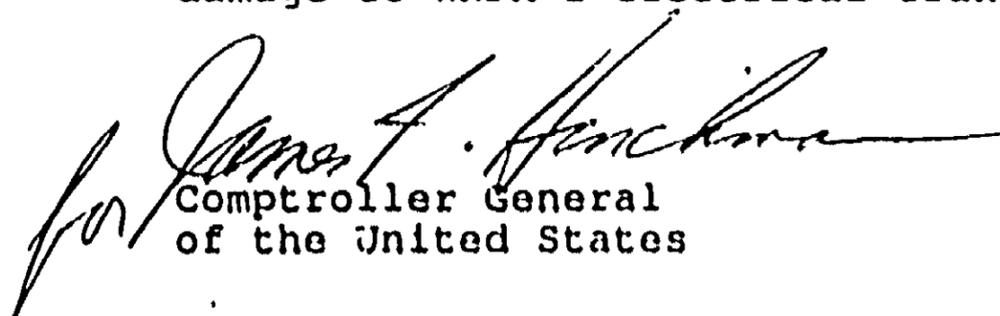
### DECISION

The Administrator of the Western Area Power Administration (WAPA), Department of Energy, requests our opinion on whether the Wyoming National Guard has the authority to pay a claim for costs arising out of the collapse of a WAPA electrical transmission structure. On May 6, 1989, a National Guard truck involved in training maneuvers struck a guy wire and caused a WAPA electrical transmission pole to collapse. The accident caused an electrical fault that WAPA had to repair immediately in order to maintain service to customers and ensure public safety. WAPA requested that the National Guard reimburse it \$6,886.15 for the cost of the repairs, but WAPA's claim was denied. The Office of the Judge Advocate General, U.S. Army Claims Service asserted that the interdepartmental waiver doctrine prohibited reimbursement to WAPA. As explained below, we conclude that the National Guard may reimburse WAPA for the cost of the repairs since the interdepartmental waiver doctrine does not apply in this case.

The interdepartmental waiver doctrine prohibits a federal agency from paying for the use or restoration of real property controlled by another federal agency, unless authorized by statute. 60 Comp. Gen. 406 (1981); 59 Comp. Gen. 93 (1979). The doctrine is based on the theory that there can be no reimbursement by the government to itself for damage to or loss of its own property.

The interdepartmental waiver doctrine is not applicable, however, where this would be inconsistent with the financing scheme of the agency incurring the damage or loss. 71 Comp. Gen. 1 (1991); B-253613, Dec. 3, 1993. In a recent decision, we concluded that the Bonneville Power Administration (BPA) could recover the cost of damages to its property caused by another federal agency. We reasoned that the statutory scheme for financing BPA's activities did not envision BPA's ratepayers covering costs generated by actions of other federal agencies wholly unrelated to the services BPA provides its customers. Under these circumstances, application of the doctrine would have resulted in BPA customers paying for government-caused damages to BPA property, not in the government reimbursing itself. 71 Comp. Gen. 1.

WAPA's statutory financing scheme is like that of BPA. WAPA, a bureau within the Department of Energy, is authorized by the Flood Control Act of 1944 to transmit and sell electric power. 16 U.S.C. § 825s (1988). WAPA finances its operations by charging its customers rates that will cover the costs of producing and transmitting the electric energy. The rate schedules are established with the objective of encouraging the most widespread use of electricity at "the lowest possible rates to consumers consistent with sound business principles." *Id.* WAPA's financing scheme, like BPA's, contemplates that WAPA customers will finance WAPA operations. Application of the interdepartmental waiver doctrine in this case would result not in the government reimbursing itself, but in the government avoiding liability for damages it caused, in effect shifting the cost of paying for the damages from the National Guard to WAPA's customers. Accordingly, the interdepartmental waiver doctrine does not bar the National Guard from reimbursing WAPA for costs resulting from the damage to WAPA's electrical transmission structure.

  
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