

COLLINSVILLE RENEWABLE ENERGY PROMOTION ACT

—————
JUNE 14, 2010.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. WAXMAN, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

[To accompany H.R. 4451]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4451) to reinstate and transfer certain hydroelectric licenses and extend the deadline for commencement of construction of certain hydroelectric projects, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Collinsville Renewable Energy Promotion Act”.

SEC. 2. REINSTATEMENT OF EXPIRED LICENSES AND EXTENSION OF TIME TO COMMENCE CONSTRUCTION OF PROJECTS.

Subject to section 4 of this Act and notwithstanding the time period under section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to Federal Energy Regulatory Commission projects numbered 10822 and 10823, the Federal Energy Regulatory Commission (referred to in this Act as the “Commission”) may—

(1) reinstate the license for either or each of those projects; and

(2) extend for 2 years after the date on which either or each project is reinstated under paragraph (1) the time period during which the licensee is required to commence the construction of such projects.

Prior to reaching any final decision under this section, the Commission shall provide an opportunity for submission of comments by interested persons, municipalities, and States and shall consider any such comment that is timely submitted.

SEC. 3. TRANSFER OF LICENSES TO THE TOWN OF CANTON, CONNECTICUT.

Notwithstanding section 8 of the Federal Power Act (16 U.S.C. 801) or any other provision thereof, if the Commission reinstates the license for, and extends the time period during which the licensee is required to commence the construction of, a Federal Energy Regulatory Commission project under section 2, the Commission shall transfer such license to the town of Canton, Connecticut.

SEC. 4. ENVIRONMENTAL ASSESSMENT.

(a) DEFINITION.—For purposes of this section, the term “environmental assessment” shall have the same meaning as is given such term in regulations prescribed by the Council on Environmental Quality that implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) ENVIRONMENTAL ASSESSMENT.—Not later than 180 days after the date of enactment of this Act, the Commission shall complete an environmental assessment for Federal Energy Regulatory Commission projects numbered 10822 and 10823, updating, to the extent necessary, the environmental analysis performed during the process of licensing such projects.

(c) COMMENT PERIOD.—Upon issuance of the environmental assessment required under subsection (b), the Commission shall—

(1) initiate a 30-day public comment period; and

(2) before taking any action under section 2 or 3—

(A) consider any comments received during such 30-day period; and

(B) incorporate in the license for the projects involved, such terms and conditions as the Commission determines to be necessary, based on the environmental assessment performed and comments received under this section.

SEC. 5. DEADLINE.

Not later than 270 days after the date of enactment of this Act, the Commission shall—

(1) make a final decision pursuant to paragraph (1) of section 2; and

(2) if the Commission decides to reinstate 1 or both of the licenses under such paragraph and extend the corresponding deadline for commencement of construction under paragraph (2) of such section, complete the action required under section 3.

SEC. 6. PROTECTION OF EXISTING RIGHTS.

Nothing in this Act shall affect any valid license issued by the Commission under section 4 of the Federal Power Act (16 U.S.C. 797) on or before the date of enactment of this Act or diminish or extinguish any existing rights under any such license.

PURPOSE AND SUMMARY

H.R. 4451, the Collinsville Renewable Energy Promotion Act, was introduced by Rep. Christopher Murphy on January 13, 2010. The purpose of H.R. 4451 is to authorize the Federal Energy Regulatory Commission (FERC) to reinstate the terminated licenses for

the Upper and Lower Collinsville Dams hydroelectric projects and to extend for two years after the date of any such reinstatement the date by which the licensee is required to commence construction, and, in the event that FERC reinstates the licenses, to require FERC to transfer such licenses to the town of Canton, Connecticut.

BACKGROUND AND NEED FOR LEGISLATION

The Upper and Lower Collinsville Dams on the Farmington River were built to provide hydroelectric power to an ax factory, which was shut down in 1966. The dams have not produced power since that time, but continue to block upstream fish passage.

On February 23, 2001, FERC issued original licenses to Summit Hydropower to redevelop hydroelectric power capacity at these dams. The Upper Collinsville Dam project was to have a generation capacity of 373 kilowatts, while the Lower Dam was to have a capacity of 920 kilowatts. As part of this licensing process, an environmental assessment was completed. The licenses required Summit to commence project construction within two years from the issuance of the licenses.

Section 13 of the Federal Power Act requires licensees to commence construction of hydroelectric projects within the time fixed in the license, which shall be no more than two years from the issuance of the license, and authorizes the Commission to issue one extension of the deadline, for no more than two years.

On November 26, 2002, FERC granted Summit a two-year extension to commence project construction at both sites, moving the deadline to February 23, 2005. Because construction did not commence by that date, the Commission sent Summit a notice of probable termination of the licenses on November 2, 2007. Summit did not respond to the notice. FERC terminated the licenses on December 4, 2007. Summit did not seek rehearing of the termination order.

In November 2006, Congress added a segment of the Farmington River that includes the two dams to the list of rivers under study for eligibility for designation as a Partnership National Wild and Scenic River. The study is ongoing. However, in a July 9, 2009, letter to Rep. Murphy, the Farmington River Watershed Association stated that it does not expect the segment containing the dams to be included in the final request to Congress for designation. The Wild and Scenic Study Committee stated in a February 24, 2010, letter to Rep. Murphy that it does not oppose the development of hydropower at the Collinsville dams or the transfer of the licenses to the town of Canton, Connecticut.

The town of Canton, Connecticut intends to proceed with the two hydroelectric projects that Summit originally had proposed. On January 9, 2009, FERC granted the town a preliminary permit to undertake the necessary feasibility studies. The town has stated that it intends to pursue Low Impact Hydropower Institute certification for the projects and to provide for fish passage.

COMMITTEE CONSIDERATION

H.R. 4451, the Collinsville Renewable Energy Promotion Act, was introduced by Rep. Christopher Murphy (D-CT) on January 13, 2010, and referred to the Committee on Energy and Commerce. The bill was referred to the Subcommittee on Energy and Environ-

ment on January 15, 2010. On March 24, 2010, the Subcommittee considered H.R. 4451 in markup and forwarded the bill to the full Committee by a voice vote with the recommendation that the bill pass. On May 26, 2010, the Committee on Energy and Commerce met in open markup session to consider H.R. 4451. An amendment in the nature of a substitute, offered by Mr. Murphy of Connecticut, was adopted by a voice vote. Subsequently, H.R. 4451 was ordered favorably reported, amended, to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list of each record vote on the motion to report legislation and amendments thereto. There were no record votes taken in the consideration of H.R. 4451 by the Committee. The Committee agreed to a motion by Ms. DeGette to order H.R. 4451 favorably reported to the House, amended, by a voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4451 would result in no new budget authority, entitlement authority, or tax expenditures or revenues.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the constitutional authority for H.R. 4451 is provided in Article I, section 8, clauses 3 and 18.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 4451 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

ADVISORY COMMITTEE STATEMENT

No advisory committees were created by H.R. 4451 within the meaning of section 5 U.S.C. App., 5(b) of the Federal Advisory Committee Act.

APPLICABILITY OF LAW TO THE LEGISLATIVE BRANCH

The Committee finds that H.R. 4451 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act of 1985.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimates of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandate Reform Act.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate on H.R. 4451 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate on H.R. 4451 provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

JUNE 3, 2010.

Hon. HENRY A. WAXMAN,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4451, the Collinsville Renewable Energy Promotion Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 4451—Collinsville Renewable Energy Promotion Act

CBO estimates that implementing H.R. 4451 would have no net effect on the federal budget. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply. H.R. 4451 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 4451 would authorize the Federal Energy Regulatory Commission (FERC) to reinstate the licenses and extend the deadline for beginning construction of two hydroelectric projects (numbers 10822 and 10823) in Hartford County, Connecticut. The bill would direct FERC to update the environmental analyses associated with those projects and, if reinstated, transfer the licenses to the town of Canton, Connecticut.

Based on information from FERC, CBO estimates that implementing H.R. 4451 would have a small impact on the agency's workload. Because FERC recovers 100 percent of its costs through

user fees, any change in its administrative costs would be offset by an equal change in fees that the commission charges. Therefore, the legislation's provisions would have no net budgetary impact. Because FERC's administrative costs are controlled through annual appropriation acts, enacting H.R. 4451 would not affect direct spending or revenues.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that the short title of the bill is the "Collinsville Renewable Energy Promotion Act".

Section 2. Reinstatement of expired licenses and extension of time to commence construction of projects

This section authorizes FERC to reinstate one or both of the terminated licenses for the Upper and Lower Collinsville Dams hydroelectric projects (numbered 10822 and 10823) and to extend for two years after the date on which either or each project is reinstated the time period by which the licensee is required to commence construction. Prior to taking such action, FERC is required to provide an opportunity for the submission of comments by interested persons, municipalities, and States and to consider any such comments that are timely submitted. The Committee intends that the terms "persons," "municipalities," and "States" be given the same meaning as they are given under the Federal Power Act. The Committee intends that FERC may establish an appropriate deadline for the submission of such comments.

Section 3. Transfer of licenses to the town of Canton, Connecticut

This section requires that, if, pursuant to section 2, FERC reinstates a license and extends the time period during which the licensee must commence construction, FERC shall transfer such license to the town of Canton, Connecticut.

Section 4. Environmental assessment

This section requires FERC to complete an environmental assessment for the Upper and Lower Collinsville Dams hydroelectric projects not later than 180 days after the date of enactment of this Act, updating, to the extent necessary, the environmental analysis that was previously performed during the original FERC licensing of these projects. After a 30-day public comment period, FERC is required to consider the public comments on the environmental assessment and to incorporate terms and conditions in the reinstated licenses that the Commission determines are necessary based on the environmental assessment and public comments.

Section 5. Deadline

This section requires FERC to make a final decision under section 2 regarding the reinstatement of the licenses within 270 days of the date of enactment of the Act. If FERC reinstates the one or both of the licenses and extends the deadline for commencing con-

struction, the transfer of the license or licenses to the town of Canton must also take place within 270 days of the date of enactment of the Act.

Section 6. Protection of existing rights

This section clarifies that nothing in this Act shall affect any valid license issued by FERC under section 4 of the Federal Power Act on or before the date of enactment of this Act or diminish or extinguish any existing rights under any such license.

