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U.S. GOVERNMENT
INFORMATION
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Calendar No. 123

113TH CONGRESS
1st Session

SENATE

REPORT
113–69

COLLINSVILLE RENEWABLE ENERGY PROMOTION

JUNE 27, 2013.—Ordered to be printed

Mr. WYDEN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 316]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 316) to reinstate and transfer certain hydroelectric licenses and extend the deadline for commencement of construction of certain hydroelectric projects, having considered the same, reports favorably thereon with an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Collinsville Renewable Energy Production Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(2) LICENSE.—The term "license" means—

(A) the license for Commission project number 10822;

(B) the license for Commission project number 10823; or

(C) both.

(3) TOWN.—The term "Town" means the town of Canton, Connecticut.

SEC. 3. REINSTATEMENT, EXTENSION, AND TRANSFER OF EXPIRED LICENSES.

Notwithstanding the termination of the license, the Commission may, at the request of the Town, in accordance with section 4(a), and after reasonable notice—

(1) reinstate the licence;

(2) extend for 2 years after the date on which the license is reinstated the time period during which the licensee is required to commence the construction of the project subject to the license; and

(3) subject to section 4, transfer the license to the Town.

SEC. 4. CONDITIONS OF TRANSFER.

(a) APPLICATION FOR TRANSFER.—The Town may request the reinstatement, extension, and transfer of the license by filing an application for approval of the transfer.

(b) CONTENTS OF APPLICATION.—The application for approval of the transfer shall set forth in appropriate detail the qualifications of the Town to hold the license and to operate the property under license, which qualifications shall be the same as those required of applicants for the license.

(c) COMMISSION APPROVAL.—The Commission may approve the transfer on a showing that the transfer is in the public interest.

(d) TERMS AND CONDITIONS OF LICENSES.—The Town shall be subject to—

(1) all the conditions of the license and all the provisions and conditions of the Federal Power Act (16 U.S.C. 791a et seq.), as though the Town were the original licensee; and

(2) any additional terms and conditions the Commission determines to be necessary, including conditions for the protection, mitigation, and enhancement of fish and wildlife and related habitat under sections 10(j) and 18 of the Federal Power Act (16 U.S.C. 803(j), 811).

SEC. 5. ADMINISTRATION.

The Commission shall supplement the environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) prepared in connection with the issuance of the original license to examine all new circumstances and information relevant to environmental concerns and bearing on the reinstatement of the license or the impact of the license.

PURPOSE

The purpose of H.R. 316 is to reinstate and transfer certain hydroelectric licenses and extend the deadline for commencement of construction of certain hydroelectric projects.

BACKGROUND AND NEED

The Upper and Lower Collinsville Dams on the Farmington River in Connecticut have not produced power since 1966. In 2001, FERC issued licenses to Summit Hydropower to redevelop hydroelectric power capacity at the dams. Summit did not commence construction within the original two-year requirement or the two-year extension granted by FERC and as a result, in 2007, FERC terminated the licenses.

The Town of Canton, Connecticut is interested in redeveloping hydropower at the Collinsville dams and has received a preliminary permit from FERC to undertake the feasibility studies necessary to move forward with the projects. The power estimated to be produced from each project is less than 5 megawatts and the projects may be eligible for an exemption from FERC's licensing requirements. The bill, as passed by the House, would substitute Congressional action for the existing FERC process.

LEGISLATIVE HISTORY

H.R. 316 was introduced by Representative Esty and passed the House by voice vote on February 12, 2013. Senate Amendment 579, an amendment in the nature of a substitute to H.R. 316, was introduced by Senators Murphy and Blumenthal on March 22, 2013. The Subcommittee on Water and Power held a hearing on H.R. 316 and S. Amdt. 579 on April 16, 2013. At its business meeting on May 16, 2013, the Committee ordered H.R. 316 favorably reported by voice vote, with an amendment in the nature of a substitute.

In the 112th Congress, Senators Lieberman and Blumenthal introduced similar legislation in the Senate, S. 715. Then-Representative Murphy introduced similar legislation in the House, H.R.

1353 and H.R. 5625, and the House passed H.R. 5625 on June 26, 2012. The Subcommittee on Water and Power held a hearing on S. 715 on June 23, 2011 (S. Hrg. 112–129).

In the 111th Congress, then-Representative Murphy introduced similar legislation in the House, H.R. 3228 and H.R. 4451, and Senators Dodd and Lieberman introduced similar legislation in the Senate, S. 3532. The House passed H.R. 4451 on June 16, 2010, but the Senate took no further action.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on May 16, 2013, by a voice vote of a quorum present, recommends that the Senate pass H.R. 316, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of H.R. 316, the Committee adopted an amendment in the nature of a substitute. The provisions of the substitute are described in more detail in the section-by-section analysis.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the "Collinsville Renewable Energy Production Act".

Section 2 defines key terms in the bill.

Section 3 authorizes the Federal Energy Regulatory Commission (Commission) to reinstate the license for Commission project numbers 10822 and 10823, to extend the time period for the licensee to commence construction of the project work for up to 2 years, and to transfer the license to the Town of Canton.

Section 4 establishes the conditions for transfer of the license to the Town of Canton, including the application, approval, and terms and conditions.

Section 5 directs the Commission to supplement the environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) prepared in connection with the issuance of the original license in order to examine new circumstances and relevant information bearing on the reinstatement or impact of the license.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of H.R. 316 has been provided by the Congressional Budget Office:

H.R. 316—Collinsville Renewable Energy Promotion Act

H.R. 316 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 legislation would direct FERC to update the environmental analyses associated with those projects and, if reinstated, authorize the agency to transfer the licenses to the town of Canton, Connecticut.

Based on information from FERC, CBO estimates that implementing H.R. 316 would have a small impact on the agency's work-

load. 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. 316 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 316 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.

On January 31, 2013, CBO transmitted a cost estimate for H.R. 316 as ordered reported by the House Committee on Energy and Commerce on January 22, 2013. The two versions of the legislation are similar, and the CBO cost estimates are the same.

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

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 316.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 316, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 316, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Federal Energy Regulatory Commission at the April 16, 2013, Subcommittee on Water and Power hearing on H.R. 316 and S. Amendment 579 follows:

TESTIMONY OF JOHN KATZ, DEPUTY ASSOCIATE GENERAL COUNSEL, FEDERAL ENERGY REGULATORY COMMISSION,

Chairman Schatz, Ranking Member Lee, and Members of the Subcommittee:

My name is John Katz, Deputy Associate General Counsel for Energy Projects, Federal Energy Regulatory Commission. I appreciate the opportunity to appear before you to discuss S. Amdt. 579 and H.R. 316. As a member of the Commission's staff, the views I express in this testimony are my own, and not those of the Chairman or of any individual Commissioner, other than as specifically noted below.

I. BACKGROUND

On February 23, 2001, the Commission issued original licenses to Summit Hydropower for the 373 kilowatt (kW) Upper and the 920 kW Lower Collinsville Hydro Projects, to be located at the Upper and Lower Collinsville Dams on the Farmington River, in Hartford County, Connecticut.

Section 13 of the Federal Power Act requires that licensees commence project Construction by the deadline established in the license, which may be no longer than two years from the date of license issuance. The Commission may extend the deadline once, for no longer than two additional years. If construction does not timely commence, section 13 requires the Commission to terminate the license by written order.

Consistent with section 13, Article 301 of the licenses for the Collinsville Upper and Lower Hydroelectric Projects required the licensee to commence project construction within two years. On November 26, 2002, at the licensee's request, the Commission issued the maximum allowable two-year extension, moving the commencement of construction deadline to February 23, 2005.

Summit did not commence project construction by the deadline. Accordingly, by letter dated November 2, 2007, the Commission gave Summit notice of probable termination of the licenses. Summit did not reply to the notice. By order issued December 4, 2007, the Commission terminated the project licensees. The licensee did not seek rehearing of the termination order, which therefore became final on January 3, 2008.

II. S. AMDT. 579 AND H.R. 316

S. Amdt. 579 and H.R. 316 would authorize the Commission to reinstate either or both of the licenses for the Upper and Lower Collinsville Projects, to extend for two years the commencement of construction deadline for the projects, and to transfer the license or licenses to the Town. As specified in S. Amdt. 579, the Town would be subject to the terms and conditions of the prior license(s) and both bills provide that the Commission will add to the license(s) any additional terms and conditions the Commission deems to be necessary.

In addition, both bills provide that the Commission will supplement the environmental analysis prepared in connection with the issuance of the prior licenses, to examine all new circumstances or information relevant to environmental concerns relating to the reinstated licenses.

Chairman Wellinghoff and the last several Commission Chairmen have taken the position of not opposing legislation that would extend the commencement of construction deadline no further than 10 years from the date that the license in question was issued. Where proposed extensions would run beyond that time, there has been a sense that the J n 16 public interest is better served by releasing the site for other public uses, that competition in the develop-

ment of hydropower projects should be encouraged, and that environmental information may over time become stale.

In this instance, the proposed extensions would run at least three years beyond 10 years from when the licenses for the Upper and Lower Collinsville Projects were issued. However, to Commission staffs knowledge, in the more than five years since the project licenses were terminated, no entity has sought to develop the projects or proposed other uses for the project sites, thus ameliorating concerns about competition or release of the sites. Moreover, because the bills specifically provide for the preparation of an updated environmental analysis, staleness of the environmental record will not be an issue. In consequence, I am authorized to state that Chairman Wellinghoff does not oppose S. Amdt. 579 or H.R. 316.

I would be pleased to answer any questions you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by H.R. 316, as ordered reported.

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