AMENDING THE FEDERAL WATER POWER ACT

JANUARY 25 (calendar day, JANUARY 29), 1927.—Ordered to be printed

Mr. JONES of Washington, from the Committee on Commerce, submitted the following

REPORT
[To accompany S. 5362]

The Committee on Commerce, to whom was referred the bill (S. 5362) to amend the Federal water power act, and for other purposes, have considered the same, and report thereon with an amendment, and as so amended recommend that the bill do pass.

Amend the bill as follows:

On page 3, in line 16, after the word “appropriated”, insert the words “by Congress”.

The bill thus amended has the approval of the Federal Power Commission, as will appear by the annexed communications; the amendment referred to therein having been incorporated in the bill as reported.

The work of the Federal Power Commission both in the field and in the District of Columbia is being performed by persons detailed to it from the Departments of War, Commerce, and Agriculture, except the executive secretary provided in the Federal water power act. Its force now is only three more than when the work was begun in 1900. Further assignments can not be made from the various departments without detrimental effects on their own work. The commission can not employ personnel without further legislation.

The work pressing upon the power commission has multiplied over and over again. Over 700 applications for power and other permits have been filed with the commission. Many have been disposed of. There are 273 applications with an active status involving over 24,750,000 horsepower. The commission has disposed of 137 of the applications, leaving 136 with a capacity of over 14,000,000 horsepower unacted on. Under present conditions it will take four or five years to dispose of the pending applications. New applications are being filed at the rate of 100 per annum.
The demand for water-power development is pressing. It can proceed only as the commission is able to act on these applications. There can be no good excuse for our not providing all that may be necessary to act promptly on these water-power applications. The power act authorizes the collection from licenses annual charges “for the purpose of reimbursing the United States for the costs of the administration” of the act. We are collecting now at the rate of $230,000 a year. This is largely in excess of the expenditures for carrying on the work of the commission. This fund will increase and be ample to meet all the expenses of the commission in carrying on its work as it should be carried on without the charge of a penny upon the Federal revenues. If we are not going to provide the force ample to meet the needs of the commission then the charges imposed on permittees should be reduced. They make no complaint against these charges now. They want to see water-power development expand but if we are not going to allow it to do so by neglecting to provide for ample funds, they are going to insist that these charges be reduced.

Under this bill these charges will be put in a special fund to be expended for these purposes as the same may be appropriated therefor by Congress.

The following letters from the Federal Power Commission and the Secretary of War point out in detail the need and importance of this legislation:

FEDERAL POWER COMMISSION,
Washington, January 24, 1927.

Hon. W. L. Jones,
Chairman Committee on Commerce, United States Senate.

DEAR SENATOR JONES: I have your letter of January 21, submitting copy of S. 5362, a bill proposing to amend the Federal water power act in certain particulars and requesting report thereon.

The bill has been prepared to meet a serious situation which confronts the commission in its endeavors to administer the Federal water power act effectively and without unreasonable delay. At the close of the last fiscal year the commission had been in operation six years. During that time there had been filed with it over 700 applications for power projects and related structures. The commission had been able to dispose of most of those of minor importance and to weed out the majority of the purely speculative applications. Of the major applications there remained 273 in active status on July 1, involving 24,750,000 horsepower, or more than twice the existing water-power development of the United States. To 137 of this number with an aggregate capacity of 10,100,000 horsepower the commission had been able to issue permits or licenses, leaving 136 with a capacity of 14,690,000 horsepower yet to be acted upon. While a considerable number of important cases are delayed for reasons beyond the control of the commission, it remains true that the commission has completed action upon only one-half of those applications on file which are of real importance and which are of a character to justify the belief that they will lead to eventual development.

If the public interest is to be reasonably guarded and if the interests of navigation and other collateral matters are to be properly protected, applications filed with the commission must receive careful examination, and engineering, economic, and legal studies must be made, before final action is taken. With the means afforded, it has been and still is physically impossible to keep the commission’s work even approximately current. Under existing conditions it would require from four to five years to dispose of the applications now pending, even if no new ones were submitted; but new applications are being filed at a rate of about 100 per annum.

The field work of the commission is performed for it by the Departments of War, Interior, and Agriculture. Its work in Washington is being performed by individuals detailed to it by those departments. Its entire technical and clerical force so detailed consists of 33 individuals, only 3 more than the number
with which it started operations under temporary assignments in 1920. These
details involve salary charges on the departments of about $100,000 a year. The
departments are unable to make further assignments without detrimental
effects on their own work and without expending moneys for purposes for which
they were not appropriated. The commission can not itself employ personnel
without an amendment of the Federal water power act. Such amendment has
appeared so necessary to businesslike administration of the act that it has been
a subject of urgent recommendation by the commission every year since the act
was passed.

The work of the commission may be grouped into four classes. In the first
class are applications for minor power projects, such as projects of 100 horse-
power or less, transmission lines, etc.; applications for restoration to entry of
lands in power-site reserves; and "declarations of intention." While there are
individual cases requiring extensive investigation, the majority are relatively
simple and action has been kept reasonably current.

In the second class are the "major power projects," so called, the ones of real
importance and requiring in many instances, even after reports have been received
from field officers, further extensive engineering, economic, and legal studies,
and public hearings, before the commission is in a position to reach a final decision.
Action on cases in this class has been and is being delayed because of insuf-
ficient personnel in the commission's offices to handle the volume of work brought
before it.

In the third group are the general investigations and surveys authorized to be
made under section 4 (a) of the act. These investigations are of primary impor-
tance in securing the information which must necessarily be had if the com-
mission is to take intelligent action upon many of the applications before it.
Were it not for the surveys in the Tennessee Basin authorized by the river and
harbor acts of September 22, 1922, and March 3, 1925, and costing over $500,000,
or similar surveys by the commission itself, it would not be possible to determine
the real relation to navigation and to a comprehensive plan of development of
the various projects, applications for which have been filed on that river and its
tributaries. In 1921 and 1922 the commission, in cooperation with the Depart-
ments of War, Interior, and Agriculture, and with appropriate State agencies,
made investigations of the Deschutes River in Oregon, and the Columbia River
in Montana, Idaho, and Washington, and in 1923 and 1924 of the Trinity,
American, and Mokelumne Rivers in California. There are many other instances
where general investigations are imperative if information adequate for a proper
administration of the act is to be had. Since under the limitations of the act
the commission has no authority to pay for personal services, it secured the
cooperation of the departments in these investigations only because of its ability
to reimburse nonpersonal expenditures. Due, however, to progressive reductions
in the commission's annual appropriations and to the refusal of the Budget
Bureau to permit items for such cooperative work to be carried in the com-
mission's estimates, the commission has been obliged to abandon completely any
further work under this classification.

In Group 4 is that class of work which has to do with audit of licensees' accounts,
with determination of "prelicense" expenditures, and with valuation of proper-
ties which are licensed under the provisions of section 23 of the act, and are built
at the time of issuance of license. This is work which can be performed only by
trained accountants. None of the three departments have personnel of such a
character as would enable them, as in the case of field examinations of power
applications, to perform work of this class directly for the commission. What-
ever is done must, therefore, be done by the commission's own immediate staff.
The people now available, and all that can be made available under existing
conditions, are one chief accountant and three assistants. Out of 46 cases
requiring valuation and aggregating from $75,000,000 to $100,000,000, settlement
has been reached in 13 cases, involving $14,400,000. Because the Federal water
power act recognizes as the rate base and as the base for recapture the aggregate
of the items which are permitted to be entered in the fixed capital accounts, it
has been found to be the frequent practice of licensees to "pad" their fixed capital
accounts by entering therein all possible items, real or imaginary, valid or invalid.
Under these improper amounts can be excluded at the time when information is
available to prove their invalidity, scores of millions of dollars will be entered
in the fixed capital accounts of the licensees of the commission to become a part
of the permanent rate base and the recapture price. The commission's work
under this classification is more than five years in arrears. New work required
on account of new licenses issued increases faster than the old work can be
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handled. It is impossible to give protection to the public interest in these matters or to fulfill the requirements of the law without additions to the commission’s staff.

Under its present organization the commission is a joint agency of three departments held responsible for the performance of a specific kind of work in which each department still retains collateral interests and responsibilities; as the War Department over navigation, the Agriculture Department over national forests, and the Interior Department over irrigation. All three of these interests are closely related to power developments under the commission’s jurisdiction. To insure that these interests shall have recognition all applications are submitted to the appropriate department for field examination and report, and for holding local hearings when necessary. This procedure obviates the necessity of the creation of any field offices of the commission, or any field forces other than those employed on the accounting or valuation work. This procedure also avoids any duplication of personnel or of effort, and results in economy of administration. The commission is of the opinion that this arrangement should be continued, and S. 5362 so provides.

Additional personnel will be required, therefore, only for the commission’s Washington staff, including therein auditors and valuation experts attached to the Washington office but performing work outside, and such personnel as may be required in carrying out any general surveys which Congress may authorize. The work of such surveys should, however, be performed by the departments rather than directly by the commission, and any new personnel engaged therein should be carried on the rolls of the department conducting the survey and not on the rolls of the commission. By this means the commission’s force can be confined to the number necessary to perform that part of its work which the departments can not perform. It is estimated that the necessary increase to meet present requirements for enlargement of the commission’s staff so as to bring its general work up to date, and so as to complete in a period of five years the valuation and accounting work now in arrears, would be approximately $60,000 per annum.

The act authorizes the commission to collect from its licensees annual charges “for the purpose of reimbursing the United States for the costs of administration” of the act. The amounts so collected for the year 1927 under existing scales of charges will be $230,000, or 50 per cent in excess of present costs of administration, direct and indirect. The amounts collected will increase annually and will be ample to pay all costs of administration without a dollar of charge on Federal revenues. If the moneys are not used for this purpose they can not legally be collected. Failure to use them will not, therefore, serve to augment the miscellaneous receipts of the Treasury. Under such circumstances it seems advisable to segregate into a special fund in the Treasury the moneys so collected, and to make them available, not as a revolving fund subject to the commission’s sole control, but as a fund available for appropriation by Congress for the specific purpose for which collected.

The commission collects also certain annual charges for the use of Government dams. By the provisions of section 17 of the act as interpreted by the Comptroller General one-half of these charges plus one-half of the moneys collected to defray costs of administration are paid into a special headwaters improvement fund “to be expended under the direction of the Secretary of War in the maintenance and operation of dams and other navigation structures owned by the United States or in the construction, maintenance, or operation of headwater or other improvements of navigable waters of the United States.” The fund so created is too small to be of any real consequence for purposes of either construction or maintenance. It would be of value for the conduct of surveys upon the navigable rivers in accordance with the recommendations made in House Document 308, Sixty-ninth Congress, first session. It is recommended, therefore, that these charges collected for use of Government dams be likewise segregated in the Treasury as proposed in S. 5362, to be appropriated from time to time by Congress for the prosecution of such surveys.

With the receipts now being collected, and with their use as above proposed, not only will it be possible without a dollar of charge against the Federal Treasury to place the work of the commission on a self-sustaining basis, but also to pay off all past deficits in relation thereto, and to carry out a program of river surveys to furnish the information upon which alone assurance may be had that power developments licensed under the Federal water power act shall conform to a comprehensive scheme of development in the interests of navigation, water power, flood control, and other beneficial public uses.
The reasons for certain specific provisions of the bill are as follows:

The bill provides for continued authority to make details, civil or military, from the three departments in order: (1) To cover temporary details that may be desirable after the commission is authorized to employ its own personnel, since it may be better administration and more economical to secure a temporary transfer of an experienced individual than to make temporary or permanent employment of a person whose qualifications have been untried; and (2) to cover any period that might elapse between an authorization to employ personnel and an appropriation to put it into effect. In absence of such a provision the commission might find itself without authority to keep its present detailed personnel and without any means to employ substitutes; that is, wholly unable to function.

The bill would authorize the commission to have transferred to its own rolls the present detailed personnel and such other qualified individuals performing similar work in the departments in Washington as it may seem desirable to transfer, in lieu of employing new personnel through the medium of the Civil Service Commission.

The reasons for the provision that the several departments shall continue to perform work for the commission have been given above. In instances where it is necessary to employ additional personnel for work which the departments ordinarily perform for the commission it seems desirable that such employment should be made by the department rather than by the commission, that authority to do so be given, and that the departments be reimbursed by the commission for expenditures so made.

In order that the Treasury of the United States may, out of the proposed special fund, be fully reimbursed for all expenditures directly or indirectly employed in the commission’s work, the bill proposes that the commission shall be authorized to cause to be transferred on the books of the Treasury to such “permanent and indefinite or other departmental appropriations or funds” as are reimbursable the actual or estimated amount of withdrawals therefrom on account of the work of the commission; and to the extent that expenditures made are not out of reimbursable appropriations, to transfer the appropriate amount to “Miscellaneous receipts.” It is proposed also to authorize the transfer from time to time to “Miscellaneous receipts” the amounts necessary to offset the excess of costs over receipts which have occurred in the administration of the act up to the present year.

Never before in our history has there been such activity in water-power development as during the last five years, and this activity has been brought about primarily because the Federal water power act for the first time has afforded conditions which make it possible to develop with safety the power sites under Government control. The demand for new development is pressing. This demand has brought upon the commission a volume of work entirely beyond its ability to perform with existing means. Development can proceed only as fast as the commission is able to act. The delays which are now unavoidable will be in increasing degree a primary limiting factor on water-power development. Furthermore, so long as the costs of performing the work of the commission are covered up in a multitude of appropriations other than its own, and its receipts are likewise obscured and scattered as the act now provides, there can be no intelligent budgeting and no businesslike appraisal of the work of the commission.

The commission, therefore, earnestly recommends favorable consideration and early passage of S. 5362.

Very truly yours,

Dwight F. Davis,
Secretary of War, Chairman.

January 14, 1927.

Dear Mr. President: We believe it necessary to call to your personal attention the unsatisfactory status of the work of the Federal Power Commission and of the facilities which are at the disposal of the commission for the performance of the duties placed upon it by the Federal water power act.

At the close of the last fiscal year the commission had been in operation six years. During that time there had been filed with the commission over 700 applications for power projects and related structures. The commission had been able to dispose of most of those of minor importance and to weed out the majority of the purely speculative applications. Of the major applications there remains 273 in active status, involving 24,750,000 horsepower, or more than twice
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the existing water-power development of the United States. To 137 of this number, with an aggregate capacity of 10,100,000 horsepower, the commission has been able to issue permits or licenses, leaving 136 with a capacity of 14,690,000, horsepower, yet to be acted upon. While a considerable number of important cases are delayed for reasons beyond the control of the commission, it remains true that the commission has completed action upon only one-half of those applications on file which are of real importance and which are of a character to justify the belief that they will lead to eventual development. If the public interest is to be reasonably guarded, and if the interests of navigation and other collateral matters are to be properly protected, these applications must receive careful examination and engineering, economic, and legal studies must be made before final action is taken. With the means afforded it has been, and still is, physically impossible to keep the commission's work even approximately current. Under existing conditions it would require from four to five years to dispose of the applications now pending, even if no new ones were submitted; but new applications are being filed at a rate of about 100 per annum.

Never before in our history has there been such activity in water-power development as during the last five years and this activity has been made possible primarily because the Federal water power act for the first time made it possible to develop with safety the power sites under Government control. The demand for new development is pressing. It can proceed only as fast as this commission is able to act. The delays which are unavoidable under existing conditions have been, and in increasing degree will continue to be, the primary limiting factor on water-power development.

The field work of the commission is performed for it by the Departments of War, Interior, and Agriculture. Its work in Washington is being performed by individuals detailed to it by those departments. Its entire technical and clerical force so detailed consists of 33 individuals, only three more than the number with which it started operations under temporary assignments in 1920. Its appropriations have been reduced from $100,000 in 1920 to $33,400 for 1927. The expenditures of the commission itself plus the ascertained and estimated costs to the three departments are about $160,000 per year. The departments are unable to make further assignments without detrimental effects on their own work and without expending moneys for purposes for which they were not appropriated. The commission can not employ personnel itself without an amendment of the Federal water power act. Such amendment has appeared so necessary to businesslike administration of the act that it has been a subject of urgent recommendation by the commission every year since the act was passed.

The act authorizes the commission to collect from its licensees annual charges "for the purpose of reimbursing the United States for the costs of the administration" of the act. The amounts so collected for the year 1927 under existing scales of charges will be $230,000, or 50 per cent in excess of present costs of administration. The amounts collected will increase annually and will be ample to pay all costs of administration, direct or indirect, without a dollar of charge on Federal revenues. If the moneys are not used for this purpose they can not legally be collected. Failure to use them will not, therefore, serve to augment the miscellaneous receipts of the Treasury. Under such circumstances and in view of the serious situation of the commission's work we urgently recommend that Congress be requested to amend the act so as to authorize the commission to employ sufficient personnel to perform its work and so as to make the moneys collected for defraying costs of administration available for appropriation by Congress for that specific purpose.

Cordially yours,

Dwight F. Davis,
Secretary of War, Chairman.

Hubert Work,
Secretary of the Interior.

W. M. Jardine,
Secretary of Agriculture.

The President,
The White House.

The PRESIDENT,