



THE COMMITTEE ON ENERGY AND COMMERCE

INTERNAL MEMORANDUM

June 5, 2012

TO: Members, Subcommittee on Energy and Power

FROM: Committee Staff

RE: Subcommittee Markup of H.R. 4273, the “Resolving Environmental and Grid Reliability Conflicts Act of 2012” and H.R. 5892, the “Hydropower Regulatory Efficiency Act of 2012”

On Thursday, June 7, 2012, at 10:30 am (or 15 minutes after the conclusion of the Commerce, Manufacturing, and Trade Subcommittee markup, whichever is latest) in room 2123 Rayburn House Office Building, the Subcommittee on Energy and Power will meet in open markup session to consider the following:

- H.R. 4273, the Resolving Environmental and Grid Reliability Conflicts Act of 2012; and,
- H.R. 5892, the Hydropower Regulatory Efficiency Act of 2012.

Members must submit any amendments they may have two hours before they are offered during the markup. Members may submit amendments by email to: peter.kielty@mail.house.gov. Any information with respect to an amendment’s parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

I. RESOLVING ENVIRONMENTAL AND GRID RELIABILITY CONFLICTS ACT OF 2012

H.R. 4273, the “Resolving Environmental and Grid Reliability Conflicts Act of 2012,” was introduced on March 28, 2012, by Representatives Olson (R-TX), Doyle (D-PA), Terry (R-NE), Green (D-TX), Kinzinger (R-IL), and Gonzalez (D-TX). On May 9, 2012, the Subcommittee on Energy and Power held a legislative hearing on the legislation.

The bill includes the following provisions:

Section 1: Provides the short title of “Resolving Environmental and Grid Reliability Conflicts Act of 2012.”

Section 2:

- Amends Section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) to clarify that when an electric generator is operating pursuant to a section 202(c) emergency directive to

generate or transmit electricity, it will not be considered in violation of environmental laws or regulations, or subject to civil or criminal liability or citizen suits, as a result of its actions to comply with the Federal emergency order.

- Directs the Department of Energy (DOE) to work to minimize adverse environmental impacts in emergency orders issued pursuant to section 202(c) of the Federal Power Act.
- Clarifies that the term “environmental law” does not include laws and regulations under the Occupational Safety and Health Act of 1970.
- Provides that section 202(d) of the Federal Power Act (16 U.S.C. 824a(d)) is applicable to municipalities.

II. HYDROPOWER REGULATORY EFFICIENCY ACT OF 2012

A discussion draft of the “Hydropower Regulatory Efficiency Act of 2012” was released on May 2, 2012, by Rep. McMorris Rodgers (R-WA) and Rep. DeGette (D-CO). On May 9, 2012, the Subcommittee on Energy and Power held a hearing on the legislation. On June 5, 2012, Rep. McMorris Rodgers and Rep. DeGette introduced H.R. 5892, the “Hydropower Regulatory Efficiency Act of 2012,” along with Representatives Terry (R-NE), Latta (R-OH), Smith (R-TX), Dingell (D-MI), Markey (D-MA) and Matheson (D-UT).

The bill includes the following provisions:

Section 1: Sets forth the Act’s short title and provides a table of contents.

Section 2: Sets forth findings on the untapped potential of hydropower resources, in terms of both power production and job creation.

Section 3: Facilitates the development of small hydropower projects by increasing the licensing exemption from 5 MW to 10 MW.

Section 4:

- Promotes hydropower development at conduits (*i.e.*, man-made water conveyances such as tunnels, canals, or pipelines that are operated for water distribution and not primarily for electricity generation) by excluding projects under 5 MW from Federal licensing requirements if the project meets certain criteria.
- Facilitates conduit project development by exempting projects between 5-40 MW from Federal licensing requirements, upon approval of the Federal Energy Regulatory Commission (FERC).

Section 5: Allows FERC to extend the term of a preliminary permit for up to 2 years, for a total of 5 years, in order to allow a permittee sufficient time to develop and file a license application.

Section 6: Directs FERC to examine the feasibility of establishing a streamlined 2-year licensing process for hydropower development at non-powered dams and closed-loop pumped storage projects. The results of the program will be reported to Congress.

Section 7: Directs the Secretary of Energy to complete a study of: (1) the technical flexibility and potential of certain hydropower storage facilities and technology to support intermittent renewable generation and provide grid reliability benefits; and (2) the range of opportunities for hydropower from conduits.

III. STAFF CONTACTS

If you have any questions regarding this markup, please contact Patrick Currier at (202) 225-2927.