

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
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MEMORANDUM

January 18, 2013

To: Energy and Commerce Committee Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Committee on Energy and Commerce Organizational Business Meeting and Markup of H.R. 267, Hydropower Regulatory Efficiency Act of 2013; H.R. ____, Collinsville Renewable Energy Promotion Act (not yet introduced); H.R. 297, to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals; H.R. 225, National Pediatric Research Network Act of 2013; and H.R. 235, Veteran Emergency Medical Technician Support Act of 2013

The Committee on Energy and Commerce is scheduled to meet on Tuesday, January 22, 2013, at 10:00 a.m. in room 2123 of the Rayburn House Office Building. The purpose of this meeting is to adopt the Committee Rules, establish Subcommittee jurisdictions, and appoint Subcommittee Chairmen, Vice Chairmen, Ranking Members, and members. In addition, the Committee will meet in an open markup session immediately following the organizational meeting to consider five bills.

I. ORGANIZATIONAL MEETING

The Committee will consider four resolutions to organize itself: (1) a resolution to establish the Rules of the Committee; (2) a resolution to establish the jurisdiction of the subcommittees; (3) a resolution to establish the Republican Chairmen, Vice-Chairmen, and membership of the subcommittees; and (4) a resolution to establish the Democratic Ranking Members and membership of the subcommittees.

II. FULL COMMITTEE MARKUP

The Committee will consider five bills in an open markup session: H.R. 267, Hydropower Regulatory Efficiency Act of 2013; H.R. ____, Collinsville Renewable Energy Promotion Act (not yet introduced); H.R. 297, to amend the Public Health Service Act to

reauthorize support for graduate medical education programs in children's hospitals; H.R. 225, National Pediatric Research Network Act of 2013; and H.R. 235, Veteran Emergency Medical Technician Support Act of 2013.

A. H.R. 267, Hydropower Regulatory Efficiency Act

1. *Background*

Hydropower facilities are licensed by Federal Energy Regulatory Commission (FERC) under the Federal Power Act. Section 23 of the Federal Power Act requires a developer of a dam or other hydropower facility to obtain a license from FERC. Sections 4 and 5 of the Federal Power Act allow developers to obtain a preliminary permit, issued for up to three years, which does not authorize construction but maintains priority of application for a license while the developer studies the site and prepares to apply for a license.

Section 30 of the Federal Power Act authorizes FERC to provide exemptions to the licensing requirement for hydropower facilities using manmade conduits, such as pipes or ditches, which are operated for the distribution of water and not primarily for the generation of electricity. This exemption applies to facilities with an installed capacity of 15 megawatts or less (or 40 megawatts or less in the case of a municipality). The process for obtaining a conduit exemption is established in regulations and includes consultation, a detailed application, and other requirements. A similar exemption process exists for small hydropower projects of 5 megawatts or less.

2. *Summary of Bill*

Reps. McMorris-Rodgers and DeGette introduced H.R. 267, the Hydropower Regulatory Efficiency Act on January 15, 2013. The bipartisan bill is identical to legislation unanimously passed by the House of Representatives during the 112th Congress (H.R. 3680). The bill is supported by both hydropower developers and environmental organizations.

Section 3 of the bill extends eligibility for the small hydropower exemption to projects with up to 10 megawatts of capacity.

Section 4 provides that a “qualifying conduit hydropower facility” is not required to obtain a FERC license. The term is defined as a hydropower project that (1) uses a non-federally owned conduit, (2) has an installed capacity of 5 megawatts or less, and (3) does not currently have a license or exemption. An entity proposing to construct a qualifying conduit hydropower facility is required to file a notice of intent with FERC that includes sufficient information to demonstrate that the facility meets the qualifying criteria. If FERC makes an initial determination that the proposed project meets the criteria, it shall publish public notice of the notice of intent to construct the project. If no entity contests that the project meets the criteria within 45 days, the project is deemed to meet the criteria. If an entity contests whether the project meets the criteria, FERC is required to promptly issue a written determination as to

whether the facility meets the criteria. Section 4 also expands eligibility for the existing conduit exemption to facilities with an installed capacity of up to 40 megawatts.

Section 5 of the bill authorizes FERC to extend the term of a preliminary permit for up to two additional years if it finds that the permittee has carried out activities under the permit in good faith and with reasonable diligence.

Section 6 directs FERC to investigate the feasibility of establishing a 2-year licensing process for appropriate hydropower projects at nonpowered dams and closed loop pumped storage projects.

Section 7 requires the Department of Energy to conduct a study of (1) the technical flexibility that existing pumped storage facilities can provide to support intermittent renewable energy generation and grid reliability and (2) the range of opportunities for conduit hydropower and, through case studies, the amounts of potential generation from such projects.

B. H.R. _____, Collinsville Renewable Energy Promotion Act

1. *Background*

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.

The town of Canton, Connecticut intends to proceed with the two hydroelectric projects that were not completed by Summit. On January 9, 2009, FERC granted the town a preliminary

permit to undertake the necessary feasibility studies. The town has said that it intends to pursue Low Impact Hydropower Institute certification for the projects and provide for fish passage.

2. *Summary of Bill*

The committee print of H.R. _____, the Collinsville Renewable Energy Promotion Act, was circulated on January 17, 2013. The bill is identical to H.R. 5625, which was unanimously passed by the House of Representatives during the 112th Congress.

The bill authorizes FERC to reinstate the terminated licenses for the Upper and Lower Collinsville Dams hydroelectric projects and to extend for two years the date by which the licensee is required to commence construction. If FERC exercises this authority for either of the two licenses, the bill requires FERC to transfer such license to the town of Canton. Before taking these actions, the bill requires FERC to complete an environmental assessment for the projects to update the environmental analysis that was previously performed.

After a 30-day public comment period, FERC is required to consider the public comments on the environmental assessment and incorporate terms and conditions in the reinstated licenses that the Commission determines are necessary based on the public comments. FERC is required to make a final decision regarding the reinstatement within 270 days of the date of enactment of the Act. If FERC reinstates the licenses and extends the deadline for commencing construction, the transfer of the licenses to the town of Canton must also take place within 270 days of the date of enactment of the Act.

C. **H.R. 297, to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals;**

The January 17, 2013, memorandum prepared by Republican staff accurately describes the legislation. This legislation reflects bipartisan effort and has Democratic support. H.R. 297 extends the Children's Hospital Graduate Medical Education (CHGME) program that provides support to hospitals for the training of doctors who want to specialize in pediatrics. A bill with similar provisions was reported out of the Health Subcommittee on a favorable bipartisan vote. At this time, the Democratic staff expects support to continue for this bill throughout the legislative process, including action on the House floor.

The CHGME program provides support for over 50 freestanding children's hospitals in 30 states and Puerto Rico in the training of approximately 6,000 pediatric residents.¹ The FY

¹ U.S. Department of Health and Human Services, Health Resources and Services Administration, *Children's Hospital GME Program Data* (online at <http://bhpr.hrsa.gov/childrenshospitalgme/data/index.html>).

2012-enacted funding level for the CHGME program was \$265.2 million.² A list of hospitals supported through the program may be accessed at the following website:
<http://bhpr.hrsa.gov/childrenshospitalgme/data/index.html>.

D. H.R. 225, National Pediatric Research Network Act of 2013

The January 17, 2013, memorandum prepared by Republican staff accurately describes the legislation. This legislation reflects bipartisan effort and has our support. In addition to the material found in that memo, please note the following:

- H.R. 225 is sponsored by Energy and Commerce Members Rep. Lois Capps (D-CA) and Rep. Cathy McMorris Rodgers (R-WA).
- The Subcommittee on Health held a hearing on NIH-related matters on June 21, 2012, titled “*The National Institutes of Health – A Review of Its Reforms, Priorities, and Progress.*”

E. H.R. 235, Veteran Emergency Medical Technician Support Act of 2013

The January 17, 2013, memorandum prepared by Republican staff accurately describes the legislation. This legislation reflects bipartisan effort and has our support. In addition to the material found in that memo, please note the following:

- H.R. 235 is sponsored by Energy and Commerce Members Rep. Adam Kinzinger (R-IL) and Rep. Lois Capps (D-CA). Rep. Lois Capps (D-CA) also sponsored similar legislation, H.R. 3884 (Emergency Medic Transition Act of 2012), in the 112th Congress.
- The Subcommittee on Health held a hearing on this issue entitled “Helping Veterans with Emergency Medical Training Transition to Civilian Service” on July 11, 2012.
- The “pay-for” in H.R. 235 to comply with House cut-go rules does not translate into an automatic reduction in area health education center (AHEC) funding. Instead, H.R. 235 makes available a total of \$1 million over a five-year period -- only \$200,000 per year -- to support the new veterans EMT program. If H.R. 235 were to become law, both this program and the AHEC program would be subject to the annual appropriations process.

² U.S. Department of Health and Human Services, Health Resources and Services Administration, *Fiscal Year 2013 Justification of Estimates for Appropriations Committees* (online at www.hrsa.gov/about/budget/budgetjustification2013.pdf).