

Union Calendar No. 340

115TH CONGRESS
1ST SESSION

H. R. 2880

[Report No. 115–458]

To amend the Federal Power Act to promote closed-loop pumped storage hydropower, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2017

Mr. GRIFFITH introduced the following bill; which was referred to the Committee on Energy and Commerce

DECEMBER 11, 2017

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 12, 2017]

A BILL

To amend the Federal Power Act to promote closed-loop
pumped storage hydropower, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Promoting Closed-Loop*
 5 *Pumped Storage Hydropower Act”.*

6 **SEC. 2. CLOSED-LOOP PUMPED STORAGE PROJECTS.**

7 *Part I of the Federal Power Act (16 U.S.C. 792 et seq.)*
 8 *is amended by adding at the end the following:*

9 **“SEC. 34. CLOSED-LOOP PUMPED STORAGE PROJECTS.**

10 *“(a) EXPEDITED LICENSING PROCESS FOR CLOSED-*
 11 *LOOP PUMPED STORAGE PROJECTS.—*

12 *“(1) IN GENERAL.—As provided in this section,*
 13 *the Commission may issue and amend licenses and*
 14 *preliminary permits, as appropriate, for closed-loop*
 15 *pumped storage projects.*

16 *“(2) RULE.—Not later than 180 days after the*
 17 *date of enactment of this section, the Commission*
 18 *shall issue a rule establishing an expedited process for*
 19 *issuing and amending licenses and preliminary per-*
 20 *mits for closed-loop pumped storage projects under*
 21 *this section.*

22 *“(3) INTERAGENCY TASK FORCE.—In estab-*
 23 *lishing the expedited process under this section, the*
 24 *Commission shall convene an interagency task force,*
 25 *with appropriate Federal and State agencies and In-*

1 *dian tribes represented, to coordinate the regulatory*
 2 *processes associated with the authorizations required*
 3 *to construct and operate closed-loop pumped storage*
 4 *projects.*

5 *“(4) LENGTH OF PROCESS.—The Commission*
 6 *shall ensure that the expedited process under this sec-*
 7 *tion will result in final decision on an application*
 8 *for a license by not later than 2 years after receipt*
 9 *of a completed application for such license.*

10 *“(b) DAM SAFETY.—Before issuing any license for a*
 11 *closed-loop pumped storage project, the Commission shall*
 12 *assess the safety of existing dams and other structures re-*
 13 *lated to the project (including possible consequences associ-*
 14 *ated with failure of such structures).*

15 *“(c) EXEMPTIONS FROM OTHER REQUIREMENTS.—*

16 *“(1) IN GENERAL.—In issuing or amending a li-*
 17 *cence or preliminary permit pursuant to the expe-*
 18 *ditated process established under this section, the Com-*
 19 *mission may grant an exemption from any other re-*
 20 *quirement of this part with respect to any part of the*
 21 *closed-loop pumped storage project (not including any*
 22 *dam or other impoundment).*

23 *“(2) CONSULTATION.—In granting an exemption*
 24 *under paragraph (1), the Commission shall consult*
 25 *with the United States Fish and Wildlife Service and*

1 *the State agency exercising administration over the*
2 *fish and wildlife resources of the State in which the*
3 *closed-loop pumped storage project is or will be lo-*
4 *cated, in the manner provided by the Fish and Wild-*
5 *life Coordination Act (16 U.S.C. 661 et seq.).*

6 “(3) *TERMS AND CONDITIONS.—In granting an*
7 *exemption under paragraph (1), the Commission shall*
8 *include in any such exemption—*

9 “(A) *such terms and conditions as the Fish*
10 *and Wildlife Service, National Marine Fisheries*
11 *Service, and the State agency described in para-*
12 *graph (2) each determine are appropriate to pre-*
13 *vent loss of, or damage to, fish and wildlife re-*
14 *sources and to otherwise carry out the purposes*
15 *of the Fish and Wildlife Coordination Act; and*

16 “(B) *such terms and conditions as the Com-*
17 *mission deems appropriate to ensure that such*
18 *closed-loop pumped storage project continues to*
19 *comply with the provisions of this section and*
20 *terms and conditions included in any such ex-*
21 *emption.*

22 “(4) *FEEES.—The Commission, in addition to the*
23 *requirements of section 10(e), shall establish fees*
24 *which shall be paid by an applicant for a license for*
25 *a closed-loop pumped storage project that is required*

1 to meet terms and conditions set by fish and wildlife
 2 agencies under paragraph (3). Such fees shall be ade-
 3 quate to reimburse the fish and wildlife agencies re-
 4 ferred to in paragraph (3) for any reasonable costs
 5 incurred in connection with any studies or other re-
 6 views carried out by such agencies for purposes of
 7 compliance with this section. The fees shall, subject to
 8 annual appropriations Acts, be transferred to such
 9 agencies by the Commission for use solely for purposes
 10 of carrying out such studies and shall remain avail-
 11 able until expended.

12 “(d) *TRANSFERS.*—Notwithstanding section 5, and re-
 13 gardless of whether the holder of a preliminary permit for
 14 a closed-loop pumped storage project claimed municipal
 15 preference under section 7(a) when obtaining the permit,
 16 the Commission may, to facilitate development of a closed-
 17 loop pumped storage project—

18 “(1) add entities as joint permittees following
 19 issuance of a preliminary permit; and

20 “(2) transfer a license in part to one or more
 21 nonmunicipal entities as co-licensees with a munici-
 22 pality, if the municipality retains majority owner-
 23 ship of the project for which the license was issued.

24 “(e) *INTERAGENCY COMMUNICATIONS.*—Interagency
 25 cooperation in the preparation of environmental documents

1 *under the National Environmental Policy Act of 1969 (42*
 2 *U.S.C. 4321 et seq.) with respect to an application for a*
 3 *license for a closed-loop pumped storage project submitted*
 4 *pursuant to this section, and interagency communications*
 5 *relating to licensing process coordination pursuant to this*
 6 *section, shall not—*

7 “(1) *be considered to be ex parte communications*
 8 *under Commission rules; or*

9 “(2) *preclude an agency from participating in a*
 10 *licensing proceeding under this part.*

11 “(f) *DEVELOPING ABANDONED MINES FOR PUMPED*
 12 *STORAGE.—*

13 “(1) *WORKSHOP.—Not later than 6 months after*
 14 *the date of enactment of this section, the Commission*
 15 *shall hold a workshop to explore potential opportuni-*
 16 *ties for development of closed-loop pumped storage*
 17 *projects at abandoned mine sites.*

18 “(2) *GUIDANCE.—Not later than 1 year after the*
 19 *date of enactment of this section, the Commission*
 20 *shall issue guidance to assist applicants for licenses*
 21 *or preliminary permits for closed-loop pumped stor-*
 22 *age projects at abandoned mine sites.*

23 “(g) *QUALIFYING CRITERIA FOR CLOSED-LOOP*
 24 *PUMPED STORAGE PROJECTS.—*

1 “(1) *IN GENERAL.*—*The Commission shall estab-*
 2 *lish criteria that a pumped storage project shall meet*
 3 *in order to qualify as a closed-loop pumped storage*
 4 *project eligible for the expedited process established*
 5 *under this section.*

6 “(2) *INCLUSIONS.*—*In establishing the criteria*
 7 *under paragraph (1), the Commission shall include*
 8 *criteria requiring that the pumped storage project—*

9 “(A) *cause little to no change to existing*
 10 *surface and groundwater flows and uses; and*

11 “(B) *is unlikely to adversely affect species*
 12 *listed as a threatened species or endangered spe-*
 13 *cies under the Endangered Species Act of 1973.”.*

14 **SEC. 3. OBLIGATION FOR PAYMENT OF ANNUAL CHARGES.**

15 *Section 10(e) of the Federal Power Act (16 U.S.C.*
 16 *803(e)) is amended by adding at the end the following:*

17 “(5) *Any obligation of a licensee for payment of an-*
 18 *nual charges under this subsection shall commence when the*
 19 *construction of the applicable facility commences.”.*

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