

TAPOCO PROJECT LICENSING ACT OF 2004

OCTOBER 4, 2004.—Ordered to be printed

Mr. BARTON of Texas, from the Committee on Energy and
Commerce, submitted the following

R E P O R T

[To accompany H.R. 4667]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4667) to authorize and facilitate hydroelectric power licensing of the Tapoco Project, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for Legislation	2
Hearings	2
Committee Consideration	2
Committee Votes	2
Committee Oversight Findings	3
Statement of General Performance Goals and Objectives	3
New Budget Authority, Entitlement Authority, and Tax Expenditures	3
Committee Cost Estimate	3
Congressional Budget Office Estimate	3
Federal Mandates Statement	4
Advisory Committee Statement	4
Constitutional Authority Statement	4
Applicability to Legislative Branch	4
Section-by-Section Analysis of the Legislation	5
Changes in Existing Law Made by the Bill, as Reported	5

PURPOSE AND SUMMARY

The purpose of the bill is to facilitate the relicensing of the Tapoco Project by the Federal Energy Regulatory Commission (FERC) and effect a land swap. The bill provides that Alcoa Power Generating Inc. (APGI) will convey approximately 186 acres of land to the National Park Service and that APGI will acquire about 110

acres of parkland now inundated by the Tapoco Project. The National Park Service will retain a conservation easement on the land conveyed to APGI and the boundaries of the National Park will not be adjusted to reflect the land transfer to APGI. Upon completion of this land swap, FERC will be authorized to relicense the Tapoco Project, notwithstanding the fact that a portion of the Project remains within the boundaries of the National Park. The bill also provides for a process whereby Alcoa can convey additional land to the National Park Service or the Forest Service at a later time.

BACKGROUND AND NEED FOR LEGISLATION

The Tapoco Hydroelectric Project is an approximately 360 MW hydroelectric project located on the Little Tennessee and Cheoah rivers in Tennessee and North Carolina. It is operated by APGI and provides power for Alcoa facilities in the region. The FERC project license issued in 1955 expires on February 28, 2005. APGI began discussions with interested stakeholders related to relicensing the Project in 1999, and filed with FERC to relicense the Project in early 2003.

The reservoir for part of the Project floods approximately 110 acres of the Great Smoky Mountains National Park. Because a portion of the Project reservoir extends onto National Park land, FERC does not have statutory authority to issue a new license for the Project. APGI entered into a comprehensive settlement agreement with the U.S. Department of the Interior, the U.S. Department of Agriculture, resource agencies of the States of Tennessee and North Carolina, local governments, and national, regional and local non-governmental organizations with respect to the relicensing. The bill provides that APGI will transfer approximately 186 acres of land within the boundaries of the Great Smoky Mountains National Park to the National Park Service in exchange for the National Park Service transferring to APGI the approximately 110 acres of flooded land in the reservoir subject to conservation easements. Once the land swap is completed, the bill authorizes FERC to relicense the Project.

H.R. 4667 is needed to implement the land swap between APGI and the National Park Service and authorize FERC to relicense the Project.

HEARINGS

The Committee on Energy and Commerce has not held hearings on the legislation.

COMMITTEE CONSIDERATION

On Thursday, September 30, 2004, the Full Committee met in open markup session and ordered H.R. 4667 favorably reported to the House, without amendment, by a voice vote, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 4667 reported.

A motion by Mr. Barton to order H.R. 4667 reported to the House, without amendment, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has not held oversight or legislative hearings on this legislation.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of the bill is to authorize a land swap and authorize FERC to relicense the Tapoco Project.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4667, the Tapoco Project Licensing Act of 2004, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 4, 2004.

Hon. JOE BARTON,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4667, the Tapoco Project Licensing Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas Holtz-Eakin, Director)

Enclosure.

H.R. 4667—Tapoco Project Licensing Act of 2004

CBO estimates that implementing H.R. 4667 would cost \$6 million over the 2005–2009 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues. H.R. 4667 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act

and would impose no significant costs on state, local, or tribal governments.

H.R. 4667 would authorize the Secretary of the Interior to exchange 100 acres of land within the Great Smoky Mountains National Park in Tennessee for 186 acres of other land within the authorized boundary of that park owned by Alcoa Power Generating Inc. (APGI). APGI would use the land it receives for the Tapoco Hydroelectric Project. According to the National Park Service, the federal land to be conveyed currently generates no receipts and is not expected to do so over the next 10 years. Hence, we estimate that the proposed exchange would not affect offsetting receipts (a credit against direct spending). We estimate that the agency would spend about \$30,000 in 2005 to complete the transaction, assuming the availability of appropriated funds.

H.R. 4667 also would authorize the Secretaries of Agriculture and the Interior to acquire certain other land that is currently owned by APGI. Based on information from APGI and local tax assessors regarding the value of that land, CBO estimates that the federal government would spend \$6 million over the 2006–2009 period to acquire that land, assuming appropriation of the necessary funds. We also estimate that any resulting increase in federal spending for land management would total less than \$500,000 a year.

On June 23, 2004, CBO transmitted a cost estimate for S. 2319, the Tapoco Project Licensing Act of 2004, as ordered reported by the Senate Committee on Energy and Natural Resources on June 16, 2004. On September 17, 2004, CBO transmitted a cost estimate for H.R. 4667 as ordered reported by the House Committee on Resources on September 15, 2004. All three pieces of legislation are similar, and our cost estimates are the same.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or

accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 establishes the short title of the bill, the “Tapoco Project Licensing Act of 2004.”

Section 2. Definitions

Section 2 defines terms that are specific to the bill.

Section 3. Land exchange

This section authorizes the land swap whereby APGI will convey about 186 acres of land to the National Park Service, through the Secretary of the Interior, and the National Park Service will convey about 110 acres of land to APGI, retaining a conservation easement and a reversion on the land. The section also provides that the Secretary can adjust the National Park boundary to reflect the land transferred to the National Park, but not change the boundary to reflect the land transferred to APGI.

Section 4. Project licensing

Section 4 authorizes FERC to relicense the Project once the land swap is completed, notwithstanding the fact that portions of the Project lie within the boundaries of the National Park.

Section 5. Land acquisition

This section authorizes the Secretary of the Interior or the Secretary of Agriculture to acquire and administer additional lands transferred by APGI to a nongovernmental organization and administer those lands as part of a National Park or National Forest.

Section 6. Authorization of appropriations

Section 6 authorizes such sums as are necessary to carry out the bill.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.