Bill no.: Committee Print
Amendment no.: 5
Date offered: 3/19/03
Disposition: Not Agreed to by 14 yeas and 17 nays

H.L.C.

AMENDMENT TO H.R.

OFFERED BY MR. DINGELL

Strike title III and insert the following:

TITLE III—HYDROELECTRIC ENERGY

SEC. 301. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

"(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls deems a condition to such license to be necessary under the first proviso of subsection (e), the license applicant or any other party to the licensing proceeding may propose an alternative condition.

"(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative condition, that the alternative condition—

1 "(A) provides no less protection for the reserva-
2 tion than provided by the condition deemed nec-
3 essary by the Secretary; and
4 "(B) will either—
5 "(i) cost less to implement, or
6 "(ii) result in improved operation of the
7 project works for electricity production,
8 as compared to the condition deemed necessary by
9 the Secretary.
10 "(3) Within 1 year after the enactment of this sub-
11 section, each Secretary concerned shall, by rule, establish
12 a process to expeditiously resolve conflicts arising under
13 this subsection.".
14 (b) ALTERNATIVE FISHWAYS.—Section 18 of the
15 Federal Power Act (16 U.S.C. 811) is amended by—
16 (1) inserting "(a)" before the first sentence;
17 and
18 (2) adding at the end the following:
19 "(b)(1) Whenever the Commission shall require a li-
20 censee to construct, maintain, or operate a fishway pre-
21 scribed by the Secretary of the Interior or the Secretary
22 of Commerce under this section, the licensee or any other
23 party to the proceeding may propose an alternative to such
24 prescription to construct, maintain, or operate a fishway.

1 "(2) Notwithstanding subsection (a), the Secretary of
2 the Interior or the Secretary of Commerce, as appropriate,
3 shall accept and prescribe, and the Commission shall re-
4 quire, the proposed alternative referred to in paragraph
5 (1), if the Secretary of the appropriate department deter-
6 mines, based on substantial evidence provided by the party
7 proposing such alternative, that the alternative—
8 "(A) will be no less effective than the fishway
9 initially prescribed by the Secretary, and
10 "(B) will either—
11 "(i) cost less to implement, or
12 "(ii) result in improved operation of the
13 project works for electricity production,
14 as compared to the fishway initially prescribed by
15 the Secretary.
16 "(3) Within 1 year after the enactment of this sub-
17 section, the Secretary of the Interior and the Secretary
18 of Commerce shall each, by rule, establish a process to
19 expeditiously resolve conflicts arising under this sub-
20 section.".
21 **SEC. 302. FERC DATA ON HYDROELECTRIC LICENSING.**
22 (a) DATA COLLECTION PROCEDURES.—The Federal
23 Energy Regulatory Commission shall revise its procedures
24 regarding the collection of data in connection with the
25 Commission's consideration of hydroelectric licenses under

1 the Federal Power Act. Such revised data collection proce-
2 dures shall be designed to provide the Commission with
3 complete and accurate information concerning the time
4 and costs to parties involved in the licensing process. Such
5 data shall be available for each significant stage in the
6 licensing process and shall be designed to identify projects
7 with similar characteristics so that analyses can be made
8 of the time and costs involved in licensing proceedings
9 based upon the different characteristics of those pro-
10 ceedings.

11 (b) REPORTS.—Within 6 months after the date of the
12 enactment of this Act, the Commission shall notify the
13 Committee on Energy and Commerce of the United States
14 House of Representatives and the Committee on Energy
15 and Natural Resources of the United States Senate of the
16 progress made by the Commission under subsection (a),
17 and within 1 year after such date of the enactment, the
18 Commission shall submit a report to such Committees
19 specifying the measures taken by the Commission pursu-
20 ant to subsection (a)..