

Union Calendar No. 183

104TH CONGRESS
1ST SESSION

H. R. 1122

[Report No. 104-187, Part I]

To authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1995

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources and, in addition, to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 13, 1995

Reported from the Committee on Resources with an amendment

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

JULY 13, 1995

Referred to the Committee on Commerce for a period ending not later than October 16, 1995, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(e), rule X

OCTOBER 16, 1995

Referral to the Committee on Commerce extended for a period ending not later than November 24, 1995

NOVEMBER 24, 1995

Committee on Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 3, 1995]

A BILL

To authorize and direct the Secretary of Energy to sell the Alaska Power Administration, 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 “Alaska Power Adminis-*
5 *tration Sale Act”.*

6 **SEC. 2. DEFINITIONS.**

7 *For purposes of this Act:*

8 (1) *The term “Eklutna assets” means the*
9 *Eklutna Hydroelectric Project and related assets as*
10 *described in section 4 and Exhibit A of the Eklutna*
11 *Purchase Agreement.*

12 (2) *The term “Eklutna Purchase Agreement”*
13 *means the August 2, 1989, Eklutna Purchase Agree-*
14 *ment between the Department of Energy and the*
15 *Eklutna Purchasers, together with any amendments*
16 *thereto which were adopted before the enactment of*
17 *this Act.*

18 (3) *The term “Eklutna Purchasers” means the*
19 *Municipality of Anchorage doing business as Municipi-*
20 *pal Light and Power, the Chugach Electric Associa-*
21 *tion, Inc. and the Matanuska Electric Association,*
22 *Inc.*

1 (4) *The term “Memorandum of Agreement”*
2 *means the Memorandum of Agreement entered into*
3 *between the State of Alaska, the Eklutna Purchasers,*
4 *the Alaska Energy Authority, and the Federal fish*
5 *and wildlife agencies regarding the protection, miti-*
6 *gation of damages to, and enhancement of fish and*
7 *wildlife, dated August 7, 1991.*

8 (5) *The term “Secretary” means the Secretary of*
9 *Energy except where otherwise specified.*

10 (6) *The term “Snettisham assets” means the*
11 *Snettisham Hydroelectric Project and related assets*
12 *as described in section 4 and Exhibit A of the*
13 *Snettisham Purchase Agreement.*

14 (7) *The term “Snettisham Purchase Agreement”*
15 *means the February 10, 1989, Snettisham Purchase*
16 *Agreement between the Alaska Power Administration*
17 *of the Department of Energy and the Alaska Power*
18 *Authority and its successors in interest, together with*
19 *any amendments thereto which were adopted before*
20 *the enactment of this Act.*

21 **SEC. 3. SALE OF SNETTISHAM AND EKLUTNA ASSETS.**

22 (a) *SNETTISHAM.*—*The Secretary is authorized and*
23 *directed to sell and transfer the Snettisham assets to the*
24 *State of Alaska in accordance with the terms of this Act*
25 *and the Snettisham Purchase Agreement.*

1 (b) *EKLUTNA.*—*The Secretary is authorized and di-*
2 *rected to sell and transfer the Eklutna assets to the Eklutna*
3 *Purchasers in accordance with the terms of this Act and*
4 *the Eklutna Purchase Agreement.*

5 (c) *COOPERATION OF OTHER AGENCIES.*—*Other de-*
6 *partments, agencies, and instrumentalities of the United*
7 *States shall cooperate with the Secretary in implementing*
8 *the sales and transfers under this Act.*

9 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
10 *authorized to be appropriated such sums as may be nec-*
11 *essary to prepare, survey, or acquire Snettisham and*
12 *Eklutna assets for sale and transfer under this Act. Such*
13 *preparations and acquisitions shall provide sufficient title*
14 *in the assets to ensure beneficial use, enjoyment, and occu-*
15 *pancy thereof to the purchasers.*

16 ***SEC. 4. EXEMPTION.***

17 *Following completion of the sales authorized by this*
18 *Act, the Eklutna and Snettisham hydroelectric projects, in-*
19 *cluding future modifications, shall continue to be exempt*
20 *from the requirements of the Federal Power Act (16 U.S.C.*
21 *791a et seq.). The exemption provided by this section shall*
22 *not affect the Memorandum of Agreement, and nothing in*
23 *this Act or in the Federal Power Act shall preclude the State*
24 *of Alaska from carrying out the responsibilities and au-*
25 *thorities of the Memorandum of Agreement.*

1 **SEC. 5. GENERAL PROVISIONS.**

2 (a) *JUDICIAL REVIEW.*—(1) *The United States Dis-*
3 *trict Court for the District of Alaska shall have jurisdiction*
4 *to review decisions made under the Memorandum of Agree-*
5 *ment and to enforce the provisions of the Memorandum of*
6 *Agreement, including the remedy of specific performance.*

7 (2) *Any action seeking review of the Fish and Wildlife*
8 *Program of the Governor of Alaska under the Memorandum*
9 *of Agreement or challenging actions of any of the parties*
10 *to the Memorandum of Agreement prior to the adoption of*
11 *such Program shall be brought 90 days after the date on*
12 *which such Program is adopted by the Governor of Alaska*
13 *or be barred.*

14 (3) *Any action seeking review of implementation of*
15 *such Fish and Wildlife Program shall be brought not later*
16 *than 90 days after the challenged act implementing such*
17 *Program or be barred.*

18 (b) *RIGHTS-OF-WAY AND OTHER LANDS FOR THE*
19 *EKLUTNA PROJECT.*—*With respect to Eklutna lands de-*
20 *scribed in Exhibit A of the Eklutna Purchase Agreement:*

21 (1) *The Secretary of the Interior shall issue*
22 *rights-of-way to the Alaska Power Administration for*
23 *subsequent reassignment to the Eklutna Purchasers at*
24 *no cost to the Eklutna Purchasers.*

25 (2) *Such rights-of-way shall remain effective for*
26 *a period equal to the life of the Eklutna hydroelectric*

1 *project as extended by improvements, repairs, renew-*
2 *als, or replacements.*

3 (3) *Such rights-of-way shall be sufficient for the*
4 *operation, maintenance, repair, and replacement of,*
5 *and access to, the facilities of the Eklutna hydro-*
6 *electric project located on military lands and lands*
7 *managed by the Bureau of Land Management, in-*
8 *cluding land selected by, but not yet conveyed to, the*
9 *State of Alaska.*

10 (4) *If the Eklutna Purchasers subsequently sell*
11 *or transfer the Eklutna hydroelectric project to pri-*
12 *vate ownership, the Bureau of Land Management*
13 *may assess reasonable and customary fees for contin-*
14 *ued use of the rights-of-way on lands managed by the*
15 *Bureau of Land Management and military lands in*
16 *accordance with applicable law.*

17 (5) *The Secretary shall transfer fee title to lands*
18 *at Anchorage Substation to the Eklutna Purchasers at*
19 *no additional cost if the Secretary of the Interior de-*
20 *termines that pending claims to and selections of*
21 *those lands are invalid or relinquished.*

22 (6) *With respect only to the Eklutna lands iden-*
23 *tified in paragraphs 1. a., b., and c. of Exhibit A of*
24 *the Eklutna Purchase Agreement, the State of Alaska*
25 *may select, and the Secretary of the Interior shall*

1 convey, to the State, improved lands under the selec-
2 tion entitlements in section 6 of the Act of July 7,
3 1958 (Public Law 85-508) and the North Anchorage
4 Land Agreement of January 31, 1983. The convey-
5 ance of such lands is subject to the rights-of-way pro-
6 vided to the Eklutna Purchasers under paragraph (1).

7 (c) *LANDS FOR THE SNETTISHAM PROJECT.*—With re-
8 spect to the approximately 2,671 acres of Snettisham lands
9 identified in paragraphs 1.a. and b. of Exhibit A of the
10 Snettisham Purchase Agreement, the State of Alaska may
11 select, and the Secretary of the Interior shall convey to the
12 State, improved lands under the selection entitlement in
13 section 6 of the Act of July 7, 1958 (Public Law 85-508).

14 (d) *EFFECT ON STATE SELECTIONS.*—Notwithstand-
15 ing the expiration of the right of the State of Alaska to make
16 selections under section 6 of the Alaska Statehood Act (Pub-
17 lic Law 85-508; 72 Stat. 339), the State of Alaska may
18 select lands authorized for selection under this Act or any
19 Purchase Agreement incorporated into or ratified by this
20 Act. The State shall complete such selections within one
21 year after the date of the enactment of this Act. The Sec-
22 retary of the Interior shall convey lands selected by the
23 State under this Act notwithstanding the limitation con-
24 tained in section 6(b) of the Alaska Statehood Act (Public
25 Law 85-508; 72 Stat. 339) regarding the occupancy, appro-

1 *priation, or reservation of selected lands. Nothing in this*
2 *subsection or in subsection (b)(6) or (c) of this section shall*
3 *be construed to authorize the Secretary of the Interior to*
4 *convey to the State of Alaska a total acreage of selected*
5 *lands in excess of the total acreage which could be trans-*
6 *ferred to the State of Alaska pursuant to the Act of July*
7 *7, 1958 (Public Law 85-508) and other applicable law.*

8 *(e) REPEAL OF ACT OF AUGUST 9, 1955.—The Act of*
9 *August 9, 1955 (69 Stat. 618), concerning water resources*
10 *investigations in Alaska, is repealed.*

11 *(f) TREATMENT OF ASSET SALE.—The sales of assets*
12 *under this Act shall not be considered a disposal of Federal*
13 *surplus property under the provisions of section 203 of the*
14 *Federal Property and Administrative Services Act of 1949*
15 *(40 U.S.C. 484) or section 13 of the Surplus Property Act*
16 *of 1944 (50 U.S.C. App. 1622).*

17 *(g) APPLICATION OF CERTAIN LAWS.—(1) The Act of*
18 *July 31, 1950 (64 Stat. 382) shall cease to apply on the*
19 *date, as determined by the Secretary, when all Eklutna as-*
20 *sets have been conveyed to the Eklutna Purchasers.*

21 *(2) Section 204 of the Flood Control Act of 1962 (Pub-*
22 *lic Law 87-874; 76 Stat. 1193) shall cease to apply effective*
23 *on the date, as determined by the Secretary, when all*
24 *Snettisham assets have been conveyed to the State of Alaska.*

1 **SEC. 6. TERMINATION OF ALASKA POWER ADMINISTRA-**
2 **TION.**

3 (a) *TERMINATION OF ALASKA POWER ADMINISTRA-*
4 *TION.*—Not later than one year after both of the sales au-
5 thorized in this Act have occurred, as measured by the
6 Transaction Dates stipulated in the Purchase Agreements,
7 the Secretary shall—

8 (1) *complete the business of, and close out, the*
9 *Alaska Power Administration;*

10 (2) *prepare and submit to Congress a report doc-*
11 *umenting the sales; and*

12 (3) *return unobligated balances of funds appro-*
13 *priated for the Alaska Power Administration to the*
14 *Treasury of the United States.*

15 (b) *DOE ORGANIZATION ACT.*—Section 302(a) of the
16 *Department of Energy Organization Act (42 U.S.C.*
17 *7152(a)) is amended as follows:*

18 (1) *In paragraph (1)—*

19 (A) *by striking out subparagraph (C); and*

20 (B) *by redesignating subparagraphs (D),*
21 *(E), and (F) as subparagraphs (C), (D), and (E)*
22 *respectively.*

23 (2) *In paragraph (2), by striking out “the Bon-*
24 *neville Power Administration, and the Alaska Power*
25 *Administration” and inserting in lieu thereof “and*
26 *the Bonneville Power Administration”.*

- 1 *The amendments made by this subsection shall take effect*
- 2 *on the date on which the Secretary submits the report re-*
- 3 *ferred to in paragraph (2) of subsection (a).*

Amend the title to read as follows: “To authorize the Secretary of Energy to sell the Snettisham and Eklutna hydroelectric projects administered by the Alaska Power Administration, and for other purposes.”.

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