

109TH CONGRESS
1ST SESSION

H. R. 3366

To amend the Niagara Redevelopment Act to encourage economic development and recovery in western New York, to promote fiscal transparency, to enhance the safety and security of the Niagara Power Project, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2005

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

A BILL

To amend the Niagara Redevelopment Act to encourage economic development and recovery in western New York, to promote fiscal transparency, to enhance the safety and security of the Niagara Power Project, 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 “Western New York
5 Redevelopment Act of 2005”.

1 **SEC. 2. RENEW REPLACEMENT POWER.**

2 Section 1 of the Act of August 21, 1957 (Public Law
3 85–859; 71 Stat. 401; 16 U.S.C. 836) is amended in sub-
4 section (b)(3) by striking out “for a period ending not
5 later than the final maturity date of the bonds initially
6 issued to finance the project work herein specifically au-
7 thorized,”.

8 **SEC. 3. ECONOMIC RECOVERY.**

9 (a) LICENSE CONDITIONS.—The Federal Energy
10 Regulatory Commission (FERC) shall include among the
11 conditions imposed on any license issued subsequent to the
12 original license for the project authorized by section 1 of
13 the Act of August 21, 1957 (Public Law 85–859; 71 Stat.
14 401; 16 U.S.C. 836) in addition to those deemed necessary
15 and required under the terms of the Federal Power Act,
16 the following:

17 (1) ANNUAL PAYMENT.—(A) In order to render
18 financial assistance to the host governments in
19 which any feature of the Niagara Power Project is
20 located, the New York Power Authority (NYPA)
21 shall make a mandatory annual payment from its
22 gross proceeds to the Erie Canal Harbor Develop-
23 ment Corporation in the City of Buffalo and the
24 County of Erie in the amount of \$10,000,000 for
25 each 12-month period of the new license. For every
26 12-month period after the first such period after the

1 license is issued and continuing for the life of the
2 new license and any subsequent licenses, the annual
3 payment shall include an additional 3 percent of the
4 amount of the payment made during the preceding
5 12-month period.

6 (B) Prior to the establishment of the Erie
7 Canal Harbor Development Corporation, the pay-
8 ment described in subparagraph (A) shall be held in
9 escrow by the NYPA for transfer to the corporation
10 upon its establishment. Such payment shall be used
11 by the Erie Canal Harbor Development Corporation
12 only for the development, design, engineering and
13 construction of projects at the Inner and Outer Har-
14 bor in Buffalo, and Erie County, New York, includ-
15 ing transportation infrastructure improvements and
16 Skyway Bridge alternatives. Other qualified uses
17 may include brownfield remediation, greenway trail
18 design and construction and other waterfront envi-
19 ronmental restoration projects.

20 (C) At the expiration of the Erie Canal Harbor
21 Development Corporation the annual payments shall
22 be made to the Erie County Industrial Development
23 Agency for the uses and purposes set forth in sub-
24 paragraph (B).

1 (2) ADDITIONAL ANNUAL PAYMENT TO COUN-
2 TIES.—(A) In order to achieve the yet unrealized re-
3 gional economic benefits that the New York Power
4 Authority contracted to deliver on when it was
5 awarded exclusive control of the Niagara Power
6 Project, the Federal Energy Regulatory Commission
7 shall include as a condition on any new and subse-
8 quent license, the payment of 1 percent of gross pro-
9 ceeds to be split evenly by the Industrial Develop-
10 ment Agencies for each of the counties of Niagara,
11 Erie, Chautauqua, and Cattaraugus, New York.

12 (B) Such funds shall be distributed by such
13 agencies to high-load industries and businesses com-
14 mitted to incremental capital investment and job re-
15 tention and creation in each such county. The pro-
16 ceeds shall be disbursed to such western New York
17 industries and businesses and used by such indus-
18 tries and businesses to offset the high cost of energy
19 in New York State and retain current employment
20 levels.

21 (C) The payment of funds under this paragraph
22 to Erie, Chautauqua, Cattaraugus, and Niagara
23 counties shall be additional to, and shall not affect
24 the obligation of the New York Power Authority to
25 pay, any other funds to those counties under the

1 terms of any judicial decree or settlement of an ac-
2 tion brought by one or more of such counties against
3 the NYPA.

4 (D) The term “gross proceeds”, as used in this
5 paragraph, means the total gross proceeds derived
6 by the licensee from the sale of power for the pre-
7 ceding fiscal year, excluding power used by the Cor-
8 poration or sold or delivered to any other depart-
9 ment or agency of the State of New York for any
10 purpose other than resale.

11 **SEC. 4. TRANSPARENCY.**

12 The Secretary of Energy, acting through the Office
13 of Inspector General, Office of Audit Services, shall con-
14 duct an audit of Niagara Power Project finances and oper-
15 ations since project inception in order to provide con-
16 sistent and timely information concerning the true eco-
17 nomic impact of the Niagara Power Project and its rev-
18 enue and disbursements and shall conduct subsequent an-
19 nual audits to verify payments to host communities and
20 others.

21 **SEC. 5. PHYSICAL SECURITY AND SAFETY.**

22 (a) IN GENERAL.—In order to improve the physical
23 security of the Niagara Power Project, the Federal Energy
24 Regulatory Commission shall include among the condi-
25 tions imposed on any license issued subsequent to the

1 original license for the project authorized by section 1 of
2 the Act of August 21, 1957 (Public Law 85–859; 71 Stat.
3 401; 16 U.S.C. 836) in addition to those deemed necessary
4 and required under the terms of the Federal Power Act,
5 a requirement that the licensee shall acquire by contract
6 or other agreement property or interests therein sufficient
7 to provide an appropriate effective zone of separation be-
8 tween all project control, switching or generating facilities
9 and any privately owned real property not used for the
10 generation, transmission, or control of electric energy. Any
11 such acquisition by the licensee shall be carried out pursu-
12 ant to such terms as may be necessary to ensure replace-
13 ment of any residential, educational, recreational, and
14 community services and facilities acquired or adversely af-
15 fected by such acquisition, and that such replacement fa-
16 cilities or services are of equivalent character, value, and
17 number to those so acquired, while meeting contemporary
18 standards for construction, operation, and level of service.

19 (b) RESOURCES FOR FIRST RESPONDERS.—The New
20 York Power Authority shall provide to First Responders
21 serving the local jurisdictions in which the Niagara Power
22 Project facilities are located adequate financial and other
23 resources and assistance to acquire, operate, maintain,
24 and replace, through the term of any license granted pur-
25 suant to this Act, the equipment and other assets needed

1 to protect human life and property from harm should any
2 feature or facility of the Niagara Power Project be subject
3 to damage of any type because of an act of terror or other
4 criminal behavior.

5 **SEC. 6. HOLD HARMLESS.**

6 Nothing in this Act authorizes any increase in the
7 rates and charges for electric energy under the Replace-
8 ment Power program.

9 **SEC. 7. SEVERABILITY.**

10 If any provision of this Act, or amendment made by
11 this Act, or the application of this Act or such amend-
12 ments to any person or circumstance is determined by a
13 court to be invalid, the validity of the remainder of this
14 Act and the amendments made by this Act and the appli-
15 cation of such provision to other persons and cir-
16 cumstances shall not be affected by such determination.

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