

**Calendar No. 571**

103D CONGRESS  
2D SESSION

**S. 2384**

**[Report No. 103-336]**

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**A BILL**

To extend the deadlines applicable to certain hydro-electric projects under the Federal Power Act, and for other purposes.

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AUGUST 12 (legislative day, AUGUST 11), 1994

Read twice and placed on the calendar

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## IN THE SENATE OF THE UNITED STATES

AUGUST 12 (legislative day, AUGUST 11), 1994

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

To extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, 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 “Federal Power Act  
5 Amendments of 1994”.



1 addition to such system, the State in which such  
2 project works are located shall have the exclusive au-  
3 thority to authorize such project works under State  
4 law, in lieu of licensing by the Commission under the  
5 otherwise applicable provisions of this part, effective  
6 upon the date on which the Governor of the State  
7 notifies the Secretary of Energy that the State has  
8 assessed its river resources in a comprehensive way  
9 and has in place a process for regulating such  
10 projects which gives appropriate consideration to the  
11 improvement or development of the State's water-  
12 ways for the use or benefit of intrastate, interstate,  
13 or foreign commerce, for the improvement and use  
14 of waterpower development, for the adequate protec-  
15 tion, mitigation of damage to, and enhancement of  
16 fish and wildlife (including related spawning  
17 grounds), and for other beneficial public uses, in-  
18 cluding irrigation, flood control, water supply, rec-  
19 reational and other purposes, and Indian rights, if  
20 applicable.

21 “(d) In the case of a project that would be subject  
22 to authorization by a State under subsection (c) but for  
23 the fact that the project has been licensed by the Commis-  
24 sion prior to the enactment of subsection (c), the licensee

1 of such project may in its discretion elect to make the  
2 project subject to the authorizing authority of the State.

3 “(e) With respect to projects located in whole or in  
4 part on Federal lands, State authorizations for project  
5 works pursuant to subsection (c) of this section shall be  
6 subject to the approval of the Secretary having jurisdiction  
7 with respect to such lands and subject to such terms and  
8 conditions as the Secretary may prescribe.

9 “(f) Nothing in subsection (c) shall preempt the ap-  
10 plication of Federal environment, natural, or cultural re-  
11 sources protection laws according to their terms.”.

12 **SEC. 102. REMOVAL OF FEDERAL ENERGY REGULATORY**  
13 **COMMISSION JURISDICTION.**

14 The following projects located entirely within the  
15 State of Alaska are removed from the jurisdiction of the  
16 Federal Energy Regulatory Commission and all applicable  
17 laws and regulations relating to such jurisdiction—

18 (1) a project located at Sitka, Alaska, identified  
19 in FERC Docket No. UL89-08; and

20 (2) a project located near Nondalton, Alaska,  
21 identified in FERC Docket No. EL88-25.

1     **TITLE II—PROJECTS IN THE STATE OF**  
2                                   **ARKANSAS**

3     **SEC. 201. EXTENSION OF DEADLINE.**

4           That notwithstanding the time limitations of section  
5 13 of the Federal Power Act, the Federal Energy Regu-  
6 latory Commission, upon the request of the licensee for  
7 FERC projects numbered 4204, 4660 and 4659 (and after  
8 reasonable notice), is authorized, in accordance with the  
9 good faith, due diligence and public interest requirements  
10 of such section 13 and the Commission’s procedures under  
11 such section, to extend the time required for commence-  
12 ment of construction of the projects for a maximum of  
13 two years. This section shall take effect for the project  
14 upon the expiration of the extension (issued by the Com-  
15 mission under such section 13) of the period required for  
16 commencement of construction of such project.

17     **TITLE III—PROJECTS IN THE STATE OF**  
18                                   **HAWAII**

19     **SEC. 301. EXEMPTION FOR PROJECTS ON FRESH WATERS**  
20                                   **IN THE STATE OF HAWAII.**

21           (a) GENERAL LICENSING AUTHORITY.—Section 4(e)  
22 of the Federal Power Act is amended by striking “several  
23 States, or upon” and inserting “several States (except  
24 fresh waters in the State of Hawaii), or upon”.

1 (b) MANDATORY LICENSING AUTHORITY.—Section  
 2 23(b) of the Federal Power Act is amended by striking  
 3 “United States, or upon” and inserting “United States  
 4 (except fresh waters in the State of Hawaii), or upon”.

5 **TITLE IV—PROJECTS IN THE STATE OF**  
 6 **IDAHO**

7 **SEC. 401. EXTENSION OF DEADLINE.**

8 Notwithstanding the time limitation of section 13 of  
 9 the Federal Power Act, the Federal Energy Regulatory  
 10 Commission, upon the request of the licensee for FERC  
 11 project numbered 4797, is authorized, in accordance with  
 12 the good faith, due diligence, and public interest require-  
 13 ments of such section 13 and the Commission’s procedures  
 14 under such section, to extend until March 28, 2000 the  
 15 time required for the licensee to commence the construc-  
 16 tion of such project.

17 **TITLE V—PROJECTS IN THE STATE OF**  
 18 **ILLINOIS**

19 **SEC. 501. PROJECT NUMBER 3943.**

20 (a) EXTENSION.—Notwithstanding the time limita-  
 21 tions of section 13 of the Federal Power Act (16 U.S.C.  
 22 806), the Federal Energy Regulatory Commission (re-  
 23 ferred to in this Act as the “Commission”), upon the re-  
 24 quest of licensee for FERC project numbered 3943 (and  
 25 after reasonable notice), may extend the time required for

1 commencement of construction of such project for not  
2 more than three consecutive two-year periods, in accord-  
3 ance with subsections (b) and (c).

4 (b) CONDITIONS.—An extension may be granted  
5 under subsection (a) only in accordance with—

6 (1) the good faith, due diligence, and public in-  
7 terest requirements contained in section 13 of the  
8 Federal Power Act (16 U.S.C. 806); and

9 (2) the procedures of the Commission under  
10 such section.

11 (c) EFFECTIVE DATE.—This section shall take effect  
12 for FERC project numbered 3943 upon the expiration of  
13 the extension of the period required for commencement of  
14 construction of such project issued by the Commission  
15 under section 13 of the Federal Power Act (16 U.S.C.  
16 806).

17 **SEC. 502. PROJECT NUMBER 3944.**

18 (a) EXTENSION.—Notwithstanding the time limita-  
19 tions of section 13 of the Federal Power Act (16 U.S.C.  
20 806), the Federal Energy Regulatory Commission, upon  
21 the request of the licensee for FERC project numbered  
22 3944 (and after reasonable notice), may extend the time  
23 required for commencement of construction of such  
24 project for not more than three consecutive two-year peri-  
25 ods, in accordance with subsections (b) and (c).

1 (b) CONDITIONS.—An extension may be granted  
2 under subsection (a) only in accordance with—

3 (1) the good faith, due diligence, and public in-  
4 terest requirements contained in section 13 of the  
5 Federal Power Act (16 U.S.C. 806); and

6 (2) the procedures of the Commission under  
7 such section.

8 (c) EFFECTIVE DATE.—This section shall take effect  
9 for FERC project numbered 3944 upon the expiration of  
10 the extension of the period required for commencement of  
11 construction of such project issued by the Commission  
12 under section 13 of the Federal Power Act (16 U.S.C.  
13 806).

14 **TITLE VII—PROJECTS IN THE STATE OF**  
15 **NEW MEXICO**

16 **SEC. 701. EXEMPTION OF PORTION OF EL VADO HYDRO-**  
17 **ELECTRIC PROJECT FROM LICENSING RE-**  
18 **QUIREMENT OF PART I OF THE FEDERAL**  
19 **POWER ACT.**

20 (a) Part I of the Federal Power Act shall not be ap-  
21 plicable to the portion of the El Vado Hydroelectric  
22 Project, New Mexico (FERC project numbered 5226) that  
23 is described in subsection (b).

24 (b) The portion of the El Vado Hydroelectric Project  
25 referred to in subsection (a) consists of the 69 KV trans-

1 mission line, including the right of way, which originates  
2 in the switchyard of such project and extends north to the  
3 Spills Switching Station operated by the Northern Rio  
4 Arriba Electric Cooperative, Inc., located in Rio Arriba  
5 County, New Mexico.

6 **TITLE VIII—PROJECTS IN THE STATE OF**  
7 **OREGON**

8 **SEC. 801. EXTENSION OF DEADLINE.**

9 The Federal Energy Regulatory Commission is au-  
10 thorized and directed to reinstate effective May 23, 1993  
11 the hydroelectric license previously issued for project num-  
12 bered 7829. Commencement of construction within the  
13 meaning of section 13 of the Federal Power Act shall com-  
14 mence within four years of the date of enactment of this  
15 section.

16 **TITLE IX—PROJECTS IN THE STATE OF**  
17 **WASHINGTON**

18 **SEC. 901. EXTENSION OF DEADLINE.**

19 Notwithstanding the time limitation of section 13 of  
20 the Federal Power Act, the Federal Energy Regulatory  
21 Commission, upon the request of the licensee for FERC  
22 project numbered 3701, is authorized, in accordance with  
23 the good faith, due diligence, and public interest require-  
24 ments of such section 13 and the Commission's procedures  
25 under such section, to extend until May 31, 2000, the time

- 1 required for the licensee to commence the construction of
- 2 such project.