Calendar No. 98

104TH CONGRESS, *1st Session* | SENATE | REPORT 104–75

EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR A HYDROELECTRIC PROJECT LOCATED IN THE STATE OF OREGON

APRIL 27 (legislative day, APRIL 24), 1995.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 538]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 538) to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 538 is to extend the deadline contained in the Federal Power Act for the commencement of construction of a FERC-licensed hydroelectric project located in the State of Oregon.

BACKGROUND AND NEED

Section 13 of the Federal Power Act requires a licensee to commence the construction of a hydroelectric project within two years of the date of the issuance of the license. That deadline can be extended by the FERC one time for as much as two additional years. If construction has not commenced at the end of the time period, the license is terminated by the FERC. Thus, in the absence of this legislation, the FERC would terminate the license at the end of the time period authorized under the Federal Power Act for commencement of construction.

S. 538 would reinstate the terminated license and extend the time required to begin construction for a maximum of four years

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for the Emigrant Dam Project (Project No. 7829) on the Emigrant River in Jackson Country, Oregon.

LEGISLATIVE HISTORY

S. 538 was introduced by Senator Hatfield on March 10, 1995. Last Congress, these provisions were included in S. 2384 as passed by the Senate on October 5, 1994.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on March 15, 1995, by a majority vote of a quorum present, recommends that the Senate pass the bill as described herein.

The rollcall vote on reporting the measure was 18 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Murkowski	
Mr. Hatfield [1]	
Mr. Domenici	
Mr. Nickles [1]	
Mr. Craig	
Mr. Thomas	
Mr. Kyl[1]	
Mr. Grams	
Mr. Jeffords [1]	
Mr. Burns	
Mr. Campbell	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Bradley	
Mr. Bingaman [1]	
Mr. Akaka	
Mr. Wellstone	

[1] Indicates vote by proxy.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 30, 1995.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 538, a bill to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources on March 15, 1995. CBO estimates that enacting the bill would have no net effect on the federal budget.

The bill would reinstate the permit for, and extend the deadline for construction of a hydroelectric project currently subject to licensing by the Federal Energy Regulatory Commission (FERC). These provisions may have a minor impact on FERC's workload. Because FERC recovers 100 percent of its costs through user fees, any change in its administrative costs would be offset by an equal change in the fees that the commission charges. Hence, the bill's provisions would have no net budgetary impact.

Because FERC's administrative costs are limited in annual appropriations, enactment of this bill would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill. In addition, CBO estimates that enacting the bill would have no significant impact on the budgets of state or local governments.

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

Sincerely,

JUNE E. O'NEILL, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out this measure.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the provisions of the bill. Therefore, there would be no impact on personal privacy.

Little, if any additional paperwork would result from the enactment of this measure.

EXECUTIVE COMMUNICATIONS

The pertinent communications received by the Committee from the Federal Energy Regulatory Commission setting forth Executive agency relating to this measure are set forth below:

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, DC, March 14, 1995.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letters of February 27 and March 2, 1995, and Committee staff's inquiries of March 13 and 14, requesting my comments on a number of bills to allow for the extension of the construction deadlines applicable to nine hydroelectric projects licensed by the Federal Energy Regulatory Commission. Because it is my understanding that the Committee is scheduled to mark all these bills on March 15, I have combined my comments on these bills in one letter.

This letter also responds to your March 2, 1995 request for comments on S. 225, a bill to remove the Commission's jurisdiction to license projects on fresh waters in the State of Hawaii; and to Committee staff's March 13 request for comments on S. 522, a bill to exempt from Part I the Federal Power Act the primary transmission line for a project in New Mexico. The bill fall into four general categories. Each bill is discussed below.

1. Extension of statutory deadline to commence construction

Section 13 of the Federal Power Act requires that construction of a licensed project be commenced within two years of issuance of the license. Section 13 authorizes the Commission to extend this deadline once, for a maximum additional two years. If project construction has not commenced by this deadline, Section 13 requires the Commission to terminate the license.

As a general principle, I do not support the enactment of bills authorizing or requiring construction extensions for individual projects. However, if such extensions are to be authorized, as a matter of policy I would object to granting a licensee more than ten years from the issuance date of the license to commence construction. In my view, ten years is a more than reasonable period for a licensee to determine definitively whether a project is economically viable and to sign a power purchase agreement. If a licensee cannot meet such a deadline, I believe the site should be made available to potential competitors.

I do not have specific objctions to the proposed legislation, except with respect to the ten year maximum time period to begin construction. Suggestions on how to conform the legislation to that principle are noted.

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S. 538

S. 538 would require the Commission, at the request of the licensee, to reinstate the terminated license for Project No. 7829 effective May 23, 1993, and give the licensee four years from the date of enactment of S. 538 to commence project construction.

The Commission issued a license on May 25, 1989, to the Talent, Rogue River Valley, and Medford Irrigation Districts to construct and operate the 1,896-kilowatt Emigrant Dam Hydro Project No. 7829 at an existing Bureau of Reclamation dam on Emigrant Creek in Jackson County, Oregon. The original deadline for commencement of project construction was May 24, 1991. This deadline was subsequently extended to May 24, 1993, because the licensee had not obtained a power sales contract. On September 21, 1993, the Commission terminated the license for the licensee's failure to commence construction by the statutory deadline.

Project construction entails adding a bifurcation pipe at the existing outlet pipe of the Emigrant Dam; one penstock, 175 feet long, leading to one powerhouse; a second penstock, 195 feet long, leading to a second powerhouse; a tailrace, a 1,000-foot-long transmission line, and related project facilities.

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Thank you for offering me an opportunity to comment on bills affecting the Commission's hydropower program. If I can be of further assistance to you in this or any other Commission matter, please let me know.

With best wishes,

Sincerely,

ELIZABETH A. MOLER, *Chair.*

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 538, as ordered reported.

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