

TO REINSTATE AND EXTEND THE DEADLINE FOR COMMENCEMENT OF CONSTRUCTION OF A HYDROELECTRIC PROJECT IN THE STATE OF ILLINOIS

FEBRUARY 4, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TAUZIN, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 397]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 397) to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 397 is to reinstate an expired license and extend the deadline for commencement of construction of a hydro-

electric project in the State of Illinois licensed by the Federal Energy Regulatory Commission (FERC).

#### BACKGROUND AND NEED FOR LEGISLATION

Section 13 of the Federal Power Act (16 U.S.C. 806 (2002)) establishes time limits for commencement of construction of a hydroelectric project once FERC has issued a license. The licensee must begin construction not more than two years from the date the license is issued, unless FERC extends the initial deadline. However, section 13 permits FERC to grant only one extension of that deadline for "not longer than two additional years \* \* \* when not incompatible with the public interest." Accordingly, FERC lacks authority to extend the deadline beyond a maximum of two years from the original deadline for commencement of construction. Therefore, a license is subject to termination if a licensee fails to begin construction within four years of the date the license is issued.

H.R. 397 would reinstate an expired license for a 4 megawatt hydroelectric project (Project No. 11214) at the existing U.S. Army Corp of Engineers' Carlyle Dam on the Kaskaskia River near the City of Carlyle, Clinton County, Illinois. The original license, issued in June 1997 to Southwestern Electric Cooperative, Inc., was surrendered in May 2000. Once reinstated, Southwestern has agreed to transfer the license, with FERC, to the City of Carlyle to proceed with further studies, designs and development of the project. FERC is not aware of any other party that is interested in developing this project site.

H.R. 397 extends the deadline for commencement of construction of this project for up to six years. Not counting the years in which the license was surrendered, this potentially amounts to nine years for the licensee to commence construction. The legislation provides for up to three consecutive two-year extensions, instead of a single six-year extension, to assure that the licensee must continue to meet the section 13 requirement to prosecute construction "in good faith and with due diligence" before obtaining each two-year extension. If FERC determines the licensee is not prosecuting construction in good faith and with due diligence, the Committee expects the agency will refuse to grant a request for an additional two year extension, terminate the license, and make the site available for other uses.

#### HEARINGS

The Committee on Energy and Commerce has not held hearings on the legislation.

#### COMMITTEE CONSIDERATION

On Wednesday, January 29, 2003, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 397 favorably reported to the House, without amendment, by a voice vote, a quorum being present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion

to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 397 reported. A motion by Mr. Tauzin to order H.R. 397 reported to the House, without amendment, was agreed to by a voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has not held oversight or legislative hearings on this legislation.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of this legislation is to authorize the Federal Energy Regulatory Commission (FERC) to reinstate an expired license to construct, operate and maintain a hydroelectric power project in the State of Illinois and to extend the deadline to commence construction of such project for up to three consecutive two-year periods.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 397, a bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 3, 2003.*

Hon. W.J. "BILLY" TAUZIN,  
*Chairman, Committee on Energy and Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 397, a bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the state of Illinois.

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

Sincerely,

WILLIAM J. GAINER  
(For Barry B. Anderson, Acting Director).

Enclosure.

*H.R. 397—A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the state of Illinois*

CBO estimates that implementing H.R. 397 would have no net effect on the federal budget. The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 397 would authorize the Federal Energy Regulatory Commission (FERC) to reinstate the license and extend the deadline for construction of a hydroelectric project (number 11214) in Carlyle, Illinois. These provisions could 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 legislation's provisions would have no net budgetary impact.

Because FERC's administrative costs are limited in annual appropriations, the bill would not affect direct spending or revenues.

The CBO staff contact for this estimate is Lisa Cash Driskill. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Extension of time for Federal Energy Regulatory Commission Project*

This section authorizes the Federal Energy Regulatory Commission (FERC), upon the request of the licensee for Project No. 11214, in accordance with the good faith, due diligence, and public interest requirements of Section 13 of the Federal Power Act and FERC's procedures under such section, to (1) reinstate the license for construction of the project as of the effective date of surrender, and (2)

extend the deadline to commence construction of such project for up to three additional two-year periods.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

