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FERC PROJECT NUMBER 10395

JULY 2, 1998.—Ordered to be printed

Filed under authority of the order of the Senate of June 26, 1998

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

REPORT

[To accompany H.R. 2841]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2841) to extend the time required for the construction of a hydroelectric project, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 2841 is to extend the deadline contained in the Federal Power Act for the commencement of construction of a FERC-licensed hydroelectric project (No. 10395) located in the State of Kentucky.

BACKGROUND AND NEED

Section 13 of the Federal Power Act requires a licensee to commence the construction of the 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 by 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 for project No. 10395 at the end of the time period authorized under the Federal Power Act for commencement of construction.

On occasion a licensee may have difficulty obtaining a power sales contract, and until that is obtained the licensee cannot secure the financing necessary to commence construction. If the license is

terminated, to continue the project the licensee would have to undergo the time and expense of obtaining a new license, which is considerable.

H.R. 2841 would require the FERC, upon the request of the licensee, to extend the time required for commencement of construction for not more than 3 consecutive 2-year periods. This is a 35 megawatt project located in Bracken County, Kentucky.

LEGISLATIVE HISTORY

H.R. 2841 was passed by the House on May 12, 1998. A hearing was held by the Subcommittee on Water and Power on June 16, 1998.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on June 24, 1998, by majority vote of a quorum present, recommends that the Senate pass the bill without amendment.

The role call vote on reporting the measure was 20 yeas, 0 nays as follows:

YEAS	NAYS
Mr. Murkowski	
Mr. Domenici [1]	
Mr. Nickles [1]	
Mr. Craig	
Mr. Campbell	
Mr. Thomas	
Mr. Kyl [1]	
Mr. Grams	
Mr. Smith	
Mr. Gorton	
Mr. Burns	
Mr. Bumpers [1]	
Mr. Ford	
Mr. Bingaman [1]	
Mr. Akaka [1]	
Mr. Dorgan	
Mr. Graham [1]	
Mr. Wyden [1]	
Mr. Johnson	
Ms. Landrieu	

[1]Indicates 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, June 24, 1998.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2841, an act to extend the time required for construction of a hydroelectric project.

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.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2841—An Act to extend the time required for the construction of a hydroelectric project

CBO estimates that enacting H.R. 2841 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 of 1995 and would not affect the budgets of state, local, or tribal governments.

H.R. 2841 would extend for up to six years the deadline for construction of a hydroelectric project currently subject to licensing by the Federal Energy Regulatory Commission (FERC). The proposed extension is for FERC project number 10395. This provision 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 act's provisions would have no net budgetary impact.

Because FERC's administrative costs are limited in annual appropriations, enactment of this legislation would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to H.R. 2841.

The CBO staff contact for this estimate is Kim Cawley. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

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 recommendation relating to this measure are set forth below:

PREPARED TESTIMONY OF KRISTINA NYGAARD, ASSISTANT GENERAL COUNSEL, HYDROELECTRIC LICENSING, FEDERAL ENERGY REGULATORY COMMISSION

Mr. Chairman and members of the subcommittee, my name is Kristina Nygaard, and I am Assistant General Counsel for Hydroelectric Licensing for the Federal Energy Regulatory Commission. I am appearing before you as a Commission staff witness and do not speak for individual members of the Commission.

Thank you for the opportunity to be here today to comment on three bills affecting the Federal Energy Regulatory Commission's regulation of non-federal hydropower projects pursuant to Part I of the Federal Power Act and related statutes.

H.R. 2165, H.R. 2217, and H.R. 2841 would extend the statutory deadline for the start of construction of three licensed projects.

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.

The three projects in question are the 24-megawatt LeClaire Project (FERC No. 3862) in Scott County, Iowa; the 4.6-megawatt San Miguel Project (FERC No. 9248) in San Miguel County, Colorado; and the 35-megawatt Meldahl Project (FERC No. 10395) in Bracken County, Kentucky. All three projects have received the maximum four years for commencement of construction. The bills would authorize (H.R. 2165) or require (H.R. 2217 and H.R. 2841) the Commission to extend the construction deadline for up to ten years from the date of licensing.

When the Congress has authorized extensions of the construction deadlines for individual licensed hydropower projects, we have not objected to extensions of up to ten years from the date the project was licensed. Because the three bills in question would not extend the deadline beyond the ten-year mark, we have no objections to them. Attached to my testimony are detailed comments about the bills and the projects they concern.

This concludes my prepared remarks. I would be pleased to answer any questions you may have.

APPENDIX TO TESTIMONY OF KRISTINA NYGAARD

H.R. 2841

On July 31, 1995, the Commission issued a license to the City of Augusta, Kentucky, to construct and operate the 35-megawatt Meldahl Project No. 10395, to be located at the Corps of Engineers' Captain Anthony Meldahl Project on the Ohio River in Bracken

County, Kentucky. At the same time, the Commission denied applications for license filed by two competing applicants: the Cities of Vanceburg, Kentucky, and Hamilton, Ohio. The original deadline for the commencement of project construction, July 31, 1997, was extended by the Commission to July 31, 1999, at the request of the licensee. The City of Vanceburg did not seek rehearing of the license order; the City of Hamilton's rehearing request was denied.

H.R. 2841 would authorize the Commission, upon the request of the licensee and in accordance with the good faith, due diligence, and public interest requirements of Section 13, to extend the deadline for commencement of construction for three consecutive 2-year periods, for a maximum of ten years from the issuance date of the license.

Commission Chairman James J. Hoecker submitted comments on H.R. 2841 to Chairman Schaefer (letter dated April 17, 1998), advising that, because the bill would not extend the commencement of construction deadline past ten years from the date the project was licensed, he did not object to the bill's enactment.

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 H.R. 2841, as reported.

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