

## Calendar No. 42

108TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
108-27

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### HYDROELECTRIC PROJECT IN THE STATE OF ILLINOIS

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MARCH 19, 2003.—Ordered to be printed

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

### R E P O R T

[To accompany H.R. 397]

The Committee on Energy and Natural Resources, to which was referred the Act (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, reports favorably thereon without amendment and recommends that the Act do pass.

#### PURPOSE OF THE MEASURE

The purpose of H.R. 397 is to reinstate the license for construction, operation, and maintenance and to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

#### BACKGROUND AND NEED

Section 13 of the Federal Power Act requires that construction commence within 2 years after a project is licensed. The Federal Regulatory Commission (FERC) is authorized under the Federal Power Act to extend this deadline once, for a maximum of two additional years, upon a finding that such extensions is “not incompatible with the public interest.” Consequently, a license is subject to termination if a licensee fails to begin construction within 4 years after the license is issued.

H.R. 397 would reinstate an expired license for Project No. 11214, a four-megawatt hydroelectric project on the U.S. Army Corps of Engineers’ Carlyle Dam, located on the Kaskaskia River, as of the effective date of the surrender of the license. In 1997, Southwestern Electric Cooperative, Inc. (Southwestern) was issued the original license by FERC. However, Southwestern did not begin construction of the project and surrendered the license to FERC in

2000. According to House Report 108–6, the city of Carlyle, Illinois, is interested in developing the hydroelectric project and has reached agreement with Southwestern whereby once the license is reinstated, Southwestern has agreed to transfer the license, designs and development of the project to the city. FERC has stated that it is not aware of any other party that is interested in developing this project site.

#### LEGISLATIVE HISTORY

H.R. 397 was introduced by Representative Shimkus on January 28, 2003, and reported by the House Energy and Commerce Committee on February 4, 2003. The measure passed the House by voice vote on February 11, 2003, and was referred to the Senate Committee on Energy and Natural Resources. The Subcommittee on Water and Power conducted a hearing on the measure on March 6, 2003. At the business meeting on March 12, 2003, the Committee on Energy and Natural Resources ordered H.R. 397 favorably reported.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on March 12, 2003, by a voice vote of a quorum present, recommends that the Senate pass H.R. 397.

#### SECTION-BY-SECTION ANALYSIS

Section 1 authorizes FERC, for Project No. 11214, upon the request of the licensee, and 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: (1) to reinstate the license for construction of the project as of the effective date of surrender of the license; and (2) to extend the deadline to commence construction of the project for up to three additional two-year periods beyond the date that is four years after the date of the issuance of the license.

#### COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 14, 2003.*

Hon. PETE V. DOMENICI,  
*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. 397, an act 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,

DOUGLAS HOLTZ-EAKIN,  
*Director.*

Enclosure.

*H.R. 397—An act 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. Those 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 act would not affect direct spending or revenues.

On February 3, 2003, CBO transmitted a cost estimate for H.R. 397, as ordered reported on January 29, 2003 by the House Committee on Energy and Commerce. The two versions of the legislation are identical, as are our cost estimates.

The CBO staff contact for this estimate is Lisa Cash Driskill. This estimate was approved by Peter H. Fontaine, 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 by carrying out H.R. 397. 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 program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 397.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from FERC setting forth Executive agency recommendations relating to H.R. 397 is set forth below:

FEDERAL ENERGY REGULATORY COMMISSION,  
*Washington, DC, March 13, 2003.*

Hon. PETE V. DOMENICI,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of March 10, 2003 asking for my views on H.R. 397, a House-passed bill to reinstate the surrendered license and to extend the commencement of construction deadline applicable to a hydroelectric project licensed by the Federal Energy Regulatory Commission in the State of Illinois. My comments also apply to an identical Senate bill, S. 220.

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, the Commission is required to terminate the license. Section 13 also authorizes the Commission to extend the deadline for completion of construction when not incompatible with the public interest.

#### *The Project*

On June 26, 1997, the Commission issued a license to Southwestern Electric Cooperative, Inc. (Southwestern) to construct, operate, and maintain the 4-megawatt Carlyle Hydroelectric Project No. 11214, to be located at the U.S. Army Corps of Engineers' Carlyle Dam on the Kaskaskia River in Clinton County, Illinois. Construction of the project entails installing an intake structure, five intake conduits, a powerhouse with five 800-kilowatt generating units, a transmission line, and appurtenances. The deadline for the commencement of project construction was June 26, 1999.

By filing of March 3, 1999, Southwestern advised the Commission that it would be applying to surrender the project license. On March 27, 2000, Southwestern filed an application to surrender the license, stating that the project was no longer economically feasible. No project construction has commenced. The Commission accepted the surrender, effective June 24, 2000.

#### *H.R. 397 and S. 220*

Both bills would authorize the Commission, upon request of the licensee, after reasonable notice and in accordance with the requirements of Section 13 of the Federal Power Act, to reinstate the surrendered license for Project No. 11214 and to extend the deadline for commencement of project construction for three consecutive 2-year periods beyond the date that is four years after the issuance date of the license.

As a general matter, enactment of bills authorizing or requiring commencement-of-construction extensions for individual projects delays the development of an important energy resource and therefore has not been recommended. In cases where project-specific extensions are authorized by the Congress, it has been the policy of prior Commission chairmen that such extensions not go beyond ten years from the date the project was licensed. If a licensee cannot meet a ten-year deadline, then as a general rule the license should be terminated, making the site once again available for such uses as current circumstances may warrant, based on up-to-date information on economic and environmental considerations. I have no reason to depart from this extension policy.

H.R. 397 and S. 220 would provide for extensions of the deadline for commencement of construction that would not exceed ten years from the date the license was issued. Since this time period is within the ten-year deadline, I have no objection to the bills' enactment.

I hope that this information is helpful to you. If I can be of further assistance to you in this or any other Commission matter, please let me know.

Best regards,

PAT WOOD III,  
*Chairman.*

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. 397, as ordered reported.

