

HYDROPOWER PERMIT EXTENSION ACT

JUNE 12, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 2274]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 2274) to amend the Federal Power Act to provide for extended periods relating to preliminary permits and commencement of construction, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 2274 amends the Federal Power Act to allow the Federal Energy Regulatory Commission (FERC) to extend periods relating to preliminary permits and commencement of construction of hydroelectric projects.

COMMITTEE ACTION

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

On June 7, 2017, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 2274, without amendment, favorably reported to the House by unanimous consent.

COMMITTEE VOTES

Clause 3(b) of rule XIII 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. 2274 reported.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee has not held hearings on this legislation.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 2274 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

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.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to amend the Federal Power Act to allow FERC to extend periods relating to preliminary permits and commencement of construction of hydroelectric projects.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 2274 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congress-

sional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 2274 contains no earmarks, limited tax benefits, or limited tariff benefits.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, the Committee finds that H.R. 2274 contains no directed rule makings.

ADVISORY COMMITTEE STATEMENT

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

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. Short title

Section 1 would provide that the Act may be cited as the “HYdropower Permit Extension Act” or the “HYPE Act.”

Section 2. Extension of periods

Section 2 would authorize the FERC to issue a preliminary permit to a hydropower construction license applicant for up to four years instead of three. In addition, the FERC would be authorized to extend the period of a preliminary permit once for not more than four additional years, instead of two, beyond the initial four year period. The FERC may further extend the period a preliminary permit once for not more than four additional years if it determines that there are extraordinary circumstances that warrant such additional extension.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

FEDERAL POWER ACT

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PART I

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SEC. 5. (a) Each preliminary permit issued under this Part shall be for the sole purpose of maintaining priority of application for a license under the terms of this Act for such period or periods, not exceeding a total of ~~three~~ *four* years, as in the discretion of the Commission may be necessary for making examinations and surveys, for preparing maps, plans, specifications, and estimates, and for making financial arrangements.

(b) The ~~Commission may extend the period of a preliminary permit once for not more than 2 additional years beyond the 3 years~~ *Commission may—*

(1) extend the period of a preliminary permit once for not more than four additional years beyond the four years permitted by subsection (a) if the Commission finds that the permittee has carried out activities under such permit in good faith and with reasonable diligence; ~~and~~

(2) if the period of a preliminary permit is extended under paragraph (1), extend the period of such preliminary permit once for not more than four additional years beyond the extension period granted under paragraph (1), if the Commission determines that there are extraordinary circumstances that warrant such additional extension.

(c) Each such permit shall set forth the conditions under which priority shall be maintained.

(d) Such permits shall not be transferable, and may be canceled by order of the Commission upon failure of permittees to comply with the conditions thereof or for other good cause shown after notice and opportunity for hearing.

* * * * *

SEC. 13. That the licensee shall commence the construction of the project works within the time fixed in the license, which shall not be more than two years from the date thereof, shall thereafter in good faith and with due diligence prosecute such construction, and shall within the time fixed in the license complete and put into operation such part of the ultimate development as the Commission shall deem necessary to supply the reasonable needs of the then available market, and shall from time to time thereafter construct such portion of the balance of such development as the Commission may direct, so as to supply adequately the reasonable market demands until such development shall have been completed. The periods for the commencement of construction may be extended ~~once but not longer than two additional years~~ *for not more than eight additional years*, and the period for the completion of construction carried on in good faith and with reasonable diligence may be extended by the Commission when not incompatible with the public interests. In case the licensee shall not commence actual construction of the project works, or of any specified part thereof, within the time prescribed in the license or as extended by the commission, then, after due notice given, the license shall, as to such project works or part thereof, be terminated upon written order of the Commission. In case the construction of the project works, or of any specified part thereof, have been begun but not completed within the time prescribed in the license, or as extended by the

commission, then the Attorney General, upon the request of the Commission, shall institute proceedings in equity in the district court of the United States for the district in which any part of the project is situated for the revocation of said license, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section 26 hereof.

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