AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

106TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 106–630

TO EXTEND THE DEADLINE FOR COMMENCEMENT OF THE CONSTRUCTION OF THE ARROWROCK DAM HYDROELECTRIC PROJECT IN THE STATE OF IDAHO

MAY 19, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce, submitted the following

R E P O R T

[To accompany S. 1236]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (S. 1236) to extend the deadline under the Federal Power Act for commencement of the construction of the Arrowrock Dam Hydroelectric Project in the State of Idaho, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
Amendment	2
Purpose and Summary	2
Background and Need for Legislation	2
Hearings	3
Committee Consideration	3
Committee Votes	4
Committee Oversight Findings	4
Committee on Government Reform Oversight Findings	4
New Budget Authority, Entitlement Authority, and Tax Expenditures	4
Committee Cost Estimate	4
Congressional Budget Office Estimate	4
Federal Mandates Statement	5
Advisory Committee Statement	5
Constitutional Authority Statement	5
Applicability to Legislative Branch	6
Section-by-Section Analysis of the Legislation	6
Changes in Existing Law Made by the Bill, as Reported	6

79–006

AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 4656, the Commission may, at the request of the licensee for the project and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for three consecutive two-year periods.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the expiration of the extension issued by the Commission prior to the date of enactment of this Act under section 13 of the Federal Power Act (16 U.S.C. 806).

(c) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the project described in subsection (a) has expired prior to the date of enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration.

PURPOSE AND SUMMARY

The purpose of S. 1236 is to extend the deadline for commencement of construction of a hydroelectric project in the State of Idaho.

BACKGROUND AND NEED FOR LEGISLATION

Section 13 of the Federal Power Act (16 U.S.C. § 806) establishes time limits for commencement of construction of a hydroelectric project once the Federal Energy Regulatory Commission (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 interests." 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.

Lack of a power sales contract can delay the commencement of construction of licensed hydroelectric projects. Some hydroelectric project developers cannot secure financing to fund construction until they enter into power sales contracts. Generally, a licensee cannot enter into a contract until it has a license, and the construction deadline begins to toll once the license is granted. The tremendous uncertainties in the electric industry discourage power purchasers from entering into the long-term power sales contracts that in the past often financed hydroelectric project construction. There are other obstacles to commencement of construction, such as protracted proceedings on a licensee's application for a dredge and fill permit from the Army Corps of Engineers under section 404 of the Clean Water Act. FERC has testified that in such cases it can issue orders staying the license until matters are resolved, suggesting ex-

tension legislation is not needed in order to address delays beyond the control of the licensee.

S. 1236 authorizes FERC to extend the deadline for the commencement of construction of a 60 megawatt hydroelectric project (Project No. 4656) in Elmore and Ada Counties, Idaho, for up to three consecutive two-year periods. Since the project was granted a legislative extension by Congress in the Energy Policy Act of 1992, S. 1236 would extend the deadline to up to sixteen years after the date the original license was issued. The current deadline for commencement of construction of this project expired on March 26, 1999, and FERC has indicated its intent to terminate the license. S. 1236 does not ease the requirements of a hydroelectric license, but merely extends the period for commencement of project construction. S. 1236 provides the licensee must meet the good faith, due diligence, and public interest requirements of section 13 of the Federal Power Act.

S. 1236 was amended by the Subcommittee on Energy and Power to provide for up to three consecutive two-year extensions, instead of the single six-year extension in the bill passed by the Senate, in order to assure the licensee continues to meet the section 13 requirements before obtaining each two-year extension. If FERC determines the licensee is not prosecuting construction in accordance with the good faith, due diligence, and public interest requirements of section 13 the Committee expects the agency to refuse to grant a request for an additional two-year extension and terminate the license.

HEARINGS

The Subcommittee on Energy and Power held a hearing on S. 1236 on March 30, 2000. The Subcommittee received testimony from: The Honorable Frank Murkowski, United States Senate; The Honorable George Radanovich, U.S. House of Representatives; The Honorable Peter DeFazio, U.S. House of Representatives; The Honorable James J. Hoecker, Chairman, Federal Energy Regulatory Commission; The Honorable John D. Leshy, Solicitor, U.S. Department of the Interior; Mr. Allen Burns, Vice President of Requirements Marketing, Bonneville Power Administration; Dr. Andrew Rosenberg, Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, U.S. Department of Commerce; Mr. Paul Brouha, Associate Deputy Chief, Forest Service, U.S. Department of Agriculture; Mr. Michael A. Murphy, President, National Hydropower Association; Mr. Kevin Lynch, Director of Government Affairs, PacifiCorp; Mr. Andrew Fahlund, Policy Director for Hydropower Programs, American Rivers; Mr. Robert Grimm, President, Alaska Power & Telephone; Mr. David E. Piper, Chief Executive Officer, Pacific Northwest Generating Cooperative; Mr. Steve Waddington, Northwest Power Manager, Reynolds Metals Company; and Ms. Lynne Kennedy, Hydroelectric Specialist, Oregon Department of Environmental Quality.

COMMITTEE CONSIDERATION

On April 12, 2000, the Subcommittee on Energy and Power met in open markup session and approved S. 1236 for Full Committee consideration, as amended, by a voice vote. The Full Committee

met in open markup session on May 17, 2000, and ordered S. 1236 reported to the House, without further amendment, by a voice vote, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House 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 S. 1236 reported. A motion by Mr. Bliley to order S. 1236 reported to the House, as amended, 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 held a legislative hearing on S. 1236 and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM OVERSIGHT FINDINGS

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform.

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 S. 1236, a bill to extend the deadline under the Federal Power Act for commencement of construction of the Arrowrock Dam Hydroelectric Project in the State of Idaho, 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, May 18, 2000.

Hon. TOM BLILEY,
Chairman, Committee on Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed estimate for S. 1236, an act to extend the deadline under the Federal Power Act for commencement of the construction of the Arrowrock Dam Hydroelectric Project in the state of Idaho.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 1236—An act to extend the deadline under the Federal Power Act for commencement of the construction of the Arrowrock Dam Hydroelectric Project in the state of Idaho

CBO estimates that enacting S. 1236 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.

S. 1236 would extend the deadline for construction of a hydroelectric project currently subject to licensing by the Federal Energy Regulatory Commission (FERC) for six years. The proposed extension is for FERC project number 4656. S. 1236 also would direct FERC to reinstate the license for the project should it expire prior to enactment of this legislation. 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 act'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 receipts. Therefore, pay-as-you-go procedures would not apply to the act.

On September 22, 1999, CBO transmitted a cost estimate for S. 1236, as ordered reported by the Senate Committee on Energy and Natural Resources on September 27, 1999. The two versions of the legislation are virtually identical and the estimated costs are the same.

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.

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

Subsection (a) authorizes FERC, upon the request of the licensee for Project No. 4656, 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, to extend the time required for commencement of construction of such project for up to three consecutive two-year periods. Subsection (b) provides that subsection (a) shall take effect on the expiration of the period required for commencement of construction of Project No. 4656, namely March 26, 1999. Subsection (c) directs FERC to reinstate the license effective on the date of expiration of the current construction deadline and extend the time required for commencement of construction, in the event the license is terminated before enactment of the legislation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

S. 1236 does not amend any existing Federal statute.

○