

Calendar No. 471

107TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 107-194

HYDRO-ELECTRIC LICENSES IN ALASKA

—————
JUNE 28, 2002.—Ordered to be printed
—————

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

R E P O R T

[To accompany S. 1843]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1843) to extend certain hydro-electric licenses in the State of Alaska, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 1843 is to direct the Federal Energy Regulatory Commission, upon request of the licensee, to issue an order staying the license of a hydroelectric project in the State of Alaska until the construction of an associated power transmission line is completed. The Commission is also directed to extend the deadline for commencing construction of the project once the stay is lifted.

BACKGROUND AND NEED

Section 13 of the Federal Power Act requires a hydroelectric licensee to commence the construction of its project within 2 years of the date of the issuance of the license. That deadline can be extended by the Federal Energy Regulatory Commission one time for a maximum of 2 additional years. If construction has not commenced by the end of the time period, the licensee is terminated by the Commission unless legislation authorizing an additional extension is enacted. This legislation, in recognition of the need for construction of a power transmission line in association with project No. 11393, directs the Commission to stay the license for the project and extend the construction deadline once the stay is lifted.

The Federal Energy Regulatory Commission issued an original license to the city of Saxman, Alaska on January 22, 1998, to construct, operate, and maintain the 96-megawatt Mahoney Lake Hydroelectric Project No. 11393 to be located on Upper Mahoney Lake and Upper Mahoney Creek near Ketchikan in the Ketchikan Gateway Borough of southeast Alaska. The original deadline for commencement of the project was January 21, 2000. The Commission extended this deadline until January 21, 2002.

Project No. 11393 includes the installation of a tap into Upper Mahoney Lake, a 1,700-foot-long upper tunnel, a value house, a buried bypass pipe, a 1,370-foot-long vertical shaft, an 8-foot-diameter, 3,350-foot-long lower tunnel, a semi-underground powerhouse, a 200-foot-long tailrace channel, 1.5 miles of buried, and 3.1 miles of overhead, transmission line, a switchyard, and 2.6 miles of new access road.

LEGISLATIVE HISTORY

S. 1843 was introduced by Senators Stevens and Murkowski on December 18, 2001. The views of the Federal Regulatory Commission were sought on January 30, 2002 and March 1 2002, and provided by the Chairman of the Commission on March 19, 2002.

COMMITTEE RECOMMENDATIONS

The Committee on Energy and Natural Resources, in open business session on June 5, 2002, by a voice vote of a quorum present, recommends that the Senate pass S. 1843, as described herein.

SECTION-BY-SECTION ANALYSIS

Section 1 directs the Federal Energy Regulatory Commission, upon licensee request, to (1) issue an order staying the hydroelectric license for project No. 11393 in the State of Alaska; (2) lift such stay not later than 6 years after the date of the Commission receives written notice that construction of the Swan-Tyee transmission line is completed; and (3) extend for not more than three consecutive two-year periods the time during which the licensee is required to commence project construction.

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, June 14, 2002.

Hon. JEFF BINGAMAN,
*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 S. 1843, a bill to extend certain hydroelectric licenses in the state of Alaska.

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. 1843—A bill to extend certain hydroelectric licenses in the state of Alaska

CBO estimates that implementing S. 1843 would have no net effect on the federal budget. The bill 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. 1843 would authorize the Federal Energy Regulatory Commission (FERC) to stay the license for hydroelectric project number 11393 until a specific transmission line is constructed. When the line is completed, FERC would be required to lift the stay and extend the deadline for beginning construction of the project for up to six years. This project is near Ketchikan, Alaska, and is subject to licensing by FERC. 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 offset by an equal change in the fees that the commission charges. Hence, the bill's provisions would have no net budgetary impact.

Because FERC's administrative costs are set in annual appropriations, enactment of this legislation would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to S. 1843.

The CBO staff contact for this estimate is Lisa Cash Driskill. This estimate was approved by Peter H. Fontaine, Deputy 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 S. 1843. 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 S. 1843.

EXECUTIVE COMMUNICATIONS

On, January 30, 2002 and March 1, 2002, the Committee on Energy and Natural Resources requested legislative reports from the Federal Energy Regulatory Commission and the Office of Management and Budget setting forth Executive agency recommendations on S. 1843. The report was received on March 19, 2002. The pertinent communications received by the Committee from the Chairman of the Federal Energy Regulatory Commission setting forth his views relating to this measure are set forth below:

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, DC, March 19, 2002.

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of January 30, 2002, requesting comments on S. 1843, a bill to extend the construction deadlines applicable to a hydroelectric project in Alaska licensed by the Federal Energy Regulatory Commission (FERC No. 11393). A report on the project is attached to this letter.

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.

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 position 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.

S. 1843 would permit the licensee for Project No. 11393 to obtain construction delays of more than 12 years; how much more depends on the date of completion of a transmission line not under Commission jurisdiction. This means that project construction could commence over 16 years after the license was issued: the 4 years already allowed under Section 13, and the 12 years allowed by S. 1843. Accordingly, these bills are not consistent with the ten-year extension policy.

Thank you for the opportunity to comment on S. 1843. If I can be of further assistance in this or any other Commission matter, please let me know.

Best regards,

PAT WOOD III,
Chairman.

Enclosure.

ATTACHMENT TO CHAIRMAN WOOD'S RESPONSE TO CHAIRMAN
BINGAMAN'S LETTER OF JANUARY 30, 2002 REGARDING S. 1843

S. 1843 would require the Commission, at the request of the licensee for FERC Project No. 11393, to issue an order staying the project license. Upon the request of the licensee, but not later than 6 years after the date the Commission receives written notice that construction of the Swan-Tyee transmission line is completed, the Commission shall issue an order lifting the stay and make the ef-

fective date of the license the date on which the stay is lifted. Thereafter, at the request of the licensee, and notwithstanding the maximum four-year time period specified in Section 13 of the Federal Power Act, the Commission shall extend the deadline for commencement of project construction for not more than 3 consecutive 2-year time periods. The total potential construction extensions, above and beyond the 4 years permitted by Section 13 of the Federal Power Act, would be over 12 years, which means construction might not commence until over 16 years from the date the license was issued.

PROJECT NO. 11393

On January 22, 1998, the Commission issued a license to the City of Saxman, Alaska, to construct, operate, and maintain the 96-megawatt Mahoney Lake Hydroelectric Project No. 11393, to be located on Upper Mahoney Lake and Upper Mahoney Creek near Ketchikan in the Ketchikan Gateway Borough of southeast Alaska. The original deadline for the commencement of project construction, January 21, 2000, was extended by the Commission to January 21, 2002. The Commission knows of no other interest in the site.

Construction of Project No. 11393 entails the installation of a tap into Upper Mahoney Lake, a 1,700-foot-long upper tunnel, a valve house, a buried bypass pipe, a 1,370-foot-long vertical shaft, an 8-foot-diameter, 3,350-foot-long lower tunnel, a semi-underground powerhouse, a 200-foot-long tailrace channel, 1.5 miles of buried, and 3.1 miles of overhead, transmission line, a switchyard, and 2.6 miles of new access road.

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 the bill S. 1843, as ordered reported.