

104TH CONGRESS
2^D SESSION

S. 737

AN ACT

To extend the deadlines applicable to certain hydroelectric projects, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Power Act
5 Amendments of 1996”.

1 **SEC. 2. LIMITED EXEMPTION TO HYDROELECTRIC LICENS-**
2 **ING PROVISIONS FOR TRANSMISSION FACILI-**
3 **TIES ASSOCIATED WITH THE EL VADO HY-**
4 **DROELECTRIC PROJECT.**

5 (a) EXEMPTION.—Part I of the Federal Power Act,
6 and the jurisdiction of the Federal Energy Regulatory
7 Commission under such part I, shall not apply to the
8 transmission line facilities associated with the El Vado
9 Hydroelectric Project (FERC Project No. 5226–002)
10 which are described in subsection (b).

11 (b) FACILITIES COVERED BY EXEMPTION.—The fa-
12 cilities to which the exemption under subsection (a) ap-
13 plies are those transmission facilities located near the Rio
14 Chama, a tributary of the Rio Grande, in Rio Arriba
15 County, New Mexico, referred to as the El Vado trans-
16 mission line, a three phase 12-mile long 69 kV power line
17 installed within a 50-foot wide right-of-way in Rio Arriba
18 County, New Mexico, originating at the El Vado Project’s
19 switchyard and connecting to the Spills 69 kV Switching
20 Station operated by the Northern Arriba Electric Coopera-
21 tive, Inc.

22 **SEC. 3. ALASKA STATE JURISDICTION OVER SMALL HYDRO-**
23 **ELECTRIC PROJECTS.**

24 The Federal Power Act, as amended, (16 U.S.C.
25 1791a et seq.) is further amended by adding the following
26 at the end of section 23:

1 “(c) In the case of any project works in the State
2 of Alaska—

3 “(1) that are not part of a project licensed
4 under this Act prior to the date of enactment of this
5 subsection;

6 “(2) for which a license application has not
7 been accepted for filing by the Commission prior to
8 the date of enactment of this subsection (unless such
9 application is withdrawn at the election of the appli-
10 cant);

11 “(3) having a power production capacity of
12 5,000 kilowatts or less;

13 “(4) located entirely within the boundaries of
14 the State of Alaska; and

15 “(5) not located in whole or in part on any In-
16 dian reservation, unit of the National Park System,
17 component of the Wild and Scenic Rivers System or
18 segment of a river designated for study for potential
19 addition to such system,

20 the State of Alaska shall have the exclusive authority to
21 authorize such project works under State law, in lieu of
22 licensing by the Commission under the otherwise applica-
23 ble provisions of this part, effective upon the date on which
24 the Governor of the State of Alaska notifies the Secretary
25 of Energy that the State has in place a process for regu-

1 lating such projects which gives appropriate consideration
2 to the improvement or development of the State's water-
3 ways for the use or benefit of intrastate, interstate, or for-
4 eign commerce, for the improvement and use of water-
5 power development, for the adequate protection, mitiga-
6 tion of damage to, and enhancement of fish and wildlife
7 (including related spawning grounds), and for other bene-
8 ficial public uses, including irrigation, flood control, water
9 supply, recreational and other purposes, and Indian
10 rights, if applicable.

11 “(d) In the case of a project that would be subject
12 to authorization by the State under subsection (c) but for
13 the fact that the project has been licensed by the Commis-
14 sion prior to the enactment of subsection (c), the licensee
15 of such project may in its discretion elect to make the
16 project subject to the authorizing authority of the State.

17 “(e) With respect to projects located in whole or in
18 part on Federal lands, State authorizations for project
19 works pursuant to subsection (c) of this section shall be
20 subject to the approval of the Secretary having jurisdiction
21 with respect to such lands and subject to such terms and
22 conditions as the Secretary may prescribe.

23 “(f) Nothing in subsection (c) shall preempt the ap-
24 plication of Federal environment, natural, or cultural re-
25 sources protection laws according to their terms.”.

1 **SEC. 4. FERC VOLUNTARY LICENSING OF HYDROELECTRIC**
 2 **PROJECTS ON FRESH WATERS IN THE STATE**
 3 **OF HAWAII.**

4 Section 4(e) of the Federal Power Act is amended
 5 by striking “several States, or upon” and inserting “sev-
 6 eral States (except fresh waters in the State of Hawaii,
 7 unless a license would be required by section 23 of the
 8 Act), or upon”.

9 **SEC. 5. EXTENSION OF COMMENCEMENT OF CONSTRUC-**
 10 **TION DEADLINE FOR CERTAIN HYDRO-**
 11 **ELECTRIC PROJECTS LOCATED IN ILLINOIS.**

12 (a) PROJECT NUMBER 3943.—

13 (1) Notwithstanding the time limitations of sec-
 14 tion 13 of the Federal Power Act, the Federal En-
 15 ergy Regulatory Commission, upon the request of
 16 the licensee for project number 3943 (and after rea-
 17 sonable notice), may extend the time required for
 18 commencement of construction of such project for
 19 not more than 3 consecutive 2-year periods, in ac-
 20 cordance with paragraphs (2) and (3).

21 (2) An extension may be granted under para-
 22 graph (1) only in accordance with—

23 (A) the good faith, due diligence, and pub-
 24 lic interest requirements contained in section 13
 25 of the Federal Power Act; and

1 (B) the procedures of the Federal Energy
2 Regulatory Commission under such section.

3 (3) This subsection shall take effect for project
4 number 3943 upon the expiration of the extension of
5 the period required for commencement of construc-
6 tion of such project issued by the Federal Energy
7 Regulatory Commission under section 13 of the Fed-
8 eral Power Act.

9 (b) PROJECT NUMBER 3944.—

10 (1) Notwithstanding the time limitations of sec-
11 tion 13 of the Federal Power Act, the Federal En-
12 ergy Regulatory Commission, upon the request of
13 the licensee for FERC project number 3944 (and
14 after reasonable notice), may extend the time re-
15 quired for commencement of construction of such
16 project for not more than 3 consecutive 2-year peri-
17 ods, in accordance with paragraphs (2) and (3).

18 (2) An extension may be granted under para-
19 graph (1) only in accordance with—

20 (A) the good faith, due diligence, and pub-
21 lic interest requirements contained in section 13
22 of the Federal Power Act; and

23 (B) the procedures of the Commission
24 under such section.

1 (3) this subsection shall take effect for project
2 number 3944 upon the expiration of the extension of
3 the period required for commencement of construc-
4 tion of such project issued by the Commission under
5 section 13 of the Federal Power Act.

6 **SEC. 6. REFURBISHMENT AND CONTINUED OPERATION OF**
7 **A HYDROELECTRIC FACILITY IN MONTANA.**

8 Notwithstanding section 10(e)(1) of the Federal
9 Power Act or any other law requiring payment to the
10 United States of an annual or other charge for the use,
11 occupancy, and enjoyment of land by the holder of a li-
12 cense issued by the Federal Energy Regulatory Commis-
13 sion under part I of the Federal Power Act, a political
14 subdivision of the State of Montana that accepts the terms
15 and conditions of a license for Federal Energy Regulatory
16 Commission project number 1473 in Granite County and
17 Deer Lodge County, Montana—

18 (1) shall not be required to pay any such charge
19 with respect to the 5-year period following the date
20 of acceptance; and

21 (2) after that 5-year period and for so long as
22 the political subdivision holds the license, shall be re-
23 quired to pay such charges under section 10(e)(1) of
24 the Federal Power Act or any other law for the use,
25 occupancy, and enjoyment of the land covered by the

1 license as the Federal Energy Regulatory Commis-
2 sion or any other Federal agency may assess, not to
3 exceed a total of \$20,000 for any year.

Passed the Senate September 27, 1996.

Attest:

Secretary.

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