

Calendar No. 100

104TH CONGRESS
1ST SESSION

S. 737

[Report No. 104-77]

A BILL

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

APRIL 27 (legislative day, APRIL 24), 1995
Placed on the calendar

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

IN THE SENATE OF THE UNITED STATES

APRIL 27 (legislative day, APRIL 24), 1995

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, reported the following original bill; which was read twice and placed on the calendar

A BILL

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 1995”.

1 expiration and extend the time required for commence-
2 ment of construction of the project until October 3, 1999.

3 **SEC. 3. EXTENSION OF COMMENCEMENT OF CONSTRUC-**
4 **TION DEADLINE FOR A HYDROELECTRIC**
5 **PROJECT LOCATED IN THE STATE OF KEN-**
6 **TUCKY.**

7 (a) IN GENERAL.—Notwithstanding the time period
8 specified in section 13 of the Federal Power Act (16
9 U.S.C. 806) that would otherwise apply to the Federal En-
10 ergy Regulatory Commission project numbered 10228, the
11 Commission may, at the request of the licensee for the
12 project and after reasonable notice, in accordance with the
13 good faith, due diligence, and public interest requirements
14 of that section and the Commission's procedures under
15 that section, extend the time period during which the li-
16 censee is required to commence the construction of the
17 project, under the extension described in subsection (b),
18 for not more than 3 consecutive 2-year periods.

19 (b) EFFECTIVE DATE.—This section shall take effect
20 on the date of the expiration of the extension of the period
21 required for commencement of construction of the project
22 described in subsection (a) that the Commission issued,
23 prior to the date of enactment of this Act, under section
24 13 of the Federal Power Act (16 U.S.C. 806).

1 **SEC. 4. EXTENSION OF COMMENCEMENT OF CONSTRUC-**
2 **TION DEADLINE FOR A HYDROELECTRIC**
3 **PROJECT LOCATED IN THE STATE OF WASH-**
4 **INGTON.**

5 Notwithstanding the time limitation of section 13 of
6 the Federal Power Act, the Federal Energy Regulatory
7 Commission, upon the request of the licensee for FERC
8 Project No. 3701, is authorized, in accordance with the
9 good faith, due diligence, and public interest requirements
10 of section 13 and the Commission's procedures under such
11 section, to extend until May 31, 2001, the time required
12 for the licensee to commence the construction of such
13 project. This section shall take effect for the project upon
14 the expiration of the extension (issued by the Commission
15 under section 13) of the period required for commence-
16 ment of construction of such project. If the license for
17 FERC Project 3701 should expire prior to the date of en-
18 actment of this Act, the Commission is authorized and di-
19 rected to reinstate effective June 1, 1995, the license pre-
20 viously issued for such project, to extend until May 31,
21 2001, the time required for the licensee to commence the
22 construction of such project.

1 **SEC. 5. EXTENSION OF COMMENCEMENT OF CONSTRUC-**
2 **TION DEADLINE FOR A HYDROELECTRIC**
3 **PROJECT LOCATED IN THE STATE OF OR-**
4 **EGON.**

5 Notwithstanding the expiration of the permit and
6 notwithstanding the time period specified in section 13 of
7 the Federal Power Act (16 U.S.C. 806) that would other-
8 wise apply to the Federal Energy Regulatory Commission
9 project numbered 7829, the Commission shall, at the re-
10 quest of the licensee for the project, reinstate the permit
11 effective May 23, 1993, and extend the time period during
12 which the licensee is required to commence the construc-
13 tion of the project to the date that is 4 years after the
14 date of enactment of this Act.

15 **SEC. 6. EXTENSION OF COMMENCEMENT OF CONSTRUC-**
16 **TION DEADLINE FOR CERTAIN HYDRO-**
17 **ELECTRIC PROJECTS LOCATED IN THE**
18 **STATE OF ARKANSAS.**

19 Notwithstanding the time limitations of section 13 of
20 the Federal Power Act (16 U.S.C. 806), the Federal En-
21 ergy Regulatory Commission, upon the request of the li-
22 censee for FERC projects numbered 4204, 4660, and
23 4659 (and after reasonable notice), is authorized, in ac-
24 cordance with the good faith, due diligence, and public in-
25 terest requirements of section 13 and the Commission's
26 procedures under such section, to extend the time required

1 for commencement of construction of the projects for a
2 maximum of three consecutive two-year periods. This sec-
3 tion shall take effect for the project upon the expiration
4 of the extension (issued by the Commission under section
5 13) of the period required for commencement of such
6 project.

7 **SEC. 7. LIMITED EXEMPTION TO HYDROELECTRIC LICENS-**
8 **ING PROVISIONS FOR TRANSMISSION FACILI-**
9 **TIES ASSOCIATED WITH THE EL VADO HY-**
10 **DROELECTRIC PROJECT.**

11 (a) EXEMPTION.—Part I of the Federal Power Act,
12 and the jurisdiction of the Federal Energy Regulatory
13 Commission under such part I, shall not apply to the
14 transmission line facilities associated with the El Vado
15 Hydroelectric Project (FERC Project No. 5226–002)
16 which are described in subsection (b).

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

1 Station operated by the Northern Arriba Electric Coopera-
2 tive, Inc.

3 **SEC. 8. ALASKA STATE JURISDICTION OVER SMALL HYDRO-**
4 **ELECTRIC PROJECTS.**

5 The Federal Power Act, as amended, (16 U.S.C.
6 1791a et seq.) is further amended by adding the following
7 at the end of section 23:

8 “(c) In the case of any project works in the State
9 of Alaska—

10 “(1) that are not part of a project licensed
11 under this Act prior to the date of enactment of this
12 subsection;

13 “(2) for which a license application has not
14 been accepted for filing by the Commission prior to
15 the date of enactment of this subsection (unless such
16 application is withdrawn at the election of the appli-
17 cant);

18 “(3) having a power production capacity of
19 5,000 kilowatts or less;

20 “(4) located entirely within the boundaries of
21 the State of Alaska; and

22 “(5) not located in whole or in part on any In-
23 dian reservation, unit of the National Park System,
24 component of the Wild and Scenic Rivers System or

1 segment of a river designated for study for potential
2 addition to such system,
3 the State of Alaska shall have the exclusive authority to
4 authorize such project works under State law, in lieu of
5 licensing by the Commission under the otherwise applica-
6 ble provisions of this part, effective upon the date on which
7 the Governor of the State of Alaska notifies the Secretary
8 of Energy that the State has in place a process for regu-
9 lating such projects which gives appropriate consideration
10 to the improvement or development of the State's water-
11 ways for the use or benefit of intrastate, interstate, or for-
12 eign commerce, for the improvement and use of water-
13 power development, for the adequate protection, mitiga-
14 tion of damage to, and enhancement of fish and wildlife
15 (including related spawning grounds), and for other bene-
16 ficial public uses, including irrigation, flood control, water
17 supply, recreational and other purposes, and Indian
18 rights, if applicable.

19 “(d) In the case of a project that would be subject
20 to authorization by the State under subsection (c) but for
21 the fact that the project has been licensed by the Commis-
22 sion prior to the enactment of subsection (c), the licensee
23 of such project may in its discretion elect to make the
24 project subject to the authorizing authority of the State.

1 “(e) With respect to projects located in whole or in
2 part on Federal lands, State authorizations for project
3 works pursuant to subsection (c) of this section shall be
4 subject to the approval of the Secretary having jurisdiction
5 with respect to such lands and subject to such terms and
6 conditions as the Secretary may prescribe.

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

10 **SEC. 9. FERC VOLUNTARY LICENSING OF HYDROELECTRIC**
11 **PROJECTS ON FRESH WATERS IN THE STATE**
12 **OF HAWAII.**

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