

TO EXTEND THE DEADLINE FOR COMMENCEMENT OF CONSTRUCTION OF A HYDROELECTRIC PROJECT IN THE STATE OF ALABAMA

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

REPORT

[To accompany H.R. 3852]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 3852) to extend the deadline for commencement of construction of a hydroelectric project in the State of Alabama, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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## PURPOSE AND SUMMARY

The purpose of H.R. 3852 is to extend the deadline for commencement of construction of a hydroelectric project in the State of Alabama.

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

H.R. 3852 directs FERC to extend the deadline for the commencement of construction of a 24 megawatt hydroelectric project (Project No. 7115) in Houston County, Alabama, and Early County, Georgia, for up to three consecutive two-year periods. This extends the deadline to up to ten years after the date the license was issued. The current deadline for commencement of construction of this project expires on September 21, 2000. H.R. 3852 does not ease the requirements of a hydroelectric license, but merely extends the period for commencement of project construction. H.R. 3852 provides the licensee must meet the good faith, due diligence, and public interest requirements of section 13 of the Federal Power Act.

## HEARINGS

The Subcommittee on Energy and Power held a hearing on H.R. 3852 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 Hon-

orable 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 H.R. 3852 for Full Committee consideration, without amendment, by a voice vote. The Full Committee met in open markup session on May 17, 2000, and ordered H.R. 3852 reported to the House, without 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 H.R. 3852 reported. A motion by Mr. Bliley to order H.R. 3852 reported to the House, without amendment, 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 H.R. 3852 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 H.R. 3852, a bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Alabama, 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,  
U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3852, a bill to extend the deadline for commencement of the construction of a hydroelectric project in the state of Alabama.

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.

*H.R. 3852—A bill to extend the deadline for commencement of the construction of a hydroelectric project in the state of Alabama*

CBO estimates that enacting H.R. 3852 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 not affect the budgets of state, local, or tribal governments.

H.R. 3852 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 7115. H.R. 3852 also would direct FERC to reinstate the license for the project should it expire prior to enactment of this bill. 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 bill's provisions would have no net budgetary impact.

Because FERC's administrative costs are limited in annual appropriations, enactment of this bill would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to H.R. 3852.

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 Deadline and Reinstatement of License.*

Subsection (a) directs FERC, upon the request of the licensee for Project No. 7115, 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. 7115, September 21, 2000. 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

H.R. 3852 does not amend any existing Federal statute.