

## Calendar No. 42

109TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
109-29

### EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT

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MARCH 10, 2005.—Ordered to be printed

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

### R E P O R T

[To accompany S. 176]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 176) to extend the deadline for commencement of construction of a hydroelectric project 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. 176 is to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

#### BACKGROUND AND NEED

Section 13 of the Federal Power Act requires that the construction of a licensed project commence within two years from the date the license is issued. The Federal Energy Regulatory Commission (“FERC” or “Commission”) is authorized under the Federal Power Act to extend this deadline once, for a maximum of two additional years, upon a finding that such extension is “not incompatible with the public interest.” Consequently, a license is subject to termination if a licensee fails to begin construction within four years after the date the license is issued unless legislation authorizing an additional extension is enacted. S. 176 authorizes FERC to extend the construction deadline for Project No. 11480.

On October 24, 2000, the Commission issued a license to the Haida Corporation to construct, operate, and maintain the 5-megawatt Reynolds Creek Project No. 11480 on Prince of Wales Island,

in southeast Alaska. The license's original deadline for construction commencement was October 23, 2002. Because the project lacked a power purchase contract, FERC granted the licensee's request to extend the deadline to October 23, 2004, four years after the license was issued. Construction of Project No. 11480 entails building a 20-foot-long, 6-foot-high diversion dam, a 3,200-foot-long penstock, a powerhouse with two turbine-generator units, and a transmission line.

#### LEGISLATIVE HISTORY

S. 176 was introduced by Senator Murkowski on January 26, 2005. S. 176 is identical to S. 2243 as passed by the Senate during the 108th Congress. S. 2243 was introduced by Senator Murkowski on March 26, 2004, and referred to the Committee on Energy and Natural Resources. A hearing on S. 2243 was conducted by the Water and Power Subcommittee on May 19, 2004. S. Hrg. 108-618. The Energy and Natural Resources Committee, on June 16, 2004, by unanimous vote of a quorum present ordered S. 2243 favorably reported. S. Rept. 108-286. S. 2243 was passed by the Senate by unanimous consent on September 15, 2004. At a business meeting on February 9, 2005, the Committee on Energy and Natural Resources ordered S. 176 favorably reported.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on February 9, 2005, by unanimous voice vote of a quorum present, recommends that the Senate pass S. 176.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* authorizes FERC, at the request of the licensee, to extend the deadline for commencing construction of hydroelectric project No. 11480. The time period may be extended for three consecutive two-year periods. The extension is to take effect on the date of the expiration of the extension originally issued by the Commission under section 13 of the Federal Power Act.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

FEBRUARY 14, 2005.

Hon. PETE V. DOMENICI,  
*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. 176, a bill to extend the deadline for commencement of construction of a hydroelectric project 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,

DOUGLAS HOLTZ-EAKIN.

Enclosure.

*S. 176—A bill to extend the deadline for commencement of construction of a hydroelectric project in the state of Alaska*

CBO estimates that implementing S. 176 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.

If requested by the licensee, S. 176 would authorize the Federal Energy Regulatory Commission (FERC) to extend the deadline for construction of a hydroelectric project (number 11480) in Alaska by up to six years. This bill would have a minor impact on FERC's workload. Because FERC recovers 100 percent of its 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 legislation's provisions would have no net budgetary impact.

Because FERC's administrative costs are limited in annual appropriations, the bill would not affect direct spending or revenues.

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.

#### 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. 176. 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. 176.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the Commission at the Subcommittee hearing on S. 2243, an identical bill to S. 176 in the 108th Congress, follows:

TESTIMONY SUBMITTED BY CHAIRMAN PAT WOOD III,  
FEDERAL ENERGY REGULATORY COMMISSION

Madam Chairman and Members of the Subcommittee:

I appreciate the opportunity to comment on S. 2243, a bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

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 Federal Energy Regulatory 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.

## THE PROJECT

On October 24, 2000, the Commission issued a license to Haida Corporation to construct, operate, and maintain the 5-megawatt Reynolds Creek Project No. 11480, on Prince of Wales Island, in southeast Alaska. The original deadline in the license for the commencement of construction, October 23, 2002, was, at the licensee's request, extended by the Commission to October 23, 2004, four years after license issuance. The request cited the lack of a power purchase contract.

Construction of Project No. 11480 entails building a 20-foot-long, 6-foot-high diversion dam, a 3,200-foot-long penstock, a powerhouse with two turbine-generator units, and a transmission line.

## THE LEGISLATION

S. 2243 would authorize the Commission, at the request of the project licensee, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under that section, to extend the time period during which the licensee is required to commence the construction of the project for three consecutive two-year periods beyond the date that is four years after the date of issuance of the license.

In cases where project-specific extensions of construction deadlines are authorized by the Congress, it has been the position of prior Commission chairmen that such extensions should not go beyond ten years from the date the project was licensed. I have no reason to depart from this extension policy.

S. 2243 would permit the licensee for Project No. 11480 to extend the deadline for commencement of construction for three consecutive 2-year periods beyond the date that is four years after the date of issuance of the license. Accordingly, construction could commence no later than ten years from the date the license was issued. This time frame is consistent with the Commission's policy, and I have no objection to the bill.

## 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. 176 as ordered reported.