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EXTENSION OF DEADLINE TO COMMENCE CONSTRUCTION OF A HYDROELECTRIC PROJECT

AUGUST 4, 2009.—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 H.R. 2938]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2938) to extend the deadline for commencement of construction of a hydroelectric project, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE

The purpose of H.R. 2938 is to extend the time required for commencement of construction of the Melvin Price Dam Hydroelectric Project (Federal Energy Regulatory Commission Docket No. P-12187), and for other purposes.

BACKGROUND AND NEED

Section 13 of the Federal Power Act (FPA) requires that the construction of a licensed project commence within two years from the date the license is issued. The Federal Energy Regulatory Commission (Commission) is authorized under the FPA 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.

A hydroelectric project has been planned for the existing Melvin Price Dam for several years. An earlier license (P-3246) was issued by the Commission in 1987 to the Missouri Joint Electric Utility

Corporation which was then transferred to the City of Alton in 1990. The license was terminated in 1998.

On July 29, 2005, the Commission issued a new license for the proposed Melvin Price Dam Project to Price Dam Partnership, Limited. By unpublished order dated July 11, 2006, the Commission staff granted a 2-year extension through July 25, 2009 for the commencement of construction. On July 27, 2009, the Commission denied Price Dam Partnership, Limited's request for a stay of the deadline to commence construction.

H.R. 2938 would grant the Commission the authority to extend the time period during which the licensee is required to commence construction of the Melvin Price Dam Hydroelectric Project for three additional two-year periods and, if the deadline for commencement of construction has expired prior to enactment, to reinstate the license on the date that it expired.

The last several Chairmen of the Commission have had a policy of not supporting legislation extending commencement of hydro-power project construction deadlines that would allow an entity more than 10 years to develop a project. Because the extension authorized by H.R. 2938 would not extend the commencement of construction deadline beyond ten years after the current project license was issued and because H.R. 2938 would authorize, but not require, the Commission to grant additional extensions, the Commission does not oppose H.R. 2938.

LEGISLATIVE HISTORY

H.R. 2938 was introduced by Representative Costello on June 18, 2009 and referred to the House Committee on Energy and Commerce, Subcommittee on Energy and Environment. On July 22, 2009, H.R. 2938 passed the House on a motion to suspend the rules and pass the bill by a vote of 418 to 0. On July 23, 2009, H.R. 2938 was referred to the Senate Committee on Energy and Natural Resources. At the business meeting on August 4, 2009, the Committee on Energy and Natural Resources ordered H.R. 2938 favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on August 4, 2009, by voice vote of a quorum present, recommends that the Senate pass H.R. 2938.

SECTION-BY-SECTION ANALYSIS

Section 1 directs the Commission, upon the request of the licensee for the project numbered 12187, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of section 13 of the Federal Power Act and the Commission's procedures under that section, to extend the time required for commencement of construction of the project for up to 3 consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission. If the license for the project has expired prior to Congressional action, the Commission is authorized to reinstate the license effective as of the date of its expiration and to extend the period for commencement of construc-

tion for up to 3 consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at *www.cbo.gov*.

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 H.R. 2938. 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 H.R. 2938 as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 2938 does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The views of the Federal Energy Regulatory Commission follow:

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, DC, August 4, 2009.

Re: H.R. 2938

Hon. JEFF BINGAMAN,
*Chairman, Committee on Energy and Natural Resources,
Dirksen Senate Office Building Washington, DC.*

DEAR CHAIRMAN BINGAMAN: This letter is in response to your request for my views on H.R. 2938. That bill would permit the Federal Energy Regulatory Commission to grant up to three additional two-year extensions of the commencement of construction deadline for the proposed 92-megawatt Price Dam Project No. 12187, to be located at the U.S. Army Corps of Engineers' Melvin Price Locks and Dam on the Mississippi River, in Madison County, Illinois, and to reinstate the project license if necessary.

The Commission issued an original license for this project, to Price Dam Partnership, Limited, on July 29, 2005 (the partnership was acquired by Brookfield Power US Holding Company in late 2007). The license provided that the company was required to commence project construction within two years of the date of the license, the maximum period permitted by section 13 of the Federal Power Act. The Commission subsequently granted a two-year extension of the commencement of construction deadline, again the maximum authorized by section 13. Construction had not commenced when that deadline expired, on July 28, 2009. Section 13 provides that, when construction has not timely commenced, the

Commission must terminate the license. The Commission has not yet taken any steps to do so.

The last several Commission Chairmen have taken the position, with which I concur, of not opposing extension legislation, where legislation would extend the commencement of construction deadline no further than 10 years from the date that the license in question was issued. Beyond that time, there has been a sense that the public interest is better served by releasing the site for other public uses. Because H.R. 2938 authorizes the Commission to grant three two-year extensions from the time when the most recent extension expired, thus extending the commencement of construction deadline to 10 years from when the license was issued, I do not oppose the bill.

If I can be of further assistance to you on this or any other Commission matter, please let me know.

Sincerely,

JON WELLINGHOFF,
Chairman.

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 H.R. 2938, as ordered reported.

