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Federal Energy Regulatory Commission

Thank you. Chairman Whitfield, members of the subcommittee, my name is Jeff Wright, Director of the Office of Energy Projects at the FERC. I appreciate the opportunity to appear before you to discuss the draft legislation entitled The Hydropower Regulatory Efficiency Act of 2012. The views I express in my testimony are my own.

The Commission regulates over 1600 nonfederal hydropower projects at over 2500 dams pursuant to Part 1 of the Federal Power Act, or FPA. Together these projects represent 54 gigawatts of hydropower capacity, more than half of all the hydropower in the U.S.

The FPA authorizes the Commission to issue licenses and exemptions for projects within its jurisdiction. About 71 percent of the hydropower projects regulated by the Commission have an installed capacity of 5 megawatts or less. The Commission has seen an increased interest in small hydropower projects and has responded by implementing measures to facilitate efficient review of project proposals, including the following: adding new web-based resources to the Commission's website to make it easier for applicants to understand and complete the licensing process, updating or creating MOUs with other agencies to improve coordination, continuing our small hydropower hotline and email address to answer applicant questions, and educating potential small hydropower developers through an education and outreach program. With this background, I will turn to the draft legislation.

Section 3 would increase the limit for small hydropower exemptions from 5 megawatts to 10 megawatts. Section 4 would establish various measures to promote conduit hydropower projects.

These proposals are consistent with the Commission's policy to promote small hydro generation. Specifically, section 4 (a) would amend section 30 of the FPA to establish a procedure whereby conduit projects with an installed capacity of 5 megawatts or less would not be required to be licensed provided that the applicant makes a showing that the project qualifies as a conduit project. I support this provision, which would serve to increase the amount of electric generation derived from conduits. This section would also allow the Commission to grant conduit exemptions for all projects with an installed capacity of over 5 megawatts and up to 40 megawatts. Section 5 of the draft legislation would amend the FPA to authorize the Commission to extend the term of a preliminary permit issued under FPA section 5 for up to two years. Preliminary permits grant the holder a first to file preference with respect to license applications for projects being studied under a permit. Commission staff has heard that the need for environmental studies in some instances make it difficult to complete a license application within the current three year term of the permit, with the result that the developer which has invested substantial time and money studying a project may face the possibility of losing its project based on competition from other entities if it needs to seek a subsequent permit. I therefore support the proposed FPA amendment which could eliminate this problem. And it might be considered as an alternative, authorizing the Commission to issue permits for terms up

to five years, which could avoid the need for developers to go through the process of seeking an extension.

Section 6 would require the Commission to investigate the feasibility of implementing a two-year licensing process for hydropower development at existing non-power dams and for closed-loop pumped storage projects. I support the goal of an expedited licensing process. It is Commission staff's goal to act on all license applications as quickly as possible, and we have established procedures that allow for great flexibility and efficiency.

I am just though not certain whether an additional licensing process is necessary. We have been able to issue licenses in the matter of a few months where the project proponent has selected a site wisely, stakeholders had agreed on information needs and state and federal agencies perform their responsibilities quickly. Moreover, the Commission operates under significant constraints imposed by the FPA and by other legislation affecting the licensing process, including the Clean Water Act, the Coastal Zone Management Act, the Endangered Species Act and the National Historic Preservation Act among them.

In the absence of the ability to waive sections of the FPA or other acts, or to set enforceable schedules in licensing proceedings, it's not clear that the Commission, under its existing authorities, can mandate a shortened process.

Section 7 would require the Department of Energy to study the flexibility and reliability that pumped storage facilities can provide and the opportunities and potential generation from conduits. While I cannot speak for the Department of Energy, I do support such research.

In conclusion, there is a great deal of potential for the development of additional hydropower projects throughout the country, including small projects. Working within the authority given it by Congress, the Commission continues to adapt its existing flexible procedures to facilitate the review and, where appropriate, the approval, of such projects. Commission staff remains committed to exploring with all stakeholders every avenue for the responsible development of our nation's hydropower potential. The legislation under consideration will assist in realizing that potential. This concludes my remarks. I will be pleased to answer any questions you may have.