

Testimony of Ann F. Miles, Director, Office of Energy Projects
Committee on Energy and Commerce Subcommittee on Energy and Power
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Chairman Whitfield, Ranking Member Rush, and Members of the Subcommittee, my name is Ann Miles and I am the Director of the Office of Energy Projects at the Federal Energy Regulatory Commission. The Commission is responsible for siting infrastructure for non-federal hydropower projects, interstate natural gas pipelines and storage facilities, and liquefied natural gas terminals.

I appreciate the opportunity to appear before you to comment on the discussion drafts. As a member of the Commission's staff, the views I express in this testimony are my own, and not those of the Commission or any individual Commissioner.

I will first comment on the discussion draft addressing hydropower. It has the important goals of improving transparency, accountability and timely decisionmaking. Because the hydro draft is extensive, I will only highlight a few sections in my oral testimony.

In Section 1302 of the draft, which adds a new Section 34 to the Federal power Act, or FPA, I support the development of procedures to lower the time, effort, and expense needed to develop hydropower projects at existing non-powered dams. However, it is not always that case that a small capacity project has only minor environmental impacts. Therefore, removing federal jurisdiction for qualifying facilities that are 5 megawatts or less could result in unintended consequences for environmental resources.

I am also concerned about some of the specifics of the proposed new FPA Section 34, including, for example, the extent to which it could be read as elevating economic and operational concerns over other public interest considerations.

In Section 1303, I do not support the amendment to Section 33 of the FPA to require the Commission, rather than the Secretaries, to determine whether a license applicant's alternative condition under Section 4(e) or Section 18 of the FPA would protect the federal agency's reservation.

Further, shifting oversight of the trial-type hearings required in the new Section 35 to the Commission would not eliminate the substantial expense and time associated with such hearings as I understand is the current situation. Instead, Congress may wish to consider eliminating them entirely and allowing the Commission to address disputes on the material facts of the proceeding earlier in the Commission's licensing process.

Finally, in Section 1304 I am supportive of the intent of the amendment to Section 308 and the new Section 313 to bring certainty and timeliness to the hydro licensing process. However, without a method to enforce any established schedule the goals may not be achieved.

I will now turn to comments on FERC process coordination under the Natural Gas Act, or NGA, which has the commendable goal of improving transparency and predictability for federal and state permitting agency actions by adding more coordination, reporting, issue resolution, and accountability.

The Energy Policy Act of 2005 provided additional authorities and responsibilities to the Commission in Section 15. The proposed legislation includes existing practices the Commission added to its regulations in response to EAct 2005. However, the proposed changes would move some of the activities to later in the process than is the case under current Commission practice, thus lessening efficiency.

There are two aspect of the draft that bare particular attention. First, in Section 15(c)(6), if an agency does not meet the 90-day or otherwise approved schedule, the federal agency head must notify Congress, which would provide some accountability. Second, in Section 15(e) I see value in requiring the Commission to make available on its website the schedule established with other federal agencies and status of federal authorizations because that information is now scattered in various filings.

Overall the current process for siting natural gas facilities is timely and efficient, and results in fair, thorough, and legally defensible documents. I am concerned that codifying the Commission's practices too rigidly might have the unintended consequence of limiting the Commission's ability to respond to the circumstances of specific cases, to changes in the natural gas industry, and to the Nation's energy needs.

Finally, Commission staff would be happy to provide technical assistance and to work with other stakeholders to help refine both the hydropower and gas discussion drafts. This concludes my remarks. I would be pleased to answer any questions you may have.