



**Statement of the**  
**AMERICAN PUBLIC POWER ASSOCIATION**  
**Submitted to the**  
**HOUSE ENERGY AND COMMERCE SUBCOMMITTEE ON ENERGY AND POWER**  
**For the May 13, 2015 Hearing to Review**  
**“Discussion Drafts Addressing Hydropower Regulatory Modernization and FERC Process**  
**Coordination under the Natural Gas Act”**

**(Submitted May 13, 2015)**

The American Public Power Association (APPA) appreciates the opportunity to submit this statement for the record of the House Energy and Commerce Committee’s Energy and Power Subcommittee hearing on “Discussion Drafts Addressing Hydropower Regulatory Modernization and FERC Process Coordination under the Natural Gas Act.”

APPA is the national service organization representing the interests of over 2,000 municipal and other state- and locally-owned, not-for-profit electric utilities throughout the United States (all but Hawaii). Collectively, public power utilities deliver electricity to one of every seven electricity consumers, serving some of the nation’s largest cities. However, the vast majority of APPA’s members serve communities with populations of 10,000 people or less. The largest fuel source for public power utilities is coal (41.2%), followed by gas (21%), hydropower (19.6%), and nuclear (16%).

This statement is submitted to express support for the Committee’s continued development of two important legislative proposals that will help utilities fully develop generation resources that balance environmental and reliability goals. The legislative proposals are based upon: (1) the Hydropower Regulatory Modernization Act discussion draft by Rep. Cathy McMorris Rogers (R-WA); and (2) the Natural Gas Pipeline Permitting Reform Act, H.R. 161, by Rep. Mike Pompeo (R-KS). Both proposals make critical improvements to licensing and permitting processes so that new hydropower and natural gas generation – two cornerstones of the reliable operation of the nation’s power grid – can be brought on line to supply adequate power in the face of new and existing demand. These generation options are urgently needed in order to manage the very difficult choices that will be presented by the Environmental Protection Agency’s (EPA’s) proposed emissions guidelines for carbon dioxide emissions from existing fossil fuel-fired power plants under Section 111(d) of the Clean Air Act (commonly referred to as the “Clean Power Plan”).

Natural Gas Pipeline Permitting Reform Act

APPA is on record supporting H.R. 161, Rep. Pompeo’s Natural Gas Pipeline Permitting Reform Act, given the long-term implications of increased use of natural gas for electric generation spurred by EPA regulations, such as the Mercury and Air Toxics Standards, that are driving utilities to retire coal-fired power plants and replace them with natural gas. Also driving this fuel switching is the low cost of natural gas in the U.S., due to increased production, that is making the use of coal for electric generation

uneconomic, particularly when factoring in the regulatory landscape. EPA's proposed Clean Power Plan will further accelerate the shift from coal to natural gas generation. Electric utilities are spending hundreds of millions of dollars to convert existing coal facilities, where possible, to natural gas or to construct new natural gas plants. They are also using natural gas generation to back up variable wind and solar power. However, there is a critical need to build new natural gas pipelines and to improve upon existing infrastructure across the country to ensure this greater use of natural gas can be accommodated.

The Federal Energy Regulatory Commission (FERC) is the federal agency tasked with approving routes for proposed natural gas interstate pipelines. FERC works with a variety of federal, state, and local agencies in the development of environmental reviews of these projects under the National Environmental Policy Act (NEPA). Unfortunately, the Commission lacks the ability to ensure that other federal agencies abide by deadlines related to natural gas pipeline applications. APPA supports the inclusion of language in the discussion draft legislation that reinforces FERC's role as the lead agency for siting interstate pipelines and provides it with the authority to set and enforce natural gas pipeline permitting deadlines. The requirements for all agencies to conduct concurrent reviews and identify issues of concern that could delay compliance with FERC timelines will help expedite the review and approval processes, speeding up the construction of much needed new, interstate natural gas pipelines. In addition, the requirement for FERC to post information on its website on the status of applications requiring multiple federal authorizations will provide much-needed transparency to stakeholders such as public power utilities.

### Hydropower Regulatory Modernization

The hydropower licensing process poses a similar set of challenges when it comes to setting and enforcing agency deadlines. APPA supports reforms, such as those proposed by Rep. Cathy McMorris Rogers, and those embodied in the hydropower regulatory modernization discussion draft, that will improve the hydropower licensing process. These proposals position FERC as the lead agency with the ability to establish and enforce deadlines among state and federal agencies involved in the licensing process. Many of APPA's members are members of the National Hydropower Association (NHA), and we would like to associate ourselves with the testimony of John Suloway, who has worked for decades at one of APPA's member utilities, New York Power Authority, and appears before the Subcommittee today on behalf of NHA.

Public power utilities have led in hydropower development in recent years. Today, one hundred public power utilities have FERC-licensed hydropower facilities. Making full use of the nation's hydropower resource is key to ensuring that the nation's grid remains reliable and resilient, and that utilities can meet emission reduction goals. Hydropower is a source of emissions-free base-load power which, unlike variable renewable resources, is available 24/7. Moreover, hydropower's "black start" capability makes it highly valuable through the lens of concerns about cyber and physical security; in instances of outages or disruptions to the grid, hydropower units can cycle back on quickly and become a backbone of full power restoration.

There is a significant potential for new hydropower to be generated at non-powered dams throughout the country, as well as for hydropower output to be dramatically increased in existing hydropower facilities and at water distribution conduits/canals. But there are excessive barriers to tapping this potential; the legislative proposal being considered by the Subcommittee will help to reduce those barriers.

FERC is the primary federal agency responsible for the licensing and relicensing of such non-federal hydroelectric projects, but given the involvement of multiple resource agencies, the licensing process can be lengthy, difficult, costly and uncertain for applicants. Under the Federal Power Act ("FPA"), FERC must establish requirements in conjunction with the license ("conditions") that give "equal consideration" to not only power needs, but also Endangered Species Act requirements, water quality issues, marine navigation, and other public interest concerns. FERC must carefully evaluate many aspects of a hydropower project, but at the same time, state and federal agencies can impose "mandatory conditions" that FERC cannot balance or modify in the public interest. While it is appropriate to consider a broad

array of factors, this process must be streamlined and reformed. Critical new additions to existing hydropower facilities are languishing under bureaucratic and often contradictory processes that can span a decade or more or which simply become too costly. FERC must be given more clear-cut authority to establish deadlines and fulfill its role under the FPA.

APPA supports concepts set forth by the discussion draft that reform the lengthy, duplicative and contradictory regulatory processes for licensing hydropower projects, and looks forward to working with the Subcommittee to continue to build upon and refine the draft. In particular, mechanisms to require all resource agencies to work together under a schedule designated by FERC will reduce waste and improve decision making. APPA also supports the concept of establishing a more manageable mandatory conditioning process, such as requiring resource agencies to more clearly define the objective of each mandatory condition and demonstrating they have appropriately balanced associated “power and non-power” values.

We are pleased that the Subcommittee is taking a fresh look at opportunities to reform licensing and permitting processes for both natural gas and hydropower resources, and look forward to working with the Subcommittee to build upon and refine these proposals. Given the impact of a host of EPA regulations that are leading to the reduced use of coal-fired generation, it is important to adopt policies that will expedite the use of other baseload generation that is reliable and affordable.