

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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June 1, 2015

Ms. Ann F. Miles
Director of the Office of Energy Projects
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Dear Ms. Miles:

Thank you for appearing before the Subcommittee on Energy and Power on May 13, 2015, to testify at the hearing entitled "Discussion Drafts Addressing Hydropower Regulatory Modernization and FERC Process Coordination under the Natural Gas Act."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Wednesday, June 17, 2015. Your responses should be mailed to Will Batson, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed to Will.Batson@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Ed Whitfield
Chairman
Subcommittee on Energy and Power

cc: The Honorable Bobby L. Rush, Ranking Member, Subcommittee on Energy and Power

Attachment

Additional Questions for the Record

The Honorable Ed Whitfield

1. You state on page 16 of your written testimony: “It would be a significant change if the Commission, rather than the land-managing agencies, were to decide if conditions imposed by those agencies adequately protected reservations. I do not support this change.”
 - A. Your statement suggests that the discussion draft requires the Commission to decide if an agency’s 4(e) condition is adequate. Assuming the intent of the discussion draft is not to require the Commission to evaluate the agency’s condition, but simply to decide if an applicant or other party’s proposed alternative condition is equal to or better than the level of protection established by the agency in its 4(e) condition, would you still oppose this provision in the discussion draft? If so, why?
 - B. Do you believe that federal land management agencies are better qualified than FERC to determine if a proposed alternative condition would cost less or improve electric generation compared to an agency’s condition, or would you say that FERC is better qualified to make these determinations?
 - C. Isn’t it true that Section 4(e) of the Federal Power Act requires FERC, not the land management agency, to determine whether a project will be interfere or be inconsistent with the purpose of a federal reservation? And in making that assessment, haven’t courts held that FERC is required to independently evaluate a reservation’s purposes?
 - D. You also say in your testimony that “the Commission staff, in its NEPA review, regularly assesses the adequacy of all environmental measures proposed, recommended, or required.” Do you agree that FERC is fully capable of assessing the levels of environmental protection provided by various, alternative measures? If not, why not?
2. On page 17 of your testimony, you suggest that the trial-type hearing procedures be eliminated from the Federal Power Act in favor of dispute resolution processes laid out in the Commission’s regulations, the Commission’s Dispute Resolution Service, and existing hearing opportunities.
 - A. How many times since 2005 has the Commission referred a dispute under Section 33 of the Federal Power Act over a Section 4(e) condition or Section 18 fishway prescription to its Dispute Resolution Service?
 - B. How many times since 2005 has the Commission set a dispute over material facts in a hydroelectric license proceeding for a trial-type hearing before a FERC Administrative Law Judge? How many times has the Commission denied a request for trial-type hearing during this period?
 - C. Since the Commission staff is not required to be a party to the Section 4(e) and Section 18 trial-type hearings, assigning the hearings to FERC Administrative Law Judges would not create a substantial additional workload and increased administrative costs for the Office of Energy Projects, correct? Wouldn’t any administrative costs associated with the hearings be recovered from licensees through FERC annual charges?