



May 18, 2015

The Honorable Ed Whitfield
Chairman, Subcommittee on Energy and Power
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Whitfield:

On behalf of the American Public Power Association (APPA), the Edison Electric Institute (EEI), and the National Rural Electric Cooperative Association (NRECA), we are writing to express our appreciation to you for including the entirety of H.R. 1558, the “Resolving Environmental and Grid Reliability Conflicts Act of 2015,” in Section 1201 of your Reliability and Security Discussion Draft released on May 7, 2015.

H.R. 1558, bipartisan legislation introduced by Representatives Pete Olson (R-TX), Gene Green (D-TX), and Mike Doyle (D-PA), would ensure that electricity generators will no longer be forced to choose between conflicting legal obligations when acting to comply with emergency reliability orders from the Department of Energy (DOE).

In extraordinary circumstances, Section 202(c) of the Federal Power Act (FPA) allows DOE to order emergency operation of an electricity generating facility to protect grid reliability. At the same time, environmental laws and regulations, implemented through permit limitations, may prohibit the same generating facility from full compliance with the DOE order. In such a situation, which has actually occurred more than once in the past, the owner/operator of the generation facility must choose between violating the DOE emergency order and violating environmental limitations, with either choice exposing the company to liability.

Section 1201 would amend the FPA to clarify that electricity generators caught in such a double bind would not be liable for violations of environmental laws or regulations, or subject to civil or criminal liability, or citizen suits, as a result of complying with Section 202(c) emergency orders. Importantly, like H.R. 1558, the Discussion Draft also provides a process for DOE, working with other agencies, to administer emergency orders in a manner that minimizes adverse environmental impacts without jeopardizing reliability.

Thank you again for your continuing leadership in seeking to remedy this conflict in energy and environmental law and, in doing so, helping safeguard the reliability of our nation's electric grid.

Sincerely,



Susan N. Kelly
President and CEO
American Public Power Association



Thomas R. Kuhn
President
Edison Electric Institute



Jo Ann Emerson
CEO
National Rural Electric Cooperative Association