

**STATEMENT OF  
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**BEFORE THE  
SUBCOMMITTEE ON ENERGY, CLIMATE, AND GRID SECURITY  
COMMITTEE ON ENERGY AND COMMERCE  
U.S. HOUSE OF REPRESENTATIVES**

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**Introduction**

Thank you, Chair Duncan, Ranking Member DeGette, and the honorable members of the Committee for the opportunity to testify today on H.R.4045, the *Hydropower Clean Energy Future Act*. My name is Matt Lee-Ashley, and I serve as Chief of Staff for the Council on Environmental Quality (CEQ).

CEQ was created by the National Environmental Policy Act (NEPA) of 1969. CEQ advises the President on environmental and natural resources policies to help improve, preserve, and protect public health and the environment for America's communities. As the agency responsible for implementing NEPA, CEQ also works to ensure that environmental reviews for infrastructure projects and Federal actions are effective and efficient, and reflect the input of local communities. CEQ is proud to be helping advance the nation's priorities for the environment, natural resources, and energy policy.

Since day one, the President has directed Federal departments and agencies to take actions to diversify our Nation's energy production, reduce our dependence on foreign oil, and reduce greenhouse gas emissions to combat climate change. At the President's direction, the Administration is working to rapidly expand renewable energy production, deploy critical investments through the Bipartisan Infrastructure Law and the Inflation Reduction Act to lower energy costs for consumers, and improve the efficiency and effectiveness of Federal permitting and environmental reviews to help accelerate our clean energy future. CEQ is proud to be helping lead the Administration's permitting reform work, along with the Office of Management and Budget and the Federal Permitting Improvement Steering Council.

**Hydropower in the U.S.**

Hydroelectric energy is and will continue to be an essential element of our strategy to achieve clean, resilient, reliable, and responsible energy production to support economic prosperity and a healthy and livable climate. This energy resource is reliable, flexible, and dispatchable. When appropriately sited and operated, hydropower can provide multiple benefits at a local, regional, and national scale.

According to the U.S. Energy Information Administration, hydropower accounted for 28.7% of total utility-scale U.S. renewable electricity generation and about 6.2% of total utility-scale U.S. electricity generation in 2022. While the Federal Government provides a little less than half of

the Nation's total hydropower capacity, the majority of hydropower capacity is provided by non-federally-owned projects that fall under the licensing jurisdiction of the Federal Energy Regulatory Commission (FERC). FERC is an independent agency within the Federal government that – under the Federal Power Act – has licensing jurisdiction over more than 2,500 non-Federally owned hydropower dams across the country.

### **Environmental Planning**

Although hydropower facilities play an important role in supplying reliable and renewable energy – and often provide a wide range of other services, including transportation, recreation opportunities, and flood control - their siting and operation can present a number of environmental challenges. Historically, hydropower facilities – many of which were authorized and built before Congress enacted modern environmental laws – have contributed to the destruction of natural and cultural resources on inundated lands; created barriers for fish passage and disrupted commercial and recreational fisheries; altered water temperatures, flows, and quality; caused harm to the subsistence resources and cultural practices of Tribal nations; and caused a range of other impacts on ecosystems and local communities.

The legal framework that Congress established over the past several decades to guide Federal decision-making on hydropower requires Federal agencies to analyze and minimize these and other environmental impacts of hydropower facilities. The Federal Power Act, NEPA, the Endangered Species Act, and the Clean Water Act are some of the key laws that help ensure that Federal agencies are making wise and informed decisions on hydropower, including on siting, construction, operations, rehabilitation, and potential retirement or removal. This statutory framework that Congress has created over the last several decades provides opportunities for the public – including all stakeholders, interested parties, and affected communities – to understand projects and actions that are proposed, and to have a voice in decisions that affect them.

Efforts to improve Federal permitting and licensing processes for hydropower facilities should aim to both improve the efficiency *and* effectiveness of review processes to ensure that appropriate projects are built and decisions are made in a timely manner and that projects are designed well, informed by community input, and achieve positive environmental outcomes.

CEQ appreciates the Committee's focus on exploring opportunities to improve Federal hydropower permitting and licensing processes, and to help upgrade, modernize, and expand the nation's hydropower capacity. There are important opportunities for continued growth of hydropower production across the country, including by increasing generation at existing facilities, powering non-powered dams, and - in the appropriate locations - building new pumped storage and other modern hydropower systems. There are also important opportunities to rehabilitate and re-evaluate existing, aging hydropower facilities so that they are safe, efficient, and have a lower environmental impact. We support reforming the hydropower licensing process, including by recognizing Tribal authority over facilities on Tribal land, improving engagement with Tribal Nations, States, stakeholders, and the public, and establishing clear and reasonable timelines for licensing decisions.

H.R. 4045 includes provisions that are consistent with the goals of improving both the efficiency and effectiveness of review processes. CEQ supports establishing permitting and licensing

schedules consistent with the recent changes made to NEPA through the Fiscal Responsibility Act. Publicly-available schedules are important both to project proponents and for improving transparency and community engagement. CEQ also supports measures that encourage the use of and reliance on previously prepared environmental documents and studies, when appropriate, to eliminate duplication and facilitate timely decision-making.

CEQ has some concerns with the legislation as drafted, however. Section 3 of H.R. 4045, for example, would expand the scope of new and existing hydropower projects that could be exempted from the licensing requirements under the Federal Power Act from those with a proposed capacity of up to 10 megawatts to those with a proposed capacity of up to 40 megawatts. Under the legislation, this FERC exemption decision would not be subject to environmental review and public input requirements under NEPA. Particularly for new facilities, these provisions, if enacted and implemented, could result in the deployment of poorly designed hydropower infrastructure and significant negative impacts on waterways and communities across the country.

CEQ also has concerns with the proposed financial penalties that would be incurred by Federal and State agencies if permitting processes fail to meet an established schedule. Permitting delays can result from a variety of factors, including from delayed or incomplete information submitted by project proponents. Financial penalties like the one proposed could create incentives to rush through complex issues and encourage decisions that may not be legally defensible and durable, thus ultimately prolonging the time it takes to get final permits for hydropower facilities.

### **Conclusion**

The Administration is supportive of congressional efforts to increase clean energy production, deliver good environmental outcomes, and improve the efficiency and effectiveness of environmental review and permitting processes. CEQ looks forward to working with the Committee to harness opportunities to modernize, expand, and improve our hydropower infrastructure.