

FRANK PALLONE, JR., NEW JERSEY
CHAIRMAN

CATHY McMORRIS RODGERS, WASHINGTON
RANKING MEMBER

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

July 29, 2022

The Honorable Richard Glick
Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Chairman Glick and Commissioners:

We write to request information relating to the implementation of the America's Water Infrastructure Act of 2018 (AWIA), which contains the most significant update to the Federal Energy Regulatory Commission's (FERC) hydropower licensing authorities since the passage of the Energy Policy Act of 2005. Congress intended for AWIA to expand hydropower generation at existing projects, promote new hydropower development on non-powered dams, and encourage the development of new closed-loop pumped storage projects and conduit hydropower projects.

Several provisions within AWIA are designed to provide incentives for redevelopment and modernization of existing hydropower projects by allowing developers more time and certainty to secure the required approvals and financing for new projects. For example, section 3001 contains amendments to the Federal Power Act (FPA) that authorize FERC to extend permits and construction deadlines to eliminate the frequent need for Congress to extend license construction deadlines for individual projects. Congress also sought to promote modernization and efficiency upgrades by including section 3005, which requires FERC to give equal weight to project-related investments already undertaken by the licensee when determining new license terms.

Other provisions within AWIA are intended to promote new hydropower development to expand the generation of clean, renewable electricity. Section 3002 amends the FPA to increase the size limitation and reduce the permitting timeline for qualifying conduit hydropower facilities. Sections 3003 and 3004 direct FERC to establish a 2-year expedited licensing process for hydropower projects at existing non-powered dams and for closed-loop pumped storage projects.

Given the strong bipartisan support for AWIA, and the well-established need to modernize the hydropower licensing process, we are concerned that some of the statutory requirements are not working as intended. For example, in testimony before the Energy Subcommittee on May 12, 2022, Mr. Malcolm Woolf, President and Chief Executive Officer of the National Hydropower Association, stated in reference to the AWIA expedited licensing reforms: *“I wish I could say that those provisions have proven effective. In fact, they have not. Unfortunately, only one facility has come in to seek to use those provisions and was found by FERC to be ineligible.”*

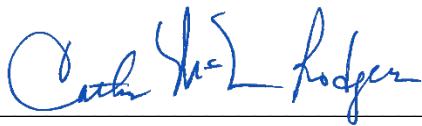
As you know, there is tremendous opportunity to expand hydropower production. Only about 3 percent of the dams in the United States, approximately 2,000 dams, produce electricity today. A recent report by the Department of Energy (DOE) found that U.S. hydropower production could grow by almost 50 percent from current levels by 2050 from a combination of upgrading existing hydropower facilities, adding generation capacity to existing non-powered dams and canals, and developing new hydropower facilities.

Successful implementation of AWIA is vital to expanding the benefits of hydropower to the nation’s economy and national security. In furtherance of our oversight responsibilities regarding the implementation of AWIA, and to assist with our assessment of FERC’s statutory authorities under the FPA, we ask that you respond to the following by August 12, 2022.

1. Please describe whether or not the amendments to the FPA relating to extending preliminary permit terms and start of construction deadlines for new construction projects have been implemented successfully.
2. On April 18, 2019, FERC issued a final rule establishing an expedited 2-year licensing timeline for certain non-powered dams and closed-loop pumped storage projects to meet the requirements of AWIA.
 - a. Have any applicants successfully completed the expedited licensing process?
 - b. How did FERC establish the qualifying criteria for the purposes of the expedited licensing process?
 - c. Has FERC evaluated the success of the program to determine whether it is meeting the objectives established by Congress?
 - d. Has FERC considered whether the qualifying criteria should be modified? If not, why not?
3. Please describe whether or not the amendments to the FPA relating to conduit hydropower facilities have been implemented successfully.
 - a. How many conduit facilities have qualified for the exemption since Congress lifted the cap from 5 MW to 40 MW? Please provide a list of those facilities.

4. Please describe whether or not the amendments to the FPA relating to FERC's licensing terms and promoting project-related investments have been implemented successfully.
 - a. How many facilities have applied for project-related investment determinations pursuant to AWIA?
 - b. How many facilities have received a determination that a project-related investment is eligible under AWIA?

Sincerely,



Cathy McMorris Rodgers
Republican Leader
Committee on Energy and Commerce



H. Morgan Griffith
Republican Leader
Subcommittee on Oversight and
Investigations



Larry Bucshon
Member of Congress



Richard Hudson
Member of Congress

Cc: The Honorable James Danly, Commissioner, FERC
The Honorable Allison Clements, Commissioner, FERC
The Honorable Mark C. Christie, Commissioner, FERC
The Honorable Willie L. Phillips, Commissioner, FERC