Written Testimony of Terry L. Turpin
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Chairman Hoeven, Ranking Member Wyden, and members of the Subcommittee, my name is Terry Turpin and I am the Director of the Office of Energy Projects at the Federal Energy Regulatory Commission. The Office is responsible for taking a lead role in carrying out the Commission's responsibilities in reviewing applications for infrastructure projects, including: (1) the licensing, administration, and safety of non-federal hydropower projects; (2) the authorization of interstate natural gas pipelines and storage facilities; and (3) the authorization of liquefied natural gas terminals. I appreciate the opportunity to appear before you to discuss the Commission's role in hydropower permitting and oversight. As a member of the Commission's staff, the views I express in this testimony are my own, and not necessarily those of the Commission or of any individual Commissioner.

In accordance with the Federal Power Act (FPA), the Commission currently regulates over 1,600 non-federal hydropower projects, including over 2,500 dams, representing about 57,000 megawatts of authorized capacity, which is more than half of all developed hydropower in the United States. The Commission's hydropower work generally falls into three categories of activities: (1) licensing, which includes processing applications for original licenses and relicensing existing facilities; (2) administration and compliance, which includes providing regulatory oversight of projects to ensure compliance with license requirements and processing applications to amend, transfer, or surrender licenses; and (3) dam safety, which includes protecting life, health, and property.

I. The Commission's Role in Hydropower Oversight

Under the FPA, non-federal hydropower projects must be licensed by the Commission if they: (1) are located on a navigable waterway; (2) occupy federal land; (3) use surplus water or water power from a federal dam; or (4) are located on non-navigable waters over which Congress has jurisdiction under the Commerce Clause, involve post-1935 construction, and affect interstate or foreign commerce.

The Commission serves as the lead agency in all FPA hydropower proceedings and sets schedules for those proceedings. Prior to issuing a decision on a license application, the Commission conducts reviews of hydropower projects and project works, and as the lead federal agency prepares the documentation required under the National Environmental Policy Act. The Commission has established three licensing processes and procedures, allowing an applicant to request to use the process it believes best suited to its individual situation. Each of the licensing processes is designed to accommodate the stakeholder

consultation needed to develop a record on which the Commission can base its licensing decision. The three processes are the:

- *Traditional Licensing Process*: best for less complex or less controversial projects;

- *Integrated Licensing Process*: frontloads issue identification and decisions on information needs to the period before an application is filed and is suited to more complex or more controversial cases; and

- *Alternative Licensing Process*: allows participants significant flexibility to tailor the licensing process in a manner that can work well for particular circumstances.

Currently, the Commission is processing 187 pending applications, of which approximately 90 percent are for relicenses of existing projects and about 10 percent are for original licenses and exemptions.[1] Based on the license terms of existing projects, the number of projects that will begin the relicensing process will continue to be high well into the 2030s. Between fiscal years 2026 and 2036, over 410 projects, representing about 41 percent of the Commission's licensed projects and about 15 percent of licensed capacity under Commission jurisdiction, will begin the pre-filing consultation stages of the relicensing process. Additionally, original license applications may continue to be filed at the historical rate; since fiscal year 2013, the Commission has processed applications for 70 original licenses that involved the construction of new hydropower facilities.[2]

Once the Commission has issued a license, its role is to provide regulatory oversight of licensed projects during their license term. This post-licensing workload involves ensuring compliance with license requirements, processing requests for extensions of time to comply with these requirements, and processing applications to amend licenses by modifying project facilities and operations. License requirements include environmental and public use provisions resulting from terms and conditions set by the Commission, including measures specified by state and federal resource agencies. Typical examples include requirements establishing minimum flows, reservoir elevations, water quality metrics, fish passage facilities, and recreation measures. Specialized Commission staff review and analyze plans and reports filed pursuant to the license conditions, process engineering and environmental amendment requests, and review complaints and non-compliance allegations. The Commission's post-licensing workload also entails processing requests for license transfers as well as applications to surrender a project license. During fiscal year 2025, the Commission processed 172 extension of time requests, 73 amendments to project facilities and operations, 612 complaints and non-compliance allegations, and 27 license

[1] Exemptions are a simpler form of license where the projects are not subject to the licensing requirements of the FPA, such as Sections 4, 10, and 18, and the license does not convey eminent domain authority. The exempted project is subject to mandatory terms and conditions set by federal and state fish and wildlife agencies and by the Commission.

[2] Of the 70 original licenses issued beginning fiscal year 2013, eleven projects have been constructed and are operating and one project has commenced, but not yet completed, construction. Of the remainder, the licensees of 41 have not indicated to the Commission whether or when they intend to begin construction and 17 licenses have been terminated or surrendered.

transfers or surrender a project license.

Under the FPA, the Commission is responsible for ensuring that the water-retaining features of hydropower projects are designed, constructed, operated, and maintained using current engineering standards and meet federal guidelines for dam safety. Commission engineers review designs, plans, and specifications of the facilities and proposed modifications. Through regularly scheduled inspections during construction and operation, Commission engineers verify that dams meet stipulated design criteria and identify necessary remedial modifications or required maintenance. When issues are found, the Commission requires the licensee/exemptee to develop a plan and schedule for addressing the matter and conducting follow-up activities. The Commission incorporates a risk-informed decision-making approach that provides the capability to assess non-traditional failure modes, provides levelized risk across different loading conditions, focuses inspections and surveillance on projects' specific potential failure modes and monitoring programs, and guides remediation projects to provide an overall reduced level of risk to the public. In fiscal year 2025, Commission staff conducted 2,085 inspections related to incident response, construction, and the operation of dams and completed review of more than 11,00 dam safety related filings.

II. Complexity in the Licensing Process

Hydroelectric licensing proceedings under the FPA are multi-faceted and complex, requiring the Commission to consider and balance many competing interests. Section 10(a) of the FPA establishes the comprehensive development standard which each project must meet to be licensed, and which appears to be unique among federal infrastructure permitting requirements. In the Electric Consumers Protection Act of 1986, Congress modified the FPA to require the Commission to give equal consideration to developmental and nondevelopmental values at hydropower projects. Under this standard, a licensed project must be best adapted to a comprehensive plan for improving or developing a waterway for the use or benefit of interstate or foreign commerce—not only for the improvement and utilization of waterpower development, but also for the protection and enhancement of all other beneficial public uses. Typical uses for a waterway, such as power generation, irrigation, flood control, fish and wildlife protection or enhancement, water supply, and recreation, are often in direct competition for the waterway resources associated with a project. To meet the statutory requirement of balancing these competing uses, the Commission must explore all issues relevant to the public interest, including both those associated with waterpower development as well as those related to nondevelopment uses of a waterway.

As the Commission has noted in multiple reports, policy statements, and rulemakings since 2001, it is the complexity of the resource issues and the amount of available information about project impacts that set the stage for whether the regulatory process is short or long,

simple or complex.[3] The location of a proposed project and its mode of operation may be at least as significant as project size: a small project that alters the natural flow of a river in a sensitive area may present more complex licensing issues than a larger, run-of-river project on a site where there are few environmental issues. The Commission is required to base its decisions on substantial evidence, which generally includes studies performed by applicants, studies put into the record by other parties, and material gathered by Commission staff. Whether an identified effect of a project is or is not a problem, and the extent of the problem, are often matters of perspective, and there are often disagreements between license applicants and other stakeholders concerning the extent to which projects will have negative effects on both developmental and nondevelopmental resources.

The Commission's licensing processes have evolved over the years as the agency has sought to address the issues that participants from every perspective have identified. These processes are designed, within the confines of the existing statutory scheme, to develop a record on which the Commission can reach decisions that are both expeditious and legally durable. In addition to the FPA's statutory requirements, the Commission must also ensure compliance with other statutes that involve a variety of processes ancillary to licensing, such as the Coastal Zone Management Act, the National Historic Preservation Act, the Endangered Species Act, and the Clean Water Act. These statutes require various forms of approval from other federal or state agencies, some with differing statutory deadlines for action.

Under the Coastal Zone Management Act, the Commission cannot authorize development of a hydropower project within or affecting a state's coastal zone, unless the state concurs with the applicant's certification of consistency with the state's Coastal Zone Management Act program (approved by the Secretary of Commerce).

The National Historic Preservation Act requires the Commission, before authorizing a project, to consider the project's effects on any site, structure, or object included in, or eligible to be included in, the National Register of Historic Places, and to afford the Advisory Council on Historic Preservation an opportunity to comment. In practice, this is generally handled through consultation with the State Historic Preservation Officers.

Under the Endangered Species Act, the Commission must ensure that its actions do not jeopardize protected species or adversely modify their habitat and must consult with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service when determining what protection measures to take.

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[3] *Hydroelectric Licensing Policies, Procedures, and Regulations: Comprehensive Review and Recommendations* (May 8, 2001) (FERC Report to Congress); *Hydroelectric Licensing under the Federal Power Act*, 104 FERC ¶ 61,109 (2003) (Order establishing the Integrated Licensing Process); *Settlements in Hydropower Licensing Proceedings under Part I of the Federal Power Act*, 116 FERC ¶61,270 (2006) (Policy Statement); *Report on the Pilot Two-Year Hydroelectric Licensing Process for Non-Powered Dams and Closed-Loop Pumped Storage Projects and Recommendations Pursuant to Section 6 of the Hydropower Regulatory Efficiency Act of 2013*, (May 26, 2017) (FERC Report to Congress); *Hydroelectric Licensing Regulations Under the America's Water Infrastructure Act of 2018*, 167 FERC ¶ 61,050 (2019) (Order establishing expedited process).

Finally, the Clean Water Act precludes the Commission from licensing a hydroelectric project until the license applicant has first obtained a water quality certification, or a waiver thereof from the relevant certifying authority. The Clean Water Act allows certifying authorities up to one year to act on an applicant's certification request. The Clean Water Act further requires the Commission to adopt all conditions contained in the water quality certification.

In addition, if a project is located on U.S. lands such as a national forest, section 4(e) of the FPA authorizes the federal land managing agency to impose mandatory conditions to protect those lands. Section 18 of the FPA gives authority to the Secretaries of the Departments of the Interior and Commerce to prescribe fishways. With respect to exemptions, section 30(c) of the FPA allows federal and state agencies to impose conditions to protect fish and wildlife resources.

These statutory requirements give other agencies a significant role in establishing the information needed during project review and the requirements that a project must meet to be permitted. Although the Commission incorporates these processes into the project review schedule, their timing is generally outside of the Commission's control.

III. Proposed Legislation

A. S. 3500, Hydropower Licensing Transparency Act

The proposed legislation would amend Part I of the FPA to require that the Commission annually report to Congress on the status of each relicensing or original licensing process for which a notification of intent to file a license application was filed at 3 years prior to the report. Section 15 of the FPA requires that an operator file a relicense application at least 24 months prior to the expiration of the current license and that the operator notify the Commission of its intention to file for relicensing at least 5 years before the expiration of the existing license. Accordingly, the proposed reporting requirement should capture license or relicensing proceedings and the information to be submitted in each report should provide insight into the multitude of actions required of all stakeholders in the licensing process.

B. S. 3518, Fair Licensing for Operations of Water Structures Act

Section 2 of the proposed legislation, entitled "*Hydropower Maintenance and Temporary Adjustments*," would exempt some post-licensing activities involving maintenance, repair, or replacement of project works or seasonal or temporary adjustments to water flows from needing approval by the Commission.

With respect to post-licensing activities, section 10(b) of the FPA currently allows licensees to make alterations or modifications that are not substantial without the prior approval of the Commission. Under the FPA, Commission approval is required for post-licensing activities that result in substantial changes to the project works or operations, or that conflict with any license conditions related to the approved comprehensive plan for

improving or developing a waterway. Post-licensing activities must also comply with any applicable federal laws such as the Endangered Species Act, the National Historic Preservation Act, and the Clean Water Act. The Commission has historically approached the determination of whether a change is substantial or requires documentation of compliance with other federal statutes on a case-by-case basis.

On November 20, 2025, the Commission issued a Notice of Inquiry for "*Authorizations for Certain Post-Licensing Activities at Hydroelectric Projects*," under Docket No. RM26-3. In the Notice, the Commission invited comments on opportunities to streamline or improve the process for hydropower licensees to undertake minor modifications and conduct other post-licensing activities at their facilities, potentially without the need for case-specific authorization. The Notice originally included a 60-day comment period, ending on January 26, 2026. In response to a motion filed by the National Hydropower Association, the Commission extended the date for submitting comments to February 10, 2026. The Commission is currently reviewing the comments received in response to the Notice and will be evaluating options for further action in light of the stakeholder input received.

Section 3 of the proposed legislation, entitled "*Micro Hydrokinetic Energy Projects*," would amend Part I of the FPA to create a licensing process specific to hydrokinetic projects of not more than 5 megawatts. This licensing process would entail a prefiling period of one year (from notification of intent to the actual application filing) and a one-year period for the Commission to take action on an application once it has been received. As previously referenced, the Commission cannot authorize development of a hydropower project without the applicant first obtaining certain statutorily required approvals from other federal or state agencies with the Clean Water Act being most relevant to hydrokinetic projects.

For projects reviewed and approved by the Commission, the proposed legislation would set a term of not less than 10, and not more than 20, years for the construction, operation, and maintenance of project works. The Commission's *Policy Statement on Establishing License Terms for Hydroelectric Projects* sets out its views on the interplay between the length of a license term and the complexity of a project's characteristics.[4] Under this policy, the Commission sets a 30-year term where there is little or no authorized re-development, new construction, or environmental mitigation and enhancement; a 40-year term for a license involving a moderate amount of these activities; and a 50-year term where there is an extensive amount of such activity.

The hydrokinetic projects covered by the proposed legislation would not include features that impound water to generate electricity and are clearly intended to have a small footprint in the waterway. Those features fit into the characteristics of infrastructure to which the Commission routinely grants 30-or 40-year license terms. I would recommend extending the 20-year license term limitation in the proposed legislation up to a limit of 40 years.

[4] *Policy Statement on Establishing License Terms for Hydroelectric Projects,* 161 FERC ¶ 61,078 (2017).

IV. Conclusion

As the lead agency for FPA hydropower proceedings, the Commission has developed processes that take into consideration the views, recommendations, and conditions provided by federal and state agencies and other stakeholders while also meeting its own statutory obligation to license projects that are best adapted for improving or developing a waterway. Commission staff remains committed to working with all agencies, stakeholders, and Congress to ensure the most effective processing of energy infrastructure matters before the Commission. This concludes my remarks. I would be happy to answer any questions you may have.