BCSE Comments on the National Hydropower Association on the Draft Guidance to Inform Section 247 of the Energy Policy Act of 2005 – Maintaining and Enhancing Hydroelectricity Incentives

February 28, 2023

Thank you for the opportunity to share perspectives from the Business Council for Sustainable Energy (BCSE) in response to the Department of Energy (DOE) Grid Deployment Office (GDO) Draft Guidance issued on February 8, 2023 to inform its implementation on the Energy Policy Act of 2005 Section 247 hydroelectric incentive programs (*Infrastructure Investment and Jobs Act* (IIJA) Sections 40333).[1]

BCSE would like to acknowledge the submission in response to this request provided by the American Public Power Association, the Edison Electric Institute, and the National Hydropower Association. Their joint submission is a byproduct of a collaboration by companies representing all sectors of the hydropower industry – investor- owned utilities, public power and rural cooperatives, independent power producers, project developers, equipment suppliers, and environmental, engineering, and legal consultants.

The BCSE advocates for energy and environmental policies that promote markets for clean, efficient, and sustainable energy products and services. Since its founding in 1992, BCSE is focused on policy adoption that will increase the deployment of energy efficiency, natural gas, renewable energy, as well as energy storage, sustainable transportation, and emerging decarbonization technologies. As a diverse coalition, not all BCSE members take a position or endorse the issues discussed in this submission.

The Role of Hydropower in the Energy Transition

BCSE and BloombergNEF will be releasing the *2023 Sustainable Energy in America Factbook*[2] on March 1, 2023. There are several noteworthy findings from the 2023 Factbook that relate to hydropower:

- Renewables accounted for 22.7% of total US power generation in 2022 – the highest level ever. The growth was driven by surges in output from wind and solar and growth in hydropower production.

- Pumped hydropower storage is the largest energy storage resource at 67% with battery and thermal storage accounting for the rest. While pumped hydro's share of total energy storage in the US has declined in recent years, raw material prices for lithium-ion batteries have risen and this could prompt a renaissance for pumped hydro storage projects, which qualify for support under the IRA.

[1] Draft Guidance available at https://www.energy.gov/sites/default/files/2023-02/Maintaining%20and%20Enhancing%20Hydroelectricity%20Incentives%20EPAct%20247%20Draft%20Guidance.pdf
[2] Please see: www.bcse.org/factbook for the 2023 Sustainable Energy in America Factbook.

In addition, as the 2016 Hydropower Vision report noted, "existing U.S. hydropower facilities have high value within the U.S. energy sector, providing low-cost, low-carbon, renewable energy as well as flexible grid support services."[3] The report also noted the age of its fleet for power generation and pumped storage, and the need to reinvest to ensure its optimal performance. As such, the Energy Policy Act of 2005 hydroelectric production incentives are a critical component to support the needed reinvestment at existing hydroelectric projects. This is particularly important in the current environment where federal, state, and regional clean energy and market policies have favored other generation resources, particularly other renewable resources, in what is a highly competitive energy marketplace.

Ensure a Fair and Equitable Application Process for Projects

- ***DOE should fund all eligible projects and not create subjective value judgements on what is impactful.*** Congress did not authorize DOE to create a prioritization structure between categories or within categories. DOE should review each project to see if it is eligible for funding and, in the event of oversubscription, prorate the funding in order for eligible projects to receive at least some funding.

- ***Provide sufficient time for applicants to provide high quality applications.*** The Section 247 program is new for both DOE and the industry and applicants will require varying degrees of resources to put together a complete application. It is recommended that a 90-day application window be provided.

- ***DOE should provide for more flexibility regarding permits and authorizations.*** The draft guidance requires applicants to have received any and all permits and authorizations as a condition on eligibility. This requirement will limit the eligible projects to only those that are shovel ready. It is recommended that DOE condition funding on receiving any and all necessary permits and authorizations.

- ***Projects where capital was spent after November 15, 2021, may need flexibility to cure any potential deficiencies.*** It is BCSE's view that projects where capital was spent (i.e., placed in service) after the IIJA was signed by President Biden, but before guidance was finalized, are eligible. DOE should create a process such that these projects have a path to apply for these funds and cure any deficiencies so they can meet the spirit and intent of the guidance.

- ***Extend the definition of small business to include nonprofits.*** There are examples of nonprofit organizations owning and operating hydropower facilities. We see no reason to exclude this category of owner.

[3] Hydropower Vision: A New Chapter for America's Renewable Electricity Source. Issued October 2016. Pg. 2. At https://www.energy.gov/eere/water/articles/hydropower-vision-new-chapter-americas-1st-renewable-electricity-source.

- ***Include dam removal when the project is part of a larger effort to improve river health while also maintaining or increasing generation at multiple facilities.*** It is recommended that DOE consider dam removal as a safety and environmental improvement in the context of a basin-scale or regional project that maintains or increases power production. There are several examples from across the nation where a licensee removed a dam that was part of a project, or part of a series of projects, in order to eliminate safety hazards and provide environmental benefit, while still maintaining or increasing power production. Dam removal is not suitable for all projects, but where it is suitable, it can be a permanent dam safety solution that benefits the environment and can provide an economic boost through recreational tourism in the free-flowing river, while maintaining or increasing power production.

BCSE appreciates the opportunity to share its views on the Draft Guidance to Inform Section 247 of the Energy Policy Act of 2005 – Maintaining and Enhancing Hydroelectricity Incentives. Please do not hesitate to contact BCSE President, Lisa Jacobson with any questions.

Thank you for your consideration.