

Communication Protocols

- Communication Protocols - Lake Chelan Hydroelectric Project - FERC No.637
- Communication Protocols - Rocky Reach Hydroelectric Project - FERC No 2145
- Consultation Guidelines and Procedures - Rocky Reach Hydroelectric Project - FERC No 2145

COMMUNICATIONS PROTOCOL
LAKE CHELAN HYDROELECTRIC PROJECT
FERC NO. 637

FINAL

May 1, 1998

**Chelan County Public Utility District
Wenatchee, Washington**

PROTOCOL CONCERNING CONSULTATION DOCUMENTATION
AND COMMUNICATIONS WITH THE
FEDERAL ENERGY REGULATORY COMMISSION
IN THE MATTER OF
PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON
OWNER/OPERATOR OF THE
LAKE CHELAN HYDROELECTRIC PROJECT,
FERC NO. 637

1. INTRODUCTION

The following protocol is intended to provide a framework for documenting consultation among parties, and communication with the Federal Energy Regulatory Commission (FERC) staff, in the relicensing of the Lake Chelan Hydroelectric Project, FERC No. 637, located in Chelan, Washington. The project is currently owned and operated by Public Utility No. 1 of Chelan County (Chelan County PUD), Wenatchee, Washington under an existing license issued by the FERC.

2. COMMUNICATION MECHANISMS AND GUIDELINES

In the course of preparing the new license application and a Preliminary Draft Environmental Assessment (PDEA), there will be meetings open to the general public. It is recognized that ample notice of such meetings is needed, and that the transactions of such meetings require adequate documentation, especially since various constraints may prevent interested parties from attending all meetings. In addition, mechanisms are needed to establish the formal consultation record, and, to the extent that the FERC staff is involved, ensure that such consultation complies with the FERC's regulations on *ex parte* conflicts and is properly documented.

- (a) **General Communication Mechanisms** – In November and December 1997, Chelan County PUD conducted a survey of all interested parties concerning contacts for the relicensing process and the format that they would like to receive information in. Consistent with federal and state paper-reduction policies, a majority of organizations agreed to receive written relicensing materials in electronic format and for Chelan County PUD to publish this material on its internet WEB site. Chelan County PUD's WEB site is located at <http://www.chelanpud.org>.

In most instances, the following procedures will be used:

	<u>Primary</u>	<u>Backup</u>
Meeting notices	WEB and E-mail	Hard-copy
Meeting minutes	WEB with E-mail notice	Hard-copy (by request)
Major Documents	WEB and/or CD-ROM	Hard-copy (by request)
Correspondence		
From PUD	WEB and E-mail	Hard-copy (by request)
From Others	E-mail or disk	Hard-copy
Status Reports	WEB with E-mail notice	Hard-copy (by request)

If possible, Chelan County PUD requests that all correspondence be sent via E-mail or disk so that the document can be posted on the WEB. Hard copies will be scanned by Chelan County PUD and posted on the WEB.

- (b) **Participants in the Relicensing Process** – The relicensing process for the project, especially the scoping and review of the PDEA, is open to the general public and their participation is encouraged. The regulations envision the active involvement of Chelan County PUD, the FERC and its staff, state and federal resource agencies, Indian tribes, and non-governmental organizations.

A mailing list, compiled by Chelan County PUD, will be maintained to identify all interested parties to the proceedings. The service list will include the address, phone number, fax number and E-mail address. Interested parties include those agencies, organizations or individuals or groups requesting to be added through

written communication with FERC, Chelan County PUD, cooperating agencies, or through sign-in sheets at public meetings or written comment letters sent to the applicant regarding the project. The service list will be used to provide notice of any public meetings that will be held, as well as notice of the availability of information for public review. Individuals on the service list will receive all communications via E-mail, Chelan County PUD's WEB site or hard copies if requested.

- (c) **Public Reference File** – Chelan County PUD will maintain a complete public reference file at its office in Wenatchee, Washington. Copies of all written correspondence, meeting minutes, study plans, study reports and telephone discussion notes relating to relicensing of the Lake Chelan Hydro Project (FERC Project No. 637) will be kept on file at Chelan County Public Utility District, 327 North Wenatchee Avenue, Wenatchee, Washington 98801, on the Chelan County PUD WEB site, and at the FERC Public Reference Room in Washington DC. Materials will be available for review and copying by any member of the public at these three locations. Paper copies in addition to those distributed as part of the consultation process will be available for a reproduction cost of \$0.15 per page. All requests for additional hard copies should clearly indicate the document name, date, and FERC Project No. 637.
- (d) **Written Communications** – All written communications, including fax communications, meeting summaries, teleconference summaries regarding the relicensing of the Lake Chelan Hydro Project which any party intends to become part of the formal record should be addressed to Gregg Carrington, Licensing Project Manager, Chelan County PUD, 327 North Wenatchee Avenue, Wenatchee, Washington 98801. If possible, all correspondence should be sent in electronic format so that it can be posted on the WEB site.
- (e) **Teleconference Communications** – Periodic teleconference calls between those involved in the PDEA may occur on an “as-needed basis.” The party initiating the call will summarize the call and include it in the public record.
- (f) **Contact Logs** – Contact log sheets (electronic format) will be utilized to document all verbal communications. Contact log sheets will include all information pertinent to the communication, i.e., individual(s) involved, title(s), date of communication, subject of communication, issues discussed, action to be taken. A sample contact log sheet used by Chelan County PUD is provided as an attachment to this document. Contact log sheets will be utilized to track communications between the EA participants (FERC and Chelan County PUD), the cooperating agency and any other agency, the public or group.

- (g) **Public Meetings and Notice** – Meetings which are held specifically to obtain comments from the general public will be held at various points in the relicensing process. Two primary meetings will be scheduled: 1) an initial consultation/scoping meeting and site visit and 2) a meeting to obtain comments on the PDEA. Notice of each meeting will be published in newspapers of regional or state circulation at least 15 days in advance of the meeting date. In addition, it is anticipated that the FERC will publish notice in the Federal Register announcing the availability of the PDEA and the date for meeting(s) to obtain public comments.

If any other public meetings are held, they will be scheduled and noticed as described in the preceding paragraph. Chelan County PUD will prepare minutes of all meetings and circulate them among attendees for approval. Formal written comments will be solicited from all interested parties to comply with the FERC's regulations regarding consultation (e.g., during the Initial Stage Consultation (18 CFR 16.8(b)(4) and Second Stage Consultation (18 CFR 16.8(c)(5)). Additional written comments may be solicited for study plans, study reports, and other applicable documents during the consultation process. Verbal comments, if any, will be reflected in the approved meeting minutes.

- (h) **Communications with FERC Staff** – The FERC has determined that its *ex parte* rules (18 CFR 385.2201, copy attached) will apply to all communications. Any person may communicate verbally with FERC staff during the relicensing process concerning the process or the merits of the process, including preparation of the PDEA, and may take place without prior notice to other parties. All written communications, with the FERC or its staff from any party, must be filed with the Secretary of the FERC with copies to Chelan County PUD, c/o Gregg Carrington, Licensing Project Manager.

With respect to any verbal communication with the FERC staff, the communication must be summarized in written memorandum prepared by the staff member participating in the call, or by another participant in the call designated by the FERC. The applicant will document communications between them and FERC staff and FERC staff will document communications with all other entities. The memorandum shall be promptly filed in the FERC's official docket for these proceedings, which shall be available to all parties. A copy of the discussion memorandum shall be forwarded to Gregg Carrington, Chelan County PUD for inclusion in the Public Reference File maintained by the Licensee.

3. ADOPTION OF COMMUNICATIONS PROTOCOL

A draft copy of this Communications Protocol is being provided for stakeholder review and comment. Comments must be received by Chelan County PUD on or before April 1, 1998. Comments should be directed to Licensing Project Manager, Gregg Carrington at Chelan County PUD, 327 North Wenatchee Avenue, Wenatchee, Washington 98801.

ATTACHMENT NO. 1

The original 50-year license for the Lake Chelan Hydro Project was issued by the FERC (formerly the Federal Power Commission) on May 8, 1926 and post-dated back to April 1, 1924. A new 30-year license was issued in May 12, 1981 and post-dated back to March 31, 1974 (the original license expiration date). The current license will expire on March 31, 2004.

A new license application for the project must be filed with the FERC by March 31, 2002. Chelan County PUD will file its intention to seek a new license with the FERC on or about October 2, 1998. In May, 1998, Chelan County PUD intends to submit a request to use the Alternative Relicensing Process (ARP) as defined by FERC's Final Rule issued October 29, 1997 (Docket No. RM95-16-000; Order No. 596).

The ARP is intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process and by improving communications among the participants in the licensing process.

PART 4 -- LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

1. The authority citation for Part 4 continues to read as follows:
Authority: 16 U.S.C. 791a-825r, 2601-2645; 42 U.S.C. 7101-7352.
2. In G 4.34, the title is revised and a new paragraph (i) is added to read as follows:
G 4.34 Hearings on applications; consultation on terms and conditions; motions to intervene; alternative procedures.
 - (i) Alternative procedures.
 - (1) An applicant may submit to the Commission a request to approve the use of alternative procedures for pre-filing consultation and the filing and processing of an application for an original, new or subsequent hydropower license or exemption that is subject G 4.38 or G 16.8 of this chapter, or for the amendment of a license that is subject to the provisions of G 4.38.
 - (2) The goal of such alternative procedures shall be to:
 - i) Combine into a single process the pre-filing consultation process, the environmental review process under the National Environmental Policy Act and administrative processes associated with the Clean Water Act and other statutes;
 - (ii) facilitate greater participation by and improve communication among the potential applicant, resource agencies, Indian tribes, the public and

- Commission staff in a flexible pre-filing consultation process tailored to the circumstances of each
- (iii) allow for the preparation of a preliminary draft environmental assessment by an applicant or its contractor or consultant, or of a preliminary draft environmental impact statement by a contractor or consultant chosen by the Commission and funded by the applicant;
 - (iv) promote cooperative efforts by the potential applicant and interested entities and encourage them to share information about resource impacts and mitigation and enhancement proposals and to narrow any areas of disagreement and reach agreement or settlement of the issues raised by the hydropower proposal; and
 - (v) facilitate an orderly and expeditious review of an agreement or offer of settlement of an application for a hydropower license, exemption or amendment to a license.
- (3) A potential hydropower applicant requesting the use of alternative procedures must:
- (i) demonstrate that a reasonable effort has been made to contact all resource agencies, Indian tribes, citizens' groups, and others affected by the applicant's proposal, and that a consensus exists that the use of alternative procedures is appropriate under the circumstances;
 - (ii) submit a communications protocol, supported by interested entities, governing how the applicant and other participants in the pre-filing consultation process, including the Commission staff, may communicate with each other regarding the merits of the applicant's proposal and proposals and recommendations of interested entities; and
 - (iii) serve a copy of the request on all affected resource agencies and Indian tribes and on all entities contacted by the applicant that have expressed an interest in the alternative pre-filing consultation process.
- (4) As appropriate under the circumstances of the case, the alternative procedures should include provisions for:
- (i) distribution of an initial information package and conduct of an initial information meeting open to the public;
 - (ii) the cooperative scoping of environmental issues (including necessary scientific studies), the analysis of completed studies and any further scoping; and
 - (iii) the preparation of a preliminary draft environmental assessment or preliminary draft environmental impact statement and related application.
- (5) The Commission will give public notice in the Federal Register inviting comment on the applicant's request to use alternative procedures. The Commission will consider any such comments in determining whether to grant or deny the

applicant's request to use alternative procedures. Such a decision will not be subject to interlocutory rehearing or appeal.

As required by the ARP, Chelan County PUD will contact stakeholders, including resource agencies, Indian tribes, citizens' groups, and others affected by the applicant's proposal, and determine if the majority are in favor of using the alternative approach. In doing so, Chelan County PUD will conduct informal meetings with stakeholders to discuss the ARP, communications protocol, timeline, existing project information, and preliminary issues. If a majority of stakeholders are in favor, Chelan County PUD will request the FERC's approval to use the alternative relicensing procedure. At that time, Chelan County PUD will show that consensus exists, file a copy of the communications protocol, and serve a copy of the request on all interested parties. After these conditions are met, the FERC will publish a notice of the request to use the alternative relicensing process and solicit comments on the proposal.

PUBLIC REPORTING REQUIREMENTS

As part of the relicensing process, Chelan PUD will do the following:

- (a) In their request for alternative procedures, demonstrate that a reasonable effort has been made to contact all resource agencies, Indian tribes, citizens' groups, and others affected by the applicant's proposal, and that a consensus exists that the use of alternative procedures is appropriate under the circumstances.
- (b) Prepare and submit request to use the ARP to the FERC and serve a copy of this request to all affected parties contacted by the applicant that have expressed an interest in the alternative process; (The core of this request will present the final communications protocol, supported by interested entities, that will govern how the participants in the pre-filing consultation process may communicate with each other regarding the merits of the applicant's proposal and the proposals and recommendations of interested parties.)
- (c) Submit a mailing list of participants for the alternative process to the FERC for approval;
- (d) Prepare and distribute scoping of environmental issues and hold related meetings;
- (e) Develop and distribute agendas and other documents, including minutes, for all meetings (except those not attended by Chelan PUD);
- (f) Prepare and publish public notices;
- (g) Prepare and submit semi-annual progress reports and make other required FERC filings; and
- (h) Maintain a complete public file of the pre-filing consultation proceedings.

Chelan County PUD will also issue public notice of the availability of the study reports on or about October 1999 and will solicit requests for additional studies on or about January 2000. Results from the 2000 field season will be incorporated into the review-copy of the draft license application.

CHELAN COUNTY PUD

Telephone Log
For Relicensing Core Team

Date:	
Contact Person:	
Organization:	
Phone Number:	

Brief Details of Discussion:

Follow-Up Actions:

<input type="checkbox"/> Notify _____ <input type="checkbox"/> Contact Core Team ASAP <input type="checkbox"/> Tickle for _____ <input type="checkbox"/> Return Call <input type="checkbox"/> Other (See Notes) <input type="checkbox"/> Enter in Soft Solutions	<p>NOTES</p> <div style="border: 1px solid black; height: 100px;"></div>
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Employee's Name

<i>Core Member</i>	
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(Please forward a copy of all telephone logs to Rosana Sokolowski)

COMMUNICATIONS PROTOCOL

FINAL

**FOR THE RELICENSING OF THE
ROCKY REACH HYDROELECTRIC PROJECT
FERC Project No. 2145**

July 7, 1999
(Revised March 6, 2001)



**Public Utility District No. 1 of Chelan County
Wenatchee, Washington**

**Rocky Reach Hydroelectric Project
Federal Energy Regulatory Commission Project No. 2145**

**Protocol Concerning Consultation Documentation
and Communications with All Interested Parties and the
Federal Energy Regulatory Commission**

**FINAL – July 7, 1999
(Revised March 6, 2001)**

1. Introduction

The following protocol is intended to provide a framework for coordinating communications and documenting consultation among all interested parties (participants) in the relicensing of the Rocky Reach Hydroelectric Project, FERC No. 2145, located in Wenatchee, Washington. The project is currently owned and operated by Public Utility No. 1 of Chelan County (Chelan County PUD), Wenatchee, Washington, under an existing license issued by the FERC. Interested parties are defined as anyone that is included on the distribution list for this Project as specified in Section 2(b) of this document.

2. Communication Mechanisms and Guidelines

In the course of preparing the new license application and a Preliminary Draft Environmental Assessment (PDEA), there will be meetings open to the general public. It is recognized that ample notice of such meetings is needed, and that the transactions of such meetings require adequate documentation, especially since various constraints may prevent interested parties from attending all meetings. In addition, mechanisms are needed to establish the formal consultation record.

- (a) **General Communication Mechanisms** – In June 1998, Chelan County PUD conducted a survey of all interested parties concerning contacts for the relicensing process and the form in which they would like to receive information. In addition, Chelan County PUD customer/owners were given an opportunity to be included on the mailing list by filling out a January/February bill stuffer. Consistent with federal and state paper-reduction policies, a majority of organizations agreed to receive written relicensing materials in electronic format and for Chelan County PUD to publish this material on its Internet Web site. Chelan County PUD's Web site is located at <http://www.chelanpud.org>.

Unless otherwise specified, the following procedures will be used:

<u>Documentation</u>	<u>Primary</u>	<u>Backup</u>
Meeting notices:	Web, e-mail, Hard-copy	Hard copy
Meeting minutes:	Web with e-mail notice	Hard copy (by request)
Major documents:	Web and/or CD-ROM	Hard copy (by request)
Correspondence:		
From PUD	Web and e-mail	Hard copy (by request)
From interested parties to FERC or PUD	e-mail or disk	Hard copy
Written contact logs:	Web and e-mail	Hard copy (by request)
Status reports:	Web with e-mail	Hard copy (by request)

If possible, Chelan County PUD requests that all correspondence be sent e-mail or disk so that the document can be posted on the Web. Hard copies will be scanned by Chelan County PUD and posted on the Web.

- (b) **Interested Parties in the Relicensing Process** – The relicensing process for the project, including the scoping and review of the PDEA, is open to the general public and their participation is encouraged. The regulations envision the active involvement of Chelan County PUD, the FERC and its staff, state and federal resource agencies, American Indian tribes, non-governmental organizations and individuals.

A distribution list, compiled by Chelan County PUD, will be maintained to identify all interested parties to the proceedings. The distribution list will include the address, phone number, fax number and e-mail address. Interested parties include those agencies, organizations, individuals or groups requesting to be added through written communication with FERC, Chelan County PUD, or through sign-in sheets at public meetings or written comment letters sent to the applicant regarding the project. The distribution list will be used to identify interested parties about any public meetings that will be held, as well as notice of the availability of information for public review. Interested parties will receive all information as specified in Section 2(a).

- (c) **Public Reference File** – The public reference file constitutes a formal written record of the pre-filing consultation process. All documents entered into the public reference file will also be filed with FERC and entered into the administrative record. Complete public reference files will be available at Chelan County PUD, 327 North Wenatchee Avenue, Wenatchee, Washington 98801, on the Chelan PUD Web site (www.chelanpud.org), and at the FERC Public Reference Room in Washington, D.C. Materials will be available for review and copying by any member of the public at these three locations.

Paper copies in addition to those distributed as part of the consultation process will be available for a reproduction cost of \$0.15 per page. All requests for

additional hard copies should clearly indicate the document name, date, and FERC Project No. 2145. Chelan PUD intends to update all reference files on a weekly basis.

- (d) **Written Communications** – All written or electronic communications, including fax communications, meeting summaries, teleconference summaries regarding the relicensing of the Rocky Reach Hydro Project which any party intends to become part of the formal record should be sent to Gregg Carrington, Licensing Project Manager, Chelan County PUD, 327 North Wenatchee Avenue, Wenatchee, Washington 98801 (gregg@chelanpud.org). If possible, all correspondence should be sent in electronic format so that it can be posted on the Web site.

- (e) **Teleconference Communications** – Periodic teleconference calls between Chelan County PUD, FERC and interested parties may occur on an “as-needed basis.” Chelan County PUD will be responsible for recording and distributing teleconference summaries, unless Chelan County PUD is not directly involved in the conversation. If other parties wish to have their communications included as part of the record, they will be responsible for summarizing and sending them to Chelan County PUD. Phone calls or meetings for the purpose of a caucus among various participants need not be summarized for the official record.

Within 15 days of the call, teleconference summaries will be distributed to all participants on the call for review and comment. Comments must be submitted within 30 days upon receipt of the summaries. Any comments received, together with final versions of such minutes, will be included in the public reference file.

- (f) **Contact Logs** – Contact log sheets (electronic format) will be utilized to document oral communications intended to become part of the official record. In cases involving conversations with the FERC, the party initiating the call will summarize the call and submit it to Chelan County PUD to be included in the public record. Contact log sheets will include all information pertinent to the communication, i.e., individual(s) involved, title(s), date of communication, subject of communication, issues discussed, action to be taken. A sample contact log sheet used by Chelan County PUD is provided as an attachment to this document. Contact log sheets will be utilized to track communications between FERC, Chelan County PUD and other interested parties.

- (g) **Meetings**

Formal Public Meetings and Notice – Formal public meetings will be held specifically to obtain comments from the general public at various points in the relicensing process. Two primary meetings will be scheduled: 1) an initial consultation/scoping meeting and site visit and 2) a meeting to obtain comments on the PDEA. In addition to written notification to all parties in the distribution list, notice of each meeting will be published in newspapers of regional or state

circulation at least 15 days in advance of the meeting date. In addition, it is anticipated that the FERC will publish notice in the Federal Register announcing the availability of the PDEA and the date for meeting(s) to obtain public comments.

If any other formal public meetings are held, they will be scheduled and noticed as described in the preceding paragraph. Within 30 days of the meeting, Chelan County PUD will prepare draft minutes of meetings and circulate them among attendees for review and comment. Comments must be submitted within five days of distribution. Any comments received, together with final versions of such minutes, will be included in the public reference file. Formal written comments will be solicited from all interested parties to comply with the FERC's regulations regarding consultation (e.g., during the Initial Stage Consultation (18 CFR 16.8(b)(4) and Second Stage Consultation (18 CFR 16.8(c)(5))). Additional written comments may be solicited for study plans, study reports, and other applicable documents during the consultation process.

Full Relicensing Team Meetings – Chelan PUD will hold monthly meetings for the full relicensing team on the day after the fourth Wednesday (Thursday) of each month. All full relicensing team meetings are open to the public. The purpose of these monthly (coordination) meetings is to summarize activities associated with all resource areas (fisheries, water quality, recreation, etc.). Preliminary agendas will be provided to all interested parties at least 15 days prior to scheduled meetings, except under exceptional circumstances. Parties may submit proposed changes in writing within one week of receipt of the agenda or may suggest changes at the meeting. Written materials that need to be reviewed prior to the meetings will be provided to interested parties at least seven days prior to scheduled meetings, except under exceptional circumstances. Chelan PUD will provide a facilitator during certain meetings or if requested by a majority of participating members. The full relicensing team is described in more detail in the Consultation Guidelines and Procedures dated July 7, 1999.

Working Group Meetings – Chelan PUD will hold meetings on an as-needed basis to coordinate activities (study plan development, field work, etc.) associated with specific resource areas. All working group meetings are open to the public. These working groups include, but are not limited to: water quality, fisheries, wildlife and riparian, recreation and aesthetics, historical and cultural, land use and socioeconomics and engineering (operations and erosion). The purpose of the working group meetings is to discuss details associated with each of the resource areas described above. Unless otherwise agreed to by working group members, preliminary agendas will be provided to all interested parties at least 15 days prior to scheduled meetings. Interested parties may submit proposed changes in writing within one week of receipt of the agenda or may suggest changes at the meeting. Written materials that need to be reviewed prior to the meetings will be provided to interested parties at least seven days prior to scheduled meetings, except under

exceptional circumstances. Chelan PUD will provide a facilitator during certain meetings or if requested by a majority of working group members. Working groups are described in more detail in the Consultation Guidelines and Procedures dated July 7, 1999.

- (h) **Six-Month Progress Reports** – Chelan PUD will provide the FERC with a complete set of communications every six months. These progress reports will be provided in electronic format (CD-ROM). Copies of the reports will be available to other parties on Chelan PUD’s Web site or on CD-ROM, if requested.
- (i) **Communications with FERC Staff** – The FERC recently revised its ex-parte rules (88 FERC ¶ 61,225) and determined that the rule prohibiting off-the-record communications does not apply to the alternative relicensing process (ARP) because the alternative procedures occur before a license application is filed, prior to any “proceeding” at the Commission. Therefore, any participant may communicate with FERC staff during the prefiling period without any special documentation of the communication.
- (j) **Duration and Termination** – The Communications Protocol shall remain in effect until a new FERC license is issued or until interested parties decide that the Communications Protocol is no longer necessary or appropriate.

ATTACHMENT NO. 1

The original 50-year license to build the Rocky Reach Hydro Project was issued by the FERC (formerly the Federal Power Commission) on July 12, 1956. The current license will expire on June 30, 2006.

A new license application for the project must be filed with the FERC by June 30, 2004. Chelan County PUD will file its intention to seek a new license with the FERC on or about January 2000. In 1999, Chelan County PUD intends to submit a request to use the Alternative Relicensing Process (ARP) as defined by FERC's Final Rule issued October 29, 1997 (Docket No. RM95-16-000; Order No. 596).

The ARP is intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process and by improving communications among the participants in the licensing process.

PART 4 -- LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

1. The authority citation for Part 4 continues to read as follows:
Authority: 16 U.S.C. 791a-825r, 2601-2645; 42 U.S.C. 7101-7352.
2. In Section 4.34, the title is revised and a new paragraph (i) is added to read as follows:
Section 4.34 Hearings on applications; consultation on terms and conditions; motions to intervene; alternative procedures.
 - (i) Alternative procedures.
 - (1) An applicant may submit to the Commission a request to approve the use of alternative procedures for pre-filing consultation and the filing and processing of an application for an original, new or subsequent hydropower license or exemption that is subject Section 4.38 or Section 16.8 of this chapter, or for the amendment of a license that is subject to the provisions of Section 4.38.
 - (2) The goal of such alternative procedures shall be to:
 - i) Combine into a single process the pre-filing consultation process, the environmental review process under the National Environmental Policy Act and administrative processes associated with the Clean Water Act and other statutes;
 - (ii) Facilitate greater participation by and improve communication among the potential applicant, resource agencies, Indian tribes, the public and Commission staff in a flexible pre-filing consultation process tailored to the circumstances of each
 - (iii) Allow for the preparation of a preliminary draft environmental assessment by an applicant or its contractor or consultant, or of a preliminary draft

- environmental impact statement by a contractor or consultant chosen by the Commission and funded by the applicant;
- (iv) Promote cooperative efforts by the potential applicant and interested entities and encourage them to share information about resource impacts and mitigation and enhancement proposals and to narrow any areas of disagreement and reach agreement or settlement of the issues raised by the hydropower proposal; and
 - (v) Facilitate an orderly and expeditious review of an agreement or offer of settlement of an application for a hydropower license, exemption or amendment to a license.
- (3) A potential hydropower applicant requesting the use of alternative procedures must:
- (i) Demonstrate that a reasonable effort has been made to contact all resource agencies, Indian tribes, citizens' groups, and others affected by the applicant's proposal, and that a consensus exists that the use of alternative procedures is appropriate under the circumstances;
 - (ii) Submit a communications protocol, supported by interested entities, governing how the applicant and other participants in the pre-filing consultation process, including the Commission staff, may communicate with each other regarding the merits of the applicant's proposal and proposals and recommendations of interested entities; and
 - (iii) Serve a copy of the request on all affected resource agencies and Indian tribes and on all entities contacted by the applicant that have expressed an interest in the alternative pre-filing consultation process.
- (4) As appropriate under the circumstances of the case, the alternative procedures should include provisions for:
- (i) Distribution of an initial information package and conduct of an initial information meeting open to the public;
 - (ii) The cooperative scoping of environmental issues (including necessary scientific studies), the analysis of completed studies and any further scoping; and
 - (iii) The preparation of a preliminary draft environmental assessment or preliminary draft environmental impact statement and related application.
- (5) The Commission will give public notice in the Federal Register inviting comment on the applicant's request to use alternative procedures. The Commission will consider any such comments in determining whether to grant or deny the applicant's request to use alternative procedures. Such a decision will not be subject to interlocutory rehearing or appeal.

As required by the ARP, Chelan County PUD will contact stakeholders, including resource agencies, American Indian tribes, citizens' groups, and others affected by the applicant's proposal, and determine if the majority are in favor of using the alternative approach. In doing so,

Chelan County PUD will conduct informal meetings with stakeholders to discuss the ARP, communications protocol, timeline, existing project information, and preliminary issues. If a majority of stakeholders are in favor, Chelan County PUD will request the FERC's approval to use the alternative relicensing procedure. At that time, Chelan County PUD will show that consensus exists, file a copy of the communications protocol, and serve a copy of the request on all interested parties. After these conditions are met, the FERC will publish a notice of the request to use the alternative relicensing process and solicit comments on the proposal.

PUBLIC REPORTING REQUIREMENTS

As part of the relicensing process, Chelan PUD will do the following:

- (a) In their request for alternative procedures, demonstrate that a reasonable effort has been made to contact all resource agencies, American Indian tribes, citizens' groups, and others affected by the applicant's proposal, and that a consensus exists that the use of alternative procedures is appropriate under the circumstances.
- (b) Prepare and submit request to use the ARP to the FERC and serve a copy of this request to all affected parties contacted by the applicant that have expressed an interest in the alternative process; (The core of this request will present the final communications protocol, supported by interested entities, that will govern how the participants in the pre-filing consultation process may communicate with each other regarding the merits of the applicant's proposal and the proposals and recommendations of interested parties.)
- (c) Submit a mailing list of participants for the alternative process to the FERC for approval;
- (d) Prepare and distribute scoping of environmental issues and hold related meetings;
- (e) Develop and distribute agendas and other documents, including minutes, for all meetings (except those not attended by Chelan PUD);
- (f) Prepare and publish public notices;
- (g) Prepare and submit semiannual progress reports and make other required FERC filings; and
- (h) Maintain a complete public file of the pre-filing consultation proceedings.

Chelan County PUD will also issue public notice of the availability of the study reports on or about November 2001 and will solicit requests for additional studies on or about December 2001. Results from the 2002 field season will be incorporated into the review-copy of the draft license application.

CHELAN COUNTY PUD

Contact Log

Date:	
Contact Person:	
Organization:	
Phone Number:	

Brief Details of Discussion:

Follow-Up Actions:

<input type="checkbox"/> Notify _____ <input type="checkbox"/> Tickle for _____ <input type="checkbox"/> Other (See Notes) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr style="background-color: black; color: white;"> <th style="padding: 5px;">NOTES</th> </tr> <tr style="height: 100px;"> <td style="width: 100%;"></td> </tr> </table>	NOTES	
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Employee's Name

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CONSULTATION GUIDELINES AND PROCEDURES

Final

**FOR THE RELICENSING OF THE
ROCKY REACH HYDROELECTRIC PROJECT
FERC Project No. 2145**

**July 7, 1999
(Revised March 6, 2001)**



**Public Utility District No. 1 of Chelan County
Wenatchee, Washington**

**Rocky Reach Hydroelectric Project
Federal Energy Regulatory Commission Project No. 2145**

**Consultation Guidelines and Procedures
FINAL – July 7, 1999
(Revised March 6, 2001)**

1. **Introduction**

The Public Utility District No. 1 of Chelan County, Washington (Chelan PUD) is seeking a new license for the existing Rocky Reach Hydroelectric Project (Rocky Reach Project) with the Federal Energy Regulatory Commission (FERC). The Rocky Reach Project is operated under the authority of the FERC in accordance with the existing FERC license that expires June 30, 2006. The Rocky Reach Project is licensed as FERC Project No. 2145.

Chelan PUD is considering the use of the Alternative Relicensing Process for the Rocky Reach Project, as allowed under FERC's Final Rule issued on October 29, 1997 (Docket No. RM95-16-000; Order No. 596). The Alternative Relicensing Process proposed by Chelan PUD is intended to expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single collaborative process and by improving and facilitating communications among the participants in the licensing process.

Chelan PUD's goals in relicensing are to:

- Maintain control of environmental analysis and resource decisions at the local, state and regional level;
- Concentrate on implementation of necessary environmental measures supported by facts;
- Avoid surprises;
- Coordinate efforts with all parties;
- Promote cooperative efforts, sharing of information and resolve areas of disagreement between all parties.
- Use the Alternative Relicensing Process; and
- Secure mutually beneficial settlement agreements.

The purpose of these guidelines is to define the goals, schedule, organizational structure, decision-making process and ground rules for participation.

2. **Regulatory Requirements**

Under the authority of the Federal Power Act (FPA) and as amended by the Electric Consumers Protection Act (ECPA) of 1986, FERC has the responsibility of issuing

licenses for non-federal hydroelectric projects. Other federal laws that affect the relicensing process include the National Environmental Policy Act (NEPA), the Fish and Wildlife Coordination Act, the National Historic Preservation Act, the Endangered Species Act, the Clean Water Act (CWA), Federal Land Management Policy Act (FLMPA) and the Wild and Scenic Rivers Act.

ECPA brought significant new requirements to the process of relicensing hydro projects. In deciding whether to issue a new license under the FPA, the FERC, in addition to the power and development purposes for which licenses are issued, gives equal consideration to the purposes of enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality. ECPA also empowers the FERC to consider if a project is consistent with federal and state comprehensive plans.

The FERC regulations governing the relicensing of hydroelectric projects are contained in Title 18 of the Code of Federal Regulations, Part 16 (18CFR16). These regulations govern the minimum consultation requirements for relicensing proceedings that follow what is known today as the “traditional relicensing process.” Chelan PUD intends to adhere to all regulatory requirements. In particular, Chelan PUD intends to adhere to the timelines contained in 18CFR16.

In implementing this alternative relicensing approach, Chelan PUD intends to produce and file an Applicant-Prepared Preliminary Draft Environmental Assessment (PDEA) in lieu of an Exhibit E with the Draft and Final License Applications. As discussed in the FERC’s Notice of Proposed Rulemaking and Final Rule on Alternative Relicensing Processes, Chelan PUD is requesting that preliminary fish and wildlife recommendations, prescriptions, and mandatory conditions be submitted by the appropriate agencies during the pre-filing consultation process.

Chelan PUD believes that submittal of this preliminary information during the pre-filing process is critical to support the development of a complete license application and comprehensive environmental review document for the Rocky Reach Project relicensing. Submittal of preliminary fish and wildlife recommendations, prescriptions, and mandatory conditions will also be required for the finalization of any settlement agreement developed during the pre-filing consultation process, if the offer of settlement is to be filed with the Final License Application. The FERC will allow the filing of final fish and wildlife recommendations, prescriptions, and mandatory conditions during its review of the licensing proposal and completion of the NEPA analysis, which will occur after submittal of the Final License Application.

3. **Goals**

The goals of the alternative relicensing process are to:

- Combine into a single process the pre-filing consultation process, the environmental review process under NEPA and administrative processes associated with the CWA and other statutes;
- Facilitate greater participation by and improve communication among the potential applicant, resource agencies, American Indian tribes, the public, and FERC staff in a flexible pre-filing consultation process tailored to the circumstances of each case;
- Allow for the preparation of a preliminary draft environmental assessment (PDEA) by an applicant or its contractor or consultant, or of an Environmental Impact Statement (EIS) by a contractor or consultant chosen by the FERC and funded by the applicant;
- Promote cooperative efforts by the potential applicant and interested parties and encourage them to share information about resource impacts and mitigation and enhancement proposals and to narrow any areas of disagreement and reach agreement or settlement of the issues raised by the hydropower proposal; and
- Facilitate an orderly and expeditious review of an agreement or offer of settlement of an application for a hydropower license, exemption or amendment to a license.

Chelan PUD has elected to follow the alternative approach in relicensing the Rocky Reach Project and has proposed preparing a PDEA through collaboration with all interested parties. In addition, a communications protocol will be issued for approval by interested parties and submitted to FERC. The communications protocol describes how Chelan PUD intends to communicate, document and distribute information related to the relicensing process among interested parties in the pre-filing consultation process, including the FERC staff.

Chelan PUD will conduct the work required to relicense the Rocky Reach Project based on the following objectives:

- Adhere to the FERC regulations and timelines.
- Prepare a license application that is technically sound and provides a reasonable balance between power and non-power values.
- Consider the impacts of relicensing on the Project's ability to provide low-cost power in light of electric industry deregulation and competitive pressures.
- Investigate ways to further develop and maximize the efficient and economic use of the available hydrologic resources for power generation purposes pursuant to FERC requirements.
- Emphasize compatibility with existing and draft federal and state resource goals and plans.
- Consider opinions and comments from interested parties and include these in the decision-making process for the Rocky Reach Project Relicensing. All remaining areas of disagreement will be documented in the final license application.
- Concentrate on project-related issues and studies (those areas impacted by project operations).
- Seek settlement agreements with all interested parties.

4. Schedule

Milestone dates for the relicensing of the Rocky Reach Project include:

1999

July 7	Issue Initial Consultation Document (ICD)
August 26	Informational meeting to discuss ICD; site visit
October 26	Comment on ICD due from interested parties
November 4	Issue Review-copy of NEPA Scoping Document No. 1 (SD1)
December 16	Informal NEPA Scoping meeting

2000

February 1	Submit Final SD1
March 23	Meeting to review Final SD1
April 1	Comments on SD1 due from interested parties

2000-2002

Conduct studies

2003

January 26	Issue Review-copy of Draft License Application, Draft PDEA and Draft Settlement
April 26	Issue Draft License Application, Draft PDEA and Draft Settlement
December 21	Review copies of Final License Application, Final PDEA and Final Settlement issued

2004

June 30, 2004	Final License Application, Final PDEA and Final Settlement issued
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Monthly Meetings

Full Relicensing Team - Day after fourth Wednesday (Thursday) of every month, holidays will be rescheduled

5. Organizational Structure and Responsibilities

Chelan PUD has contacted and anticipates various state and federal resource agencies, tribes, local government agencies and non-government organizations will be participants in the relicensing of the Rocky Reach Project. A current distribution list for all interested parties is available on the Rocky Reach Project Relicensing Web site at <http://www.chelanpud.org>. Chelan PUD also invites and encourages all interested parties to participate in the consultation process for relicensing the Rocky Reach Project.

Anyone included on the distribution list for the Rocky Reach relicensing process is considered an interested party. Interested parties can either monitor or participate in the relicensing process. Those that participate in the relicensing process can either do so through meetings or in writing. In general, there will be two types of meetings that occur

for the project consisting of full relicensing team meetings and working group meetings. In general, the purpose of the full relicensing team meetings is to update all interested parties about the status of study plans, studies, reports, etc. developed by the working groups. Eventually, the full relicensing team will assist Chelan PUD to balance Protection, Mitigation and Enhancement (PME) measures developed by each of the working groups and to develop a settlement agreement. The purpose of the working group meetings is to develop and oversee the day-to-day work products associated with specific resource areas. Eventually, each of the working groups will develop PME measures and present them to the full relicensing team. The working groups will consist of, but will not be limited to, the following resource areas:

- Water Quality
- Fisheries
- Wildlife and Riparian
- Historical and Cultural
- Recreation and Aesthetics
- Land Use and Socioeconomics
- Engineering (operations and erosion)

Full Relicensing Team – the full relicensing team will meet on the day after the fourth Wednesday (Thursday) of each month. All full relicensing team meetings are open to the general public. Specific comment periods will be provided at each meeting for the general public or observers to provide comments and recommendations. If necessary, public meetings will be held for the general public to provide additional comments and recommendations.

To become a full relicensing team member requires: 1) an individual be appointed by their organization and 2) a commitment to follow the Communications Protocol dated July 7, 1999, and the Consultation Guidelines and Procedures dated July 7, 1999. Individuals can become members of the full relicensing team by sending a request to join and agreeing to abide by the protocols and guidelines. After the full relicensing team has formed, individuals or organizations must observe at least two meetings before joining the team. As indicated above, observers will be provided with an opportunity to provide comments and recommendations during specific comment periods.

Working Groups – working groups will meet on an as-needed basis as determined by members of each of the working groups. All working group meetings will be open to the general public. Specific comment periods will be provided at each meeting for the general public or observers to provide comments and recommendations. If necessary, public meetings will be held for the general public to provide additional comments and recommendations.

To become a working group member requires: 1) an individual be appointed by their organization and 2) a commitment to follow the Communications Protocol dated July 7, 1999, and the Consultation Guidelines and Procedures dated July 7, 1999. Individuals

can become members of the working group by sending a request to join and agreeing to abide by the protocols and guidelines. After the working groups have formed, individuals or organizations must observe at least two meetings before joining the group. As indicated above, observers will be provided with an opportunity to provide comments and recommendations during specific comment periods.

6. **Decision-Making Process**

The intended product of the Alternative Relicensing Process is a final license application, PDEA and settlement agreement, which will serve as the basis for the terms and conditions of the new license. The goal is to reach consensus among all participating members including federal, state and local agencies; tribes; non-government organizations and Chelan PUD. Consensus is understood to mean that a majority of the participating members agree (do not object) to the decisions being made and that Chelan PUD and those agencies that have mandatory conditioning authority (for those decisions related to the agencies' mandatory conditioning authority) unanimously agree (do not object) to those decisions. In the interests of reaching agreement, participants are expected to make compromises in some areas. This means that participating members will make a good faith effort to address the concerns of others so that most participants do not object to the terms and conditions.

Dispute Resolution – As specified in FERC's Final Rule dated October 29, 1997, any participating member may file a request with the FERC to resolve a dispute concerning the alternative relicensing process (including a dispute of required studies), but only after reasonable efforts have been made to resolve the dispute with other participating members. No such request shall be accepted for filing unless the entity submitting it certifies that it has been served on all other participating members. The request must document what efforts have been made to resolve the dispute.

Rights in Other Forums – Participating in the alternative relicensing process does not limit the rights of any organization or individual.

7. **Ground Rules for Participation**

- Listen and respect each person's right to speak
- Commit to success of process
- Act in good faith
- Interested parties will assure that process is results oriented
- Interested parties are empowered to make and/or deliver decisions for their organizations
- Organizations will designate an individual as their spokesperson
- Spokespersons will be responsible for keeping members within their own organization informed
- Spokespersons will remain as consistent as possible
- Interested parties will adhere to the overall relicensing schedule

- Interested parties will try to resolve disputes
- Interested parties will try to reach a settlement agreement
- **Interested parties will read background materials and be prepared for all meetings.**

Meetings

- Sufficient lead time will be allowed for planning meetings (at least 30 days advance notice).
- Meeting locations will be in Chelan County, generally within the greater Wenatchee area.
- Agendas will be distributed at least 15 days in advance of the meeting unless agreed by the interested parties or working group members.
- Written materials that need to be reviewed prior to the meetings will be provided to parties at least seven days before the scheduled meeting, except under exceptional circumstances.
- Minutes will be produced within 30 days after each meeting. Approval of the meeting minutes will be assumed in the absence of any comments within five working days from the date that the minutes are distributed to parties requesting review. Any comments received, together with final versions of such minutes, will be included in the public reference file.
- Only meeting attendees can provide comments on meeting minutes.
- Next steps and action items will be summarized at the end of each meeting.
- Anyone is welcome to attend and observe the meetings; however, agendas need to be followed. Question-and-answer periods and open discussions will be available during most meetings.
- Chelan PUD will provide a facilitator during certain meetings or if requested by a majority of participating members.
- Short breaks for the purpose of a caucus can be requested at any time by any participating member or the facilitator. (Members may caucus at any other time outside the regularly scheduled meetings.)

8. **Study Design Schedule**

March – April, 1999.....	Identify Issues
April – June, 1999.....	Identify Goals and Objectives
July 7, 1999.....	Formation of working groups
July – August, 1999.....	Working group meetings begin
Sept. 1, 1999.....	Study outlines distributed - Draft
Oct. 15, 1999.....	Study outlines distributed - Final
Dec. 1, 1999.....	Study plans distributed – First draft
Jan.15, 2000.....	Study plans distributed – 2nd draft
March 1, 2000.....	Study plans distributed – Final
April 1, 2000.....	Begin field work

As discussed at the full relicensing team meeting on June 24, 1999:

- Draft study plan outlines will be developed by Chelan PUD and distributed by Sept. 1, 1999. Final study plan outlines will be finalized and distributed by each of the working groups by Oct. 15, 1999.
- The first draft of the study plans will be developed by Chelan PUD and distributed by Dec. 1, 1999. If substantive comments are received on the first draft, second drafts will be distributed by Chelan PUD by Jan. 15, 2000. If substantive comments are not received, the final versions will be distributed by Jan. 15, 2000.