

Reclamation Manual

Directives and Standards

Subject:	Project Use Power Contracts Development and Modification
Purpose:	To establish requirements for the coordination, development, and modification of project use power contracts, within the limits of the Bureau of Reclamation's policies and approved programs. The Bureau of Reclamation benefits from this Directive and Standard (D&S) by improving internal coordination of project use power contract development and modification, and by applying consistent standards to those project use power contracts.
Authority:	Reclamation Act of June 17, 1902 (32 Stat. 388), the Town Sites and Power Development Act of April 16, 1906 (34 Stat. 116), the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565), and project specific acts, as appropriate.
Approving Official:	Senior Advisor, Hydropower
Contact:	Power Resources Office (PRO) (86-51000)

1. **Introduction.** This D&S sets forth requirements for developing, amending, executing, and administering contracts for project use power (PUP)¹ to qualified entities in accordance with the authorities cited above. See Reclamation Manual (RM) D&S, *Project Use Power* (FAC 04-06), for requirements for an entity's eligibility for PUP².
2. **Applicability.** This D&S applies to all personnel involved in developing, amending, executing, and administering PUP contracts.
3. **Definitions.**
 - A. **Major Modification.** A modification of the language of an existing PUP contract or an exhibit that affects the nature of the electric service provided or terms of the PUP contract. Examples of a major modification are an addition of a delivery point or increasing the contract rate of delivery.
 - B. **Minor Modification.** A correction which is required to correct minor errors and that does not alter any obligations of a party to an existing PUP contract.
 - C. **Power Marketing Administration (PMA).** A Federal agency within the United States Department of Energy with the responsibility for marketing hydropower from Reclamation projects.

¹See Section 5 of the Town Sites and Power Development Act of April 16, 1906, and Section 5 of the Flood Control Act of December 22, 1944, for further clarification on the concept of PUP.

²Each region has different project-specific legislation and associated practices relating to PUP. The intent of this D&S is to provide a common framework for PUP contracts and to ensure that such contracts meet Reclamation requirements.

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- D. **PUP.** The electrical energy required to provide the full electrical service needed to operate and maintain project facilities, and to provide electric service for project purposes and loads in conformance with project-specific authorization.
- E. **Qualified Entity.** An entity which the appropriate regional director (RD) has determined to meet the statutory and policy requirements to receive PUP and enter into a PUP contract.
4. **Responsibilities.**
- A. **Commissioner.** The Commissioner is responsible for coordinating with the Assistant Secretary for Water and Science (ASWS) to obtain approval for establishing rate methodologies or establishing rates for PUP and energy.
- B. **Senior Advisor, Hydropower.** The Senior Advisor, Hydropower, is responsible for:
- (1) establishing, overseeing, reviewing, and revising Reclamation-wide D&S to set requirements for PUP contracts;
 - (2) providing guidance to the regions on compliance with laws, policies, D&S, and other authorities that apply to PUP contracts;
 - (3) coordinating with the Reclamation Law Administration Division (RLAD) to determine whether the proposed PUP contract meets statutory and technical requirements;
 - (4) coordinating with the Office of the Commissioner on all proposed changes in rate methodologies or rate settings; and
 - (5) providing a formal response to the requesting office giving concurrence or non-concurrence that the PUP contract meets statutory and technical requirements once the required coordination with RLAD has been completed.
- C. **RD.** RDs are responsible for:
- (1) developing, amending, executing, and administering such contracts, and ensuring that PUP contracts are developed, amended, executed, and administered in their regions in accordance with this D&S, with other applicable RM Policies and D&S, and with all applicable laws, regulations, and authorities³;
 - (2) making the final determination on whether an entity will be provided PUP, in accordance with project-specific legislation, FAC 04-06, and this D&S, and approving the use of PUP;

³Execution of minor modifications to contracts will be performed by the RD without the review process that is identified in Paragraph 9 of this D&S. Execution of new PUP contracts and major modifications will be subject to the review process that is identified in Paragraph 9.

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- (3) coordinating and ensuring the collection and peer review of all necessary studies, analyses, designs, plans, specifications, and related material associated with the proposed PUP contract⁴;
 - (4) assuring that the PUP contract provisions meet statutory and technical requirements through reviews coordinated by the Senior Advisor, Hydropower;
 - (5) notifying the appropriate PMA of the intent to enter into or modify a PUP contract;
 - (6) ensuring compliance with all appropriate Federal laws including the National Environmental Policy Act (NEPA), National Historic Preservation Act,
 - (7) ensuring that the requirements identified are carried out within any defined timeframes;
 - (8) coordinating with the Commissioner's Office through the Senior Advisor, Hydropower, on establishing rate methodologies or establishing PUP and energy rates;
 - (9) contacting regional power and water stakeholders and PMAs, where appropriate, to coordinate efforts related to existing and new PUP contracts; and
 - (10) approving adjustments to power rates in cases where the rate methodology to establish the rate has been approved by the ASWS⁵.
5. **Coordination with PMAs.** Offices that rely on joint contracts with a PMA, using the PMA's contracting procedures, provisions, and services for the billing, collecting revenue, and scheduling of energy for project use, shall conform to the requirements of this D&S. The Department of the Interior rate schedules used in joint contracts shall be approved by the ASWS, pursuant to the requirements of 255 DM 1.2.I.
- A. **Western Area Power Administration (Western).** In accordance with Exhibit E to the Master Agreement dated March 26, 1980, between Reclamation and Western, Western shall be consulted during the development of future water contracts which involve electric service for PUP in Western's geographic area of responsibility and shall concur with such contracts before they are executed. Major modifications of existing PUP contracts, which are administered by Reclamation within Western's geographic area of responsibility, will not be executed without prior review and concurrence from Western.

⁴Where applicable, a Contributed Funds Agreement or similar funding agreement will be entered into with the entity requesting a PUP contract, so that advanced funds are available to Reclamation.

⁵The RD was delegated authority, pursuant to Paragraph 6.O.(1)(c) of RM *Delegations of Authority*, dated July 9, 2015, to make adjustments to rates within the confines of a methodology to establish power rates that has been approved by the ASWS. The authority to make changes to the rates that effect a change to the methodology to establish power rates has been reserved by the ASWS, pursuant to Department Manual 255 DM 1.2.I.

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- B. **Bonneville Power Administration (BPA).** Major modifications of PUP contracts, which are administered by Reclamation within BPA's geographic area of responsibility, will be subject to review and concurrence requirements of existing agreements with BPA.
6. **Contract Development.** PUP contracts will be developed in accordance with this D&S and all applicable laws and regulations.
7. **Content of Contracts⁶.** Each PUP contract will contain, at a minimum, the following articles:
- A. Preamble;
 - B. Recitals⁷;
 - C. Definitions;
 - D. Electric Service to be Furnished;
 - E. Schedule of Rates;
 - F. Payment Provisions;
 - G. Term of Contract;
 - H. Relationship to Other Contracts⁸;
 - I. General Power Contract Provisions (attached as Appendix A); and
 - J. Signature Clause.
8. **NEPA and Other Federal Environmental Compliance.** Coordination of any PUP contract activities will require completion of the appropriate level of environmental compliance. The cost of Reclamation's environmental compliance review and implementation of any resultant Federal action will be reimbursable in accordance with statutory requirements and Reclamation policy.

⁶The order of the contract articles given in Paragraph 7 is not required. This list is also not exhaustive. The RD may require additional contract articles as are determined to be necessary and appropriate.

⁷Each contract will include recitals ("whereas" statements) to communicate the parties' understanding of the contract's purpose(s) and other clarifying matters, as the parties deem appropriate. These help to tell the story of why the contract is needed.

⁸In a contract where there is no relationship to another contract, this article will state that no relationship exists to another contract.

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9. **Review Process.** The RD will coordinate and ensure completion of the following reviews and resolve any issues related to comments which have been received, prior to execution of a PUP contract or major modification to a PUP contract⁹:
 - A. Solicitor review of the proposed PUP contract or major modification;
 - B. PMA review for comments and concurrence;
 - C. Senior Advisor, Hydropower review of the proposed PUP contract or major modification, in addition to the signatory sheets indicating the completion of the Solicitor review and PMA comments and concurrence; and
 - D. ASWS review and concurrence of new or amended power rate methodologies, when necessary.
10. **Contract Execution.** The PUP contract, with attachments, will be transmitted to the requester for signature. Upon receipt of the signed PUP contract, the RD will execute the contract.
11. **Correspondence and Contracts.** Within 10 days of execution, one conformed copy of the executed or amended PUP contract will be furnished to the Office of the Commissioner, and a conformed copy will be sent to the Senior Advisor, Hydropower. All notices, requests, letter arrangements, or operating arrangements authorized by the PUP contract will be distributed similarly.

⁹This review process does not apply to minor modifications.

RECLAMATION MANUAL TRANSMITTAL SHEET

Effective Date: _____

Release No. _____

Ensure all employees needing this information are provided a copy of this release.

Reclamation Manual Release Number and Subject

Summary of Changes

NOTE: This Reclamation Manual release applies to all Reclamation employees. When an exclusive bargaining unit exists, changes to this release may be subject to the provisions of collective bargaining agreements.

Filing instructions

Remove Sheets

Insert Sheets

All Reclamation Manual releases are available at <http://www.usbr.gov/recman/>

Filed by: _____

Date: _____