

Hydro Power License Stakeholder Advisory Group – Meeting Notes

Date: September 16, 2015

Place: Chelan PUD Service Building, Wenatchee, Washington

Summary of actions

Item	Action
Request to Ecology from OFM	The agencies will send out, within a day or two, the specific question(s) asked by OFM
Summary of upcoming meeting with Rep. Fey	Don will send an e-mail summarizing his upcoming meeting with Rep. Fey (updating him on progress)
Draft report/recommendations	Another iteration of the report, that reflects Ecology's input to the report, will be issued in approximately a week and e-mailed to work group members; use this version as one to red-line and return comments back to the agencies
Additional workgroup meeting	Another meeting will be scheduled in October, likely at Ecology HQ in Lacey
Potential participation in November's Legislative Days	A meeting/briefing may be scheduled during legislative days (November 19-20) with Rep. Fey and others; if so, it's likely this workgroup will receive an invitation to participate

Welcome/Introductions/Agenda Review

The meeting was called to order at 10:00 a.m. by facilitator Neil Aaland. Introductions were made around the room. Neil reviewed the agenda.

Meeting with Rep. Fey

Don Seeberger explained that Rep. Fey called and asked for a meeting to discuss progress being made by this workgroup. This occurred immediately following the August meeting. Don reviewed the issues discussed with Rep. Fey. He told Rep. Fey that it seems that consensus on a fee approach is unlikely. It was a fairly short meeting, about fifteen minutes. Don will follow up and report back to Rep. Fey after today's workgroup meeting.

In response to a question, the meeting with Rep. Fey occurred about three days after the August meeting of this work group. Rep. Fey wants to consider scheduling a briefing or work session, and invite members of the work group. One idea is this would occur during Legislative Assembly Days, Nov. 19-20.

Don then mentioned that state financial issues have resulted in the Office of Financial Management (OFM) looking at agency budgets. They are looking at programs where fees don't fully cover costs. The FERC fee is one. OFM asked Ecology to discuss this issue with the workgroup. No decisions have been made, so far the request is only for feedback. Don said a fee for service would be difficult for Ecology to manage. Ecology's Shorelands and Environmental Assistance Program (SEA) currently has cost reimbursement agreements in place for four major projects; this is a model that could be considered. Individual contracts with each utility would be required with this approach. Ecology could not include WDFW in its contracts. Justin said that WDFW has its own authority to do cost reimbursement. In reviewing their records, he found an agreement between WDFW and Grant PUD in 2005.

Dawn asked if each project would require its own agreement. Don said that's not mandatory, but it would be up to negotiation between the utility and the agency. Rose said the issue was not that different a year ago, and wondered why they think budget issues are so different today. Don said up until a month ago at Ecology, this idea (covering the full cost) was not on the table. Rose said this would be hard for her utility

to accept. Ecology and WDFW have previously said tracking time to the extent required for cost reimbursement is difficult. Don said the difference now is a cost reimbursement approach would mean an FTE would be dedicated to that utility and duties would be listed in the contract.

Dawn said the Snohomish PUD discussed cost reimbursement for a specific project with Ecology, and were told they couldn't it. Chad said he now knows there is statutory authority. Don agreed that the Cost Recovery authority could cover this.

Christine asked what the exact question is to this work group. Don said they were asked to come to the group, get discussion on a cost reimbursement approach, and bring back this input to Ecology. Justin said WDFW has not been asked to do this. He is assuming that, with this approach, his State General Fund dollars would be gone. He said, for this approach, that a scope of work would be negotiated for each utility.

Don has not yet been able to talk with his program's legal counsel yet. He needs to confirm that the authority in CRA can include this. Marcie expressed interest in reading the rest of the CRA legislation (note: see RCW 43.21A.690). Speed mentioned his concern that if we get away from the use of state waters, that might open them up to other fees.

Ross summarized his understanding. There's a possibility that the agencies would lose roughly \$600,000 per year. The agencies would have to either increase fees or use a cost reimbursement approach. This is only for the utilities who want to step out of the general queue for permits. Don agreed with this summary.

Justin doesn't know what losing this funding would mean for WDFW. Marcie thinks this means that agencies would lose the ability to retain staff and wonders if this means that they wouldn't have the same staff working on their projects. Justin said that is what WDFW learned from its 2005 agreement with Grant County. Dave Arbaugh asked how the implementation of a permit would work – is it an agreement that would renew every two years? Don was not sure but that was a likely option. Dawn wondered if the agencies would consider using the approach of the Water Resources Program, wherein they maintain an approved list of outside consultants who conduct the review work for permits. Ecology staff were not sure that could work in this case. The WRP process is used for state permits; the FERC permits are a delegated federal permit under the Clean Water Act.

Don did not think the Water Quality Program has ever implemented a cost reimbursement agreement. Speed talked about the transparency issue discussed last meeting. What if we moved forward with the direction we discussed then? It seems premature to go in this new direction of cost reimbursement. We need time to evaluate a different approach over the next couple of years.

Dave asked who will decide whether to go with this approach. Don said he would be discussing this internally with Ecology's CFO and chief legislative liaison. He doesn't know what would happen next.

The utilities asked for time to caucus on their own. Agency staff and the facilitator left the room. A lunch break was then taken.

The meeting re-convened at 12:15. Michelle walked people through the items on the flip chart that reflected the discussion of the utilities. The high points were:

- They want to continue reviewing the draft report
- They need more information on cost reimbursements and how they work
- There is a need to reconcile regulatory responsibilities to contract obligations
- Prevailing wage requirements and contractual obligations will need to be considered

Additional discussion points included:

- This new topic of cost reimbursement should be added to the report
- This workgroup needs another meeting before they can weigh in
- Don agrees that we need another meeting, suggests having it at Ecology so he can bring other staff in as appropriate to discuss nuances of cost reimbursement
- Marcie said she might want to bring her contract experts as well
- Might not need another meeting if OFM changes its mind on this
- Rose asked what the actual request was; she'd like to understand exactly what was being asked of the agencies. Agency staff will e-mail the precise question out to work group members within a day or two of today
- Justin wonders how his agency will come up with numbers that would fund the program; do they raise the rates proportionally? Some other mechanism?
- Rose asked, if this is pursued, does this assume NO ten-year sunset? Agency staff are not clear on this
- Justin says they are looking for information on the next two years, not longer
- Don said right now, there are two key questions:
 - Why isn't the program fully funded?
 - Where do the stakeholders stand on funding?
- Marcie pointed out that the right people to discuss this are not present in the room

Neil asked Speed about his earlier comment that he came prepared to discuss a change in numbers to response to Grant PUD's issues; Speed said he has a number but if others aren't prepared to discuss he won't discuss today.

Review Draft Report

Neil explained that, since we're having another meeting, the primary need for today is to have Justin preview the draft report and answer any immediate questions. Another draft will be produced in a week, after Ecology has an opportunity to review and provide feedback to Justin, then e-mailed out to the workgroup. Workgroup members can then do a detailed "red-lined" review and get those back to Justin. The e-mail will set a due date for comments.

During and following Justin's review, comments included:

- Rose pointed out that the correct term is "investor owned utilities", not "independent utilities"
- The section on "other issues" is long; consider grouping in categories or putting in a table
- Lisa suggested differentiating between relicensing and implementation
- Dawn suggested putting definitions up front
- Marcie thinks there should be more information on the agreements between WDFW and Ecology
- The descriptions need to be clearer whether items are a proposal, or just discussion points
- Michelle wants the report to be clear that there were other proposals other than Grant PUD's proposal; it's just that Grant's proposal is the one that had numbers put to it

Summary/Next Steps

Neil summarized the next steps:

1. The agencies will send out, within a day or two, the specific question(s) asked by OFM
2. Don will send an e-mail summarizing his upcoming meeting with Rep. Fey (updating him on progress)
 - a. Dawn suggested that Don get back to the group after his meeting with the OFM/upper management so we have a better idea of what the direction is rather than waiting until the next meeting
3. Another iteration of the report, that reflects Ecology's input to the report, will be issued in approximately a week

- a. This will be e-mailed to work group members with a deadline for comments to be received
- b. Use this as the version to “red-line” and send back to Justin
- 4. Another meeting will be scheduled in October, likely at Ecology HQ in Lacey
- 5. A meeting/briefing may be scheduled during legislative days (November 19-20) with Rep. Fey and others; if so, it’s likely this workgroup will receive an invitation to participate

The meeting adjourned at approximately 2:00 pm.

Attendees:

In-person	
Neil Aaland, Facilitator	Justin Allegro, WDFW
Chad Brown, Ecology	Don Seeberger, Ecology
Christine Brewer, Avista	Marcie Steinmetz, Chelan PUD
Michelle Smith, Chelan PUD	Dave Arbaugh, Chelan/Snohomish PUDs
Rose Feliciano, Seattle City Light	Speed Fitzhugh, Avista
Ross Hendrick, Grant PUD	Dawn Presler, Snohomish PUD
Brenda White, Snohomish PUD	Lisa Rennie, TPU
Shaun Seaman, Chelan PUD	Kim Clausen, PSE
On phone:	
Todd Olson, PacifiCorp	Victoria Lincoln, AWC