

Magalie R. Salas, Secretary  
Office of the Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

**RE: Comments pursuant to Notice Requesting Comments and Establishing Public Forums and Procedures and Schedule dated September 11, 2002  
Docket No. RM02-16-000**

Dear Secretary Salas,

The Catawba-Wateree Relicensing Coalition is made up of electricity customers experiencing both the benefits and burdens of power plant operations. The coalition represents diverse interests (see participant list attached) in the Catawba-Wateree river basin. This 225 mile river basin provides water for Duke Energy Corporation's 13 hydropower plants as well as drinking water for approximately 2 million people.

Members of our coalition are very interested in the relicensing reform efforts taking place. We have recently attended the Commission sponsored Public Forum in Washington, D.C. on November 7, 2002 and have read the Interagency Hydropower Committee proposal, the National Review Group proposal and the recommendations from the American Public Power Association, the Edison Electric Institute and Alliance of Energy Suppliers, and the National Hydropower Association. We offer these comments not as a comprehensive analysis, but to emphasize ideas we see as critical to licensing hydropower projects in a transparent and efficient process with minimal impact to natural resources.

As noted at the Public Forum there is much overlap in the proposals. Our position has always been that the environmental study and analysis must begin early in the process. This is clearly the message of the IHC and NRG proposals and is endorsed by the NHA, EEI and APPA. We think that the NEPA scoping and the preparation of a draft NEPA document should be done prior to filing the license application and that a Pre-Scoping Document with comment opportunities as outlined in the IHC proposal should replace the Initial Consultation Document. We agree that a clear dispute regulation process should be an integral part of the pre-filing process and that predictable time frames benefit all parties.

Of special importance to us is the meaningful inclusion of NGOs and other stakeholders who do not have mandatory conditioning authority or resource agency or Tribal status. A source of expense and duplicated efforts as well as litigation can be avoided if these stakeholders are allowed to participate with equal consideration from the beginning. Therefore we recommend forming stakeholder groups with charters or protocols that give them real ownership in the process. This has been a feature of the collaboration piloted in the Alternative Licensing Process and has proven successful when measured against time, cost, and overall satisfaction of the parties.

From our perspective of preserving, protecting and enhancing natural, recreational and aesthetic resources in a project area it is critical to act as quickly as possible before further damage is done due to ongoing practices, incomplete knowledge that studies would provide, or poor planning of Shoreline Management. The faster we can begin mitigation and enhancement discussions the less there will be to mitigate.

We agree with the need for aggressive timelines and would like to see the annual license renewal discontinued. The provision to reissue old, out of date licenses from year to year provides a disincentive to settle and to make the necessary changes to a project that is out of compliance with modern standards.

Overall we found the IHC proposal to be well formulated and agree with its recommendations. We agree that having Commission staff “on the ground” actively engaged in the process from the beginning is essential to true reform. We support a clear, transparent process where it is not assumed that the licensee is “the most directly affected” as stated in the NHA, EEI, APPA letter. Customers, residents, and users of the region’s resources that depend on the river are arguably the most directly affected. And of course there are many other species who depend on the quality and quantity of the water and project lands.

The NRG argues that the Traditional process should be retained. We however found no substantive reason for this. The only apparent advantage is that the licensees understand how it works and can use the protracted time lines and annual licenses to their benefit. They argue that a simple licensing should not require the upfront work. But if indeed it is a simple licensing with little contention, then the proposed process with the upfront work would be no more onerous than the traditional and it would have the added value of consistency, transparency and the early identification of any unforeseen problems.

If the Traditional process is retained as an option for licensees, then we recommend that it be revised so that the NEPA process is moved to pre-application filing and that the Commission be engaged in resolving study disputes and assisting in facilitating the settlement process.

For licensees who file their Notice of Intent early in 2003 but before the rule changes, we recommend that they be strongly encouraged, perhaps with incentives, to use the new rules. If, after all, the new rules are the right way to go, then they should be used in relicensings where they are appropriate regardless of whether the NOI was filed in the narrow window between drafting and implementation.

The Commission Notice specifically requested comments addressing nine issues. We will respond to several of those:

1. Need for New Licensing Process - (a) Yes, as our above comments indicate; (b) key issues are: NEPA up front; early Commission involvement; discontinue annual license renewal except for good cause; meaningful involvement of non agency stakeholders from the beginning to prevent late issues from surfacing, litigation, added expense and time.

2. Integrated process - (a) Yes, as stated in comments above with the addition of NGOs and other stakeholders input in formulating the study plans, and with availability of Dispute Resolution Process; (b) NOI and pre-scoping document filed instead of Initial Consultation Document

3. Settlements - (a) Yes (b) Commission staff involvement, open communication channels, stakeholder charters, and aggressive timelines - all these should aid in settlement negotiations.

4. Information Development (Studies) - (a) Explore NRG proposal for an advisory panel or study committee.

5. Study Dispute Resolution - (b) Both NRG and IHC proposals address this at a high level and both can be reconciled into a useful process

6. Time Periods - They appear aggressive but perhaps that is needed. We must however ensure that exceptions can be made for any studies that require longer time horizons.

7. State Processes - no comments

8. Tribal Roles and Responsibilities - no comments

9. Optional Processes - the “new” process should be the default process. If other processes are also made available they should be the exception and require a showing of good cause as to why the new process is inappropriate. To get an exception the applicant should be required to show special distinguishing characteristics of the project that would result in substantial adverse effects on the licensee and stakeholders if the new process were used.

Thank you for the opportunity to offer these comments. We look forward to engaging in the process and hope that our perspective is useful to the Commission.

Sincerely,



Victoria E. Taylor  
President, Catawba-Wateree Relicensing Coalition

**Attachment to Comments dated 2 December 2002  
re: Docket No. RM02-16-000**

**List of Catawba-Wateree Relicensing Coalition members, participants and attendees:**

American Rivers  
Burke County, NC  
Caldwell County, NC  
Catawba County, NC  
Catawba Indian Nation, SC  
Catawba Lands Conservancy, NC  
Catawba Regional Council of Governments  
Catawba Riverkeeper  
Catawba Riverkeeper Foundation

Charlotte-Mecklenberg Utilities, NC  
Centralina Council of Governments, NC  
City of Hickory, NC  
City of Rock Hill, NC  
City of Camden, SC  
Close Foundation  
Foothills Conservancy of North Carolina  
Katawba Valley Land Trust, SC  
Lake James Environmental Association  
Lake Norman Marine Commission  
Lake Wylie Chamber of Commerce  
Mecklenburg county Department of Environmental Protection  
Mountain Island Lake Association  
Nation Ford Land Trust, SC  
North Carolina Department of Natural Resources  
North Carolina Department of Parks and Recreation  
North Carolina Wildlife Resources Commission  
Real Running River Protection Association  
South Carolina Department of Natural Resources  
South Carolina Department of Health and Environmental Control  
South Carolina Parks, Recreation and Tourism  
Town of Valdese, NC  
Trout Unlimited  
Wateree Homeowners Association, Fairfield Co, SC  
Wateree Homeowners Association, Kershaw Co, SC  
Wateree Sailing Club  
Western Piedmont Council of Governments  
U.S. Fish and Wildlife