

Tuckasegee Cooperative Stakeholder Team Charter

Background

Duke Power, a division of Duke Energy Corporation, Nantahala Area (Duke or DPNA), formerly known as Nantahala Power & Light (NP&L), with headquarters in Franklin, N.C. provides electric service to customers in the western North Carolina counties of Clay, Cherokee, Graham, Jackson, Macon and Swain. DPNA provides all of its power from its 11 hydroelectric stations and 13 reservoirs to help meet the needs of its 60,000+ customers in the DPNA service area. Electric demand has grown over the years such that the DPNA hydro stations supply only about 40% of the annual power needs for DPNA customers, with the remainder being purchased at a higher cost from Duke Power's other generating assets in the Carolinas. DPNA operates these hydroelectric projects under licenses from the Federal Energy Regulatory Commission (FERC). These licenses expire in 2005 and 2006, except for the Queens Creek Project (FERC Project # 2694) which received a subsequent, 30-yr license in March, 2002. DPNA is currently seeking new / subsequent licenses from the FERC for its remaining seven hydro projects. The FERC process to obtain new licenses can take five years or more and will include an Environmental Assessment (EA) or Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA). New licenses may be issued for a 30-50 year term.

The Tuckasegee Cooperative Stakeholder Team's (Team) work will be related to the licensing process for three of DPNA's hydropower projects (West Fork (FERC Project #2686), East Fork (FERC Project #2698), and Dillsboro (FERC Project #2602)), which include seven reservoirs and six powerhouses located in the Tuckasegee River Basin of North Carolina, upstream of the U.S. Highway 441/23 Bridge in Dillsboro in Jackson County. These projects were built and began operations 50 to 80 years ago, well before modern regulatory requirements were in place. Although licenses for these projects were issued in the 1980's, they involved only limited review by resource management agencies. The process to obtain new licenses for these facilities is underway, and initial scoping comments and study requests have been provided by resource management agencies and other stakeholders and numerous studies are being completed. DPNA is using an enhanced Traditional FERC Licensing Process (or Hybrid TLP) which provides expanded public information efforts and additional opportunities for public input, but is not using the FERC's Alternative Licensing Process (ALP). Although not proposed as a formal part of DPNA's enhanced TLP, the formation and work of the Tuckasegee Cooperative Stakeholder Team is supported by DPNA and Duke Power.

Purpose

The purpose of the Tuckasegee Cooperative Stakeholder Team will be to identify issues and interests related to the East Fork, West Fork, and Dillsboro Projects and their operations. The Team will determine the information on the projects and related resources that they need to review for an improved understanding of the natural resources in the basin, project operations, and the relationship between these two. The Team will also discuss the issues related to new licenses and work to resolve areas of conflict through consensus. The Team will work cooperatively to develop recommendations for the new licenses for these projects.

Study Area

The study area will be the East Fork and West Fork of the Tuckasegee River (including Wolf Creek and Tanassee Creek) and the main stem of the Tuckasegee River downstream to Bryson City, not including tributaries unless they are affected by operations of the projects on the East and West Forks.

Stakeholder Groups and Participants

The Team consists of a broad range of stakeholders who represent various interests and uses of the waters and related natural resources of the Tuckasegee River Basin upstream of Bryson City. Although it is recognized that many stakeholders have multiple interests, for organizational purposes each Team member

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2 and alternate have been assigned to a Primary Interest Category (see Attachment 1).
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4 Members and Alternates. In the event that a Team member cannot attend a meeting, he/she may be
5 represented by an alternate of his/her choosing without concurrence of the Team. Alternates are
6 encouraged to attend Team meetings along with the Team member, but should be fully briefed by the
7 Team member before attending any meetings as the sole representative.
8

9 Voluntary Withdrawal and Replacement Appointments. If a Team member withdraws from the Team,
10 he/she may appoint a replacement (typically their alternate) from the same organization without
11 concurrence of the Team. If the member is unable to appoint a replacement from his/her organization, the
12 facilitators may appoint a replacement member from the same Primary Interest Category. Replacement
13 members are expected to take the learning initiative and spend extra time prior to their first Team meeting
14 reading through all the past meeting summaries and this charter and talking with the facilitators and other
15 Team members to be sure they understand the state of the Team's activities, how the Team operates and
16 what will be expected of them. Replacement members should strive to minimize the impact of the loss of
17 the member they're replacing on the Team's progress toward its goal (i.e. a set of consensus
18 recommendations).
19

20 New Member Appointments. A strong effort was made during the forming of the Team to encourage
21 participation by representatives from all the various interests in the study area. While it is certainly the
22 Team's desire to be inclusive and sensitive to the many various interests, the Team recognizes the need to
23 remain focused and moving ahead if the Team's goal (i.e. a set of consensus recommendations) is to be
24 achieved. When evaluating potential new members, the Team should first ensure that the interests that the
25 potential new member would represent cannot reasonably be covered by an existing Team member. If the
26 Team decides there is in fact a need to have additional interests represented, then the Team will identify
27 potential candidates and review their qualifications (e.g. past experience in collaborative team processes,
28 knowledge about the issues and the interests they represent, communications mechanisms for sharing
29 information, etc.). The Team will decide by consensus if a particular candidate should be added to the
30 Team. Once added to the Team, new members are expected to spend extra time prior to their first full
31 meeting educating themselves on the Team's history, operations and expectations in the same fashion as
32 is required for replacement Team members. New members must make every effort to minimize the impact
33 of their addition on the Team's progress toward its goal (i.e. a set of consensus recommendations). Once
34 the active negotiations have begun (i.e. once a comprehensive trial balloon (see below for description of
35 trial balloons) has been floated to the Team), new members will not be added unless the Team decides by
36 consensus that the specifics of the trial balloons under consideration significantly impact previously
37 unidentified Primary Interest Categories.
38

Constituent Representation

39 Team members will be expected to represent (1) themselves, (2) organizations to which they belong, or
40 (3) groups of constituents from a similar Primary Interest Category. Ideas presented within Team
41 discussions will not be assumed to be the official position of the organizations or groups represented
42 unless specifically stated to be so.
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Responsibilities of Team Members

Attending Meetings

45 Each Team member or alternate is expected to attend Team meetings and Team Members are expected to
46 fully participate in all meetings. In the event that a member or alternate is not able to attend a meeting of
47 the Team, and the member is not in agreement with any actions taken by the Team during his/her absence,
48 that member has until the meeting summary review at the next meeting to register his/her dissatisfaction
49 with actions taken. A limited amount of time will be devoted to old business at meetings. E-mail may be
50 used to expedite this process.
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Preparing for Meetings

Team members shall read appropriate materials and arrive prepared to work. Materials presented for discussion must be distributed at least one week in advance of the meeting or as practical.

Keeping Constituents Informed

Members are expected to keep constituents informed through active but informal means. Members will receive meeting minutes and flip chart summaries for keeping constituents informed.

Understanding and Abiding by the Charter

Team members and alternates are expected to read, fully understand and conduct themselves in accordance with the requirements of this charter.

Responsibilities of the Facilitators

Faculty of the Natural Resources Leadership Institute (NRLI) at NC State University will provide facilitation services to the Team under contract to DPNA. The primary task of the facilitators is to guide the meetings to stay within the bounds set by the Team's charter. The responsibilities include managing the Team's agenda, keeping written records of the meetings, helping the group stay on task and on process, protecting Team members and their ideas from attack, and helping members reach consensus. The facilitators will not express their views on any substantive issues and will be solely concerned with the process of the group.

Meeting Summaries

Facilitators will develop meeting summaries and will send them to the Team members, alternates and interested parties. Summaries from the previous meeting will be sent out at least one week prior to each upcoming meeting. Email will be the primary form of information dispersal and correspondence with the option of having material faxed or mailed to those that do not have access to email. Summaries shall include an attendance record, a summary of actions taken at the meeting, and other information pertaining to the deliberations. Discussion of new substantive issues will not commence until the summary of the preceding meeting is approved.

Agendas

At the end of each meeting, the Team will specify a tentative agenda for the following meeting. The facilitators will develop draft meeting agendas prior to each meeting. Final agendas will be approved by the Team at the start of each meeting and will include opportunities for public comment as required by this charter.

Roster

The facilitators will maintain a roster listing the names and contact information of individuals who have agreed to: (1) participate as active members and alternates of the Team; (2) abide by this charter; and (3) demonstrate a desire to reach consensus through this process.

Decision Process

Use of Consensus

The Team will operate by consensus and Team decisions will be made only with concurrence of all members represented at the meeting. Consensus is the decision rule that allows collaborative problem solving to work. The rule prevents the tyranny of the majority, allows building of trust and the sharing of information, especially under conditions of conflict. Consensus does not mean that everyone will be equally happy with the decision, but all do accept that the decision is the best that could be made at the time.

Consensus requires sharing of information, which leads to mutual education, which, in turn provides the basis for crafting workable and acceptable alternatives. Consensus promotes joint thinking of a diverse group and leads to creative solutions. Also, because parties participate in the deliberation, they understand the reasoning behind the recommendations and are willing to support them.

In making decisions, each Team member will indicate his/her concurrence on a specific proposal using a five-point scale. The scale allows Team members to clearly communicate their intentions, assess the degree of agreement that exists, and register their dissatisfaction without holding up the rest of the Team. The five-point scale is as follows:

- 1 – Endorsement (i.e. Member likes it).
- 2 – Endorsement with Minor Point of Contention (i.e. Basically, member likes it).
- 3 – Agreement with Minor Reservations (i.e. Member can live with it).
- 4 – Stand aside with major reservations
 - a. Do not have sufficient information to agree with this proposal/provision
 - b. Formal disagreement, but will not block the proposal/provision
- 5 – Block – Member will not support proposal, sign settlement agreement, or work with stakeholder process. Blocking means that the member may work outside the stakeholder team process to meet his interests.

Facilitators will measure the Team's consensus on a given proposal by open polling of the Team members present. Ratings will not be considered from any alternates or interested parties present when determining the Team's level of consensus. The levels of consensus are:

- Consensus - All Team members present rate the proposal as a 1, 2 or 3.
- Consensus with Major Reservations – All Team members present rate the proposal as a 1, 2 or 3, except at least one Team member rates it as a 4.
- No Consensus - Any Team member present rates the proposal as a 5.

When measuring consensus for very important decisions (e.g. the Team's final recommendations), the facilitators will typically conduct a role call allowing each Team member to rate the proposal in question one at a time and acknowledging the Team member's rating.

For the Team's final written report, any Team member that rates a recommendation as a 4 must specify their dissent in a written statement of 500 words or less for inclusion in the final written report if the member so chooses. Any Team member that rates a recommendation as a 5 is required to specify their dissent in a written statement of 500 words or less for inclusion in the final written report. Dissenters who share the same basic concerns can use a single dissent statement of 100 words or less. Dissenters will also identify themselves by name / organization on their dissent statements. The number of members standing for or against any proposal will not be reported.

Use of Trial Balloons to Reach Final Consensus Recommendations

A trial balloon is defined as an informal, preliminary proposal that attempts to comprehensively bring together recommendations to address the Team's issues and interests. Trial balloons are completely non-binding and may be withdrawn, in whole or in part, at any time prior to signing an agreement. Trial balloons are very helpful tools for progressing the Team towards consensus and Team members are encouraged to use them liberally. Because the interests vary and often compete with each other, Team members should structure trial balloons to address all the primary interests, not just the particular Team member's interests (i.e. keep trial balloons focused on mutual gains and remain open to compromise).

Input From and Information to the Public, News Media, Elected Officials and the FERC

The Team is intended to be representative of the public through the members' own organizations or affiliations, as well as through their work with other groups. All Team meetings are open to observation by the public, except for closed meetings (see below). A public comment period(s) of set duration (near the beginning, at the end or both) will be provided at each meeting of the Team and public speakers will have time limits set to allow as much participation as possible. The Team will not normally attempt to respond to public comments at the meeting in which they were made. The facilitators have the right to deny the floor to public speakers that are simply repeating previously delivered messages or that are unruly and facilitators will ask unruly public speakers to leave the premises. Summaries of Team meetings will be available to the public upon request and will also be available on the Team's website.

Except for closed meetings (see below), members of the press are welcome to attend Team meetings. Team members and alternates are free to present their interests and the interests of the groups and organizations they represent to the media. Team members and alternates will not address specific positions held by other team members or alternates, or negatively characterize the Team, other Team members, alternates, represented organizations or their interests in the media. Team members and alternates will also advise the leadership of organizations they represent that their organization should not participate in these negative media statements. Press points will be available at the end of each meeting. Team members, alternates and the organizations they represent will refrain from negotiating through the news media and will therefore avoid strong statements, whether for or against, to the media concerning the trial balloons of any team member.

Team members acknowledge a common desire to allow the Team the greatest opportunity to reach consensus agreement on its final recommendations. Team members therefore will not encourage elected officials to adopt resolutions or take positions for or against any trial balloons proposed by Team members prior to the Team's target date for reaching a settlement agreement. Team members, alternates or the organizations they represent also will not initiate formal or informal contact with the FERC to advise the FERC of their position on a particular trial balloon, whether it's for or against the trial balloon, prior to the Team's target date for reaching a settlement agreement. Nothing shall prevent members of the Team from approaching any agency or organization for the purpose of gathering information.

Closed Meetings

On occasion, the Team may determine that all or a portion of a meeting should be closed. Any Team member can propose at any time that a particular discussion topic be closed. The facilitator will then stop the discussion and determine if the Team agrees. If the Team agrees, the topic will either be tabled for another closed session or the room will be cleared of everyone except the Team members, their alternates and the facilitators before resuming the discussion. Before concluding the closed session, the Team will decide by consensus to what extent the written meeting summary shall cover the topics discussed during the closed session. All deliberations concerning the dismissal of a Team member or alternate will be conducted in closed session.

Ground Rules

In order to have the most efficient and effective process possible, Team members and alternates will follow these basic ground rules:

- A. Treat each other, the organizations represented in the Team and the Team itself with respect at all times and put personal differences aside in the interest of a successful Team.
- B. Stick to the topics on the meeting agenda; be concise and not repetitive.
- C. Work as team players and share all relevant information. Focus on honesty with tactfulness.
- D. Ask if they do not understand.
- E. Openly voice any disagreement with other members in the meetings.
- F. Look for mutually beneficial solutions.
- G. Follow through on their commitments.
- H. Share information discussed in the meeting with the organizations / constituents represented.
- I. Encourage free thinking and share relevant information with the Team.
- J. Commit to issues in which they have an interest.
- K. Speak one at a time in meetings as recognized by the facilitator.
- L. Everyone will participate, but none will dominate.
- M. Focus on the problem, not the person.
- N. Agree that it is OK to disagree.
- O. Honor a two-minute time limit for statements and responses.

Dismissal of Team Members or Alternates

Team members and alternates acknowledge the importance of understanding this charter and communicating effectively with the organizations they represent. They also acknowledge that the success of the entire Team depends on their personal commitment to reach consensus and to conduct themselves according to the basic principles set out in this charter. Any Team member or alternate can be dismissed from the Team if the Team determines by consensus that the member or alternate's actions or the official actions of the organization they represent have been substantially contrary to the Team's charter.

Procedure

Any Team member can propose the dismissal of another member or alternate at any time. The member proposing the dismissal will inform the facilitator and the facilitator will inform the member or alternate that has been proposed for the dismissal and will establish a closed session of the Team prior to beginning the Team's discussion. In the closed session, the Team member proposing the dismissal will provide a brief explanation of the grounds for dismissal, particularly pointing out actions taken that were contrary to the Team's charter. The member or alternate that is proposed for dismissal will be given an opportunity to explain their actions or the official actions of their organization to the rest of the Team, either during the same closed session, or during a closed session at the next Team meeting. The Team member or alternate that was proposed for dismissal will be required to leave the room prior to the Team's deliberations. If an alternate is proposed for dismissal, the associated Team member will abstain from the decision-making process (i.e. the five-point scale rating). In rating proposals to dismiss members or alternates, Team members will not accept a lack of knowledge of the charter's requirements or a lack of clear communication between the Team member or alternate and their organization's officials as legitimate explanations for contrary behavior.

Actions Upon Dismissal

If the Team determines that dismissal is in order, the member or alternate will be asked to leave the premises for at least the remainder of that particular meeting and may only participate as a public observer

in future Team meetings. Dependent on the circumstances, the Team may also decide that the individual will not be allowed to return to any future meetings in any capacity. If the cause of the dismissal was official actions of the member or alternate's organization contrary to the charter, the organization will not be allowed to have any members or alternates on the Team. Under no circumstances will:

- A Team member or alternate be re-instated to the Team once they have been dismissed. The Team will decide if appointment of a suitable replacement is in order and will pursue replacements as necessary.
- A Team member or alternate be dismissed simply because they or the organization they represent doesn't agree with the positions or interests of the rest of the Team.

Nature of the Final Product

The Team's final product will be a written report including at least the following sections:

- Background on the Team – Brief descriptions of the Team and its chronology, the agencies and organizations that make up the Team, the Natural Resources Leadership Institute and the relationship between the Team's activities and DPNA's hydro relicensing process. Includes a map of significant features within the study area.
- Description of the Primary Interest Categories – A paragraph describing each of the Primary Interest Categories.
- Consensus Agreement - A set of concisely worded recommendations, arrived at through the Team's consensus decision-making process, which will provide enhancement of the Tuckasegee River, its tributaries affected by DPNA's hydroelectric project, and the related natural resources of the basin. (**NOTE:** Members who register a "4" and above on the consensus agreement agree not to oppose any of the provisions in the consensus agreement to the FERC during the license application process. The license application process began in 1999 with the release of the First Stage Consultation Package by NP&L and does not end until the FERC has issued a new license for the Tuckasegee River Projects and the period for rehearing or legal challenge has ended. Any Team member's position on the consensus agreement is however subject to change if substantial new information becomes available prior to the completion of the license application process. If, based on new information, a team member changes his level of consensus to a "5", that information must be conveyed to DPNA or NRLI at which time DPNA, with input from the NRLI facilitators, will assess whether to convene the stakeholder team to renegotiate affected provisions of the consensus agreement.
- Summary of Recommendations for Which Consensus was not Achieved – A set of concisely worded recommendations that the Team discussed at length, but for which no consensus could be reached. For each recommendation, the names of dissenting member organizations will be identified.
- Settlement Agreement – The formal agreement that Team members or their organization's authorized representative will sign acknowledging their participation in the Team's activities, their concurrence that the other parts of the final written report are accurate and committing the organization that they represent to follow through on the terms of the settlement agreement. Team members acknowledge that if they or their organization's authorized representative choose not to sign the Team's settlement agreement, then that Team member and any organization they represent is not a party to the settlement agreement and therefore has no rights under it.
- Appendices – Includes this charter, the Team's roster, any dissention statements required by this charter and other significant pieces of information developed by the Team.

Schedule and Duration

The Team will meet periodically at times and locations of their choosing. The Team will work toward delivery of the following products on the noted schedule:

- First Draft Report - To allow incorporation of the Team's recommendations to the maximum extent in the draft relicense applications, the Team will complete their First Draft Report, including all sections except the Settlement Agreement section, no later than November 30, 2002.
- Final Report – To clearly establish the Team's input into the FERC relicensing process, the Team will complete their Final Report, including all sections, no later than May 1, 2003.

The Team may continue meeting after May 1, 2003 if it so chooses.

Changes to the Charter

Changes to the charter can be made at any meeting of the Team through a consensual procedure.

**TUCKASEGEE COOPERATIVE STAKEHOLDER TEAM
PRIMARY INTEREST CATEGORIES
May 15, 2003**

Primary Interest Category	Organization	Team Member	Alternate
Adjoining Property Owner Interests	Cedar Cliff & Bear Creek Lakes	Ken Dingler	
	Fenley Forest Residents	Jackie Cochrane	
	Friends of Lake Glenville	Doug Odell	Phil Fowler
	Glenshore HOA	Helen Cook	
	Glenville Community Dev. Club	Viola Bryson	Phil Fowler
	Lake Glenville - Tater Knob HOA	Carol Adams	Coleen Gottlob
	Wolf Lake Homeowners	Mike Webb	Joan Webb
Basin-wide Regulations			
Basin-wide Conservation	American Rivers Watershed Association for the Tuckasegee River WNC Alliance	David Sligh Dan Perlmutter Roger Turner	David Wheeler Bill Lyons
Boating	American Whitewater Carolina Canoe Club	Kevin Colburn Maurice Blackburn	John Gangemi
Cultural Resources			
Economic Development	Jackson Co. Planning & Econ Dev.	Tamara Crisp	
Federal Reservations	US Forest Service	Donley Hill	Ray Johns
Fish & Wildlife	NC Wildlife Federation NC Wildlife Resource Commission US Fish & Wildlife	Bill Kane Chris Goudreau Mark Cantrell	Scott Loftis John Ellis
Fishing	NC Guides Association Trout Unlimited	Kevin Howell Steve Yurkovich	Bill Sullivan
General Local Government	Eastern Band Cherokee Indians Jackson County Swain County Town of Dillsboro Town of Sylva Town of Webster	Mike Bolt Ken Westmorland Dwight Wiggins Jean Hartbarger Brenda Oliver Susan Levielle	

Primary Interest Category	Organization	Team Member	Alternate
General Public Recreation	NC Div. of Parks	Dwayne Stutzman	
Power Supply	Duke Power - Nantahala Area Duke Power	John Wishon Jeff Lineberger	Fred Alexander Steve Johnson
Water-related Business	Dillsboro River Company Signal Ridge Marina Tuckasegee Outfitters Assoc.	Shane Williams Bob Shuey James R. Jackson	Kim Williams Don Shuey Betsy Keller
Water Quality	NC Div. of Water Quality	Kevin Barnett	Callie Dobson
Water Quantity	Jackson Co. Soil & Water Cons. NC Div. Of Water Resources	Bently Robison Steve Reed	Jim Mead