



October 22, 2018

Board of Spokane County Commissioners

Spokane City Council

City of Spokane Valley Council

Dear Spokane County Commissioners, Spokane City Council & City of Spokane Valley Council Members:

On behalf of the citizens of Spokane County, including the City of Spokane, and the City of Spokane Valley, the Spokane Chapter of Citizens' Alliance for Property Rights (CAPR) requests that the Board of County Commissioners of Spokane, Spokane City Council, and the City of Spokane Valley Council impose Coordination via NEPA Title 42 USC Sections 4331, 4332 and 4333 with Federal agencies.

We suggest that you start with FERC or the Federal Energy Regulatory Commission which has approved the sale of Avista Utilities to Ontario Canada's Hydro One.

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The National Environmental Policy Act of 1970, more commonly known as NEPA, applies to the acquisition of Avista by Hydro One for the following reasons.

The sale of Avista involves a foreign entity and the Columbia River and its tributaries are where Avista serves much of its hydro-electric power, and those waterways are under Federal jurisdiction.

NEPA applies where a process

- Involves work performed by the Federal Government
- IS Funded by Federal Funds, in whole or part
- IS OR may be licensed or permitted by a Federal Agency

Under Title 42 USC Section 4331(a) & (b):

a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment,... to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, **economic**, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government **to use all practicable means, consistent with other essential**

**considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—**

So, by Federal Law: Government policy is to cooperate with **State and Local Governments**

- For **coordination** of Plans, Functions, Programs, Actions and Resources
- In a manner of serving the general welfare and to reach a harmonies relationship between man and nature
- And has a continuous responsibility to use all practicable means to the fullest extent possible to affect the policy of **COORDINATION!**

42 U.S. Code § 4332 - Cooperation of agencies; reports; availability of information; recommendations; international and national **coordination** of efforts.

- “The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the **United States** shall be interpreted and administered in accordance with the policies set forth in this chapter ...

So, by Federal Law

- Government policy is to cooperate with **State and Local Governments**
- For **coordination** of Plans, Functions, Programs, Actions and Resources
- In a manner of serving the general welfare and to reach a harmonious relationship between man and nature
- And has a continuous responsibility to use all practicable means to the fullest extent possible to affect the policy of **COORDINATION!!**

**42 U.S. Code § 4333 – Conformity of administrative procedures to national environmental policy**

- All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

**40 Code of Federal Regulations 1500.2**

- **Policy: Federal agencies SHALL, to the fullest extent possible,**
- (d) “Encourage and facilitate **public involvement** in decisions which affect the quality of the **human environment.**”
- (e) “Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of the actions upon the quality of the **human environment.**”

**Human environment:**

Is defined as an environment which includes:

**Ecological, Aesthetic, Historic, Cultural, Economic, Social, and Health** elements of life in the community.

- **1500.1 Purpose:** “The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy.
- **Section 102(2)** contains

**“ACTION FORCING** provisions to make sure that federal agencies **act according to the letter and spirit of the Act.**

The regulations that follow implement section 102(2). Their purpose is to tell federal agencies **what they must do** to comply with the procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101.”

Specific Federal Agency Regulations

- **Federal Energy Regulatory Commission (FERC)**
- On December 26, 2006 the FERC issued a Final Rule (Order 687) and regulations establishing the process by which the FERC will exercise its new responsibilities under section 313 of EPA Act 2005. We note that nothing in EPA Act 2005 or the Commission’s regulations preempt existing agency timelines mandated by federal law or regulation. Specifically, the FERC is now required to:
  - **Act as the lead agency for purposes of complying with the National Environmental Policy Act;**
- DOE adopts the regulations for implementing NEPA published by CEQ at 40 CFR parts 1500 through 1508.

Securities and Exchange Commission

- **§200.552 NEPA planning.**
- Where it is reasonably foreseeable by the Commission that it may be required to act on a matter specified in §200.551 and that matter is likely to involve major Federal action significantly affecting the quality of the **human environment**, the Commission shall:
  - (a) Advise the relevant persons as to information respecting the environment, if any, which may later be required to be submitted for Commission consideration should Commission action become necessary;
  - (b) Consult on any environmental factors involved with individuals, organizations, and state and local authorities interested in the planned action; and
  - (c) Begin implementing the procedures set forth in §§200.553 and 200.554 as soon as possible, Provided, that such procedures are not inconsistent with the Commission's authority under the Federal securities laws.

As you can see by the preceding, local governments should be simply following Federal Law by invoking coordination in the matter of the Hydro One purchase of Avista.

Citizens in Spokane County where Avista is headquartered are largely served by Avista.

The outreach to local elected officials has been wanting, since very few elected officials are aware of the ramifications to their constituents if the merger takes place.

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If electrical rates climb as they have in Ontario, this would create a huge hardship on residents and businesses in the area. This would have a negative effect on our **local economy** and tax base. We can only speculate on future rates since there has been no Cost Sharing Agreement published.

Spokane CAPR believes the control of our dams, assets, and rates by a foreign entity is a question of national security.

In light of the preceding, you are required to **coordinate** with the following citizens who have signed this letter via confirmed email and other Avista Customers and residents of Counties who would be negatively affected by the acquisition of Avista by Hydro One of Ontario.

Sincerely,

Cindy Zapotocky

Gloria Clark

Dan Clark

Martin Howser

Alene Lindstrand

Shannon Benn

Steve Busch

Glen Morgan

Scott Shock

Cindy Alia

Steve Dunham

Judy Crowder

CC to WUTC