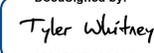
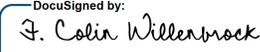
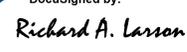




## PEND OREILLE COUNTY PUD

<p><b>Document Title:</b></p> <p style="text-align: center;"><b>Damage Claim Policy</b></p>	<p><b>Effective Date:</b></p> <p style="text-align: center;">February 1, 2022</p> <p><b>Original Date:</b> N/A</p>	<p><b>Code:</b></p> <p style="text-align: center;"><b>Operating</b></p>
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<p><b>Approved By, Title: Board of Commissioners</b></p> <p>DocuSigned by:    <small>C8DC477634BA478...</small></p> <hr/> <p><b>Curtis J. Knapp, President</b></p> <p>DocuSigned by:    <small>79B3DAA2BF62420...</small></p> <hr/> <p><b>Richard A. Larson, Vice President</b></p> <p>DocuSigned by:    <small>81A946346E274FA...</small></p> <hr/> <p><b>Joseph B. Onley, Secretary</b></p>	<p><b>Approved Date:</b></p> <p style="text-align: center;">February 1, 2022</p>	<p><b>Next Review Date:</b></p> <p style="text-align: center;"><b>Based on the District's needs</b></p>

## Contents

<b>I. Introduction</b> .....	2
<b>A. Purpose and Scope</b> .....	2
<b>B. Consistency with Applicable Laws and Regulations</b> .....	2
<b>C. Persons Responsible for Implementing this Policy</b> .....	2
<b>D. No Provision of Legal Advice</b> .....	3
<b>II. Filing a Claim</b> .....	3
<b>III. Processing a Claim</b> .....	3
<b>A. Receipt of Claims</b> .....	3
<b>B. Initial Review by General Counsel</b> .....	4
<b>C. Initial Investigation by Department Manager</b> .....	4
<b>D. Review by Risk Committee</b> .....	4
<b>E. Review by Board of Commissioners</b> .....	4
<b>F. Communication with Claimant</b> .....	5
<b>G. Tender of Insurance Claims</b> .....	5
<b>IV. General Guidelines for Staff Investigations</b> .....	5
<b>A. Customer Responsibility</b> .....	5
<b>B. District Responsibility</b> .....	5
<b>V. Document Management</b> .....	6
<b>A. Record Keeping</b> .....	6
<b>B. Review Period</b> .....	6
<b>C. References</b> .....	6
<b>D. Revision History</b> .....	6

## I. Introduction

### A. Purpose and Scope

The purpose of this Damage Claim Policy (“Policy”) is to provide District employees and claimants with a clear process for submitting and processing claims for damages under chapter 4.96 RCW.

### B. Consistency with Applicable Laws and Regulations

This Policy shall be administered and construed consistent with all then-applicable laws, regulations, or orders, and nothing in this Policy shall be administered or construed inconsistent with any then-applicable laws, regulations, or orders. This Policy shall be deemed automatically modified whenever there is a change in applicable laws or regulations referenced in this Policy. The District will endeavor to update this Policy as often as possible to reflect any changes in applicable laws, regulations, or orders. In the event a question or dispute arises regarding the subject matter of this Policy which requires its interpretation or construction, the issue will be first resolved by the District’s General Counsel, and second and finally by the District’s General Manager.

This Policy shall apply to all claims for damages arising under chapter 4.96 RCW, including specifically claims for alleged tortious conduct of the District, or the District’s officers, employees, or volunteers, acting in such capacity. To the extent claims for alleged tortious conduct require claimants to follow processes or pursue remedies under separate laws or regulations, the process described in this Policy is supplemental to, and shall not be construed as a waiver of, those separate processes or remedies.

### C. Persons Responsible for Implementing this Policy

- District Agent – Designated by the District’s Board of Directors to receive claims for damages under chapter 4.96 RCW, and transmitting such claims either to the appropriate Department Manager or the District’s General Counsel for processing in accordance with this Policy.
- Department Manager – Responsible for reviewing and investigating all damage claims pertaining to that person’s division or staff, and providing an assessment of facts pertaining to the claim.
- General Counsel – Responsible for reviewing all staff recommendations for damage claims to ensure legal sufficiency of the recommendation, and transmitting final recommendations to the Risk Committee.
- Risk Committee – The District’s Enterprise Risk Committee, responsible for reviewing all damage claims, considering approval or denial of claims valued at or below \$25,000, and making recommendations to the Board of Commissioners for all damage claims in excess of \$25,000.
- General Manager – Responsible for chairing the Risk Committee, authorizing the final approval or denial of all claims valued at or below \$25,000, and authorizing final recommendations to the Board of Commissioners for all claims in excess of \$25,000.
- Board of Commissioners – The District’s Board of Commissioners, responsible for reviewing, approving, and maintaining this Policy, and for considering all claims in excess of \$25,000.
- Treasurer – Responsible for tendering all applicable claims to the Public Utility Risk Management Service (“PURMS”), as determined by the Risk Committee.
- Clerk of the Board – Responsible for maintaining records of all submitted damage claims and related correspondence or files.

#### D. No Provision of Legal Advice

Neither the District nor any of its employees or agents may provide legal advice to claimants or any other persons. Nothing in this Policy or in related documents (e.g., the District's standard damage claim form) shall be construed as providing legal advice.

## II. Filing a Claim

All persons wishing to file a claim for damages under chapter 4.96 RCW shall present such claim using the District's standard damage claim form, which is attached to this Policy as **Exhibit A**. Copies of the damage claim form shall be made available on the District's website (popud.org) or in person at the District's Newport office (130 N. Washington, Newport, WA 99156). Any claim for damages must be presented to the District Agent within the applicable period of limitations within which an action must be commenced. A claim is deemed presented when the claim form is delivered in person or is received by the District Agent by regular mail, registered mail, or certified mail, with return receipt requested.

Pursuant to District Board Resolution No. 1459, the District Agent designated to receive claims for damages under chapter 4.96 RCW is:

Amber Gifford  
Public Utility District No. 1 of Pend Oreille County  
P.O. Box 190  
130 N. Washington Ave.  
Newport, WA 99156

The District's Board may appoint alternative or additional agents by subsequent resolution. The most recent resolution recorded with the Pend Oreille County Auditor shall control.

As provided in RCW 4.96.020(4):

No action subject to the claim filing requirements of this section shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim has first been presented to the agent of the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

## III. Processing a Claim

The following represents the steps District staff shall follow in processing damage claims.

#### A. Receipt of Claims

1. The District Agent is the sole person authorized to receive claims for damages against the District under chapter 4.96. Other processes may govern claims not arising chapter 4.96 RCW (e.g., CR 4 and RCW 4.28.080).

2. The District Agent shall, immediately upon receipt of a claim, date stamp the claim form and log the claim into the District's damage claim list on SharePoint.
3. After logging the date-stamped claim into SharePoint, the District Agent shall transmit the claim to the District's General Counsel for initial review.

#### **B. Initial Review by General Counsel**

1. The District's General Counsel shall review all claims to determine whether the claim can be investigated and processed by District staff, or whether third-party assistance is required.
  - a. The General Counsel shall be responsible for procuring and overseeing all necessary third-party investigators or outside legal counsel.
  - b. For claims eligible for staff investigation, the General Counsel shall transmit the claim to the Department Manager most appropriate to investigate the claim. For example, electrical claims should be transmitted to the Engineering Manager, water claims to the Water Systems Manager, fiber claims to the CNS Manager, etc.
2. All investigations of claims submitted under this Policy are the confidential work product of the District's General Counsel or outside counsel, and materials and facts gathered by District staff under this Policy shall not be shared with any third persons except as authorized by the District's General Counsel or outside counsel.

#### **C. Initial Investigation by Department Manager**

1. Promptly upon receipt of the claim, the Department Manager shall investigate the facts pertaining to the claim and prepare a sufficiently detailed memorandum containing such facts and an initial recommendation.
2. The investigation memorandum shall be prepared using the form provided by the District's General Counsel, and shall include all supporting documentation, pictures, witness statements, operator logbook entries, etc. as may be applicable.
3. Unless exigent circumstances exist, the Department Manager shall submit the investigation memorandum to the District's General Counsel within 10 business days of receiving the claim.
4. If the investigation memorandum appears complete, the General Counsel shall forward the claim and investigation memorandum to the District's Risk Committee.

#### **D. Review by Risk Committee**

The District's Risk Committee shall review all claims and investigation memoranda at the committee's regularly scheduled meetings.

The Risk Committee shall approve or deny all claims valued at or below \$25,000, subject to the General Manager's final authorization for such approval or denial.

For all claims valued above \$25,000, the Risk Committee shall make recommendations to the District's Board of Commissioners, subject to the General Manager's final authorization for such recommendation. The Risk Committee may, in its discretion based upon the unique facts of each claim, make recommendations to the Board of Commissioners for claims valued at or less than \$25,000.

#### **E. Review by Board of Commissioners**

The General Manager shall forward all Risk Committee recommendations to the Board of Commissioners for final approval or denial of all claims in excess of \$25,000, or as otherwise recommended by the Risk

Committee. The Board of Commissioners shall consider such claims (including potential discussion in an appropriate executive session), and either (i) approve, (ii) deny, or (iii) decline to take action on such claims in an open public meeting.

The Risk Committee shall submit to the Board a quarterly report summarizing all claims approved or denied by the Risk Committee.

#### F. Communication with Claimant

Upon disposition of a claim by the Risk Committee or the Board of Commissioners, the District's General Counsel, or his or her designee, shall communicate the District's decision to the claimant in writing. If the District approves a claim, the General Counsel will provide a settlement and release of claims agreement to the claimant, which must be executed by the claimant before any settlement payment is made.

#### G. Tender of Insurance Claims

The District's Treasurer, upon direction from the Risk Committee or Board of Commissioners, shall tender all appropriate claims to the Public Utilities Risk Management Service, or other appropriate insurer or risk pool.

### IV. General Guidelines for Staff Investigations

The following is a list of general guidelines District staff should use in analyzing claims and making staff recommendations. This list is not exhaustive and may not apply to all circumstances. Staff should consult with the District's General Counsel on specific questions of liability.

#### A. Customer Responsibility

1. Customers are responsible for the proper installation and maintenance of their own wiring and equipment. The District is not liable for accidents or damages of customer equipment and facilities due to the customer's improper or inadequate installation.
2. It is the customer's responsibility to:
  - a. Install a surge arrester, or other suitable device, to protect their home and equipment from power surges resulting from events on the electric system.
  - b. Provide the necessary equipment to prevent back-feed from customer generators, including distributed solar panels onto the District's unenergized lines meeting applicable electric codes.
  - c. Provide protection against single phasing, and under and over voltage if three-phase equipment is used.
  - d. Install and maintain electrical wiring, plumbing, and communications routing applicable with state codes including adequate grounding.

#### B. District Responsibility

1. The District may be responsible for damage that occurs to the equipment of its customers as a result of negligence, errors, or omissions by the District or its employees.
2. The District is not responsible for damages caused by events beyond the reasonable control of the District, including damages caused by acts of God or weather-related events (i.e., wind, lightning, flood, etc.), or by third parties.
3. The District will take all reasonable precautions to prevent phase failure or abnormal voltage variations, but cannot guarantee such conditions will not occur.

4. The District does not guarantee uninterrupted power, water, or fiber service, and is not liable for any damages that occur due to interruptions or weather-related events.
5. The District may be responsible for the cost of repairing, or replacing with comparable equipment, customer-owned equipment damaged by District-owned equipment if:
  - a. The District, in its sole discretion, determines the damage is a result of failed District equipment due to errors or omissions, or a failure to properly maintain the District-owned equipment, documented by a work order or service order completed by a District representative listing the failed equipment, the location, and the time of the failure; or
  - b. The customer's equipment was properly installed and protected against power surges, or other reasonably foreseen damage.

## V. Document Management

### A. Record Keeping

The Clerk of the Board shall ensure all damage claim forms and District responses are maintained in accordance with state law and the Washington State Archives' Common Records Retention Schedule.

### B. Review Period

The document owner is responsible to review this Policy as needed and when there are changes to federal, state, or local laws or guidance that may affect this Policy.

### C. References

- RCW 4.96.020

### D. Revision History

Rev.	Date	Description	By
0	02/01/2022	Initial Document Release	T. Whitney

**Exhibit A**  
**Standard Damage Claim Form**



# CLAIM FOR DAMAGES FORM

Pursuant to Chapter 4.96 RCW, this form is for filing a claim for damages against Public Utility District No. 1 of Pend Oreille County. Some of the information requested on this form is required by RCW 4.96.020. The contents of this form and all attached materials may be subject to public disclosure. If you have any questions regarding this form or the process, please email [claims@popud.org](mailto:claims@popud.org) or call 509-447-3137.

**Mail original claim to:**

Pend Oreille PUD  
Attn: Amber Gifford  
P.O. Box 190  
Newport, WA 99156

**Deliver original claim to:**

Pend Oreille PUD  
Attn: Amber Gifford  
130 N. Washington  
Newport, WA 99156

**Hours:** Monday - Friday, 8:00 a.m. to 5:00 p.m.,  
excluding weekends and holidays

**PLEASE TYPE OR PRINT IN INK**

**CLAIMANT INFORMATION**

1) Claimant's Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

2) Date of Birth: \_\_\_\_\_ (MM/DD/YYYY)

3) Current street address: \_\_\_\_\_  
\_\_\_\_\_

4) Current mailing address (if different): \_\_\_\_\_  
\_\_\_\_\_

5) Residential address on the date of the incident (if different from current address):  
\_\_\_\_\_  
\_\_\_\_\_

6) Daytime phone numbers: Cell Phone: \_\_\_\_\_ Home or Business: \_\_\_\_\_

7) Email address: \_\_\_\_\_

8) Are you represented by an attorney for this claim?  NO  YES (If yes, please answer the following)

Name of Attorney: \_\_\_\_\_

Attorney's Phone & Email: \_\_\_\_\_

**INCIDENT INFORMATION**

9) Date of Incident: \_\_\_\_\_ Time: \_\_\_\_\_  A.M.  P.M.

10) If the incident occurred over a period of time, date of first and last occurrences:

From: \_\_\_\_\_

Time: \_\_\_\_\_  A.M.  P.M.

To: \_\_\_\_\_

Time: \_\_\_\_\_  A.M.  P.M.

11) Location of Incident: \_\_\_\_\_

12) Describe what happened. *Please provide a description of the conduct and the circumstances that brought about the injury or damage. Please provide a description of the injury or damage. Explain the extent of property loss or medical injuries. Attach additional sheets if necessary.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13) I claim damages in the amount of: \$ \_\_\_\_\_

***Please attach documents to support your claim (pictures, bids, invoices, etc.)***

14) Names, addresses, and telephone numbers of all persons involved in or witnesses to this incident:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15) Names of all Pend Oreille PUD employees having knowledge of this incident: \_\_\_\_\_

\_\_\_\_\_

16) Names, addresses, and telephone numbers of all individuals not already identified in (14) and (15) above that have knowledge regarding the liability issues involved in this incident, or knowledge of the claimant's resulting damages. *Please include a brief description as to the nature and extent of each person's knowledge.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

17) Has this incident been reported to law enforcement, safety, or security personnel? If so, when and to whom? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

18) Names, addresses, and telephone numbers of treating medical providers. Attach copies of all medical reports and billings. \_\_\_\_\_

**\*\* NOTE: THIS FORM MUST BE SIGNED.** *This claim form must be signed by the Claimant, a person holding a written Power of Attorney from the Claimant, the attorney-in-fact for the Claimant, an attorney admitted to practice law in the State of Washington on the Claimant's behalf, or by a court-appointed guardian or guardian ad litem on behalf of the Claimant.*

I/we, the undersigned claimant(s), declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

X \_\_\_\_\_  
*Signature of Claimant*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Printed Name*

X \_\_\_\_\_  
*Signature of Claimant (if more than one)*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Printed Name*

**\*\*ADDITIONAL INFORMATION REQUIRED FOR AUTOMOBILE CLAIMS ONLY\*\***

License Plate No. \_\_\_\_\_

Driver's License No. \_\_\_\_\_

Automobile Year: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_

**Driver:** \_\_\_\_\_

**OWNER:** \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If you need further assistance, or have questions filling out this form, you may contact Pend Oreille PUD at: 509-447-3137 or by emailing [claims@popud.org](mailto:claims@popud.org). Once your claim is received, the PUD will perform an investigation and contact you regarding the outcome of your claim.