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April 5, 2007

Office of the General Counsel
Federal Energy Regulatory Commission
888 – 1st Street, N.E.
Washington, DC 20426-0001

RE: Future Licensing Options and Priority for FERC Project No. 606 Kilarc-Cow Creek

Dear Sir:

We would appreciate your advice. By letter e-filed 3/23/07, the prior licensee (Pacific Gas and Electric Company, PG&E) submitted a Proposed License Surrender Application Schedule for subject project. The licensee previously concluded an agreement (March 2005) with the resource agencies and other concerned parties “to operate the Project under the terms and conditions of the existing license [...] until the Project is transferred to another licensee, or is decommissioned.”

Davis Hydro, LLC would like to be the future Project Licensee to prevent unnecessary retirement of some of the facilities associated with this project. We have the ability to operate this hydro project. We have discussed the project informally with PG&E, some local agencies, local people, and numerous stakeholders. We have reviewed the physical facilities in some detail and believe there is an opportunity for reconfiguring and operating the project facilities for a better recreational, fishery, and power production balance that will be much more acceptable. The local population continues to voice objections to PG&E taking steps toward the decommissioning of the project and the loss of project benefits enjoyed by the community that could be preserved and enhanced by continued operation of the project in some form.

Presently, we request your assistance in defining how to proceed with our evaluation/design of and application for a new FERC hydro project license. To our knowledge, Title 18 Part 16 does not provide a path for a new licensee to obtain priority of application or take over a project from the present licensee during the surrender process. We have asked Mr. Guey-Lee’s office if we could submit a preliminary permit on the site. We have been informed by Mr. Bell of Mr. Guey-Lee’s office that a preliminary permit is probably not possible until the license is surrendered. From a resource perspective, that makes little sense, if PG&E decommissions the useful hydropower facilities before the FERC accepts their license surrender. We would be pleased to apply for a new license in concert and as part of a surrender process and are forwarding under separate cover, a Notice of Intent (NOI) to that effect.

We would also appreciate your assistance in removing obstacles to our assessing feasibility of this project. To determine feasibility, we need to review site documentation. The licensee, PG&E, has asked us to seek FERC guidance on their collaboration at this point. We have asked PG&E for access to historical records, maintenance costs, production, engineering details, etc. PG&E has refused pending FERC direction, fearing the perception, and perhaps reality, of interference with

their decommissioning the project to implement the surrender process per existing law, process, and agreements with the resource agencies. We have no interest to conflict PG&E with these agencies, the FERC, or the public at large, but we would like to have a path to utilizing and perhaps help manage the existing project resources for everyone's benefit.

Please advise us whether the FERC could support our efforts and encourage a collaborative process with all appropriate agencies to explore a path to a new License without inhibiting or impacting PG&E's license surrender process.

- Could the surrender process include a direct path to a new license with some of the hydropower facilities intact, assuming the surrendering licensee and all appropriate agencies concurred?
- If not, could the FERC define a new process for us to work with the current licensee and agencies to acquire a new license without the existing hydropower facilities and associated benefits being destroyed?
- Could we obtain support from the FERC in defining a path that would give us a "first-in-line" access to redeveloping the site for a new License? This would be similar to, and in lieu of, a Preliminary Permit or NOI standing. This preference would exist in view of the lack of alternative legislative direction revealed under Section 16.
- We would also appreciate it if the FERC would define a process that would encourage the existing licensee to share results of studies undertaken thus far and historical records with us, to reduce duplication of effort.

We appreciate your assistance in this matter. If there are any questions, please feel free to call at the letterhead number.

Respectfully,

Richard D. Ely
Davis Hydro

Mr. J. Katz,	FERC (OGC re previous conversations on this subject)
Mr. S. Nevares,	PG&E (Decommissioning project manager)
Mr. M. Fogelson,	PG&E (Attorney on project)
Mr. W. Guey-Lee	FERC (Hydropower Licensing)
Mr. M. Buhyoff	FERC (Project Manager, re conversation on project)
Mr. A. Soneda	PG&E (Renewable power acquisition)
Ms. K. Sackheim	Davis Hydro (FERC compliance – agency contact)