

P-606-000

**FEDERAL ENERGY REGULATORY COMMISSION**  
WASHINGTON, DC 20426

**OFFICE OF THE CHAIRMAN**

May 14, 2007

The Honorable Wally Herger  
U. S. House of Representatives  
Washington, DC 20515-0502

Dear Representative Herger:

I am writing in response to your April 16, 2007 letter regarding the Pacific Gas and Electric Company's Kilarc and Cow Creek hydroelectric facilities in Northern California (Federal Energy Regulatory Commission No. P-606).

After reviewing both your letter and the letter you attached from your constituent, Mr. Thomas Dye, Commission staff has prepared the following narrative that describes the relicensing process in general; some history of the Kilarc-Cow Creek Hydroelectric Project relicensing, including the public's role; the current status of the proceeding; and how outside entities can acquire an orphaned project's license and facilities.

Under the authority of the Federal Power Act, the Federal Energy Regulatory Commission (Commission) may issue licenses for constructing, operating, and maintaining jurisdictional hydropower projects. When a license expires, the Commission can issue a new license (relicense) to either the existing licensee or a new licensee, the federal government can assume control, or the project may be decommissioned.

On March 12, 2002, the Pacific Gas and Electric Company (PG&E) filed a notice of intent (NOI) with Commission to seek a new license for the existing Kilarc-Cow Creek Hydroelectric Project (Project). The original license was due to expire on March 27, 2007. The applicant followed the Commission's traditional licensing process (TLP). Under the TLP, the applicant must consult with all stakeholders, including the public, before and after filing a license application. Additionally, the process includes numerous periods where comments are solicited from stakeholders. Following consultations with stakeholders, in March 2005, PG&E chose not to file an application for a new license based on its determination that decommissioning was a viable and cost-effective alternative to relicensing.

In situations where an applicant has filed a NOI to file an application but does not subsequently file an application, our regulations require that we provide an opportunity for other entities to apply for the license of the newly orphaned project. On April 7, 2005, the Commission solicited applications from potential applicants other than the existing licensee, pursuant to 18 CFR § 16.25. On June 27, 2005, Synergies Energy

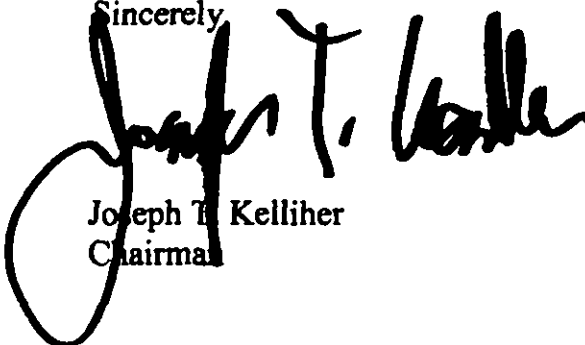
2007-00086

Services filed its NOI to file a license application for the Kilarc-Cow Creek Hydroelectric Project. Regulations require that the prospective new applicant file a license application within 18 months of its NOI filing date. However, we did not receive an application from Synergics within that 18 month time frame. Instead, Synergics requested an extension of time. On January 8, 2007, we denied Synergics' request based upon information in the record indicating that Synergics had not made sufficient progress to justify an extension of time.

Because no entity filed a timely application, PG&E is now required to prepare and file a license surrender application by March 26, 2009, in compliance with our regulations that provide for the disposition of project facilities (18 CFR § 16.25(c)). The license surrender schedule has not yet been approved by the Commission. We note that, pursuant to 18 CFR § 6.1, the license surrender process must follow the same form and manner as a project licensing, and therefore, will include numerous opportunities for public involvement and comment. Once the Commission issues a final order on PG&E's surrender application, entities are free to file applications for proposed projects at this site.

If I can be of further assistance in this or any other Commission matter, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph T. Kelliher". The signature is written in a cursive style with a large loop at the beginning.

Joseph T. Kelliher  
Chairman