

June 18, 2009

The Honorable Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 – 1st Street, N.E.  
Washington, DC 20426-0001

*filed electronically*

Ref: P-606-027-CA, Kilarc-Cow Creek Hydroelectric Project  
Application for Surrender of License by Licensee Pacific Gas and Electric Company

Re: MOTION TO INTERVENE and  
COMMENTS and RECOMMENDATIONS for TERMS AND CONDITIONS  
for Kilarc Development reflecting Alternative to Facility Dismantling

Dear Ms. Bose:

In response to the Commission's notice dated May 12, 2009, and pursuant to Commission Rules as presented in 18 CFR, Section 385, we request that KC LLC (dba KC Hydro, and supported by Davis Hydro LLC) be given intervenor status with respect to Pacific Gas and Electric Company's (PG&E's) Surrender of License application for the P-606 Kilarc-Cow Creek Hydroelectric Project.

Pertinent information is as follows:

Type of Filing: MOTION TO INTERVENE

Filing Applicant: KC LLC  
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KC LLC  
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Project No: 606-027 Kilarc-Cow Creek Hydroelectric Project  
Applicant/Licensee – Pacific Gas and Electric Company

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It is appropriate that the Commission grant us intervener status for Project 606 because it is in the public interest and no other party can adequately represent us. We have been engaged in PG&E's license surrender process since the initial applicant scoping meeting in February 2007. We became involved at the request of local community stakeholders extended earlier the same month when, under the auspices of Davis Hydro, we sought their advice and support in identifying an appropriate field site for continuing research in support of anadromous fish that has been conducted thus far only in an isolated laboratory environment at the University of California at Davis. We propose to continue working through the license surrender process and upon its conclusion to implement a win-win solution for the fish that addresses resource agencies concerns, for the community stakeholders, for the economic interests that motivated PG&E to surrender its license, and, if feasible at the same time, to achieve the dual benefits of funding for research and environmental enhancements and generation of electricity without use of fossil fuels, by applying to the FERC for authorization to operate the hydropower as a successor to PG&E.

## COMMENTS

We take exception to the assertion by the applicant, repeated in Section "k. Description of Request" in the Commission's notice, that "The applicant *consulted* with federal, state, local agencies, *and other parties with potential interest*, during the license surrender application process." (emphasis added). The principal flaw in the application development process undertaken over a two-year period by the applicant involved reliance on a March 2005 Agreement, concluded two years prior to formal scoping or communication with community stakeholders, facility users, or all alternative operators.

The community stakeholders specifically were excluded during the development of the March 2005 Agreement, and all evidence presented by the community stakeholders that conflicts with the March 2005 Agreement has been consistently ignored, minimized, or dismissed by the applicant. The area is heavily used by fishers, especially handicapped fishers. These were not consulted. The only alternative hydropower operator "consulted" was the neighboring one immediately downstream, Synergics, but PG&E failed to come to an agreement with them. No outreach was made to other hydrodevelopers such as Davis Hydro who has been working with PG&E for six years on nearby projects. In summary, the applicant has at best concluded a superficial consultation with an important, but narrow, group of interested parties. Then when other parties voiced ideas and objections, PG&E only went through the motions of receiving comments but refused to consider them in good faith in the preparation of a license surrender application.

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KC LLC first became aware of this project in February 2007, immediately prior to the first scoping meeting for the license surrender, after the project was “orphaned” and no longer eligible for licensing by another party prior to surrender of the license. We have worked with the community to develop a viable alternative to dismantling the project facilities upon license surrender, in anticipation that authorization to generate hydropower could subsequently be granted, although the proposed plan for future disposition of the facilities would not necessarily be dependent on hydropower generation, except for the manpower and funding that would thereby be available for the balance of the proposed activities and facilities maintenance.

PG&E’s license surrender application provides a single decommissioning plan that involves dismantling of essentially all project facilities. Presently, we focus attention on the Kilarc part of the P-606 License site only.

#### RECOMMENDATIONS


While PG&E has two developments included in its license, we propose that the two developments be addressed independently and the merits of plans for future disposition of facilities be considered for each development separately.

Although ignored and denied by PG&E, significant adverse impacts would result from its plan, and alternatives must be considered to minimize or eliminate these adverse impacts.

Attached to this letter is an alternative for the Kilarc Development prepared not only to address the adverse impacts of the action proposed by PG&E, but to address the concerns leading to the March 2005 Agreement in a manner that may in fact result a preferred outcome, and will certainly provide better information regarding the anadromous steelhead that are designated for protection under the Endangered Species Act.

We respectfully request that this Kilarc Development alternative be considered and the proposed research and enhancement activities be included in the Terms and Conditions of the Commission’s Order Accepting the Surrender by PG&E of its P-606 License.

Sincerely,

  
Kelly W. Sackheim, Principal  
KC Hydro

Enclosure