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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric
Company to Recover Pumped Storage Study
Costs (U 39 E)

Application No. 10-08-011

**PACIFIC GAS AND ELECTRIC COMPANY'S
REPLY TO PROTESTS**

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Pursuant to Rule 2.6(e) of the California Public Utilities Commission's ("Commission") Rule's of Practice and Procedure, Pacific Gas and Electric Company ("PG&E") hereby submits this Reply to Protests of its Application, filed on August 20, 2010, seeking authorization from the Commission to recover certain incremental feasibility, licensing and design study costs associated with a new pumped storage hydroelectric ("pumped hydro" or "pumped storage") project located within the Mokelumne River watershed ("MPSP") in Amador County, California. If ultimately constructed, the MPSP is expected to provide up to 1,200 megawatts ("MW")¹ of energy storage capability by 2020, including storage capability to integrate intermittent renewable resources into the grid, thereby helping effectuate California's new requirement that load serving entities, such as PG&E, procure thirty-three percent ("33%") of retail sales from eligible renewable energy resources by 2020.²

¹ The actual size of the MPSP would be determined over the next five years through the feasibility, licensing and design efforts discussed in the Application.

² California Air Resources Board, Resolution 10-23 (Sep. 23, 2010)(adopting 33% requirement).

By its Application, PG&E requests authority to recover study costs for the MPSP, up to \$31.900 million. In addition, PG&E seeks authority to recover up to an additional \$1.575 million for study costs associated with other potential pumped storage projects, including one on the Kings River in Fresno County, California. All costs would be recovered over a six-year period.

While the MPSP would cost an estimated \$2.5 billion to construct (subject to License requirements and detailed engineering), the costs of construction are not within the scope of the Application.

Protests to the Application were filed by the Division of Ratepayer Advocates (“DRA”), the Independent Energy Producers Association (“IEP”), and the Western Power Trading Forum (“WPTF”). Motions for Party Status were filed by the Nevada Hydro Company (“NHC”), Foothill Conservancy (“FC”), California Sportfishing Protection Alliance (“CSPA”), and The Vote Solar Initiative. For the reasons stated below, PG&E respectfully suggests that the objections stated in the Protests and Motions are without merit and should be rejected by the Commission.

I. THE ENACTMENT OF ASSEMBLY BILL 2514 DOES NOT COUNSEL FOR A MORATORIUM ON ALL ENERGY STORAGE APPLICATIONS.

DRA proposes that the Commission establish a moratorium on all energy storage funding applications until such time as the Commission completes the rulemaking proceeding required by Assembly Bill 2514 (“AB 2514”).³ DRA’s moratorium proposal should be rejected by the Commission.

³ DRA Protest at pp. 7-9.

First, AB 2514 itself states that “Nothing in this section prohibits the commission’s evaluation and approval of any application for funding or recovery of costs of any ongoing or new development, trialing, and testing of energy storage projects or technologies outside of the proceeding required by this chapter.”⁴ Thus, DRA’s proposal runs counter to the statutory text which clearly does not envision such a moratorium. Indeed, the opposite is true: the Legislature intends for the Commission to continue to process applications such as the instant one notwithstanding the initiation of the energy storage rulemaking proceeding mandated by the bill.

And for good reason, AB 2514 does not require the Commission to complete its rulemaking and adopt energy storage procurement targets for three years – until October 1, 2013.⁵ Yet, AB 2514 articulates a clear need for the deployment of additional energy storage in the near term to “optimize the use of the significant additional amounts of . . . wind and solar energy that will be entering the California power mix on an accelerated basis.”⁶ In light of the urgency underlying AB 2514, it is puzzling that DRA would cite the bill as a basis to halt for three years all regulatory proceedings involving funding for energy storage projects. Such a moratorium would appear to run completely counter to the purpose of the legislation which is to accelerate the deployment of such projects. DRA’s moratorium recommendation is particularly puzzling since DRA “questions the ratepayer’s benefits of MPSP if the online date would be

⁴ AB 2514, § 2 (adding § 2836(a)(4) to the Public Utilities Code).

⁵ AB 2514, § 2 (adding § 2836(a)(2) to the Public Utilities Code).

⁶ AB 2514, § 1(b) (emphasis supplied).

after the deadline to achieve [the] 33 percent renewable goal.”⁷ Of course, DRA’s moratorium would only increase the likelihood that the MPSP could not be brought on-line by 2020.⁸

In addition, given that one of the purposes the Legislature enumerated in adopting AB 2514 was to address the “significant barriers to obtaining the benefits of energy storage systems, including . . . inadequate statutory and regulatory support”⁹, it would be at best ironic, and, at worst, profoundly counter-productive, for the Commission to adopt a three-year moratorium on all energy storage funding applications, as suggested by DRA.

Finally, unless one believes that California does not need additional energy storage resources even after adopting a 33% renewables requirement, it is not clear why the MPSP feasibility studies cannot proceed in parallel with any Commission proceeding to establish procurement targets for energy storage systems. Certainly, PG&E will not have submitted an Application to construct the MPSP by October 1, 2013, even if it has determined by then that the project is feasible and necessary. Nor will granting the instant Application serve as a green light for the construction of the MPSP or otherwise give it the imprimatur of regulatory approval. Rather, should PG&E seek to construct the MPSP, PG&E will be required to demonstrate the project’s need and cost-effectiveness in a separate Commission proceeding. Consequently, granting the instant Application will not allow PG&E to slip the MPSP into the approval chain in advance of some cut-off and thereby prejudice other projects that may be developed at a later date, as DRA appears to suggest. Instead, it will allow PG&E to determine in a timely manner

⁷ DRA Protest at p. 3.

⁸ It is also not clear why DRA believes that “PG&E’s estimated online date of 2020 would not support the proposed RPS timetable currently under consideration.” *Id.*

⁹ AB 2514, § 1(f).

whether it makes sense to seek to construct the MPSP based on all available information, including whatever procurement targets the Commission ultimately adopts.

As things stand, meeting an in-service deadline for the MPSP of 2020 – when California’s 33% renewables requirement takes effect – is ambitious. In light of the extended lead times for major projects like the MPSP, and given the Legislature’s findings that such projects are needed “on an accelerated basis,”¹⁰ putting an arbitrary three-year hold on the project cannot be justified.

II. BECAUSE PG&E IS NOT PROPOSING TO CONSTRUCT THE MPSP, PG&E IS NOT REQUIRED TO SHOW THAT THE MPSP MEETS THE CRITERIA FOR UTILITY OWNED GENERATION.

IEP and WPTF contend that the Application circumvents the Commission’s policy of encouraging competitive solicitations for new generation projects as stated in D.07-12-052. This objection is misplaced since, as IEP acknowledges, PG&E’s request, as stated in its Application, “is merely for recovery of the costs of preliminary studies, and it is not in this application seeking approval to proceed with the MPSP or other pumped storage project.”¹¹ IEP then offers that this posture “might supply some justification for the omission of a discussion of D.07-12-052’s requirements.”¹² In fact, it supplies a complete justification. If, after performing the feasibility studies outlined in the Application, PG&E determines that construction of the MPSP is in the best interest of its customers, it will initiate a new proceeding at the Commission. In the

¹⁰ AB 2514, § 1(b).

¹¹ IEP Protest at p. 6.

¹² *Id.*

course of that proceeding, PG&E will need to justify any decision to dispense with a competitive solicitation, as provided for in D.07-12-052.¹³

Furthermore, while WPTF provides an extensive quotation from D.04-01-050 in support of its assertion that the Commission's procurement policy encourages merchant generation development,¹⁴ it fails to acknowledge that a few paragraphs prior to the selected quotation, the Commission discusses the benefits of utility-owned generation:

In weighing the arguments on market structure, we find that California should not rely solely on competitive market theory and the behavior of market generators. While market redesign is underway by the ISO and FERC, it is not complete. California has a long history of reliable service being provided by utility-owned and operated generation plant and a recent painful history of rolling blackouts and high price spikes from reliance on third-party generators in a poorly designed competitive market.

D.04-01-050 at p. 60.

Finally, IEP objects that if the Commission allows PG&E to recover its development costs, independent power producers would be at a competitive disadvantage because their proposals, which would include development costs in the bid price, would appear to be more expensive.¹⁵ This is a non-issue since PG&E would include project development costs in any utility bid to build the MPSP.¹⁶

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¹³ Note that in D.07-12-052, the Commission listed "unique circumstances warranting some form of utility ownership," *id.* at p. 210, including where a project constitutes an expansion of existing facilities. *Id.* at 211. The MPSP would entail an expansion of PG&E's existing Mokelumne River Hydroelectric Project, FERC Project No. 137.

¹⁴ WPTF Protest at p. 6 (*citing* D.04-01-050 at pp. 62-63).

¹⁵ IEP Protest at p. 7.

¹⁶ *See* D.06-05-016 at p. 51.

III. A DETAILED NEEDS ANALYSIS IS PREMATURE.

IEP faults the Application for failing to demonstrate a need for the MPSP that cannot be met by existing competitive markets for the products that the MPSP would provide.¹⁷ IEP states its objection notwithstanding that it “recognizes that PG&E will be required to demonstrate the need for the facility” in a subsequent Commission proceeding.¹⁸ PG&E will, of course, be required to make a detailed and specific showing of need should it seek to construct the MPSP. But as IEP acknowledges, that analysis would come much later in the regulatory process. What PG&E is attempting to do through the instant Application is to position its customers and California to meet a future need for utility-scale energy storage should that need prove to exist. If that need is ultimately demonstrated, and if PG&E fails to explore now the potential for a significant energy storage project as outlined in its Application, a worst-case scenario is presented for its customers and for California. For the reasons stated in its Application, PG&E believes, as a general matter, that significant energy storage resources will be needed in light of California’s 33% renewables requirement. The adoption of AB 2514 suggests that the Legislature agrees. This is a sufficient showing for present purposes and adequately supports PG&E’s request for cost recovery of up to \$33.475 million in pumped storage study costs over the next six years.

DRA argues in a similar vein that the MPSP is not needed because PG&E’s service territory has a 38.5% Planning Reserve Margin (“PRM”) for the summer of 2010.¹⁹ PG&E questions the relevance of this observation. First, that capacity is forecast to meet peak demand

¹⁷ IEP Protest at p. 3.

¹⁸ *Id.* at p. 3 n. 1.

¹⁹ DRA Protest at p. 4

does not reveal anything about the types of resources supplying that capacity and their ability, for example, to integrate significant intermittent renewable resources. With California adopting a 33% renewables requirement by 2020, resources will be needed that are capable of ramping up and down extremely rapidly to account for the sun going behind a cloud, or the wind ceasing to blow. Only pumped hydro projects have the demonstrated ability to respond to significant load changes within seconds by virtue of their quick on/off and ramp-up/ramp-down capabilities. Thus, there will almost certainly be a need for resources like the MPSP irrespective of current estimates of PRM.

Moreover, to the extent PRM is relevant, PG&E respectfully suggests that what matters is not the summer 2010 PRM, but the PRM forecasted for 2020 when the MPSP would come on-line. By way of comparison, in 2007 the PRM forecast for 2016 was 10.9%, which is substantially below the Commission's approved range of 15-17%.²⁰ Moreover, the PRM is not a fixed amount and will decrease as aging power plants retire, including plants subject to the California State Water Resources Control Board's recently-adopted once-through cooling policy.²¹ Thus, although current market and resource conditions result in the PRM for 2010 being greater than 15%-17%, the PRM in 2020, when the MPSP would come on-line, will likely be much lower than the current PRM level.

Finally, DRA's arguments are curious given the positions that DRA has recently taken in the Commission's 2010 Long-Term Procurement Plan ("LTPP") proceeding (R.10-05-006). In

²⁰ D.07-12-052, at p. 116, Table PGE-1, Line 23.

²¹ California State Water Resources Control Board, "Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling" (May 4, 2010), available at http://www.swrcb.ca.gov/water_issues/programs/npdes/docs/cwa316may2010/otcpolicy_final050410.pdf.

that proceeding, DRA submitted comments on September 21, 2010 identifying pumped storage as a key resource for integrating renewables. DRA explained:

Finally, the input in the two CAISO and PG&E models do not include any addition to the existing pump storage hydro. There are several projects that are being advanced by PG&E and independent power developers. These additions will provide a great deal of operational flexibility to the California power system and must be considered and included in the RIM analysis.²²

Given DRA's acknowledgement that pumped storage will provide a "great deal of operational flexibility" to integrate renewables, and its reference to PG&E's proposal (presumably the MPSP) which "must be considered and included in the [renewable integration] analysis," it is surprising that DRA asserts in the instant proceeding that the MPSP is unnecessary.

IV. SINCE ONE OF THE PURPOSES OF THE PROPOSED STUDIES IS TO YIELD ACCURATE COSTS OF THE MPSP, IT IS PREMATURE FOR PG&E TO DEMONSTRATE DETAILED COST-EFFECTIVENESS OF THE MPSP IN THE INSTANT PROCEEDING.

DRA and WPTF fault PG&E's Application for failing to demonstrate the cost-effectiveness of both pumped storage as a technology, and the MPSP as a specific project. The contentions are misplaced. First, given the present dearth of utility-scale storage technology, it is not clear what other inputs could be included in a cost-effectiveness analysis of the overall technology. As noted in the Application, the Under Secretary for Science at the U. S. Department of Energy has observed that, "Currently the best form of energy storage to handle really large quantities of energy is pumped hydro."²³ Similarly, the California Independent

²² DRA Comments Regarding Renewable Integration Models, filed September 21, 2010 in R.10-05-006 at p. 9.

²³ Statement of Dr. Steven E. Koonin, Under Secretary for Science, U. S. Department of Energy, Before the Committee on Energy and Natural Resources, United States Senate (Dec. 10, 2009), at p. 5. Available at [http://www.congressional.energy.gov/documents/12-10-09_Final_Testimony_\(Koonin\)_S4.pdf](http://www.congressional.energy.gov/documents/12-10-09_Final_Testimony_(Koonin)_S4.pdf). See also Testimony of Jon Wellinghoff, Chairman, Federal Energy Regulatory Commission, Before the Committee on Energy and Natural Resources, United States Senate (Dec. 10, 2009) ("Wellinghoff Testimony"), at p. 4 ("To date, the most used bulk electricity storage technology has been pumped storage hydroelectric technology"). Available at

System Operator (“CAISO”) has observed that pumped hydro is the best available resource for near-term deployment to meet the anticipated expansion in large-scale energy storage capability in California.²⁴ In fact, while there are numerous promising storage technologies in development (some of which PG&E is helping to test), there are no other technologies available today that could provide the same potential 1,200 megawatt storage capacity of the MPSP. Thus, a comparison of the cost-effectiveness of pumped storage to some of the emerging storage technologies would not result in an apples-to-apples comparison and, therefore, would be of little value for development purposes.

With respect to the cost-effectiveness of the MPSP in particular, WPTF correctly notes several factors that would typically be considered in a cost-effectiveness analysis for a pumped storage project, including:

- Topography of the area;
- Types and sizes of power plants in the utility’s system;
- Height of the head;
- Geography in the area;
- Cost of power to pump water back uphill;
- Efficiency of the unit; and
- Cost of power at the margin during the utility’s on-peak period.²⁵

The failing of WPTF’s (and DRA’s) cost-effectiveness assertions is that they put the proverbial cart before the horse. One of the primary reasons PG&E is seeking funding through the instant Application is to be able to better refine the scope of the MPSP and thereby to add

<http://www.ferc.gov/EventCalendar/Files/20091210101921-12-10-09-wellinghoff-testimony.pdf>.

²⁴ CAISO, “Renewable Integration Study, Achieving California’s 20% Renewables Portfolio Standard,” September 2007, p. 14. Available at <http://www.aiso.com/1c64/1c64e60aa4c0.pdf>.

²⁵ WPTF Protest at p. 4.

definition to precisely this list of factors (as well as many others). Upon completion of that effort, and with the scope more specifically defined, PG&E will undertake the analysis WPTF and DRA suggest. But currently, PG&E does not have an adequately defined project against which to perform a cost-effectiveness study. In short, the purpose of the funding request is to be able to answer the very questions WPTF and DRA pose, including whether the MPSP is a cost-effective response to problems posed by renewable intermittency.

V. IT IS APPROPRIATE FOR PG&E TO RECOVER PRELIMINARY DEVELOPMENT COSTS PRIOR TO THE INCLUSION OF THE MPSP IN RATEBASE.

DRA, IEP, and WPTF object to PG&E's proposal to recover the costs of its feasibility studies prior to the MPSP going into service.²⁶ Specifically, DRA argues that "PG&E does not ever explain why the proposed MPSP development costs are different than for any other project."²⁷ In fact, PG&E's Application does explain why the MPSP development costs are different from other similar costs that PG&E typically capitalizes: "While studies undertaken to support the relicensing of PG&E's existing hydro Licenses are capitalized, the instant studies are proposed to be undertaken to support projects that are less certain and may not be constructed. Therefore, these costs are appropriately classified as expense."²⁸

²⁶ DRA Protest at pp. 4-5; IEP Protest at pp. 6-8; WPTF Protest at pp. 7-8.

²⁷ DRA Protest at pp. 4-5.

²⁸ Application at p. 15. Nor does PG&E understand DRA's objection that the Application is "duplicative." DRA Protest at p. 7. As stated in the Application, because the opportunity to pursue the MPSP studies contemplated in the Application was not sufficiently developed at the time PG&E filed its 2011 General Rate Case ("GRC") Notice of Intent in 2009, PG&E did not include costs for the MPSP in its GRC forecast. PG&E initially included in its 2011 GRC filing a request for the \$1.575 million associated with pumped storage development activities unrelated to the MPSP licensing effort. However, by stipulation of counsel, PG&E withdrew this request from the GRC filing and advised that it would request the funding through the instant Application. A.09-12-020 Tr. Vol. 28, p. 3701, lines 4-26, PG&E/Manheim. (July 15, 2010).

IEP and WPTF argue that PG&E's proposal runs counter to Commission precedent which holds that, in order to maintain a level playing field, investor-owned utilities must be subject to the same cost recovery risks faced by independent producers.²⁹ Since independent producers' development costs associated with unsuccessful projects are not recoverable from ratepayers, they assert, neither should PG&E's be recoverable.

As an initial matter, IEP's and WPTF's argument fails to acknowledge that independent producers sell the output of their projects at market rates and earn market returns. Under a cost-of-service ratemaking model, however, PG&E's return is set at a regulated utility rate of return and cost savings on project capital are passed directly back through to customers. In this way, independent producers can realize a significantly greater upside than can utilities, making them better positioned to absorb stranded development costs. In light of this imbalance, it is not unreasonable for utilities to receive the benefit of up front cost recovery assurances for projects that are ultimately not constructed.

In addition, IEP's and WPTF's citation to D. 06-05-016 is misplaced. In that Decision, the Commission denied Southern California Edison's ("SCE") request to recover in base rates costs relating to the development of specific projects. SCE proposed that the costs "be funded by ratepayers as part of the GRC authorization."³⁰ Certain parties objected, arguing that there should be "no ratepayer funding of any . . . costs except those associated with projects that are ultimately implemented and included in rates."³¹ PG&E's Application is consistent with this Decision. Unlike SCE, PG&E is not proposing to include the pumped storage development costs

²⁹ IEP Protest at pp. 6-8; WPTF Protest at pp. 7-8. NHC in its Motion for Party Status alludes to a similar concern. NHC Motion at p. 2.

³⁰ D. 06-05-016 at p. 51.

³¹ *Id.*

in base rates and none of these costs are included in its 2011 GRC.³² Instead, they are the subject of a separate Application, as required by the Commission. And if the Commission approves the Application, it will have approved the completion of a discrete project with discrete benefits. PG&E could have submitted an Application to construct the MPSP. If it had, and if the Application were approved, there would be no argument that PG&E could not recover its development costs. That PG&E believes it prudent to phase the project should not disqualify it from seeking recovery of its feasibility study costs.

Moreover, and as a practical matter, the market for pumped storage development is subject to certain technical, financial and legal barriers to entry that do not exist to nearly the same extent in other electric generation markets (such as for fossil plants). These barriers render somewhat irrelevant the “level playing field” metaphor invoked by IEP and WPTF.

First, as WPTF notes in its Protest, pumped hydro facilities can only be located in very specific geographical areas with topographic characteristics suitable for providing sufficient “head” to the project. Not only are such sites limited, a project proponent must tailor its project to site topography to a much greater extent than a proponent of, for example, a fossil project. Significant engineering challenges and costs can result.

Second, the time and resources necessary to secure a FERC license are substantial. Under FERC’s “integrated licensing process” or ILP, it takes a minimum of five years to complete all of the consultations and environmental and socio-economic studies required to support a license application.³³ In practice, however, FERC licensing can take much longer.

³² As noted above at p. 11, n. 28, PG&E initially included in its 2011 GRC filing a request for the \$1.575 million associated with pumped storage development activities unrelated to the MPSP licensing effort. However, by stipulation of counsel, PG&E withdrew this request from the GRC filing and advised that it would request the funding through the instant Application.

³³ See generally 18 C.F.R. Part 5 (and the associated flowchart available at

PG&E's most recently-completed relicensing effort³⁴, for its Spring Gap-Stanislaus Project, FERC Project No. 2130, culminated in the issuance of a new license in 2009, nearly six-and-a-half years after PG&E submitted its license application in 2002.³⁵ However, the relicensing effort began considerably in advance of PG&E's submittal of its license application. PG&E filed its first stage consultation document for the Spring Gap-Stanislaus Project in 1999,³⁶ some ten years before license issuance, and began strategic planning for the relicensing several years prior to that. It is not clear that a merchant generator would have the wherewithal to see this time-consuming process through to completion.

Third, there exist substantial financial impediments to the development of pumped hydro projects. As noted above, the MPSP would cost an estimated \$2.5 billion to construct. Securing traditional financing for such a large project would be extremely challenging. Indeed, it is worth noting that all existing pumped hydro projects in the United States were developed by either investor-owned utilities or government agencies.³⁷

Finally, a pumped hydro project proponent would need to secure the consent of every FERC licensee on the subject watercourse whose project would be significantly affected by the

<http://www.ferc.gov/industries/hydropower/gen-info/licensing/ilp/flowchart.pdf>). The ILP, adopted in 2003, is designed to be the most efficient of the three licensing processes approved by FERC.

³⁴ An application for an original license could take longer to process than a relicensing application since, presumably, there will be less readily-available information concerning, for example, the project's potential impacts to resources.

³⁵ 127 FERC ¶ 62,070. Note that this relicensing proceeding was not conducted under the ILP.

³⁶ Available at FERC's *eLibrary*, Accession No. 19991203-0174. Under FERC's regulations, first stage consultation involves providing detailed information about the project, including potential impacts to resources, proposed mitigation plans, streamflow and water regime information, and descriptions of proposed studies, to all pertinent stakeholders, including federal and state resource agencies and Indian tribes, and receiving their input on, among other things, proposed studies. See 18 C.F.R. §§ 4.38(b) and 16.8(b).

³⁷ See Declaration of Alan Soneda, ¶ 5, attached as Exhibit A hereto.

proposed project. Section 6 of the Federal Power Act (“FPA”), 16 U.S.C. § 799, provides that hydroelectric licenses “may be altered . . . only upon mutual agreement between the licensee and [FERC].” What this means, as explained by the U.S. Court of Appeals for the D.C. Circuit, is that “when FERC issues a license covered by § 6 it tacitly undertakes not to issue other licenses that will significantly interfere with operations already licensed, whether the interference will adversely affect the prior licensee’s physical plant, its ‘project works,’ or its supplies of water.”³⁸ While the court concluded that *de minimis* reductions in generating capacity do not constitute a license “alteration” necessitating licensee approval, any proposal resulting in “significant interference” with the license would require such consent.³⁹

Therefore, an independent producer seeking to construct a project comparable to the MPSP would need to secure PG&E’s consent as a prerequisite to construction given the significant interference that such a project would unquestionably visit on PG&E’s current operations.⁴⁰ As a practical matter, PG&E would not consent to another entity constructing a

³⁸ *Pacific Gas and Electric Co. v. FERC*, 720 F.2d 78, 89 n. 31 (D.C. Cir. 1983).

³⁹ *Id.* at p. 89.

⁴⁰ See e.g., *Fall River Rural Electric Cooperative, Inc.*, 114 FERC ¶ 61,152 (2006), where FERC upheld the dismissal of a license application due to the failure of the applicant to secure the consent of an existing licensee whose license would be substantially altered by the proposed project. In support of its finding of “substantial alteration,” FERC noted as follows:

The proposed project requires alterations of the existing project's facilities that are much greater than the kind of physical alterations the Commission has previously found to be insubstantial, as discussed above. The proposed project here involves installation of new gates and screens on the intake tower, excavation of a large area of the dam in order to reconfigure and reline the outlet conduit, and installation of a valve house and a new penstock at the dam. Although construction activity will be temporary, the physical changes to the existing structures are not minor. Construction of the proposed project would also require PPL to enter into an agreement with Fall River regarding coordination of activities, and responsibility for operation and maintenance of jointly used facilities. Such obligations may not be insurmountable, but neither are they insubstantial.

Id. at 61,509. The alterations to PG&E’s Mokelumne River Project license necessary to accommodate a project such as the MPSP would eclipse the substantial alterations detailed by FERC in the *Fall River* case.

project of the scale of the MPSP within the footprint of its current Mokelumne River Hydroelectric Project, FERC Project No. 137. The challenges posed by another entity having substantial operational control over PG&E's existing reservoirs and project facilities would be exceedingly complex, to the detriment of PG&E's customers that benefit from the existing project, and, simply put, would not be entertained by PG&E. Without PG&E's consent, FERC would be required by § 6 of the FPA to dismiss any license application seeking to build such a project. Independent producers are undoubtedly aware of this, and, therefore, would be very unlikely to ever seek to develop such a project.

Moreover, given the typically large scale of pumped hydro projects and PG&E's extensive existing hydroelectric system – consisting of some 68 powerhouses covered by 26 FERC licenses and extending to nearly every major watercourse in PG&E's service territory, from the Pit River in the north to the Kern River in the south – it is more likely than not that a large pumped hydro project proposed anywhere in PG&E's service territory would result in a significant alteration of one of PG&E's existing FERC licenses and thereby give rise to PG&E's invocation of § 6 of the FPA.⁴¹ Again, independent producers are undoubtedly aware of this and, more generally, of the development constraints imposed by § 6 of the FPA.

⁴¹ PG&E is aware of three proposed pumped hydro projects within its service territory. The Sacramento Municipal Utility District ("SMUD") has proposed to develop a 400 MW pumped storage project (referred to as the "Iowa Hill Development") as part of the relicensing of its Upper American River Project ("UARP"), FERC Project No. 2101, on the South Fork American River. The Iowa Hill Development, if constructed, will impact PG&E's 7 MW Chili Bar Project, FERC Project No. 2155, which is located downstream of the UARP. PG&E and SMUD have a decades-long relationship coordinating the operations of the UARP and Chili Bar Projects and have worked closely on preliminary studies and other tasks supporting the current FERC relicensings of the Projects, including the Iowa Hill Development. The Turlock and Modesto Irrigation Districts have proposed the Red Mountain Bar Project, FERC Preliminary Permit No. 12745, on the Tuolumne River, although the preliminary permit has expired. Finally, Brookfield Power US Generation Development has sponsored the Mulqueeney Ranch Project, FERC Prelim. Permit No. 12807. This is a 280 MW project involving two new off-stream reservoirs on an Altamont Pass windfarm. The preliminary permit for the project expires on the date of this filing, September 30, 2010. See Declaration of Alan Soneda ¶ 6.

These material impediments to development do not exist to nearly the same extent outside the large hydro context (e.g., in the generation markets for natural gas fired power plants). For example, a proponent of a fossil plant would have substantially more sites to choose from, making the project more feasible from the outset and less onerous and costly to engineer; would be able to license the project much more quickly; would need to obtain significantly less financing; and would not have to secure the consent of every other generator in the vicinity of the project prior to construction. Thus, even if one were to credit the argument that, as a general matter, independent producers are prejudiced if investor-owned utilities are granted recovery of development costs associated with un-constructed projects, such policy concerns are not implicated by the instant Application given the substantial barriers to entry inherent in the pumped hydro development market. PG&E's Application is an effort to fill this existing gap in the market and position its customers and California to meet the challenges posed by a future energy mix comprised of significant renewables penetration.

VI. THE CONCERNS RAISED BY FOOTHILL CONSERVANCY AND CALIFORNIA SPORTFISHING PROTECTION ALLIANCE DO NOT WARRANT REJECTION OF THE APPLICATION.

In their motions for party status, FC and CSPA state that, if constructed, the MPSP could adversely impact recreational, environmental and economic resources.⁴² PG&E readily acknowledges (and shares concerns regarding) these potential impacts. One of the purposes of the instant Application is to provide funding for studies that will identify potential adverse impacts and propose mitigation and enhancement measures. PG&E agrees with CSPA that it

⁴² FC Motion at p. 2; CSPA Motion at p. 3.

must construct water balance and water temperature models of the affected resources.⁴³ Again, the funding sought through the Application would be used, in part, to perform that work.

FC observes that PG&E's operation of its Mokelumne River Project, FERC Project No. 137, is subject to certain requirements imposed by a settlement agreement and that PG&E cannot unilaterally change the terms of the agreement; nor can PG&E amend its existing FERC license without the consent of FERC.⁴⁴ PG&E agrees with FC. PG&E is not through the instant Application seeking to circumvent the settlement agreement or any of FERC's regulatory processes. Rather, the funding PG&E seeks is intended to position it to undertake the necessary licensing steps at FERC, should PG&E elect to do so.

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⁴³ CSPA Motion at p. 3.

⁴⁴ FC Protest at p. 3.

VII. CONCLUSION.

For the foregoing reasons, the Commission should reject the Protests filed in this proceeding and grant PG&E's Application on an ex parte basis.⁴⁵

DATED: September 30, 2010

Respectfully submitted,

WILLIAM V. MANHEIM
MATTHEW A. FOGELSON

By: _____ */S/*
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⁴⁵ IEP does not object to PG&E's proposed schedule or its statement that no hearings are necessary. IEP Protest at p. 9. DRA recommends that the Commission schedule a pre-hearing conference to address the need for hearings and further scheduling. DRA Protest at p. 9

Exhibit A

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric
Company to Recover Pumped Storage Study
Costs (U 39 E)

Application No. 10-08-011

**DECLARATION
OF
ALAN SONEDA
IN SUPPORT OF
PACIFIC GAS AND ELECTRIC COMPANY'S
REPLY TO PROTESTS**

WILLIAM V. MANHEIM
MATTHEW A. FOGELSON
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E-Mail: mafv@pge.com

DATED: September 30, 2010

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

Exhibit A

DECLARATION OF ALAN SONEDA

I, ALAN SONEDA, make the following declaration:

1. I am employed by Pacific Gas and Electric Company (“PG&E”) as a Project Manager in PG&E’s Power Generation organization. My office address is 245 Market Street, San Francisco, CA 94105.

2. I make these statements based upon my personal knowledge of the matters stated herein. If called upon to do so, I could and would testify competently to the facts stated herein.

3. I have read and am familiar with “Pacific Gas and Electric Company’s Reply to Protests”, filed with my Declaration by PG&E in this matter. I make these statements in support of that Reply.

4. My responsibilities as Project Manager include developing and implementing scope, schedule and budget plans for the Mokelumne Pumped Storage Project.

5. On September 27, 2010, I performed a search on the Federal Energy Regulatory Commission (“FERC”) website of all FERC Licenses, as updated monthly. My search revealed that there are twenty-three existing Pumped Storage Hydro Projects in the United States (excluding Pumped Storage Projects that are owned by the Federal government, since such Projects do not require a FERC License). My search further indicated that all twenty-three Projects were developed by either an investor-owned utility (“IOU”) or a governmental agency.

6. As part of my regular duties, I periodically perform a search on the FERC website of all FERC Preliminary Permits as updated monthly. As a result of conducting this periodic research, I am aware that, in addition to the Iowa Hill Pumped Storage Project proposed by the Sacramento Municipal Utility District as part of the relicensing of its Upper American River

Project, FERC Project No. 2101, and the Red Mountain Bar Project sponsored by the Turlock and Modesto Irrigation Districts, FERC Preliminary Permit No. 12745 (which Preliminary Permit has expired), there is only one other pumped hydro Permit outstanding in PG&E's service territory: The Mulqueeney Ranch Project sponsored by Brookfield Power U. S. Generation Development, FERC Preliminary Permit No. 12807. This is a 280-megawatt Project involving two new off-stream reservoirs on an Altamont Pass windfarm. The Preliminary Permit for the Project expires on September 30, 2010.

DATED: September 30, 2010

/S/
ALAN SONEDA

**CERTIFICATE OF SERVICE
BY ELECTRONIC MAIL**

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, CA 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 30th day of September, 2010, I served a true copy of:

**PACIFIC GAS AND ELECTRIC COMPANY'S
REPLY TO PROTESTS**

[XX] Electronic Mail: By serving the enclosed document, via electronic mail transmission, to all parties listed on the official CPUC Service Lists for Docket No. A.10-08-011.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 30th day of September, 2010 at San Francisco, California.

/S/

ELIZABETH J. DIAMOND