

105 FERC ¶ 61,332  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

Pacific Gas and Electric Company

Project No. 2105-090

ORDER DISMISSING COMPLAINT

(Issued December 22, 2003)

1. On October 31, 2003, Anglers Committee Against Artificial Whitewater Flows (Anglers) filed a complaint in the Upper North Fork Feather River Project No. 2105 relicensing proceeding. As discussed below, we are dismissing the complaint.

**BACKGROUND**

2. On October 23, 2002, Pacific Gas and Electric Company (PG&E) filed an application for a new license for the Upper North Fork Feather River Project No. 2105, located on the North Fork Feather River, in Plumas County, California. Since filing its application, PG&E has engaged in a collaborative process to reach agreement on flow issues with the National Park Service, Anglers, and a number of others.<sup>1</sup>

3. On October 3, 2003, PG&E filed with the Commission a draft settlement proposal regarding, among other things, whitewater flow releases. The draft proposal includes provisions to establish a technical review group to consult with the licensee and appropriate agencies in determining whether whitewater releases can be made without harming the environment.

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<sup>1</sup>The other participants include the U.S. Forest Service, California Department of Fish and Game, U.S. Fish and Wildlife Service, Plumas County, National Marine Fisheries Service, American Whitewater, California Sportfishing Protection Alliance, Native American interest groups, California Hydro Reform Coalition, and California State Water Resources Board (Water Board).

4. PG&E's cover letter said that it had asked stakeholders for supporting letters that it would compile and forward to the Commission. On October 10, 2003, the Park Service filed with the Commission a letter generally supporting the draft proposal. The Park Service did not serve the filing on the other parties to the relicensing proceeding, as required by Rule 2010(a)(1) of the Commission's Rules of Practice and Procedure.<sup>2</sup> On October 17, 2003, PG&E forwarded to the Commission several letters of support for the draft proposal, including the Park Service letter. PG&E served its filing containing the letters of support on the parties to the relicensing proceeding.

## COMPLAINT

5. Under Section 385.206 of the Commission's regulations, 18 C.F.R. § 385.206 (2003), "any person may file a complaint seeking Commission action against any other person alleged to be in contravention or violation of any statute, rule, order, or other law administered by the Commission, or for any other alleged wrong over which the Commission may have jurisdiction."

6. Anglers' complaint alleges only one violation over which the Commission has jurisdiction. Anglers asserts that the Park Service violated the Commission's regulations when it failed to serve its October 10 filing on all parties to the relicensing proceeding, and it asks that we dismiss the filing.

7. Although the Park Service did not serve copies of its October 10 filing on all parties, a copy of the letter was contained in PG&E's October 17 filing, which PG&E served on all parties. In addition, the Park Service refiled its letter on November 20, 2003, and served that filing on all parties. This issue is therefore moot.

8. Next, Anglers asks that a complaint it has submitted to the Park Service (alleging misconduct by a Park Service employee) be placed in the record of the relicensing proceeding for Project No. 2105. Because the Park Service complaint is attached to the present complaint, it becomes part of the public record of Project No. 2105.

9. Finally, as to the complaint it filed with the Park Service, Anglers asks for the following: (1) that we require the Park Service to file with the Commission a response to the complaint Anglers submitted to the Park Service; and (2) that we investigate whether

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<sup>2</sup>18 C.F.R. 385.2010(a)(1) requires a party to serve on all other parties any filings made with the Commission.

the Park Service employee in question has displayed bias, preferential treatment, prejudice, or has violated federal conflict of interest statutes. These are matters, however, over which the Commission has no jurisdiction.

10. For the above reasons, we dismiss Anglers' complaint.

The Commission orders:

The complaint filed by Anglers Against Artificial Whitewater Flows on October 31, 2003, is dismissed.

By the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.