

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In Re: Application for Surrender of License and
for Non-Project Use of Project Lands (Pacific
Gas & Electric Company; Potter Valley
Hydroelectric Project No. P-77)

FERC Project No. 77-332

**OPPOSITION TO ELSINORE VALLEY MUNICIPAL WATER DISTRICT'S
MOTION TO INTERVENE LATE
of
FRIENDS OF THE EEL RIVER, CALIFORNIA TROUT, AND TROUT UNLIMITED**

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Friends of the Eel River, California Trout, and Trout Unlimited respectfully oppose the Motion to Intervene Late (“Late Motion”) filed by Elsinore Valley Municipal Water District (“EVMWD”).¹ EVMWD has failed to clearly articulate its position in this proceeding and the factual and legal basis for its position. Indeed, EVMWD has *failed to disclose* its efforts—reported in the media for the past several months and touted in its own press releases—to explore potential acquisition of the Potter Valley Project. EVMWD’s Late Motion should be denied for failure to satisfy this mandatory requirement, which applies to all interventions, timely or not.

Moreover, EVMWD has not shown good cause for waiving the time limitations all other parties were required to follow. In particular, EVMWD has not demonstrated any interest that may be directly affected by the outcome of this proceeding, has not shown its participation would be in the public interest, and has failed to show that its participation would not disrupt the proceeding and cause prejudice to other parties. EVMWD’s motion thus fails to meet the standards for late intervention under 18 C.F.R. § 385.214 (“Rule 214”) and should be denied.

Background

Pacific Gas & Electric Company (“PG&E”) filed its Final Applications for Surrender of License and for Non-Project Use of Project Lands (collectively “License Surrender Application” or “LSA”) for the Potter Valley Hydroelectric Project, FERC Project No. 77 (the “Project”) on July 25, 2025.²

On October 31, 2025, the Commission issued a Notice of Application for Surrender of License and Non-Project Use of Public Lands soliciting motions to intervene in the LSA

¹ EVMWD, Motion to Intervene Late, Project No. P-77-332 (July 9, 2026), Doc. Accession No. 20260709-5244.

² PG&E, Final Application for Surrender of License; Final Application for Non-Project Use of Public Lands, Project No. P-77 (July 25, 2025), Doc. Accession No. 20250725-5175.

proceeding.³ The notice established a deadline of December 1, 2025 for “comments, motions to intervene, and protests.”⁴ On December 1, 2025, FERC issued a further notice extending the “deadline for filing comments, interventions, and protests” to December 19, 2025.⁵

In a letter dated December 16, 2025, EVMWD submitted “Comments” stating that EVMWD “strongly opposes [Pacific Gas & Electric Company’s] action to dismantle Scott Dam and requests their [*sic*] application be denied.”⁶ However, EVMWD did not file a protest or a motion to intervene before the December 19, 2025 deadline.

Argument

I. EVMWD has not met the Commission’s requirements for intervention.

All motions to intervene must satisfy two basic requirements. First, motions must “state, to the extent known, the position taken by the movant and the basis in fact and law for that position.” 18 C.F.R. § 385.214(b)(1). Second, motions must “state the movant’s interest in sufficient factual detail” to demonstrate that the movant has a statutory or other right to participate, that the movant has an interest “directly affected by the outcome of the proceeding,” or that the movant’s participation is in the public interest. 18 C.F.R. § 385.214(b)(2).

³ FERC, Notice of Application for Surrender of License and Non-Project Use of Public Lands, Accepted for Filing, Soliciting Comments, Motions to Intervene, and Protests, Project No. P-77-332 (Oct. 31, 2025), Doc. Accession No. 20151031-3044.

⁴ *Id.* at 2.

⁵ FERC, Notice Extending Comment Period, Project No. 77-332 (Dec. 1, 2025), Doc. Accession No. 20251201-3070.

⁶ EVMWD, Comments on Application for Surrender of License and Non-Project Use of Project Lands: Project No. P-77-332 (dated Dec. 16, 2025; filed Dec. 29, 2025).

A. The Late Motion fails to state EVMWD’s position in this proceeding and its basis in fact and law.

Like any other motion, a motion for late intervention must comply with the requirements of paragraph (b)(1) of Rule 214—that is, the requirement to state the movant’s position and the basis in fact and law for that position. 18 C.F.R. § 385.214(b)(3). The Late Motion fails to meet this requirement.

First, the Late Motion states only that EVMWD “believes that PG&E’s proposal will affect water security throughout the State” and is “concerned about how the removal of Potter Valley’s two existing dams will impact the agricultural and residential communities within its District, as well as across the state.”⁷ To the extent these “beliefs” and “concerns” even state a discernable “position,” EVMWD fails to offer any factual or legal support for them. The Late Motion does contain a few generic assertions about water scarcity in California and the American West.⁸ But EVMWD identifies *no* facts indicating that dam removal will impact any “agricultural and residential communities” within EVMWD’s service territory—which is literally hundreds of miles away and cannot receive any water from the Project—or any other such communities “across the state.”

Second, the Late Motion is remarkable for what it does *not* say about EVMWD’s position. As reported in the media and on EVMWD’s own website, EVMWD may currently be maneuvering to acquire the Project.⁹ Media reports indicate that the District is pursuing this

⁷ *Id.* at 4.

⁸ Late Motion at 2-4.

⁹ EVMWD, *EVMWD Leadership Meets With Secretary Rollins, Secretary Burgum and PG&E Regarding Potter Valley Project* (June 15, 2026) at <https://evmwd.com/evmwd-leadership-meets-with-secretary-rollins-secretary-burgum-and-pge-regarding-potter-valley-project/> (visited July 16, 2026); *see also* Kurtis Alexander, *Trump Administration offers plan to stop dam removal on California river*, San Francisco Chronicle (April 21, 2026); Kurtis Alexander, (footnote continued on next page)

course of action despite a gravely misunderstanding the Commission's past and ongoing proceedings, collaborative efforts between the Project owner and regional parties, and the significant legal and other liabilities associated with the Project.¹⁰ The Late Motion thus completely fails to disclose EVMWD's actual purpose.

The Late Motion not only fails to state EVMWD's position and its basis in fact and law, but appears to have been drafted to obscure EVMWD's true position in this proceeding. The Late Motion does not comply with paragraph (b)(1) of Rule 214 and therefore must be denied.

B. EVMWD has not stated facts demonstrating any interest which may be directly affected by the outcome of the proceeding.

The Late Motion fails to include "sufficient factual detail" to demonstrate that EVMWD "has or represents and interest which may be directly affected by the outcome of the proceeding." 18 C.F.R. § 385.214(b)(2)(ii). For example, EVMWD does not claim to be a consumer, customer, competitor, or security holder of any party. *Id.* Nor does EVMWD provide any "factual detail" indicating that its interests are "directly affected" in any other way.¹¹

EVMWD asserts in conclusory fashion that it has "direct and significant interests in the outcome of this proceeding and may [*sic*] directly affect EVMWD's financial interests, operational responsibilities, property interests or statutory obligations."¹² Yet EVMWD never specifically identifies what any of these "interests" might be. EVMWD further claims it "seeks

Congressman opens investigation into Trump Administration's involvement in California dam removal, San Francisco Chronicle (April 28, 2026).

¹⁰ Robert Schaulis, *Potential Potter Valley Project buyer suggests PG&E failed to tell the 'actual truth'*; *Utility company has refuted those statements, pointing to a long and well-publicized process*, Times-Standard (May 2, 2026).

¹¹ The Late Motion does not contend that EVMWD has a legal "right to participate" in the proceeding within the meaning of 18 C.F.R. § 385.214(b)(2)(i).

¹² *Id.*

intervention to protect significant Native American and Tribal interests” that may be affected by the proceeding.¹³ But it does not identify any Tribes whose interests it seeks to assert, any source of its authority to speak on behalf of those Tribes, or any reason why those Tribes cannot assert their own interests in this proceeding. Indeed, several local Tribes that *do* have an interest in this proceeding are already parties and do not appear to require EVMWD’s assistance.¹⁴

The Late Motion further fails to identify any plausible way in which this proceeding could “directly affect” any of EVMWD’s concrete interests, much less provide “sufficient factual detail” to demonstrate such an effect. EVMWD’s service territory is located primarily in Riverside County, hundreds of miles from the Project.¹⁵ According to a service area map on EVMWD’s website, none of EVMWD’s water pipelines extends further north than the southern edge of the City of Corona.¹⁶ The Potter Valley Project has no physical connection to the State Water Project or any other means of conveyance whereby EVMWD or its customers could obtain water, even if the Project dams were to remain in place. EVMWD fails to identify any factual scenario that would impact EVMWD or its customers.

Under the Commission’s regulations, the Late Motion must be evaluated based on what it contains. Simply put, nothing in the Late Motion itself demonstrates that EVMWD has anything to lose from license surrender or anything to gain from participation. The Commission has recently denied other late intervention motions on the ground that the movant made only “broad

¹³ *Id.* at 5.

¹⁴ See Motion to Intervene and Comments of the Round Valley Indian Tribes, Project No. P-77-332 (Dec. 1, 2025), Doc. Accession No. 20251201-5483; Motion to Intervene by the Wiyot Tribe, Project No. P-77-332 (Nov. 26, 2025), Doc. Accession No. 20251126-5467.

¹⁵ Late Motion at 2.

¹⁶ See EVMWD, *Elsinore Valley Municipal Water District Pipelines*, at <https://evmwd.maps.arcgis.com/apps/webappviewer/index.html?id=e505103a6c9b4a2f9e1f54e69fa4567f> (visited July 16, 2026).

statement[s]” of interest in the “precedent” the proceeding might establish but failed to represent that it or its members would be directly affected by the outcome.¹⁷ Here, the Late Motion similarly fails to offer any factual support for its assertions regarding EVMWD’s interests or the Project’s potential effects. If EVMWD chose to “hide the ball” as to its true interests, the Commission need not and should not supply the missing information. The Late Motion thus does not meet the standards of 18 C.F.R. § 385.214(b)(2)(ii) and should be denied.

C. EVMWD has not provided facts demonstrating that its participation would be in the public interest.

As an alternative to demonstrating an interest “which may be directly affected” a movant may instead state its interest “in sufficient factual detail” to demonstrate its participation “is in the public interest.” 18 C.F.R. § 385.214(b)(2)(iii). The Late Motion fails to make this demonstration.

EVMWD asserts that its participation would serve the public interest by “aid[ing] the Commission in ensuring that all relevant considerations are fully addressed” and “contribut[ing] to a more complete record.”¹⁸ But the Late Motion does not provide any factual detail to support these generic assertions. The Late Motion does not specify the “relevant considerations” EVMWD seeks to “address” or what evidence EVMWD uniquely could “contribute to a more complete record.” Accordingly, the Late Motion does not provide any basis for evaluating whether EVMWD’s participation would be in the public interest.

Fundamentally, EVMWD appears to be “concerned” about the removal of dams anywhere in California or the West. That is EVMWD’s prerogative, notwithstanding that the Federal Power Act and the Commission’s regulations contemplate decommissioning and dam

¹⁷ *Tallgrass Interstate Gas Transmission, LLC* (2016) 154 FERC ¶ 61,071 at P 4.

¹⁸ Late Motion at 5.

removal when a hydroelectric license terminates.¹⁹ But if any entity with even the vaguest asserted “concern” about dam removal could intervene “in the public interest” in any hydroelectric docket, the Commission would have no ability to control its proceedings. Granting fundamentally unsupported and conclusory motions to intervene undermines rather than serves the public interest, which is ultimately the guiding factor in intervention decisions under the Federal Power Act. 16 U.S.C. § 825g(a).

II. EVMWD has not shown good cause why the time limitation should be waived.

An untimely motion to intervene must show “good cause why the time limitation should be waived.” 18 C.F.R. § 385.214(b)(3). The Commission may consider a number of factors in acting on a late motion, including whether the movant had good cause for failing to file a timely motion, whether intervention would disrupt the proceeding, whether the movant’s interest is adequately represented by other parties, whether the movant’s participation would place additional burdens on or cause prejudice to other parties, and whether the motion conforms to the basic intervention motion standards in Rule 214(b). 18 C.F.R. § 385.214(d)(1)(i)-(v).

The Rule 214(d)(1) factors weigh against allowing late intervention here.

A. EVMWD has not explained why its motion was filed nearly seven months late.

The Commission may consider whether EVMWD “had good cause for failing to file the motion within the time prescribed.” 18 C.F.R. § 385.214(d)(1)(i). Here, EVMWD’s Late Motion offers *no explanation at all* for why EVMWD is seeking intervention now, nearly seven months after the extended deadline for intervention motions in this proceeding. EVMWD filed timely “Comments” dated December 16, 2025, demonstrating that EVMWD was aware of the

¹⁹ See generally Fed. Energy Reg. Comm’n, *Project Decommissioning at Relicensing; Policy Statement*, 60 Fed. Reg. 339 (Jan. 4, 1995).

proceeding and presumably was aware of the extended deadline for motions to intervene.

EVMWD's failure even to address the reasons for its Late Motion weighs against granting intervention here.

In some recent decisions, the Commission has required a party seeking late intervention “to demonstrate good cause for its inability to intervene in a timely manner,” and—finding none—declined even to consider the other factors in Rule 214(d)(1).²⁰ For example, the Commission recently denied three motions for intervention in a closely related Potter Valley Project sub-docket, because “the entities did not provide any explanation for the untimeliness of their motions to intervene.”²¹ The Commission did this even though each original motions were filed *less than an hour late*, no other party objected, and the moving parties clearly had a direct interest in the proceeding that could not be represented by others.²²

To be clear: our organizations strongly disagree with the interpretation of Rule 214 expressed in these examples. Whether good cause exists for an organization's lateness is but one

²⁰ See, e.g., Notice Denying Late Intervention of Trout Unlimited, Project No. P- 14787-004 (April 7, 2025), Doc. Accession No. 20250407-3013.

²¹ See Notice Denying Late Intervention of the Wiyot Tribe, Mendocino County Farm Bureau, and the Round Valley Indian Tribes, Project No. P-77-323, Doc. Accession No. 20250701-3085.

²² See Mendocino County Farm Bureau, Motion for Rehearing and Intervention Out-of-Time, Project No. P-77-323 (July 31, 2025), Doc. Accession No. 20250731-5005, at 2-3 (motion filed 46 minutes late), 3-4 (describing interests in proceeding); Round Valley Indian Tribes, Motion for Rehearing and Intervention Out-of-Time, Project No. 77-323 (July 15, 2025), Doc. Accession No. 20250715-5110 at 2-3 (motion filed 17 minutes late), 3-6 (describing Tribes' unique and direct interests in proceeding); Wiyot Tribe, Motion for Rehearing and Intervention Out-of-Time, Project No. P-77-323 (July 15, 2025), Doc. Accession No. 20250715-5109, at 3-4 (motion filed nine minutes late), 4-7 (describing Tribe's unique and direct interests in proceeding); see *Pacific Gas and Electric Company*, 192 FERC ¶ 61,108 at P 24 (Aug. 4, 2025) (denying rehearing of denial of motions for late intervention without considering other Rule 214(d)(1) factors).

factor the Commission may consider. 18 C.F.R. § 385.214(d)(1)(i).²³ Nevertheless, it is one factor, and since EVMWD offered no explanation, it cuts against allowing the District's intervention here.

B. EVMWD's stated interests are adequately represented by other parties.

The Commission may consider whether EVMWD's asserted interests are adequately represented by other parties. 18 C.F.R. § 385.214(d)(1)(iii). They are.

Again, EVMWD has not stated any facts demonstrating any direct or unique interest in the outcome of this proceeding. EVMWD's generic concerns about the potential impacts of dam removal on "agricultural and residential communities"²⁴ are more than adequately represented by those communities themselves—local parties who have expressed concerns about removal of Scott Dam and Cape Horn Dam.²⁵ Moreover, to the extent EVMWD asserts an intent to represent unspecified Tribal interests, its participation is unnecessary because specific Tribes with interests in the proceeding have already intervened.²⁶ Indeed, the Round Valley Indian

²³ In other instances, the Commission has granted late intervention based on other Rule 214(d)(1) factors, without any finding related to this one. *See, e.g., Transcon. Gas Pipe Line Co., LLC*, 182 FERC ¶ 61,006 (2023), Doc. Accession No. 20230111-3069. This question is currently being litigated. *See American Whitewater v. FERC* (DC Cir. No. 25-1092). Our organizations believe American Whitewater is correct about the relationship between Rule 214(b)(3) and Rule 214(d)(1).

²⁴ Late Motion at 4.

²⁵ *See, e.g.,* Motion to Intervene by the Lake Pillsbury Alliance, Project No P-77-332 (Dec. 1, 2025), Doc. Accession No. 20251201-5350; Save the Potter Valley Project, Motion to Intervene, Project No. P-77-332 (Dec. 10, 2025), Doc. Accession No. 20251210-5297; Motion to Intervene of the County of Lake, Project No. P-77-332 (Nov. 19, 2025), Doc. Accession No. 20251119-5124; Motion to Intervene and Comments by Russian River Property Owners Association, et al., Project No. P-77-332 (Dec. 1, 2025), Doc. Accession No. 20251201-5630.

²⁶ *See* motions of Round Valley Indian Tribes and Wiyot Tribe, footnote 14, *supra*.

Tribes have opposed EVMWD's intervention on this very ground.²⁷ Based on the purported interests stated in the Late Motion, EVMWD's participation will add nothing to this proceeding that other parties cannot adequately provide.

C. EVMWD's participation will disrupt the proceeding and prejudice existing parties.

The Commission should consider whether granting the Late Motion will disrupt the proceeding and prejudice existing parties. 18 C.F.R. § 385.214(d)(1)(ii), (iv). For several reasons, the Commission should deny the Late Motion on these grounds as well.

As discussed above, EVMWD is reportedly exploring acquisition of the Project as a means of preserving Scott Dam and Cape Horn Dam. The Late Motion inexcusably fails to disclose this fact, which is highly relevant to whether EVMWD's participation will disrupt this proceeding and prejudice other parties.

EVMWD's acquisition efforts come many years too late and are contrary to the Federal Power Act, the Commission's regulations, and the Commission's Decommissioning Policy. PG&E initiated relicensing proceedings in 2017, but abandoned its relicensing efforts in 2019.²⁸ In accordance with law, the Commission solicited applications from any party interested in taking over the Project and filing a new license application.²⁹ Ultimately, no other party was able to file a timely or credible application to do so.³⁰ Accordingly, the Commission directed PG&E to initiate license surrender and decommissioning proceedings.³¹ Had EVMWD wished to take

²⁷ Round Valley Indian Tribes' Opposition to Elsinore Valley Municipal Water District's Motion to Intervene Late, Project No. P-77-332 (July 17, 2026), Doc. Accession No. 20260717-5163.

²⁸ LSA, footnote 2, *supra*, at 1-2.

²⁹ *Id.*

³⁰ *Id.* at 1-3.

³¹ *Id.*

over the project and apply for a new license, it should have done so years ago. At this point, there is no apparent avenue consistent with the Federal Power Act, Commission regulations, or Commission policy for EVMWD to take over the Project or its license. EVMWD's tardy efforts to become part of this proceeding may signal its intent to pursue an even more untimely proposal to take over the license, which at this late date can serve only to distract and burden parties and the Commission.

Moreover, numerous parties to this proceeding—including water agencies on the Russian River side of the Project diversion, local governments, Tribes, and conservation groups (California Trout and Trout Unlimited) have negotiated and entered into an agreement with PG&E regarding the non-project use of Project lands for a continued diversion facility.³² The parties to that agreement have strong reliance interests in seeing it carried out—interests that would be disrupted by EVMWD's tardy efforts to acquire the license or delay the proceeding.³³ Moreover, the spirit of that agreement is reflected in PG&E's LSA, which represents the licensee's desired outcome for disposition of the Project in the absence of license renewal. The Commission cannot deny PG&E's surrender application or compel PG&E to keep operating the Project against its wishes.³⁴ Nor has EVMWD articulated any legally, financially, or physically plausible path toward acquiring, licensing, or operating the Project itself.

³² See Motion to Intervene and Comments by Eel-Russian Project Authority, et al., Project No. P-77-332 (Dec. 1, 2025), Doc. Accession No. 20251201-5544, at 4-6; Joint Motion to Intervene and Comments of California Trout and Trout Unlimited, Project No. P-77-332 (Dec. 1, 2025), Doc. Accession No. 20251201-5486, at 9-10.

³³ Cf. *Maritimes & Ne. Pipeline, L.L.C.* (2016) 154 FERC ¶ 61,182 at P 37 (denying late intervention that would cause prejudice to settling parties).

³⁴ See *FPL Energy Maine Hydro, LLC* (2004) 107 FERC ¶ 61,120, 61,404 (May 6, 2004), *aff'd sub nom Save our Sebasticook v. FERC*, 431 F.3d 379 (D.C. Cir. 2005); see also *FPL Energy*, 106 FERC ¶ 61,038, 61,143.

EVMWD's participation in this proceeding is thus highly likely to be disruptive and prejudicial to the other parties who have invested considerable time and effort and worked in good faith to find a resolution to decades-long disputes over this Project. EVMWD's desire to acquire the Project would not only nullify PG&E's right as the licensee to surrender its license and decommission the Project but also interfere with the rights and expectations of the numerous parties to an existing agreement with PG&E to dispose of the Project and remove the dams in a manner that *continues* diversions of Eel River water into the Russian River. Moreover, by failing to disclose its intentions in the Late Motion, EVMWD has misinformed, if not misled, the Commission as to the true purpose of its engagement with this Project. Such tactics should not be rewarded, and the Late Motion should be denied.

D. The Late Motion does not conform to the requirements of Rule 214(b).

Rule 214(d)(1)(v) provides for consideration of whether the Late Motion is in conformity with Rule 214(b). As explained in Section I, above, the Late Motion is not.

Conclusion

For the foregoing reasons, Friends of the Eel River, California Trout, and Trout Unlimited respectfully request that the Late Motion be denied.

Respectfully submitted,

DATED: July 23, 2026

By: /s/ Alicia Hamann
ALICIA HAMANN
FRIENDS OF THE EEL RIVER

DATED: July 23, 2026

By: /s/ Walter "Redgie" Collins
WALTER "REDGIE" COLLINS
CALIFORNIA TROUT

DATED: July 23, 2026

By: /s/ Matt Clifford
MATT CLIFFORD
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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

In Re: Application for Surrender of License and for
Non-Project Use of Project Lands (Pacific Gas &
Electric Company; Potter Valley Hydroelectric
Project No. P-77)

FERC Docket No. 77-332

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, by first class mail or electronic mail, the
**OPPOSITION TO ELSINORE VALLEY MUNICIPAL WATER DISTRICT'S MOTION
TO INTERVENE LATE of FRIENDS OF THE EEL RIVER, CALIFORNIA TROUT,
AND TROUT UNLIMITED.** This Certificate of Service is served upon each person designated
on the official P-77 Service List compiled by the Commission in the above-captioned
proceeding.

Dated this 23rd day of July, 2026.



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