

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

REPLY
by
INFRASTRUK GROUP LLC
in
SUPPORT OF MOTION FOR LATE INTERVENTION
to
OPPOSITION TO INFRASTRUK GROUP LLC'S
MOTION FOR LATE INTERVENION
of
FRIENDS OF THE EEL RIVER, CALIFORNIA TROUT, AND TROUT UNLIMITED

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Infrastruk Group LLC (“Infrastruk”), pursuant to the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”), Federal Power Act (FPA), Code of Federal Regulations (CFR), and Scoping Document compliance required by the National Environmental Policy Act (NEPA), respectfully submits this Reply to the Opposition filed July 30, 2026, by Friends of the Eel River, California Trout, and Trout Unlimited (collectively, “Opponents”) to the Infrastruk Motion for Late Intervention filed July 23, 2026 (“Motion”), and restates such Motion and also restates its companion Public Comments filed contemporaneously therewith.

Summary

The Opponents focus on five principal arguments designed to exclude relevant and legally required information from the administrative record thus creating an endless litigation cycle resulting in a reversible federal decision: (1) untimeliness, (2) lack of a legally cognizable interest, (3) lack of good cause, (4) disruption and prejudice, and (5) the assertion that the successor-license issue is legally foreclosed.

The Opponents also repeatedly characterizes Infrastruk as seeking to "become a successor licensee"; which if Opponents actually understood the clear intention of the Motion, Opponents would welcome such a result or similar result.

Argument

The Commission should grant the Motion and reject the Opponent’s opposition.

The Opponents entirely miss the point of the Motion: the Scoping Document, NEPA and all laws rules and regulations related thereto, invite comments, and yes even “Motions for Late Intervention” and “Public Comments”, and, thus, compel investigations of “reasonable alternatives” such as was presented in the Motion.

In so doing, Opponents fail to “distinguish intervention from relief”, where intervention affords necessary procedural participation and does not eliminate the Commission’s independent responsibility to determine whether surrender serves the public interest on the basis of a complete administrative record, and neither grants substantive rights nor dictates the Commission’s ultimate decision.

This Reply makes emphasizes what was said clearly in the Motion: Infrastruk seeks intervention to present “Scoping Information” with “reasonable alternatives” that meet the tests of the USA Supreme Court and D.C. Circuit cases and how those principles apply to an FERC hydropower license surrender proceeding, such as engineering, economic, water-supply, infrastructure, and public-interest alternatives, possibly including a new Public-Private-Partnership (PPP) formed by a new Joint Powers Authority (JPA) and a new or existing private party (s) for protecting each and every interest of every impacted person, entity, party or the environment (**Including Opponents and all other possible opponents or supporters, and past, present and future environments**) —not to compel immediate issuance of a license to anyone particular and ignore the facts regarding “reasonable alternatives” developed during the Scoping process.

Intervention would not invalidate the work performed by the Eel-Russian Project Authority (“ERPA”) or other participants but would in fact investigate the creation of the very actionable, economically viable and financeable entity to fully fulfill the intentions of the FERC, Opponents,

ERPA and all other parties, persons, entities and the environment as a unified whole instead of segmented special interests groups.

That distinction significantly narrows the dispute into mere compliance with the intent of the Scoping Document and full compliance with NEPA, the APA, FPC, CFR, Presidential Executive Orders governing agencies such as FERC and numerous other relevant laws, rules and regulations regarding “reasonable alternatives”.

Infrastruk does not attempt to relitigate the 2019 licensing deadlines, create distractions to the ongoing process or delay any proceeding, and certainly does take the record as it exists today.

Instead, Infrastruk submits that:

- Intervention under Rule 214 is separate from obtaining a license but may include **Continued Operation and Successor Licensee Alternative** where it is legally available, technically feasible, and supported by evidence.
- Infrastruk seeks participation in the current surrender proceeding because the Commission has expressly requested analysis of reasonable alternatives which is at the **“HEART”** of environmental review and environmental consequences so that FERC may take a **“HARD LOOK”** at the totality of consequences and reasonable alternatives of this momentous decision before the Commission.
- FERC's obligation under the Federal Power Act and NEPA is to consider reasonable alternatives and the public interest before approving surrender, and not just the Applicant's (PG&E) preferred proposal (or revert to a speculative past or speculative hoped for future) and stop there.
- Allowing intervention does not grant substantive rights or delay the proceeding by itself.
- Existing parties will have the opportunity to respond to any filings, eliminating prejudice.
- The Commission routinely grants late intervention when the public interest favors a complete administrative record.

The issue before the Commission is not whether Infrastruk can obtain a license.

The issue is whether the Commission has a complete administrative record that withstands further litigation (such as over abuse of discretion or arbitrary and capricious actions under the APA) and should have before it all relevant engineering, economic, environmental, public-interest, and infrastructure information before deciding whether to approve irrevocable surrender and decommissioning of a major federal hydroelectric project.

Infrastruk states in its Motion that it “seeks intervention for the specific purpose of presenting, developing, and preserving for Commission consideration a fundamentally different alternative: **CONTINUED OPERATION AND SUCCESSOR LICENSEE.**”

Infrastruk does not ask the Commission, through this procedural Motion, to grant Infrastruk a hydroelectric license, compel Pacific Gas and Electric Company (“PG&E”) to continue operating the Potter Valley Hydroelectric Project (“Project”), reopen an expired licensing deadline, or predetermine the disposition of PG&E's applications for surrender of license and non-project use of Project lands (collectively, “Surrender Application”).

Infrastruk asks only to participate as a party in the pending surrender proceeding, subject to the existing procedural schedule and any reasonable limitations the Commission considers appropriate.

Consider for a moment, the FPA reflects a broad federal concern with the comprehensive development and beneficial use of waterways. Section 10(a) directs consideration of water-power development, fish and wildlife protection, irrigation, flood control, water supply, recreation, and other beneficial public uses in determining whether a licensed project is best adapted to a comprehensive plan for the affected waterway. 16 U.S.C. § 803(a).

In addition, the Commission possesses statutory authority to investigate and collect information concerning regional water-resource utilization, project capacity, development costs, and the relationship of power sites to relevant markets. 16 U.S.C. § 797(a).

These provisions do not determine the ultimate outcome of the Surrender Application, but they confirm that water, power, infrastructure, environmental, and public-use information falls within the Commission's traditional hydroelectric responsibilities.

The Opposition's asserted reliance interests do not justify excluding Infrastruk. Infrastruk recognizes that ERPA, public agencies, Tribes, conservation organizations, and other stakeholders have devoted substantial time and resources to the proposed Two-Basin Solution and related diversion facilities. Those efforts deserve fair consideration. But expenditures by existing participants cannot convert a proposed outcome into a predetermined agency decision or eliminate the Commission's independent responsibility to consider the record before it.

Intervention would permit Infrastruk to contribute to that record; it would not require the Commission to accept Infrastruk's position or reject the work of any other participant.

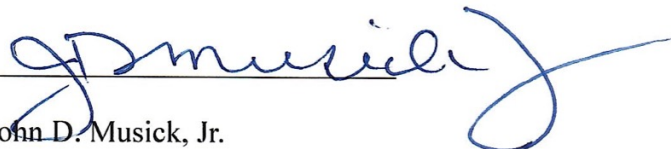
The Commission need decide only that Infrastruk has shown sufficient interest and good cause to participate in the pending proceeding, that its participation can contribute materially relevant information, and that intervention can be granted without disruption or legally cognizable prejudice.

Conclusion

The Motion should therefore be granted and the Opposition rejected.

Respectfully Submitted,

DATED: August 1, 2026.

By: 

John D. Musick, Jr.

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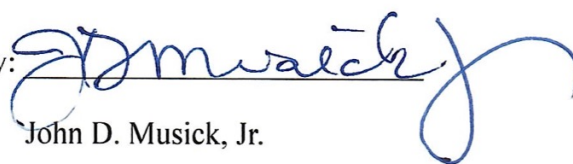
FERC Project No. 77-332

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, by first class mail or electronic mail, the Reply by Infrastruk Group LLC to the Opposition to the Motion for Late Intervention by Friends of the Eel River, California Trout, and Trout Unlimited regarding PG&E's proposed license surrender and decommissioning of the Potter Valley Hydroelectric Project, P-77-332. This Certificate of Service is served upon each person designated on the official P-77-000 Service List compiled by the Commission in the above-captioned proceedings.

Dated this 1st day of August 2026.

By:



John D. Musick, Jr.

EVP and General Counsel

Infrastruk Group LLC