

**BEFORE THE UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

Pacific Gas and Electric Company)
Potter Valley Project)

Docket No. P-77-332

**ELSINORE VALLEY MUNICIPAL WATER DISTRICT'S MOTION
FOR LEAVE TO FILE LIMITED REPLY TO THE OPPOSITION TO ITS RENEWED
MOTION FOR LATE INTERVENTION, AND LIMITED REPLY**

Pursuant to Rules 212, 213, and 214 of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212-.214, the Elsinore Valley Municipal Water District (EVMWD) respectfully submits this Motion for Leave to File a Limited Reply to the Opposition to its Renewed Motion for Late Intervention, and a Limited Reply.

COMMUNICATIONS

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MOTION FOR LEAVE TO FILE LIMITED REPLY

Elsinore Valley Municipal Water District ("EVMWD") respectfully requests leave to file a limited reply to the *Opposition to EVMWD's Renewed Motion for Late Intervention*¹ filed by

¹ *Opposition to Elsinore Valley Municipal Water District's Renewed Motion for Late Intervention*, Project No. P-77-332 (Sept. 10, 2026), Doc. Accession No. 20260910-5291.

Friends of the Eel River, California Trout, and Trout Unlimited (the “Opposition”) and in support of EVMWD’s *Renewed Motion for Late Intervention* (the “Renewed Motion”).²

Rule 213(a)(2) authorizes answers to answers if “ordered by the decisional authority.”³ The Commission has allowed answers otherwise prohibited by Rule 213 when they would: provide clarification; aid the Commission in understanding the issues; provide additional information that assists the Commission in its decision-making process; or help ensure a complete record.⁴ Because EVMWD’s Proposed Limited Reply to the Opposition does all of these things, the Motion for Leave should be granted.

PROPOSED LIMITED REPLY TO OPPOSITION

The Opposition contains erroneous statements and representations that neither EVMWD nor the Commission can ignore. *First*, the Opposition alleges that EVMWD “still has not demonstrated any interest that may be directly affected by the outcome of this proceeding” and “has not shown its participation would be in the public interest.”⁵ It further contends that “EVMWD does not explain how it is even remotely plausible, much less ‘statistically certain,’ that any impacts to its customers will occur when *there is no physical connection* between the Potter

² *Elsinore Valley Municipal Water District’s Renewed Motion for Late Intervention*, Project No. P-77-332 (Aug. 26, 2026), Doc. Accession No. 20260826-5198.

³ See 18 C.F.R. § 385.213(a)(2).

⁴ See, e.g., Order Issuing Certificate and Approving Abandonment, *Transcontinental Gas Pipe Line Company, LLC*, 182 FERC ¶ 61,006, P 13 (2023), *vacated on other grounds by New Jersey Conservation Found. v. FERC*, 111 F.4th 42 (D.C. Cir. 2024)) (accepting answer of Catherine Folio “because it provides information that has assisted in our decision making”); Order Issuing Temporary Certificate, *Spire STL Pipeline LLC*, 177 FERC ¶ 61,147, P 16 (2021) (modified on denial of rehearing) (“Although the Commission’s Rules of Practice and Procedure generally do not permit answers to protests, we will accept the answers here because they provide clarification and information that has assisted in our decision-making.”); *Columbia Gas Transmission, LLC*, 157 FERC ¶ 61,247, P 5 n.4 (2016) (“[T]he Commission finds good cause to accept Columbia’s answer since it does not delay the proceeding, assists the Commission in understanding the issues raised, and ensures a complete record.”).

⁵ *Opposition* at 2.

Valley Project's water delivery system and EVMWD's system."⁶ However, EVMWD's Renewed Motion clearly states that

Although geographically distant from the Potter Valley Project's physical footprint, EVMWD is inextricably linked to the project's operational output through California's interconnected, zero-sum water distribution system. Any reduction or systemic timing gap in northern water diversions or supplies directly depletes the aggregate availability of the state's water supply, forcing severe shifts in supply procurement that would increase rates for EVMWD's captive customers. EVMWD's unique interest is to protect its customers from these statistically certain financial and operational harms.⁷

EVMWD further states its interest in "avoiding significant customer impacts" arising from this matter and that it "has a direct, unique, and statutory interest in the statewide water supply grid, which now appears will be altered by the decommissioning of the Potter Valley Project."⁸ EVMWD's interest includes its "strict statutory obligation to provide safe, reliable, and affordable drinking water under frameworks such as the federal *Safe Drinking Water Act*" and the consequences of failing to meet those obligations.⁹ And "[n]o other party represents EVMWD's specific local water rights or its unique economic stake in the infrastructure, leaving EVMWD's voice entirely absent from the ongoing NEPA debate."¹⁰ The Opposition makes no attempt whatsoever to substantively rebut EVMWD's allegations. Instead, it simply ignores them. While the Opposition's authors are obviously averse to EVMWD's interests, those interests are undeniable here.

⁶ *Opposition* at 3 (emphasis in original). EVMWD has never asserted that a physical pipeline or other direct physical connection exists between its facilities and the Potter Valley Project. The Renewed Motion instead explains the broader water-supply and economic consequences that EVMWD contends may result from changes in California's interconnected water system.

⁷ *Renewed Motion* at 2 (emphasis added).

⁸ *Id.* at 3, 10.

⁹ *Id.* at 9.

¹⁰ *Id.* at 10.

Second, the Opposition—without any support or explanation whatsoever—claims EVMWD “has failed to show that its participation would not disrupt the proceeding and cause prejudice to other parties.”¹¹ This passing statement is curious given the Renewed Motion’s detailed discussion of disruption and prejudice. For example, EVMWD stated:

- “EVMWD does not seek to reopen completed proceedings, repeat completed procedural steps, postpone an established hearing, or extend existing deadlines solely to accommodate its participation. EVMWD expects to enter the proceeding in its present posture, accept the existing administrative record, comply with all existing schedules, refrain from duplicative discovery, and accept reasonable limitations necessary to prevent prejudice. Rule 214 expressly authorizes the Commission to impose such limitations.”¹²
- “The surrender proceeding remains ongoing, and the environmental review is underway. No party has shown that EVMWD’s participation would require reopening a final Commission determination or materially disrupt the proceeding.”¹³
- “In addition, the Commission has consistently recognized that granting an out-of-time intervention while the environmental review record remains fluid does not disrupt the proceeding or prejudice existing parties.”¹⁴
- The administrative process remains active. EVMWD seeks participation while its information can still contribute to the Commission’s decision-making. Granting intervention can therefore advance, rather than frustrate, the development of a complete administrative record.¹⁵

¹¹ *Opposition* at 2. Even some of the Opposition’s authors have sought to intervene late in matters before the Commission. For example, California Trout sought late intervention months after the intervention deadline in a FERC hydroelectric proceeding. When the Commission denied that request, California Trout sought rehearing and ultimately judicial review, arguing, among other things, that its participation would not disrupt the proceeding or prejudice existing parties. *See California Trout v. FERC*, 572 F.3d 1003 (9th Cir. 2009). Having previously held that position calls into question the legitimacy of California Trout’s objection here, where EVMWD has explicitly stated that it would come into this matter without any disruption or delay.

¹² *Renewed Motion* at 5.

¹³ *Id.*

¹⁴ *Id.* at 6–7.

¹⁵ *Id.* at 8.

As with the other issues the Opposition raises, the Opposition offers no substantive response to EVMWD's arguments. The Renewed Motion identifies all the ways in which EVMWD is willing to become a party without disrupting the proceedings and without prejudice to any current party. **Importantly, the Opposition does not allege that its authors will suffer any prejudice whatsoever from EVMWD's intervention.**

Third, the Opposition makes much ado about the word "merely" in the following sentence of EVMWD's Renewed Motion: "EVMWD does not contend merely that it was unaware of PG&E's surrender application."¹⁶ The Opposition contends that the word "merely in this context renders this statement "demonstrably incorrect and substantively misleading" because "EVMWD *was* aware of the surrender application and filed timely comments opposing it."¹⁷

The Opposition's hyperbole is misplaced. Of course, EVMWD timely filed comments and learned of PG&E's surrender application before filing. The docket is clear. EVMWD's point is that this is not simply a case of not knowing about the application. Instead, the scope of the potential impact on EVMWD and its customers did not become apparent to EVMWD until the June scoping session, where "it conferred with other stakeholders and learned of potential water-security infirmities in the so-called Two Basin Agreement."¹⁸ As EVMWD clearly stated:

The Potter Valley Project is geographically remote from EVMWD's Southern California service territory. **The October 31, 2025 public notice of a hydroelectric surrender proceeding involving facilities hundreds of miles away did not immediately raise concerns about a proceeding that would later materially affect water supply interests and governmental responsibilities statewide.**

It now appears this proceeding could set a powerful FERC precedent, signaling to private utilities that they may walk away from aging infrastructure, even if doing so severely impacts regional water security. **As the Two Basin**

¹⁶ *Opposition* at 3 (citing *Renewed Motion* at 4).

¹⁷ *Id.* at 3 (emphasis in original).

¹⁸ *Id.*

Agreement's facts are more fully analyzed, it has become clearer that its primary objective is ecological restoration, not water storage security. Its implementation could fundamentally alter the mechanics of regional water management, creating a cascading effect that directly affects statewide water conditions across California.¹⁹

EVMWD explained why and how it became aware of the potential impact of this proceeding on its customers and system. Of course, the Opposition takes issue with some of EVMWD's allegations but again, makes no effort to substantively rebut them.

Fourth, citing the quoted language above, the Opposition contends that EVMWD's concerns about "potential water-security infirmities" learned during the June 2026 NEPA scoping session do not provide good cause for late intervention because EVMWD fails to identify the infirmities or the stakeholder with whom EVMWD's representatives communicated.²⁰ Setting aside that EVMWD, or any other entity, has no obligation to publicly name individuals with whom it communicates to demonstrate good cause for late intervention, the Opposition continues to cherry-pick from the Renewed Motion. Again, EVMWD specifically stated that as it further analyzed the Two Basin Agreement, "it has become clearer that its primary objective is ecological restoration, not water storage security" and "could fundamentally alter the mechanics of regional water management, creating a cascading effect that directly affects statewide water conditions

¹⁹ *Renewed Motion* at 4–5 (emphasis added).

²⁰ *Opposition* at 3–4. EVMWD's initial Motion to Intervene Late noted that "[f]ollowing the recent FERC National Environmental Policy Act (NEPA) scoping sessions on June 23 and 24, 2026, in Ukiah, California, in which representatives of EVMWD participated, its concerns were heightened upon meeting with other stakeholders in the instant proceeding." See *Elsinore Valley Municipal Water District's Motion to Intervene Late*, Project No. P-77-332 (July 9, 2026), Doc. Accession No. 20260709-5244. However, the Opposition's authors made no mention of this statement when opposing that initial motion, undermining the legitimacy of their concerns here. See *Opposition to Elsinore Valley Municipal Water District's Motion to Intervene Late*, Project No. P-77-332 (July 24, 2026), Doc. Accession No. 20260724-5156.

across California.”²¹ EVMWD provided sufficient information for the Commission to understand the basis of EVMWD’s concerns arising from this proceeding.

Finally, the Opposition takes issue with EVMWD’s observation that the Commission’s decision in this proceeding could set a precedent for future matters before the Commission because EVMWD did not “identify any other projects or proposed dam removals where such ‘precedent’ might apply”²² a requirement the Opposition apparently concocted. Nevertheless, the Renewed Motion clearly states that the Two Basin Agreement’s ecology-focused implementation “could fundamentally alter the mechanics of regional water management, creating a cascading effect that directly affects statewide water conditions across California,”²³ which is undoubtedly of interest to EVMWD. The Opposition does not, and cannot, allege that this matter will not establish a precedent for future matters in which, as here, EVMWD has an interest.

CONCLUSION

The Opposition’s many red herrings lack merit. EVMWD has shown good cause for granting its Renewed Motion for Late Intervention, including that no delay in the proceedings or prejudice to the parties will result from EVMWD’s intervention, and that it has a substantial interest in these proceedings on behalf of its 168,000 Southern California customers.

The Opposition’s disagreement with EVMWD’s interests and substantive positions does not establish prejudice, disruption, or an absence of good cause. Nor should Rule 214 operate as a mechanism through which existing parties determine which competing interests the Commission is permitted to hear. If the Opposition believes EVMWD’s factual assertions, policy positions, or assessment of the consequences of PG&E’s surrender proposal are incorrect, they remain free to

²¹ *Renewed Motion* at 5.

²² *Opposition* at 4.

²³ *Renewed Motion* at 5.

challenge those matters on the merits. Such disagreement is a reason for a complete administrative record, not a reason to exclude EVMWD from that proceeding altogether.

For these reasons and those set forth in EVMWD's Renewed Motion for Late Intervention, the Commission should grant (1) EVMWD's Motion for Leave to File a Limited Reply to the Opposition to its Renewed Motion for Late Intervention; (2) EVMWD's Renewed Motion for Late Intervention; and (3) any further relief the Commission deems appropriate.

Dated: September 17, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing EVMWD Renewed Motion to Intervene Late has been filed this day in the above-captioned proceeding with the Federal Energy Regulatory Commission and served upon each person designated on the Commission's service list in Project No. 77-332.

Dated at Jackson, Mississippi this 17th day of September, 2026.

/s/ Curtis L. Hebert, Jr.
Curtis L. Hebert, Jr., Esq.