

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Pacific Gas and Electric Company	)	
In Re: Notice of Application for Surrender	)	
Of License and Non-Project Use of Project	)	
Lands, Accepted for Filing, Soliciting Comments,	)	Project No. 77-332
Motions to Intervene, and Protests	)	
_____	)	

**ROUND VALLEY INDIAN TRIBES’
OPPOSITION TO MOTION FOR LATE INTERVENTION OF
INFRASTRUK GROUP LLC**

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Pursuant to Rule 214 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure, 18 C.F.R. § 385.214, (Rule 214), the Round Valley Indian Tribes (Tribes or RVIT) submit this opposition to the Motion for Late Intervention filed by Infrastruk Group LLC (Movant) on July 23, 2026. Nearly nine months after the Commission established the deadline for filing motions to intervene, Movant now seeks to intervene to participate in this proceeding. The Motion should be denied. The Motion does not satisfy the requirement of Rule 214 that an untimely motion must show good cause for waiving the time limitation for intervention. 18 C.F.R § 385.214 (b)(3). Further, even if the Commission were to allow this egregiously late Motion to be considered, Movant has not satisfied the requirements for intervention as a party under Rule 214, because there is no basis in fact or law for its position; movant does not have a statutory or regulatory right to participate; and it does not represent an interest that may be affected by the outcome of this proceeding. 18 C.F.R §§ 385.214(b)(1) and (b)(2).

The Round Valley Indian Tribes are a sovereign Indian nation recognized as such by the United States. The Tribes timely intervened in this proceeding on December 1, 2025. The Potter Valley Hydroelectric Project (Project) is located on the Eel River in Northern California. The history and location of the Round Valley Indian Reservation reflect the centrality of the Eel River fishery to the Tribes' time

immemorial presence in the region and its reliance on the Eel River for subsistence, cultural, recreational, and economic purposes. The Reservation is bordered on the Eel River's mainstem on the west, the Middle Fork of the Eel River on the east, and the North Fork of the Eel River on the north. The Reservation was created in large part to provide a homeland for the Tribes and to protect a way of life centered on the Eel River fishery.

Moreover, the Tribes have unadjudicated and unquantified federal reserved water rights and fishing rights derived by implication from the creation of the Reservation by the United States. *See Baley v. United States*, 942 F. 3d 1312, 1335 (Fed. Cir. 2019) (internal citation and quotation marks omitted), cert. denied, 2020 WL 3405869, June 22, 2020 (tribes have an "implied right to unappropriated water to the extent needed to accomplish the purpose of the reservation"); *see also Parravano v. Babbitt*, 70 F. 3d 539, 546 (9th Cir. 1995) (Yurok Tribe's Reservation straddling the Klamath River and its tributaries was intended to provide a protected place for the Tribe to practice its fishing-based culture, so the Tribe has water and fishing rights protected by federal law). RVIT's federal water and fishing rights are entitled to legal protection even in the absence of quantification. *See Baley v. United States*, *supra* (irrigators are not entitled their full allocation of water under federal contracts because tribes in the Klamath Basin

have senior water rights the federal agencies must implement, even in the absence of adjudication and quantification).

1. Movant Has Not Shown Good Cause for Waiving the Time Limitation for Intervention.

The Motion should be denied because Movant has not shown why the time limitation for their late motion to intervene in this proceeding should be waived, as required by 18 C.F.R § 385.214(b)(3) (intervention motions filed after the time period expires must show “good cause why the time limitation should be waived.”). This requirement is mandatory. *American Whitewater v. Federal Energy Regulatory Commission*, ---F. 4th---, 2026 WL 2132395 at * 6 (D.C. Cir., July 24, 2026). Movant’s principal argument on good cause is that late intervention is justified because the initiation of the environmental review phase of the license surrender application is “a distinct procedural opportunity” that arose after the intervention deadline. Motion at 4. This argument conflates the intervention deadline with the deadline for submission of comments on the environmental review scoping document 1. Under that theory, the intervention deadline would float according to the setting of new procedural and comment deadlines for the Commission’s consideration of various aspects of the license surrender application. That approach finds no support in the text of Rule 214, and is unworkable as a matter of administrative practice, as it opens the door to successive intervention motions on a rolling basis.

Movant relies on the discretionary factors set out in 18 C.F.R. § 385.214 (d)(1) to support its good cause argument. The Commission may, but is not required to, consider those factors in “evaluating whether the movant established good cause [to waive the time limitation], including whether the movant provided a persuasive explanation of why it missed the deadline in the first place under factor (d)(1)(i).” *American Whitewater, supra at* * 6. Notably, Movant does not explain why it missed the deadline by nearly nine months, other than to note the procedural posture of the license surrender proceeding.

None of Movant’s arguments withstand scrutiny. First, intervention at this late-stage risks disruption of the environmental review process. Party status would give Movant the right to file motions at any point in the proceeding. That possibility is not idle speculation, given Movant’s assertions, however unfounded, that a successor licensee and “continued operation” alternative is feasible and practical.

Second, Movant has not shown why its interest will not be adequately represented by other parties. In broad terms, the alternative Movant is urging the Commission to consider did not originate with Movant. Others have urged the Commission to consider alternatives that would leave the Eel River dams in place and/or provide for continued operation of the Project. Movant has no unique perspective to bring to this discussion.

Third, intervention will prejudice existing parties. Movant's alternative is a direct attack on the Two Basin Solution, the settlement that the Round Valley Indian Tribes and local partners crafted to meet mutual goals of Eel River restoration post-decommissioning and continued diversions into the Russian River for water supply purposes. No doubt Movant will likely oppose the request of PG&E for authorization to use Project lands for a non-Project purpose, the implementation of the Two Basin Solution and construction of the New Eel Russian Facility for diversions. A speculative, ill-formed alternative not supported by fact or law creates undue burdens and expenses on the other parties to respond in order to defend the Two Basin Solution.

2. Movant Has Not Satisfied the Requirements for Intervention.

Movants must satisfy two requirements for intervention: 1) motions must "state, to the extent known, the position taken by the movant and the basis in fact or law for that position", 18 C.F.R. § 385.214 (b)(1); and 2) motions must "state the movant's interest in sufficient factual detail" to show that the movant has a statutory or regulatory right to participate, has an interest directly affected by the outcome of the proceeding, or its participation is in the public interest. 18 C.F.R. § 385.214 (b)(2). Neither requirement is satisfied here.

Movant's position, that FERC should consider and promote the alternative of continued operation of the Project under ownership by a "successor licensee", is

purely hypothetical. It lacks critical facts such as the identity of the successor, its financial and legal capacities, and its resources to acquire, upgrade, operate and maintain the Project, which PG&E, the current owner, has declared to be uneconomical.

The legal basis of Movant's position is even more problematic. The opportunity for a third party to acquire the Project and to assume the FERC license has long passed. On April 6, 2017, PG&E filed a Notice of Intent (NOI) and Pre-Application Document (PAD) to relicense the Project. PG&E's final license application and any competing applications were due on April 14, 2020. PG&E withdrew its NOI and PAD on January 25, 2019. This meant that Project became an orphaned project under Commission regulations, 18 C.F.R. § 16.25. Pursuant to that regulation, the Commission issued a notice soliciting applicants to file by July 1, 2019, Notices of Intent and Pre-Application Documents to relicense the Project. *Notice Soliciting Applications*, 84 Fed. Reg. 8324 (March 1, 2019) (Notice of Orphan Project), at Doc. Accession No. 20190301-3038. No applications were filed. PG&E's license expired on April 14, 2022. The Commission then directed PG&E to file a license surrender application. That was filed on July 25, 2025. *PG&E Final Application for Surrender of License; Final Application for Non-Project Use of Project Lands*, Project No. P-77 (July 25, 2025), Doc. Accession No. 20250725-5175. Movant has not, and cannot, state a basis in law for how the

license for an orphaned project can be transferred during the license surrender proceeding. The failure of Movant to show the legal basis for the position it proposes is fatal to its intervention motion.

Finally, the Motion lacks sufficient factual detail to show that Movant either has an interest in this proceeding that will be directly affected, has a right to participate granted by statute or regulation, or that the public interest warrants intervention under these circumstances. Only two of the interests Movant articulates in its motion relate in any way to the Project. First, Movant offers the Commission “a unique technical perspective” that might assist in evaluation of “the proposed license assignment and any future disposition of the [Project]. . . .” Motion at 3. That interest of course could be satisfied by Movant’s participation in the comment procedure open to members of the public; it does not require party status. Second, Movant claims an interest in the “protection of communities and customers historically affected by Project operations. . . .” Id. Movant does not explain the factual or legal bases for its alleged interest in protecting such communities, nor how such protection would be carried out, nor is there any evidence it has relationships of any kind there. A self-proclaimed interest in protecting communities with which one has had no interaction or relationships does not qualify as an interest “directly affected” by the outcome of the license surrender proceeding.

No statutory or regulatory provision grants Movant a right to participate in this proceeding as a party. Movant cites none. Moreover, the public interest does not require Movant's participation as a party. If Movant has expertise relevant to the issues in this proceeding, that can be shared with stakeholders in the public comment forum. Party status is not necessary for that purpose. Movant has identified no public interest that requires party status to vindicate.

For these reasons, the Motion to Intervene should be denied.

Dated: August 4, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served, by first class mail or electronic mail, an Opposition to Motion for Late Intervention of Infrastruk Group LLC, by the Round Valley Indian Tribes, upon each person designated on the official Service List compiled by the Commission in the above-captioned proceedings.

Dated August 4, 2026

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