

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

Pacific Gas and Electric Company,)
Poe Hydroelectric Project) P-2107-016

MOTION FOR LATE INTERVENTION BY BUTTE COUNTY

Pursuant to 18 C.F.R. § 385.214 and in response to the “Notice of Application Accepted For Filing And Soliciting Motions To Intervene and Protests” (March 24, 2004), Butte County hereby moves to intervene in this proceeding. This intervention will assure the adequate representation of the County’s interests in the relicensing of this project, which is located in the County. We respectfully submit that good cause exists to grant late intervention, including the brevity of the filing delay, the early stage of this proceeding, and the non-objection of PG&E and intervenors.

ARGUMENT

A. Butte County Has Significant Interests Which It Uniquely Represents.

Butte County has significant interests in the project, which is located within its boundaries. Pursuant to California Government Code §§ 23000-02, the County represents the interests of its residents in this proceeding. These include: enhancing the recreational facilities and services with the project reach, and securing adequate mitigation of the project’s adverse impacts on public trust resources. PG&E and intervenors U.S. Departments of Interior, Agriculture, and Commerce, and California Department of Water Resources do not represent the County or the local public interests.

The County has been actively involved in this proceeding. On July 17, 2002, it filed a Notice of Intent to seek a New License. On October 31, 2003, it withdrew that notice. On February 17, 2004, it filed timely Additional Study Requests, which are pending. On May 3, 2004, it filed timely comments on Scoping Document 1. It is actively participating in the collaborative group convened by PG&E to develop mutually agreeable protection, mitigation and enhancement measures for resource impacts. Indeed, the County consulted directly with PG&E with regard to recreational facilities and services described in Exhibit E of the New License Application.

B. Good Cause Exists to Grant Late Intervention.

Pursuant to 18 C.F.R. § 385.214(b)(3), good cause exists to grant this Motion. Due to a clerical error, the County did not timely move to intervene by the May 24, 2004 deadline.¹ By statute, the County is uniquely able to represent the local interests of its residents. It is not adequately represented by intervenor federal and state agencies, as provided in (b)(3)(iii). No disruption, delay, or prejudice will result, as provided in (b)(3)(ii), (iv). The County's undersigned counsel has contacted PG&E and intervenors and is authorized to represent that they do not object to this intervention. The record of this proceeding has not developed materially since the deadline for intervention ran May 24th. Finally, the Commission's December 23, 2003 schedule provides that the Commission will publish a draft environmental document in May 2005, and standard procedure permits timely intervention at that later date.

¹ In our Additional Study Request, we requested that designated representatives of Butte County be added to the service list. As of this date, these representatives are not so included.

CONCLUSION

The County respectfully requests that the Commission grant this Motion and add the following representatives to the service list:

Bruce Alpert, County Counsel
Office of County Counsel
Butte County
25 County Center Drive
Oroville, CA 95965

Ed Craddock, Director
Butte County Water & Resource Conservation
1 County Center Drive
Oroville, CA 95965

Richard Roos-Collins
Special Deputy District Attorney, Butte County
2140 Shattuck Avenue, 5th floor
Berkeley, CA 94704.

Dated: June 11, 2004

Respectfully submitted,

Richard Roos-Collins
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On behalf of BUTTE COUNTY DISTRICT ATTORNEY
and BUTTE COUNTY COUNSEL

DECLARATION OF SERVICE

Pacific Gas and Electric Company, Poe Hydroelectric Project (P-2107-016)

I, Terri Cordrey, declare that I today served the attached “MOTION FOR LATE INTERVENTION BY BUTTE COUNTY,” by first-class mail to each person on the official service list compiled by the Secretary in this proceeding.

Dated: June 11, 2004

By: _____

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