

## California Public Utilities Commission (CPUC) Tribal Land Transfer Policy Section 851 Approval Process

California Public Utilities Code Section 851 requires CPUC approval for the sale or other disposition of any Investor-Owned Utility (IOU) assets. Therefore, transfers of IOU real property to Tribes pursuant to the Tribal Land Transfer Policy (TLTP) are subject to Section 851 approval by the CPUC.

Section 851 transfers of real property require the IOU to file a *formal application* with the CPUC. In some situations, however, Section 851 transfers of real property may be approved by the expedited **General Order 173 process** in which the IOU may file an Advice Letter to receive CPUC.

### Formal Application Process

The CPUC will require IOUs to file an application for Section 851 transactions valued at over \$5 million. The application process is managed by the CPUC's Administrative Law Judge (ALJ) Division. The assigned ALJ will send a Scoping Memo to interested parties to determine whether testimony or evidentiary hearings are necessary to develop a legal record from which a Proposed Decision (PD) can be drafted. The full Commission votes to approve or deny the PD by 3/5 majority vote.

### General Order (GO) 173 Advice Letter (AL) Process

When seeking approval of less complex or controversial transactions where testimony or hearings are not necessary, Section 851 approvals can be processed under the GO 173 expedited AL process provided: 1) California Environmental Quality Act review is *not* required; 2) the value of the real property is under \$5 million; 3) the AL filing is *not* subject to a valid protest. If a valid protest is filed, then IOU must file an application seeking Section 851 approval.

GO 173 AL process key steps:

1. The IOU seeking Section 851 approval files an AL containing all the information outlined in the TLTP Implementation Guidelines.
2. The AL is assigned to a lead analyst within the industry division to which the AL letter pertains.
3. Any protests must be filed within 20 calendar days after the AL is filed. A protest must raise a substantive issue within the scope of the AL request to be valid.
4. The lead analyst reviews the protests, the IOU's response to the protest, public comments, and any work papers related to the AL. The lead analyst may submit a data request to the IOU if more information is needed. The lead analyst must complete the review and close the AL within 30 days or send a suspension notice to the IOU, any protestants, any respondents, and the division's tariff unit.

### GO 173 AL Resolution Process

When the industry division determines that a substantive issue related to the IOU request needs to be decided by the Commission, or when an IOU requests a Commission order, the lead analyst writes a Draft Resolution for the full Commission to consider, that is, the industry division is no longer the decider. The Draft Resolution is sent to the appropriate service list for public comment and the lead analyst considers the comments, revising the Draft Resolution accordingly. The revised Draft Resolution is then placed on the Commission agenda and becomes final with a 3/5 majority vote.