

## **Tribal Land Transfer Policy**

On January 14, 2021, the CPUC approved Resolution E-5076 which adopted the Tribal Land Transfer Policy (TLTP) Guidelines to facilitate the implementation of the TLTP. The TLTP requires certain Investor Owned Utilities (IOUs) seeking to dispose of real property under Section 851, to take affirmative steps to determine whether California Native American Tribes (Tribes) are interested in purchasing the property, and further provide Tribes the right of first offer on the property before the IOU may put the property on the open market.

The Guidelines are mandatory on all electrical corporations, gas corporations including common carrier pipeline corporations (excluding corporations that only operate independent gas storage facilities), and water corporations of 2,000 or more customers.

Specifically, the TLTP applies to fee interest conveyances of real property pursuant to Public Utilities Code Section 851. Public Utilities Code Section 851 requires that IOUs seeking to convey assets including real property seek CPUC approval for the transaction.

### **Background**

The CPUC's development of the TLTP reaches back a decade to Governor Brown's Executive Order B-10-11 which first committed the State of California to strengthening effective government-to-government relations between the State and Tribes. Governor Newsom reaffirmed Governor Brown's order in 2019 with Executive Order N-15-9 which states that in early statehood California waged a war of extermination against Tribal communities and that discrimination continued well into the twentieth century. Acting to advance the two Executive Orders, the CPUC Committee on Policy and Governance developed the Tribal Consultation Policy recognizing Tribal sovereignty and ensuring meaningful consideration of Tribal interests within CPUC jurisdiction by facilitating Tribal government participation in CPUC Proceedings. The Tribal Consultation Policy was adopted by the Commission on April 6, 2018.

Development of the TLTP occurred from June through October of 2019. Following notice to stakeholders, public outreach and meetings with Tribes, public comments on the proposed policy were accepted. On December 5, 2019, the TLTP was formally adopted by the CPUC. The TLTP builds on the Tribal Consultation Policy by establishing a CPUC preference for the transfer of real property to Tribes when an IOU plans to dispose of real property within a Tribe's ancestral territory. The TLTP acknowledges that IOUs own real property located within Tribes' ancestral territories and upholds California Law and Policy encouraging consultation and cooperation with Tribal governments to protect Tribal sacred places and cultural resources of historical, spiritual, and ceremonial importance to tribes.

### **TLTP Implementation Guidelines**

The Guidelines adopted by Resolution E-5076 implement the TLTP and provide Tribes with information required to determine whether they are interested in the real property, provide the Tribes with meaningful consultation in making that determination, and ensure that the IOUs act in good faith in all efforts to transfer real property to the appropriate Tribe.