



Staff Proposal to Improve the Tribal Land Transfer Policy Implementation  
Guidelines Pursuant to the Order Instituting Rulemaking (22-02-002) To **FILED**  
Implement Resolution E-5076 And Review OF Tribal Policies

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**Summary of Staff Proposed Recommendations**

- Amend TLTP to apply to all fee simple dispositions of IOU real property including dispositions seeking approval under PU Code Section 851, General Order 173, and **all other** IOU fee simple transaction of real property.<sup>1</sup>
- Develop maps of IOU land holdings within their service territories. This IOU led effort should create maps produced in enough detail to be useful to tribes for the purposes of identifying IOU land of potential interest.
- Tribes should have direct access to CPUC staff assigned to TLTP to facilitate improved communication for the purpose of reporting issues with IOU notice and consultation, and general technical assistance.
- Create tribal ancestral territory map overlays on IOU service territory maps, with the understanding that the ancestral territories depicted are acknowledged to be “self-reported” by tribes and do not represent a consensus by tribes on ancestral boundaries. The purpose of this is to provide a resource to IOUs for the purpose of TLTP notification in the absence of NAHC referrals to the IOUs.
- Modify Guidelines Section 2.2 (c) to extend the current 30-day period for a tribe to express interest to 60-days. The 30-day second notice period should remain in place, creating a 90-day period in which the tribe must express interest before the IOU has satisfied its noticing responsibility.
- Augment Guidelines Section 2.4 to include in addition to current contents:
  1. a map showing the property location.
  2. An aerial photograph of property boundaries.
  3. Property address, APN, and GPS coordinates.
  4. A description of the property and its current uses.
  5. Size of property including both land and buildings.
  6. Deed restrictions that apply to the property.
  7. Publicly available information regarding cultural and archaeological resources on or around the property.
  8. Previous uses of the property and an Environmental Site Assessment (ESA) identifying potential environmental concerns.

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<sup>1</sup> Nothing in this document is intended to prevent a tribe from placing any lands transferred pursuant to this policy into trust consistent with applicable law.

- Augment Guidelines Section 2.4 (d) to include both the IOU's asking price for each parcel and the appraised value as determined by a California Certified Appraiser.
- Augment the Guidelines by adding a section that requires a public consultation between CPUC, IOUs, and tribal government representatives every two years to discuss TLTP implementation effectiveness, and whether additional modifications are recommended.
- Hold a public workshop with CPUC, IOUs, and tribes to discuss:
  - 1) Potential improvements to the TLTP noticing and consultation procedures outlined in the Guidelines, including discussion of protocols to promote meaningful consultation and information exchange.
  - 2) Creating provisions within the TLTP to incentivize CPUC jurisdictional IOUs to make fee simple donations of real property to tribes.
  - 3) Tribal capacity building, and financial resource building to facilitate the TLTP.
  - 4) The implementation of the other recommendations in the staff proposal.
- Hold a second public workshop to address the specific issue of extending the application of the TLTP to telephone corporations and all other jurisdictional IOUs.

## **Background**

On April 6, 2018, the California Public Utilities Commission (CPUC) formally adopted a Tribal Consultation Policy for the purpose of recognizing Tribal sovereignty and to ensure meaningful consideration of Tribal interests within the CPUC's jurisdiction. Consistent with the goals of the Consultation Policy, the CPUC proposed the Tribal Land Transfer Policy (TLTP) to provide an opportunity for California Native American Tribes (tribes) to regain land within their ancestral territories.

On December 5, 2019, the CPUC adopted the TLTP. On January 14, 2021, the CPUC approved Resolution E-5076, which established the TLTP Implementation Guidelines (Guidelines) and made the TLTP mandatory for energy and large water investor-owned utilities (IOUs). The Guidelines outline the purpose and goals of the TLTP and assigned roles, responsibilities, and procedures to be followed by CPUC staff, the IOUs, and participating Tribes. In short, the Guidelines "operationalize" the TLTP. On April 14, 2021, the CPUC held a public TLTP Implementation Workshop to introduce the Guidelines to Tribes. Resolution E-5076 also ordered that, within two years of its approval, Commission staff place on the Commission's agenda a proposed Order Instituting Rulemaking (OIR) to consider revisions to improve the Guidelines, where necessary.

On February 10, 2022, the CPUC adopted the OIR, which included a Preliminary Scoping Memo and posed questions to parties regarding how the Tribal Consultation Policy and the TLTP could be improved. On May 16-17, 2022, parties submitted opening comments in response to the questions posed in the OIR, and on June 24, 2022, reply comments were received.

CPUC Northern California Regional Tribal Consultations were held in Round Valley on May 24, 2022; Eureka on May 25, 2022; and Blue Lake on May 26, 2022. CPUC Southern California Regional Tribal Consultations were held in Pala on August 30, 2022.

On October 11, 2022, a prehearing conference was held for the purpose of allowing parties and California tribes to comment on the scope, category, and schedule for the proceeding.

On January 25, 2023, the assigned administrative law judge (ALJ) issued a ruling providing notice and opportunity for parties to comment on information provided by Tribes during tribal consultations conducted by the CPUC in 2022. The January 25, 2023 ruling additionally invited comments on the proposed scope for modifications to the CPUC's TLTP. Opening Comments were received February 2—March 8, 2023.

## Discussion

Although the rulemaking will consider revisions to improve both the TLTP and the broader Tribal Consultation Policy, the purpose of this Staff Proposal is to focus on comments provided by tribes and parties proposing specific improvements to the TLTP Guidelines.

In accordance with Section 5.1 of the Guidelines, IOUs seeking CPUC approval to sell real property subject to Public Utilities Code Section 851 (PU Code Section 851), submit TLTP Quarterly Reports to the CPUC's Energy Division (ED) for the purpose of documenting TLTP activities and enabling ED staff to provide effective CPUC oversight of the TLTP. Currently, the only publicly available information on TLTP transaction activity is contained in the Quarterly Report(s).

The recommendations advanced in this Staff Proposal reflect consideration of:

- 1) comments filed in response to questions posed in the OIR.
- 2) issues raised during the prehearing conference.
- 3) comments received during CPUC statewide Tribal consultations that occurred in 2022.
- 4) comments on the proposed scope for modifications to the TLTP.

The OIR directs respondents (electric, gas, water corporations, and Incumbent Local Exchange Carriers, for which the TLTP is mandatory) to respond to the following questions:

1. *Since many Tribes have requested maps of IOU territory, and specifically of land that may be soon divested, please provide information or recommendations as to how best to provide maps and information as to specific properties that are being targeted for divestiture.*
2. *What training or other resources should be provided to the IOUs and Commission staff regarding respectful Tribal consultation that will further the policies of the Commission in engaging with Tribes?*
3. *What training or resources can the IOUs or the Commission Offer to Tribes to ensure they have the information and resources needed to effectively participate in Commission proceedings and approved programs, and to engage in discussion regarding land transfer opportunities?*

The OIR asked for input from respondents, Tribes, and other stakeholders on seven additional TLTP implementation questions, as well as on any other issue in the furtherance of the OIR:

1. *What do the Quarterly Reports demonstrate regarding the efficacy of the current TLTP Guidelines?*

2. *How can the Commission improve notice and consultation with Tribes regarding prospective transactions and generally as matters within the Commission's jurisdiction?*
3. *What barriers, if any, do the Tribes see to effective implementation of the TLTP and meaningful consultation with Tribes?*
4. *How can the Commission better promote Tribal engagement or capacity building necessary to effectively participate in TLTP and other Commission proceedings and programs?*
5. *What recommendations, if any, do Tribes have regarding how the IOUs can improve engagement with Tribes; including whether earlier notification is needed, other regular coordination as to the TLTP, public safety power shutoff, incentive programs, or other matters with the Commission's jurisdiction?*
6. *How can the Commission and IOUs more effectively consult or engage with Tribes?*
7. *Do the current TLTP implementation Guidelines include complete information to ensure effective implementation and engagement of the TLTP? If not, provide any recommendations as to changes, additions, or deletions to the TLTP Implementation Guidelines that would further enhance the effective implementation of the TLTP?*
8. *What information do Tribes need to effectively participate in Commission proceedings and programs?*
9. *Should the Commission's Tribal Consultation Policy and Rules of Practice and Procedure provide specific provisions to allow for Tribal feedback in proceeding with a Tribe having to become a formal party? If so, what would the provisions include?*
10. *Provide any recommendations as to additional issues that you believe should be included in the scope of the proceeding.*

The following summary of comments addresses the questions posed in the OIR. Each comment is addressed by this Staff Proposal:

In response to the question posed in the OIR regarding the provision of maps of likely future IOU land divestitures, tribes supported the idea, if feasible for the IOUs to produce. Tribes also believe that maps of current IOU land holdings would be useful. The IOUs provided comments explaining the difficulty of accurately identifying future dispositions.

Southern California Edison Company (SCE) comments that the information on likely future dispositions would be speculative and potentially confusing to Tribes. San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) also do not intend to provide specific information for properties that have not yet been identified for disposition to avoid confusion between properties that may be sold, and properties that will be sold. Pacific Gas and Electric Company (PG&E) reports that land determined to be no longer necessary is first identified by the business unit and must then be approved for sale by senior management. Notice is provided to tribes in accordance with Guidelines once internal approvals are obtained.

Staff acknowledge the internal processes that IOUs must complete prior to identification of land for sale and accept that production of a map of likely near future dispositions may not be feasible. Because of this, it is important to ensure that the notification and consultation process is effective, and tribes are provided with all pertinent transaction information at the time of notification. Although production of maps showing land likely to be divested may not be possible, maps showing IOU real property holdings within their service territories would enable tribes to identify IOU land of interest to the tribes. Maps of IOU land holdings should be produced in enough detail to be useful to tribes.

The Yurok Tribe submitted comments identifying several TLTP implementation issues. First, the Yurok Tribe recommends a central location for each IOU tribal website—preferably hosted by the CPUC, and that the website be kept current. Next, the Yurok Tribe encourages a CPUC audit of IOU TLTP notice and consultation efforts. The Yurok Tribe finds that lack of (1) proper notice, (2) information on IOU land ownership, and (3) funding for property purchases are the greatest barriers to TLTP Implementation.

Staff acknowledge the Tribes' recommendation that the CPUC support a webpage linking to each IOU tribal website. However, staff finds both the SCE and PG&E sites to be relatively easy to access by searching "tribal notifications" on the Internet. At present, staff recommend the CPUC provide an email link and phone contact to assigned CPUC staff so that tribes can reach out directly to staff to report any TLTP issue of concern. There is currently no way for assigned staff to evaluate the quality or effectiveness of IOU TLTP tribal consultation efforts. Accordingly, staff see value in providing tribes with direct staff contact via email or phone to provide staff with feedback, and/or for technical support with the Guidelines.

Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs) (telephone corporations) submitted comments. ILECs were named as respondents and required to participate actively in the proceeding, while CLECs were named as respondents but not required to actively participate.

Comments submitted by telephone corporations focus on the question of whether the TLTP should apply to telephone corporations not subject to Section 851 CPUC approvals for real property transactions. The telephone corporations insist that the conditions that led the CPUC to grant exemption to Section 851 in D.95-10-032 still exist. Furthermore, D.10-05-019 ordered that a petition for modification would be needed to terminate the Section 851 exemption granted in the decision and further concludes the TLTP cannot be expanded to include exempt rate of return carriers.

Comments filed by "Small LECs" request that the CPUC identify the issue of extending the mandatory nature of the TLTP to additional utilities as one of the issues in the scope of the rulemaking. The Small LECs suggest that due to their typically small land holding and infrequent land sales, they not be subjected to additional information requirements prior to determination that a parcel of land will be sold.

In Reply Comments, CTIA points out that Commercial Mobile Radio Service (CMRS) providers may have been included in Appendix B, List 2, in error. The OIR states that Appendix B, List 2 is comprised of CLECs, however the list includes a number of wireless carriers.

In Reply Comments, Pacific Bell points out that the CPUC does not include all communications providers as respondents in the OIR, citing an asymmetric imposition of regulations and disparate treatment and competitive consequences. Comments reiterate that the CPUC has not addressed how the TLTP would apply to AT&T and other non-rate-of-return providers' exemption from Section 851. AT&T proposes a workshop to consider the extension of the TLTP to communications providers.

Staff supports expanding the TLTP to include telephone corporations and suggests the issue be included in the rulemaking for further evaluation. The CPUC should clarify what telecommunications utilities the

OIR is naming as Respondents as a first step, and ultimately address the issue of including exempt rate of return carriers in the TLTP.

Consideration of expanding the mandatory nature of the TLTP to certain jurisdictional IOUs, while exempting others, with the attending issues of asymmetric regulation, disparate treatment, and competitive consequences, leads staff to the conclusion that TLTP is too narrowly defined by PU Code Section 851 transactions. The spirit and intention of the TLTP is to provide tribes with land ownership opportunities within their ancestral territory. Because most CPUC fee simple real property transaction approvals are granted under Section 851 and the abbreviated procedures provided within General Order 173, the CPUC directed that all such transactions be subject to the TLTP. It is clear that the intent and spirit of the TLTP—to afford tribes the opportunity to regain land ownership within their ancestral territory—may be advanced by requiring *all* fee simple land transactions by CPUC jurisdictional IOUs to comply with the terms of the TLTP. If all CPUC jurisdictional IOUs must adhere to the terms outlined in the TLTP Guidelines, the issues of disparate treatment and asymmetrical regulation become mute. Staff anticipates that the larger IOUs, with greater resources, will be burdened more frequently by the obligations outlined under the TLTP Guidelines, while smaller IOUs, with fewer resources, will be burdened less frequently by the same obligations.

Staff recommends holding a public workshop to address the specific issue of extending the application of the TLTP to telephone corporations and all other jurisdictional IOUs.

SCE recommends that the Commission clarify exemptions identified in Guidelines Section 3.3(c) Presumption in Favor of the Tribe.

Section 3.3 specifically states: “When an IOU requests approval to dispose of real property lying in a Tribe’s ancestral territory, the Commission will presume that the Tribe is the preferred transferee, and that the transfer to the Tribe is in the public interest, absent a finding supported by evidence.”

Subsections (c) and (d) provide the following exemptions to the presumption in favor of the Tribe: “That transfer of the real property to another entity is necessary to achieve IOU operational requirements, or to comply with any law, rule, or regulation,” or “that the transfer of the real property to another entity would be in the greater public interest.”

Staff maintains that Section 3.3 subsections (c) and (d) establish exemptions that both preserve the CPUC’s policy making discretion and acknowledge the Commission’s obligation to comply with established law. A possible application of Section 3.3 was raised in comments by City of Carlsbad (Carlsbad), in which Carlsbad notifies the CPUC of a 2014 Settlement Agreement with SDG&E expected to result in a land transaction that will eventually require Section 851 approval. In their comments, Carlsbad argues that in addition to the binding legal agreement in place, it is in the public interest to exempt the transaction from the TLTP. Staff do not recommend specifying the exemptions identified in Guidelines Section 3.3.

In Joint Response Comments, SDG&E and SoCalGas suggest that tribal consultation responsibilities be clarified; they suggest the potential for confusion between the consultation process established by Assembly Bill 52 (AB 52, Stats. 2014, Chap. 532), which requires review of projects that may impact tribal cultural resources pursuant to the California Environmental Quality Act (CEQA), and the TLTP consultation process outlined in the Guidelines. Typically, consultations are conducted at the government-to-government level, but as described in the Guidelines, consultation is conducted between

IOUs and Tribes. SDG&E and SoCalGas's comments request clarification concerning when and how AB 52 may interact with consultation pursuant to the TLTP.

Staff believes that although the IOU-tribal consultation envisioned in the Guidelines is not government-to-government, the standard of the consultation must meet the full legal meaning of the term as defined in state law. For that reason, the term consultation is used as opposed to another term to describe the effective outreach to tribes by IOUs envisioned in the Guidelines. In the case that a TLTP transaction becomes a "project" under CEQA, the AB 52 consultation process would be conducted government-to-government between the tribe and the CPUC, acting as lead agency. Even in this instance, the CPUC would expect the IOU-tribal consultation to occur in parallel, as the TLTP consultation would be land transaction-specific, while the AB 52 consultation would be conducted in accordance with CEQA review.

During consultations, tribes expressed concerns with easement and rights-of-way issues and compliance with tribal law when IOUs are working on tribal trust land. Staff acknowledge the need for further discussion of easements, rights-of-way, and IOU compliance with tribal law concerning activities that occur within tribal lands. Staff recommend that all easement concerns be addressed in a workshop that focuses on this specific issue, but that the issue of easements, and IOU rights to operate within such easements, is outside the narrow scope of the TLTP, which was purposely limited to fee simple transaction of real property. Staff suggests that issues involving easements should be discussed under the broader scope of the Tribal Consultation Policy.

A January 25, 2023, ALJ Ruling appended notes from statewide tribal consultations and posed additional questions to parties intended to solicit additional comment on possible changes to the TLTP Implementation Guidelines:

- 1. Resolution E-5076 notes that investor-owned utilities (IOUs) and Tribes continue to stress the need for a means of determining Tribal ancestral territory that places the Tribes and CPUC in a government-to-government leadership role. Should the Commission seek the creation of an overlay of Tribal ancestral territory on IOU service territory? How else might the Commission facilitate or enable such a determination?*
- 2. Resolution E-5076 states that the Commission supports the concept of pre-consultation and will explore protocols for consultation between IOUs and Tribes. Such consultation protocols have not been specifically defined. Provide your recommendations for necessary and/or reasonable elements of a consultation protocol for the Tribal Land Transfer Policy.*
- 3. The Tribal Land Transfer Policy requires an IOU that seeks approval to dispose of a property to provide written notice to relevant Tribe(s), as described in Section 2.1 of Resolution E-5076. Should the Tribal Land Transfer Policy be modified to require that any proposed sale be noticed to all California Native American Tribes? Provide a rationale for your response, and recommendations for necessary implementation details and other considerations for broader notification requirement.*
- 4. Are there specific rules and processes for executing real estate transactions in Indian Country that IOUs will need to manage, in order for the Tribal Land Transfer Policy to be successful? Since the adoption of Resolution E-5076, what limits or barriers posed difficulties to successfully executing real estate transactions in Indian Country?*
- 5. What specific due diligence information should be contained in the initial request for Tribal consultation from IOUs seeking to dispose of a property? Would receiving specific property*

*details within the request for Tribal consultation letter, such as acreage, appraised value, and prior uses, be helpful to Tribes assessing whether or not to pursue a transaction to acquire the property? What other property information disclosures would be helpful?*

#### Question 1 Responses

IOUs generally support the creation of IOU service territory/tribal ancestral lands overlay and that this be conducted at the state level with input from Tribes, provided the overlay would replace the existing system of requesting a list of applicable tribes from the NAHC, enabling IOUs to notice tribes more efficiently.

The California Water Agency also supports the creation of a map overlay, recommending the CPUC work with Tribes to establish a methodology for creating the overlay.

The NCTC provided comments supporting the creation of an overlay, as did the Federated Indians Of Graton Rancheria (FIGR). FIGR suggests that the CPUC make clear that the map depicts self-identified territory that has not been verified or subject to consensus among tribes. FIGR comments suggest that a map based on “consensus among tribes on generally accepted ancestral territorial boundaries and a system for assigning ancestral territory within each IOU service territory”, as envisioned in Resolution E-5076, is not feasible. FIGR explains that the CPUC must make clear that any map depicting the self-identified boundaries of California Tribes includes entities that self-identify as Tribes and depicts territorial boundaries that have neither been verified by external sources nor reflect the consensus of California Tribes. The FIGR explains that a map based on the NAHC contact list would not assign ancestral territory with each IOU service territory to a single tribe, it will nevertheless be useful to IOUs because it will show which tribes have self-identified an ancestral connection to the territory and would have a potential interest in acquiring the property to be disposed. FIGR points out that an overlay will be more useful for notification purposes, and less useful for dispute resolution purposes.

Staff accept that the overlay map envisioned in Resolution E-5076 is likely unachievable, but agree that the effort to establish general, non-consensus, tribal ancestral territorial map overlays of IOU service territory is a useful exercise and recommends that “next steps” to the creation of the tribal overlay map be included within the scope of this rulemaking. Staff envisions each industry sector working cooperatively to develop their own consensus map of each corporate service territory overlay of the entire state. Once accomplished, tribes can then offer individual tribal ancestral overlays. This mapping effort is separate from the effort described earlier, where each IOU and corporation will provide detailed maps of land holdings.

#### Question 2 Responses

IOU comments generally indicate that consultation protocols in addition to those already contained in the Guidelines are unnecessary as the adopted Guidelines established a detailed procedure for notification and offer to consult.

NCTC comments recommend the earliest possible notification of IOU land dispositions to enable the Tribe to arrange funding for grants for land acquisition.

FIGR comments outline best practices for consultation: early IOU notice and ample property descriptions; various forms of meeting including preferred in-person and video meetings; IOU



notification of authorized Tribal personnel; initial consultation meeting with agreed upon format and process, discussion of any sacred sites on property, and development of a consultation calendar; ongoing consultation meetings; and the principle that all consultation should be grounded in good faith and respect.

Staff recommends that responses to question 2 warrant further discussion in a workshop attended by CPUC staff, IOUs, and interested tribes. Staff reiterate their recommendation to create direct communication between tribes and staff to both assist tribes and evaluate the efficacy of IOU notice and consultation. Given the critical importance of effective notice, staff emphasize the importance that tribes ensure that (1) the tribal contact listed with the IOUs is kept current and (2) the listed tribal contact has full authority to direct tribal consultation. Lastly, the workshop should explore alternative methods of notice that can be employed by IOUs in addition to the notification by certified mail.

#### Question 3 Responses

IOUs' and Tribes' comments indicate agreement that the IOU TLTP notification should remain limited to Tribes with ancestral connections to the land sold. The IOUs comment that statewide notice to all tribes would be overly broad, contrary to the intent of the Guidelines, could potentially diminish a tribe's ability to acquire land in their own ancestral territory, and result in more disputes.

NCTC does not suggest it is necessary to notice a proposed land disposition to Tribes that are not traditionally or culturally affiliated with the site.

Based on comments, staff concludes that the statewide notification of all tribes is unnecessary and likely problematic. No further discussion is warranted unless significant future tribal interest is expressed.

#### Question 4 Responses

NCTC comments generally that real estate contracts should reflect required timelines, noting that most Tribes will need authorization from their Tribal Councils to authorize purchases of real property from IOUs, and Council meetings are infrequent. If IOUs impose waivers of sovereign immunity, transactions may also require authorization from the Tribe's General Counsel. Additionally, adequate time to conduct due diligence of the property sales and purchase agreement is needed.

SDG&E comments that the CPUC should expressly define the "reasonable terms" in Guidelines Section 3.3(b) to reduce the likelihood of disputes between IOUs and Tribes if agreement is not reached during negotiations to purchase property. Additionally, SDG&E suggests eliminating the requirement that the IOU provide the reason it seeks to dispose of its real property.

SCE suggests the Commission consider raising the current \$5 million threshold for GO 173 filing to allow more transactions with Tribes to qualify for disposition through and advice letter submission.

Staff suggests that further discussion about tribal sovereign immunity as applied to potential TLTP transactions is warranted. The Section 851 approval process would likely address the issue for each transaction approval. Regarding the need for authorization by Tribal Councils and perhaps General Counsel the Guidelines have strict timelines for requiring a response of interest from a notified tribe, but the Guidelines accommodate additional time for negotiations that show promise to develop and

succeed. Staff are adamant that serious negotiations be afforded ample time. However, numerous tribes cite the initial period of 60 days afforded under the Guidelines for an “affirmative response” to IOU notice as being inadequate. Accordingly, the initial response period will be extended to 60 days, with the second response period of 30 days remaining in place, for a total “affirmative response” period of 90 days.

Regarding clarification of “reasonable terms” the phrase is intended, as SDG&E suggests, to indicate what the free market will bear for a given property at a given time. The Guidelines contain certain conditions to ensure that Tribes are given the fullest opportunity to receive reasonable terms by insisting that the IOU reoffer to the interested tribe any terms offered to a third-party, particularly if more favorable than those terms initially offered to the tribe. As such, a third party willing to outbid a tribe, or other bidders in a transaction, would in accordance with free market principles succeed in the transaction. Conversely, an IOU would be unable to accept any offer, from any interested third-party bidder, less advantageous to the IOU than that offered by the tribe. How this protective mechanism can be enforced should be discussed within the scope of the rulemaking.

Comments by tribes identify a lack of financial resources as a main obstacle to participation in the TLTP. In addition to free market transactions, tribes should continue to benefit from donations of IOU land. For example, under PG&E’s Land Conservation Commitment (LCC), significant donations of land were transferred in fee to tribes, while much remained under PG&E ownership. The CPUC should incentivize PG&E, and other jurisdictional IOUs, to donate real property to tribes. A workshop exploring both development of tribal financial resources dedicated to land acquisition, as well as possible incentives to IOUs for fee land donations should be held.

#### Question 5 Responses

The IOUs generally believe that the due diligence information currently specified in Section 2.4 of the Guidelines is sufficient. PG&E suggests that it is best not to share appraisal value with prospective buyers, as potential buyers, including an interested tribe, would conduct an appraisal.

SDG&E comments that the initial notice should provide adequate information to allow Tribes to quickly determine whether there is an interest in acquiring the property—to maximize efficiency and further the goals of the TLTP. Information may include a map showing property location, an aerial photo of property boundaries, property address, APN, and coordinates, a brief description of the property and its current use, size of property (both land and buildings), whether property is leased or licensed, and finally, an asking price for the property may or may not be included in the notice.

Tribes recommend the notice contain specific information including acreage, appraised value, proposed sales price, and prior uses. Other information disclosures such as deed restriction, easements, or site remediation requirements. Additionally, maps of the property and any publicly available information regarding cultural and archaeological resources on or around the property.

Staff propose that Guidelines Section 2.4 (a) be augmented to include the property-specific information requested in comments. Section 2.4 (d) should include as part of an offer of initial terms of sale of the real property, both the IOU’s asking price and the appraised value determined by a California Certified Appraiser. Staff acknowledge that the actual selling price may often differ from both IOU asking price and property appraised value, but that information, when provided to the interested tribe will provide

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key information to tribal leaders in determining whether to pursue a transaction—resulting in, as SDG&E stated, maximum efficiency for all parties.