



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Application of Pacific Gas and Electric Company (U 39 E) and Pacific Generation LLC for Approval to Transfer Certain Generation Assets, for a Certificate of Public Convenience and Necessity, for Authorization to File Tariffs and to Issue Debt, and for Related Determinations.

Application No. 22-09-018
(Filed September 28, 2022)

**PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) AND PACIFIC
GENERATION LLC'S RESPONSE TO MOTION OF THE POTTER
VALLEY TRIBE FOR PARTY STATUS**

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Application No. 22-09-018
(Filed September 28, 2022)

**PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) AND PACIFIC
GENERATION LLC'S OPPOSITION TO MOTION OF THE
POTTER VALLEY TRIBE FOR PARTY STATUS**

Pursuant to Rules 1.4 and 11.1(e) of the Commission's Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) and Pacific Generation LLC (Pacific Generation) respectfully submit this response to the motion of the Potter Valley Tribe seeking party status in this proceeding, filed November 8, 2023 (Motion). In light of the late stage of this proceeding, PG&E and Pacific Generation respectfully request that, in ruling on the Motion under Rule 1.4(c), the Administrative Law Judge exercise discretion to consider this response and ensure that there is no delay to the schedule in this matter, which would prejudicially affect PG&E and Pacific Generation.

First, PG&E and Pacific Generation have provided notice to the Potter Valley Tribe regarding their Application at key stages of this proceeding. PG&E and Pacific Generation filed their Application on September 28, 2022. At that same time, PG&E and Pacific Generation communicated with all 62 federally-recognized tribes in PG&E's service territory, including the Potter Valley Tribe, to inform them of the Application and the Proposed Transaction. PG&E and Pacific Generation sent a similar communication again in early July 2023 as phase 1 of the marketing process began. Those notices offered to provide additional information upon request, including with respect to the tribes' ability to seek to participate in the transaction. The Potter

Valley Tribe never responded to either notice, and at no time did the tribe communicate to PG&E about potential investment in the Proposed Transaction. Indeed, until the time of this Motion, at no point during the pendency of this proceeding or in response to any of the prior communications has the Potter Valley Tribe raised any concerns with PG&E regarding the Proposed Transaction or otherwise sought to intervene in the proceeding.

Second, the Potter Valley Tribe filed its Motion at the final stage of this proceeding, which has been pending for over a year. The Commission held evidentiary hearings in August 2023 and the parties filed post-hearing opening and reply briefs. The evidentiary record is now closed and the matter has been submitted to the Commission. The Motion is silent on and provides no justification for the delay, and fails to explain why the Potter Valley Tribe did not seek party status sooner.¹ Thus, under these circumstances, it would be appropriate for the Administrative Law Judge to make any grant of party status contingent on there being no disruption to the procedural schedule in this matter. Any disruption or delay would prejudicially affect the timing of an important transaction for PG&E and Pacific Generation.

Third, the ground for seeking party status—to raise a dispute regarding the Tribal Land Transfer Policy (TLTP)—is erroneous and does not address the points raised in the Application² and in Applicants’ post hearing briefing,³ as to why the TLTP does not, and should not, apply to the Proposed Transaction. The Potter Valley Tribe also seeks to raise, belatedly, a TLTP assertion that no other party to the proceeding has raised. This would be a diversion from the primary issues focused on by the parties during the evidentiary hearings and in the post-hearing

¹ The Commission has denied requests to intervene where a party seeks to join very late in a proceeding, raise new issues, or raise issues covered by other parties. *See* D.05-02-023, 2005 Cal. PUC LEXIS 66, at *5 (noting that the Commission denied motions for party status filed after the deadline for filing comments on a proposed decision, where the moving parties failed to explain or justify a late filing); D.01-10-029, 2001 Cal. PUC LEXIS 1000, at *223–24 (denying a motion to intervene that failed to describe the basis for delay or otherwise justify the late intervention request); D.98-12-004, 1998 Cal. PUC LEXIS 876, at *8–9 (interpreting prior version of rule and denying party status where party attempted to submit briefing on a single issue).

² Application No. 22-09-018 (September 28, 2022), at 42-43.

³ PG&E and Pacific Generation LLC’s Opening Brief (September 18, 2023), at 99-100.

