

R.22-02-002 COM/DH7/nd3



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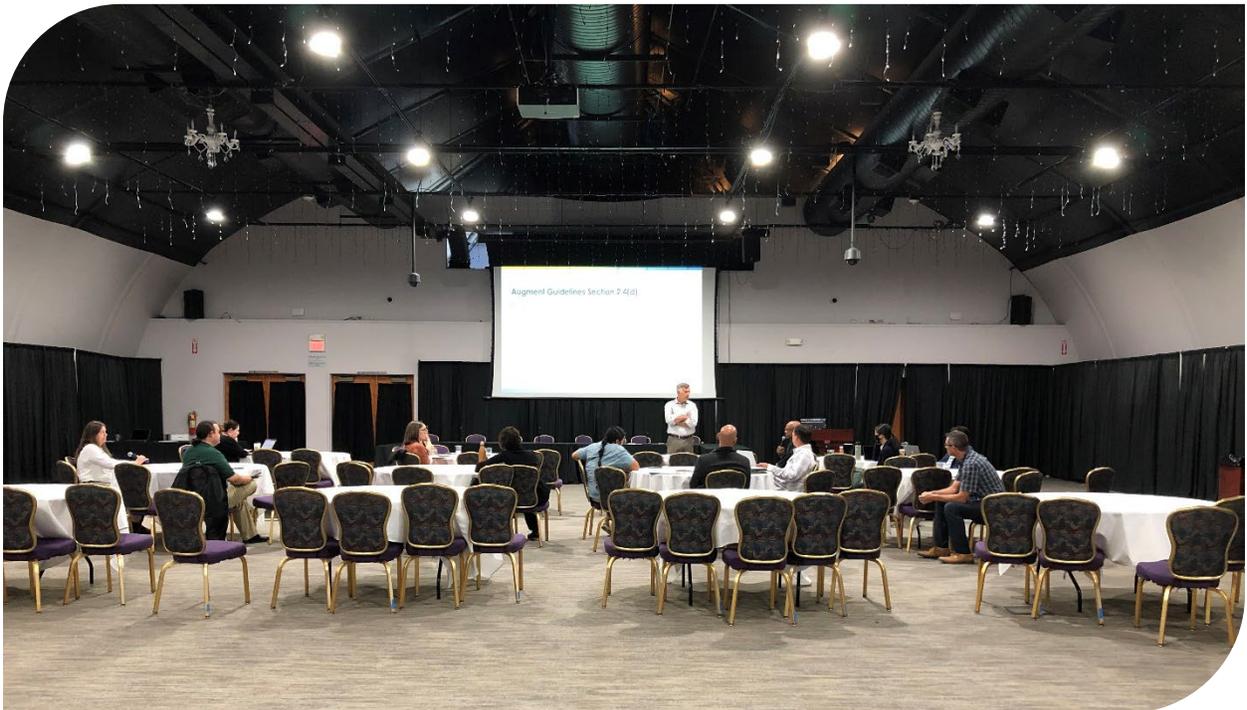
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**ATTACHMENT**

# Tribal OIR Workshop Report

California Public Utilities Commission (CPUC)  
Tribal Order Instituting Rulemaking (OIR) (R.22-02-002)  
November 7, 2023  
Blue Lake Casino Hotel, Sapphire Room  
Blue Lake, CA



1- CPUC Tribal OIR Workshop at Blue Lake, CA on November 7, 2023



CALIFORNIA  
**Public Utilities Commission**

## LIST of ATTENDEES

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## BACKGROUND

On February 16, 2022, the California Public Utilities Commission (CPUC or Commission) adopted an Order Instituting Rulemaking (OIR) to Implement Resolution E-5076 and Review of Tribal Policies, referred to as the Tribal OIR. The Tribal OIR will consider revisions to the CPUC's Tribal Land Transfer Policy (TLTP). The TLTP was developed to provide an opportunity for Native American Tribes to regain lands within their ancestral territory that are currently owned by CPUC jurisdictional utilities. The TLTP

establishes the CPUC’s preference for the transfer of real property to Tribes when an investor-owned utility (IOU) plans to dispose of real property within a Tribe’s ancestral territory. The Tribal OIR will also consider changes to the CPUC’s Tribal Consultation Policy (TCP) and mechanisms to enhance Tribes’ participation in CPUC proceedings and programs.

## WORKSHOP PURPOSE

The CPUC held a Tribal OIR Workshop on November 7, 2023, in Blue Lake, California, to provide an opportunity for Tribal Leaders to discuss and provide comments regarding the TLTP Staff Proposal. The discussion will assist the CPUC in furthering the goals of the TLTP, promote improved government-to-government relationships between the CPUC and California Tribes, as well as improve capacity building and access for Tribal participation in CPUC proceedings and programs. The Workshop was also held to provide outreach and collect feedback regarding potential changes to the CPUC’s TCP. The goals of the CPUC’s TCP are to: recognize and respect tribal sovereignty and encourage and facilitate tribal government participation in CPUC proceedings, give meaningful consideration to tribal interests in issues within the CPUC’s jurisdiction, encourage and facilitate tribal government participation in CPUC-approved utility programs, protect tribal cultural resources, and encourage investments by tribal governments and tribal members in onsite renewable energy generation, energy efficiency, low carbon transportation and energy storage. This rulemaking is seeking input on changes to the CPUC’s TCP and TLTP to better address Tribal concerns and to meet Tribal needs.

The workshop was attended by Tribal representatives, a utility representative, and CPUC representatives.

## WORKSHOP AGENDA

<b>Time</b>	<b>Activity</b>
9:00 a.m.	Agenda Overview and Workshop Ground Rules (5 min)
9:05 a.m.	Welcome <ul style="list-style-type: none"> <li>• Tribal Leaders (10 min)</li> </ul>
9:15 a.m.	Welcome <ul style="list-style-type: none"> <li>• Commissioner Darcie L. Houck (10 min)</li> </ul>
9:25 a.m.	Overview of Tribal Order Instituting Rulemaking <ul style="list-style-type: none"> <li>• Commissioner Darcie L. Houck (10 min)</li> </ul>
9:35 a.m.	CPUC Process and Proceedings <ul style="list-style-type: none"> <li>• Assistant Chief ALJ Anthony Colbert (10 min)</li> </ul>
9:45 a.m.	Review of Tribal Land Transfer Policy <ul style="list-style-type: none"> <li>• Overview of TLTP and Proposed Staff Amendments, Michael Rosauer (20 min)</li> </ul>

<b>Time</b>	<b>Activity</b>
10:05 a.m.	Tribal and Utility Panel on Experiences with TLTP (55 min)
11:00 a.m.	Break (15 min)
11:15 a.m.	Open Discussion and Q&A on responding to Staff Proposed Amendments and Tribal and IOU Panel (45 min)
12:00 p.m.	Lunch (1 hour)
1:00 p.m.	Review of Tribal Consultation Policy <ul style="list-style-type: none"> <li>• Presentation of CPUC Tribal Consultation Policy, Commissioner Darcie L. Houck (45 min)</li> </ul>
1:45 p.m.	Tribal Panel Expectations for Tribal Consultation (60 min)
2:45 p.m.	Break (15 min)
3:00 p.m.	Open Discussion and Q&A regarding CPUC Tribal Consultation Policy, Tribal Advisor Kenneth Holbrook (45 min)
3:45 p.m.	Staff Report back of Feedback to take into Consideration (20 minutes)
4:05 p.m.	Next Steps (15 min)
4:20 p.m.	Closing <ul style="list-style-type: none"> <li>• Commissioners and Tribal Leaders (15 min)</li> </ul>

## DESCRIPTION of ACTIVITIES

The workshop began with an introduction and welcome by Kenneth Holbrook, CPUC's Tribal Advisor, followed by a welcome from CPUC Commissioner Darcie L. Houck as well as a welcome to and from Tribal Leaders, including the workshop host Councilmember Jason Ramos of the Blue Lake Rancheria Tribe.

Next, Commissioner Houck gave an overview of the Tribal Order Instituting Rulemaking (Tribal OIR) process followed by a presentation by CPUC Assistant Chief Administrative Law Judge (ALJ) Anthony Colbert on the process for CPUC proceedings. Michael Rosauer, TLTP subject matter expert from CPUC's



2- CPUC Tribal OIR Workshop at Blue Lake, CA on November 7, 2023

Energy Division, gave an overview of the proposed staff recommendations for revisions to the TLTP. Attendees provided comment on the proposed revisions to the TLTP followed by a panel discussion on the proposed changes as well. Comments are recapitulated in detail in the subsequent section of this report. The panel comprised Alison Talbott from PG&E; Jana Ganion from the Blue Lake Rancheria Tribe; Michelle Lee from the Pit River Tribe and Circle Law representing the Pit River Tribe, Potter Valley Tribe, and Mooretown Rancheria; and Michael Rosauer from the CPUC Energy Division. The second half of the workshop was dedicated to a discussion and solicitation of comments on the CPUC’s TCP.

Commissioner Houck gave a presentation on the existing TCP followed by an overview by Kenneth Holbrook on the CPUC’s current process for conducting tribal consultations under CPUC’s existing policy. A discussion and public comments on the TCP followed.

The meeting concluded with a discussion on the next steps in the Tribal OIR proceeding process and ways for future participation. Notes from the workshop including comments received will become part of the proceeding record. Proposed revisions to the TLTP and TCP will be circulated to workshop participants for review and further comment as well.

## COMMENTS RECEIVED

### Comments on the Proposed Revisions to the Tribal Land Transfer Policy (TLTP)

#### ***Pit River Tribe***

1. (Michelle Lee, Pit River Tribe/Circle Law for Potter Valley Tribe, Pit River Tribe, and Mooretown Rancheria). There is concern that Tribes are either not being notified of transactions that are subject to the TLTP, or that the notification process has been ineffective at reaching the Tribes and at providing Tribes with adequate lead time for consideration. Notification of PG&E’s proposed sale of non-nuclear generation assets to a subsidiary, Pacific Generation, was cited (CPUC Proceeding No. A.22-09-018) where notices did not appear to reach several Tribes. Email notices are inadequate given the large volume of emails received on a daily basis. The Tribe is concerned that email addresses are easily misspelled, and/or the latest contact information may not be utilized. The Tribe is concerned with the source that is used to obtain the latest contact information; the latest information should be utilized. A hard copy notice should be mailed at a minimum. Follow-up phone calls are also recommended where a live person is reached, and the transaction is discussed. Calls that do not result in reaching a live person are also inadequate because voice messages may be garbled and/or voice mailboxes could be full given the large volume of incoming calls received by Tribes.
2. (Jason Lee, Circle Law for Potter Valley Tribe, Pit River Tribe, and Mooretown Rancheria). Could Equity and Access Grants be used to help construct a more user-friendly website on the TLTP that could announce pending transactions, in addition to the utilities’ websites?

3. (Michelle Lee). CPUC is the most challenging agency to understand and to navigate through its various processes and websites. The proceeding process is a barrier to Tribal participation due to its complexity and Tribe staff capacity issues. Can additional guidance and/or technical support be provided to help the Tribes track proceedings and participate in them? Can the procedures for tracking and participating in the Advice Letter process also be provided?
4. (Michelle Lee). A reminder was provided on the purpose and intent of the TLTP and why it was created. Specifically, between 1700-1900 the Tribes experienced genocide followed by forced relocations between 1850 and 1856. In 1862, the Homestead Act further resulted in the taking of land from Tribes, followed by additional loss of land between 1880 and 1910 due to the allotment policy. Tribes have survived all of this, and the Pit River Tribe has never ceded their property rights during any of these events. Land occupied by the utilities was, and still is, the Tribes'. Therefore, there is resistance by some, especially Elders, who refuse to buy their own land back.
5. (Yatch Bamford). Where Pit River did participate in the transfer of land back to the Tribes under PG&E's Land Conservation Commitment (LCC), the Tribe is frustrated by the lack of ability to serve as stewards or managers of their own land.
6. (Yatch Bamford/Gregory Wolfin). Why does the availability of land differ within versus outside of the FERC boundary? It is unclear whether land inside the FERC boundary can be acquired under the LCC.

***Blue Lake Rancheria Tribe***

1. (Jana Ganion). The Tribe believes the revisions to the policy reflect past comments.
2. (Jana Ganion). The Tribe is grateful for the expansion of the program to all IOUs including telecommunications.
3. (Jana Ganion). Can the CPUC provide additional details on the format of the Environmental Site Assessment that would be required for submittal by the utility to the Tribes? Would a formal Phase I Environmental Site Assessment be required?
4. (Jana Ganion). Can a requirement of the utility to provide disclosures on known wildfire and flood risks on the property also be provided by the utility to the Tribes, in addition to the Environmental Site Assessment?
5. (Jana Ganion). Regarding notification of Tribes, the Blue Lake Rancheria Tribe believes that confirmation of receipt of notification by the Tribes should be obtained before this requirement can be considered to be met.
6. (Jana Ganion). The Tribe would like to know if other types of Section 851 transactions could apply to the TLTP in addition to the disposition of property owned in fee simple?
7. (Jana Ganion). The proposed revised notification contents are critical for the Tribe's decision-making process to participate in the transaction.
8. (Jana Ganion). Is there a way to have a list of parcels that are under potential consideration for disposition in advance of the final decision to dispose of the property?
9. (Jana Ganion). Can an information exchange forum be established to facilitate more routine contact between CPUC, utilities, and Tribes? The forum could be used to discuss upcoming disposition of utility land holdings and other types of land transactions and could be used to provide the technical information to the Tribes that would be necessary to make a decision regarding their participation. This forum could also better assist Tribes in accessing funding

programs available to Tribes that could be used for obtaining land. A webinar and office hours would be useful as well.

10. (Jana Ganion). It would be helpful for utilities to post a point of contact on their TLTP websites.
11. (Jana Ganion). Is there a way for staff to also notify Tribes of applications that would be subject to the TLTP?
12. (Jana Ganion). Is there a process by which Tribes can automatically be considered parties to proceedings, for example “for information only” unless they opt out of them?
13. (Heidi Moore Guynup). Is there a way to place a flag or identifier on those proceedings subject to the TLTP (i.e., on the website or in the docket), such that Tribes can more easily determine which CPUC proceedings they should be tracking?
14. (Jana Ganion/Heidi Moore Guynup). Is there a way of indicating which county each proceeding is within to enable the Tribe to quickly determine if the proceeding may be within a Tribe’s ancestral territory rather than requiring maps of ancestral territory?

***Tolowa Dee-ni’ Nation***

1. (Scott Sullivan). The Tribe is concerned about what “publicly available cultural resources information” would be provided by the utility to the Tribe. Would this result in the public release of sensitive information?

***Yurok Tribe***

1. (Megan Siaosi). Maps of ancestral territory should not be provided as part of the notification process as this information should not be publicly available. Can the Counties where the transaction is occurring be indicated instead which would help a Tribe determine if it is occurring in their ancestral territory?

**PG&E**

1. (Alison Talbott). PG&E is grateful for the opportunity to participate in today’s workshop and is listening to all of the comments being made and will be sure to report back to Tribal Liaison staff, who were unable to attend the workshop due to various reasons for work leave. PG&E will be sure to have a more policy involved staff present at the next scheduled workshop.
2. (Alison Talbott). It is unclear how PG&E would be able to accurately provide maps of ancestral territory given that ancestral territory is self-determined by Tribes and not by PG&E?

**Comments on the Tribal Consultation Policy (TCP)**

***Pit River Tribe***

1. (Michelle Lee). Regular workshops that provide technical assistance regarding actual projects/proceedings would be helpful. It would be helpful if these workshops could be attended by consultants as well, given that Tribes have a hard time finding and hiring consultants.
2. (Michelle Lee). The Tribe is concerned about approvals granted by the CPUC where the utility does not have the proper right-of-way through Tribal land. How can the CPUC better ensure that the utility has the proper access authorizations before CPUC grants its approval?
3. (Michelle Lee). The Tribes can actually speed up the authorization process for projects on their land rather than delay projects.

4. (Gregory Wolfin). The Tribes are open to utilizing the TCP however, the process for Tribal participation in the consultation process is a complex one. Several internal decision-making steps and meetings may be necessary before a Tribe is able to make a determination on whether to pursue formal government to government consultation with the CPUC. Transactions involving limited waivers of sovereign immunity can be a very long process for a Tribe. In addition, Tribal staff capacity is limited. For example, each staff member has a large territory with a vast number of issues to track and participate in (i.e., water issues, interaction with various government agencies etc.).
5. (Michelle Lee). Participation as parties to a proceeding is not well understood and therefore, cumbersome for Tribes without much staff capacity. There has been a concern that the time investment would cost money as well.

***Tolowa Dee-ni' Nation***

1. (Scott Sullivan). Participation in the Tribal consultation often requires several conversations with Tribal attorneys to ensure that participation would not adversely impact the Tribe's sovereign rights

***Yurok Tribe***

1. (Megan Siasosi). CPUC and utility attendance at events that are regularly attended by Tribes is also recommended, such as the California Department of Water Resources' (DWR's) Tribal Water Summit. This type of "conference format" or "exposition format" could be helpful where Tribes could attend various presentations and workshops, and staff are available to meet with Tribal members. Perhaps the CPUC could present at the All-Tribes Meeting in March/April as well.

***Blue Lake Rancheria Tribe***

1. (Jana Ganion). Regular Tribal Information Forums would be very helpful in facilitating government-to-government discussions, in providing technical assistance, in facilitating policy discussions, and to better enable Tribes to learn of upcoming opportunities early in the process. The name of the forum matters and should be respectful of Tribal Sovereignty. The format of the meetings must not be confused with formal Tribal consultations, however discussions held at the forums could be brought before Tribal decision-makers afterwards. The type and number of participants should not be so expansive that meaningful discussions are diluted due to a large number of people and competing goals and issues.
2. (Jana Ganion). How do we get Tribes more involved in CAISO's transmission planning process?
3. (Jana Ganion). The Tribe is optimistic that Tribe involvement in transmission planning can bring many synergies as well as access to different funding sources otherwise not available.
4. (Jana Ganion). When a Tribe considers utilizing the Tribal consultation process or submit a motion to become a party to proceeding, the Tribe wants to have sufficient resources to do it well. This can be a limiting factor in the Tribe's decision whether to participate or not.

***Bear River Tribe***

1. (Jim Bowie). The Tribe is grateful for the opportunity to attend the workshops and to learn what amendments are being proposed. They would like to understand how the TLTP will be improved through this process.

2. (Jim Bowie). Tribal Leaders were unable to make it due to a council-wide meeting that is underway, but they look forward to continuing to follow the developments of this proceeding.

## Conclusions

Staff agree that the Tribal Policies OIR benefited from the strong tribal participation in the Blue Lake Workshop and the insightful comments tribes provided. Staff extend our thanks to all participating tribes for making the workshop a success and to the Blue Lake Rancheria for their gracious hospitality in hosting the event. The important tribal feedback that will be considered in revising both the TLTP and TCP in the effort to make both policies more advantageous for tribes.

The workshop would have benefited from participation by IOU TLTP Program Managers as they have experience with administration of the TLTP and could have provided the IOU's perspective on the proposed changes to the TLTP Implementation Guidelines presented during the workshop, as well as to comments provided by tribal leaders describing their experiences with the TLTP and recommendations for improvements. We hope to have greater IOU participation in future workshops.

Report prepared by Kenneth Holbrook, with contributions from Michelle Wilson, Michael Rosauer, and Eric Sawyer.

# Tribal OIR Workshop Report

California Public Utilities Commission (CPUC)  
Tribal Order Instituting Rulemaking (OIR) (R.22-02-002)  
January 30, 2024  
Jamul Casino, Jamul, CA



1- CPUC Tribal OIR Workshop at Jamul, CA on January 30, 2024



CALIFORNIA  
**Public Utilities Commission**

## LIST of ATTENDEES

<b>Name</b>	<b>Affiliation</b>	<b>Contact Information</b>	<b>Phone Number</b>
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## BACKGROUND

On February 16, 2022, the California Public Utilities Commission (CPUC or Commission) adopted an Order Instituting Rulemaking (OIR) (R.22-02-002) to Implement Resolution E-5076 and Review of Tribal Policies, referred to as the Tribal OIR. The Tribal OIR will consider revisions to the CPUC’s Tribal Land Transfer Policy (TLTP). The TLTP was developed to provide an opportunity for Native American Tribes to regain lands within their ancestral territory that are currently owned by CPUC jurisdictional utilities. The TLTP establishes the CPUC’s preference for the transfer of real property to Tribes when an investor-owned utility (IOU) plans to dispose of real property within a Tribe’s ancestral territory. The Tribal OIR will also consider changes to the CPUC’s Tribal Consultation Policy (TCP) and mechanisms to enhance Tribes’ participation in CPUC proceedings and programs.

## WORKSHOP PURPOSE

The CPUC held a Tribal OIR Workshop on January 30, 2024, in Jamul, California, to provide an opportunity for Tribal Leaders to discuss and provide comments regarding the TLTP Staff Proposal to modify the current TLTP Implementation Guidelines. The discussion will assist the CPUC in furthering the goals of the TLTP, promote improved government-to-government relationships between the CPUC and California Tribes, as well as improve capacity building and access for Tribal participation in CPUC proceedings and programs. The Workshop was also held to provide outreach and collect feedback regarding potential changes to the CPUC’s TCP. The goals of the CPUC’s TCP are to: recognize and respect tribal sovereignty and encourage and facilitate tribal government participation in CPUC proceedings, give meaningful consideration to tribal interests in issues within the CPUC’s jurisdiction, encourage and facilitate tribal government participation in CPUC-approved utility programs, protect tribal cultural resources, and encourage investments by tribal governments and tribal members in onsite renewable energy generation, energy efficiency, low carbon transportation and energy storage. This rulemaking is seeking input on changes to the CPUC’s TCP to better meet Tribal needs.

The workshop was attended by Tribes, utility representatives, and CPUC representatives.

## WORKSHOP AGENDA

<b>Time</b>	<b>Activity</b>
9:30 a.m.	Gather Time - while gathering, slides with agenda overview and workshop ground rules will be shown (30 min)
10:00 a.m.	Welcome <ul style="list-style-type: none"> <li>• Chairperson Erica Pinto &amp; Tribal Leaders (10 min)</li> </ul>
10:10 a.m.	Welcome <ul style="list-style-type: none"> <li>• Commissioner Darcie L. Houck (10 min)</li> </ul>
10:20 a.m.	Overview of Tribal Order Instituting Rulemaking <ul style="list-style-type: none"> <li>• Tribal Advisor, Kenneth Holbrook (10 min)</li> </ul>
10:30 a.m.	CPUC Process and Proceedings <ul style="list-style-type: none"> <li>• Public Advisor's Office, Eric Sawyer (10 min)</li> </ul>
10:40 a.m.	Review of Tribal Land Transfer Policy (TLTP) <ul style="list-style-type: none"> <li>• Overview of TLTP and Proposed Staff Amendments, Michael Rosauer (20 min)</li> </ul>
11:00 a.m.	Tribal and Utility Panel on Experiences with CPUC TLTP (55 min)
11:55 a.m.	Break (10 min)
12:05 p.m.	Open Discussion and Q&A on responding to Staff Proposed Amendments to CPUC TLTP - Tribal and Utility Panel (55 min)
1:00 p.m.	Lunch (1 hour)
2:00 p.m.	Review of Tribal Consultation Policy <ul style="list-style-type: none"> <li>• Presentation of CPUC Tribal Consultation Policy, Tribal Advisor, Kenneth Holbrook (45 min)</li> </ul>
2:45 p.m.	Tribal Panel Expectations for Tribal Consultation Policy (60 min)
3:45 p.m.	Break (15 min)
4:00 p.m.	Open Discussion and Q&A regarding CPUC Tribal Consultation Policy (45 min)
4:45 p.m.	Staff Report back of Feedback to take into Consideration (20 minutes)
5:05 p.m.	Next Steps (15 min) <ul style="list-style-type: none"> <li>• ALJ Valerie Kao</li> </ul>
5:20 p.m.	Closing <ul style="list-style-type: none"> <li>• Commissioners and Tribal Leaders (10 min)</li> </ul>

## DESCRIPTION of ACTIVITIES

The workshop began with an introduction and welcome by Victor Smith, Advisor for Commissioner Houck followed by a welcome from CPUC Commissioner Darcie L. Houck, joining virtually, as well as a welcome to and from Tribal Leaders, led by site host Chairwoman Erica Pinto of the Jamul Indian Village.

Next, CPUC Tribal Advisor Kenneth Holbrook gave an overview of the Tribal Policies Order Instituting Rulemaking (Tribal OIR) proceeding process. Eric Sawyer from CPUC's Public Advisor's Office gave an overview of how to participate in the proceeding. Michael Rosauer, Subject Matter Expert from CPUC's Energy Division, gave an overview of the proposed staff recommendations for revisions to the TLTP. Comments were received on the proposed revisions to the TLTP followed by a panel discussion on the proposed changes as well. The panel comprised Richard Fujikawa from SCE; Dwight Ockert from PG&E; Linnea Jackson from the Hoopa Valley Tribe; and Michael Rosauer from the CPUC Energy Division.



2- CPUC Tribal OIR Workshop at Jamul, CA on January 30, 2024

The second half of the workshop was dedicated to a discussion and solicitation of comments on the CPUC's TCP. Kenneth Holbrook gave a presentation on the existing TCP, providing a history of the policy, an overview of the goals and commitments in the policy, and a summary of past outcomes resulting from the policy. Holbrook then moderated a panel discussion, which featured Viejas Band of Kumeyaay Indians Director of Resource Management Ray Teran, California Indian Legal Services Legal Director Dorothy Alther, and Santa Ynez Band of Chumash Indians Tribal Administrator Sam Cohen. Each panelist provided a presentation on their experience with CPUC's TCP and

comments regarding ways the policy can be improved. Workshop attendees then offered comments and asked panelist questions regarding the TCP.

The meeting concluded with a discussion on next steps in the Tribal OIR proceeding process and ways for future participation by Tribes. Michelle Wilson provided a synopsis of the key points made by workshop participants. Notes from the workshop including comments received will become part of the proceeding record. Proposed revisions to the TLTP will be circulated to workshop participants for review and further comment as well. ALJ Kao gave an overview of the proposed proceeding schedule for receipt of comments on the workshop notes as well as the schedule for release of draft revisions to the TLTP Implementation Guidelines and TCP and additional comment before a Proposed Decision is published.

Specific comments received during the workshop are listed below.

## COMMENTS RECEIVED

### ***Eric Sawyer, CPUC Public Advisor's Office***

1. Members of the public can participate in this proceeding in the following ways:

- a. Submit comments online through the ‘Docket Card,’ the place where all documents on the proceeding are kept online;
  - b. Submit comments via email to the Public Advisor’s Office or to CPUC’s Tribal Advisor Kenneth Holbrook;
  - c. Participate as a ‘party’ to the proceeding.
2. To participate as a party to the proceeding, the CPUC’s Rules of Practice and Procedure must be followed to submit formal comments, participate in hearings, and communicate with Commissioners.

***Kenneth Holbrook, CPUC Tribal Advisor***

1. Discussed the origin of the TLTP and that it dates back to the Land Conservation Commitment that was established as a result of PG&E’s bankruptcy proceeding. The intent of the TLTP is to provide Tribes with the Right of First Offer for land dispositions by the investor-owned utilities. While the TLTP was enacted in 2019, it did not have guidelines for IOUs to follow until 2021 when the Commission passed Resolution E-5076 establishing guidelines to implement the TLTP.
2. Resulting from Governor Gerry Brown’s Executive Order B-10-11, the TCP was enacted in 2018 providing means for Tribes to consult with the CPUC on all matters within its jurisdiction.
3. The CPUC Tribal Advisor position was established to facilitate the TCP and other support and outreach to the Tribes, but the position is currently not a permanent one.
4. The CPUC has a new grant program for community-based organizations to participate in proceedings, including coverage of legal expenses for parties in proceedings, known as the Equity and Access Grant Program. It can be seen as an alternative when the Intervenor Compensation (I-COMP) program is not the right fit. The I-Comp program was established to provide compensation to eligible parties for costs incurred while contributing to proceedings (these parties are also called “Intervenors”), including Tribes. The I-Comp program rules have presented challenges and it has been difficult for Tribes to qualify, historically. Therefore, the new E&A grants are a welcome development. At present, the \$30 million Equity and Access Grant Program allocation has a 10% set aside for Tribes (\$3 million) where the money can be used for three types of activities (based on program tiers) including participation in proceedings and legal resources.
5. The CPUC also has a plethora of other programs that can assist Tribes. The Tribal Advisor’s role is to assist Tribes, both directly and by identifying the appropriate staff who can assist, that are seeking opportunities through our many programs, for example:
  - a. Tribal Technical Assistance Program for broadband planning and installation;
  - b. Self-Generation Incentive Program (SGIP);
  - c. Solar on Multi-Family Affordable Housing (SOMAH);
  - d. Electric Program Investment Charge (EPIC) Program (has \$4 billion in funding); and
  - e. The California Alternate Rates for Energy (CARE) and Family Electric Rate Assistance Program (FERA) to help with payment of utility bills; many
  - f. Many other programs. Check our website for more information.
6. The CPUC coordinates with other state agencies on a variety of matters. We understand that it can sometimes be a challenge to discern which program supports a particular initiative, or which aspect of a particular initiative. State agencies are increasingly working together to learn how to better communicate on the various programs offered and how each agency can support Tribes,

specifically. For example, the CPUC and the California Department of Technology worked cooperatively in 2023 to gather Tribal input on equitable broadband deployment for Tribes, and to clarify our respective roles. Last March, the CPUC and the California Energy Commission conducted an inter-agency En Banc to engage with north coast Tribes on energy issues. At Pala, in late 2022, we held an interagency meeting for Tribes that included California Air Resources Board.

We gain valuable and shareable information by working together with partner agencies. In response to Tribal feedback, our goal whenever feasible is to minimize Tribes' time commitment for meetings while maximizing opportunities for Tribal engagement through cooperative inter-agency outreach and event participation. We share information with Tribal staff at other state agencies, to effectively amplify our communication with Tribes.

7. Both the TCP and TLTP indicate that the California Native American Heritage Commission (NAHC) retains a directory, commonly known as the AB52 Contact List, which is used in applying the policy<sup>1</sup>. It provides a single point of contact for the California Native American Tribes. The directory is to be used in determining which Tribes regulated entities should be consulting with regarding a particular area. The CPUC respects Tribal sovereignty in making such determinations. It is important for Tribes to always ensure that the single point of contact on NAHC's list is up to date.
8. Regarding a discussion on impact analyses to Tribal Cultural Resources and cultural resources, the term "significant impact" vs. "insignificant impact" is often used in CEQA documents and can trigger historic trauma with Tribal members and carry very negative connotations.

**Michael Rosauer**

1. To clarify a couple of questions, Section 2.2 of the TLTP requires that notification should be given to Tribes with ancestral territory "abutting" the subject property as well as within the subject property.
2. Clarified that the TLTP is applicable to federally-recognized as well as non-federally recognized Tribes.
3. A database of lands subject to the TLTP could be helpful for Tribes to identify land of interest where Tribes could approach IOUs proactively.
4. The TLTP applies to disposition of land only. It does not apply to leases of land.
5. Noted that there may be a gap in protection of resources where projects are exempt from CEQA and therefore, not subject to Assembly Bill (AB 52) consultation.

**Hoopa Valley Tribe (Linnea Jackson, General Manager)**

1. Interested in any opportunities for funding to participate in this proceeding and others.
2. Companies doing business on the reservation do not understand land tenure and land status. There have been issues with a lack of recognition of Tribal land.

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<sup>1</sup> "California Native American tribe" means a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004. See Public Resources Code § 21073. California Native American tribes include both federally recognized and non-federally recognized tribes. Nothing in this policy prevents tribal consultation with other Native American groups demonstrating an ongoing connection to a specific place or cultural resource, or issue falling under the jurisdiction of the CPUC.

3. Agrees that land dispositions from telecommunications and water utilities should also be included in the TLTP.
4. The Chair of the Tribe has 60 Departments to manage. Therefore, certified mail should be used for all notifications and the date of the certification should be used to start the clock for a response from the utility. She personally has never seen a notification under the TLTP.
5. What does “express interest” mean in the TLTP Guidelines?
6. For each transaction, the Tribe needs to know whether a waiver of sovereign immunity is involved, or a limited waiver involved. Draft contracts should be provided to better assist the Tribe in determining their level of interest.
7. Additional information should be disclosed by the utility as well including annual property taxes, existing environmental issues (such as contamination as well as other hazards).
8. Payment of fair market value is not appropriate. Tribes would be interested in knowing how comps are established.
9. Is there a pool of money to support Tribes to purchase property.
10. A GIS database that would be accessible to Tribes would be helpful.
11. Can an incentive be established for land donation, for example a tax offset that could be given to utilities for the donation of land?
12. The sale of the property should acknowledge the tribal jurisdiction and should acknowledge that the land was originally taken from the Tribes.
13. How would disputes be resolved if Tribes outside of the area bid on a property? How does the TLTP deal with this situation?
14. CPUC should be notified under the TLTP as well as the Tribes.
15. CPUC needs more staff to handle facilitation of the TLTP.
16. For grant funding opportunities, templates from the CPUC may be helpful. For example, for microgrid grant funding, example interconnection agreements would be helpful as well as example NDAs for transfer of data to Tribes who are designing their projects. One grant application is currently being held up by IOU signature of an NDA requesting data from the IOU in support of designing their microgrid system.
17. A Technical Assistance Grant Program for energy projects would be helpful to Tribes in addition to the Technical Assistance Grant Program for broadband.
18. Regarding the TCP, regional meetings with the Tribes and CPUC are most helpful.
19. How does the CPUC plan to ensure that its TCP is consistent with, or considers, a Tribe’s own TCP, such as Hoopa Valley Tribe’s TCP?
20. For active proceedings, it would be helpful if the CPUC were able to provide a summary of the key issues associated with each proceeding and the potential impacts of the proceeding on Tribes, as well as a summary of the effect of rulings on Tribes. This would facilitate equity in the process.
21. To solicit additional comments on the Tribal OIR proceeding, putting a comment form online may be helpful (similar to the hard copy comment form circulated to workshop participants as part of the handout).

***Steff Saavedra, consultant to Tribes***

1. Requested a copy of the slides from today’s presentation and a written contact list for the various grant programs available to Tribes for participation in proceedings etc. that could be mailed, or hand delivered to her constituents, many of which live off the grid and many miles

from paved roads. Mailing notifications to Tribes is very important given that many do not have access to internet. Even mailing is difficult at times.

2. Requested that deadlines established in the TLTP for a Tribe's response to notifications be extended past 60 days given the time communications may take using mail. Many of her constituents do not have access to the internet.
3. Can CPUC staff support Tribes with the preparation of grant applications as well as technical support to help Tribes take advantage of these opportunities?
4. Many times, primary points of contact with the Tribes may not be available, and utilization of backup contacts may be needed, such as Elders or Educational Directors.
5. (Jamie LaBrake, Councilmember, Sycuan Tribe) Sent a text to Steff Saavedra during the workshop stating that he is interested in how to streamline the process to mean real dollars coming to the community. Also, the Tribe is interested in how to bring electricity and services to its members.
6. Cultural humility training is recommended for those interacting with Tribes. Tribal members are not homeless. Not just their land is affected by development, but also their air, water, and culturally significant landscapes that are affected.
7. CPUC needs a team of caseworkers or ombuds persons to outreach with, and assist, Tribes with these policies, grant programs, and potential impacts to resources.

***Kwaaymii Laguna Band of Mission Indians (Carmen Lucas, Elder)***

1. Wants to go on the record with the following:
  - a. For over 100 years, the construction of dams, utilities, and other development have resulted in digging up remains and Tribes are still dealing with the historical trauma of these activities.
  - b. At Mount Laguna, in the Laguna Mountains, a 160-acre piece of property was purchased by SDG&E as mitigation required by the CPUC and the U.S. Forest Service. The property contains significant milling features, rich midden, elderberries, choke cherries, and human remains. I am the Most Likely Descendent (MLD) and was involved in monitoring the site. I wrote a letter requesting that 30 acres of this site be given to the Native American Land Conservancy. However, this request has not been granted. We should be the stewards of the land containing our resources. We feel that we still own the land because the land was taken from us.
  - c. In Santa Ysabel, power poles were intentionally installed within cultural sites to enable workers to hunt for artifacts during their breaks. In many instances, these power poles were installed within sites containing human remains. Now when power poles need to be replaced or relocated, impacts are occurring again. These resources need to be avoided rather than disturbed.

***California Indian Legal Services (CILS) (Dorothy Alther, Legal Director)***

1. Regarding the potential for land to be reverted from fee to trust, if land is not contiguous to an existing reservation, the BIA is unlikely to support conversion of the land from fee to trust because it is too much to manage unless the land is put into conservation. Land that is not put into trust is subject to taxation and State and local laws.

2. Because either no, or very few, Tribes have utilized the TLTP and TCP, it is hard to determine if they are working. Only when these policies begin to be utilized can the Tribes identify the issues with them.
3. Under one example notification by SCE, a rough vicinity map and project location map was provided. It was hard to determine the actual location of the property. Good maps are critical to determine if the Tribe has interest. In addition, we were surprised to see how many Tribes were on the notification list.
4. Federal “consultation” has become almost a joke to Tribes where they have reached a point of not participating. It takes a large time commitment to respond to requests in writing, to attend the meetings, and to provide comments and recommendations. When nothing is done, Tribes feel disenchanting with the process. The AB 52 process under CEQA is somewhat better, but the statutes are not clear, which results in lack of implementation of measures recommended in consultation. Consultation is not the same thing as negotiation. It is very important for an agency to listen and to make every effort possible to implement the recommendations of the Tribes as a result of consultation.

***Attorney Representing Kwaaymii Laguna Band of Mission Indians (Courtney Coyle)***

1. If land that is purchased and not put into a trust through the process with the Bureau of Indian Affairs (BIA), that land would be subject to the rules and regulations of the City or County that the property is within.
2. The process needs to be simplified and a technical advisor from the CPUC is needed to help Tribes navigate the TLTP. To us, litigation to obtain land seems easier than implementing the TLTP (e.g., litigation for repatriation of remains)
3. The highest priority land for Tribes is land that contains human remains. Tribes do not have the staff to track and identify all of the properties.
4. New development needs to avoid cultural sites. Carmen Lucas is on the Governor’s Truth and Healing Council and has been testifying to this issue.
5. Reiterated the testimony by Carmen Lucas where SDG&E power poles were historically installed intentionally within cultural sites. For these sites, sometimes relocation or replacement of these poles are exempt from CEQA or just subject to a Mitigated Negative Declaration (MND) where alternative routes are not discussed. Cultural reports prepared for these relocation projects either do not address Tribal Cultural Resources (TCRs) or do not address these resources sufficiently. Tribes are the experts on TCRs and their impacts. Finally, the cumulative impacts on TCRs and cultural resources are not being adequately addressed. Can the TCP be more specific to address these scenarios?
6. There is so much conscious and unconscious bias by staff members participating in consultation meetings. Staff training is necessary.
7. For consultations conducted under the TCP, the Tribe’s recommendations should be implemented given that they are the experts on TCRs and impacts to TCRs. If recommendations are not going to be implemented, there needs to be an explanation and substantial evidence for why the recommendations are not going to be implemented.
8. Can additional policy improvements be implemented as a CEQA mitigation measure?
9. Regarding the energy transition, there are many Tribal members, such as Carmen Lucas, who live completely off the grid. Most areas are unpaved and without electricity. A designated technical

advisor is recommended who would be able to provide technical guidance and assistance to Tribes in completing feasibility studies. Staff would likely need to travel to Tribes to assist.

10. Technical assistance from CPUC regarding potential cost sharing opportunities is also recommended such that Tribes can utilize cost sharing and describe these opportunities in their grant applications.
11. Impacts on Tribal Cultural Landscapes (such as the Salton Sea) are important and impact analyses often miss this aspect of TCRs and cultural resources. These resources include springs, gathering places, and other areas that are hard to put physical boundaries on them. The definition of Traditional Cultural Property is now being redefined to include animals for example. Certain cultural resources are considered "isolates" and are discounted. However, cumulative impacts on all of these resources must be evaluated.

***La Posta Band of Diegueno Mission Indians (Erik La Chappa, Chair)***

1. Tribes without the economic ability to buy land would be ruled out.
2. There are 15 Tribes in San Diego County alone. How would an IOU be able to resolve disputes under the TLTP.
3. For land that is sold to Tribes, would the utility often still need to retain utility easements across the property?
4. The Tribes would be interested to know whether there would be limits to land uses if Tribes were to purchase property?

***Viejas Band of Kumeyaay (Ray Teran, Resource Management Program Director)***

1. Is the TLTP only for federally recognized Tribes? There are no federally recognized Tribes from the Chumash to the Graton Rancheria which would leave a lot of Tribes out within Central California.
2. Training on Native American history is needed amongst the IOUs.
3. We get contacted by multiple agencies a day. Sometimes we can receive 15 letters a day. We try to respond to as many as possible. Many Tribes do not have that capability.
4. Asked whether the TLTP applies to long-term leases of property?
5. Regarding the TCP, the term "consultation" is always taken with a grain of salt due to ancestral trauma. For example, under "federal consultation," the Tribe feels like the receiver and the federal agency is just checking the box. The federal agencies do not appear to be truly helping Tribes and are not passing benefits on to Tribes as advocates. The CPUC could end up falling into this category for the Tribes. However, decisions by the CPUC have the greatest impact on California's Tribal nations. Many Tribes in San Diego County do not have running water for example. I like the terms "engagement" and "dialogue" instead. We want to be heard and receive proof that our dialogue has been accepted. Only then will the Tribes trust the agency.
6. NEPA and CEQA are not protective enough. NEPA is merely subject to the Administrative Procedures Act therefore federal agencies have no legal teeth to enforce NEPA. Under CEQA, enforcement can occur through lawsuits.
7. The only thing the Tribes have left is their culture. Many Tribes can trace their ancestors back through 160 generations of history. We request a stop to the desecration of our cultural heritage and remains.

8. For active proceedings, it would be helpful if the Public Advisor's Office had a technical advisory group that specialized in communications with Tribes, where they could summarize the potential impacts of proceedings on Tribes. Sam Cohen (Santa Ynez Band of Chumash Indians) commented, for example, the Federal Communications Commission (FCC) has established a Native Nations Task Force to assist with communications with Tribes on proposed broadband projects. Kenneth Holbrook further noted that CPUC also has a Disadvantaged Community Advisory Group that could be useful in this approach. Kenneth mentioned that Stephanie Wheldon of the Department of Social Services takes a 'case worker' approach to provide comprehensive assistance to Tribes and employs a great issue tracking system, ensuring that agency staff has completed follow-through on each and every issue response.
9. Notices of Ground Disturbance provided to Tribes from the utilities are typically requesting Tribes to either monitor or to let the utility know where the resources are. However, the locations of less than 80% of cultural resources, including remains, are precisely known. Approximately 70% of resources discovered to date have been discovered while disturbance of the resources is actively occurring during construction. This puts an enormous burden on monitoring to ensure that resources are not disturbed.
10. Thanked the CPUC for the in-person meeting and noted the importance of in-person meetings.

***Los Coyotes Band of Cahuilla and Cupeno Indians (Dominique Chapparosa, Executive Council)***

1. Our Tribe occupies 24,000 acres near Anza Borrego. We comprise approximately 100 members. Technical assistance would be helpful to overcome economic challenges.

***Santa Ynez Band of Chumash Indians (Sam Cohen, Government Affairs and Legal Officer)***

1. A notice was received from PG&E regarding the sale of an office building in Santa Clara. The notice includes a picture of a building. In order for the Tribe to conduct a meaningful evaluation of the opportunity, a lot more information would be needed. The process for notification and the transaction needs to be more defined and earlier notification is needed.
2. Our Tribe has been successful at protecting our resources through participation in proceedings and legal action (such as the proposed antenna on the Channel Islands). We continue to track current issues such as broadband and offshore wind. Participation in consultation is often required to exhaust all administrative remedies required to legally challenge a project. Participation in federal consultation is also important in order to be able to influence higher management within federal agencies to ensure staff compliance with consultation procedures and laws and regulations protecting resources.
3. Grant programs such as Local Agency Assistance Programs and the NTIA Round 2 of funding and US Department of Agriculture's (USDA) Reconnect Grant Program are good sources of funding to assist Tribes.
4. I helped initiate Executive Order B-10-11 and in order to fulfill this Executive Order, we need CPUC's Tribal Advisor to be a full-time permanent position ideally ordered by statute.

***Santa Ysabel Tribe (Kevin Osuna, Chairman)***

1. The Tribe wants our land back but will there be a cost or requirement to put the land into a conservation easement (such as under the Nature Based Solutions initiative or the 30x30 policy)? What deed restrictions would come with the land, including mineral rights, conservation

easements, utility easements etc.? Our Tribal members need homes; 25% of our members still live in California while 75% of our members now live out of State. We are interested in constructing more housing for our members so that we can afford to stay in California.

***Washoe Tribe (Jim Irvin, Councilmember)***

1. Tribes are experiencing active resistance and lobbying against fee to trust transactions, for example from the Rural County Representatives of California comprising many County Supervisors.
2. The Intertribal Stewardship Workforce Initiative could be a useful resource for the CPUC.

***Pauma Band of Luiseno Indians (Bennae Calac)***

1. Regarding the TCP and assistance at the State level, it is important to let the Tribes speak for themselves and ideally to be professionally involved in the CPUC.
2. Regarding impacts on Tribal Cultural Landscapes and associated biological impacts, replacement of wooden poles is resulting in a significant impact on woodpecker populations and pole replacements are affecting hawks nesting in nearby areas (e.g., eucalyptus groves). These impacts need to be considered when evaluating impacts on cultural resources as well.
3. Often Native American monitors must go through training to become a monitor. One example was cited where an Elder had to undergo training to be a monitor. This can be offensive. Tribes should have the final say on impacts to Tribal Cultural Resources and monitoring to protect those resources.

***Southern California Edison (Richard Fujikawa)***

1. SCE typically sells property but must retain the ability to maintain any equipment still operating on the property.
2. Properties that SCE sells may include land within 50-feet of flow lines or small hydroelectric facilities and associated property.
3. Some substations are now obsolete, but they are primarily located in downtown areas and parcels are small.
4. It is SCE's understanding that the initial notification period is to determine if there is any interest from a Tribe in the property. If any initial interest is expressed, after that point more details are provided and discussed.

***San Diego Gas and Electric Company***

1. It is difficult for the IOUs to resolve disputes under the TLTP. It is not an appropriate role of the IOU.
2. Does CPUC have a 5-year look ahead for disposition of property? This may be helpful in tracking these transactions and facilitating the TLTP process.
3. Better clarity is needed on some of the definitions within the TLTP.

***Pacific Gas and Electric Company***

1. IOUs are not in the real estate business. Most land available for disposition are not in ideal locations and/or are not desirable properties, for example, land near substations. PG&E would

be interested in learning what properties the Tribes would be most interested in. (Dwight Ockert)

2. PG&E does experience that most notifications are unanswered and would like to better learn why. PG&E has a Tribal website where all notifications that have been sent out are posted. Notification letters are sent to Chairpersons or others and the letters include maps of the property proposed for disposal. (Dwight Ockert)
3. PG&E is willing to work with the Tribes but the properties are expensive. The TLTP could possibly be revised to address this issue. (Dwight Ockert)
4. In response to a question about why the IOUs sell property, it is typically in order to raise capital or as a requirement of a settlement. (Dwight Ockert)
5. Many of our quarterly reports state that there was no contact received from the Tribes. (Dwight Ockert)
6. PG&E will follow the exact requirements of the policy and guidelines. In addition, we make courtesy calls to ensure the Tribes have received notifications. We believe that the TLTP policy is only for land purchases not for donations of land. This policy speaks to real estate transactions, not a 'Land Back' program. (Reno Franklin)
7. What does equity look like? How does a non-federally recognized Tribe get involved? The term "equity" needs to be defined in the TLTP and better clarified.

***AT&T (Julio Figueroa, Tribal Liaison)***

1. How does CPUC reach the Tribes in person? It may be recommended for the CPUC to attend the Tribal Chairmen's Association meetings held in northern, central, and southern California.

***CPUC's Administrative Law Judge Valerie Kao***

1. There are approximately 300 people on the Service List for this proceeding, meaning that they receive all notices on this proceeding, are provided with copies of all documents generated as part of this proceeding, and are able to see the comments of others.
2. The next step in the process is to circulate notes from this workshop and a workshop held in northern California in Blue Lake, California in November 2023, for public review and comment. Draft redline edits to the existing TLTP Guidelines and TCP will also be circulated for public review and comment. One additional virtual workshop is planned after circulation of these documents to provide another opportunity for verbal comment. The final drafts of these documents will serve as the basis for the Proposed Decision that the CPUC hopes to release to the public in the third quarter of 2024 (Q3 2024).

***CPUC's Tribal Advisor Kenneth Holbrook***

1. Voiced gratitude for the Jamul Indian Village and Chairwoman Erica Pinto, for allowing the CPUC to host this workshop on their lands.
2. Ensured that all workshop attendees will receive follow-up correspondence that will include useful informational resources and a link to the slides presented during the workshop.
3. Thank all workshop attendees for their participation. Meeting closed.

## Conclusions

Staff agree that the Tribal Policies OIR benefited from the strong tribal participation in the Jamul Workshop and the insightful comments Tribes, Tribal representatives, and utilities provided. Staff extend our thanks to all participating tribes for making the workshop a success and to the Jamul Casino for their gracious hospitality in hosting the event. The important feedback that will be considered in revising both the TLTP and TCP in the effort to make both policies more advantageous for tribes.

The workshop benefited from participation by IOU TLTP Program Managers as they have experience with administration of the TLTP and provided the IOU's perspective on the proposed changes to the TLTP Implementation Guidelines presented during the workshop, as well as to comments provided by tribal leaders describing their experiences with the TLTP and recommendations for improvements.

Report prepared by Kenneth Holbrook, with contributions from Michelle Wilson, Michael Rosauer, and Eric Sawyer.

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**(END OF ATTACHMENT)**