

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



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Order Instituting Rulemaking to
Implement Resolution E-5076 and Review of
Tribal Policies.

Rulemaking 22-02-002
(Filed February 10, 2022)

**REPLY COMMENTS OF CALIFORNIA WATER ASSOCIATION
ON RULING INVITING COMMENT ON RULING REGARDING SURPLUS LAND**

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I. INTRODUCTION

California Water Association (“CWA”) hereby provides its reply comments to the *Assigned Law Judge’s Ruling Directing Supplemental Information From Investor-Owned Utilities and Inviting Comments on Application of Tribal Land Transfer Policy to Surplus Properties* (“Ruling”) issued on June 4, 2026 by the California Public Utilities Commission (“Commission”). CWA is the statewide association representing the interests of water utilities subject to the jurisdiction of the Commission. CWA’s members provide safe, reliable, high-quality drinking water to approximately six million Californians. CWA provides these reply comments here on behalf of itself and its member water utility companies who have been named as respondents in this proceeding.¹

CWA submitted opening comments in response to the Ruling on June 15, 2026. Those comments addressed only the first five questions, which were directed specifically to investor-owned utilities (“IOUs”) and focused on gathering factual information about utilities’ surplus properties. These reply comments focus on responding to the *Comments of the Southern California Tribal Chairmen’s Association* [“SCTCA”] *on Surplus Properties* (“SCTCA Comments”) for question 10: “*How should the [Tribal Land Transfer Policy (“TLTP”)] best be*

¹ The Class A and B water utilities named as respondents to this proceeding are as follows: California Water Service Company, California-American Water Company, Golden State Water Company, Great Oaks Water Company, Liberty Utilities (Apple Valley Ranchos Water) Corp., Liberty Utilities (Park Water) Corp., San Gabriel Valley Water Company, San Jose Water Company, Suburban Water Systems, Alisal Water Corporation, Bakman Water Company, and Del Oro Water Co., Inc.

modified to include the sale of surplus properties within the TLTP? Would a reporting requirement or advice letter process be needed?” While CWA appreciates SCTCA’s perspective and looks forward to working with the Tribes to implement the updated policy that will come from this proceeding, as detailed herein, some of SCTCA’s recommendations could be overly burdensome and fail to capture the realities of water IOU operations.

II. DISCUSSION

Question 10 in the Ruling was: *“How should the TLTP best be modified to include the sale of surplus properties within the TLTP? Would a reporting requirement or advice letter process be needed?”* SCTCA offered numerous recommendations in response to this question.² As below, SCTCA’s recommendations should be denied or modified.

A. Reporting Requirement

SCTCA recommends “A reporting requirement triggered by an IOU’s consideration of the sale or transfer of surplus property appears to be necessary, because a Section 851 application would not be triggered ...” but recommends against the Advice Letter process.³ CWA agrees with SCTCA that an Advice Letter is not the proper approach for dealing with IOUs disposing of surplus properties. Imposing an Advice Letter requirement that would effectively require Commission approval for the disposition of such property, which would be inconsistent with Public Utilities Code Section 851 and the California Legislature’s express language regarding dispositions of assets that are no longer used or useful to the utility.

Instead, if the Commission chooses to extend the TLTP to sales of surplus property that is not subject to Public Utilities Code Section 851 approval, then CWA recommends that surplus properties be included within the general TLTP notification processes rather than having their own separate set of requirements to provide consistent processes for such transactions. Water

² SCTCA Comments, pp. 5-7.

³ *Id.*, p. 5.

utilities are already subject to numerous reporting requirements imposed by the Commission—the concerns here should already be addressed by the notification requirements already found in the TLTP.

B. Removal from Rate Base as Triggering Event

SCTCA recommends that “For notice purposes ... the triggering event should be when the land is removed from ratebase”.⁴ It continues that “Land that is removed from ratebase, even if no transfer or sale of the land is contemplated, would be a good candidate for acquisition by a Tribe or Tribes, as it is no longer necessary and useful for utility operations.”⁵ SCTCA’s recommendation would lead to an increase in the burden on water utilities without providing any requisite benefit. For water utilities, operational, contamination, and other issues can lead to a water utility removing property from rate base on a temporary basis.

For example, a water utility that has a well with a treatment plant that is forced to go offline due to other contamination may remove that property from its rate base temporarily while eventually planning on putting that property back into rate base once the issue is resolved. In that situation, SCTCA’s recommendation would lead to that water utility unnecessarily notifying the Tribes about property that they cannot acquire and that the water utility will be putting back into rate base in the future. It would not make sense to make rate base treatment the triggering event for such notifications. Moreover, water utilities sometimes want to hold onto real property as part of their long-term plan even if it is not used and useful in the short term. Requiring a notification in that circumstance similarly would not be helpful or appropriate.

Instead, it is appropriate to keep the triggering event when the IOU decides to dispose of real property, which is how the current TLTP is structured.

⁴ *Id.*

⁵ *Id.*

C. Procedures

SCTCA recommends a number of procedures to accompany any sale of surplus land, including notice 90 days before an IOU removes land from rate base and a 90-day exclusive negotiation period for Tribes that can be extended by 60 days.⁶

Resolution E-5076 already provides detailed notice procedures.⁷ SCTCA's recommendations differ from those existing procedures in a variety of ways, including adding extended timeframes and additional requirements.⁸ CWA believes that the existing Resolution E-5076 TLTP procedures are sufficient. Moreover, CWA does not believe that there should be two different sets of TLTP requirements depending on whether the property is surplus or not. A separate set of requirements risks non-compliance based on a lack of clarity as to which requirements should apply to particular property. Moreover, the requirement to provide notice ahead of the removal of property from rate base is problematic and unwarranted for the same reasons as discussed in the prior section above.

CWA also seeks clarity on one of SCTCA's recommendation that "The relevant Tribe or Tribes would have 90 days from when the information is posted to the IOU and CPUC websites and complete information relevant to a prospective purchaser has been compiled and made available to interested Tribes, to make a first offer for the property."⁹ If this recommendation is adopted, CWA requests that the Commission expressly define the particular information that must be provided. For example, Section 2.4 of the TLTP in Resolution E-5076 sets forth requirements for the contents of notices that must be provided in connection with sales of real property¹⁰—it may be sufficient for this information to be provided in these circumstances. Clear

⁶ *Id.*, pp. 5-6.

⁷ Resolution E-5076, pp. 64-66.

⁸ Compare *id.* with SCTCA Comments, pp. 5-6.

⁹ SCTCA Comments, p. 5 (underline in original).

¹⁰ Resolution E-5076, pp. 65-66.

guidance on which particular information must be provided (and whether it should be provided by the IOU, Commission, or other party) is necessary to effectively implement this suggestion if the Commission adopts it.

D. References to Public Utilities Code Section 851

SCTCA recommends a variety of changes to Resolution E-5076 that remove references to Public Utilities Code Section 851.¹¹ SCTCA's recommendation appears to be based on its belief that the resolution and TLTP would not apply to surplus land sales.¹² To the extent any changes are necessary, CWA recommends that any changes be narrowly tailored and is concerned that removing references to Public Utilities Code Section 851 would be overbroad. Public Utilities Code Section 851 includes exceptions, including easements that fit under particular requirements.¹³ Removing references to Public Utilities Code Section 851 may impact those exceptions and lead to other unforeseen impacts such as unduly requiring Commission approvals for transactions not currently subject to Public Utilities Code Section 851. To the extent any changes are necessary to Resolution E-5076 or the TLTP, CWA recommends adding additional language that applies the particular requirements explicitly to surplus real property sales rather than removing references to Public Utilities Code Section 851. That approach would address SCTCA's concerns about the applicability of Resolution E-5076 and the TLTP to surplus real property sales without risking unforeseen consequences.

III. CONCLUSION

CWA requests that, in any changes it makes to the TLTP, the Commission consider its request for a *de minimis* exemption for water utilities given the small pieces of real property that often account for water utilities' surplus property (as discussed in CWA's opening comments). Moreover, as detailed herein, CWA respectfully requests that the Commission consider the

¹¹ *Id.*, p. 6.

¹² See *id.*

¹³ Pub. Util. Code § 851(c)(1).

points made above regarding SCTCA's recommendations. CWA reiterates its appreciation for this opportunity to comment on the Ruling and continue to engage with the Commission, Tribes, and other stakeholders on the important issues presented in this proceeding.

Respectfully submitted,

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