



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking 22-02-002

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

COMMENTS OF THE ALLIANCE FOR TRIBAL CLEAN ENERGY ON THE PROPOSED TRIBAL CONSULTATION POLICY AND TRIBAL LAND TRANSFER POLICY

Submitted by:

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Dated: October 27, 2025
Submitted in: Rulemaking 22-02-002

Copies of these comments are being served electronically to all parties on the R.22-02-002 service list in accordance with Rule 1.10 of the Commission's Rules of Practice and Procedure.



I. Introduction

The Alliance for Tribal Clean Energy respectfully submits these comments in response to the Assigned Commissioner’s Ruling Inviting Comment on Proposed Modifications to the CPUC Tribal Consultation Policy and Tribal Land Transfer Policy; and Related Issues, issued September 22 2025 (ALJ Ruling p. 1).

We commend the California Public Utilities Commission for advancing early, often, and meaningful Government-to-Government engagement and for incorporating Tribal feedback gathered through workshops and Consultations under this rulemaking. These comments address each section of the ruling and provide recommendations intended to strengthen policy implementation while remaining mindful of the Commission’s existing capacity and authorities.

II. Priority Areas of Interest for California Native American Tribes

The ALJ Ruling (§ 1 (a–c)) asks which industries and programs most engage Tribes and how the Office of the Tribal Advisor can maintain an updated list of Tribal interests.

Recommendation: Establish a formal Tribal Interest Register, managed by the Office of the Tribal Advisor in coordination with the Native American Heritage Commission (NAHC), to identify each Tribe’s preferred areas of engagement (energy, broadband, water, transportation, cultural resources). This implements the Consultation Policy’s direction to “provide timely and useful information relating to proposed actions that may affect Tribal interests” (Tribal Consultation Policy § 3(b)(2), p. 8) and ensures consistent notice for all “Actions with Tribal Implications” (§ 3(a), p. 7).

III. Early, Often, and Meaningful Tribal Engagement

The ruling invites comment on establishing regular forums and working groups (ALJ Ruling § 2 (a–d)).

Recommendation A: Institutionalize a Quarterly Tribal Information Forum co-chaired by the Tribal Advisor and Public Advisor, with participation from Energy, Water, Telecommunications, and Transportation Divisions. This implements the Consultation Policy’s principle of “early, often and meaningful consultations” (§ 3, p. 7) and promotes consistency across divisions (§ 2, p. 6).

Recommendation B: Create quarterly program-specific working sessions or office hours for major sectors (Energy, Water, Telecom, Transportation) to allow ongoing coordination between Tribal representatives and staff (ALJ Ruling § 2 (e)).

Recommendation C: Clarify the roles of the Public Advisor, ALJ Division, and Tribal Advisor (ALJ Ruling § 2 (g–j)) and jointly issue a Tribal Participation Guide explaining procedural rights, ex parte rules, and available assistance, consistent with § 3(b)(1)–(4) of the Consultation Policy.



IV. Roles and Responsibilities for Tribal Participation

Recommendation: Adopt a Tribal Participation Protocol providing that:

1. Tribes may request party status at any stage of a proceeding without prejudice.
2. Decisions summarize Tribal input and describe how it influenced the outcome.
3. ALJs verify that the record includes written and oral Tribal statements.

This implements § 3(b)(4) (“ensure Tribal concerns are considered before actions are taken”) and § 2 (p. 6) of the Consultation Policy.

V. Supporting Tribal Energy Sovereignty

The proposed Tribal Consultation Policy expressly commits to “supporting Tribal efforts toward energy sovereignty” (§ 2, p. 5). The ALJ Ruling (§ 2 (l)) requests input on how the Commission can further that goal.

California already administers complementary funding programs such as the California Energy Commission Tribal Program, the CPUC Tribal Technical Assistance Grant Program under the California Advanced Services Fund, and Tribal-eligible components within the Strategic Growth Council’s Regional Climate Collaboratives Program. These programs support planning and early-stage project development but rarely extend to interconnection, financing, or implementation.

Recommendations:

1. Expand upon these precedents by establishing, within existing CPUC or CEC authorities, a Tribal Energy Sovereignty Technical Assistance and Implementation Program supporting project design, interconnection, and financing for clean-energy infrastructure.
2. Recognize Tribes and Tribal utilities as load-serving entities for purposes of resource adequacy, integrated resource, and transmission-planning proceedings.
3. Convene a Tribal Energy Working Group with CEC, CARB, and CAISO to coordinate consultation timelines, funding alignment, and information sharing.

These actions would realize the Consultation Policy’s commitment to energy sovereignty (§ 2, p. 5) while leveraging existing state programs and avoiding additional administrative burdens.

VI. Addressing Barriers to Engagement

The ALJ Ruling (§ 2 (m–p)) requests comment on barriers limiting Tribal participation. Tribes consistently cite constrained capacity, short timelines, and fragmented communications.

Recommendations:

1. Provide at least a 45-day notice period for consultations and workshops, extending beyond the 30-day state minimum outlined in § 3(b)(1) (“share pertinent materials in a timely fashion”). While a 30-day window aligns with general state notification requirements, Tribes have consistently indicated that this timeframe is often too short to accommodate internal government processes, council review, and coordination across departments. A 45-day notice period would support more effective engagement and uphold the intent of early, good-faith communication.
2. Require each division to designate a Tribal Liaison (§ 2, p. 6) to maintain consultation logs and provide regular reports to the Office of the Tribal Advisor, at least biannually and preferably quarterly, to promote accountability and continuous improvement. In addition, require a comprehensive annual summary report that compiles all division-level engagement activities. This recommendation aligns with and reinforces provisions already included in both the Proposed Tribal Consultation Policy (p. 6) and the Proposed Tribal Land Transfer Policy (§ 6.1, p. 13), which direct divisions and staff to work through designated Tribal Liaisons. Regular reporting increases transparency, helps identify gaps or challenges in real time, and strengthens trust between the State and Tribal governments.
3. Strengthen existing communication tools rather than develop new platforms. Improve the Commission’s public Tribal webpage with a consolidated calendar of upcoming consultations and maintain a voluntary email listserv for notices, managed by the Office of the Tribal Advisor.
4. Encourage divisions to coordinate notices so Tribes receive a single, clear communication when multiple proceedings are relevant.

These steps align with the Consultation Policy’s mandate to “remove unnecessary impediments to working effectively with Tribes” (§ 2, p. 6) and are feasible within current CPUC staff structures and resources.

VII. Comments on the Proposed Tribal Land Transfer Policy 2.0

The ALJ Ruling (§ 3 (a–c), pp. 5–6) invites comments on information sufficiency, mapping, and related issues.

1. Information for Tribal Decisions: Require IOUs under § 2.2 (p. 7–8) to use a standardized notice template that includes parcel maps, APNs, easements, appraised values, operational need statements, and a simple fill-in field such as “This property is located on or near the ancestral territories of _____ Tribe(s)” based on NAHC contact lists or public records. This provides clarity without requiring new mapping infrastructure (ALJ Ruling § 3 (a–b)).
2. Transparency and Reporting: Maintain § 5 (pp. 12–13) quarterly reporting requirements but focus on internal compliance and documentation rather than public dashboards. IOUs should share reports with the Energy Division and Office of the Tribal Advisor and include summary tables of notices, consultations, and outcomes.



3. Dispute Resolution and Cultural Resources: Retain §§ 4–4.3 (pp. 11–12) as written, preserving the existing NAHC mediation timeline and process flexibility. CPUC should ensure that § 3.3 (p. 11) cultural-resource considerations remain a required element of any § 851 review.

VIII. Additional Input and Broader Recommendations (ALJ Ruling § 4 (a–b)).

1. Office of the Tribal Advisor: Codify cross-divisional authority and require an Annual Tribal Engagement Report summarizing consultations, outcomes, and future goals (Consultation Policy § 2, p. 6).
2. Tribal Advisory Council: Establish a semi-annual council of regional Tribal representatives to advise on implementation and metrics.
3. Metrics for Meaningful Consultation: Develop performance indicators (timeliness, integration of feedback, post-consultation evaluation) to track progress toward the Policy’s objective of “effective and positive working relationships” (§ 3, p. 7).

IX. Conclusion

The Alliance for Tribal Clean Energy supports the Commission’s commitment to strengthening its Tribal Consultation and Land Transfer Policies. The refinements proposed here balance ambition with practical implementation and build on existing policy language and structures. They advance energy sovereignty and accountability while remaining achievable within current resources and authorities.

Implementing these recommendations will embed meaningful consultation as standard practice, enhance transparency in land transactions, and uphold the principles of Government-to-Government collaboration across California’s regulated sectors.

Respectfully Submitted,

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