

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



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Application of Pacific Gas and Electric
Company in the 2018 Nuclear
Decommissioning Cost Triennial
Proceeding (U 39 E)

Application 18-12-008
(filed December 13, 2018)

Application of Pacific Gas and Electric
Company for Authorization to Establish the
Diablo Canyon Decommissioning Planning
Cost Memorandum Account. (U 39 E)

Application 18-07-013

**MOTION FOR PARTY STATUS OF THE
NORTHERN CHUMASH TRIBAL COUNCIL**

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February 20, 2020

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In accordance with Rule 11.1 Motions and pursuant to Rule 1.4 (Participation in Proceedings) of the California Public Utilities Commission Rules of Practice and Procedure, the Northern Chumash Tribal Council (NCTC) (see www.northernchumash.org) respectfully files this motion for Party Status in Pacific Gas & Electric Company's (PG&E) Application A18-12-008.

Whereas, PG&E application seeks the Commission's review and approval of PG&E's decommissioning cost estimates for the Diablo Canyon Power Plant ("Diablo Canyon"). Said decommissioning and negotiations involves Tribal Interests including Land use, decommissioning review, participation in cost associated with decommissioning and approvals for the Diablo Canyon Power Plant (Diablo Canyon). NCTC is one of several State Recognized California Native American Tribes¹ in Northern San Luis Obispo County, and has been reviewing all projects in San Luis Obispo County for at least the last fourteen years. As such, this makes the NCTC tribal government a very

¹ Recognized by the Native American Heritage Commission as descendants of the original people of San Luis Obispo County and original inhabitants of the land specifically Diablo Canyon Nuclear Power Facility.

important party to these proceedings. NCTC proffers it's late application is due to the facts that previous notice of the Application was not provided to NCTC as required by California State law pertaining to notice being provided to all tribes that could be affected by the Commission's actions.

As NCTC requests party status under Rule 1.4(a)(4), NCTC request must satisfy Rule 1.4(b). Therefore, in accordance with Rule 1.4(b), NCTC respectfully submits its formal request to be a part to the proceeding, and the pertinent factual and legal contentions that it intends to make.

I. DISCUSSION:

A. Northern Chumash Tribal Council:

The Northern Chumash Tribal Council, Inc. was formed under the guidelines of California Senate Bill 18 on April 26, 2006, as a state-recognized mutual benefit corporation (EIN 84-1709436). On August 10, 2009, NCTC restated its Articles of Incorporation denoting therein that it was organized and operated exclusively for charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

NCTC's tribal government is recognized by the California Native American Heritage Commission, and its members are among the most likely descendants of the San Luis Obispo Northern Chumash communities, including but not limited to, the lands of Diablo Canyon, Avila Beach, Morro Bay and surrounding villages as established by the Native American Heritage Commission through extensive oral traditions, birth records and historical records. NCTC is located in San Luis Obispo County, and members reside within this community. NCTC has been actively involved in partnerships with multiple agencies dating back more than 25 years. NCTC works to promote the Chumash People's revitalization in efforts to reorient the community to be more inclusive of the original people's knowledge of the land, and to embrace that knowledge as a way to address modern environmental concerns including the restoration of the Diablo Canyon Lands. NCTC promotes the

integration of Native American art, music, language, foods and culture within the community in both the private and public sphere. NCTC holds regular cultural events in San Luis Obispo County, including Native food preparation courses emphasizing the health benefits of traditional foods, and the importance of addressing climate change to protect traditional food sources. NCTC provides education opportunities for its members, and is inclusive of the broader Indigenous communities, allies, and tribes. NCTC acts with coalitions of similarly minded tribes, non-profits, NGO's to strengthen protections for the land through community preservation projects such as the proposed Chumash Heritage National Marine Sanctuary and the Oceano Dunes Alliance. NCTC is also part of the protection of the Carrizo Plains National Monument; and, has for many year participated at Summer Solstice at Painted Rock, the Chumash People's most sacred site. NCTC participates in and hosts traditional gatherings with hundreds of Chumash People and communities' members attending said gatherings. NCTC supports agriculture, permaculture and sustainable land-use practices. NCTC affirms its tribal sovereignty through ongoing community collaboration on city, county and State levels dedicated to social-justice and protecting of the rights of indigenous people². NCTC is dedicated to meaningful consultation with local governments, agencies, and the development community making them a very important party to these proceedings.

B. NCTC Interest:

NCTC is dedicated to preservation of Chumash culture, heritage, sacred sites and tribal community well-being as a whole. The Northern Chumash Tribal Council³, referring specifically to

² The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the General Assembly on Thursday, 13 September 2007 and adopted by the State of California on 8/11/2014. Also adopted by the County of San Luis Obispo on August 19, 2011. First county in the Nation to adopt UN DRIP. https://northernchumash.files.wordpress.com/2011/12/drips_en.pdf NCTC more than any other Northern Chumash Tribe played a significant part in getting the San Luis Obispo Board of Supervisors to adopt UNDRIP.

³ The California Native American Heritage Commission recognizes NCTC Tribe members as the most likely descendants of those people who originally inhabited Diablo Canyon the Declaration confirms the right of

San Luis Obispo traditional territories, languages, village sites, cultural resources and other spiritual significance to our people must be taken into consideration during the decommissioning process at our sacred site in Avila Beach/Diablo Canyon, Pecho coast region. Land ownership via land grants, Williams Act deeds, and occupation substantiate our tribes continued living on the central coast of California for hundreds of years; and, through oral traditions that our ancestors have continuously lived in this territory for thousands of years before recorded land ownership. Most recently NCTC's tribal Vice Chairwoman, born in Avila beach, on traditional homeland. NCTC has deep connections to preservation of Norther San Luis Obispo County lands, restorations and keeping the land available for the public benefit; and, assert that NCTC as a Chumash Tribe has prior interests in the lands around Diablo Canyon⁴.

C. NCTC's Factual and Legal Contentions:

NCTC is not the only entity that is historically and culturally affiliated with the lands around Diablo Canyon⁵ who may have interests in the decommissioning process and cost, but it is one of the most active. NCTC has worked with the State of California, San Luis Obispo County, and the Cities of San Luis Obispo and Morro Bay in furthering and protecting its ancestors and safeguarding the Chumash Heritage. Excluding the interests of NCTC who have served as environmental guardians for many years, and have a strong history of cultural, spiritual and habitation connection with this land

indigenous peoples to self-determination and recognizes subsistence rights and rights to lands, territories and resource.

⁴ The Declaration recognizes that indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

⁵ NCTC is aware that another San Luis Obispo based Chumash tribe, *to wit* the yak tit'u yak tilhini Northern Chumash Cultural Preservation Kinship ("YTT Kinship") has claimed exclusive representation of all Northern Chumash Peoples, but this is not true. There are at least ten other, separate Northern Chumash Tribes recognized by the Native American Heritage Commission as most likely descendants of those people who originally inhabited Diablo Canyon. California Mission records document at least three (3) tribal villages in Diablo Canyon. The YTT Kinship to date has failed to even consult with NCTC or other affected recognized Chumash Tribes regarding Application 18-12-008.

would lessen the efficacy of any agreement. NCTC seeks not to exclude any other Northern Chumash tribe, but rather respectfully requests that its involvement promoting inclusion of the entire indigenous community be considered. The inclusion of the NCTC and other entities that have historical ties to the land of Diablo Canyon is essential to community equity and in the best public interest of the future proceedings.

III. COMMUNICATIONS AND SERVICE

Service of notices, orders, and other correspondence in this proceeding should be directed to NCTC at the address set forth below. NCTC requests that service of notices, order, and other correspondence in this proceeding be addressed to the following:

Attorney for Northern Chumash Tribal Council:
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To be added to the “information only” portion of the service list:

Violet Sage Walker, Tribal Vice Chairwoman
Northern Chumash Tribal Council
PO. Box 6533
Los Osos, CA 93412
Phone: (760) 549-3532
Email: violetsagewalker@gmail.com

IV. CONCLUSION:

NCTC participation in this proceeding will not prejudice any party, and will not delay the schedule, nor broaden the scope of the issues in the proceeding. For the reasons stated above, NCTC respectfully requests that the CPUC grant this Motion for Party Status filing.

Respectfully submitted,

Dennis James Balsamo

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