

TRIBAL UTILITY FORMATION: Land Matters

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August 28, 2019

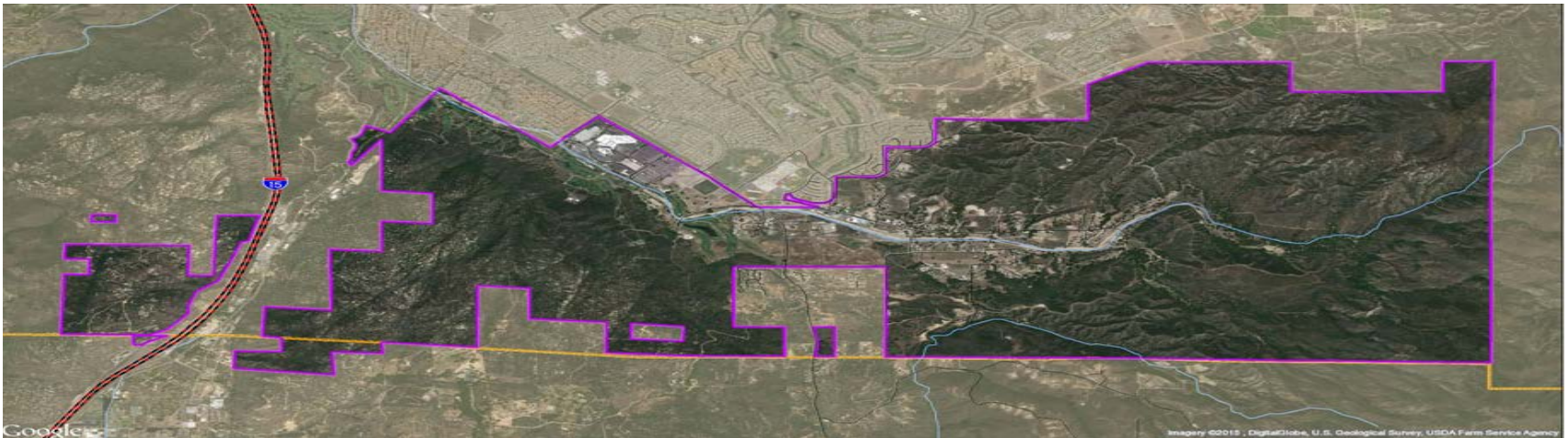
Utility Profile:

Pechanga Western Electric

- Purchases power on the market and distributes it on-reservation
- Current load served = 18 mW (commercial/government)
- Power sources
 - 4.6 mW self-generated power (cogeneration)
 - 5.65 mW federal hydropower (tribal allocations)
 - Additional power scheduled by scheduling coordinator
 - 1 mW rooftop solar under construction (exploring additional 1 mW)
 - Electric work vehicle pilot program (exploring V2G technology)
- Delivers energy under SCE's Wholesale Distribution Access Tariff (WDAT)

Electric Service Profile: Pechanga Indian Reservation

- 7,650 contiguous acres in Southern California
- Mix of customers
 - Large commercial facilities (resort and casino) on tribal trust land
 - Small commercial facilities on tribal trust land
 - Government buildings on tribal trust land
 - Residences on allotments
 - Mostly fractionated interests



Organizational Structure & Funding

- Form
 - Formed by General Membership Resolution in March 2016 as department of the tribal government
- Funding
 - Initial funding allocation from government operations budget
 - Federal grant funding
 - Rates
 - Compact community funds



Jurisdictional Framework

- “Small Non-Jurisdictional Load Serving Entity”
 - Not required to register with North American Reliability Corporation/Western Electricity Coordinating Council
 - Outside the jurisdiction of the state’s Public Utilities Commission
 - Registered with the state’s Independent System Operator (CAISO) for Resource Adequacy and Congestion Revenue Rights purposes
 - Voluntarily working with state’s Energy Commission re Resource Adequacy

Tribal Legal & Regulatory Framework

- Regulatory Body
 - Pechanga Tribal Council
- Areas of Regulation
 - Condemnation procedures
 - Service standards
 - Safety requirements (incl. fire safety)
 - Rates
 - Renewable mandates



Land Matters: Rights-of-Way

25 CFR § 169.207

- (a) A grantee may assign a right-of-way by: (1) Meeting the consent requirements in §169.107, unless the grant expressly allows for assignments without further consent; and (2) Either obtaining our approval, or meeting the conditions in paragraph (b) of this section.
- (b) A grantee may assign a right-of-way without BIA approval only if: (1) The original right-of-way grant expressly allows for assignment without BIA approval; and (2) The assignee and grantee provide a copy of the assignment and supporting documentation to BIA for recording in the LTRO within 30 days of the assignment.
- (c) Assignments that are the result of a corporate merger, acquisition, or transfer by operation of law are excluded from these requirements, except for the requirement to provide a copy of the assignment and supporting documentation to BIA for recording in the LTRO within 30 days and to the tribe for tribal land.

Land Matters:

Service Line Agreements

- 25 CFR § 169.51: Service lines generally branch off from facilities for which a right-of-way must be obtained. A service line is a utility line running from a main line, transmission line, or distribution line that is used only for supplying telephone, water, electricity, gas, internet service, or other utility service to a house, business, or other structure. In the case of a power line, a service line is limited to a voltage of 14.5 kv or less, or a voltage of 34.5 kv or less if serving irrigation pumps and commercial and industrial uses. To obtain access to Indian land for service lines, the right-of-way grantee must file a service line agreement meeting the requirements of this subpart with BIA.
- 25 CFR § 169.54: (a) Before the utility provider may begin any work to construct service lines across tribal land, the utility provider and the tribe (or the legally authorized occupants or users of the tribal land and upon request, the tribe) must execute a service line agreement. (b) Before the utility provider may begin any work to construct service lines across individually owned land, the utility provider and the owners (or the legally authorized occupants or users) must execute a service line agreement.

Future Considerations: Solar Development

- Wind & Solar Leasing Pursuant to 25 U.S.C. 162
 - Numerous Requirements
 - Compliant Lease terms and legal protections
 - Solicitor's review
 - Resource Development Plan
 - Corporate Qualifications Volume
 - Developer
 - EPC Contractor
 - Finance
 - NEPA

Future Considerations: Solar Development

- HEARTH ACT (Helping Expedite and Advance Responsible Tribal Homeownership Act)
 - Asserts Tribal Sovereignty
 - Right to control trust land
 - Retains control of lease terms
 - No BIA opinion of value
 - Tribal NEPA process
 - Develops tribal capacity
 - Expedites process
 - Faster