

BEYOND THE WIRES:

West of Devers Upgrade Project

November 2025

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CLEAN AIR
TASK FORCE

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Project Summary

This case study is part of a broader set investigating how electricity transmission projects have integrated community benefits into their development processes. These case studies specifically explore transmission projects that have been completed and are in service. The purpose of this work is to learn more about the nature of benefits frameworks; the regulatory, logistical, and engagement processes that led to agreements; community representation in agreement negotiations; the degree to which frameworks result in demonstrable benefits to the community; and any related implications on project cost and timeline, to inform and improve community benefits conversations happening today. These case studies were informed by web research, document and docket review, and first-person interviews.

View the full set of case studies and summary report at:

<https://www.edf.org/beyond-wires-community-benefits-transmission-projects>

and

<https://www.catf.us/resource/beyond-the-wires-community-benefits-from-transmission-projects/>

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Glossary of Acronyms

BIA: Bureau of Indian Affairs	FERC: Federal Energy Regulatory Commission
BLM: Bureau of Land Management	NEPA: National Environmental Policy Act
CAISO: California Independent System Operator	ROE: Return on equity
CEQA: California Environmental Quality Act	ROW: Right-of-way
CPUC: California Public Utilities Commission	RTO/ISO: Regional Transmission Organization and Independent System Operator
CPCN: Certificate of Public Convenience and Necessity	SCE: Southern California Edison
DCA: Development and Coordination Agreement	

SUMMARY

In the early 2010s, Southern California Edison (SCE) pursued a 48-mile transmission line upgrade that crossed the land of the Morongo Band of Mission Indians (Morongo Tribe, Morongo, or Tribe), a federally recognized Tribe whose reservation is within SCE's service territory, but over which SCE lacks the power of eminent domain.¹ The upgrade was needed to replace several older transmission

lines where rights-of-way were expiring. Following five years of contentious negotiations and decades of fraught relations between SCE and Morongo, an agreement was reached that enabled Morongo to invest in the project and thereby become the first federally recognized Tribe to be a participating transmission owner, while also being separately compensated for the use of its trust land.²

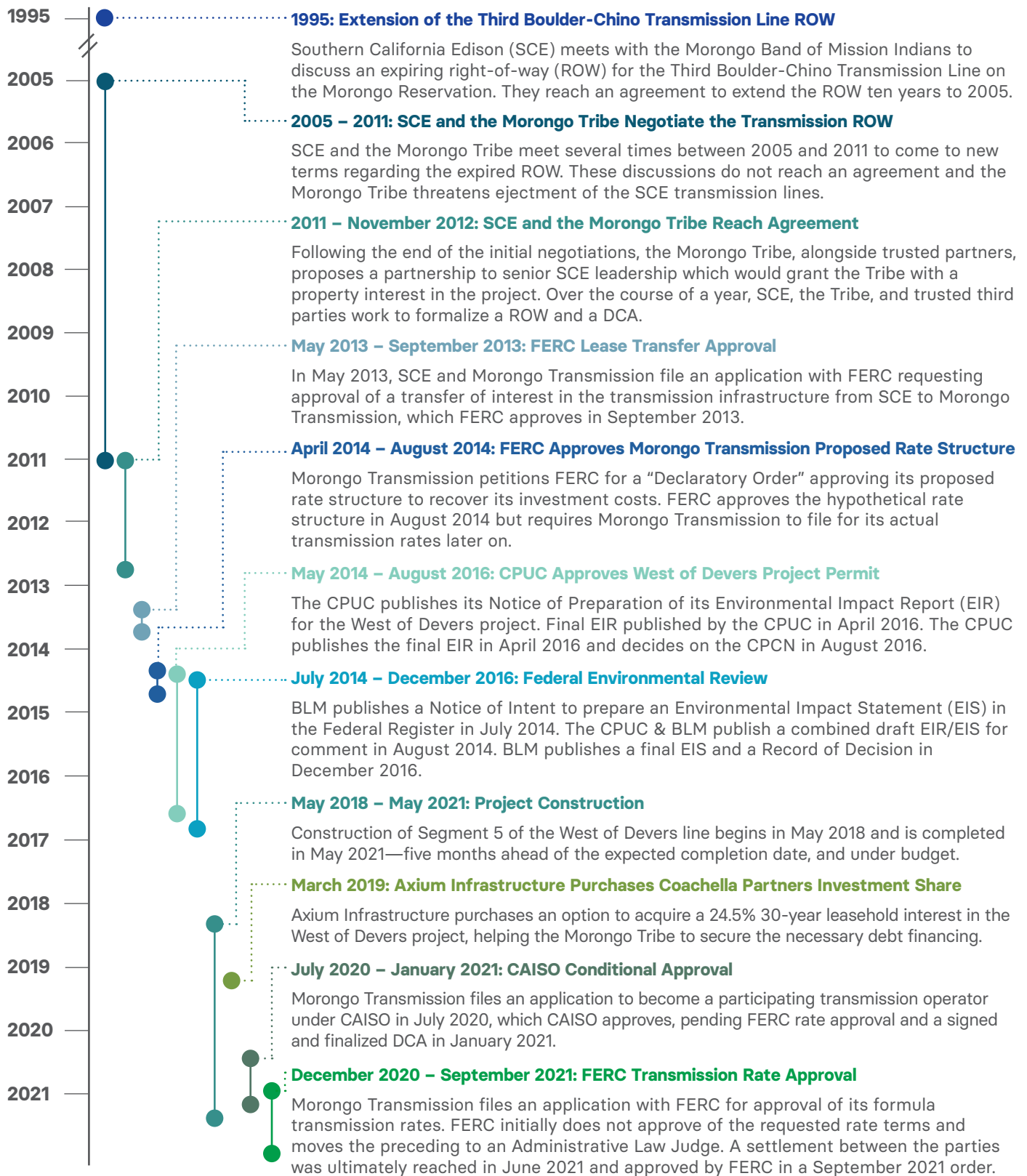
Key Takeaways

- SCE accelerated the project development timeline by as much as seven years through collaboration and agreement with the Tribe, enabling continued siting of transmission infrastructure rather than demolishing and reconstructing several miles of transmission lines. The project was also completed five months ahead of its preliminary schedule. A contributing factor to this accelerated completion was the Tribal government's ability to work more efficiently than federal and state agencies.
- Established, trusted relationships with experienced legal and regulatory professionals were instrumental in supporting the ideation, development, and negotiation of the partnership agreement. Legal and policy specialists not only assisted in formulating the initial framework for the partnership but also provided essential expertise in analyzing and addressing complex policy and regulatory issues that the Tribe needed to resolve to participate as a transmission owner. Furthermore, the partnership agreement clearly specified the technical and regulatory responsibilities that SCE would assume on behalf of Morongo Transmission. This clarity assisted the Tribe in identifying any potential future resource requirements.
- Repeated financial offers from SCE were insufficient on their own and exacerbated tensions by overlooking issues of dispossession and self-determination. It was not until SCE sat down with the Tribe, heard from them, and discussed ways that the project design could enhance Tribal sovereignty, did the contours of an agreement come into focus. For Morongo, the Tribe was able to leverage its strong economy and reject typical financial offers from utilities that it felt did not adequately compensate the Tribe.
- The Morongo Tribe's strong economic position enabled them to negotiate agreement terms that upheld Tribal sovereignty, rejecting standard financial offers from utilities.
- The partnership between SCE and the Morongo Tribe succeeded in part because both organizations involved their top leaders in direct conversations, empowering senior staff to make key decisions and move the project ahead. Additionally, the agreement's dispute resolution framework required each organization's highest-ranking officials to be responsible for resolving disagreements. For SCE, this approach was a departure from their usual practices, but one which they claim to have embraced in their ongoing engagement with Tribes.

¹ West of Devers Upgrade Project. (n.d.). *Southern California Edison*.

² Morongo Nation. (2021, July 19.) *Morongo Becomes First Native American Tribe to be Approved as a Participating Transmission Owner in Nation* [Press release].

TIMELINE



THE PROJECT

The West of Devers Upgrade Project reconductored and rebuilt an existing 48-mile stretch of four circuits of 220 kilovolt transmission lines within the West of Devers transmission corridor to new double-circuit 220 kilovolt transmission lines. Part of the rebuilt line crosses land of the Morongo Tribe following an agreement for the Tribe to be a participating transmission owner. Without the unique agreement between the Tribe and SCE, the entire system would have had to be re-routed, south through the Mt. San Jacinto Wilderness Area, north through the Mt. San Gorgonio Wilderness Area, or possibly through Joshua Tree National Park.

The project was undertaken by SCE, a major electric utility provider in the United States.³ SCE serves approximately 18

million customers within a territory encompassing 50,000 square miles of Southern California, including over 180 incorporated cities and 15 counties.⁴

According to filings by the California Independent System Operator (CAISO) – California’s grid operator – two main needs drove the project: the increased deliverability of power from solar generation resource interconnection requests and meeting California’s Renewable Portfolio Standard goals.⁵

The Renewable Portfolio Standard, established in 2002, required that “20% of electricity retail sales must be served by renewable resources by 2017.”⁶ The resource potential for renewable generation is primarily concentrated in the

FIGURE 1:
The West of Devers Upgrade Project

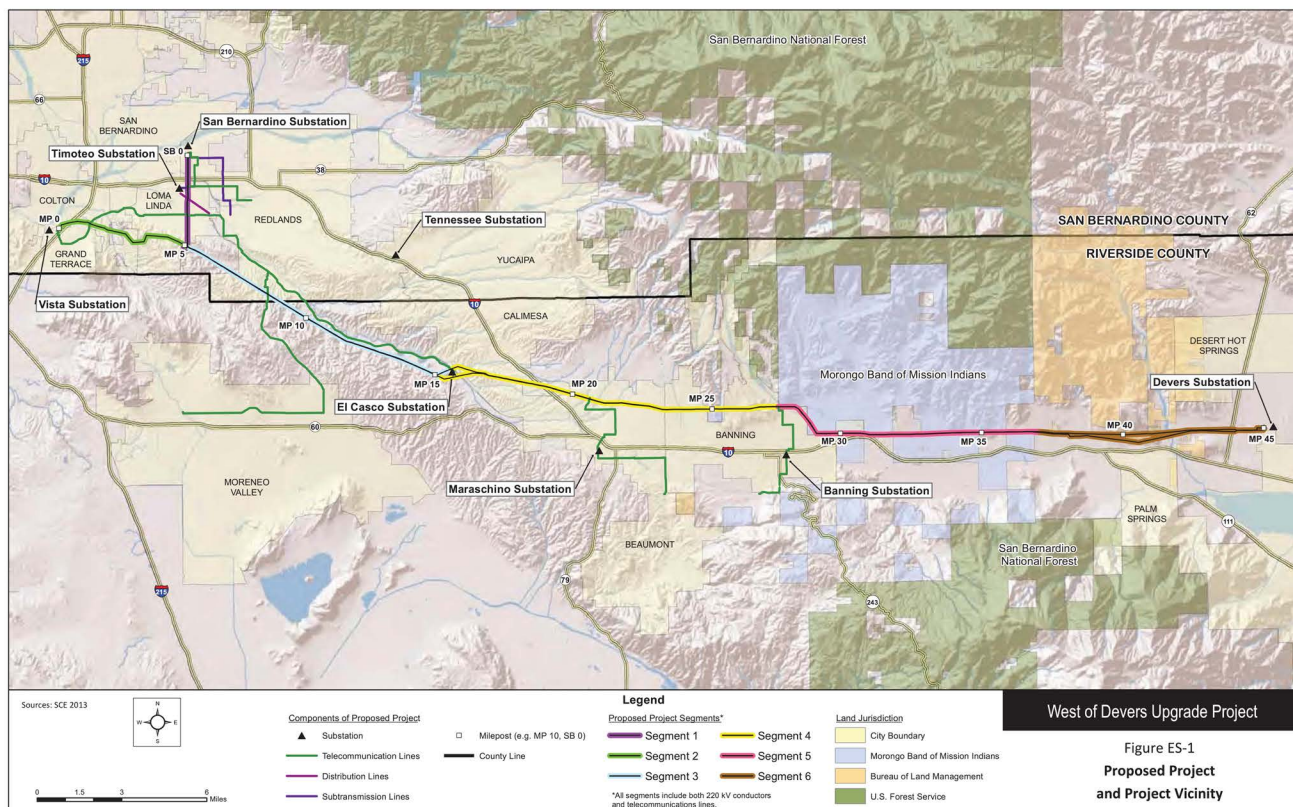


PHOTO CREDIT: STATE OF CALIFORNIA PUBLIC UTILITIES COMMISSION

³ About SCE. (n.d.). *Southern California Edison*.

⁴ A Look Back: Our History. (n.d.). *Edison International*.

⁵ Vandal, T. (2020, July 14). *Morongo Transmission LLC Participating Transmission Owner Application*.

⁶ Renewables Portfolio Standard Program. (n.d.). *California Public Utilities Commission*.

eastern part of the state and in neighboring states to the east. Delivery of these new clean energy resources required new transmission lines and upgraded transmission capacity.

According to SCE, upgrading the West of Devers lines was necessary to transmit over 7,000 megawatts of renewable energy and battery storage capacity from the solar-rich desert regions of eastern California—especially from new renewable projects in eastern Riverside County—to densely populated areas in Southern California.⁷

The upgrade replaced three sets of 220 kilovolt towers (one single-circuit, one double-circuit) along the 48-mile corridor with two sets of 220 kilovolt double-circuit towers

and higher-capacity conductors.⁸ Within Segment 5 of the project, which is the focus of this case study, SCE dismantled 137 towers and relocated three miles of the current line.⁹ The replacement towers exceeded the height of their predecessors, with the new 108 double-circuit towers averaging 144 feet in height. In comparison, the existing single-circuit towers averaged 83 feet, while the previous double-circuit towers had an average height of 140 feet.¹⁰ Design of the towers on the Morongo Reservation was subject to Morongo's approval, provided that all engineering requirements were satisfied.

Construction began in 2018 and was completed in May 2021—five months ahead of the expected completion date, and under budget.¹¹

THE COMMUNITY AND HISTORICAL CONTEXT

The Morongo Band of Mission Indians is a federally recognized Tribe, with Tribal lands near Palm Springs, California, spanning 36,000 acres.¹² The Morongo Band is composed of multiple groups of Californian Indians, including Serrano, Cahuilla, and Cupeño. The Morongo Reservation was established in 1865, with its boundaries defined by executive order in 1876. However, the stewardship of these lands by the community predates these formal recognitions.¹³ Around the time of SCE's original West of Devers Upgrade Project application in 2012, there were approximately 900 Tribal members living on the reservation.¹⁴

The Tribe has a regional economy of nearly \$3 billion a year and is home to more than 3,000 jobs with an annual payroll of over \$50 million.¹⁵ The Tribe currently owns two casinos, of which one, the Morongo Casino Resort & Spa, is among the larger Tribally-owned gaming facilities in the United States and a pivotal contributor to the Tribal economy.

Morongo's Tribal government provides the reservation community with virtually all the governmental services and programs that a city or county would provide: potable water and wastewater treatment; road maintenance and other public works; fire, ambulance, and law enforcement services; schools and education programs and services; social services; Tribal court; environmental protection; and others specific to the needs of its citizens. Tribal revenues fund almost all these programs and services.

7 Southern California Edison. (2021, September). *West of Devers Upgrade Project: Expanding Access to Renewable Energy and Enhancing Reliability* [Brochure]. The new transmission lines would also increase the system transfer capacity from 1,600 to 4,800 megawatts, and with it the potential to power millions of additional homes, while also improving system reliability during summertime peak demand. Granados, S. (2018, April). *Notice of Construction: Southern California Edison's West of Devers Upgrade Project*. Southern California Edison.

8 SCE West of Devers Upgrade Project. (n.d.). *Aspen Environmental Group*.

9 California Public Utilities Commission. (2014). *Fact Sheet: West of Devers Upgrade Project: Riverside and San Bernardino Counties* [Fact sheet].

10 California Public Utilities Commission, 2014

11 Southern California Edison, 2021; Interview with Brian McDonald, former SCE Tribal Liaison, on January 21 and 24, 2025

12 Schwartz, M. (2024). *The 574 Federally Recognized Indian Tribes in the United States*. Congressional Research Service; Morongo Nation. (n.d.). *Cultural Heritage*; Morongo Nation. (n.d.). *Tribal Court*; Interview with Morongo Band of Mission Indians on December 23, 2024 and May 15, 2025

13 Morongo Nation, n.d. (Cultural Heritage)

14 U.S. Census. (2010). *Federal American Indian Reservations - 2010 Census - Data as of January 1, 2010*.

15 Morongo Nation. (n.d.). *About Us*.

Relationship Between the Tribe and the Utility

The relationship between the Morongo Tribe and local electric and gas utilities dates to the early part of the twentieth century. Over the years, these ties have become strained and contentious due to numerous energy infrastructure projects—including electric transmission lines and gas pipelines—constructed on the Tribe’s reservation. These projects were often completed without sufficient compensation or proper federal protections, despite the government’s role as the Tribe’s trustee.

The West of Devers Upgrade Project rebuilt several existing transmission lines that crossed the Morongo Tribe’s reservation, including a 127-mile line previously known as the Third Boulder-Chino Transmission Line,¹⁶ which was constructed by SCE to transmit energy from the Boulder (now Hoover) Dam to population centers in Los Angeles.¹⁷ No electricity would be supplied to properties or residences owned by Tribal members.

FIGURE 2:

Construction of the Third Boulder-Chino Transmission Line, 1945



PHOTO CREDIT: G. HAVEN BISHOP, SOUTHERN CALIFORNIA EDISON PHOTOGRAPHS AND NEGATIVES, HUNTINGTON DIGITAL LIBRARY.

16 The line was later renamed Devers-San Bernardino #1.

17 The line did not directly connect to the Boulder Dam, but rather to the Metropolitan Water District of Southern California’s Hayfield Pumping Station (now Julian Hinds). The Metropolitan Water District constructed a line from the pumping station to Hoover Dam. Myers, William A. (1986). *Iron Men and Copper Wires: A Centennial History of the Southern California Edison Company*. Trans-Anglo Books

18 At the time known and referenced in source materials as the Federal Water Power Act.

19 The Federal Power Commission is the predecessor agency to the Federal Energy Regulatory Commission (FERC).

20 Interview with Morongo Band of Mission Indians on December 23, 2024 and May 15, 2025

21 The commission, however, could only approve such licenses if it found that the project would not interfere with the purposes for which the reservation was created or acquired, and subject to such conditions as the Secretary of the Interior may deem necessary for the adequate protection and utilization of the reservation. Interview with Morongo Band of Mission Indians on December 23, 2024 and May 15, 2025.

22 16 USC § 803(e)

Federal records indicate that in April 1945, representatives from SCE and the Bureau of Indian Affairs (BIA)²³ attended a general membership meeting of the Morongo Tribe to discuss the Third Boulder-Chino Transmission Line Project. These records, however, do not indicate that the Morongo Band was formally involved in the negotiation process, and the Tribe has no documentation confirming its participation in any negotiations.

In August 1945, the Department of the Interior granted approval for the permit application, and by October of that year the line was constructed and in operation even though BIA had not yet formally authorized right-of-way (ROW) payments to the Tribe and the Secretary of the Interior had not issued the required non-interference determination or imposed any related conditions.²⁴

Consequently, discussions among BIA, SCE, and, to an undetermined extent, the Morongo Tribe, regarding appropriate compensation to the Tribe for use of its land as a project site began only after construction had commenced. BIA, consistent with agency practice at the time,²⁵ appraised the value of the land to assess what the Tribe should be paid out in damages. This came out to be a lump sum of \$6,421.50, which included \$25 per tower and \$5,446.50 in damages for 194.85 acres of land (approximately \$25 per acre).²⁶ BIA also imposed an annual rent payment of \$5.00 per mile on SCE for use of the ROW.

The Tribe disagreed with BIA's calculation of damages and challenged the \$25 per acre rate. They argued that a fair appraisal should have been around \$100 per acre, since other ROW grants on the Morongo Reservation had received at least that amount. SCE did not challenge that the \$100 per

acre was reasonable but rather cited the existence of a World War II-era "war emergency" claiming that the project was essential for "fuel oil conservation" as a justification for expedited approval of the lower \$25 per acre permit fee. Josephine Morongo Norte, who served as Tribal Committee Secretary for the Morongo Tribe at the time, was frank about the unfairness of the compensation. She told BIA field officers, "The company (Edison) is making millions of dollars from their line, but they only want to pay us \$25 per acre."

More lines followed. In June 1959, the California Electric Power Company requested a 150-foot wide ROW to build a 115 kilovolt transmission line spanning 4.73 miles of reservation trust land and 0.1 miles of allotted land on the Morongo Reservation,²⁷ with a land appraisal of \$34,500. After deducting 40% to cover the costs of constructing distribution lines, the final amount was \$21,000.²⁸ In 1964, SCE merged with the California Electric Power Company, acquired the line, and increased the voltage to 230 kilovolts, reportedly with BIA approval; however, it remains unclear whether the Tribe received compensation for this work.²⁹

In 1969, SCE again returned to the Tribe to seek approval to upgrade old distribution lines to a 220 kilovolt transmission line and then add two new distribution lines. Originally constructed in 1929, the existing lines were "old[,] . . . noisy and located near the main residential section of the Reservation."³⁰ SCE's request included an additional 25 feet of width for the project, and 4.02 additional miles. In exchange, SCE offered \$7,155 in compensatory damages (compensation for the use of the land) and an additional \$1,500 in severance damages (the loss in value of the land due to the ROW), which was then further discounted by BIA

23 At the time known and referenced in source materials as at the Office of Indian Affairs.

24 The sections below rely heavily on Godfrey, M., Greenwald, E., & Strohmaier, D. (2006). *Historic Rates of Compensation for Rights-of-Way Crossing Indian Lands, 1948-2006: A report prepared for the U.S. Department of the Interior as part of the Energy Policy Act Section 1813 Study*. Historical Research Associates, Inc. We opted to limit the individual citations made to this paper and to the interviews.

25 For many decades, BIA granted ROW requests for new or upgraded transmission lines, with consent from the Tribe. Typically, an applicant would approach BIA about the proposed route, which would then be followed by a series of appraisals and negotiations regarding payments for damages and other compensation to be paid to the Tribe. These appraisals were typically based on the fair market value of the impacted land as a starting point for negotiation. For transmission lines that were below 220 kilovolts, BIA assessed lines at 50% of fair market value.

26 In 2025, after adjusting for inflation, this amount would be approximately \$116,877.

27 The parcel identification is Right-of-Way No. 378-Morongo-47.

28 In 2025, after adjusting for inflation, this amount would be approximately \$233,797.

29 In comparison, in the 1990s, SCE amended the ROW to allow third-party use of utility owned telecommunication lines co-located with the transmission line. With the amendment to the ROW, the Tribe received a one-time payment of \$535,000 – considerably more than it had ever received from the utility in the fifty years prior. U.S. Department of Energy and U.S. Department of the Interior. (2007). *Energy Policy Act of 2005, Section 1813 Indian Land Rights-of-Way Study: Report to Congress*.

30 Interview with Morongo Band of Mission Indians on December 23, 2024 and May 15, 2025

to approximately \$3,000 per year for 50 years.³¹ The Tribe, pressed by BIA put the approval up for a vote, passed a resolution to approve the line with a 50-year ROW for a one time lump sum of \$153,660.³²

Early Negotiations with the Morongo Band

In 1995, the 50-year ROW grant from the federal hydropower license for the Third Boulder-Chino Transmission Line (now West of Devers), connecting Los Angeles to Boulder Dam, was set to expire. SCE went to FERC for a relicense for the line; however, FERC determined that the line no longer was a necessary part of the infrastructure needed to serve load from the Hoover Dam, so FERC could not relicense the ROW to SCE. And because states lack eminent domain authority over Tribal lands, SCE had no alternative but to negotiate with the Tribe to maintain its transmission lines on Tribal land; if not, the Tribe had the right to eject the transmission lines from the reservation.

At the start of negotiations with SCE, the Morongo were in favor of SCE removing their lines - since SCE's license had expired, the company "no longer had the right to maintain its original line on the Reservation, and Morongo had every right to obtain a court order ejecting SCE and awarding money damages for any continuing trespass."³³ The Tribe reports that although they began talks with SCE about the future of the transmission line ROW, these attempts did not result in substantial negotiations. As a result, the Tribe directed SCE to remove all poles and wires and requested "trespass damages" for any transmission infrastructure continuing to sit on reservation land.³⁴

The threat of ejection of the transmission line led SCE and the Tribe to a stopgap solution which would allow SCE to operate on the existing ROW permit with the Tribe for another 10 years, to be negotiated again in 2005, when the ROW for several other transmission lines on the reservation were set to expire.³⁵

Other Communities Involved in the West of Devers Upgrade Project

Although this project concentrates on the specific agreement between the Tribe and SCE, it is also worth mentioning that several other communities along the project's route may have been affected. These include areas in Riverside County—such as Banning, Beaumont, Calimesa, and surrounding unincorporated regions—as well as places in San Bernardino County like Colton, Grand Terrace, Loma Linda, Redlands, and nearby unincorporated territories.³⁶ In the city of Beaumont, several residents submitted public comments sharing how they "are permanently and significantly negatively impacted from this project," as a result of SCE installing new taller towers on a hillside visible from the town.³⁷ The towers, according to the comments, would be in some instances about 40 feet taller than the existing structures, impacting the town's viewshed. This side-by-side construction, according to one comment, would also result in the center of the tower being "only 50' from the southern edge of their ROW on a hill which is steep and extremely close to our property."

Commenters focused some of their ire on the fact that the chosen route was neither the initial proposed route, nor identified as a priority alternative. They point out that the chosen route was considered "infeasible" by SCE, and that it was only selected after the agreement with the Morongo Tribe was reached.

31 Southern California Edison, n.d.

32 U.S. Department of Energy and U.S. Department of the Interior, 2007. In 2025, after adjusting for inflation, this amount would be about \$1,398,375.

33 Interview with Morongo Band of Mission Indians on December 23, 2024 and May 15, 2025

34 Interview with Suede Kelly, lawyer for Morongo Transmission LLC

35 Interview with Morongo Band of Mission Indians on December 23, 2024 and May 15, 2025; Interview with retired SCE employee on December 2, 2024

36 Southern California Edison, n.d.

37 *Public Scoping Comments for the West of Devers Upgrade Project*. (2016, December 19). California Public Utilities Commission.

GETTING TO “YES” - SCE AND MORONGO COME TO AN AGREEMENT

The convergence of several factors—including the impending expiration of transmission and distribution ROWs on Morongo land, the mounting pressure on California investor-owned utilities like SCE to achieve renewable energy targets, and a surge in renewable energy development and interconnection requests in solar-rich southeastern California, set the stage for the initiation of the West of Devers Upgrade Project.

SCE found that to deliver renewable electricity to population centers around Los Angeles, they could either upgrade the current Third Boulder-Chino line through the Morongo

Reservation or construct a separate line that bypasses it. Building a new route would cost SCE \$500 million to \$1 billion more than using the current ROW,³⁸ add seven years to the timeline,³⁹ and cause greater environmental harm, especially to areas including Mt. San Jacinto Wilderness and Joshua Tree National Park.⁴⁰

Additionally, California Senate Bill 2431 directed utilities to favor existing transmission corridors (or ROWs) whenever feasible to reduce negative effects.⁴¹ In the end, SCE chose to upgrade the current line running through the reservation as the most prudent choice.

FIGURE 3:
West of Devers Transmission Line



PHOTO CREDIT: SOUTHERN CALIFORNIA EDISON

38 Jenner & Block. (2022, February 7). *Landmark FERC Decision Paves Way for Clean Energy Tribal-Private Partnerships* [Press release]; Morongo Band of Mission Indians, September 2025.

39 Kelly, S. (2023). *If Only A Transmission Line Were Like A Rose Bush*. WIRES.

40 Interview with Morongo Band of Mission Indians, December 23, 2024 and May 15, 2025

41 Senate Bill 2431 (Garamendi, Chapter 1457, Statutes of 1988); Interview with retired Southern California Edison employee on December 2, 2024

Negotiations

As discussed above, the Tribe provided SCE with a Tribal permit to use the Third Boulder-Chino line ROW until 2005, anticipating a new agreement regarding all the SCE infrastructure operating on the Tribe's land at that time. To advance the West of Devers Upgrade Project, SCE engaged in discussions with the Tribe to negotiate an extension of the ROW for the line. SCE Tribal Liaison, Brian McDonald, acknowledged the "distress over the previous ROW agreement," which he recognized as having "been negotiated . . . in bad faith, by the BIA."⁴² McDonald also recalled that former Chairman of the Tribe Maurice Lyons once told him, "every time I drive onto my Reservation, it makes my blood boil. Every time I have to drive under those transmission lines. I want them gone," illustrating the emotional impact a history of exploitation can have on a community.

Negotiations concerning the extension of the current lease and the expansion of existing facilities commenced in earnest in 2005. According to SCE, the Tribe declined initial financial offers for the ROW that in their estimation were "far, far above fair market value."⁴³ The Tribe, however, maintains that it only sought "fair compensation for the use of its land."⁴⁴ This contributed to a feeling among representatives of the Tribe that some SCE representatives thought they could just "bully" their way through the negotiations. By the time that the initial negotiations ended in 2011, there was a fundamental and unresolvable misalignment between the two entities over the value of the land,⁴⁵ a capstone to "years of very difficult negotiations."⁴⁶

To address tensions between the Tribe and the utility, McDonald "began to bring [SCE] leaders like Ted Craver, Pedro Pizarro, Kevin Payne, and Ron Nichols to meet with [Tribal] leadership – this was not common practice at the time, and leader-to-leader meetings and discussions proved to be an important part of trust building." SCE President Ron Litzinger broke with corporate tradition and spoke personally and directly with Morongo's Tribal Chairman, Robert Martin, emphasizing SCE's willingness to listen and negotiate with the Tribe in good faith.

FIGURE 4:
West of Devers Transmission Line



PHOTO CREDIT: SOUTHERN CALIFORNIA EDISON

This effort was not merely about striking a deal but about re-establishing trust between the utility and the Tribe, which understandably would take time. McDonald reported that the entirety of the trust-building might have taken a decade or more. Regular meetings and communication, honesty, and "internal champions on both sides willing to take heat associated with historically embattled leadership" were critical, said McDonald. He reflected on a particular year when trust-building started to really pick up the pace "to where the machine was humming, so to speak."⁴⁷

⁴² Interview with Brian McDonald, former SCE Tribal Liaison, on January 21 and 24, 2025

⁴³ Interview with retired Southern California Edison employee on December 2, 2024

⁴⁴ Interview with Morongo Band of Mission Indians on December 23, 2024 and May 15, 2025

⁴⁵ Interview with retired SCE employee on December 2, 2024

⁴⁶ Interview with Brian McDonald, former SCE Tribal Liaison, on January 21 and 24, 2025

⁴⁷ Interview with Brian McDonald, former SCE Tribal Liaison, on January 21 and 24, 2025

During these conversations, the Tribe presented SCE with a new approach to structuring a deal for use of the reservation land – instead of SCE just paying the Tribe a fee for the use of reservation land, the Tribe would instead lease a property interest in the upgraded transmission system. Under this structure, in exchange for SCE’s payment for use of a ROW revised to avoid the most heavily-populated areas of the reservation, the Tribe and its joint venture partner would lease a percentage of the transfer capability of the upgraded transmission facility for a payment proportionate to the total project cost, effectively making them a partner in the West of Devers system for the term of 30 years.

This idea was not entirely new. Attorney Tom Tureen, who has longstanding connections to the Morongo Tribe and extensive experience with other Tribes, knew about a previous financing agreement involving San Diego Gas & Electric and Citizens Energy for the Sunrise Powerlink and Sycamore-Peñasquitos transmission lines in San Diego County, California. Tureen thought that, perhaps, “there’s something in that ownership idea” to help the Tribe and SCE resolve their impasse.⁴⁸

However, SCE itself did not have experience implementing such a structure and many SCE employees were unsure of its application on this particular line. But according to a former SCE employee, the SCE department leaders were empowered by senior leadership to drive this forward and bring their expertise into developing the terms of the agreement. “[L]eaders from regulatory affairs had a strong role, our law department had a strong role, and our finance folks, our corporate finance folks had a strong role.” Overall, SCE’s intention behind the negotiations may have helped overcome some of the fraught relationships – McDonald recalled how he carried the philosophy of “Let’s do the right thing” throughout his work with the Tribe.⁴⁹

The role of motivated and dedicated staff proved critical to keeping the negotiations moving forward. Morongo Chief Executive Officer Roger Meyer and Tribal Administrator

Karen Woodard “spent countless hours working through maps and maneuvers and calls and meets.”⁵⁰ A former SCE employee recounted how Meyer “had a special touch that was able to keep both sides working towards solution” while Woodard “organized SCE access to the Morongo reservation for every survey, construction related activity, most technical team meetings across departments, etc for at least a decade.”⁵¹

In the end, SCE determined that sharing some of the transmission transfer payments with the Tribe would be much less costly and time-consuming than rerouting the line or dismantling existing infrastructure on the reservation, so they accepted the proposal. The Tribe then held a vote to approve the agreement with Morongo and SCE, officially establishing their partnership for the transmission line.⁵²

Finalizing the Agreement

To effectuate the deal, the Tribe established the joint venture limited liability corporation called Morongo Transmission LLC (Morongo Transmission), in partnership with an entity called Coachella Partners LLC. Coachella Partners was established by Tom Tureen for the purposes of securing the necessary financing for the Tribe.⁵³ Despite the split ownership of Morongo Transmission, the Tribe retained 51% interest, and with it, majority voting rights and effective control of its corporate activities.⁵⁴

Once approved as a participating transmission owner, Morongo Transmission would receive an equivalent percentage of the transfer access charges collected by CAISO from utilities using the transmission line. While this partnership would reduce SCE’s total revenue earned, cost-benefit calculations ultimately penciled out for the utility.⁵⁵

SCE and the Tribe then completed two contracts. First, SCE and the Tribe formalized a ROW agreement on November

48 Interview with Tom Tureen on July 29, 2024

49 Brian McDonald, former SCE Tribal Liaison, on January 21 and 24, 2025

50 Brian McDonald, former SCE Tribal Liaison (personal communication, August 14, 2025)

51 Brian McDonald, former SCE Tribal Liaison (personal communication, August 14, 2025)

52 Interview with retired SCE employee on December 2, 2024; Interview with Morongo Band of Mission Indians on December 23, 2024 and May 15, 2025

53 Interview with Morongo Band of Mission Indians on December 23, 2024 and May 15, 2025

54 Interview with Nancy Saracino, lawyer for Morongo Transmission LLC, on November 25, 2024

55 Interview with Morongo Band of Mission Indians on December 23, 2024 and May 15, 2025

27, 2012.⁵⁶ This agreement furnished the Tribe with \$6.5 million per year for SCE's use of the ROW, and includes a \$500,000 increase every five years.⁵⁷ The agreement allowed SCE to continue operating the 220 kilovolt transmission lines already on the reservation pending completion of the West of Devers Upgrade Project, as well as replacing and upgrading the lines, contingent upon SCE and Morongo Transmission receiving all necessary regulatory approvals and BIA approval of the ROW for a duration of 50 years.⁵⁸

SCE and Morongo Transmission also entered into a Development and Coordination Agreement (DCA), effectively a partnership agreement, which included an option for Morongo Transmission to invest no more than \$400 million or 50% of the total project cost for a 30-year lease for part of the transfer capability of the upgraded 220 kilovolt lines.⁵⁹ Under this agreement, SCE owns and maintains the assets, while Morongo Transmission pays a proportional share of the operating costs, commensurate with their interest in the system's transfer capability.⁶⁰

Financing Structure

This was a first-of-a-kind partnership between a Tribe and a utility on a transmission line – as such, there was not a clear model to follow. Though Citizens Energy was trying out new models on Southern California lines, innovative arrangements in the regulated utility industry are generally not commonplace, making the path for this project even more challenging, requiring close coordination between the utility and the Tribal-owned joint venture, Morongo Transmission, in securing all necessary regulatory approvals.

The debt structuring of the arrangement was also unusual and caused difficulties in finalizing the agreement. Specifically, Morongo Transmission was able to fund their share with 100% debt, rather than the 50% capital and 50% debt arrangement typically permitted by FERC. This meant that the commission, under its authority to approve the rates that a transmission operator can charge, had to grapple with whether this structure could result in unjust and unreasonable transmission rates to customers.⁶¹

Coachella Partners' stake in the project was backed by the asset management company Oaktree Capital Management. In March 2019, Axiom Infrastructure, a Canadian private equity firm that invests in large infrastructure projects, announced that they had purchased "an option to acquire upon completion a 30-year leasehold interest in 24.5% of the transfer capacity of the West of Devers transmission upgrade project" where the "option was acquired from funds managed by Oaktree Capital Management, L.P. ("Oaktree") and its partners Jim Kelly and Tom Tureen, who originated the transaction."⁶² The Tribe at the time also held "an option to acquire an additional 25.5% of the transfer capacity of the project."⁶³

56 California Public Utilities Commission, 2015 (FEIR introduction)

57 Saracino, N., & Renger, L. (2013, October 25). *Joint Notice of Ex Parte Communication of Southern California Edison Company (U 338-E) and Morongo Transmission LLC*. California Public Utilities Commission.

58 California Public Utilities Commission, 2015 (FEIR introduction); Saracino & Renger, 2013. BIA approval was required only for the 50-year ROW across the reservation. SCE needed approvals from the California Public Utility Commission and the agreements between SCE and Morongo Transmission required FERC approval.

59 Southern California Edison Company and Morongo Transmission LLC. (2012, November 27, as amended). *Development and Coordination Agreement*; California Public Utilities Commission. (2016, August 18). *Decision Granting Certificate of Public Convenience and Necessity for the West of Devers Upgrade Project and Related Matter*.

60 Saracino & Renger, 2013

61 Interview with Nancy Saracino, lawyer for Morongo Transmission LLC, on November 25, 2024; Interview with Suede Kelly, lawyer for Morongo Transmission LLC

62 Axiom Infrastructure. (2019, March 14). *Axiom Infrastructure Acquires Option to Invest in a FERC-Regulated California Transmission Line* [Press release].

63 Axiom Infrastructure, 2019

Regulatory Environment

Tribal Construction Permit

- **Morongo Tribal Utility Construction Permit:** Morongo Tribal Ordinance 31 regulates utility ROW applications on the reservation.⁶⁴ The Tribe's Planning and Realty Departments review each application and make recommendations to the Morongo Tribal Council for negotiations, focusing on conditions and compensation. Once an agreement is reached, the General Membership votes on the application at its next meeting. Applicants must first submit a notice of intent, then file an application with a NEPA-compliant environmental analysis, economic forecast, 15-year utilization plan, and proposed compensation. Approved projects are required to submit annual reports.⁶⁵

Federal Construction Permit

- **NEPA:** Because a portion of the project corridor cut through Bureau of Land Management (BLM)-administered land, BLM was responsible for NEPA compliance and conducted an environmental impact statement as lead federal agency before issuing the ROW.⁶⁶ Also, because a portion of the line crossed the Morongo Reservation, BIA served as a cooperating agency and provided technical support. In addition, since a portion of the proposed project crossed trust land on the Morongo Reservation, the project required a ROW grant from BIA.

State Construction Permit

- **Certificate of Public Convenience and Necessity (CPCN):** Under the California Public Utilities Commission (CPUC) General Order No. 131-D, which derives its authority from the California Constitution and the Public Utilities Code, the project needed to receive a CPCN from the CPUC before beginning construction on any portions that are on state land. This meant that the commission needed to find that there was a need for the project and that it outweighed any adverse impacts to the public or costs to ratepayers.
- **California Environmental Quality Act (CEQA):** Consideration of a CPCN by the CPUC requires the preparation of an environmental impact report to make the determination of public "needs" and "impacts" and inform the public of the environmental impacts of the

government's decisions. The CPUC serves as a lead agency and coordinates with all joint or contributing agencies in preparation of the report.

Federal Wholesale Transmission Rate-Setting Approval

- **FERC Approval of Transmission Asset Transfers:** Under the Federal Power Act, FERC is responsible for ensuring that the rates that transmission operators charge are just and reasonable. Part of the duty includes consideration of transfers of transmission line assets, including leases, that are above \$10 million in value. In today's market, nearly every transmission line would cost more than \$10 million, so effectively all transmission asset transfers need FERC approval.
- **FERC Declaratory Order on Rate Structure:** FERC must approve all wholesale rates that a transmission operator charges to a load serving entity. Typically, this involves a transmission provider coming to FERC with a filing for a new or modified rate for the line. Ordinarily upon FERC approval, the rate would be in effect, and the transmission line could, once operational, start to deliver power. However, because Morongo Transmission needed assurance that it would be able to secure the rate necessary to cover its investment before it took on debt, it needed FERC to provide a "declaratory" or initial approval for the "hypothetical" rate structure before it could bind itself to the contract with SCE. Once approved, Morongo could then secure its financing and then return to FERC with a final application for its rate.
- **FERC Final Approval of Rate Structure:** Typically, this is the only approval that transmission operators need to receive from FERC, but because of the unique interplay between regulatory approvals, financing, and contract obligations, this was the last of three filings that the Tribal transmission operator had to submit for approval.
- **Membership in CAISO:** While acceptance into CAISO is not mandatory it was required per the agreement between Morongo Transmission and SCE, and is encouraged by FERC as participation in a regional or statewide grid operator can reduce overhead costs and risk. Morongo Transmission's application for membership took place once the hypothetical rate structure was approved by FERC.

64 Morongo Band of Mission Indians. (2006. Revised 2014). *Ordinance 31: Ordinance Regulating Utility Transmission System Rights-Of-Way*.

65 For a comprehensive overview, see California Public Utilities Commission. (2015). *Final EIR: West of Devers Upgrade Project: Introduction*.

66 Bureau of Land Management. (2016). *Record of Decision for the West of Devers Upgrade Project*.

AFTER THE “YES” - CHECKING OFF KEY REGULATORY STEPS

Electric transmission projects must receive regulatory approval from relevant state and federal entities before moving forward with development. Without regulatory approval or the potential for cost recovery, a utility or developer would be unable to recover rates from a project. This is why the Morongo Tribe structured the agreement with a regulatory approval contingency. The West of Devers Upgrade Project required approvals from the CPUC and FERC. Under the terms of the DCA, SCE and Morongo split up responsibilities for the regulatory approvals. SCE would be responsible for regulatory approval of the lease to Morongo Transmission, and for obtaining a declaratory order on the transmission rate methodologies for the project which take into account Morongo Transmission's leasehold interest. Then, Morongo Transmission agreed to be responsible for obtaining all regulatory approvals specific to Morongo Transmission's separate rate recovery methodologies, and recovery of Morongo Transmission's

share of operating and maintenance costs. Though responsible for separate parts of the process, SCE agreed to intervene and actively participate in support of Morongo Transmission's filings.⁶⁷

Approval of the Transfer of Utility Assets

To ensure that operation of transmission projects does not result in unjust or unreasonable rates or run counter to the public interest, FERC must approve any transfer of transmission line assets, including leases, valued at more than \$10 million. Given the significant value of transmission infrastructure, this generally means that sale or lease of any part of a transmission line will require FERC approval. Accordingly, SCE and Morongo Transmission filed an application at FERC requesting approval of the lease transfer from SCE to Morongo Transmission on May 31, 2013.⁶⁸

FIGURE 5:
West of Devers Transmission Line



PHOTO CREDIT: SOUTHERN CALIFORNIA EDISON

67 Southern California Edison and Morongo Transmission, LLC, 2012 (Development and Coordination Agreement)

68 Chen, G., Habrouck, J., and Kelly, S. (2013, May 31). *Southern California Edison Company and Morongo Transmission LLC's Application seeking the Commission approval to lease transfer capability in a portion of the planned West of Devers Upgrade Project under EC13-114*. Federal Energy Regulatory Commission Docket No. EC13-114, Accession No. 20130531-5390.

Given the critical nature of this transmission project for California's clean energy goals, the application drew political support from several intervenors, including Governor Jerry Brown, who urged FERC to approve the proposed lease agreement.⁶⁹ Several local cities and municipal utilities, however, expressed concern that the lease agreement might raise rates for consumers.⁷⁰ Ultimately FERC found that Morongo's involvement as a participating owner did not change the costs borne by ratepayers, which would be the same as the scenario where SCE retained 100% ownership.⁷¹

On September 3, 2013, FERC approved the transaction, requiring that SCE and Morongo Transmission file a letter in the docket noticing the commission when the transaction had been effectuated between the parties – which would not occur until all additional state and federal approvals had been completed, including FERC's approval of the wholesale rates for the project.

State Need Determination

California law requires (1) transactions of regulated utility assets above \$5 million first receive CPUC approval⁷² and (2) all transmission projects to receive a CPCN, or a certification that CPUC acknowledges a “need” for the project and that the need is greater than the costs of the project to ratepayers and impacts to the public.⁷³ To satisfy these requirements, on October 25, 2013, the parties filed an “interim decision”

application with the CPUC. This filing also included a formal application to permit and construct the project.^{74, 75}

California's need determination also requires filing of several environmental review documents per CEQA. SCE's environmental filings on behalf of the project covered the entire West of Devers transmission line, not merely the portion running through the Morongo Tribe's reservation and evaluated the proposed project's environmental impact on a range of environmental factors, including air quality, land use, and noise, as well as detailing the purpose for the project.⁷⁶

Environmental Reviews

The CPUC published a notice of intent to develop its required environmental impact report for the West of Devers Upgrade Project under CEQA on May 7, 2014, while BLM similarly published a notice to prepare federal environmental review documents under NEPA on July 1, 2014.⁷⁷ These notices provide stakeholders with additional opportunities, beyond those afforded during the regulatory proceedings, to comment on potential impacts of the project and shape the scope of the environmental review.

In August 2015, BLM and the CPUC published draft environmental review documents for comment. In its documents, CPUC identified several alternative actions that

69 Brown, E. (2013, June 25). *State of California Office of the Governor request approval of the proposed lease transaction between Southern California Edison and Morongo Transmission, LLC under EC13-114*. Federal Energy Regulatory Commission Docket No. EC13-114-000, Accession No. 20130709-0009.

70 Scanlon, P., Gast, L., & Jones, D. (2013, June 21). Motion to Intervene and Comments of the M-S-R Public Power Agency under EC13-114. Federal Energy Regulatory Commission Docket No. EC13-114, Accession No. 20130621-5132.; McNaul, M., Blair, B., & Sterzinar, R. (2013, June 21). *Comments of The Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California*. Federal Energy Regulatory Commission Docket No. EC13-114, Accession No. 20130621-5126.

71 This is important to consider, as it is possible that, depending upon the structure of an agreement between a community and a utility, innovating co-ownership mechanisms could ultimately cause negative financial impacts through increased rates borne by other communities.

72 California Public Utilities Commission. (n.d.). *California Public Utilities Commission (CPUC) Tribal Land Transfer Policy: Section 851 Approval Process* [Fact sheet].

73 General Order (GO) 131-E, adopted in January 2025, authorizes utilities to forego the more complex and lengthy Certificate of Public Convenience and Necessity (CPCN) process—which includes a formal “need” analysis—in favor of the streamlined Permit to Construct (PTC) procedure. This applies to projects involving extensions, expansions, upgrades, or other modifications to existing transmission lines, regardless of voltage. If these revised permitting regulations had been implemented earlier, the West of Devers transmission upgrade project would have met the criteria for the PTC process, thereby avoiding the comprehensive CPCN review.

74 California Public Utilities Commission, n.d. (Section 851 Approval Process)

75 Hasbrouck, J., Gaylord, B., Chen, G., & Renger, L. (2013, October 25). *Application of Southern California Edison Company (U 338-E) for a Certificate of Public Convenience and Necessity to Construct the West of Devers Upgrade Project and for an Interim Decision Approving the Proposed Transaction Between Southern California Edison and Morongo Transmission LLC*. California Public Utilities Commission. This followed a similar process that was undertaken at CPUC by San Diego Gas & Electric and Citizens Sunrise Transmission LLC; for more, see *Beyond the Wires: Sunrise Powerlink and Sycamore Peñasquitos*.

76 California Public Utilities Commission. (2013). *Proponent's Environmental Assessment (PEA) in the West of Devers Upgrade Project*.

77 BLM was responsible for conducting an environmental impact statement under NEPA because a portion of the proposed upgrade (3.5 line miles) went through BLM-administered land.

it could take in lieu of the proposed construction project.⁷⁸ One of the identified alternatives was a “phased approach,” which the environmental impact report identified as having fewer environmental impacts. The Morongo Tribe objected to the phased approach, in part, given that it would not have satisfied its obligation to timely obtain all required regulatory approvals for the project. Ultimately, on August 18, 2016, the CPUC issued an order approving the West of Devers application as originally proposed, including the potential partnership with Morongo Transmission, and provided SCE with a CPCN and a green light to start construction activities.⁷⁹

Approval of Proposed Framework for Wholesale Transmission Rates

Following the completion of environmental reviews and acquisition of the CPCN, the next step for the project was to obtain FERC approval for transmission rates on the Morongo Transmission segment of the line. Securing FERC’s endorsement of a rate structure allowing recovery of Morongo’s investments was essential to fulfilling the requirements set forth in the agreement between the parties. However, this created a procedural challenge - SCE and Morongo required a FERC ruling on transmission rates to finalize their agreement, yet FERC could not make such a determination without an executed deal between the parties.

FIGURE 6:
West of Devers Construction



PHOTO CREDIT: SOUTHERN CALIFORNIA EDISON

⁷⁸ California Public Utilities Commission and Bureau of Land Management. (2015). *Draft Environmental Impact Report/Environmental Impact Statement: Southern California Edison's West of Devers Upgrade Project*.

⁷⁹ California Public Utilities Commission, 2016 (granting CPCN).

To address this challenge, on April 27, 2014, Morongo Transmission submitted a request to FERC for a declaratory order regarding its proposed rate structure for its portion of the project. This process enables FERC to evaluate the theoretical rate structure in advance, acknowledging that certain details may be clarified in the future and that a subsequent ruling on the actual proposed rate will be required prior to approval.

The principal issue addressed in the April 2014 declaratory order was whether the commission would deem it just and reasonable to adopt a transmission rate methodology incorporating a hypothetical capital structure of 50% debt and 50% equity, a proxy authorized rate of return reflecting Morongo's role as a participating transmission owner within CAISO, and a formula rate spanning 30 years for the recovery of Morongo Transmission's operating expenses.⁸⁰

The 30-year timeframe proved to be particularly contentious. The West of Devers Upgrade Project was anticipated to have a lifespan of 57 years, which meant that recovering the infrastructure investment over a shorter period could result in elevated customer rates, unless mitigating actions were taken. Additionally, Morongo planned to finance its investment entirely with debt, a strategy that generally leads to increased interest payments and consequently higher overall costs, further impacting rates. These concerns were raised in submissions to the regulatory docket for this proceeding. For instance, M-S-R Public Power Agency—a California entity established by the cities of Modesto, Santa Clara, and Redlands to develop energy resources—contended that applying such financing would diverge from the expectation that rates should mirror those had SCE financed the project alone, without Morongo Transmission's involvement. In response, SCE and Morongo provided evidence to the commission demonstrating that, notwithstanding the increase in debt financing, customer rates would ultimately remain equivalent.

Due to the importance of FERC approval, the Tribe met with Congressman Raul Ruiz to highlight the project's

significance for their economic development and sovereignty.⁸¹ Ruiz advocated for the commission to promptly review and approve the proposal between SCE and Morongo,⁸² and on August 25, 2014, just over four months after submission, FERC declared the proposed methodology fair and reasonable.⁸³

Acceptance into CAISO

Acceptance by CAISO, while not mandatory for Morongo Transmission, was another precondition of the agreement. Ceding operational control to CAISO would also reduce overhead costs and risks for the Tribe. While most Regional Transmission Organizations and Independent System Operators (RTO/ISO) members are monopoly utilities that have sole transmission rights for large geographies, membership in an RTO/ISO is also encouraged by FERC, and FERC allows for members to earn financial incentives for such membership. Application to CAISO also required FERC approval of Morongo Transmission's rate tariff, as detailed above. Accordingly, on July 14, 2020, Morongo Transmission filed an application with CAISO, conditioned upon approval from FERC.

Approval of Final Transmission Rates

On December 17, 2020, Morongo Transmission filed its final regulatory approval with FERC for its rate formula—almost three years after SCE had received all necessary approvals and begun construction.⁸⁴ The delay was due in part to Morongo awaiting a financing deal to pay SCE for the lease, which came together in 2019 when Axiom Infrastructure acquired a 30-year leasehold interest in 24.5% of the project's transfer capacity.⁸⁵

The FERC docket concerning Morongo Transmission's 2020 rate tariff filing attracted multiple stakeholder interventions. In its submission, Morongo Transmission requested that the commission reconsider the 100-point adder for participation in an RTO/ISO, and to set the company's return on equity (ROE) at 10.3%, aligning with the rate previously authorized

80 Davis, N. (2014, August 25). *Order on Petition for Declaratory Order*. Federal Energy Regulatory Commission Docket No. EL14-40-000, Accession No. 20140825-3031.

81 Ruiz, R. (2014, June 19). *Congressman Raul Ruiz submits comments regarding the proposed lease transaction between Southern California Edison & Morongo Transmission LLC under EL14-40*. Federal Energy Regulatory Commission Docket No. EL14-40-000, Accession No. 20140714-0074.

82 Ruiz, 2014

83 Davis, 2014

84 Southern California Edison, n.d.

85 Axiom Infrastructure, 2019

for SCE. The established ROE rate directly influences the allowable profit a utility may earn from its assets.⁸⁶ However, various parties, including the Los Angeles Department of Water and Power, intervened to challenge the proposed adder and the requested 10.3% ROE rate. The Los Angeles Department of Water and Power, in particular, expressed concern that approval of these transmission rates could affect the retail rates it would need to charge its customers.⁸⁷

On March 3, 2021, FERC issued an order rejecting Morongo Transmission's formula rate as potentially "unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful," and would only approve 50-basis points.⁸⁸ The commission also found some accounting errors in the filing and ordered that the filing and the

ultimate formula rate be resolved via a hearing with a FERC Administrative Law Judge, but that efforts should be made to resolve this issue ahead of any hearing.⁸⁹ Consistent with the order, in March 2021 all parties in the docket convened to try and resolve the matter. However, by April no agreement had been reached.

There was now political pressure on FERC to speed up this process and approve the project. On April 16, 2021, Congressman Ruiz and Senator Alex Padilla issued a joint letter highlighting similar concerns about the jeopardy of the Tribe's investment if this process was delayed any longer, while Senator Dianne Feinstein submitted a separate letter on April 20, 2021, expressing concern over the commission's "last-minute review."⁹⁰

FIGURE 7:

West of Devers Construction



PHOTO CREDIT: SOUTHERN CALIFORNIA EDISON

86 California Public Utilities Commission. (n.d.). *Return on Equity*.

87 Brennan, C. (2021, November 12). *Motion to Intervene of City of Los Angeles Department of Water & Power under ER22-166*. Federal Energy Regulatory Commission Docket No. ER22-166-000, Accession No. 20211112-5097.

88 Bose, K. (2021, March 3). *Order Accepting and Suspending Proposed Transmission Owner Tariff and Formula Rate, and Establishing Hearing and Settlement Judge Procedures re Morongo Transmission LLC under ER21-669*. Federal Energy Regulatory Commission Docket No. ER21-669, Accession No. 0210303-3068.

89 Bose, 2021

90 Ruiz, 2014; Feinstein, D. (2021, April 20). *U.S. Senator Dianne Feinstein submits letter in support of an expedited review for which the Morongo Band of Mission Indians is seeking assistance to finalize its project financing under ER21-669*. Federal Energy Regulatory Commission Docket No. ER21-669, Accession No. 20210422-4002.

Further back and forth between FERC, the Administrative Law Judge, and the parties ensued to reach a settlement. On June 11, 2021, all parties reached a settlement agreement in principle – which established a fixed, all-in ROE rate of 9.8% to be used to set Morongo Transmission’s 30-year levelized Capital Cost Revenue Requirement, lowering it from the initial request of 10.3%, with Morongo agreeing not to seek judicial review of the commission’s May 2021 rehearing order.

With this settlement in hand, Morongo Transmission exercised its option to enter into a 30-year lease for a portion of the project and the project entered commercial operation under CAISO’s operational control on July 12, 2021.⁹¹ Morongo Transmission incorporated the settled terms into its tariff and submitted it to FERC in August 2021; it was approved in September.

Oversight and Coordination

The DCA required that SCE and Morongo Transmission hold regularly scheduled meetings “no less frequently than quarterly” to review “each Party’s progress in its development, design, permitting, engineering, procurement, construction, commissioning, financing, operating, and maintenance activities for the Project.”⁹²

SCE and Morongo Transmission established clear dispute resolution frameworks to ensure that senior officials within each organization are identified and have an opportunity to resolve disputes that their authorized representatives may be unable to, without having to immediately default to a mediated or arbitrated process.

CONDITIONS SUPPORTING SUCCESS AND LESSONS LEARNED

The transmission line’s history reflects the relationship between Tribe and utility, California’s policy and infrastructure, and a complex regulatory process. The West of Devers Upgrade Project offers key insights for future projects.

Strong Economy Allowed the Tribe to Come to an Agreement that Upheld Tribal Sovereignty

Negotiations over ROWs can encompass much more than a financial exchange of land for money. The Tribe over many decades expressed its frustration with hosting infrastructure that it had no say over and generated nothing from. While utilities commonly offer money in exchange for ROWs, this standard approach often fails to account for the unique circumstances, values, and histories of the communities involved, especially Tribal communities like the Morongo Tribe. For the Morongo, whose economy was already bolstered by the successful operation of their casino, the prospect of a significant upfront payment or generous annual lease was not sufficiently appealing. In fact, offers

that hinge solely on financial compensation run the risk of inflaming tensions, as they may be perceived less as genuine negotiation and more as a transactional buyout that overlooks deeper concerns.

For Tribal nations, hosting infrastructure on their lands is not a simple matter of commerce. It touches upon profound questions of sovereignty—rights that have been systematically eroded over generations by infrastructure projects designed primarily to serve communities beyond the Tribe itself. Each new transmission line or utility corridor can be experienced as yet another intrusion on lands over which the Tribe holds long-standing stewardship and self-determination. Thus, while the offer of money may be the routine procedure for utilities, it often fails in Tribal contexts to acknowledge the histories of dispossession and the importance of sovereignty and may inadvertently reinforce a legacy of imposed infrastructure rather than foster a spirit of true partnership and negotiation. The Morongo Tribe’s decision to reject the standard financial offer was grounded not only in economic stability, but also in an assertion of

91 Bose, 2021; Wellner, S. (2022, January 4). *Letter order accepting California Independent System Operator Corporation’s July 22, 2021 informational filing to specify an effective date of July 12, 2021, for the Transmission Control Agreement etc. under ER21-1288.* Federal Energy Regulatory Commission Docket No. ER21-1288, Accession No. 20220104-3035.

92 Bose, 2021

agency and respect for their rights—reminding us that successful agreements require nuanced understanding and genuine engagement with communities’ lived realities. The Tribe based its negotiation on this foundation, and SCE only recognized it after years of intermittent discussions.

Strong Networks and Access to Networks Lend Valuable Expertise

Several interviewees pointed to the pre-existing relationship the Tribe had with lawyers Tom Tureen and George Forman as being a key part of the success of this project. These stakeholders provided the Tribe with technical support to consider novel energy projects and complex financial schemes. It was Tureen and Forman who also had relationships with energy regulatory experts, including former FERC Commissioner Suedeen Kelly, who represented the Tribe in many of its regulatory filings. According to a former SCE employee, Tureen and Forman “were very powerful, very helpful group of folks... having them I think was probably invaluable.”⁹³ This might be an understatement, as Tureen and Forman were trusted voices throughout and not only brought the construct to the Tribe, but also helped to initiate conversations with SCE and the Tribe and smooth over tense relationships at times. Tureen was able to elicit the help of other partners who provided additional legal and deal structuring expertise. Tribes utilizing their strong networks and calling upon well-connected advocates can be a vital component of successful planning and negotiations.

Independent Financial Backing Provides Further Financial Certainty for Communities

Morongo’s ability to find a financial backer was a significant part of the successful implementation of this agreement. Key advocates had relationships with private investment companies, including Oaktree Capital Management and Axium Infrastructure. When it comes to considering the replicability of this agreement, not every community may receive the same independent financial backing. If private investment is not available, communities could benefit from available grant funding and/or available public sector financing to support an application.⁹⁴

Regulatory Nature of the Agreement is Self-Enforcing

The oversight provisions of the contract are discussed in detail above. Since the contract between Morongo Transmission and SCE is an agreement for the Tribe to become a partner in the project rather than for the delivery of a discrete benefit, an enforcement mechanism, as typically understood in the community benefits context, was not necessary. Rather, the Tribe is being paid for their part ownership of the section of transmission line through regulated processes. As a result, resolution of any payment issues would be resolved through either the regulatory agencies, or via litigation between SCE and the Tribe.

The contract, however, does require that SCE and Morongo Transmission meet regularly (“no less frequently than quarterly”) for the parties to review important project-related activities.⁹⁵ These meetings provide a forum for the parties to address potential concerns that may emerge during the development and construction phases, as well as matters related to lease payments. Additionally, such discussions can establish a foundation for ongoing coordination and collaboration should future upgrades or projects be considered.

The contract stipulates that senior officials from each organization must handle any disputes. This clause is based on the negotiation history between the Tribe and SCE, recognizing that only top-level leaders can resolve certain disagreements. Directing disputes to senior officials helps prevent project issues from lingering or damaging organizational relationships.

Trust between Negotiating Parties is Critical

Trust played a key role in sustaining the partnership for the West of Devers Upgrade Project agreement with Morongo Transmission. While the agreement between SCE and Morongo was signed in 2012, it took another nine years before the deal was completed and the Tribe received payments. Those nine years required the Tribe and the utility to work closely together, with the Tribe relying not only on its third-party representatives but also on the utility to act in the best interest of the agreement. As Nancy Saracino noted, “They [the Tribe] were informed and pulled in at key

93 Interview with retired SCE employee on December 2, 2024

94 Alex, K., Elkind, E., & Peters, G. (2024). *Improving Transmission Financing in California: Alternative Models and Policy Strategies to Increase Affordability*. Berkeley Law Center for Law, Energy, & the Environment.

95 Bose, 2021

decisions. But the driving group was really that of the more commercially experienced and regulatory, you know people and that worked very well, I'd say it certainly required a certain amount of trust . . . trusting the representatives of the entity [Morongo Transmission LLC] to move things forward was a big part of" the success of the project.⁹⁶

Other Communities were Impacted but not Provided Sufficient Engagement Opportunities

Because transmission towers and related infrastructure are highly visible, it is very common for nearby residential communities—even those whose land is not directly affected—to voice opposition to proposed project routes and engage with developers.

For the West of Devers Upgrade Project, several communities near the reservation opposed the project route, which they believed was only possible because of the agreement reached between the Tribe and SCE. Their complaint has some merit, since the route through the reservation would not have been possible without the agreement. When a community works with a utility or a developer to advance a project, this partnership may unintentionally place more burdens on neighboring communities who do not directly benefit from the agreement.

The alignment of interests between developers and partner communities can lead to infrastructure placement that primarily addresses project and partner requirements but may inadvertently heighten concerns among nearby residents. These concerns often involve visual, environmental, or land use impacts. Furthermore, neighboring communities affected by secondary impacts may have limited opportunities to participate in early stakeholder engagement or formal benefit discussions, reducing their ability to advocate effectively for their interests. As a result, advantages gained by one group can be viewed as disadvantages by another, which may lead to tension and highlights the necessity for equitable evaluation and effective communication throughout project planning.

FIGURE 8:
West of Devers Transmission Line

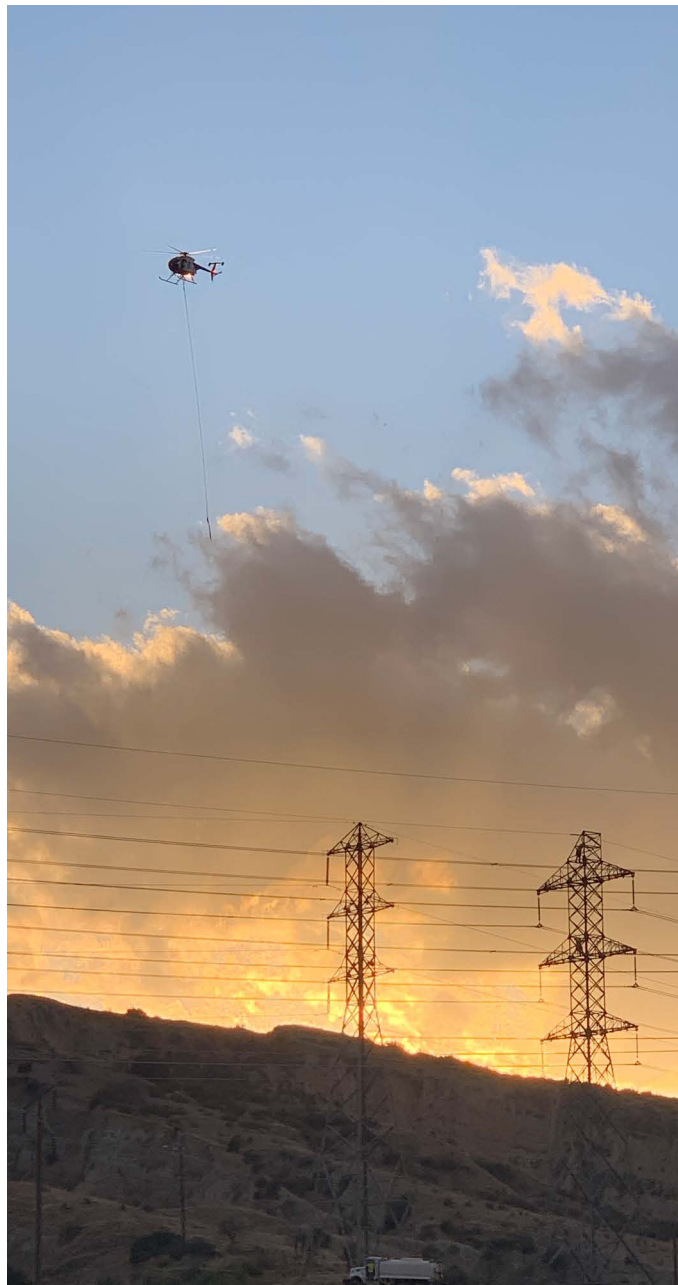


PHOTO CREDIT: SOUTHERN CALIFORNIA EDISON

⁹⁶ Interview with Nancy Saracino, lawyer for Morongo Transmission LLC, on November 25, 2024

CONCLUSION

The West of Devers Upgrade Project's novel strategy for the section traversing the Morongo Tribe's land gives a historically marginalized community a meaningful property stake in the infrastructure present on its land. This serves as a model for how developer-Tribe relationships, even when strained, can evolve into partnerships that offer advantages for both sides.

If not for the hard work of many stakeholders, the upgrade project may have been re-routed around the reservation with at least \$500 million in additional costs accruing to the utility, potential rate impacts, a longer project timeline, and more significant environmental impact.⁹⁷ "The Tribe secured an investment opportunity without costing ratepayers a single penny more than if SCE had financed the project itself," said Morongo Tribal Chairman Charles Martin. SCE estimated that it would have spent an additional seven years planning and building one of the alternative routes available if they rerouted the project around the Morongo Reservation.⁹⁸ The project was also completed five months earlier than expected.⁹⁹

While not every community has access to the resources or negotiating leverage enjoyed by the Morongo Tribe, this project illustrates how strategic investment and adaptability can drive economic and social progress, offering hope that with the right approach, even communities facing greater challenges may find pathways to lasting improvement.

The agreement restored some of the respect and trust the Tribe lost over years of utility development on its land, where it saw little benefit. Although measuring this renewed respect is difficult, it remains significant. SCE asserts that it has shifted its thinking as a result of this process, saying, "Tribes absolutely belong at the table. Sovereignty is a tool upon which many types of partnerships, especially public-private, could flourish."¹⁰⁰ According to McDonald, SCE has also begun "instituting gatherings of Tribal Leaders from all customer Tribes and SCE ... executives on an annual basis. Chairmen, Chairwomen, and CEOs from all sides. Leadership to leadership relationships." Meeting the

FIGURE 9:
West of Devers Transmission Line

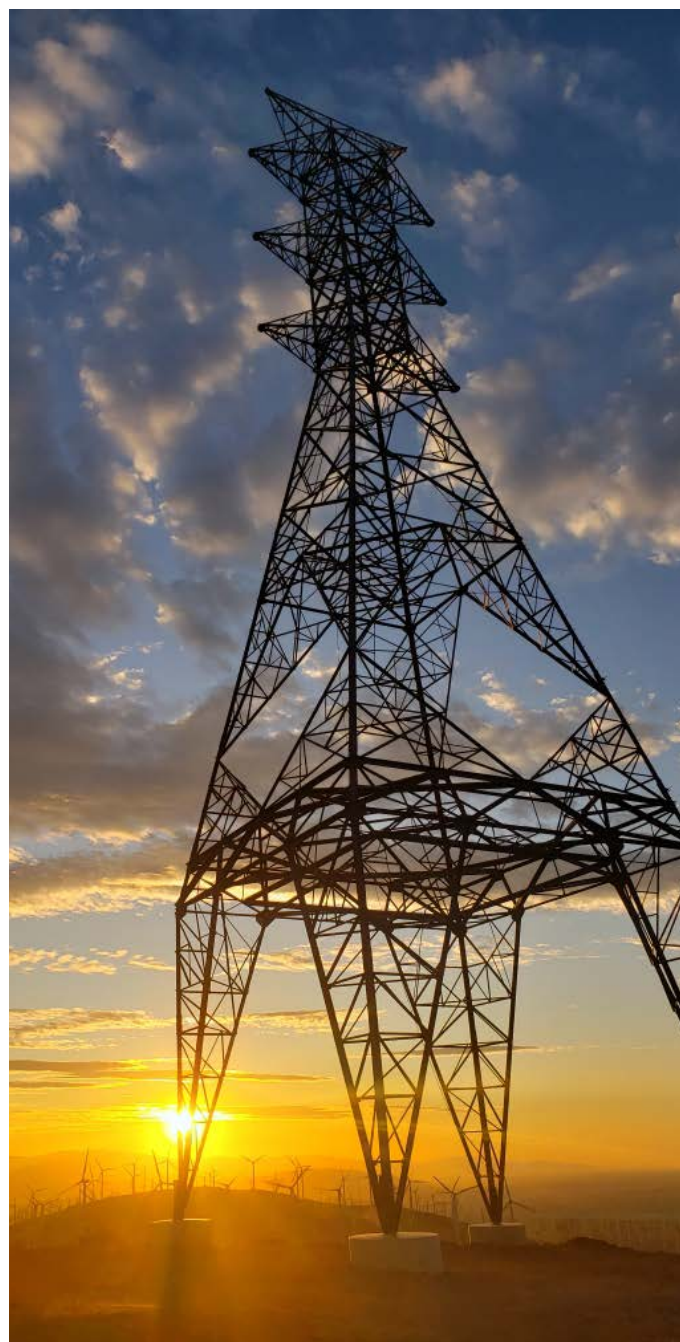


PHOTO CREDIT: SOUTHERN CALIFORNIA EDISON

⁹⁷ Jenner & Block, 2022; Kelly, 2023

⁹⁸ Kelly, 2023

⁹⁹ Southern California Edison, 2021

¹⁰⁰ Interview with Brian McDonald, former SCE Tribal Liaison, on January 21 and 24, 2025

community where they were, actively listening to their needs and goals, and providing thoughtful responses were essential actions in establishing the trust required to engage in good faith negotiations with the Tribal community.

This agreement took considerable time to finalize, involving many attorneys and consultants. As one of the first projects using this model, a significant learning curve was encountered. Future projects may proceed more smoothly, but it is essential to assess regulatory requirements and estimate timelines in advance. Nancy Saracino explained that “you have to really be thoughtful ahead of time, thinking years in advance at the different steps in the different levels and design it so that you’re not surprised later. Because it’s much harder to fix it then than at the beginning.”¹⁰¹

Testament to the success of the agreement, the Tribe and SCE have repeatedly stated how proud they are to be a part of this historic agreement. The Board President and Chief Executive Officer of CAISO commended the Tribe and SCE “for their creativity and flexibility in developing an innovative ownership structure that enables this critical transmission project to proceed.”¹⁰² In a statement, Charles Martin, Chairman for the Tribe, embraced Morongo’s position as a trend setter: “Morongo is honored to be making history once again as the first tribe in the nation to be a participating transmission owner.”¹⁰³ The Tribe reflected on how this pioneering agreement can also help set precedent for other Tribal communities to follow. Martin said, “The Tribe believes the agreement between Morongo and SCE is precedent-setting and can serve as a blueprint for Tribes and utilities across the nation to work to bring crucial infrastructure improvements to fruition on terms that are fair to the Tribes, the utilities and their ratepayers.”¹⁰⁴

101 Interview with Nancy Saracino, lawyer for Morongo Transmission LLC, on November 25, 2024

102 Morongo Nation, 2021 (Morongo Becomes First Native American Tribe)

103 Morongo Nation, 2021 (Morongo Becomes First Native American Tribe)

104 Interview with Morongo Band of Mission Indians, December 23, 2024 and May 15, 2025