

NAVAJO NATION CODE ANNOTATED

**Title 21**

**Public Utilities and Communications**

**Chapter 1. Navajo Tribal Utility Authority**

**Subchapter 1. Generally**

**History**

**Revision note.** Subchapter 1 added as a result of codifying Subchapter 2, Ramah Navajo Utility Authority.

**§ 1. History**

A. The Navajo Tribal Utility Authority was created by the Navajo Tribal Council on January 22, 1959, in order to bring electric power to Shiprock, Navajo Nation, (New Mexico). The Authority has expanded into natural gas, water, sewer utility operations, and telecommunications and information services as well as increasing its electric services.

B. By CN-61-59, the Navajo Tribal Utility Authority was authorized to acquire, construct, operate and maintain utility systems throughout the Navajo Nation. Since then the Authority has extended the benefits of utility services to substantial portions of the Reservation. Over time the Plan of Operation of the Authority has been amended to meet needs associated with changing circumstances.

**History**

GSCAP-35-03, April 17, 2003. Amended Sections 1 and 5 of NTUA's plan of operation.

ACN-149-65, as amended by ACD-158-65, December 13, 1965, and ACJA-866, January 28, 1966.

**1988 Resolution.** CF-6-88, amended generally the authority of the Enterprise.

**1986 Resolution.** ACJN-9-86, amended generally the Plan of Operation.

**1985 Resolution.** ACF-30-85, amended generally the Plan of Operation.

**1985 Resolution.** ACF-29-85, increased the Enterprise's debt limit.

**Reorganization of Tribal Utility Authority.** ACJN-82-65, June 10, 1965, acting on the authority granted by CAP-46-65, adopted a series of bylaws for the Utility which were rescinded by ACN-149-65, November 8, 1965, and a revised Plan of Operation was submitted for approval to the Commissioner of Indian Affairs.

**1965 Resolution.** ACN-149-65 was amended by ACD-158-65, December 13, 1965, and a further revision of the Plan of Operation was submitted for approval to the Commissioner of Indian Affairs.

**1966 Resolution.** ACJA-8-66, § 1, January 28, 1966, confirmed ACD-158-65 and revised the Plan of Operation attached thereto. ACJA-8-66, § 2, acknowledged Commissioner's letter of approval dated January 13, 1966.

**Transfer of existing facilities.** Plan of Operation, § XI, provided: "The existing plant and facilities of the Navajo Tribal Utility Authority, including all electric, natural gas, water and sewer systems now in operation or under construction, as of the effective date hereof (which totaled eight million seven hundred forty-six thousand five hundred fifty-three dollars and twenty-three cents (\$8,746,553.23), as of June 30, 1964), are to be transferred to the Enterprise and accounted for in accordance with applicable regulations and statutes. Additional funds for capital expenditure for construction of further facilities, as recommended by the Management Board may be supplied from Tribal funds on approval of the Navajo Tribal Council and the Secretary of the Interior or his or her authorized representative, or from outside sources with the approval of the Advisory Committee and the Secretary of the Interior or his authorized representative."

ACD-245-66, December 13, 1966, authorized the transfer of all Fort Defiance, Navajo Nation (Arizona), Water and Sewerage facilities and appurtenances thereto of P.L. 86-121 Project No. WI-61-320 to the Tribal Utility Authority, subject to acceptance of the Management Board.

**Power supply lease and agreement.** CJY-46-60, July 21, 1960, authorized lease of plant site for generating power and agreement for supply of power with the Arizona Public Service Company. Tribal Council Res. CF-18-66, February 23, 1966, ACMY-81-66, May 27, 1966, and Res. ACMY-79-66, May 27, 1966, authorized and approved supplemental lease and agreement.

**Repayment schedule.** Plan of Operation, § XII, provided: "The Tribal Council shall determine whether the whole or any part of the Tribal funds advanced or facilities transferred to this Enterprise shall be regarded as a fixed investment. The portion of Tribal funds, if any, advanced to the Enterprise on a loan basis, shall bear interest at a rate to be agreed upon and the amount thereof shall be repaid at the times and in the manner fixed by agreement."

**Authority.** Plan of Operation, § XVIII, provided: "Tribal Council Resolutions CJA-14-59, CN-61-59, CMY-22-60, CD-61-61 and CAP-46-65 contain the authority for development of the Navajo Tribal Utility Authority."

## **§ 2. Name, location and place of business**

A. Navajo Tribal Utility Authority.

B. The principal place of business and the office of the Enterprise shall be at Window Rock, Navajo Nation (Arizona), and the post office address of the principal office is Post Office Box 68, Window Rock, Arizona.

C. The Enterprise may also have offices at such other place or places as

the Management Board may from time to time direct, or as the operation of the Enterprise shall require.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

#### **§ 3. Seal**

The seal of this Enterprise shall consist of two concentric circles between which shall be the name of the Enterprise and the word "seal", and in the center shall be the words, "An Enterprise of the Navajo Nation".

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

#### **§ 4. Duration**

The duration of the Enterprise is perpetual.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

#### **§ 5. Purposes**

A. General. The purposes for which the Navajo Tribal Utility Authority is organized are as follows:

1. To operate, maintain, and promote existing utility systems furnishing electric, gas, water, sewer utility services, generation, and telecommunications and information services (as such services are defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 151 *et seq.*) for the benefit of residents of the Navajo Nation, including the establishment, ownership, operation and maintenance of electric generating, telecommunications and information services on or off the Navajo Reservation.

2. To expand and execute such extensions of existing and new utility generation telecommunications and information services systems as are appropriate, efficient and feasible.

3. To plan for, provide and furnish utility generation, telecommunications and information services to all areas of the Navajo Nation, where such services are determined to be feasible and economical.

4. To carry out the purposes and intent of the Act of April 15, 1950, Public Law 474, 81st Congress, the Navajo-Hopi Rehabilitation Act.<sup>1</sup>

5. To promote the use of utility generation, telecommunications and information services where available in order to improve the health and welfare of the residents of the Navajo Nation.

6. To provide utility generation, telecommunications and information services on a non-profit basis and at reasonable cost to residents of the Navajo Nation consistent with the economical operation of the Enterprise.

B. Ancillary. To do everything necessary, proper, advisable or convenient for the accomplishment of the purposes herein above set forth, and do all things incidental thereto or connected therewith, which are not forbidden by law, or this Chapter for the Enterprise.

#### **History**

GSCAP-35-03, April 17, 2003. Amended Sections 1 and 5 of NTUA's plan of operation.

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

#### **§ 6. Control of operations**

It is intended that control and operation of this Enterprise shall be patterned as closely as is feasible on the lines of a chartered public service corporation of similar magnitude with a management board comparable to a board of directors of such a corporation.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

#### **§ 7. Management Board; purpose; duties and powers**

A. Subject to applicable federal and Navajo Nation laws and regulations, the management board shall direct the purposes and exercise the following powers and duties:

1. The management board of the Navajo Tribal Utility Authority is delegated authority and responsibility for the management and operation of the Enterprise.

2. The management board is authorized to direct the operations to accomplish the purposes set forth in 21 N.N.C. § 5 and to exercise the powers set forth in Subsection (B) below without previous authorization or subsequent approval, and all parties dealing with the Authority shall have the right to rely upon any action taken by the management board pursuant to such authorization.

3. The management board shall exercise full power and shall be responsible for the custody and management, operation, inventory, and maintenance of all utilities and facilities, the planning, constructing and operating of all new facilities, and the taking of any and all usual, necessary and convenient actions incidental thereto including, should it be deemed advisable or desirable, the borrowing of funds, and the making of contracts or commitments necessary to the functioning of the organization.

4. The management board shall function in much the same capacity as an elected board of directors of a chartered public service corporation, and shall numerously be responsible for making investment decisions, subject to the limitations contained herein or in any advance of funds; for the establishment and maintenance of effective operating policies; for the selection of management personnel, except that the person selected as the general manager shall be approved by the Navajo Nation Council; and for continuous supervision of the utility authority's performance.

5. The management board shall be expected to exercise its authorized powers in the best interests of the Navajo Nation within the limits of responsible business judgment and with the stipulation that the board shall not incur contract obligations in excess of the ability of the enterprise to make payment on due dates.

6. The management board shall select from its own membership a chairman of the board and other officers; and shall adopt such rules as it may determine necessary for the orderly conduct of business.

7. The minutes of each meeting shall be made available promptly after each meeting to the Economic Development Committee of the Navajo Nation Council, the Navajo area director and to such other officials as may be designated from time to time.

8. Members shall be reimbursed for expenses incurred in attending meetings and the Board may, at its discretion, propose a fee to be paid to members (subject to approval of the Economic Development Committee of the Navajo Nation Council) on a per-meeting attended or an annual basis.

9. The chairman of the board shall make a formal report to the Navajo Nation Council and the Economic Development Committee of the Navajo Nation Council not less often than annually and in such report, shall include a summary of the budget which the management board has approved for the coming fiscal year.

10. The management board shall establish purchasing policies and procedures, giving usual and essential latitude to the general manager and his or her delegated employees, but establishing limitations on amounts which may be expended without specific approval of the board.

11. No contract or other transaction between the Navajo Tribal Utility Authority and any one of the members of the management board, or between the Navajo Tribal Utility Authority and any corporation, partnership, firm or other legal entity in which one or more of the management board has an interest directly or indirectly shall be valid, for any purpose, unless the entire interest of the director or directors in such corporation, firm or other legal entity is fully disclosed to the management board and the proposed contract or transaction shall be approved, ratified or confirmed by the affirmative vote of at least a majority of the entire management board who are not so interested.

12. The management board, in its discretion, may submit any such contract or act for approval or ratification at any regularly called or

noticed meeting of the Economic Development Committee of the Navajo Nation Council; and any contract or act that shall be approved or ratified by the vote of the majority of the Economic Development Committee of the Navajo Nation Council shall be valid and binding upon the parties.

13. The management board shall submit any contract or act wherein a Navajo Nation officer or employee may have an interest directly or indirectly in the matter or transaction to any regularly called or noticed meeting of the Economic Development Committee of the Navajo Nation Council. Any contract or act that shall be approved or ratified by the vote of the majority of the Economic Development Committee of the Navajo Nation Council shall be valid and binding upon the parties.

B. Enumerated powers. Subject to Navajo Nation Council approval where required, and applicable Navajo Nation and federal laws and regulations, and solely in furtherance of the limited purposes set forth in 21 N.N.C. § 5, the management board shall have the following powers:

1. Facilities. The management board shall exercise full authority and shall be responsible for the custody, management and operation of all utility authority property and facilities owned and operated by the Navajo Nation, including such expansions and enlargements thereof as shall be authorized; for the planning, construction and operation of additional utility authority facilities including the negotiation and execution of engineering and construction contracts; and for the taking of any and all usual, necessary, and convenient actions incident thereto.

2. Capacity to act. To have the capacity to act and to direct the officers of the Enterprise to act in the same capacity as that of natural persons, but to have authority to perform only such acts as are necessary, convenient or expedient to accomplish the purposes set forth in 21 N.N.C. § 5, and such as are not repugnant to laws and regulations applicable to this Enterprise.

3. To appoint officers and agents. To elector appoint officers, agents, engineers, auditors, and such professional consultants as in the opinion of the board or Economic Development Committee may be needed from time to time, and to define their duties and fix their compensation; provided, however, that unless the Economic Development Committee shall consent and approve otherwise, the auditors shall be the firm of accountants employed by the Navajo Nation; and provided further, that the selection of a general manager shall be approved by the Navajo Nation Council. The Management board, at enterprise expense, shall require the bonding of all officers, agents or employees responsible for the handling or safeguarding of funds, property or other assets of the enterprise.

4. To act as agent. To act in any state, territory, district, or possession of the United States, or in any foreign country for and on behalf of the tribal enterprise.

5. To deal in real property. To negotiate the acquisition of (by purchase, exchange, lease, hire or otherwise), utilize, improve, manage, operate, and to negotiate the sale, lease, or mortgage of, either alone

or in conjunction with others, real estate of every kind, character and description and any interest therein, necessary or incidental to the purposes set forth in 21 N.N.C. § 5 except as prohibited by law. Title to all such real property shall be taken in the name of the Navajo Nation and title to all trust or restricted real property shall be and remain in its trust or restricted status.

6. To deal in personal property, generally. To acquire (by purchase, exchange, lease, hire or otherwise), hold, own, manage, operate, mortgage, pledge, hypothecate, exchange, sell, deal in and dispose of, either alone or in conjunction with others, personal property, and interest therein and commodities of every kind, character and description necessary or incidental to the purposes set forth in 21 N.N.C. § 5.

7. To deal in inventions, copyrights, and trademarks. To acquire (by application, assignment, purchase, exchange, lease, hire or otherwise), hold, own, use, license, lease, and sell, either alone or in conjunction with others, the absolute or any partial or qualified interest in and to inventions, improvements, letters patent and applications therefor, licenses, formulas, privileges, processes, copyrights and applications therefor, trademarks and applications therefor, and trade names, and that title of all such acquisitions shall be taken in the name of the Navajo Nation.

8. To execute guaranties. To make any guaranty respecting indebtedness, interest, contracts or other obligations lawfully entered into by or on behalf of the Enterprise, to the extent that such guaranty is made in pursuance of the purposes set forth in 21 N.N.C. § 5, provided, that no such guaranty in excess of two hundred thousand dollars (\$200,000) shall be made without the prior written approval of the Economic Development Committee of the Navajo Nation Council.

9. Depository. To designate and approve all depositories used for the deposit of funds of the enterprise.

10. To make contracts. To enter into, make, perform and carry out or cancel and rescind, contracts for any lawful purpose pertaining to its business necessary or incidental to the purposes set forth in 21 N.N.C. § 5, including the negotiation of contracts subject to R.S. § 2103, 25 U.S.C. § 81 (1964), which shall, as therein provided, become effective only upon the approval of the Secretary of the Interior.

11. To approve budgets. To give initial approval to annual enterprise budgets, and to take final approval action with reference to the use of funds under the exclusive control of the enterprise for operating and capital addition purposes.

12. To borrow funds. To borrow money, make and issue notes, obligations and bonds of the authority for any of its purposes and to secure payment thereof by pledge of, or lien on, all or any of its fixtures, personality, revenues, income or contracts. The total outstanding long-term debt of the authority at any one time shall not exceed two hundred million dollars (\$200,000,000).

13. To accept grants and loans. To accept grants or loans from, and enter into contracts, agreements or other transactions with any federal agency, the government of the Navajo Nation or agencies thereof, and to expend the proceeds thereof for any of the authority's purposes.

C. Ancillary powers. To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the authority is organized.

D. No construction of powers as purposes. The powers enumerated herein shall not be construed as purposes, but the Navajo Tribal Utility Authority shall have and exercise such powers solely in furtherance of, but not in addition to, the limited purposes set forth in 21 N.N.C. § 5.

### **History**

CJY-52-02, July 17, 2002.

CAP-32-94 amended Subsection (13)(12) increasing debt limitation from thirty million dollars (\$30,000,000) to seventy-five million dollars (\$75,000,000).

ACF-29-85, February 19, 1985.

CO-62-80, October 29, 1980 added Subsections 12 and 13.

ACJY-8 5-80, § 1, July 17, 1980.

ACN-149-65, as amended by ACD-158-65, December 13, 1965 and ACJA-8-66, January 28, 1966.

ACN-149-65, as amended by ACD-158-65, December 13, 1965, and ACJA-866, January 28, 1966.

**1985 amendment.** Subsection (B) (12). Amended generally.

**1980 amendment.** Added Subsections (B) (12) and (B) (13).

**Applications to put utility lines across rights-of-way.** CJN-49-71 provided: "The Chairman of the Navajo Tribal Council or his designee is hereby authorized to execute any and all applications or other documents on behalf of the Navajo Tribe of Indians, for the purpose of securing permission to place utility lines across rights of way or easements within the Navajo Nation."

**Confirmation and ratification of adoption of safety codes and rules.** ACAU-164-66, August 30, 1966, confirmed and ratified resolution No. NTUA-28-66 of the Utility Authority which adopted specific safety codes and rules.

**Consignment of supply contracts.** ACAU-152-66, August 10, 1966, consigned the following utility supply contracts to the Utility Authority:

1. Arizona Public Service Wholesale Power Supply Contract, dated December 1, 1960.



2. Public Service Company of New Mexico, Electrical Service Agreement, dated July 19, 1962.

3. El Paso Natural Gas Company, Natural Gas Service Agreement, dated February 15, 1963.

4. Continental Oil Company, Natural Gas Service Agreement, dated January 28, 1963.

**Compensation.** ACMY-74-66 provided for compensation for the Management Board.

**Delegation to act.** ACMA-21-66, § 5, March 14, 1966, delegated authority for the Management Board to act in all matters incidental and pursuant to CAP-46-65 and its approved Plan of Operation.

**1966 Amendments.** ACJA-8-66, § 2, amended Subsection (B)(10) generally.

**Revision note.** Slightly reworded for purposes of statutory form.

#### **§ 8. Indemnification of officers, employees, and members of the Management Board**

The Navajo Tribal Utility Authority shall indemnify any officer, employee or member of the management board or former officer, employee or member of the management board of the Navajo Tribal Utility Authority, or any person who may have served at its request as an officer, employee or member of the management board against reasonable expenses actually and necessarily incurred by him or her in connection with the defense of any action, suit or proceeding of which he or she is made a party by reason of being, or having been such officer, employee or member of the management board except in relation to matters as to which he or she shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty; or except in relation to matters in which such employee was acting beyond the scope of his or her employment. The Navajo Tribal Utility Authority shall also reimburse to any officer, employee or member of the management board reasonable costs of settlements of any such action, suit or proceeding if it shall be found by a majority of the management board other than directors involved in the matter of controversy (whether or not a quorum exists), that it is in the best interest of the Navajo Tribal Utility Authority and the Navajo Nation that such settlement be made and that such officer, employee or member of the management board was not guilty of negligence or misconduct. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights which such officer, employee, or member of the management board may be entitled to receive.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

#### **§ 9. Membership of Board; qualifications; term of office**

A. Number. The management board shall consist of seven persons, all of whom shall be appointed by the Government Services Committee of the Navajo Nation Council.

B. Qualifications. The members of the management board shall be called directors, and shall have the following qualifications:

1. Four of the directors shall be members of the Navajo Nation who speak English with fluency and who have sufficient education and experience to qualify them for learning utility business practices and procedures and making sound judgments.

2. Four of the directors shall be persons having not less than 10 years experience in business management of substantial character and at least two of such persons shall have had such experience in the management and operation of a utility business.

C. Term of office. Directors shall be elected for the following terms of office and shall hold office until the qualification and selection of their successors:

1. The initial management board shall be appointed for a period of one year or until their successors have been appointed and qualified. Directors shall be eligible for reappointment.

2. Beginning the second year, the directors shall be selected and designated by the Government Services Committee in three groups, the first group of three to serve one year, the second group of two to serve for two years, and the third group of two to serve for three years. Thereafter, all terms shall be for three years.

3. Vacancies in the management board may be filled by the Government Services Committee for the unexpired term of the vacant office.

### **History**

ACF-30-85, February 19, 1985.

**1985 amendment.** Subparagraph (B) (3): Deleted.

ACS-194-68, § 2, September 16, 1968.

**Amendments 1968.** ACS-194-68, § 2, amended this Section by substituting "Four of the Directors" for "Three of the Directors" in Subsection (B) (1).

**Appointment of members.** The following resolutions appointed members of the Management Board of the Navajo Tribal Utility Authority and designated the expiration dates of the term of such members:

ACS-301-69, §§ 1, 2, September 3, 1969.

ACS-194-68, §§ 3, 4, 5, September 16, 1968.

ACJ-2-68, January 5, 1968.

ACMA-21-66, §§ 2, 3, March 14, 1966.

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

**Revision note.** Words "Government Services Committee" inserted pursuant CD-68-89, Resolve #10.

#### **§ 10. Meetings of Board**

A. Annual meeting. The annual meeting of the management board shall be held at 10:30 a.m. on the second Wednesday of October at the principal place of business, or at such other place as the Board shall fix, commencing with 1966. No notices shall be required for annual meetings.

B. Regular meetings. The management board shall meet at least quarterly upon notice fixing the time and place.

C. Special meetings. Special meetings of the board may be held upon notice given by the chairperson, or secretary, or by any three members of the board, at such place as the Board shall direct or as shall be fixed by the notice.

D. Notice.

1. Notice of meetings stating the time and date, shall be given in writing by letter, telegram or radiogram properly addressed to each member according to the latest available enterprise records, not later than five days nor more than 30 days immediately preceding the meeting excluding the day of the meeting.

2. Notice may be waived in writing signed by the member or members entitled to such notices; whether before or after the time stated therein, and such waiver shall be deemed equivalent to the giving of such notice. Attendance of any member at the special meeting shall constitute a waiver of notice.

E. Quorum. Five members of the management board shall constitute a quorum for the transaction of any business. The act of the majority of the members present and voting at a meeting at which a quorum is present shall be the act of the board.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

First meeting. ACMA-21-66, § 4, March 14, 1966.

#### **§ 11. Executive Committee**

A. Designation of committee. The management board, by resolution duly adopted, may designate four members of the board, two of whom shall be members of the Navajo Nation, to constitute an executive committee. Following such designation of Executive Committee membership or a modification thereof, the management board shall give prompt notice in writing to the Economic Development Committee and the Navajo area director of the members thereof. The

designation of such executive committee and the delegation of the authority herein granted, shall not operate to relieve the management board, or members thereof, of any responsibility imposed upon it, or him or her, by law or this Plan of Operation. No member of the executive committee shall continue to be a member thereof after he or she ceases to be a member of the management board. The management board shall have the power at any time to increase the number of members of the executive committee, to all vacancies thereon, to change any member thereof, and to change the functions or to terminate the existence thereof.

B. Powers of the executive committee. During the intervals between meetings of the management board, and subject to such limitations as may be required by resolution of the management board, the executive committee shall have and may exercise such authority as may be delegated by the board. All minutes of meetings of the executive committee shall be submitted to the next succeeding meeting of the management board for approval, but failure to submit the same or to receive the approval thereof shall not invalidate any completed or uncompleted action taken by the enterprise upon authorization of the executive committee prior to the time at which the same was submitted as above provided.

C. Procedure, meetings. A chairperson of the executive committee shall be elected by the management board from among the members of the executive committee and shall preside at meetings of the executive committee and perform all duties incident to the office of the chairperson of the executive committee, and such other duties as, from time to time, may be assigned to him or her by the management board or the executive committee. The secretary of the enterprise shall keep a record of the acts of the executive committee and its proceedings. In the absence of the secretary, the chairperson of the management board shall designate a person to act in said capacity.

D. No individual authority. The members of the executive committee shall act only as a committee, and the individual members shall have no power as individuals.

E. Notice. Notices of all meetings of the executive committee shall be given by the chairperson, the secretary, or any member thereof, in the manner provided in 21 N.N.C. § 10(D), and may be waived as therein provided.

F. Quorum. The presence of not less than three members shall be necessary to constitute a quorum for the transaction of business and the act of the majority of the members present and voting at a meeting at which a quorum is present shall be the act of the Committee.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

**Note.** Reformatted for purposes of statutory form.

#### **§ 12. Principal officers**

The principal officers of the enterprise shall consist of the following:

A. Chairperson of the management board and chairperson of the executive committee, which positions may be, but need not be, held by the same person.

B. Secretary and a treasurer, who need not be members of the management board or of the executive committee.

C. General manager, who shall not be a member of the management board.

D. In the discretion of the board, there may be a vice-chairperson of the board, assistant secretary, and assistant treasurer. Any two of these positions may be held by the same person.

### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

**Note.** Reformatted for purposes of statutory form.

### **§ 13. Powers and duties**

A. All officers and agents of the enterprise shall have the following duties and such other duties as may be determined by resolution of the management board, not inconsistent with this Chapter:

1. The Chairperson of the Board. The chairperson of the management board shall be chosen from among the members of the Board, shall preside at all meetings of the board if present, and shall, in general, perform all duties incident to the office of the chairperson of the board and such other duties as, from time to time, may be assigned by the management board. If a vice-chairperson is elected, he or she shall act in the capacity of the chairperson in the absence of the latter, and shall discharge any other duties designated by the chairperson.

2. The Secretary. The secretary shall keep, or cause to be kept the minutes of the meeting of the management board and the executive committee. The secretary shall see that all notices are duly given in accordance with provisions of this Chapter. The secretary shall be custodian of the seal and records, and in general, shall perform all duties incident to the office of the secretary, and such other duties as may, from time to time, be assigned by the management board, the chairperson, or the executive Committee.

3. The Treasurer. The treasurer shall be the financial officer of the enterprise and shall have charge and custody of, and be responsible for, all funds of the enterprise, and shall deposit such funds in such banks, trust companies, or other depositories as shall have been approved by the management board. The treasurer shall receive and give receipts for monies due and payable to the enterprise from any source whatsoever; and, in general, shall perform all duties incident to the office of the Treasurer and such other duties as, from time to time, may be assigned by the management board, the chairperson, or the executive committee. The treasurer shall render to the chairperson and the board, whenever the

same may be required, an account of all transactions as treasurer and of the financial condition of the enterprise. The treasurer shall, at the expense of the authority, give a bond for the faithful performance and discharge of the, duties in such amount, so conditioned, and with such surety or sureties as the management board may require.

4. General Manager. The general manager shall be principal operating executive of the enterprise and shall have direction of all parts of the actual operations. The general manager shall be responsible to the management board as a principal operating executive of a public service corporation normally would be. The general manager shall render reports to the board and perform all other functions and duties specified in 21 N.N.C. § 18 for the general manager.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

CO-62-80; the Navajo Nation Council directed the Authority to give consideration to the special circumstances of the lands in the Former Joint Use Area in determining priorities of establishment or expansion of services.

#### **§ 14. Election; term of office; qualifications**

The officers with the exception of the general manager, shall be chosen annually by the management board at its annual meeting, or as soon after such annual meeting as newly appointed directors shall have qualified. Each officer shall hold office until a successor is chosen and qualified, or until death, or until the general manager shall have resigned, or shall have been removed in the manner provided herein.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

#### **§ 15. Removal**

Any officer or agent elected or appointed by the board may be removed by the management board whenever, in its judgment, the best interest of the enterprise will be served thereby, but in the absence of dereliction in duty, negligence or malfeasance in office, or any other good cause shown, such removal shall be without prejudice to the contract rights, if any, of the persons who are removed; provided, however, the general manager may be removed only pursuant to any approved contract provisions.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

#### **§ 16. Resignation; vacancies**

Any officer may resign at any time by giving written notice to the management board, or to the chairperson, or secretary; such resignation shall take effect at the time specified therein, and, unless otherwise specified

therein, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy in any office because of death, resignation, removal, or any other cause shall be filled for the unexpired portion of the term in the manner prescribed herein for election or appointment to such office.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

#### **§ 17. Other officers and agents**

The management board may appoint such other officers and agents as it deems necessary or expedient, and may determine their duties, as well as the terms of their holding office.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

#### **§ 18. General Manager; functions; duties**

A. The general manager shall be employed under a written employment contract subject to approval by the Navajo Nation Council and the Secretary of the Interior or authorized representative, and shall be responsible to the management board.

B. The function of a general manager shall be analogous to that of the president of a public service corporation. The general manager shall, among other things, execute the general policies formulated by the management board and organize the operation of the enterprise into departments each with its own specific duties and responsibilities.

C. The general manager shall exercise best judgment in the determination of the ways and means by which general policy set forth by the management board is to be effectuated.

D. The general manager shall be the active, operating executive of the enterprise and shall prepare plans and annual budgets; and make suggestions as to policies and any proposals for improvements.

E. The general manager shall have the full authority and control over all employees of the enterprise and shall be responsible for all department heads or other executives carrying out their assignments.

F. The general manager shall be responsible for the general supervision of the performance of staff in respect to all matters such as conformance to approved budgets, standards, program inspection, cost control, employee relations and in-service training.

G. The general manager shall render regular reports to the board and perform all other functions and duties specified in this Chapter.

H. The general manager shall be furnished with transportation and shall be reimbursed for any personal expenses that he or she may incur in the

performance of responsibilities.

I. The general manager shall employ competent department heads for the usual functional responsibilities for each department.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

#### **§ 19. Accounting; fiscal year**

The accounting system for the authority shall be maintained in accordance with generally accepted utility accounting practices. Financial operating statements shall be provided to the Speaker of the Navajo Nation Council, the Bureau of Indian Affairs, and the management board on a regular basis. The fiscal year of the authority shall be January 1st to December 31st.

#### **History**

ACO-135-81, § 1, October 14, 1981.

**1981 amendment.** Amended generally and changed the fiscal year for the Authority to a calendar year to facilitate borrowing from the Rural Electrification Administration.

#### **§ 20. Records; inspection; audits**

The books, records and property of the authority shall be available for inspection at all reasonable times by authorized representatives of the Navajo Nation, and upon notice to the Economic Development Committee of the Navajo Nation Council, by representatives of the Secretary of the Interior. The accounts and records of the Authority shall be audited at the close of each fiscal year in accordance with the provisions of 21 N.N.C. § 7(B). Copies of such audit reports shall be furnished to the parties receiving copies of the financial and operating statements and to the Economic Development Committee of the Navajo Nation Council.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965, and ACJA-8-66, January 28, 1966.

#### **§ 21. Insurance**

Insurance, including liability, adequate and sufficient to protect the interests of the United States and the Navajo Nation from losses by fire or other disaster shall be carried on all property of the enterprise.

#### **History**

ACN-149-65, as amended by Res. ACD-158-65, December 13, 1965.

#### **§ 22. Rates and charges**



A. All rates and charges for utility services shall be adopted by the management board after formal public hearing for which adequate notice as the board may determine has been given.

B. The management board may, in their sole discretion, negotiate with large users of a particular utility service for special rates and charges, provided, however, that such negotiated rates shall be demonstrated to be fair and equitable to all other customers or users of the Navajo Tribal Utility Authority services.

C. Procedures shall be established by the Economic Development Committee of the Navajo Nation Council to provide for appeals of rate decisions to an impartial review board composed of specialists on utility rates.

#### **History**

ACN-149-65, as amended by ACD-158-65, December 13, 1965.

**Confirmation and ratification of Tariff Rules and Regulations.** ACJN-95-66, June 15, 1966, confirmed and ratified all provisions included in the Authority's Tariff Rules and Regulations.

#### **§ 23. Pledges and security interests**

Any pledge of, or security interest in, personalty, fixtures, revenues or other monies or funds, or of a revenue-producing contract or contracts made by the authority shall be valid and binding from the time when the pledge is made or the security interest is given; the personalty, fixtures, revenues, or other monies or proceeds of any contract or contracts so pledged or secured and thereafter received by the authority shall immediately be subject to the lien of such pledge or security interest without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution, nor any other instrument by which a pledge or security interest is created need be recorded.

#### **History**

Advisory Committee Res. ACJY-85-80, § 1 (b), July 17, 1980.

CO-62-80, October 29, 1980.

**Revision note.** Slightly reworded for purposes of statutory form.

#### **§ 24. Exemption from levy and execution**

All property, including funds, of the authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against such property nor shall any judgment against the authority be a charge or lien upon its property; provided, however, that this Section shall not apply to or limit the right of noteholders or bondholders to pursue any remedies or rights, including, but not limited to, possession, execution, attachment, and sale of security, for the enforcement of any pledge or lien

given by the authority on its property, including personalty, fixtures, revenues, rates, fees, or other income of any other funds.

#### **History**

CO-62-80, October 29, 1980.

#### **§ 25. Liability of authority**

A. The Navajo Nation Council does hereby pledge to contract and agree with any person, firm or corporation, or any federal, Navajo Nation or state agency subscribing to or acquiring notes or bonds of the authority issued for the purposes of the authority, that it obligates itself not to limit or alter the rights or powers vested in the authority until all such notes or bonds at any time issued, together with interest thereon are fully met, paid and discharged. The Navajo Nation Council does further pledge to, contract and agree with any federal agency, that in the event any such agency shall loan or contribute any funds for construction, extension, improvement or enlargement of any facilities, the Navajo Nation Council will not alter or limit the rights or powers of the authority in any manner which would be inconsistent with the continued operation and maintenance of such facilities or the extension, improvement or enlargement thereof, or which would be inconsistent with the due performance of any agreements between the Authority and any such federal agency; and the authority shall continue to have and may exercise all rights and powers under its plan of operation, so long as the same shall be necessary or desirable for the carrying out of its purposes and those of any federal agency loaning or contributing funds for the construction, extension, improvement or enlargement of any facilities.

B. Any agreements of the authority with the Corps of Engineers of the Department of the Army of the United States regarding construction, extension, improvements, enlargement, or protection on any facilities may be enforced against the authority in the appropriate federal district court of appropriate jurisdiction, or in the courts of the Navajo Nation according to their respective terms, including any obligation of the Authority to pay compensatory damages in the event of failure to perform.

C. The foregoing shall be construed as an explicitly limited exception to the sovereign immunity of the Navajo Nation and shall not be construed to waive any immunity of the Navajo Nation, nor to extend any liability to any assets, revenues or income of the Navajo Nation, other than those of the Authority. Otherwise, the provisions of the Navajo Sovereign Immunity Act (as amended) shall not be deemed altered or amended.

#### **History**

CO-62-80, October 29, 1980, as amended generally by CF-6-88, February 3, 1988.

**1988 Amendment.** Added Subsections (B) and (C).

**1980 Amendment.** Added Subsection (A).

#### **Cross References**

The Navajo Sovereign Immunity Act, see 1 N.N.C. § 551 *et seq.*

**§ 26. Remedies of note or bondholders**

A. Subject to any contractual limitations binding upon the holders of any issue of notes or bonds, or trustees therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of any note or bond, or trustee therefor, shall have the right and power, for the equal benefit and protection of all holders of notes or bonds similarly situated:

1. By mandamus or other suit, action, or proceeding at law or in equity in the Courts of the Navajo Nation to compel the authority and its board, officers, agents or employees to perform and carry out their duties and obligations under the authority's plan of operation, and their covenants and agreements with such holders;

2. By action or suit in equity to require the authority and the board thereof to account as if they were the trustees of an express trust;

3. By action, suit or other proceeding at law or in equity to have a receiver appointed and/or to enforce any pledge, lien or security agreement given in connection with the issuance of any note or bond, such enforcement right to include the power to possess, control and sell the security in accordance with the applicable security agreement, lien or pledge;

4. By action or suit in equity against the Authority or its Board to enjoin any acts or things which may be unlawful or in violation of the rights of the note or bondholders; and

5. To bring suit against the authority upon the notes or bonds, security instruments or loan contracts.

B. No remedy conferred by this Section upon any holder of the notes or bonds, or any trustee therefor, is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy, and may be exercised without exhausting and without regard to any other remedy conferred by this resolution or by any other law. No waiver of any default or breach of duty or contract, whether by any holder of the notes or bonds, or any trustee therefor, shall extend to or shall effect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any note or bondholder, or any trustee therefor, to exercise any right or power accruing upon default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy, conferred upon such holder may be enforced and exercised from time to time as often as may be deemed expedient. In case any suit, action or proceeding to enforce any right or exercise any remedy shall be determined adversely to the holder of the note or the bond, or any trustee therefor, then and in every such case the Authority and such holder, or such trustee, shall be restored to their former positions and rights and remedies as if no such suit, action or proceeding had been brought or taken.

C. The foregoing shall be construed as a limited exception to the general principles of Sovereign Immunity and shall not be construed to waive any immunity of the Navajo Nation, nor to extend any liability to any assets, revenues or income of the Navajo Nation other than the authority. Otherwise, the provisions of the Navajo Nation Sovereign Immunity Act (as amended) shall not be deemed altered or amended.

#### **History**

ACJN-99-86 amended Subsection (C).

CO-62-80, October 29, 1980.

**Revision note.** Slightly reworded for purposes of statutory form.

#### **Cross References**

Navajo Sovereign Immunity Act, see 1 N.N.C. § 551 *et seq.*

#### **§ 27. Lands in Former Joint Use Area**

The Navajo Nation Council directs the Navajo Tribal Utility Authority to give consideration to the special circumstances of those lands in the Former Joint Use Area added to the Navajo Nation by the judgment of partition of February 10, 1977, in determining priorities of establishment or expansion of services.

#### **History**

CO-62-80, October 29, 1980.

### **Subchapter 2. Ramah Navajo Utility Authority**

#### **History**

ACS-151-86, September 23, 1986. Enactment.

#### **§ 51. Establishment**

A. There is established the Ramah Navajo Utilities Authority within the Ramah Navajo Chapter (hereinafter referred to as "authority").

B. A board of commissioners is delegated authority and responsibility for the management and operation of the authority.

C. The principal office of the authority shall be on the Ramah Navajo Reservation, Cibola County, New Mexico.

D. The authority may also have offices at such other place or places as the board of commissioners may from time to time direct and/or deem necessary.

#### **History**

ACS-151-86, September 23, 1986.

**§ 52. Purposes and objectives**

A. The general purpose of the authority is to provide, maintain, and establish utility services on a cost-effective basis to the residents of the Ramah Navajo Reservation and nearby communities.

B. Objectives of the Authority are:

1. To operate, maintain, and promote existing utility systems furnishing water, sewer, electric, telephone, gas, solar, and solid waste services on the Ramah Navajo Reservation.

2. To expand and execute such extensions of existing utility systems as are efficient and feasible.

3. To plan for, provide and furnish feasible utility services to all areas of the Ramah Navajo Reservation.

4. To secure funding from either private or public sources on a contractual basis for the Ramah Navajo Community and others.

5. To seek public or private utility services in the furtherance of Ramah Navajo community health and welfare.

6. To establish and maintain executive offices and facilities to employ professional staff, personnel and others necessary to accomplish the above purposes.

7. To receive contributions by gift, bequest, devise, grant and personal or mixed property from any person, firm, corporation, state, local, federal or tribal government, upon such terms and conditions as the board of commissioners shall deem reasonable and in the best interest of the authority.

8. To establish reasonable rates to apply to all operating expenses, purchase of equipment, establish reserves for future capital replacements and expansion of the utility systems.

9. To do everything necessary, proper, advisable, and/or convenient for the accomplishment of the purposes and objectives in accordance with applicable laws, rules and regulations.

**History**

ACS-151-86, September 23, 1986.

**Revision note.** Slightly reworded for purposes of form and clarity.

**§ 53. Membership of commissioners; selection; terms of office**

A. The members of the board of commissioners shall be nominated, selected

and approved at a regularly scheduled chapter meeting. The board of commissioners shall consist of five members, 18 years of age or older, representing the five local grazing district units; each member shall live in the grazing district unit which each represents.

B. The terms of the members of the board of commissioners shall be as follows:

1. From District Unit #1—Two years;
2. From District Unit #2—Three years;
3. From District Unit #3—Three years;
4. From District Unit #4—Four years;
5. From District Unit #5—Two years;

Members may serve consecutive terms for an indefinite number of terms.

C. Any member of the board of commissioners can resign at any time. In such an event, a vacancy shall be declared and filled through the procedure specified above at a regularly scheduled chapter meeting.

D. No elected chapter official shall serve on the board of commissioners.

### **History**

ACS-151-86, September 23, 1986.

### **§ 54. Removal**

A. Any member of the board of commissioners may be removed from the board for any of the following causes or reasons:

1. Failure to attend two consecutive regular board meetings without reasonable written justification; such failure shall be deemed abandonment of the position on the board of commissioners.
2. Habitual use of alcohol or substance abuse which reflects upon the integrity and prestige of the board of commissioners.
3. Conviction of a felony.
4. Other just cause as determined by the board of commissioners upon approval of the Ramah Navajo Chapter.

B. Any member of the board of commissioners who is removed has the right to file a grievance petition in writing within five calendar days after receipt of the notice of removal to the president of the board of commissioners.

C. Within five calendar days of receiving the written grievance petition submitted by the aggrieved party, the president of the board of commissioners shall call a board meeting to address the grievance.

### **History**

ACS-151-86, September 23, 1986.

### **§ 55. Meetings of board of commissioners**

A. The board of commissioners shall hold a minimum of 12 meetings per year, and at the discretion of the president, any number of special meetings may be called as deemed necessary.

B. Three members of the board of commissioners shall constitute a quorum necessary for the conduct of official business. A majority vote of the members present shall be necessary to approve any action of the board of commissioners.

C. All proceedings of the board of commissioners shall be open to the public except for discussion of personnel and/or personal matters. A meeting may be closed to discuss such matters upon the majority vote of members present at said meeting.

D. Notice of meetings shall be posted at least a week in advance in public locations throughout the community for public participation.

### **History**

ACS-151-86, September 23, 1986.

### **§ 56. Election and duties of officers**

A. At its initial board session, the members of the board of commissioners shall nominate, select and approve a president, vice-president, and secretary.

B. The elected officers shall serve according to their terms unless removed by the board of commissioners as provided for in § 54 of this Subchapter.

C. The president shall call and preside at all meetings. The president shall represent the board of commissioners at chapter meetings and other meetings on and off Ramah Navajo Reservation lands to further the purposes and objectives of the authority.

D. The vice-president shall be vested with the responsibilities and duties of the president in the event of the president's absence and as delegated.

E. The secretary shall be responsible for:

1. Maintaining the records of all proceedings of the board of commissioners;
2. Publicizing all meetings; and
3. Carrying out other delegations of authority and assignments

together with the staff.

**History**

ACS-151-86, September 23, 1986.

**§ 57. Staffing and compensation**

Staff shall be retained as needed to carry out the purposes and duties of the authority. Ramah Navajo Chapter programs or executive offices may detail personnel to assist the authority as staff. Appropriate competitive compensation shall be made from available sources approved by the board of commissioners and authorized by the chapter program or executive office.

**History**

ACS-151-86, September 23, 1986.

**§ 58. Liability exemption**

The private property of the authority members, officers, and staff shall be exempt from liability, damage, or injury, debt or obligation arising out of the authority management and operations.

**History**

ACS-151-86, September 23, 1986.

**§ 59. Conflict of interest**

Members of the board of commissioners who have a personal business interest or close family relationship in business or personal matters brought before the board of commissioners shall not participate in proceedings of the board of commissioners regarding the matters nor shall they vote on such matters.

**History**

ACS-151-86, September 23, 1986.

**§ 60. Amendment**

This plan of operation may be repealed, amended and/or revised, upon recommendation of the board of commissioners, by the Ramah Chapter at a regular chapter meeting with the approval of the Government Services Committee of the Navajo Nation Council.

**History**

ACS-151-86, September 23, 1986.

**Revision note.** This Subchapter has been reworded for form and clarity.



## **Chapter 2. Diné Power Authority**

### **History**

CJA-2-96, January 19, 1996.

**Revision note.** Diné Power Authority was previously codified as Chapter 2, §§ 101-123, Title 21, Navajo Nation Code.

### **§ 201. Creation**

A. There is established an authority of the Navajo Nation to be known as the Diné Power Authority ("authority"), in order to provide an instrumentality of the Nation to participate in the development of a major coal-fired, mine-mouth steam electric generating station to be located within the extended boundaries of the Navajo Reservation in northwestern New Mexico, together with all common facilities, transmission facilities and water facilities relating thereto, and related infrastructure, community development, communications, transportation and support service facilities and job training and other programs; and to conduct overall development and operations of high voltage transmission lines, related transmission facilities, switchyards, substations, electric generation production, renewable energy research and development, and related power and energy development on the Navajo Nation necessary to vertically and horizontally integrate the Navajo Nation's power, utility and resource infrastructure. The Authority is authorized to participate in the above activities or projects and any part thereof. The projects or activities developed, in whole or in part, may be located within or outside the extended boundaries of the Navajo Nation or on lands selected by the Navajo Nation pursuant to the Navajo-Hopi Settlement Act.<sup>1</sup>

B. The Navajo Nation Council hereby finds and declares that the creation of the Authority is necessary and desirable in order to promote the development of the Navajo Nation's resources and new sources of electric energy and transmission capacity, to develop the social, economic and cultural well-being of Navajo People including those subjected to relocation from Hopi Partitioned Lands, to promote the economic vitality of the Navajo Nation through the production of goods and services, the employment of Navajo People and the utilization of Navajo businesses, to promote the efficient utilization and distribution of energy, to facilitate management of the Navajo Nation's interest in energy development activities and to limit the Navajo Nation's liability with respect thereto.

### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

### **§ 202. Name, location and place of business**

A. The name of the authority, instrumentality and enterprise of the Navajo Nation formed herein shall be "Diné Power Authority".

B. The principal place and headquarters of business and the offices of the authority shall be at Window Rock, Navajo Nation, Arizona.

C. The authority may also have offices at such other place or places as the board of directors may from time to time direct or as the activities of the Authority shall require.

D. The authority is and shall remain an authority, instrumentality and enterprise of the Navajo Nation, subject at all times to the control of the oversight authorities delegated by the Nation Council, and shall not become or attempt to become a corporation under the laws of any state or other governmental entity, without prior approval of the Navajo Nation Council.

#### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

**Revision note.** Subsection (b): Reference to post office address of principal office deleted.

1989 Amendments to Title 2 placed enterprises under the oversight of the Economic Development Committee of the Navajo Nation Council.

#### **§ 203. Identification**

The identification of this authority shall be by seal, insignia or logo as approved by the board of directors and may be changed from time to time as warranted.

#### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

#### **§ 204. Duration**

The duration of the authority is perpetual.

#### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

#### **§ 205. Purposes**

A. General. The purposes for which the authority is organized are as follows:

1. To participate in energy development activities and projects, directly or indirectly, independently or with other private or public

entities or enterprises, in partnership, venture, or other association or arrangement of any kind, to provide for the ownership, design, construction, equipping, supply, maintenance, financing and operation of the activities and projects and the sale, wheeling or distribution of power, energy and transmission services from the activities and projects, the mitigation of impacts of the activities and projects and the provision of community and other services and programs related thereto; and to provide or facilitate the provision of bulk power and electricity to other Navajo enterprises.

2. To provide training and employment opportunities for Navajo People and businesses in the acquisition, construction, management and operation of the activities and projects and the authority.

3. To facilitate the economic and community development of the Navajo Nation through the activities and projects to promote and enhance self-determination, to apply to and invest in the activities and projects such resources of the Navajo Nation as are contributed or conveyed to the authority for such purpose, and to facilitate the administration of the Navajo Nation's involvement with the activities and projects.

4. To provide a fair return to the Navajo Nation and the Navajo people on its investment in the authority through declaration of dividends and distribution of profits, through participation with other Navajo enterprises to promote vertical and horizontal power and energy integration, and through the delivery and transmission of low cost, safe, reliable and efficient power and electricity, that is consistent with economic development and self-determination objectives.

5. To manage and administer, in consultation with the Navajo-Hopi Land Commission, any resources or revenues acquired from the lands selected by the Navajo Nation and as developed by the authority pursuant to the Navajo-Hopi Settlement Act of 1974,<sup>1</sup> solely for the benefit of Navajo relocatees designated in the Act, or the transfer of any such resources or revenues to any entities established by the Navajo Nation for the purpose of administration of benefits on behalf of such relocatees.

B. Ancillary. To do everything necessary, proper, advisable, or convenient for the accomplishment of the purposes herein above set forth, and do all things incidental thereto or connected therewith, which are not forbidden by law or this plan of operation.

### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

### **§ 206. Control of authority**

It is intended that the control and activities of this authority shall be patterned as closely as is feasible on the lines of an agency or instrumentality of the Navajo Nation as a public government and domestic

sovereign nation with board of directors performing policy-making functions for such an agency or instrumentality.

### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

### **§ 207. Board of Directors; purpose; duties and powers**

A. Direction of purposes and exercise of powers by board of directors. Subject to applicable laws and regulations, the authority shall be managed by or under the direction of the board of directors which shall direct the purposes and exercise the following powers and duties:

1. The board of directors is delegated authority and responsibility for the activities of the authority.

2. The board of directors is authorized to accomplish the purposes set forth in § 205 hereof and to exercise the powers set forth in Subsection (B) below without previous authorization or subsequent approval of the Navajo Nation Council and all parties dealing with the authority shall have the right to rely upon any action taken by the board of directors pursuant to this authorization.

3. The board of directors shall exercise full power and shall be responsible for participation of the authority in the activities and projects (including the custody, management, operation, inventory, and maintenance of all property and facilities of the authority relating to the activities and projects), and the taking of any and all usual, necessary and convenient actions, incidental thereto including, should it be deemed advisable or desirable, the borrowing of funds, participation in other organizational entities, and the making of contracts or commitments which it deems necessary or advisable for participation in the activities and projects.

4. The board of directors may authorize the authority to enter into a project agreement or agreements for participation in the activities and projects on such terms as it deems necessary or advisable, including without limitation as owner, co-owner, partner, venturer, shareholder, trustor, trustee, beneficiary or some other capacity, and may designate one of its members, an officer or other person as a representative of the authority on any governing or other body related to the activities and projects.

5. The board of directors shall function in much the same capacity as an appointed board of an agency or instrumentality of the Navajo Nation as a public government and domestic sovereign nation, and shall be responsible for making investment decisions subject to the limitations contained herein; for any advance of funds; for the establishment and maintenance of effective policies; for the selection of management personnel and for continuous supervision of the activities and projects.

6. The board of directors shall exercise its authorized powers in good faith in a manner which it believes to be in the best interests of the Navajo Nation and in full compliance in accordance with the Ethics in Government Law of the Navajo Nation.

7. The board of directors shall select from its own membership a Chairman of the Board and other officers; and it shall adopt such rules as it may determine necessary for the orderly conduct of its business.

8. Minutes of each meeting shall be made available after each meeting to the Economic Development Committee of the Navajo Nation Council, and such other officials as may be designated from time to time.

9. Directors shall be reimbursed for reasonable expenses actually and necessarily incurred in participating in all meetings, and the board of directors may, at its discretion, propose a fee to be paid to its members on any reasonable basis and not exceeding that paid by comparable enterprises' boards of directors within the Navajo Nation.

10. The chairman of the board or his or her designee shall make a formal written report to the Navajo Nation Council and the Economic Development Committee of the Navajo Nation Council not less often than semi-annually and in such report shall include a summary of the Authority's financial condition.

11. The board of directors may delegate the management of the day-to-day operation of the authority to the general manager or acting general manager, and in exercising its authority hereunder, may rely on its officers and other experts. The board of directors shall establish policies and retain responsibility for ultimate direction of the affairs of the authority but shall give usual and essential latitude to the general manager and his or her delegated employees, after establishing limitations on amounts which may be expended without specific approval of the board of Directors and any additional restraints on relationships with related persons and on other conflict of interest situations.

12. No contract or other transaction between the authority and any one of the members of the board of directors, or between the authority and any corporation, partnership, firm or other legal entity in which one or more of the members of the board of directors has a financial interest, directly or indirectly, shall be valid, for any purpose, unless the entire interest of the director or directors in such corporation, firm or other legal entity is fully disclosed to the board of directors and the proposed contract or transaction shall be approved, ratified or confirmed by the affirmative vote of at least a majority of the members of the entire authority board who are not so interested. Any director who has such a material financial interest may not vote on any matter affecting or affected by that interest, and must recuse him or herself from all discussions concerning any transaction involving that interest.

13. a. Except as provided in subdivision (b), in investing, reinvesting, purchasing, acquiring, exchanging, selling and managing the authorities investments, the board of directors shall: (1) avoid speculation (other than as may be associated with investments in the

Project); and (2) comply with any standards imposed by the plan of operation or express terms of an instrument or agreement pursuant to which the assets were contributed to the authority.

b. No investment violates this Subsection where it conforms to the provisions authorizing such investment contained in an instrument or agreement pursuant to which the assets were contributed to the Authority.

c. In carrying out duties under this Subsection, each director shall act as required by the standard of conduct applicable to public officials, and may rely upon others in performing the duty of director to the extent of relying on information, opinions, reports or statements including financial statements and other financial data, in each case prepared or presented by one or more officers or employees of the authority, counsel, independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence or a committee of the board of directors as to such matters the director believes to reasonably merit confidence, so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances, and without knowledge that would cause such reliance to be unwarranted.

14. Any action required or permitted to be taken by the board of directors may be taken without a meeting, if all directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board of directors.

B. Enumerated powers. Subject to approvals where required and any applicable laws and regulations, and solely in furtherance of the limited purposes set forth in § 205 of this plan of operation, the authority shall have the following powers which may be exercised by or under the direction of the board of directors:

1. Territorial jurisdiction. To qualify to conduct its activities in any other jurisdiction.

2. Capacity to act. To act in any capacity as a natural person would act and to participate with others in any partnership, joint venture or other association, transaction or arrangement of any kind, whether or not participation involves sharing or delegation of control with or to others.

3. To appoint officers and agents. To elect or appoint officers, agents, engineers, auditors, accountants, appraisers, counsel and other professional consultants as in the opinion of the board of directors may be needed from time to time, and to define their duties and compensation subject to Navajo Nation law. The board of directors, at authority expense, shall require the bonding of all officers, agents or employees responsible for the handling or safeguarding of funds, property or other assets of the authority consistent with policies applicable to officials of the Navajo Nation. The board of directors may delegate to the general

manager the election and appointment of agents for operational activities.

4. To act as agent. To act in any state, territory, district, or possession of the United States, or in any foreign country for and on behalf of the authority.

5. To deal in real property. To acquire (by purchase, exchange, lease, hire or otherwise) utilize, improve, manage, operate, and to sell, lease, or mortgage, either alone or in conjunction with others having an interest therein, real estate of every kind, character and description and any interest therein, necessary or incidental to the purposes set forth in § 205 of this plan of operation, title to all such acquired real property or interest therein may be taken in the name of the authority and title to all trust or restricted real property shall be and remain in its trust or restricted status unless otherwise legally transferred to the authority; and to convey any such real property or interest therein (including without limitation any granted right-of-way for transmission lines and other facilities or operations related to the activities and projects) to the activities and projects or others pursuant to the terms of any agreement related to or in connection with the activities and projects.

6. To deal in personal property. To deal in personal property, including intangibles, generally. To acquire (by purchase, application, transfer, exchange, lease, hire or otherwise), hold, own, manage, operate, mortgage, pledge, hypothecate, exchange, sell, deal in and dispose of, either alone or in conjunction with others, personal property, including without limitation, equity securities and inventions, copyrights, trademarks and other intangibles, and interests therein, of every kind, character and description.

7. Depository. To designate and approve all depositories used for the deposit of funds of the authority.

8. To make contracts. In addition to the authority described in Subsection (A)(4) of this plan of operation regarding participation in activities and project agreements, to enter into, make, perform and carry out or cancel and rescind contracts for any lawful purpose pertaining to its purposes and activities.

9. To approve budgets. To give initial approval to annual authority budgets, and to take final approval action with reference to the use of funds under the exclusive control of the authority for operating, capital and other purposes.

10. To borrow funds. With the prior approval of the Economic Development Committee of the Navajo Nation Council, to borrow money, make and issue debt securities of the authority evidencing such borrowing, and to secure payment thereof by pledge of, or lien on, all or any of its fixtures, personalty, revenues, income, contracts or other property and income (subject to any restraints thereon imposed under law) and to purchase, redeem, receive, take or otherwise acquire any of such obligations.

11. To accept grants or loans. To accept grants or loans from, and enter into contracts, agreements or other transactions with any local government, state and federal agencies, the government of the Navajo Nation or agencies thereof, and to expend the proceeds thereof.

12. To lend money. To lend money or otherwise use its credit for the development of its activities and projects.

13. To sue or be sued. To bring suit in its name and (subject to the Navajo Nation Sovereign Immunity Act and other limitations) contractually waive its immunity to suit.

14. To create sub-entities. To create sub-divisions, sub-entities and subsidiaries for purposes of separating and furthering authority project.

C. Ancillary powers. To have and exercise all powers necessary, convenient or incidental to the authority's express powers.

D. No construction of powers as purposes. The powers enumerated herein shall not be construed as purposes but the authority shall have and exercise such powers solely in furtherance of, but not in addition to, the limited purposes set forth in this plan of operation in § 205 hereof. A declaration of the board of directors that its powers are being so exercised shall be conclusive evidence thereof on which third parties dealing with the Authority may rely.

#### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

#### **Cross References**

Navajo Sovereign Immunity Act, see 1 N.N.C. §§ 551-555.

#### **§ 208. Indemnification of officers, employees and members of the Board of Directors**

While acting in their official capacities the authority shall indemnify any officer, employee or member of the board of directors or former officer, employee or member of the board of directors, or any person who may have served at its request as an officer, employee or member of another entity, against reasonable expenses actually and necessarily incurred by him or her in connection with the defense of any action, suit or proceeding in which he or she is made a party by reason of being, or having been such officer, employee or member of such entity; except in relation to matters as to which he or she shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty. The authority shall also reimburse to any officer, employee or member of the board of directors or such other entity, reasonable costs of settlements of any such action, suit or proceeding if it shall be found by a majority of the board of directors other



than directors involved in the matter of controversy (whether or not a quorum exists), that it is in the best interest of the authority and the Navajo Nation that such settlement be made and that such person was not guilty of negligence or misconduct. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights which such person may be entitled to receive, but shall be subject to any applicable limitation thereon.

### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

### **Cross References**

Navajo Sovereign Immunity Act, see 1 N.N.C. §§ 551-555.

### **§ 209. Membership of Board of Directors; qualifications; term of office; removal**

A. Number. The board of directors shall consist of seven persons. All members of the board of directors shall be appointed by the President of the Navajo Nation and shall be confirmed by the Economic Development Committee of the Navajo Nation Council.

B. Qualifications. The members of the board of directors shall be called directors, and shall collectively have the following qualifications:

1. One director shall have an accounting or finance background.
2. One director shall have an engineering background.
3. At least four Directors shall be members of the Navajo Nation, of whom at least one shall reside in areas impacted or otherwise affected by the Navajo-Hopi Land Dispute.
4. No director shall be an employee of the Bureau of Indian Affairs.
5. One director shall be a member of the Economic Development Committee of the Navajo Nation Council and shall serve as an ex-officio member who shall be a non-voting member, but shall have a right to participate in all meetings of the board.
6. One director shall be a member of the Resources Committee of the Navajo Nation Council and shall serve as an ex-officio member who shall be a non-voting member, but shall have a right to participate in all meetings of the board.
7. One director may possess sufficient qualifications so as to meet more than one requirement as set out in 1 through 4 above.
8. The directors appointed by the Economic Development Committee and the Resources Committee of the Navajo Nation Council shall serve at

the discretion of the respective committees.

C. Term of Office. Directors shall be appointed for five-year staggered terms and shall hold office until the qualification and selection of their successors.

D. Vacancy. Vacancies on the board of directors may be filled by the President of the Navajo Nation with the confirmation of the Economic Development Committee of the Navajo Nation Council for the unexpired term of the vacant office.

E. Removal. Members of the board of directors may be removed with or without cause only upon recommendation by the President of the Navajo Nation with the approval of the Economic Development Committee of the Navajo Nation Council.

### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

### **§ 210. Meetings of Board of Directors**

A. Annual meeting. The annual meeting of the board of directors shall be held at such times as the board of directors shall designate as the principal place of business, or at such other place as the board of directors shall fix. No notices shall be required for annual meetings.

B. Regular meetings. The board of directors shall meet at least quarterly upon notice fixing the time and place.

C. Special meetings. Special meetings of the board of directors may be held upon notice given by the chairperson of the board, or secretary, or by majority of the board of directors at such place as the board of directors shall direct or as shall be fixed by the notice.

D. Notice. Notice of meetings, except for that of the annual meeting, stating the time, date, and place shall be given in writing by letter, telegram, radiogram or facsimile transmission properly addressed to each member according to the latest available Authority records, not later than seven days nor more than 30 days immediately preceding the meeting, excluding the day of the meeting.

E. Waiver of Notice. Notice may be waived in writing signed by the member or members entitled to such notices whether before or after the time stated therein, and such waiver shall be deemed equivalent to the giving of such notice. Attendance of any member at a special meeting shall constitute a waiver of notice.

F. Quorum. A majority of the members of the board of directors shall constitute a quorum for the transaction of any business. The act of the majority of the members participating and voting at a meeting at which a quorum is present shall be the act of the board of directors.

### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

### **§ 211. Principal officers**

The principal officers of the authority shall consist of the following:

- A. Chairperson of the board of directors.
- B. The General Manager, who shall not be a member of the board of directors.
- C. Secretary, who need not be a member of the board of directors.
- D. Treasurer, who need not be a member of the board of directors.

### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

### **§ 212. Powers and duties**

All officers and agents of the authority shall have the following duties and such other duties as may be provided in any rules or determined by or pursuant to resolution of the board of directors, not inconsistent with this plan of operation:

A. The Chairperson of the Board. The chairperson of the board of directors shall be chosen from among the members of the board of directors, shall preside at all meetings of the board of directors if present, and shall, in general, perform all duties incident to the office of the chairperson of the board and chief executive officer and such other duties as, from time to time, may be assigned the chairperson of the board by the board of directors. If a vice-chairperson is elected, he or she shall act in the capacity of the chairperson of the board in the absence of the latter, and shall discharge any other duties designated by the chairperson of the board.

B. The Secretary. The secretary shall keep, or cause to be kept the minutes of the meeting of the board of directors. The secretary shall see that all notices are duly given in accordance with provisions of this Chapter. The secretary shall be custodian of the identification and records, and in general, shall perform all duties incident to the office of the secretary, and such other duties as may, from time to time, be assigned to him or her by the board of directors, or the chairperson of the board.

C. The Treasurer. The treasurer shall be the financial officer of the authority and shall have charge and custody of, and be responsible for all funds of the authority, and shall deposit such funds in such banks, trust

companies, or other depositories as shall have been approved by the board of directors. The treasurer shall receive and give receipts for monies due and payable to the authority from any source whatsoever; and, in general, shall perform all duties incident to the office of the treasurer and such other duties as, from time to time, may be assigned by the board of directors or the chairperson of the board. The treasurer shall render to the chairperson of the board and the board of directors, whenever the same may be required, an account of all his or her transactions as treasurer and of the financial condition of the authority. The treasurer shall, at the expense of the authority, give a bond for the faithful performance of discharge of his or her duties in such amount, so conditioned, and with such surety or sureties as the board of directors may require.

D. The General Manager. The general manager shall be the principal administrative and chief operating officer of the authority and shall have direction of all parts of the actual operations. The general manager shall report to the board of directors and perform all other functions and duties specified in § 217 of this plan of operation for the general manager.

#### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

#### **§ 213. Election; term of office; qualification**

The officers, with the exception of the general manager, shall be chosen annually by the board of directors at its annual meeting, or as soon after such annual meeting as newly appointed directors shall have qualified. The term of the general manager shall be determined by the board of directors at the time of his appointment, subject to the provisions of § 217 hereof. Each officer shall hold office until his or her successor is chosen and qualified, or until death, or until he or she shall have resigned, or shall have been removed in the manner provided in § 214 herein.

#### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

#### **§ 214. Removal**

Any officer or agent elected or appointed by the board of directors may be removed by the board of directors whenever, in its judgment, the best interest of the authority will be served thereby, but in the absence of dereliction in duty, negligence or malfeasance in office, or any other good cause shown, such removal shall be without prejudice to the contract rights, if any, of the persons who are removed.

#### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

**§ 215. Resignations; vacancies**

Any officer may resign at any time by giving written notice to the board of directors, or to the chairperson of the board, or secretary, such resignation shall take effect at the time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy in any office because of death, resignation, removal, or any other cause shall be filled for the unexpired portion of the term in the manner prescribed herein for election or appointment to such office.

**History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

**§ 216. Other officers and agents**

The board of directors or the chairperson of the board may appoint such other officers and agents deemed necessary or expedient, and may determine the duties of them, as well as the terms of their holding office.

**History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

**§ 217. General Manager; functions; duties**

A. The general manager may be employed under a written employment contract, specifying all employment benefits provided, for a term not to exceed five years; the employment contract may be renewed by the board of directors. The general manager shall be responsible to and serve at the pleasure of the board of directors, notwithstanding the terms of the employment contract and this plan of operation.

B. The function of the general manager shall be analogous to that of the chief operations officer of an agency or instrumentality of a state or local government or a sovereign nation. The general manager shall, among other things, execute the general policies formulated by the board of directors, provide annual reports to the board of directors, and may organize the operation of the authority into departments each with its own specific duties and responsibilities.

C. The general manager shall exercise his or her best judgment in the determination of the ways and means by which general policy set forth by the board of directors is to be effectuated.

D. The general manager shall be the active executive of the authority and

shall be responsible for the preparation of plans and annual budgets; shall initiate financial audits upon board approval, and shall make suggestions as to policies and any proposals for improvements.

E. The general manager shall have the full authority to hire and fire, subject of authority policies, and exert control over all employees of the authority and shall be responsible for all department heads or other executives performing their assignments.

F. The general manager shall be responsible for the supervision of the employees and agents of the authority, and their performance, in respect to all such matters such as conformance to approved budgets, standards, and policies, productivity, program inspection, cost control, employee relations and evaluations and in-service training.

G. The general manager shall render regular reports to the board of directors and perform all other functions and duties specified in this plan of operation.

#### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

#### **§ 218. Accounting; fiscal year**

The accounting system for the authority shall be maintained in accordance with generally accepted accounting principles applicable to its activities and projects. Financial statements shall be provided to the President of the Navajo Nation and the board of directors on a regular basis. The fiscal year of the authority shall be determined by the board of directors.

#### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

#### **§ 219. Records; inspection; audits**

The books, records and property of the authority shall be available for inspection at all reasonable times and upon notice by authorized representatives of the Navajo Nation, and or by the President of the Navajo Nation or the Economic Development Committee of the Navajo Nation Council or the Navajo Nation Council. The accounts and records of the authority shall be audited at the close of each fiscal year in accordance with the provisions of § 207(B) of this plan of operation. Copies of such audit reports shall be furnished to the parties receiving copies of the financial statements and to the appropriate Navajo Nation Council standing committees.

#### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

**§ 220. Exemption from judicial process**

All property, including funds of the authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against such property; provided; however, that this Section shall not apply to or limit the right of participants in any activity or project agreement or any holders of contractual obligations of the authority or the activities or projects to pursue any remedies or rights, including, but not limited to, possession, execution, attachment, and sale of security, for the enforcement of any pledge or lien given by the authority on its property, including personalty, fixtures, revenues, rates, fees, or other income or funds.

**History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

**§ 221. No liability of Navajo Nation; no waiver of immunity of Navajo Nation**

A. The acts or omissions of the authority (whether pursuant to the powers enumerated in this plan of operation or otherwise) shall not create any liability on the part of the Navajo Nation, nor create any obligation, indebtedness, or recourse to the assets of the Navajo Nation (whether denominated assets, revenues or income of the Navajo Nation) and only the assets, revenue and income held by or in the name of the authority shall be subject (to the extent otherwise permitted herein and by law) to the debts, obligations or other liabilities created or incurred by the authority.

B. Any waiver of immunity of or by the authority shall not be construed to waive any immunity of the Navajo Nation or other covered persons and entities or extend any liability to any assets, revenues, or income of the Navajo Nation, nor shall the provisions of the Navajo Nation Sovereign Immunity Act (as amended) be deemed altered or amended by this plan of operation.

**History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

**Note (2005).** Reformatted for purposes of statutory form.

**Cross References**

Navajo Sovereign Immunity Act, see 1 N.N.C. §§ 551-555.

**§ 222. Amendment of Plan of Operation**

This plan of operation may be amended from time to time by resolution

duly adopted by the Navajo Nation Council upon recommendation of the Economic Development Committee of the Navajo Nation Council.

#### **History**

CJA-2-96, January 19, 1996.

CN-87-85, Exhibit A, November 5, 1985.

#### **Cross References**

Navajo Nation Enterprises, see 2 N.N.C. § 724(E)(1).

### **Chapter 3. Transportation Systems**

#### **History**

**Revision note.** Transportation System was previously codified at Chapter 3, §§ 201-211, Title 21, Navajo Nation Code.

#### **Subchapter 1. Buses**

##### **§ 301. Operation generally**

A scheduled bus transportation system shall be operated between Window Rock, Navajo Nation (Arizona) and Gallup and Wingate Village, New Mexico.

#### **History**

CAU-56-60, August 19, 1960.

##### **§ 302. Use of bus**

A. The principal use of the bus shall be the transporting of Tribal officials and employees commuting between Wingate Village and Gallup, New Mexico, who are employed at Window Rock, Navajo Nation (Arizona) and the vicinity, and the employees of the Bureau of Indian Affairs and the United States Public Health Service who commute between Wingate Village and Gallup, New Mexico.

B. The secondary use of the bus shall be the transporting of groups of people on special occasions during the time the bus is not required for its principal use. Such trips shall be scheduled in advance and approved by the Director of Division of General Services.

#### **History**

ACS-167-60, § I, September 14, 1960.

#### **Cross References**

Division of General Services, see Title 2, Navajo Nation Code.



**§ 303. Route and schedule of bus**

A. The bus shall not deviate from the following route: From the Motor Pool down Window Rock Boulevard to the Fort Defiance junction, left to the Ganado-Gallup-Fort Defiance junction, right to the warehouse area, return to the Ganado-Gallup-Fort Defiance junction, proceeding east on Arizona Highway 3-New Mexico Highway 68-to Highway 491 junction, taking Highway 491 to Gallup, then east on Highway 66 to Wingate Village and return on the same route.

B. The bus schedule shall be established to assure its arrival in Window Rock at 7:50 a.m. each day. Departure from Window Rock shall be 5:15 p.m. each day. A schedule of arrival and departure times from the following stops shall be available to all passengers.

C. Passengers shall embark and disembark only at the following regularly scheduled points:

1. Motor Pool-Window Rock
2. Window Rock Boulevard northwest entrance to the main administration building
3. Warehouse entrance-Fairgrounds
4. U.S. Highway 491-State 68 junction
5. North turnoff-Highway 491 to Gameraco
6. Intersection at Post Office, Gallup
7. East "Y" Highway 66, Gallup
8. Rehoboth turnoff-Highway 66
9. Office-Wingate Village

D. Changes in the route, schedule or stops shall be authorized in writing by the Director of the Division of General Services.

**History**

ACS-167-60, § II, September 14, 1960.

**§ 304. Operator of the bus-Qualifications**

The operator of the bus shall have the following qualifications:

- A. Be an employee of the Navajo Nation; and
- B. Have valid chauffeur's licenses issued by the States of New Mexico and Arizona.

**History**

ACS-167-60, § III, September 14, 1960.

**§ 305. Duties**

The operator of the bus shall have the following duties:

- A. Drive the bus in lieu of the fare charged passengers.
- B. Be responsible for the sale of fare tickets and the preparation of reports until other arrangements are necessary.
- C. Be in complete charge of the bus with authority to expel disagreeable passengers.
- D. Not operate the bus at speeds that exceed 50 miles per hour and have it fully under control at all times.
- E. Be responsible for the proper maintenance of the bus.
- F. Be responsible for obtaining monthly safety inspection of the bus by the Navajo Nation Police Department.
- G. Park the bus overnight and over weekends at Wingate Village in a location that will assure adequate protection of the vehicle.

**History**

ACS-167-60, § II, September 14, 1960.

**1961 Amendment.** ACJY-109-61, § 2, amended this Section by deleting the first numbered paragraph. Language substituted for such deleted paragraph is now set out in § 306 of this title.

**§ 306. Compensation**

The operator of the bus shall be paid at his or her regular salary rate and his or her time shall be reported by the head of the motor pool. The driving time shall be considered to be one hour for a one-way trip between Window Rock and Wingate Village. The operator shall not be paid in excess of two hours time each day unless he or she is requested to make special trips during off-duty hours.

**History**

ACJY-109-61, § 2, July 21, 1961.

ACS-167-60, September 14, 1960.

**§ 307. Fare; fare tickets; identification cards**

- A. The fare shall be thirty cents (30 for each passenger which shall be collected by the driver for each one-way trip on the bus.
- B. The passengers shall purchase fare tickets from the driver. The fare

tickets shall be assembled in books of ten and sold for three dollars (\$3.00) per book on a cash basis only.

C. The driver shall obtain a supply of fare ticket books from the controller who shall charge him or her therewith. The driver shall deliver daily to the controller the funds collected from the sale of fare ticket books.

D. The driver shall prepare a daily report on the sale of fare tickets, the number of passengers and other pertinent data. One copy of the report shall be provided the Controller which shall be attached to the official receipt. One copy shall be provided the Division of General Services Director. The tickets collected from the passengers shall be attached to the copy of the report provided the Division of General Services Director.

E. The Controller shall credit the driver for tickets sold after the funds have been delivered to the Controller as evidenced by the official receipt.

F. Authorized passengers shall be issued an identification card by the Division of General Services Director of the Navajo Nation (or a designee), and such passengers shall be required to show their identification card each time they board the bus.

#### **History**

ACJY-109-61, July 21, 1961.

ACS-167-60, § VI, September 14, 1960.

**1961 Amendment.** ACJY-109-61, § 3, amended Subsections (A) and (B) by increasing fare from 20 cents to 30 cents and cost of books of tickets from two dollars (\$2.00) to three dollars (\$3.00), and added Subsection (F).

**Revision note.** Slightly reworded for purposes of form and clarity.

#### **Cross References**

Division of General Services, see Title 2 of the Navajo Nation Code.

#### **§ 308. Conduct of passengers**

The conduct of passengers shall at all times be such that the safety, moral and general welfare of all passengers will not be jeopardized.

#### **History**

ACS-167-60, § V, September 14, 1960.

#### **§ 309. Certification of safety**

Written certification of the safety of the bus shall be provided by the Navajo Nation police department and shall be displayed in the bus.

#### **History**

ACS-167-60, § III(8), September 14, 1960.

**§ 310. Service and maintenance**

All service and maintenance of the bus shall be provided through the Navajo Nation motor pool.

**History**

ACS-167-60, § III(7), September 14, 1960.

**§ 311. Insurance**

Insurance for the bus shall be provided under the comprehensive automobile insurance policy that provides insurance protection for all other vehicles owned by the Navajo Nation.

**History**

ACS-167-60, § VI, September 14, 1960.

**Subchapter 3. [Reserved]**

**§§ 351 to 400. [Reserved]**

**Chapter 4. Navajo Paragon Generating Station Policy Board and Task Force**

**History**

**Revision note.** Navajo Paragon Generating Station Policy Board and Task Force was previously codified as Title 21, Chapter 4, §§ 301-310, Navajo Nation Code.

**§ 401. Establishment**

The Navajo Paragon Generating Station Policy Board (hereinafter "NPGS policy board") was established by the Executive Order of February 25, 1985, consisting of 15 regular voting members appointed by and serving at the pleasure of the President of the Navajo Nation upon confirmation by the Economic Development Committee of the Navajo Nation Council.

**History**

ACJN-110-85, June 13, 1985.

ACAP-60-85, April 11, 1985.

**§ 402. Purposes**

The NPGS policy board is established to assess the ongoing development of talks with other NPGS participants and to advise the Office of the President and Vice-President, the Government Services Committee, the Navajo-Hopi Land

Commission and the Navajo Nation Council on policy direction for the Navajo Nation in this project, including advice on the desired organization within the Navajo government to develop further analysis of the proposed enterprise and the ways and means to fund such effort.

#### **History**

ACAP-60-85, Exhibit A, April 11, 1985.

#### **§ 403. Powers**

A. The NPGS policy board shall have all powers necessary and proper to carry out the purposes set forth in § 402 of this plan of operation.

B. Enumerated powers of the NPGS policy board shall include the power to:

1. Establish subcommittees to further any purpose of the policy board.

2. Hold meetings at the call of the chairperson of the policy board, the President or vice-president of the Navajo Nation, or upon written request of any seven members of the policy board. A quorum shall consist of seven members for the purposes of conducting policy board business.

3. Establish this plan of operation for the Navajo Paragon Generating Station Task Force (hereinafter "NPGS task force").

4. Conduct all proper and necessary business of the policy board by written resolution adopted by a majority of the members present and duly certified by the presiding officers.

#### **History**

ACJN-110-85, June 13, 1985.

ACAP-60-85, April 11, 1985.

**1985 amendment.** Subsection (b)(2): Substituted "seven (7) members" for "five (5) members" in the first and second sentences.

#### **§ 404. Establishment of NPGS Task Force**

The Advisory Committee of the Navajo Nation Council established the plan of operation for the NPGS task force.

#### **History**

ACAP-60-85, April 11, 1985.

#### **§ 405. Term of operation**

The duration of the NPGS Task Force shall be continuous until terminated by resolution of the Navajo Nation Council or by executive order of the Office

of the President.

### **History**

ACAP-60-85, Exhibit A, April 11, 1985.

### **§ 406. Purposes of NPGS Task Force**

The purposes of the NPGS task force shall be:

A. To provide direction, analysis and management expertise to determine the viability of, financeability of, structure of, and means of participation by the Navajo Nation in the proposed New Mexico Generating Station at the Paragon Ranch area.

B. To provide coordination, analysis, and professional direction to the negotiation of leases or contracts for land, water and coal, including valuation, resource assessment and necessary and proper lease terms unrelated to the resources (e.g., business and employment preference, scholarship fund, etc.) to the extent necessary to assure they are consistent with the proposed NPGS Project.

C. To provide coordination, development, implementation, and delivery of a comprehensive community information and planning. effort, to include identification and mitigation of plant and project impacts.

D. To provide comprehensive assessment of all regulatory and legislative issues germane to Navajo Nation participation in the NPGS Project, including a detailed plan of strategy with draft legislation where appropriate.

E. To provide coordination with and direction to intergovernmental relations between the Navajo Nation and the various state and federal agencies and legislatures.

F. To provide coordination and direction to the analysis, review, and development of the legal organization and business structure of the NPGS Project and the evolution of the entity which will maximize the Navajo Nation interest in such enterprise.

G. To provide budgetary, financial, contracting, and accounting reporting as required to all Navajo Nation government or other offices or agencies, including any consultant contract requirements, upon approval by the Budget and Finance Committee of the Navajo Nation Council, and to assure the fiscal accountability of the task force.

H. To develop the information and analysis necessary to provide recommendations concerning the participation of the Navajo Nation in all aspects of this project.

### **History**

ACAP-60-85, Exhibit A, April 11, 1985.

**Revision note.** Slightly reworded for purposes of form and clarity.

### **Cross References**

Government Services Committee authority, see 2 N.N.C. § 343(B) (4).

#### **§ 407. Powers of the NPGS Task Force**

The NPGS task force shall have the following powers:

A. To fulfill the purposes set out in § 406.

B. To establish such offices for conducting its activities within or without the Navajo Nation as are necessary and proper to its purposes under this plan of operation.

C. To contract for services necessary to fulfill the purposes set out in § 406.

D. To provide reimbursement to NPGS Policy Board members for costs to attend meetings of the policy board at which a quorum is present, including all travel and per diem costs.

E. To provide for reimbursement to NPGS policy board members for all expenses incurred in the discharge of their official duties as policy board members other than duly called meetings, when done with the approval of the President of the Navajo Nation.

#### **History**

ACAP-60-85, Exhibit A, April 11, 1985.

#### **§ 408. Conflict of interest**

Members of the NPGS policy board or staff of the NPGS task force shall not use their position or influence to personal advantage or the advantage of any other individuals or organization in a manner which would disadvantage the NPGS policy board, the NPGS task force, the Navajo Nation, its subdivisions or instrumentalities. A member, officer, or employee shall be disqualified from dealing in any matter where there exists a conflict of interest.

#### **History**

ACAP-60-85, Exhibit A, April 11, 1985.

#### **§ 409. Finance**

The NPGS task force may pursue, with approval from the Budget and Finance Committee, funding for its activities from all available sources, including but not limited to, banks, profit and non-profit institutions, individuals, federal and state agencies, foreign investors, debt financing, and any other financing alternative allowed by law.

#### **History**

ACAP-60-85, Exhibit A, April 11, 1985.

#### **Cross References**

Government Services Committee authority, see 2 N.N.C. §§ 185(B) and § 343(B) (4).

#### **§ 410. Amendments**

The plan of operation of the NPGS Task Force may be amended or altered to add or delete provisions from time to time as necessary with the concurrence of the Government Services Committee of the Navajo Nation Council.

#### **History**

ACAP-60-85, Exhibit A, April 11, 1985.

#### **Cross References**

Redelegated Committee authority, see CD-68-89, December 15, 1989, and 2 N.N.C. § 343(B) (4).

### **Chapter 5. Telecommunications**

#### **Subchapter 1. Navajo Telecommunications Regulatory Act**

#### **History**

CD-56-86, December 10, 1986. CD-56-86 repealed former § 501 and redesignated Chapter 5, Navajo Telecommunications Regulatory Code, formerly "Radio and Television".

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 501. Short title**

This Act shall be known and may be cited as the Navajo Telecommunications Regulatory Act and is codified at Chapter 5 of Title 21 of the Navajo Nation Code.

#### **History**

CD-56-86, December 10, 1986, repealed former § 501, entitled "Tribal radio system and maintenance facilities".

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 502. Purposes and intent**



A. The purposes of this Act are to make available within the Navajo Nation efficient, reasonably priced and rapid communications, to promote and expand communications within the Navajo Nation, and ensure that communication activity within the Navajo Nation is consistent with the traditions, customs and desires of the Navajo People.

B. It is the intention of the Navajo Nation Council that the provisions of this Act be construed and applied in each instance, so as to accomplish its purposes. Furthermore, the Navajo Nation by virtue of its inherent sovereign powers has the authority to assert jurisdiction over telecommunications not preempted by applicable law and regulation of the federal government of the United States. Areas which may be preempted include matters relating to frequency allocation, licensing, permissible use of specific bands and interstate commerce. Federal laws now in force regulating telecommunications activity which do not preempt the Navajo Nation's jurisdiction to regulate telecommunications shall have the same force and effect and shall be binding and obligatory upon the Navajo Nation to the extent that said laws benefit and protect the traditions, customs and desires of the Navajo People and are not otherwise inconsistent with the provisions of this Act.

### **History**

CD-56-86, December 10, 1986.

### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

### **§ 503. Definitions**

For the purposes of this Act, the following definitions shall apply:

A. "Broadcasting" means the dissemination of any radio or television communications intended to be received by the public, directly or by the intermediary of relay stations.

B. "Cable System" means a system of antennas, cables, amplifiers, towers, microwaves, waveguides, laser devices, satellites, and/or other conductors, converters, equipment and facilities designed and constructed for the purpose of producing, transmitting, receiving, amplifying, storing, processing, and distributing audio, video, digital, or other forms of electronic or electrical signals capable of being transmitted by wire and cable to subscribing members of the public who pay for such services.

C. "Certificate of convenience and necessity" means the certificate issued by the Commission to a person(s) doing business in telecommunications within defined service areas of the Navajo Nation. A certificate of convenience and necessity may include or require to be filed with terms, conditions, or tariffs, and may contain terms, conditions, or tariffs found within franchise agreements.

D. "Act" means the Navajo Telecommunications Regulatory Act.

E. "Commission" means the Navajo Telecommunications Regulatory Commission

or any successor agency authorized by the Navajo Nation to regulate telecommunications.

F. "Common Carrier" means a person(s) providing, or holding itself out as providing telecommunications service or services to the public for hire within the Navajo Nation.

G. "Communications" means transmission, emission, or reception of information by any means of telecommunications.

H. "Electromagnetic spectrum" or "Radio Frequency Environment" means the entire range of wavelengths or frequencies of electromagnetic radiation from the longest radio waves to the shortest gamma rays.

I. "Federal Communications Commission" or "FCC" means that agency as presently authorized by the U.S. Congress or any successor agency authorized by the Congress to regulate cable television, telephone systems, and other communications matters or facilities.

J. "Franchise" means the contractual agreement between a telecommunications provider, who is required to have a franchise, and the commission which defines the rights and responsibilities of each regarding the installation, construction, operation, terms and conditions of services and maintenance of a communications system within the Navajo Nation. A franchise agreement may include the terms, conditions, and tariffs contained within or required by a certificate of convenience and necessity.

K. "Franchises" means the approved holder of a franchise.

L. "Licensee" means the holder of a valid license granted.

M. "Navajo Nation" has the same meaning as Navajo Indian Country as defined in 7 N.N.C. § 254, as amended.

N. "Person" means a natural person, either a Navajo or non-Navajo individual, sole proprietorship, partnership, corporation, joint venture, trust, estate, unincorporated association, government (other than the government of the Navajo Nation and any wholly owned subdivision or enterprise of that government), public or private organization, and any part, division or agency of any of the foregoing or any other entity.

O. "Pole Attachment" means an attachment of a wire or cable by a telephone system, or a cable television system to a pole; the term also includes ducts or conduits and other underground apparatus requiring the use of public right-of-way, owned or controlled by a public utility.

P. "Public Utility" means those applicants who have obtained a Certificate of Convenience and Necessity from the Commission to provide telecommunications service to subscribers or the general public within the Navajo Nation.

Q. "Radio Communication" means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatuses, and services (among other things,

the receipt, forwarding, and delivery of communications) incidental to such transmission.

R. "Radio Station" means a station equipped to engage in radio communication or radio transmission of energy.

S. "Rates" mean any rate, toll, rental, charge or classification of any person engaged in providing telecommunications services.

T. "Subscriber" means the person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or by the receipt and/or payment of statements, invoices or bills regularly issued in such name regardless of the identity of the actual user of the service.

U. "Tariff" means the filed and approved rates, rules and regulations of a telecommunications service-provider that sets forth the services and products offered and the rates charged, and the terms and conditions for the use of those services and products.

V. "Telecommunications" or "telecommunication" means any transmission, emission or reception (with retransmission or dissemination) of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, light, electricity or other electromagnetic spectrum system, including but not limited to the telecommunications activity set forth in § 505(A)(2) of this Code.

W. "Telecommunication Service" means the providing of voice or other communication services by telecommunications including, without limitation, non-voice communication services, or data communication services which may interconnect with other telecommunication networks and/or involve operation of transmission/reception devices for binary information representation.

X. "Telephone System" means all property and facilities used in connection with telephone communication, including without limitation, the providing of telephone service, with or without the use of transmission wires.

Y. "Television Delivery Systems" means any transmission of television programming, via broadcasting, cable, microwave, or other such means of program delivery.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 504. Establishment; composition; staff**

The commission shall carry out the duties of regulating telecommunications activities within the Navajo Nation. The establishment and composition of the commission shall be governed by a plan of operation adopted

by the commission and approved by the Government Services Committee of the Navajo Nation Council. The administrative staff to carry out the duties and responsibilities of the commission shall be as provided for in the Commission's plan of operation or in the Commission's rules and regulations.

### **History**

CD-56-86, December 10, 1986.

### **Cross References**

Commission definition, see 21 N.N.C. § 503(E).

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

### **§ 505. Powers and duties**

A. In accordance with the commission's plan of operation, the commission shall have the power to perform any and all acts necessary and convenient to supervise, monitor, and regulate telecommunication and those persons providing telecommunications service within the Navajo Nation as specifically designated in this Chapter or in any rule, regulation, decision, order or other official pronouncement adopted hereunder, in the exercise of such power and jurisdiction.

B. The commission shall have the following specific powers:

1. To promulgate such rules and regulations as appropriate for the accomplishment of its purpose and authority, duties and responsibilities pursuant to this Act, and to enforce such rules and regulations;

2. To act upon and regulate any and all telecommunications activity within the Navajo Nation, including but not limited to telephone, television, telegraph, radio, cable television, satellite dishes, two-way radio, and other telecommunication services employing wire, radiowave, lightwave, electricity or any other electromagnetic system;

3. To establish methods, procedures, conditions and fees for obtaining permits and approved tariff schedules for telecommunications services within the Navajo Nation;

4. To establish procedures and requirements for hearings and investigations pertinent to the functions and powers of the commission; to receive, consider and hear complaints concerning the noncompliance by any person, of any provision of this Act and/or the commission's rules and regulations, decisions, orders or other official pronouncements; to issue and compel by power of subpoena the presence of any person or the production of any document, or any type of evidence deemed relevant to a matter properly before the commission; to issue decisions and orders, opinions or other official pronouncements, on any matter properly raised before the commission, and as may be necessary in the enforcement and implementation of its functions;

5. To establish and impose fines and/or any other civil sanction(s)

deemed appropriate by the commission, for violations of any provision of this Act and/or its rules and regulations, decisions, orders or other official pronouncements; and

6. To establish and collect franchise, filing and other fees from persons at amounts which are appropriate for the matter for which such collection is being made.

#### **History**

CD-56-86, December 10, 1986.

**Note.** Reformatted for purposes of statutory form.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 506. Compliance and enforcement**

A. All persons engaging in telecommunications activities shall comply with the provisions of this Act and all decisions or orders, rules and regulations or other official pronouncements issued pursuant to the Act. Enforcement of this Act shall be by the commission or through the Navajo Nation courts. The exhaustion of administrative remedies doctrine will apply to any third party seeking enforcement of the Act. The commission is authorized to seek judicial enforcement of the Act without first acting administratively if circumstances so require. Members of the public shall have standing to make complaints or inquiries to the commission about any telecommunications activities on the Navajo Nation.

B. Any Indian who violates any of the provisions of this Chapter shall be guilty of an offense and, upon conviction, shall be sentenced to a term of imprisonment of not more than 180 days, or ordered to pay a fine not exceeding five hundred dollars (\$500.00), or both, in accordance with the provisions of Title 17, Navajo Nation Code.

C. Any nonmember of the Navajo Nation who violates any of the provisions of this Chapter may be excluded from land subject to the jurisdiction of the Navajo Nation in accordance with the procedures set forth in 17 N.N.C. §§ 1901-1906, as amended.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 507. Jurisdiction**

The provisions of this Act shall apply within the Navajo Nation, as that term is defined in § 503(M) of this Act.

## History

CD-56-86, December 10, 1986.

## Cross References

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

### § 508. Cooperation with other jurisdictions

A. Intergovernmental Agreements. Where the extent of telecommunications regulatory jurisdiction of the Navajo Nation and the states, and their subdivisions and agencies are not clearly defined or involve potential jurisdictional conflict, including, without limitation, potential jurisdictional conflict arising from the commission's transition to a fully operational telecommunications regulatory body for the Navajo Nation, the commission is authorized as the designated representative of the Navajo Nation to negotiate and develop for approval by the Intergovernmental Relations Committee of the Navajo Nation Council appropriate intergovernmental agreements or joint powers agreements as are necessary to resolve such jurisdictional issues, and is further authorized to represent or intervene on behalf of the Navajo Nation in proceedings before the states and their subdivisions and agencies.

B. Federal Communications Commission (FCC) Coordination. The commission is vested with the authority of acting as the intermediary agency between the Navajo Nation and the FCC and in furtherance thereof to pool information and receive complaints. The Commission may, subject to applicable law, act as the intermediary for applications or complaints, filings, registrations, rulings, approvals and similar acts or matters before the FCC in those areas of telecommunications not specifically addressed in this Act or in the Commission's rules and regulations, provided nothing in this Act will prevent or interfere with the right of the public to communicate directly with the FCC. The Commission is authorized and delegated the responsibility of representing the Navajo Nation in proceedings before the FCC, including, without limitation, intervening on behalf of the Navajo Nation on matters pending before the FCC.

## History

CD-56-86, December 10, 1986.

## Cross References

Intergovernmental agreements and intergovernmental relations, see Intergovernmental Relations Committee authority at 2 N.N.C. § 821 *et seq.*

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

### § 509. General provisions

A. Unlawful Use of Service. It shall be unlawful to obtain, with the intent to defraud, or with the intent to evade lawful charge, telecommunication services without proper payment therefor or the authorization of the subscriber

of such services.

B. Unlawful Discrimination. No telecommunications service provider shall, as to rates or service, make or grant any unreasonable preference or advantage to any person, or subject any person to any unreasonable prejudice or disadvantage based upon race, creed, national origin, sex, age, or religion.

C. Emergency. The commission, upon its determination that an emergency exists, is authorized to take any and all actions necessary to address the emergency notwithstanding any other provision in this Act.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 510. Certificate of convenience and necessity**

A. Restriction. No person shall engage in providing telecommunications services within the Navajo Nation, nor shall exercise any right or privilege under any franchise or permit, without first having obtained from the commission a certificate of convenience and Necessity, unless otherwise authorized in this Act. The commission shall promulgate and issue specific rules and regulations establishing filing and informational requirements for applications for certificates of convenience and necessity.

B. Exemption of certain activities. The commission may by rule or regulation exempt certain telecommunications services from the requirement of a certificate of convenience and necessity.

C. Construction. No person engaged, or intending to engage, in providing telecommunications services within the Navajo Nation shall begin construction of any line, service or system, or any extension beyond the defined boundaries of any existing franchise or certificate of convenience and necessity without first having obtained from the commission a certificate of convenience and necessity for the territory in which such construction or extension will occur, unless otherwise authorized in this Act.

D. Application. Every applicant for a certificate of convenience and necessity shall file with the commission an application disclosing such information required by the commission's rules and regulations, and accompanied by appropriate filing fees. Each applicant shall provide evidence of compliance with the applicable laws of the Navajo Nation, in accordance with the rules and regulations of the commission.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

## § 511. Tariffs

A. Rates; publication. Rates established by a person engaged in providing telecommunication services shall first be approved by the commission for reasonableness and justness before such rates are implemented, in accordance with the commission's rules and regulations. Every person engaged in providing telecommunications services shall print, and make available for public inspection its approved tariffs which include schedules showing the rates and terms of condition of service for the services rendered to the public.

B. Unlawful rates; refunds. The commission will have authority to prescribe rates where it finds the rates in effect to be unlawful. The commission is authorized to compel the return of any rates unlawfully collected by a direct refund or a general credit against future billings.

C. Rules and regulations. All rules and regulations affecting or pertaining to its charges or services to the public adopted by a person engaged in providing telecommunications services shall be approved by the commission for reasonableness or justness before such rule or regulation is implemented. Every rule and regulation not found to be reasonable or just by the commission is prohibited and unlawful.

D. Rate and tariff changes; application; notice; filing.

1. No changes or adjustments to any existing, filed and approved tariff including, without limitation, any change in rates, territory served, rules, regulations or contracts, shall be made by any person engaged in providing telecommunications services except upon a showing before, and a finding by the commission, that a change or adjustment is reasonable and justified. Application for changes to the filed and approved tariff shall be made in writing to the commission along with a filing fee, in accordance with the commission's rules and regulations. A notice plainly stating the proposed change or changes and the existence of such application for a new proposed tariff shall be made available for public inspection and will be given to all subscribers.

2. Requests for change in rates shall be heard and acted upon by the Commission pursuant to § 516 of this Act and the commission's rules and regulations. The Commission will render a final decision on a request for a change in rates within 180 days from the date of filing, or the rate that is filed will thereafter become effective at the beginning of the next billing period following, the expiration of the 180-day period and will remain in effect until the Commission makes its decision on the requested rate change. The 180-day period specified in this § 511(D)(2) will not begin to run for any pending request for a change until the effective date of this Code.

3. The commission may for good cause shown, or upon agreement with the person requesting tariff changes, modify, deny, suspend or delay the implementation of any proposed tariff changes.



4. Nothing within this Section shall prohibit any person providing telecommunications service from offering discounts or promotions or establishing rates at a level below that established by the commission on a non-discriminatory basis, provided at least 15 days prior to offering such discounts or promotions such discount or promotion will be filed with the commission in accordance with its rules and regulations.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 512. Requirements for accounting, annual statement, and audits**

A. Accounting Systems. The commission may adopt rules and regulations establishing an accounting system to be kept by any person(s) engaged in providing telecommunications services, and prescribe the manner in which accounts shall be kept. It may prescribe the forms of accounts, records and memoranda to be kept, including records covering receipts and expenditures of money, and other records necessary to carry out the provisions of this Act. Special rules may be established for different classes of those providing telecommunications services, such as those persons additionally engaged in providing interstate communications services.

B. Certified Annual Financial Statement. Every person engaged in providing telecommunications services shall file a current annual financial statement to the commission certified by a certified public accountant and in accordance with the rules and regulations of the commission, every year on or before the first day of May or as may otherwise be approved by the commission.

C. Audits. If any person engaged in providing telecommunications services fails to comply with any provision of this Section or upon the discretion of the commission if there is good cause, the commission or its designated representative is authorized to conduct or cause to be conducted an audit of the financial records and management of such person. Expenses incurred for such an audit shall be borne by the person.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 513. Quality of service; complaint**

A. Rules and Regulations for Quality Service. The commission may adopt, promulgate, and enforce rules and regulations to insure that the quality of telecommunications services are adequate, efficient, just and reasonable. All persons providing telecommunications services within the Navajo Nation shall

take all reasonable actions to ensure that the quality of service provided is equivalent or superior to similar service available in areas outside of the Navajo Nation. The scope of this provision may include, but shall not be limited to, continuity of service, service availability, the extent of service, service interruptions, billing and collection procedures, quality of equipment, termination of service, deposits, and resolution of complaints.

B. Telecommunications connections; joint rates. When the commission finds that a physical connection can reasonably be made between the lines of two or more telecommunications service providers to form a continuous line of communication, and that public convenience and necessity will be served thereby, or that two or more telecommunications service providers have failed to establish joint rates, tolls, charges for service by or over their lines, and that it is reasonable and just that a connection be established, the commission may require that a connection and joint rates be made in accordance with § 524, provided this § 513(B) will not apply where the purpose of the connection is primarily to secure transmission of local messages or conversations between points within the same town or community.

C. Non-compliance; violations. Complaints alleging non-compliance or violations of rules, regulations, decisions, orders or other official pronouncements adopted by the commission concerning the quality of telecommunications services shall be filed with the commission in accordance with the rules and regulations of the Commission and shall be heard by the commission within 45 days of filing.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 514. Health and safety**

A. Compliance with health and safety codes. The commission may adopt, promulgate, and enforce rules and regulations requiring every person engaged in telecommunications to construct, maintain, and operate its line, system, facilities, equipment, apparatuses and premises in such manner as to promote and safeguard the health, safety and welfare of its employees, customers, and the public; to this end, the commission may prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices, and to require the performance of any other acts which the health, safety or welfare of its employees, customers or the public may demand.

B. Non-compliance; Violations. Complaints alleging non-compliance or violations of the rules and regulations, decisions, orders or other official pronouncements adopted by the commission concerning the health and safety as described herein may be filed with the commission by any aggrieved party in accordance with the commission's rules and regulations.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 515. Rulemaking process; adoption of rules and regulations**

A. Establishment of Rules and Regulations. The commission may promulgate rules and regulations in accordance with this Act, for the purpose of enforcement of this Act. Prior to the adoption by the commission of any rules and regulations being promulgated in accordance with this Act, notice shall be given to the public of such proposed rules or regulations, by a method deemed proper by the commission. Such notice shall include: the nature of the proposed rule or regulation; the meeting date of the commission where it will be reviewed and public comment solicited; the deadline date for submitting written comments; the proposed effective date of proposed rule or regulation implementation, and the location where the proposed rule or regulation will be available for public inspection. The commission shall take no action on any proposed rules or regulations for at least 45 days from the date of the last publication of the commission's notice; the restrictions of § 515(A) will not apply to rules or regulations adopted pursuant to § 509(C).

B. Promulgation of other official pronouncements. The commission may promulgate other official pronouncements governing matters not requiring a formal rule or regulation from time to time.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 516. Tariff adjustments; complaints; notice of hearings; hearings; evidence; decisions; appeal**

A. Tariff Adjustments. Any person providing telecommunications services may apply to the commission for a rate/service adjustment by filing an application in accordance with the commission's then effective rules and regulations.

B. Complaint. A written complaint may be filed by any person with the commission by any person or by the commission itself, in accordance with the commission's rules and regulations. A complaint will detail the alleged act or omission of the person engaged in telecommunications which is asserted to be in violation of the Act or any decision, order, rule or regulation, or other official pronouncements of the commission and will further contain the remedy or relief sought. A complaint may also be filed by any person regarding the justness or reasonableness of any rates. The commission is also authorized to initiate the filing of a complaint.

C. Notice of Hearing. Upon the filing of a complaint, if it is

determined by the commission to establish probable cause, the commission shall serve notice within ten days, upon the person complained of, an order to show cause why the person should not be ordered to cease operations. The notice shall specify the charge, time, date and place of hearing.

D. Procedures for Hearing. The commission shall conduct a full and fair hearing on all matters properly brought before it. All such hearings will be held in accordance with the requirements of the rules and regulations adopted by the commission.

E. Decision and Order. After the conclusion of the hearing, the commission shall make and enter its findings of facts, based upon the evidence presented at the hearing and supported by substantial evidence on the record as a whole. The commission will further issue an order of its determination and decision based upon such findings and make known the effective date of such decision and order. Every order shall be in writing and signed by at least a majority of the commission membership, and should bear the seal of the commission affixed thereto. A certified copy of such order shall be served upon each party to the proceeding or their legal counsel by certified mail.

F. Reconsideration; Appeals. After an order or decision has been made by the commission, any party to the proceeding may apply for reconsideration of any matters determined in said proceeding, in accordance with the commission's rules and regulations. Any party adversely affected by the final decision or order of the commission is entitled to seek judicial review by filing a notice of appeal with the Navajo Nation Supreme Court within 30 days following entry of the order and decision entered following reconsideration. No judicial review shall be allowed unless an application for reconsideration has been filed with and ruled upon by the commission. Review of commission actions in the Supreme Court will be on the record made in the commission and not de novo and will be limited to the determination of whether the decision and order of the commission is supported by substantial evidence, is arbitrary, capricious or an abuse of discretion, is beyond the commission's authority or otherwise contrary to applicable Navajo Nation or federal law. The Supreme Court is empowered, to affirm, reverse or modify a decision and order of the commission, or to remand the matter to the commission for further action and it may stay the effect of the decision and order pending the appeal. The commission will determine by its rules and regulations whether the right of appeal will exist with respect to its adoption of any proposed rule or regulation.

G. Jurisdiction of courts. The courts of the Navajo Nation are vested with jurisdiction:

1. Over any and all persons subject to this Chapter;
2. To hear and determine any challenge to the validity of this Chapter, either generally or as applied to any person, provided that the provisions of this § 516 and § 506 and the regulations which may be adopted pursuant thereto are complied with.

#### **History**

CD-56-86, December 10, 1986.

### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

### **§ 517. Violations and civil penalties**

A. Criminal Penalties. Any person engaged in telecommunications who intentionally violates or fails to comply with the provisions of the Act or decision or order, rule or regulation, or other official pronouncement issued pursuant to the Act is guilty of an offense punishable as provided in § 506.

B. Civil Penalties. Any person engaged in telecommunications who violates any provision of the Act or decision, order, rule or regulation, or other official pronouncement of the commission issued pursuant to that Act may be subject to a civil fine imposed by the commission of not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000) for each violation, provided the commission will have the discretion to suspend, or impose probationary conditions for avoiding, the fine.

C. Agency. In determining the existence of any offense under § 517(A) or grounds for imposing any civil penalty under § 517(B), the act or omission of any officer, agent or employee of a person engaged in telecommunications, within the scope of his or her authority, duties or employment, shall be deemed to be the act or omission of the person engaged in telecommunications.

### **History**

CD-56-86, December 10, 1986.

### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

### **§ 518. Injunctions; show cause orders; contempt**

The commission may apply through the office of the Attorney General of the Navajo Nation to any court of competent jurisdiction for injunctions to prevent continuing violations of any provision of the Act or of any rule, regulation, decision, order or other official pronouncement of the commission issued pursuant to that Act, and for show cause orders to enforce any duly issued subpoena of the commission, and such courts shall have power to grant such injunctions and show cause orders, and to enforce such injunctions and show cause orders by contempt procedure.

### **History**

CD-56-86, December 10, 1986.

### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

### **§ 519. Telephone and telegraph**

A. Certificate of convenience and necessity. For the purposes of this Section, the commission is vested with authority to grant a certificate of convenience and necessity for the provision of telephone services as provided for in § 510. Tariffs shall be established and amended in accordance with §§ 511 and 516. All telephone service providers shall comply with all applicable laws, rules and regulations, decisions and orders governing leases, easements, licenses, certificates, permits or rights-of-way, and tariffs.

B. Regulation of quality of service. The commission may adopt rules and regulations, decisions and orders governing quality of service which may govern not only service transmission quality standards, but also the service itself. The commission shall have the power to issue rules and regulations, decisions and orders governing the establishment of service, temporary service, line connection, provision of service, billing and collection, resolution of customer disputes, termination of service and notice, and telecommunication service for the disabled, handicapped, and the elderly, and like matters.

C. Additions and/or extensions of service. Applications for additions and/or extensions to existing certificates of convenience and necessity shall be addressed in accordance with rules and regulations of the commission.

D. Application of state/tribal intergovernmental agreement or state statutes. The commission in considering tariff rate approvals and adjustments of telephone services may, pursuant to its authority under § 511, employ state statutes pertaining to rate regulation in accordance with intergovernmental agreements citing the necessity for deferring commission authority and jurisdiction to the state in matters of rate regulation.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 520. Protection of customer privacy**

A. Unlisted Number. It shall be the duty of telephone companies providing services within the Navajo Nation not to disclose the number or address of a subscriber holding an unlisted number, except upon permission of said subscriber, or except by request by law enforcement and emergency authorities.

B. Unlawful Use of Telephone.

1. Preventing use of a telephone in an emergency; false emergency request for Telephone. It shall be unlawful for any person willfully to refuse to yield or surrender immediately the use of a party line or of a public telephone to another person for the purpose of permitting such person to report a fire, or summon police or medical aid, or to communicate any other *bona fide* emergency. It is unlawful for any person to ask for or request the use of a party line or public telephone on the false pretext that such an emergency exists.

2. Obscene or harassing telephone calls. It shall be unlawful for any person, with intent to annoy, abuse, threaten, or harass any person at the called number to: make any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent; make a telephone call, whether or not conversation ensues, without disclosing upon request of the person called the identity of the caller; make or cause the telephone of another repeatedly or continuously to ring; make repeated telephone calls, during which no conversation ensues; knowingly permit any telephone under his or her control to be used for any purpose prohibited by this Section.

### **History**

CD-56-86, December 10, 1986.

### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

### **§ 521. Cable television**

#### **A. Franchise**

1. Authority. For purpose of this Section the commission is vested with authority to grant franchises in defined boundaries for provision of cable television services, including pay cable services, premium and basic service, within the Navajo Nation for a maximum period of 15 years. No person shall provide cable television services within the Navajo Nation without having been granted a franchise by the commission. No exclusive franchises shall be granted for the whole or part of the Navajo Nation. The commission is authorized to issue and promulgate rules and regulations for franchise requirements, applications, franchise and other fees, tariff schedules, hearing, granting or denial procedures. The commission is further authorized, subject to restrictions of applicable law, to regulate the rates for provision of cable television services, and any other communication service provided over a cable system to cable subscribers, in accordance with §§ 511 and 516 of this Act.

2. No certificate of convenience and necessity. A person holding a validly issued franchise from the Navajo Nation to provide cable television services is not required also to hold a certificate of convenience and necessity from the Navajo Nation.

B. Revocation of Franchise. Non-compliance with provisions of this Act or any duly adopted rule, regulation, decision, order, or other official pronouncement of the commission, or for other good cause found to exist after a full and fair hearing of the commission shall be cause for revocation or termination of the franchise. Notice of such claim or complaint against the franchisee shall be given at least ten days before hearing with an opportunity for the franchisee to show cause why the franchise should not be revoked or terminated.

C. Obtaining cable television services fraudulently; penalty. No person

shall tamper with, or make connection with, the equipment providing cable television services by mechanical, electrical, acoustical, or other means with intent to avoid payment of the lawful charges for cable television service. In addition to other sanctions provided in the Act, any person violating the provisions of this Section shall be liable to the cable television operator for reasonable damages plus reasonable attorneys' fees and costs.

D. Satellite Dish. Any person, using a satellite dish for retransmission of cable television signals for hire, monetary consideration or reimbursement shall be subject to the provisions of this Act except for those systems expressly preempted by applicable federal law as non-regulated.

E. Obscenity-indecency; penalties. It is unlawful for any person providing cable television services within the Navajo Nation to broadcast or in any way produce, transmit, process or distribute by video programming, obscene or indecent material. This Section of § 521(E) will not become effective until the commission has issued and promulgated rules and regulations defining "obscene" and "indecent".

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 522. Other television delivery systems**

A. Purpose. Pursuant to regulatory guidance of the FCC, the commission may issue, promulgate and enforce rules and regulations governing multi-point distribution systems, multi-channel-multi-point distribution systems, satellite main antenna systems, direct broadcast systems, two-way television systems, and any other television programming delivery systems involving the use of microwave, fiber optic, and other video technology, video storage devices, and electromagnetic spectrum frequencies, as those technologies evolve into commercial or private use on the Navajo Nation.

B. Commercial delivery systems. Any person providing television programming delivery services for the purpose of generating revenues from subscribers must adhere to the rules and regulations, decisions, orders, or other official pronouncements of the Commission.

C. Non-profit delivery systems. Any person providing television programming delivery services in a non-profit capacity, or as a public service, must also adhere to the rules and regulations, decisions, orders, or other official pronouncements of the commission.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**



Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

**§ 523. Regulation of telemarketing and/or television marketing**

The commission may issue, promulgate and enforce rules and regulations governing telemarketing and/or television marketing within the Navajo Nation.

**History**

CD-56-86, December 10, 1986.

**Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

**§ 524. Attachments to poles, ducts and conduits**

A. The commission is authorized to issue and promulgate rules and regulations governing use of public utility facilities.

1. Joint/Pole Use. In order to provide efficient and quality telephone and cable services, the commission may authorize joint use of public utility poles, ducts, and conduits located within the Navajo Nation, owned or controlled by a public utility company. All joint use agreements including the compensation provisions thereof for wire or cable attachments to a pole, duct, or conduit must be approved by the commission. Upon the approval of the joint use agreement for pole attachments, all persons to such agreement shall have the right to use or share in and enjoy the use of the right-of-way easement granted to the pole owner.

2. Disputes. Disputes concerning terms and conditions, including rental rates, of the joint use agreement for attachments shall be resolved by the commission at a full and fair hearing conducted for that purpose pursuant to § 516 of this Act, and in accordance with the Commission's rules and regulations.

**History**

CD-56-86, December 10, 1986.

**Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

**§ 525. Radio and television**

A. The purpose of this Section is to further the development of television reception to areas of the Navajo Nation not presently receiving this service.

B. The Radio Frequency Environment. Subject to applicable federal law, the radio frequency environment as defined by § 503(H) is recognized by the Navajo Nation as a Navajo Nation resource. The commission shall have the

authority to review, develop, and issue policy to ensure that this resource is utilized to the fullest extent possible for the future benefit of the Navajo Nation and its residents subject to applicable federal law.

C. Leases, easements, licenses, permits, rights-of-way. Any person engaged in broadcasting, seeking to install, construct, operate, or maintain any radio or television station, translator station, facility, tower, microwave equipment, or apparatus, prior to such installation, construction, operation, or maintenance shall file with the commission evidence of compliance with applicable laws of the Navajo Nation and the federal government, governing leases, easements, licenses, permits, or rights-of-way.

D. Application of FCC Doctrines. Any person engaged in broadcasting shall be subject to the FCC doctrines and rules, including, but not limited to, "the fairness doctrine", "equal access time", "personal attack" and "political editorializing" as such doctrine may be further defined and clarified by the rules and regulations of the commission.

#### **History**

CD-56-86, December 10, 1986.

**Note.** The paragraphs under this Section have been redesignated with letters for clarity and statutory form.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

#### **§ 526. Radio communications systems**

A. Authorization; Rules and Regulations. For purposes of this § 526, the establishment and operation of maintenance facilities for the Navajo Nation radio systems are authorized. The commission is vested with the authority to issue, promulgate, and enforce rules and regulations for the provision of two-way radio service on the Navajo Nation. Any holder of any class of FCC radio license will adhere to the rules and regulations of the commission pertaining to the certificate of convenience and necessity when two-way radio services are provided by a person to a customer with the intent to generate revenue or profit.

B. Filing of certified copy of license. Any holder of any class of FCC radio license, excluding citizens band radio, shall maintain on file with the commission, a certified copy of that license.

C. Protection of public. It shall be unlawful to use two-way radio communications to transmit messages which abuse or further the fraudulent use of such apparatuses or facilities.

#### **History**

CD-56-86, December 10, 1986.

#### **Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

**§ 527. Severability**

If any provision of this Act or the application of such provision shall be held invalid the remainder of the Act and the application of such provision other than those held invalid shall not be affected thereby.

**History**

CD-56-86, December 10, 1986.

**Revision note.** Slightly reworded for purposes of clarity.

**Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

**§ 528. Prior inconsistent law superseded**

Upon the effective date of this Navajo Telecommunications Regulatory Act, all prior inconsistent enactments, laws, rules, policies, ordinances and regulations of the Navajo Nation and all branches, divisions, departments, offices and political subdivisions thereof, are superseded hereby and/or amended to comply herewith.

**History**

CD-56-86, December 10, 1986.

**Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

**§ 529. Effective date**

The effective date of all provisions of this Navajo Telecommunications Regulatory Act shall be December 10, 1986.

**History**

CD-56-86, December 10, 1986.

**Cross References**

Navajo Telecommunications Regulatory Commission, see 2 N.N.C. § 3451 *et seq.*

**Subchapter 2. [Reserved]**

**§§ 530 to 550. [Reserved]**

**Subchapter 3. Television**

## **§ 551. Development of television reception**

The Navajo Nation Council approves of the further development of television reception to areas of the Navajo Nation not presently receiving this service.

### **History**

CN-70-59.

**Revision note.** § 551 was not repealed by CD-56-86 and is not inconsistent with the Navajo Telecommunications Regulatory Code.

## **Chapter 6. [Reserved]**

**§§ 601 to 617. [Reserved]**

### **History**

Former §§ 601 to 617 were transferred to 5 N.N.C. §§ 1651 to 1655 pursuant to CAP-23-03.

## **Title 22**

### **Water**

#### **Chapter 1. Development and Improvement**

##### **Subchapter 1. Generally**

###### **§ 1. Program; authority to prepare and present**

The President of the Navajo Nation is authorized and directed, with the approval of the Resources Committee, to prepare and present to the Navajo Nation Council a program to increase the supply of available water on Navajo Nation lands and by sanitary measures to make a larger portion of such water safe for domestic use.

### **History**

CF-36-57, February 15, 1957.

CJ-66-53, 1953 Res. p. 276, July 31, 1953.

CJ-23-53, 1953 Res. p. 274, January 23, 1953.

CJ-15-53, 1953 Res. p. 268, January 15, 1953, authorized water development programs and appropriations for such programs.

Shortages of water; control. ACJN-95-66, June 15, 1966.

Sewage treatment facilities at Tuba City. CAP-43-65, April 21, 1965.