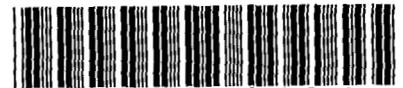


DENNIS R. FRANCISH
Lawyer



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RECEIVED (505) 265-6765 Fax (505) 266-9959

May 21, 2001

Arizona Corporation Commission
ATTN: FILING CLERK, UTILITIES DIVISION
1200 West Washington Street
Phoenix, AZ 85007

2001 MAY 23 P 3: 08

5400 Lomas NE
Albuquerque, NM 87110

AZ CORP COMMISSION
DOCUMENT CONTROL

RE: In the Matter of the Joint Application of Navajo Tribal Utility Authority and Continental Divide Electric Cooperative, Inc.'s Application for permission to transfer its electric transmission and distribution assets in the State of Arizona to the Navajo Tribal Utility Authority
Docket No. E-01824A-00-0504

Dear Utilities Division Clerk:

Enclosed with this letter for filing and distribution to your Utilities Division Staff, are 15 packets containing Continental Divide Electric Cooperative, Inc.'s Exhibits 1 through 16 which are described on the front of the packet. The enclosed Exhibits and Testimony will be offered in evidence at the hearing scheduled for June 4, 2001.

The Written Testimony of Richard Shirley is enclosed. He will be present for cross-examination. Your staff person, Joel Reiker, will also be present. His Testimony is also attached as an Exhibit. The only person who will not be present whose testimony is submitted, is Terry L. Rodriguez from the New Mexico Public Regulation staff. His testimony is submitted as a public document. However, it will not be subject to cross-examination as he will not be present. In the meantime, Exhibit 15 which are detailed maps of the system will be furnished later, they are not yet available but are in the process of being developed. Thank you for filing the Exhibits and distributing them in advance to your staff for their perusal prior to the June 4, 2001 hearing which is scheduled in this case.

Arizona Corporation Commission

DOCKETED

MAY 23 2001

Very truly yours,

Dennis R. Francish
Attorney for Applicant, CDEC
DRF/ym

DOCKETED BY

Encl: As stated

cc: Dick Shirley, CDEC
Louis Denetsosie, Esq. w/enclosures

BEFORE THE ARIZONA CORPORATION COMMISSION Arizona Corporation Commission
DOCKETED

IN THE MATTER of the Joint Application for the Sale of Continental Divide Electric Cooperative, Inc.'s electric transmission and distribution systems in the State of Arizona to the Navajo Tribal Utility Authority.

MAY 23 2001

DOCKETED BY	
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Docket No. E-01824A-00-0504

Continental Divide Electric Cooperative, Inc.
and Navajo Tribal Utility Authority,

Joint Applicants.

**CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.'S AND
NAVAJO TRIBAL UTILITY AUTHORITY'S EXHIBITS IN SUPPORT OF
ITS APPLICATION**

- Exhibit 1 - Definitive Agreement of Purchase and Sale dated April 13, 2000
- Exhibit 1A - 1992 five year franchise
- Exhibit 1B - Legal description of franchise lands updated September, 1992
- Exhibit 1C - Letter exercising option by Navajo President Zah dated December 28, 1994
- Exhibit 1D - Description of facilities to be purchased and transferred
- Exhibit 2 - Purchase Power Agreement
- Exhibit 3 - Continental Divide Board Resolution approving sale
- Exhibit 4 - Financial and statistical report of CDEC dated May 3, 2001
- Exhibit 5 - Affidavit of Mailing public notice of hearing

- Exhibit 6 - Resolution of the management Board of NTUA approving the Definitive Agreement of Purchase and Sale
- Exhibit 7 - By-Laws of CDEC
- Exhibit 8 - Map of Arizona facilities
- Exhibit 8-1 - Map of New Mexico Standing Rock facilities
- Exhibit 9 - Certificate of Comparison and Articles of Incorporation of CDEC
- Exhibit 10 - Larry McGraw, Field Representative's letter of December 8, 2000
- Exhibit 11 - Direct Testimony of Joel M. Reiker
- Exhibit 12 - Rate Comparison from the Testimony of Kenneth Craig
- Exhibit 13 - Kenneth Craig's Testimony on behalf of NTUA
- Exhibit 14 - New Mexico Public Regulation Commission's certified copy of the Direct Testimony of Terry L. Rodriguez
- Exhibit 15 - Reserved for maps of Arizona facilities and accounts which will be transferred from CDEC to NTUA
- Exhibit 16 - Testimony of Dick Shirley

1

DEFINITIVE AGREEMENT OF PURCHASE AND SALE

1. This DEFINITIVE AGREEMENT OF PURCHASE AND SALE, dated as of April 13, 2000, (the "Agreement"), by and between CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC., ("CDEC"), a corporation organized and existing under the laws of the State of New Mexico and a rural electric cooperative, ("Seller"), and the NAVAJO TRIBAL UTILITY AUTHORITY, ("NTUA"), an organization created by and acting upon the authority of the NAVAJO NATION COUNCIL, ("Buyer"), herein collectively referred to as "Parties" and individually as "Party."

2. RECITALS: This Agreement is made with reference to the following facts, among others:

2.1 CDEC is engaged in the transmission and distribution of electric power and energy in the states of New Mexico and Arizona.

2.2 NTUA is engaged in the transmission and distribution of electric power and energy on the Navajo Reservation, which includes the states of New Mexico, Arizona, and Utah.

2.3 CDEC has been operating an electric utility business on certain portions of the Navajo Reservation since at least May 7, 1964. By terms of the 1964 Franchise, the Navajo Nation granted CDEC rights-of-way for a term of 25 years and upon expiration of the Franchise the Navajo Nation had the option to

EXHIBIT 1

purchase CDEC's lines and facilities on the Reservation at such price and terms as shall be negotiated. Additionally, CDEC was granted a transmission easement to serve a portion of its system outside the Reservation.

- 2.4 The Navajo Nation exercised its option to purchase pursuant to the 1964 Franchise, but negotiations for the purchase and sale were not completed prior to the expiration of the Franchise.
- 2.5 CDEC and the Navajo Nation entered into the 1992 Franchise Agreement dated September 24, 1992, attached as Exhibit A which, among other matters, provided for CDEC to continue on an interim basis to provide electric service on the Reservation and install additional facilities and provide electric service on certain additional lands ("New Lands") which were claimed by the Navajo Nation to be a part of the Reservation.
- 2.6 The Navajo Nation notified CDEC by letter dated December 28, 1994, attached as Exhibit B, that it was exercising its option pursuant to the 1992 Agreement to purchase those Additional Facilities constructed on New Lands, and referred to in the 1992 Agreement as "Described Lands", and that NTUA would act as its agent to negotiate and purchase these electrical facilities.
- 2.7 Subject to the obtaining of corporate, regulatory and

lender approvals and agreements, CDEC desires to sell those electrical facilities located on Described Lands as defined in the 1992 Agreement and all remaining facilities in Arizona and certain other facilities located in and around Standing Rock, New Mexico, and as more fully described in Exhibit C. CDEC is also willing to sell to NTUA electrical power and energy.

2.8 NTUA desires to purchase the electrical facilities as described in Exhibit C and to purchase electric power and energy from CDEC for its Arizona operations area currently owned by CDEC.

3. AGREEMENT: The Parties agree as follows:

4. DESCRIPTION OF ELECTRIC FACILITIES TO BE TRANSFERRED:

Seller will assign, transfer, convey and deliver to Buyer, upon the terms and subject to the conditions stated herein, the electric facilities and right-of-way easements described in Exhibit C and within the areas shown on the maps Exhibits D and E. The electric facilities and easements to be transferred, as described in Exhibit C, are hereinafter referred to as the "Electric System." The purchase will include all of CDEC's facilities in the State of Arizona, and approximately 2,400 feet of the 69 kV line in New Mexico to the Lupton Switch, and all of the electrical facilities in the area known as Standing Rock, New Mexico, and the three phase line, operated as single phase, which runs north and parallel to the existing Navajo

Nation Reservation Boundary.

5. PURCHASE PRICE: The purchase price for the Electric System to be sold to Buyer shall be \$2,300,000. If there are any installations or replacements that are in progress but are not complete as of the Closing Date, such costs will be billed to NTUA upon completion of the work and payment will be made after review and acceptance of work. In order to keep this amount to a minimum, CDEC and NTUA will coordinate these activities and attempt to schedule all work to be completed before the Closing Date, or defer such construction until after the Closing Date, if possible.

NTUA will cause to be constructed a distribution line connecting the terminous of CDEC's distribution line in Section 23, Range 13W, Township 19N, thence running in an east-southeast direction for approximately 1.75 miles to CDEC's distribution line which currently terminates in Section 19, Range 13S, Township 19N. NTUA will obtain all necessary permits, easements and rights-of-way necessary to construct the distribution line and transfer such documents along with title to the electric facilities at the time of closing. The line will be constructed in accordance with Rural Utilities Services' (RUS) standards.

6. PURCHASE OF CUSTOMER ACCOUNTS RECEIVABLE: Seller shall furnish Buyer all customer billing information necessary to determine the amount of accounts receivable to be purchased. For the purpose of this Definitive Agreement, all accounts that are over ninety (90) days past due shall

be deemed to be uncollectible and such amounts shall be deducted from the amount paid by Buyer for Seller's electric sales accounts receivable. After the Closing Date, Buyer will be responsible for collecting all accounts receivable purchased and Seller shall be responsible for collecting from all accounts deemed uncollectible. The Parties agree to cooperate to the extent reasonably necessary to correct previous billing errors and make adjustments as necessary.

7. TAXES AND OTHER ASSESSMENTS: Buyer will be responsible for payment of privilege taxes, if applicable, arising as a result of this transaction and Seller shall be responsible for its pro rata share (to the date of closing) of any state and local real and personal property taxes, New Mexico Public Regulation Commission and Arizona Corporation Commission assessments, any city or county franchise taxes, or any other fees, assessments, or taxes due or payable prior to the Closing Date, except for any taxes or fees claimed to be payable to the Navajo Nation which have not been collected through electric rates from the Seller's customers prior to the Closing Date, which tribal taxes and fees shall be the responsibility of Buyer even through arising prior to the Closing Date.
8. CLOSING DATE: The closing of the sale of the Electric System shall take place on the first regular business day of the month following approval of all regulatory authorities, RUS, and the National Rural Utilities

Cooperative Finance Corporation (CFC). The closing shall be at a date, place, and time as is mutually agreeable to the Parties. The date of closing as determined herein shall be referred to as the "Closing Date."

8.1 Conditions of Closing

8.1.1 Wheeling Agreement. Before the Closing Date, CDEC and NTUA will have entered into a (a) purchase power agreement whereby CDEC will sell and NTUA will purchase certain power and energy and (b) a wheeling agreement whereby NTUA agrees to wheel power for CDEC through the system NTUA has purchased to CDEC's distribution facilities in Section 23, Range 13W, Township 19N, to deliver power to CDEC's customers until such time as construction of the distribution line in the area is completed by NTUA. The agreements will contain terms and provisions which are mutually acceptable to the parties.

8.1.2 Certificate from Office of Navajo Tax Commission. At the time of Closing, NTUA will, in lieu of payment for tribal taxes and fees by Buyer pursuant to Sections 7 and 10.1, deliver a certificate from the Office of Navajo Tax Commission that no Navajo Nation taxes are due from or will be assessed against CDEC by virtue of its past operation and ownership of the

Electric System being transferred.

8.1.3 Regulatory and Lender Approval. The Arizona Corporation Commission and New Mexico Public Regulation Commission will have entered final, non-appealable orders authorizing the sale of the Electric System to NTUA and abandoning service in form and substance agreeable to the parties and RUS and CFC will have given their approval and executed and delivered releases of mortgage liens to the assets to be conveyed.

9. DOCUMENTS TO BE DELIVERED BY SELLER: Seller shall deliver the following to Buyer on the Closing Date:

9.1 Deeds, Bills of Sale, and Assignments, if applicable. Seller will provide special warranty deeds, bills of sale, assignments of rights-of-way, releases of mortgages and any encumbrances, and other good and sufficient instruments of transfer, conveyance, and assignment as shall be effective to vest in Buyer title to the Electric System as described in Exhibit C. Title to real property conveyed to Buyer shall be free and clear of all liens and encumbrances except Permitted Encumbrances as set forth in Seller's mortgage created by and during the term of the Seller's ownership. Personal property and fixtures shall only have warranties of title and no other warranties except as consistent with Section 18.8.

9.2 An opinion of counsel for Seller, dated on the

Closing Date, stating that:

- 9.2.1 The execution and delivery of this Agreement by Seller and the consummation of the transactions set forth herein have been duly authorized by the Board of Trustees of Seller and this Agreement has been duly executed and delivered by Seller and constitutes the valid and binding obligation of Seller, enforceable against the Seller, in accordance with their respective terms, provided, however, that enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application relating to or affecting the enforcement of creditors' rights and that the enforcement thereof may be limited by laws with respect to or affecting the remedies provided for in said Agreement or instrument.
- 9.2.2 Necessary regulatory, RUS and CFC approvals have been obtained; and
- 9.2.3. There is no litigation threatened relating to the acquisition of the Electric System which may materially or adversely affect provisions of this Agreement prior to the Closing Date.
- 9.3 The release of the Electric System from any lien with the RUS and CFC has been obtained.
- 9.4 Prior to the Closing Date, Seller shall furnish Buyer with a list of all affected customers served by the

Electric System to be purchased by Buyer. Representatives of Seller and Buyer will meet prior to the Closing Date to establish the level of information available and to effectuate the transfer of information. In the event this Agreement is terminated and Buyer does not obtain ownership of the Electric System, Buyer shall return the customer lists, records, and documents provided by Seller.

9.5 A certificate, dated on the Closing Date, stating that each of the representations and warranties stated in Section 18 hereof are, to the Seller's knowledge, true and correct in all material respects and that Seller has performed and complied in all material respects with all the terms, covenants, agreements, and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date.

10. DOCUMENTS TO BE DELIVERED BY BUYER: On the Closing Date Buyer shall deliver the following to Seller:

10.1 The purchase price for the Electric System of \$2,300,000, plus an amount equal to the sum of all possessory interest tax, business activities tax, and other tribal fees and charges claimed by the Navajo Nation to be due and payable by reason of the Electric System and its use by CDEC to the extent not abated, amortized, or credited, shall be paid by Buyer to Seller by certified or official bank check

or wire transfer, payable in Federal Funds to the order of Seller.

10.2 Buyer agrees to pay, perform, and discharge all liabilities and obligations of Seller with regard to refundable advances, if any, relating to the Electric System purchased by Buyer, exclusive of refundable customer deposits.

10.3 An opinion of counsel for Buyer and the Navajo Nation, dated as of the Closing Date, stating that:

10.3.1 the execution and delivery of this Agreement by Buyer and the consummation of the transactions set forth herein have been duly authorized by the Buyer's Management Board and has been duly executed and delivered by Buyer, enforceable against the Buyer, in accordance with their respective terms, provided, however, that enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application relating to or affecting the enforcement of creditors' rights and that the enforcement thereof may be limited by laws with respect to or affecting the remedies provided for in said Agreement or instrument, and

10.3.2 there is no litigation threatened relating to the acquisition of the Electric System other than that already disclosed prior to the

Closing Date.

10.4 A certificate, dated the Closing Date, from Buyer to the effect that to the best of its knowledge each of the representations and warranties of Buyer contained in Section 19 are true and correct in all material respects and that Buyer has performed and complied in all material respects with all the terms, covenants, agreements, and conditions required by this Agreement to be performed or complied with prior to or at the Closing Date.

11. RISK OF LOSS: In the event that the Electric System is damaged or suffers a casualty prior to the Closing Date, Seller shall use such efforts as it would use if Seller continued to own and operate the Electric System to repair or replace the damaged portion of the Electric System. In the event that such damage cannot be repaired or replaced prior to the Closing Date, the Closing Date shall take place so long as the Seller continues in good faith to repair or replace the damaged facilities. In the event such damage to the Electric System exceeds ten percent (10%) of the purchase price of either system established in Exhibit C, the Buyer shall have the option of terminating this Agreement at any time within ten (10) calendar days of receipt from Seller of notice of such damage and the fact that such damage exceeds ten percent (10%) of the purchase price of either electric system.

12. APPROVAL OF LEGAL MATTERS BY BUYER'S COUNSEL: All legal

matters in connection with the matters herein provided for or the transactions contemplated hereby and all papers and documents in connection therewith shall be reasonably satisfactory in form and substance to counsel for Buyer and there shall have been furnished to such counsel such corporate and other records and information as counsel for Buyer may reasonably have requested for such purpose.

13. APPROVAL OF LEGAL MATTERS BY SELLER'S COUNSEL: All legal matters in connection with the matters herein provided for or the transactions contemplated hereby and all papers and documents in connection therewith shall be reasonably satisfactory in form and substance to counsel for Seller and there shall have been furnished to such counsel such records and information as counsel for Seller may reasonably have requested for such purpose.

14. EXISTING FRANCHISE: After the Closing Date, Buyer shall assume all of Seller's obligations to supply electricity to those customers served by Seller pursuant to the franchise. Buyer shall hold Seller harmless from all claims made by such customers for electric service after the Closing Date.

15. MEMBERSHIP FEES; CUSTOMER DEPOSITS; CAPITAL CREDITS: Buyer shall have no liability for membership fees, customer deposits, or capital credits owing to Seller's customers. Seller's customers who have paid a membership fee shall be entitled to a refund of such fee in accordance with Seller's Rules and Bylaws subject to amounts owed by CDEC. Customers of Seller may, after termination of service by

Seller, become entitled to refund of Capital Credits from Seller, in accordance with the Bylaws and Rules of Seller subject to amounts owed to CDEC. Seller shall make such patronage capital distributions directly to such customers, in accordance with its Bylaws and Rules subject to amounts owed to CDEC. Buyers shall have no responsibilities or rights with regard to such refunds, except as Buyer themselves were customers of Seller.

16. REGULATORY AUTHORITIES: The covenants of the parties pursuant to Sections 4, 5 and 6 are subject to obtaining the consent and authorizations of regulatory authorities and lenders referred to in Section 8.1.3.
17. RESOLUTION OF OTHER CLAIMS: Seller and Buyer acknowledge that this Agreement resolves all outstanding claims and issues between the parties, including without limitation, franchise performance and operation, damages for severance, claims arising out of the sale and attempts to negotiate the sale, and claims arising out of relationships, communications or contacts with third parties in connection with negotiation and fulfillment of the sale.
18. REPRESENTATIONS AND WARRANTIES BY SELLER: Seller represents and warrants to Buyer, subject to the conditions precedent, consents and approvals which are enumerated as follows:
 - 18.1 Required Consents and Approvals. Other than those disclosed or listed in this Agreement, or otherwise contemplated herein, no notice, consent, approval,

proceedings on the part of Seller are necessary to authorize this Agreement and the transactions contemplated herein.

18.3 No Litigation. No litigation, proceeding or controversy is pending against Seller, or to its knowledge threatened, before any court or any governmental agency which would have a material adverse effect upon: (a) any license, grant, assignment, franchise, right-of-way, easement or right reasonably necessary for the operation of the Electric System; or (b) the ability of Seller to perform its obligations under this Agreement. No claim or action is pending, or to the best of Seller's knowledge, threatened against Seller arising out of Seller's ownership or operation of the Electric System.

18.4 Operating Rights. Seller holds, and has at all times held, all licenses, certificates, permits, franchises and rights from appropriate federal, state or other public authorities reasonably necessary to operate the Electric System described in Exhibit C and for the business it conducts and for the services it provides.

18.5 Rights from Private Parties. Seller has not received notice from any private or nongovernmental party that it has violated or has failed to obtain any license, grant, assignment, right-of-way, easement or right

waiver, or other action of any kind is required to be obtained by Seller by virtue of the execution hereof by Seller or in connection with the consummation of any of the transactions contemplated herein. Buyer is aware of the requirement that Seller's members may have to approve the sale by a 2/3 vote. The Parties are also aware that assignment of rights-of-way across tribal trust or allotted Indian lands may require the consent of Navajo Nation, Indian allottees and the United States government.

18.2 Authority Relative to this Agreement. Subject to the enumerated consents and approvals, Seller has the corporate power and authority to enter into this Agreement, to convey the Electric System to Buyer, and to carry out its duties and obligations hereunder and the execution and delivery of this Agreement does not, and the consummation of the transactions contemplated hereby will not, constitute a violation of or default under any provisions of the Articles of Incorporation or Bylaws of Seller or any mortgage, lien, lease, agreement, instrument, order, arbitration award, judgment or decree to which Seller is a party or by which it or its property is bound or affected. The execution and delivery of this Agreement by Seller and the consummation of the transactions contemplated has been duly authorized by Seller's Board of Trustees and no other corporate

reasonably necessary for the business it conducts and the services it provides, nor does Seller have actual notice of any such violation or failure.

18.6 Personal Property. Seller has, and at all times has had, good and marketable title to all personal property of the Electric System. There are no liens and encumbrances, other than the mortgages, with respect to such personal property. With respect to all personal property comprising a part of the Electric System, Seller has not received notice from any party claiming title to any part of all of such personal property or claiming a lien or other interest adverse to Seller in such personal property, nor does Seller have actual notice of any such claim, lien or interest, other than the mortgages.

18.7 No Violations of Law. The participation of Seller in this Agreement does not cause a violation of any federal, state or local law, statute, rule, regulation or ordinance related to or in any way connected with matters contained in this Agreement.

18.8 CONDITION OF PROPERTY. ALL ASSETS ARE SOLD "AS IS" WITHOUT REPRESENTATION AS TO QUALITY, FUNCTIONALITY, AND WORKABILITY. SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OF ANY OF THE ASSETS. CDEC will accept for storage and disposal from NTUA any transformers found to contain PCB's. Seller shall

deliver copies of its inventory and records pertaining to transformers to Buyer. Such records shall disclose information regarding PCB transformers to the extent such information is available.

19. REPRESENTATIONS AND WARRANTIES BY BUYERS: Buyer represents and warrants to Seller, subject to the conditions precedent, consents and approvals which are enumerated as follows:

19.1 Required Consents and Approvals. Other than as set forth herein and by this reference made a part hereof, no notice, consent, approval, waiver, or other action of any kind is required to be obtained by Buyer by virtue of the execution hereof by Buyer or in connection with the consummation of any of the transactions contemplated herein.

19.2 Authority Relative to this Agreement. Buyer has the power and authority to enter into this Agreement and to carry out its duties and obligations hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by the governing body of Buyer, and no other proceedings on the part of Buyer are necessary to authorize this Agreement and the transactions contemplated herein, including formal action from the Navajo Nation. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will

constitute a violation of or default under any of the tribal provisions under which NTUA is organized or by which it is governed or any mortgage, lien, lease, agreement, instrument, order, arbitration award, judgment or decree to which Buyer is a party or by which it or its property is bound or affected.

19.3 No Litigation. No litigation, proceeding or controversy is pending against Buyer, or to its knowledge threatened, before any court or any governmental agency which would have a material adverse effect upon the ability of Buyer to perform its obligations under this Agreement or conduct the operations of the Electric System.

19.4 No Violations of Law. The participation of Buyer in this Agreement does not cause a violation of any federal, state, or local law, statute, rule, regulation, or ordinance related to or in any way connected with matters contained in this Agreement.

20. COVENANTS OF SELLER PENDING THE CLOSING DATE: Pending the Closing, except as otherwise consented to by Buyer, Seller covenants that:

20.1 Maintenance and Improvements. Seller will use its best efforts to maintain the Electric System in the same condition as at the date hereof, reasonable wear from normal usage excepted, and will cause all necessary maintenance and additions, betterments, improvements or extensions to the Electric System

prior to the Closing Date hereof to be made in a reasonable and workmanlike manner in accordance with prudent utility practice.

20.2 Access to Information. Seller will give representatives of Buyer reasonable access in such manner as does not interfere with the normal operation of Seller's electric utility business, during normal business hours and upon reasonable notice, to all of the assets, properties, books, records and agreements of Seller relating to the Electric System. Buyer shall pay Seller, as incurred by Seller and billed to Buyer, the cost of: (a) in-house labor expense plus overhead (b) outside consulting and legal fees, expenses and taxes, provided that Buyer shall not be responsible for more than \$30,000 of outside consulting and legal costs without Buyer's consent. Provided, further, that if Buyer does not consent, then Seller has no obligation to incur additional expenses. Buyer agrees to provide necessary legal representation assisting Seller before the state regulatory commissions.

20.3 Secure Necessary Consents, Etc. Seller will use reasonable efforts to obtain all consents, approvals and agreements required to carry out the transactions contemplated by this Agreement. In the event Seller cannot reasonably obtain a required consent, approval or agreement by a designated Closing Date, despite

good faith efforts to do so, Seller may by notice given in advance of that Closing Date, extend that Closing Date if delay may reasonably be expected to result in obtaining the required consent, approvals or agreements or, if not, terminate this Agreement, in which event neither Party shall have any liability to the other Party. Unless mutually agreed to, there shall be no extension beyond September 24, 2000.

21. COVENANTS OF BUYER PENDING THE CLOSING DATE: Pending the Closing Date, except as otherwise consented to by Seller, Buyer covenants that:

21.0 Furnishing of Information. Buyer shall furnish to Seller all of the information concerning Buyer which may be reasonably required for inclusion in any application to any governmental authority relating to transactions contemplated hereby.

21.1 Secure Necessary Consents, Etc. Buyer shall use its best effort to obtain all consents, approvals, and agreements required to carry out the transactions contemplated by this Agreement. In the event Buyer cannot reasonably obtain a required consent, approval or agreement by a designated Closing Date, despite good faith efforts to do so, Buyer may by notice given in advance of the Closing Date extend the Closing Date if delay may reasonably be expected to result in obtaining the required consent, approvals or agreements or, if not, terminate this Agreement,

in which event neither party shall have any liability to the other Party. Unless mutually agreed upon by the Parties, there shall be no extension beyond September 24, 2000,

22. TERMINATION: This Agreement may be terminated as follows:

22.1 Seller's Right to Terminate. Seller may terminate this Agreement by notice given to Buyer in writing if Seller is entitled to and does elect to terminate in accordance with Section 20.3 or if any final order or decision is rendered after a hearing by a court or agency having jurisdiction that materially impedes or prevents Seller or Buyer from closing the sale of the Electric System.

22.2 Buyer's Right to Terminate. Buyer may terminate its obligations under this Agreement by notice given to Seller in writing if Buyer is entitled to and does elect to terminate in accordance with Section 21.2 or if any order or decision is rendered, after a hearing, by a court or agency having jurisdiction that materially impedes or prevents Seller or Buyer from closing this sale of the Electric System.

23. INDEMNIFICATION:

23.1 Seller will indemnify and hold Buyer harmless from and against any and all loss that may occur as a result of claims, demands, suits, actions, all taxes, legal or administrative proceedings, damages, liabilities, interest or attorney's fees, costs and

expenses, of whatsoever kind or nature, arising from or incurred in connection with or incidental to the operation of the Electric System prior to the Closing Date. Seller's indemnification shall extend to all liability, loss or damage, whether known or unknown, caused by, arising from, or incurred in connection with the operation of the Electric System and/or out of the negligence or other conduct of Seller's officers, employees, or agents, whether or not such negligence or conduct is incidentally or directly related to the operation of the Electric System prior to the Closing Date, except as specifically assumed by Buyer and set forth herein (including but not limited to any claim for past due taxes by the Office of Navajo Tax Commission).

- 23.2 Buyer will indemnify and hold Seller, its trustees, officers, employees, and its agents, harmless from and or against any and all loss that may occur as a result of claims, demands, suits, actions, legal or administrative proceedings, damages, liabilities, interest or attorney's fees, costs and expenses, of whatsoever kind or nature, arising from or incurred in connection with or incidental to the operation of the Electric System on and after the Closing Date. Buyer's indemnification shall extend to all liability, loss or damage, whether known or unknown, caused by, arising from, or incurred in connection

with any of the foregoing and/or out of the negligence or other conduct of Buyer's officers, employees, or agents, whether or not such negligence or conduct is incidentally or directly related to any of the foregoing, except as specifically assumed by Seller and set forth herein. Such indemnification shall apply even if Buyer can claim immunity from suit.

23.3 In case any action shall be brought against an indemnified Party, such indemnified Party shall promptly notify the indemnifying Party in writing, and the indemnifying Party shall assume the defense thereof, including the employment of counsel and payment of all fees and expenses. The indemnified Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such indemnified Party unless (i) the employment of such counsel has been specifically authorized in writing by the indemnifying Party, (ii) the indemnifying Party has failed to assume the defense and employ counsel or (iii) the named Parties to any such action (including any impleaded Parties) include both the indemnified Party and the indemnifying Party and the indemnified Party shall have been advised by such counsel that there may be one or more legal defenses available to

it which are different from or additional to those available to the indemnifying Party (in which case the indemnifying Party shall not have the right to assume the defense of such action on behalf of such indemnified Party). The indemnifying Party shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the indemnifying Party or if there be a final judgment for the plaintiff in any such action, the indemnifying Party agrees to indemnify and hold harmless the indemnified Party from and against any loss or liability by reason of such settlement or judgment.

23.4 Buyer and Seller each agree that, should any potentially indemnifiable event occur, they will first seek to recover from insurance proceeds to the extent possible and then, and only then, seek indemnification under the provisions of this Section. To this end, they each waive any right to indemnification hereunder to the extent that an otherwise indemnifiable loss is recovered from insurance proceeds.

24. SURVIVAL OF REPRESENTATIONS AND WARRANTIES: The representations and warranties of Seller and Buyer made in this Agreement and in the documents delivered pursuant hereto shall survive the execution and delivery of this Agreement and the consummation of the transaction

contemplated hereby.

25. MISCELLANEOUS:

26.1 Expenses; Closing Costs. Buyer shall be responsible for all sales and transfer taxes and recording fees, if any, incurred in connection with the respective sales, assignments, transfers, deliveries and conveyances to it pursuant to this Agreement. Except as identified in Section 20.2 herein, all other expenses incurred by or on behalf of the Parties hereto in connection with the authorization, preparation, execution and consummation of this Agreement, including, without limitation, all fees and expense of agents, representatives, legal counsel, consultants, and accountants employed by the Parties hereto, shall be borne solely by the Party who shall have incurred the same.

25.2 Cooperation. The Parties hereto agree to cooperate in making effective the transactions contemplated hereby, and each of them will, at the request of the other, join in taking any action which, though not specified herein, may be reasonably required to be taken in order to consummate the transactions contemplated hereby.

25.3 Further Assurances. From time to time after the Closing Date, Seller will execute such additional instruments of assignment and conveyance and other documents and take such other actions, other than as

set forth in this Agreement, as may be necessary or appropriate to carry out the intent of this Agreement and to vest title to the Electric System.

- 25.4 Notices. Any and all notices herein provided for or relating to the transactions herein provided for shall be in writing and shall be deemed to have been sufficiently given to Seller if mailed, postage prepaid, by certified or registered mail, addressed:

Continental Divide Electric Cooperative, Inc.
General Manager
Post Office Box 1087
Grants, NM 87020

and to Buyer if mailed, postage prepaid, by certified or registered mail, addressed:

Navajo Tribal Utility Authority
General Manager
Post Office Box 170
Ft. Defiance, AZ 86504

- 25.5 Section Headings. Section and subsection headings in this Agreement are for convenience only and are not to be construed as a part hereof or in any way limiting or amplifying the provisions hereof.
- 25.6 Confidentiality. Prior to the Closing Date, and in the event of termination of this Agreement, Seller and Buyer will each use its best efforts to have all confidential information obtained hereunder kept confidential, to the extent permitted by law.
- 25.7 Entire Agreement; Modification. This Agreement constitutes and contains the entire agreement of the

Parties hereto and includes matters addressed in the Letter of Intent and existing Franchise Agreements and supersedes any and all prior negotiations, correspondence, understandings, and agreements between the Parties respecting the subject matter hereof and may not be modified, altered, or changed in any manner whatsoever except by written agreement between the Parties hereto.

25.8 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

25.9 Successors. This Agreement shall inure to the benefit of and be binding upon the successors of any Party hereto, but no right or liability or obligation arising hereunder may be assigned or transferred by any Party except by operation of law.

25.10 Legal Action. Any legal action brought to enforce the provisions of this Agreement or for any breach thereof shall be instituted and maintained in a New Mexico State or Federal District Court.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the _____ day of _____, 2000.

NAVAJO TRIBAL UTILITY AUTHORITY

By *Ramiro Y. Arce*
General Manager

1A

EXHIBIT A

AGREEMENT

THIS AGREEMENT is entered into this 24th day of ~~August~~ ^{September}, 1992, by and between CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC. ("CDEC"), a New Mexico electric cooperative corporation, and the NAVAJO NATION ("NATION"), an American Indian Tribe recognized by the United States. Hereinafter CDEC and the NATION may be jointly referred to as the "Parties" and singularly as a "Party".

WITNESSETH:

WHEREAS, CDEC acknowledges the power of the Navajo Nation Council and the delegates to enact and promulgate laws, resolutions, ordinances and regulations, including the power to tax, within the Navajo Reservation ("Reservation");

WHEREAS, the NATION granted CDEC a grant of right-of-way and franchise ("1964 Franchise") on May 7, 1964, for a term of 25 years in the areas described therein, which also provided that the NATION had the option upon expiration to purchase CDEC's lines and facilities within the described areas at such price and terms as shall be negotiated at the time of such sale, and that thereupon the NATION will grant CDEC an easement for a transmission line or trunk-feeder across the Reservation in the Lupton-Houch-Sanders area to serve that part of CDEC's system lying west and south of the Reservation ("Transmission Easement");

WHEREAS, the NATION, through its nominee Navajo Tribal Utility Authority ("NTUA") has exercised the option pursuant to the 1964 Franchise but the Parties have not completed negotiations for the purchase price of CDEC's lines and facilities, creating a gap between the expiration of the 1964 Franchise and NTUA's service to the areas included within the 1964 Franchise;

WHEREAS, CDEC has been providing service to other areas which are or may be claimed by the NATION to be part of the Reservation, which lands, together

with those described in the 1964 Franchise, are described in Exhibit "A" hereto, which Exhibit "A" is incorporated herein by reference (sometimes, the "Described Lands");

WHEREAS, the NATION, through NTUA or other nominee of the NATION (whether NTUA or another nominee, still "NTUA"), desires the option to purchase CDEC's lines and facilities upon Described Lands in addition to those lines and facilities already opted to be purchased pursuant to the 1964 Franchise ("Additional Lines and Facilities") but NTUA is not currently ready to act, and the Parties desire that the purchase of all of the lines and facilities be coordinated as to timing and method of determining the purchase prices; and

WHEREAS, CDEC is willing to continue to provide electric service, including new services, during the period prior to NTUA's purchase of CDEC's lines and facilities, thus providing a bridge for the NATION, through NTUA, assuming the role as the provider of electric service, and the NATION is willing to provide a temporary grant of right-of-way and franchise for CDEC's current and future lines and facilities upon the Described Lands (the "System"), all upon the terms and conditions hereinbelow set forth.

NOW, THEREFORE, in consideration of the mutual covenants of the Parties hereto and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. The NATION hereby (a) grants to CDEC, its successors and assigns, the temporary right, privilege and franchise to erect, construct, extend, locate, relocate, repair, maintain and operate the System, including any improvements, replacements, betterments and additions thereto, which System consists of, by way of example and not limitation, poles, lines, cables, wires, insulators, transformers, arms, braces, anchors, and other associated structures and appurtenances installed thereon or therewith, in, under or upon the areas of the Reservation described in Exhibit "A",

as reasonably necessary or convenient for CDEC to provide electric service to such areas, and (b) consents to the grant of the permanent right, privilege and franchise to erect, construct, extend, locate, relocate, repair, maintain and operate electric transmission or trunk-feeder lines and related facilities, including any improvements, replacements, betterments and additions thereto, upon and within the Transmission Easement, subject in the case of new facilities to paragraph 12 below and in the case of existing facilities to paragraph 10 below. Provided, however, that the granting of the Transmission Easement shall be a condition precedent to the consummation of any sale of the System to the Nation, pursuant to either paragraph 2 or pursuant to the 1964 Franchise and paragraph 4.

2. This Agreement shall be deemed effective as of the date of execution or the approval by both CDEC and the NATION, whichever occurs later, and shall be for a term of five (5) years. At the end of the franchise, all rights and privileges granted hereby (other than with respect to the Transmission Easement) shall cease unless this Agreement is renewed or re-issued upon such terms and conditions as are then mutually agreeable to the Parties. The NATION may, at its election exercisable by written notice to CDEC delivered no later than six (6) months prior to the expiration, purchase the Additional Lines and Facilities. If the NATION elects to purchase, the purchase price therefor will be that dollar amount equal to the original cost of the Additional Lines and Facilities to be purchased, less the applicable depreciation reserve, exclusive of capital costs contributed by the NATION for the Additional Lines and Facilities to be purchased, as set forth in the books and records of CDEC maintained in accordance with the requirements of the Rural Electrification Administration (the "REA"). If the Parties are unable to resolve the purchase price and/or reach any implementing or operating agreements necessary to consummate the sale, these matters will be determined pursuant to arbitration. The purchase shall be subject to the approval of the Administrator of the REA and may

be subject to authorization by the Regulatory Authority (defined below) as may be required by law applicable to CDEC and other then applicable requirements of law. Obtaining of CDEC's lenders' approvals will be necessary for the release of liens with respect to the Additional Lines and Facilities to be purchased. If the NATION agrees to pay interest at a rate approved by CDEC and payment of the purchase price plus interest is secured in a manner acceptable to CDEC, the Parties may arrange for possession prior to consummation of the purchase by payment of the purchase price. If the NATION does not elect to purchase the Additional Lines and Facilities, CDEC shall have an option period of one (1) year following expiration to remove the same. The Parties shall reasonably cooperate so that any purchase under paragraph 2 will be coordinated with the consummation of the purchase under paragraph 4.

3. CDEC shall, at the written request of the NATION, enter into negotiations with a view, if mutually acceptable terms and conditions are reached, to furnishing the NATION or its nominee with wholesale power and energy. Any resulting agreement shall be subject to any then required lenders' and/or regulatory approvals and any then applicable requirements of law.

4. The purchase price for the lines and facilities to be acquired by the NATION pursuant to its exercise of the option provided in the 1964 Franchise will be the dollar amount equal to the original cost of such lines and facilities, less the applicable depreciation reserve, exclusive of capital costs contributed by the NATION for such lines and facilities, as set forth in the books and records of CDEC maintained in accordance with REA requirements. If the purchase price and/or necessary implementing or operating agreements cannot be agreed to by the time that this 1992 franchise should expire, these matters will be determined pursuant to arbitration. The purchase will be subject to the same requirements for and the same

opportunity to have possession prior to consummation as provided for the purchase of Additional Lines and Facilities if the option is exercised under paragraph 2 above.

5. While this 1992 franchise is in force, CDEC shall furnish and extend electric service to the extent that it has such power, energy and facilities, or can construct or obtain the same, to consumers on the Described Lands, in accordance with established policies (and CDEC's Rules and Regulations not inconsistent with applicable federal or Navajo Nation law) and pursuant to the applicable schedule(s) on file with the New Mexico Public Service and Arizona Corporation Commissions or their respective successors (the "Regulatory Authority") or if none, as approved by the REA, to the jurisdiction of which Regulatory Authority the NATION does not hereby consent, if such jurisdiction does not already exist by law, it being the NATION's intent to contract merely to have applicable tariffs apply to the electric service.

6. CDEC shall comply with all applicable tribal laws and regulations, both current and hereinafter enacted, which are consistent with paragraph 5 above; provided, however, that nothing herein contained is intended to constitute, nor shall be construed as constituting, a waiver of any right of CDEC to question or contest any such law, resolution, ordinance or regulation in any forum having jurisdiction over the Parties and subject matter. Provided, further, that notwithstanding any other provision of this Agreement and in consideration of the unique circumstance of the coordination between NTUA and CDEC to benefit the NATION and consumers within the Described Lands, CDEC shall be entitled to recover (without Regulatory Authority filing, hearing or approval) from consumers receiving electric service upon the Described Lands the sum of taxes payable under the Possessory Interest Tax and all other taxes, fees or charges (together, the "tribal taxes") heretofore paid or which may during the term of the Agreement be payable by CDEC and levied or assessed by the NATION on the electric service rendered or property owned or used by

CDEC in connection therewith, or on the right or privilege of rendering the service, or on any object or event incidental to the rendition of the service, to the extent that the NATION has not abated the tribal taxes or provided for their use as a credit against tribal taxes otherwise due from CDEC. Tribal taxes already paid and not abated or permitted to be credited during the term of this Agreement shall be amortized and recovered (without obtaining Regulatory filing, hearing or approval) so that approximately equal amounts will be recovered in each of the billing periods during the term of this Agreement. Tribal taxes payable during the term of this Agreement shall, after any credit provided for past tribal taxes, be recovered (without obtaining Regulatory filing, hearing or approval) approximately equal in amounts for each of the billing periods during each of the tax periods involved. In no event shall CDEC be left unreimbursed for any such tribal taxes upon the expiration of this Agreement, and if any tribal taxes have been paid by CDEC but have not been recovered from its consumers on the Described Lands through the above amortization schedule, then the purchase price under paragraphs 2 and/or 4 shall be increased to recover the tribal taxes plus interest at the average rate which CDEC pays, during any period in which reimbursement has not occurred, to its supplemental lender with respect to concurrent loans.

7. Subject to the terms of any applicable right-of-way and to other applicable lawful requirements with respect to rights-of-way and easements, (except that no compensation will be required to be paid to or for the benefit of the NATION for (a) any rights-of-way primarily for service to consumers within the Described Lands or (b) the Transmission Easement), CDEC, its agents and employees, may enter in and upon lands within the NATION at any time for the purpose of making excavations, constructing, extending, removing, repairing and maintaining such System as is necessary and convenient for supplying such electric service. Any and all excavations shall be repaired, and obstructions necessarily

associated with the construction, maintenance and operation of the System will be removed as quickly as is reasonably possible under the circumstances.

8. The facilities associated with the System shall, when originally placed and erected, be established in such a manner so as not to interfere with other uses of Tribal lands or its inhabitants except as may be reasonably necessary, and shall be maintained in compliance with (a) the standards and specifications as established, and as amended, by the REA, and (b) other applicable electrical and safety codes.

9. To the extent that the NATION is not at fault, CDEC, its successors and assigns, shall (a) hold the NATION harmless from any and all damages or claims made against the NATION by any third person or other entity on account, or claimed to be on account, of the construction, maintenance and operation of the system on the Described Lands by CDEC, and (b) defend the NATION against any such damages or claims and pay all costs reasonably incurred by the NATION in defense of the same.

10. In order that the NATION and its nominee may be better apprised of the location of the System as installed prior to the effectiveness of the Agreement and pursuant to the 1964 Franchise, CDEC shall supply to NATION or its nominee two (2) copies of maps depicting the location of its system on the Described Lands. At the written request of the Bureau of Indian Affairs ("BIA"), CDEC shall supply the BIA with an additional copy.

11. On or before each October 15th during the term hereof, CDEC shall furnish the NATION with a statistical report on electric service furnished on Reservation lands within the previous calendar year. The report shall include receipts from reservation services and any other data reasonably requested by the NATION.

12. Except for secondary and individual service facilities, CDEC shall, before installing new facilities forming part of the System upon the Described Lands,

supply the NATION and the BIA for approval such documents and instruments as may be necessary to acquire right-of-way easements for any new construction. Nothing herein shall prevent CDEC from making necessary repairs to the system without such approval and, under exigent conditions, other immediate construction for which Tribal approval would otherwise be required, but the result of such action shall be reported to the NATION, if Tribal approval or consent would have otherwise been required. CDEC shall have no liability whatsoever for any delay or failure of the NATION to grant consent for the right-of-way easement.

13. CDEC shall not use or cause to be used any part of Tribal lands for any unlawful conduct or purpose and will take reasonable measures to prevent unlawful conduct by its agents or contractors.

14. Neither of the Parties shall be deemed to be in default in respect to any obligation hereunder, other than (a) the obligation of CDEC to make payments of tribal taxes and (b) the obligations of the NATION to provide the Transmission Easement and other rights-of-way and to allow CDEC to recover tribal taxes pursuant to paragraph 6, if failure of performance should be due to uncontrollable forces, being any cause beyond the control of the Party affected, including, but not limited to, failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, labor dispute, sabotage, inability to obtain capital funding, inability to obtain rights-of-way or permits, failure to obtain necessary governmental approvals or revocation or suspension of the same and restraint by court or, governmental authority, which by the exercise of due foresight such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it may not be able to overcome.

15. (a) If either of the Parties considers the other in default of this Agreement, it shall give the other written notice thereof, including a description of the alleged default. The Party receiving the notice shall have thirty (30) days to

remedy the alleged default or within which to commence, and thereafter diligently pursue, actions to remedy the alleged default if the alleged default cannot reasonably be remedied within such time period. If the Party alleged to be in default fails to remedy within the prescribed period or, as the case may be, to complete remedial action within a reasonable time, the other Party, if not then in default, may, upon sixty (60) days written notice, elect to cancel this Agreement, subject, however to the payment of any tribal taxes accrued, CDEC's recovery of all tribal taxes as provided in paragraph 6 and the granting of the Transmission Easement; provided, however, that this Agreement may be cancelled only for a material, continuing breach going to the essence and subject to the dispute resolution provisions of this paragraph 15.

(b) Disputes concerning the purchase price under either paragraph 2 or paragraph 4, recovery of tribal taxes pursuant to paragraph 6, cancellation pursuant to subparagraph (a) of this paragraph 15 and, at the option of the NATION or CDEC, any other dispute shall be subject to and be resolved by arbitration in accordance with this subparagraph (b).

(i) Whenever a dispute is to be resolved by arbitration, the initiating Party shall serve a notice of arbitration on the other Party. Such notice shall set forth on behalf of the initiating Party: the nature of the dispute; the relief requested; a statement of its position with respect to the dispute; and the designation of an arbitrator. Within fifty (50) days of the date of receipt of such notice, the other Party shall serve a written answer setting forth on behalf of such Party: its position with respect to the dispute; any relief such other Party requests; and the designation of an arbitrator. Within fifty (50) days of receipt of such answer, the designated arbitrators shall, by jointly signed written notice to the Parties, appoint a neutral and disinterested arbitrator qualified by knowledge and experience in the subject matter which is in dispute. The panel of arbitrators thus appointed shall prescribe by written notice within fifty (50) days of the appointment of the third arbitrator the rules of

procedure by which the arbitration shall be conducted. Such rules shall include the designation of times, places and other details for the submission of requests for discovery, additional written material, evidence, affidavits, the presentation of oral argument and any other procedural matters which the arbitrators determine need to be prescribed; provided, however, that any such prescription shall be only by unanimous agreement of the panel of arbitrators and, provided further, that if the arbitrators fail to agree with respect to any such matters, the Commercial Arbitration Rules of the American Arbitration Association shall apply to matters not agreed upon. Whenever the last day of any period herein contemplated shall occur on a Saturday, Sunday or national holiday or legal holiday for the NATION or the State of New Mexico, the last day shall be the regular working day next following such Saturday, Sunday or holiday. Any communication which must be rendered within a prescribed number of days shall be timely if deposited in the United States mail, certified, with postage prepaid, on or before the last day of the period in question, as evidenced by the postmark, or if personally delivered on or before such last day. Any period of time set forth herein may be extended by mutual consent of the Parties or by unanimous agreement of the panel of arbitrators.

(ii) In the event that the Party served with a notice of arbitration does not render its answer, designating an arbitrator, within fifty (50) days of the date of receipt of the arbitration notice, the single arbitrator chosen by the initiating Party shall constitute the panel of arbitrators. In the event that the arbitrators designated by the Parties do not appoint a neutral arbitrator within fifty (50) days of the date of the other Party's answer, either Party may apply to the American Arbitration Association, or if such Association is no longer in existence or refuses to act, an association performing similar functions, for the appointment of an arbitrator who is neutral and disinterested and qualified by knowledge and experience in the subject matter which is in dispute, who shall be the third arbitrator.

All arbitration proceedings shall be conducted according to the Commercial Arbitration Rules of the American Arbitration Association except insofar as the same may vary from any provision of this subparagraph (b) and except insofar as the arbitrators may prescribe rules of procedure pursuant to clause (i) above.

(iii) Copies of all notices and answers shall be furnished to all arbitrators. All arbitration proceedings shall be conducted in the State of New Mexico.

(iv) The award disposing of the dispute shall be rendered within (50) days of the oral hearing or, if subsequent written material is presented, within thirty (30) days of the final submission of written material or evidence on behalf of either Party, unless the arbitration panel unanimously agreed to the contrary in the rules of procedure or otherwise. The award shall be rendered by a majority of the arbitration panel, and it shall be in writing. In the event a majority of the arbitration panel is unable to agree upon an award by the date set forth in this clause (iv), the panel may certify such inability to the Parties which shall then discharge the arbitration panel and recommence the procedures of this subparagraph (b).

(v) In no event shall any arbitrator or arbitration panel have any jurisdiction or authority to amend, modify, cancel or rescind any term or condition of this Agreement. The arbitrators shall be limited to arbitrating the factual disputes presented for arbitration and shall have no authority to rule on any legal issues or to make any findings involving the interpretation, legality or enforceability of any provision of this Agreement.

(vi) Each Party shall bear its own expenses, including expenses of its counsel and arbitrator; all expenses and compensation of the neutral arbitrator shall be shared equally by each Party unless the arbitration panel unanimously directs another division.

(vii) At the request of either Party, the award shall be reviewable by the REA, which shall confirm, vacate or modify or correct the award upon substantially the same procedure and bases as would a court pursuant to the Federal Arbitration Act.

16. Any notice or request required to be given hereunder in writing may be hand delivered to the Office of the Manager, CDEC, or the Office of the President of the Navajo Nation and if not so hand delivered, shall be mailed, postage prepaid, certified mail, to the President, Navajo Nation, Post Office Box 308, Window Rock, Arizona 86515, or to the Manager, Continental Divide Electric Cooperative, Inc., Post Office Box 1087, Grants, New Mexico 87020, or such other addresses that may from time to time be supplied in writing by one of the Parties to the other. A copy of all such documents shall be mailed to the General Manager, NTUA, Post Office Box 170, Fort Defiance, Arizona 86504.

17. The Parties will diligently seek approval of this Agreement and during such efforts, CDEC shall continue, for a reasonable period necessary for approval, to provide electric service, including new electric service, to consumers located within the Described Lands in accordance with established policies. This Agreement is subject to the condition subsequent that it must be approved by the Secretary of the Interior or that Secretary's authorized representative, and, if required, by the REA; if such approval(s) has(ve) not been obtained within six (6) months after it becomes effective, this Agreement, except for the granting of the Transmission Easement and paragraph 4 (and subparagraph 15(b) and the provisions of paragraph 6 with respect to paragraph 4) shall be of no further force and effect.

18. The covenants and agreements hereinabove set forth shall extend to and be binding upon the Parties hereto and their respective successors and assigns, but are not intended to benefit or be enforceable by any third persons.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first written above.

NAVAJO NATION

By Peterson Zah SEP 24 1992
President

CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.

By Marcelino Trujillo
President

NAVAJO NATION)ss

The foregoing Agreement was acknowledged before me this 24th day of September, 1992, by Peterson Zah, President of the Navajo Nation, a recognized American Indian Tribe, on behalf of the Navajo Nation.

Lesley P. Morris
Notary Public

My Commission Expires:

My Commission Expires March 24, 1996

STATE OF NEW MEXICO)
COUNTY OF Cibola)ss

The foregoing Agreement was acknowledged before me this 13th day of August, 1992, by Marcelino Trujillo President of Continental Divide Electric Cooperative, Inc., a New Mexico corporation, on behalf of the corporation.

Fred C. Lackey
Notary Public

My Commission Expires:

Sept 11, 1993

1B

EXHIBIT "A"

Franchise Area designated on attached CDEC Key Map
updated September 1992.

Legal description of Franchise Lands as follows:

Lands within the Treaty Reservation Boundary

Lupton-Houck Area:

Beginning at a point on the Arizona-New Mexico State Line, the southeast corner of Section 16, Township 23 North, Range 31 East, Apache County, Arizona; thence running west on section line common to Section 16 and 21, 17 and 20 and 18 and 19 of said township and range to the southwest corner of Section 18; thence south along the range line common to Ranges 30 and 31 East to the township line common to Townships 22 and 23 North; thence west along the township line common to Townships 22 and 23 North, to the southwest corner of Section 35, Township 23 North, Range 29 East; thence north along section line common to Sections 34-35, 27-26, 22-23, 15-14, 10-11, and 3-2 of said township and range to the north township line; thence west along said township line to the northwest corner of the township; thence south along the range line common to Ranges 28 and 29 East to the township line common to Townships 22 and 23 North. Thence west along said township line to the northwest corner of Section 1, Township 22 North, Range 28 East; thence south along the section line common to Sections 2-1, 11-12 and 14-13 to the corner common to Sections 13-14-23 and 24 of said township; thence west along the section line common to Sections 14-23 and 15-22 to the corner common to Sections 15, 16, 21 and 22; thence south along the section line common to Sections 21-22, 28-27 and 33-34 to the south line of said township; thence west along the township line common to Townships 21 and 22 North, Range 28 East, to the Navajo Reservation line; thence south and east along the existing Reservation boundary to the Arizona-New Mexico State Line; thence north along the State line to the point of beginning.

This area encompasses approximately 213 square miles.

North West of Sanders:

Starting at the NW corner of Section 1, Township 22 North, Range 28 East; thence extending in a westerly direction along the township line common to Townships 22 North and 23 North to the range line of Range 27 East and 28 East; thence south along said range line to the SW corner of Section 31, Township 22 North, Range 28 East.

This area encompasses Twenty-four (24) sections.

Standing Rock Area:

Beginning at a point on the east boundary of the Navajo Reservation approximately 15.5 miles north of the southeast corner of said Navajo Reservation and being the protracted closing corner of the southeast corner of Section 12, Township 19 North, Range 14 West, McKinley County, New Mexico; thence running west along the protracted section lines common to Sections 12-13, 11-14, 10-15, 9-16, 8-17 and 7-18 to the range line common to Ranges 14 and 15 West. Thence south along said range line to the south boundary of the Navajo Reservation; thence east along said boundary to the southeast corner of the Reservation; thence north along the east boundary of said Reservation to the point of beginning.

This area contains approximately 63 square miles.

Lands Outside the Treaty Reservation Boundary

New Lands purchased by Office of Navajo and Hopi Relocation:

(see attached legal descriptions provided by the
Office of Navajo and Hopi Relocation)

1C

**THE
NAVAJO
NATION**

P. O. DRAWER 308 • WINDOW ROCK, ARIZONA 86515 • (602) 871-6352-55

EXHIBIT D
RECEIVED

JAN 12 1995

UTILITY RESOURCE
SERVICES

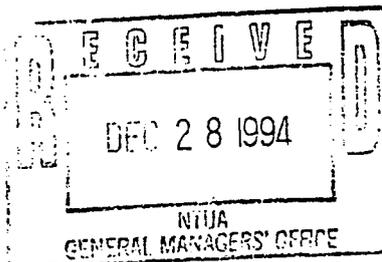
COPY
Case # 10
L. D. ...
Robert ...
C. ...

PETERSON ZAH
PRESIDENT

MARSHALL PLUMMER
VICE PRESIDENT

DEC 28 1994

Fred Lackey, General Manager
Continental Divide Electric Cooperative, Inc.
P. O. Box 1087
Grants, New Mexico 87020



Dear Mr. Lackey:

Pursuant to Paragraph 2, Page 3, of the present Franchise Agreement between the Navajo Nation and Continental Divide Electric Cooperative, Inc. (CDEC), the Navajo Nation gives notice that it is exercising the option to purchase "Additional Lines and Facilities" as described in the Agreement.

"Additional Lines and Facilities" are defined in the Agreement as CDEC's lines and facilities upon "Described Lands". The legal description for the Described Lands are set forth in Exhibit A attached to the Agreement and includes lands within the Navajo Reservation Boundary, at Lupton and Houck, northwest of Sanders, in the Standing Rock area, and the New Lands which were added to the Navajo Reservation for the benefit of relocatees from the Hopi Partitioned Lands. A copy of Exhibit A is enclosed hereto.

It has been contemplated at all times during the negotiations on the Franchise Agreement and when the Agreement was being considered by the Navajo Nation Council that the Navajo Tribal Utility Authority would purchase the Additional Lines and Facilities to be added to their system. Accordingly, I am designating the Navajo Tribal Utility Authority, its Management Board, and its General Manager, Malcolm P. Dalton, to act on behalf of the Navajo Nation in completing the purchase of the lines and facilities.

It is understood between the Navajo Nation and the Navajo Tribal Utility Authority that the Authority will have the sole responsibility on behalf of the Nation for negotiation and purchase of the facilities. It is further understood that Mr. Dalton will make contact with CDEC in the near future to initiate the negotiations.

If there are any questions concerning this matter, please contact Mr. Dalton at (602) 729-6201.

Very truly yours,


Peterson Zah, President
Navajo Nation

EXHIBIT 1-C

1D

EXHIBIT C

DESCRIPTION OF FACILITIES TO BE PURCHASED

Arizona Facilities -

All electric transmission and distribution facilities, including but not limited to, all poles, towers, conductors, wires, and other electrical equipment utilized to provide electric service to customers in the state of Arizona and as shown on the map as Exhibit D, and both inside and outside of CDEC's Certificate of Convenience and Necessity on file with the Arizona Corporation Commission and approximately 2,400 feet of 69 kV line beginning at the point where CDEC's 69 kV line crosses the Arizona - New Mexico state line, Range 21 West, Township 14 North, Section 35, thence running in a Northeasterly direction terminating at the point where CDEC's 69 kV Tap is located, commonly referred to as the Lupton Switch. The area is described as beginning at a point on the Arizona - New Mexico state line, one mile South of the township line common to Township 18 North and Township 19 North, thence West Range 28 East and Range 29 East, thence North, following the range line to a point on the township line common to Township 19 North and Township 20 North, thence West following the township line to a point three (3) miles West of the range line common to Range 26 East, and Range 27 East, thence North following section lines to a 22 North, thence East following the township line to a point one mile West of the range line common to Range 28 East and Range 29 East; thence North following section lines and section lines extended to a point of the township line common to Township 23 North and Township 24 North, thence East along the township line to a point on the range line common to Range 29 East and Range 30 East, thence North following the range line extended to a point on the Navajo Base line, thence East along the Navajo Base line a distance of two (2) miles to a point on the range line common to Range 6 West, Navajo Base line, thence north following the range line to a point on the township line common to Township 1 North and Township 2 North, thence East following the township line to a point on the Arizona - New Mexico state line, thence South following the Arizona - New Mexico state line to the point of beginning. Also, includes all of Township 17 North, Range 29 East, Township 17 North, Range 30 East, Township 17 North, Range 31 East, and Sections 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34 and Township 18 North, Range 31 East all of Apache County, Arizona.

Standing Rock Facilities -

All electric distribution facilities, including but not limited to, all poles, towers, conductors, wires, and other electrical equipment utilized to provide electric service to customers in the Standing Rock Area and the three phase line, operated as single phase, beginning in the Southeast quadrant of Section 31, Township 18 North, Range 13 West and thence North approximately 9.5 miles to Section 8, Township 19 North, Range 13 West, as shown on the map as Exhibit E.

The Acquisition Area, which includes the three phase line mentioned herein, is described as beginning at a point on the Southeast corner of the Navajo Reservation Boundary (Section 36, Township 17 North, Range 14 West), thence East approximately two miles to the section line common to Sections 32 and 33 of Township 17 North, Range 1 West; thence North approximately 4.5 miles to the Southeast corner of Section 5, Township 17 North, Range 13 West; thence West approximately 1 mile the southeast Corner of Section 6, Township 17 North, Range 13 West; thence North approximately 3 miles to the Southeast Corner of Section 1, Township 18 North, Range 13 West; thence East approximately 2 miles to the Southeast corner of Section 21, Township 18 North, Range 13 West; thence North approximately 6 miles to the Southeast Corner of Section 21, Township 19 North, Range 13 West; thence West approximately 2 miles to the Southeast corner of Section 19, Township 19 North, Range 13 West; thence North approximately 4 miles to the Township line common to Township 19 North and Township 20 North; thence West approximately 13 miles to the Range line common to Range 15 West and Range 16 West; thence South approximately 18 miles to the Navajo Reservation Boundary; thence East approximately 12 miles to the point of beginning.

2

PURCHASE POWER AGREEMENT

- 1.0 This Purchase Power Agreement, dated April 13, 2000, ("Agreement") by and between Continental Divide Electric Cooperative, Inc. ("CDEC"), a corporation organized and existing under the laws of the state of New Mexico and a rural electric cooperative and the Navajo Tribal Utility Authority ("NTUA"), an organization created by and acting under the authority of the Navajo Nation, herein collectively referred to as "Parties" and individually as "Party."
- 2.0 RECITALS: This Agreement is made with reference to the following facts, among others.
- 2.1 CDEC is engaged in the transmission and distribution of electric power and energy in the states of New Mexico and Arizona.
- 2.2 NTUA is engaged in the transmission and distribution of electric power and energy on the Navajo Reservation which includes the states of New Mexico, Arizona and Utah.
- 2.3 The Parties have entered into a Definitive Agreement of Purchase and Sale dated April 13, 2000, which includes, among other matters, NTUA purchasing power and energy from CDEC for those CDEC customers that reside in the state of Arizona.
- 2.4 Electric system interconnections will exist which allow CDEC to sell and deliver, and NTUA to purchase

and receive power and energy.

2.5 CDEC desires to minimize the financial impact of selling its electric facilities in Arizona to NTUA and NTUA is willing to support CDEC's desires by purchasing power and energy for a period of time as set forth in this Agreement.

3.0 AGREEMENT: The Parties agree as follows:

4.0 EFFECTIVE DATE AND TERM: This Agreement shall become effective upon the execution by both Parties and subject to:

4.1 Execution of the Definitive Agreement of Purchase and Sale, and

4.2 Acceptance by the New Mexico Public Regulation Commission, if applicable, and

4.3 Written approval by the Rural Utilities Services.

4.4 Subject to Sections 4.1, 4.2, and 4.3 herein, this Agreement shall commence on the Closing Date of the Definitive Agreement of Purchase and Sale and shall continue for a period of three (3) years. This Agreement can be terminated by NTUA by giving CDEC written notice no earlier than 180 days prior to the end of the three (3) year period. The Parties may mutually agree to extend this Agreement.

5.0 POINTS OF DELIVERY AND RECEIPTS OF POWER: CDEC shall deliver capacity and energy to NTUA at the following points of delivery:

5.1 At the point called the Lupton Switch, located in New Mexico approximately 2,400 feet northeast of the Arizona - New Mexico state line on CDEC's 69 kV transmission line. This point is referred to herein as the Lupton point of delivery, and

5.2 At the point where CDEC's 24.9 kV line crosses the Arizona, New Mexico state line, herein referred to as the Barth Lake point of delivery.

6.0 METERING POINTS, BILLING POINTS, AND LOSSES:

6.1 For the purposes of metering and billing CDEC shall install metering at the points identified herein. For the Lupton point of delivery the metering point will be the Houck Substation, and for the Barth Lake point of delivery the metering point will be at the pole structure nearest to the Arizona, New Mexico state line. For the Lupton point of delivery, the capacity (kW) and energy (kWh) readings will be adjusted by two percent (2%) for line losses back to the Lupton point of delivery. There will be no loss correction for the Barth Lake point of delivery. Such meters will be of acceptable type and quality as mutually agreed to by the Parties and shall be installed by CDEC at NTUA's expense. Upon the termination of this Agreement, title to and possession of meters shall revert to NTUA.

7.0 COST OF POWER CHARGES: CDEC will obtain power for delivery to NTUA at the lowest possible cost available to CDEC from its contract supplier plus two (2) mills. CDEC shall provide NTUA with written description of the rate showing a breakdown of all costs for delivering power to NTUA.

8.0 BILLING AND PAYMENT:

8.1 CDEC shall bill NTUA monthly on or before the tenth (10th) day of the month following each month service is rendered and at the rates and in accordance with the provisions of Paragraph 7.0. Invoices shall be mailed to NTUA at the following address:

Navajo Tribal Utility Authority
c/o General Manager
Post Office Box 170
Fort Defiance, AZ 86504

NTUA shall pay CDEC by the fifteenth (15th) day after receipt of an invoice. If the due date falls on a weekend day or bank holiday, then such payment will be due on the following banking day. Payment shall be mailed to:

Continental Divide Electric Cooperative, Inc.
Post Office Box 1087
Grants, NM 87020

Amounts not paid by the due date shall be payable with interest accrued on each calendar day from the due date of payment. The interest rate shall be one percent (1%) per month. In the event any portion of any invoice is disputed, the amount disputed shall be

paid "under protest" when due. If the disputed amount is found to be incorrect, CDEC shall promptly refund to NTUA such amount due plus interest accrued at one percent (1%) per month from the date such disputed amount was paid under protest until refunded by CDEC.

8.2 No payment made pursuant to this Section shall constitute a waiver of any right of NTUA to contest the correctness of any charge or credit by CDEC.

8.3 NTUA shall have the right to audit, at its own expense, all books and records regarding any costs, payments, and other supporting documents pertaining to this Agreement. In the event such an audit discloses errors, omissions, or adjustments, payment will be made as soon as possible after the Party has been notified in writing of such finding and payment shall include interest at the rate specified in Section 8.1.

9.0 UNCONTROLLABLE FORCES: Neither Party shall be considered to be in default in the performance of any of its obligations hereunder, other than the obligations to make payments of amounts due pursuant to this Agreement, when failure of performance shall be due to Uncontrollable Forces. The Party claiming Uncontrollable Forces shall promptly contact the other Party and provide written notice that an Uncontrollable Force has occurred. The term "Uncontrollable Forces" shall mean any event beyond the

control of the Party unable to perform any of its obligations hereunder including, but not limited to, failure of or threat of immediate failure of facilities; flood, earthquake, storm, fire, lightning, and other natural catastrophes; epidemic, war, riot, civil disturbance or disobedience; labor dispute, labor or material shortage; sabotage; restraint by court order or public authority; and action or nonaction by, or failure to obtain the necessary authorizations or approvals from any governmental agency or authority, which by exercise of due diligence, such Party could not reasonably have been expected to avoid and which, by exercise of due diligence is unable to overcome. Nothing contained herein shall be construed as to require either Party to settle any strike or labor dispute in which it may be involved.

10.0 ASSIGNMENT OF AGREEMENT: This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns; provided, however, that this Agreement, except as hereinafter provided, may not be assigned by either Party except with the prior written consent of the other Party, which consent shall not be unreasonably withheld.

11.0 NOTICES: Any notice, demand, or request provided for in this Agreement, or served, given, or made in connection with it, shall be in writing and shall be deemed properly served, given, or made if delivered in person, sent by facsimile transmission (Fax) or sent by United States mail, postage

prepaid, to the persons specified below:

Navajo Tribal Utility Authority
General Manager
Post Office Box 170
Fort Defiance, AZ 86504
Fax #602-729-2135

Continental Divide Electric Cooperative, Inc.
General Manager
Post Office Box 1087
Grants, NM 87020
Fax #505-287-2234

A Party may at any time, by written notice, change the designation or the address of the person so specified.

12.0 NO THIRD PARTY RIGHTS: Unless otherwise specifically provided in this Agreement, the Parties do not intend to create any duty, covenant, obligation or undertaking to or to create any rights in or to grant any remedies to any third party as a beneficiary of this Agreement or of any of the rights and obligations established hereunder.

13.0 WAIVERS: The waiver by either Party of any breach of any term, covenant or condition contained herein shall not be deemed a waiver of any other term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition contained herein.

14.0 LIABILITY AND INDEMNITY:

14.1 Each Party shall indemnify and hold harmless each other Party and the directors, officers, and

employees of each such other Party from liability, loss, damage, claim, costs, and expenses (including attorney fees) on account of injury to persons (including death) or damage or destruction of property arising out of or related to the negligent or other acts of the indemnifying Party or its officers, directors, employees, or contractors in the performance of this Agreement; provided, however, that:

14.1.1 Each Party shall be solely responsible to its own employees for all claims or benefits due for injuries occurring in the course of their employment or arising out of any worker's compensation law. No Party shall seek reimbursement or subrogation from any other Party for any benefits paid to the employees of that Party pursuant to any worker's compensation law except as necessary to prevent double recovery by the employee.

14.1.2 No Party and its directors, officers, and employees shall be liable for any loss of earnings, revenues, indirect or consequential damages, or injury which may be incurred by any other Party as a result of curtailments, interruptions or outages in delivery of electric services under this Agreement by reason of any cause whatsoever, other than

gross negligence or willful misconduct.

14.2 Each Party shall indemnify and hold harmless each other Party and its directors, officers, and employees from any liability, loss, claim, cost (including attorney fees) incurred by the indemnified Party in connection with or arising out of claims made by the indemnifying Party's electric service customers as a result of any failure of a Party to provide electric power or energy contemplated by this Agreement for any reason or any cause whatsoever, other than gross negligence or willful misconduct.

15.0 REPRESENTATIONS AND WARRANTIES:

15.1 CDEC hereby represents, warrants and covenants to NTUA as follows:

15.1.1 CDEC is a New Mexico corporation duly organized, validly existing and in good standing under the laws of the State of New Mexico and has corporate power and authority to execute and deliver this Agreement and perform its obligations hereunder, and to carry on its business as it is now being conducted and as it is contemplated hereunder to be conducted during the term hereof.

15.1.2 The execution, delivery and performance of this Agreement by CDEC has been duly and effectively authorized by all requisite corporate action.

15.2 NTUA hereby represents, warrants and covenants to CDEC as follows:

15.2.1 NTUA is an authority of the Navajo Tribal Council and is duly organized, validly existing and in good standing under the laws of the Navajo Nation, and has the requisite power and authority to execute this Agreement and to perform its obligations hereunder, and to carry on its business as it is now being conducted and as it is contemplated hereunder to be conducted during the term hereof.

15.2.2 Subject to the provisions of Section 2.2, 2.3, and 2.4 herein, the execution, delivery, and performance of this Agreement by the NTUA have been duly and effectively authorized by all requisite action.

15.2.3 NTUA has full power and authority to execute this Agreement and this Agreement has been duly executed and delivered by the NTUA and is the legal, valid and binding obligation of the NTUA, enforceable against it in accordance with its terms.

16.0 ENTIRE AGREEMENT: The complete agreement of the Parties is set forth in this Agreement and supersedes all prior and contemporaneous communications, whether written or oral.

IN WITNESS WHEREOF, the Parties have caused this Agreement
to be executed as of the 13th day of
April, 2000.

NAVAJO TRIBAL UTILITY AUTHORITY

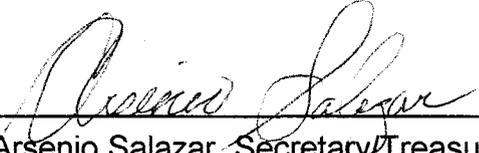
By: *Randall N. Medicine Bear*
Randall N. Medicine Bear
General Manager

CONTINENTAL DIVIDE ELECTRIC
COOPERATIVE, INC.

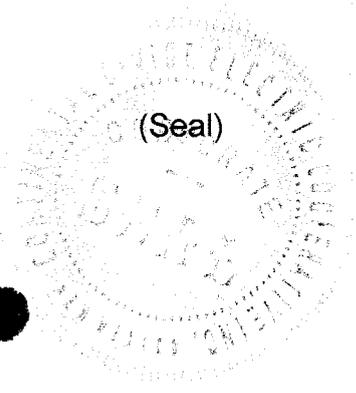
By: *Tom Wood*
President
Board of Trustees

3

Agreement which were approved by the above Resolution of the Board of Trustees of Continental Divide Electric Cooperative, Inc.



Arsenio Salazar, Secretary/Treasurer
Continental Divide Electric Cooperative, Inc.



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Public reporting burden for this collection of information is estimated to average 17 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officers, OIRM, AG Box 7630, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0572-0032), Washington, DC 20503. OMB FORM NO. 0572-0032, Expires 03/31/95.

This data will be used by REA to review your financial situation. Your response is required (7 U.S.C. 901 et seq.) and is not confidential.

USDA-REA FINANCIAL AND STATISTICAL REPORT	BORROWER DESIGNATION NEW MEXICO 22 MCKINLEY	
	BORROWER NAME AND ADDRESS CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC. PO BOX 1087 GRANTS, NEW MEXICO 87020	
INSTRUCTIONS-Submit an original and two copies to REA. Round all amounts to nearest dollar. For detailed instructions, see REA Bulletin 1717B-2	PERIOD ENDED 31-Mar-01	REA USE ONLY

CERTIFICATION

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

ALL INSURANCE REQUIRED BY PART 1788 OF 7 CFR CHAPTER XVII, REA, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.

Harold W. Schindler
SIGNATURE OF OFFICE MANAGER OR ACCOUNTANT

03-May-01
DATE

Richard H. Schindler
SIGNATURE OF MANAGER

03-May-01
DATE

PART A. STATEMENT OF OPERATIONS

ITEM	YEAR-TO-DATE			THIS MONTH (d)
	LAST YEAR (a)	THIS YEAR (b)	BUDGET (c)	
1. Operating Revenue and Patronage Capital.....	7,138,752	6,598,131	7,128,333	2,022,064
2. Power Production Expense.....				
3. Cost of Purchased Power.....	5,542,538	4,647,969	5,134,911	1,377,996
4. Transmission Expense.....	5,666	4,069	5,921	1,496
5. Distribution Expense-Operation.....	383,426	328,687	406,189	102,288
6. Distribution Expense-Maintenance.....	176,432	130,386	208,375	53,677
7. Consumer Accounts Expense.....	222,223	233,035	230,478	74,562
8. Customer Service and Informational Expense.....	6,695	6,347	7,746	1,250
9. Sales Expense.....	0	1,066	0	1,066
10. Administrative and General Expense.....	307,968	365,294	337,333	143,711
11. Total Operation & Maintenance Expense (2 - 10)	6,644,948	5,716,853	6,330,953	1,756,046
12. Depreciation and Amortization Expense.....	332,477	335,032	340,342	110,992
13. Tax Expense - Property and Gross Receipts....	0	0	0	0
14. Tax Expense - Other.....	0	0	0	0
15. Interest on Long-Term Debt.....	166,389	277,109	275,701	72,537
16. Interest Charged to Construction - Credit.....			0	0
17. Interest Expense - Other.....	0	0	0	0
18. Other Deductions.....	1,127	848	7,500	(300)
19. Total Cost of Electric Service (11 - 18).....	7,144,941	6,329,842	6,954,496	1,939,275
20. Patronage Capital & Operating Margins (1 - 19)	(6,189)	268,289	173,837	82,789
21. Non Operating Margins - Interest.....	187,862	219,200	191,620	78,156
22. Allowance for Funds Used During Construction..	0	0	0	0
23. Income (Loss) from Equity Investments.....	0	0	0	0
24. Non-Operating Margins - Other.....	43	36	0	8
25. Generation and Transmission Capital Credits.....	0	0	0	0
26. Other Capital Credits and Patronage Dividends..	0	368	0	368
27. Extraordinary Items.....	0	0	0	0
28. Patronage Capital or Margins (20 - 27).....	181,716	487,893	365,457	161,321

PART B. DATA ON TRANSMISSION AND DISTRIBUTION PLANT

ITEM	YEAR-TO-DATE		ITEM	YEAR-TO-DATE	
	LAST YEAR (a)	THIS YEAR (b)		LAST YEAR (a)	THIS YEAR (b)
1. New Services Connect	0	103	5. Miles Transmiss	110	110
2. Services Retired	0	21	6. Miles Distribution- Overhead	3,770	3,793
3. Total Services in Place	26,895	27,707	7. Miles Distribution- Underground	90	90
4. Total Services (Exclude Seasonal)	3,149	3,735	8. Total Miles Energized (5 + 6 + 7)	3,970	3,993

EXHIBIT 4

ASSETS AND OTHER DEBITS	LIABILITIES AND OTHER CREDITS
1. Total Utility Plant in Service..... 43,563,821	30. Memberships..... 87,460
2. Construction Work in Progress..... 1,353,104	31. Patronage Capital..... 25,043,261
3. Total Utility Plant (1 + 2)..... 44,916,925	32. Operating Margins - Prior Years.....
4. Accum. Provision for Depreciation & Amort..... 20,990,413	33. Operating Margins - Current Year..... 268,657
5. Net Utility Plant (3 - 4)..... 23,926,512	34. Non Operating Margins..... 219,236
6. Non-Utility Property (Net).....	35. Other Margins and Equities.....
7. Investments in Subsidiary Companies.....	36. Total Margins & Equities (30 thru 35)..... 25,618,614
8. Invest in Assoc Org - Patronage Capital..... 34,685	37. Long-Term Debt REA (Net)..... 16,811,703
9. Invest in Assoc Org - Other - General Funds..... 1,110	(Prepayment-Unapplied \$)
10. Invest in Assoc Org - Other - Nongeneral Funds..... 5,977	38. Long-Term Debt-REA-Econ. Devel. (Net).....
11. Investments in Economic Development Projects..... 0	39. Long-Term Debt - Other - REA Guaranteed.....
12. Other Investments..... 0	40. Long-Term Debt - Other (Net)..... 3,535,620
13. Special Funds..... 419,029	41. Total Long-Term Debt (37 thru 40)..... 20,347,323
14. Total Other Property & Investments (6 thru 13)..... 460,801	42. Obligations Under Capital Leases.....
15. Cash - General Funds..... 1,201,109	43. Accumulated Operating Provisions..... 419,029
16. Cash - Construction Funds - Trustee.....	44. Total Other Noncurrent Liabilities (42 + 43)..... 419,029
17. Special Deposits..... 0	45. Notes Payable..... 0
18. Temporary Investments..... 13,718,120	46. Accounts Payable..... 1,592,511
19. Notes Receivable (Net).....	47. Consumers Deposits..... 560,989
20. Accounts Receivable Sales of Energy (Net)..... 1,210,210	48. Other Current and Accrued Liabilities..... 1,508,832
21. Accounts Receivable - Other (Net)..... 343,822	49. Total Current & Accrued Liabilities (45 thru 48)..... 3,662,332
22. Materials and Supplies - Electric and Other..... 645,887	50. Deferred Credits..... 537,389
23. Prepayments..... 170,953	51. Accumulated Deferred Income Taxes.....
24. Other Current and Accrued Assets..... 108,027	52. Total Liabilities & Other Credits
25. Total Current and Accrued Assets (15 thru 24).... 17,398,128	(36 + 41 + 44 + 49 thru 51) 50,584,687
26. Regulatory Assets..... 8,797,239	ESTIMATED CONTRIBUTIONS IN AID OF CONSTRUCTION
27. Other Deferred Debits..... 2,007	53. Balance Beginning of Year..... 11,818,072
28. Accumulated Deferred Income Taxes.....	54. Amounts Received This Year (Net)..... 104,739
29. Total Assets and Other Debits (5+14+25 thru 28) 50,584,687	55. Total Contributions in Aid of Construction..... 11,922,811

PART D. NOTES TO FINANCIAL STATEMENTS

THE SPACE BELOW IS PROVIDED FOR IMPORTANT NOTES REGARDING THE FINANCIAL STATEMENT CONTAINED IN THIS REPORT. REPORT ITEMS CONTAINED IN THE INSTRUCTIONS AND ADDITIONAL MATERIAL ITEMS.
(A SEPARATE SHEET MAY BE USED IF ADDITIONAL SPACE IS NEEDED.)

Estimated Unbilled Revenue Not Recorded on Line 20:	707,722
Deferred Compensation Payable at Market Value:	419,029
Other Long Term Debt--CFC	3,535,620

Related Party: Continental Divide Electric Education Foundation was formed in 1988. The Foundation is funded through unclaimed capital credits and was established to provide scholarships to members or their dependents.

Line 26 Regulatory Assets were incurred of \$9,251,000 as a rate buy down after completion of the Plains and Tri-State G& T merger. RUS and state commission approval was obtained for this handling in 2000.

CONTINENTAL DIVIDE ELECTRIC CO-OP INC.
FOR THE MONTH AND YEAR TO DATE MARCH 31, 2001

CLASS	T.Y. MO.	L.Y. MO.	VARIANCE	INC/DEC	Y.T.D.	L.Y.T.D.	VARIANCE	INC/DEC
RESIDENTIAL	\$880,968.52	\$927,598.41	(\$46,629.89)	-5.0269%	\$2,729,409.62	\$3,047,821.99	(\$318,412.37)	-10.4472%
SMALL COMM.	\$303,562.61	\$389,036.92	(\$85,474.31)	-21.9707%	\$961,857.63	\$1,229,927.22	(\$268,069.59)	-21.7956%
LARGE POWER	\$475,221.81	\$604,514.91	(\$129,293.10)	-21.3879%	\$1,529,102.16	\$1,818,395.32	(\$289,293.16)	-15.9093%
MCKINLEY PAPER	\$274,832.81	\$409,642.07	(\$134,809.26)	-32.9090%	\$1,001,874.40	\$1,223,778.45	(\$221,904.05)	-18.1327%
GIANT	\$23,367.39	\$26,733.43	(\$3,366.04)	-12.5911%	\$111,430.85	\$86,832.44	\$24,598.41	28.3286%
ENRON	\$178,386.90	\$0.00	\$178,386.90	100.0000%	\$491,438.55	\$0.00	\$491,438.55	100.0000%
INTERRUPTIBLES	\$0.00	\$14,685.59	(\$14,685.59)	-100.0000%	\$0.00	\$43,421.04	(\$43,421.04)	-100.0000%
ST. LIGHTS	\$12,126.34	\$13,322.98	(\$1,196.64)	-8.9818%	\$35,331.22	\$36,603.47	(\$1,272.25)	-3.4758%
MISC	\$6,322.81	\$9,704.26	(\$3,381.45)	-34.8450%	\$16,652.52	\$29,314.50	(\$12,661.98)	-43.1936%
SUB-TOTAL	\$2,154,789.19	\$2,395,238.57	(\$240,449.38)	-10.0386%	\$6,877,096.95	\$7,516,094.43	(\$638,997.48)	-8.5017%
PASS-THRU REV	(\$132,725.12)	(\$356,754.88)	\$224,029.76	-62.7966%	(\$278,966.22)	(\$377,342.26)	\$98,376.04	-26.0708%
TOTAL REVENUE	\$2,022,064.07	\$2,038,483.69	(\$16,419.62)	-0.8055%	\$6,598,130.73	\$7,138,752.17	(\$540,621.44)	-7.5731%

KWH SALES

CLASS	T.Y. MO.	L.Y. MO.	VARIANCE	INC/DEC	Y.T.D.	L.Y.T.D.	VARIANCE	INC/DEC
RESIDENTIAL	10,679,251	8,543,826	2,135,425	24.9938%	33,341,214	27,342,415	5,998,799	21.9395%
SMALL COMM.	4,252,750	4,249,443	3,307	0.0778%	13,638,485	13,232,832	405,653	3.0655%
LARGE POWER	7,012,620	6,942,870	69,750	1.0046%	23,221,560	21,246,682	1,974,878	9.2950%
MCKINLEY PAPER	9,916,469	10,367,380	(450,911)	-4.3493%	29,603,650	30,906,387	(1,302,737)	-4.2151%
GIANT	496,577	495,958	619	0.1248%	2,316,650	1,602,109	714,541	44.6000%
ENRON	4,430,942	0	4,430,942	100.0000%	12,927,988	0	12,927,988	100.0000%
INTERRUPTIBLES	0	222,486	(222,486)	-100.0000%	0	649,309	(649,309)	-100.0000%
ST. LIGHTS	101,362	102,022	(660)	-0.6469%	305,454	306,066	(612)	-0.2000%
TOTAL	36,889,971	30,923,985	5,965,986	19.2924%	115,355,001	95,285,800	20,069,201	21.0621%

CONTINENTAL DIVIDE ELECTRIC COOPERATIVE INC.
FOR THE PERIOD ENDED MARCH 31, 2001

02-May-01

MONTHLY COMPARISON

YEAR-TO-DATE COMPARISON

	MONTHLY COMPARISON			IMPROVEMENT (IMPAIRMENT)	PERCENT	YEAR-TO-DATE COMPARISON			IMPROVEMENT (IMPAIRMENT)	PERCENT
	BUDGET	CURRENT YEAR ACTUAL	LAST YEAR ACTUAL			BUDGET	CURRENT YEAR ACTUAL	LAST YEAR ACTUAL		
OPERATING REVENUES	2,373,862	2,022,064	2,038,484	(16,420)	-0.81%	7,128,333	6,598,131	7,138,752	(540,621)	-7.57%
Cost of Power Purchased	1,713,038	1,377,996	1,541,872	163,876	10.63%	5,134,911	4,647,969	5,542,538	894,569	16.14%
Transmission Expense	1,847	1,496	1,767	271	15.34%	5,921	4,069	5,666	1,597	28.19%
Distribution Exp-Operation	137,830	102,288	130,138	27,850	21.40%	406,189	328,687	383,426	54,739	14.28%
Distribution Exp-Maintenance	86,712	53,677	75,321	21,644	28.74%	208,375	130,386	176,432	46,046	26.10%
Consumer Accounting Expense	78,634	74,562	75,804	1,242	1.64%	230,478	233,035	222,223	(10,812)	-4.87%
Consumer Service & Infrn. Exp.	2,161	1,250	1,829	579	31.66%	7,746	6,347	6,695	348	5.20%
Sales Expense	0	1,066	0	(1,066)	0.00%	0	1,066	0	(1,066)	0.00%
Administrative Expense	121,654	143,711	111,469	(32,242)	-28.92%	337,333	365,294	307,968	(57,326)	-18.61%
TOTAL OPER. & MAINT. EXP	2,141,876	1,756,046	1,938,200	182,154	9.40%	6,330,953	5,716,853	6,644,948	928,095	13.97%
Depreciation & Amortization	113,761	110,992	111,144	152	0.14%	340,342	335,032	332,477	(2,555)	-0.77%
Tax Expense-Property	0	0	0	0	0.00%	0	0	0	0	0.00%
Tax Expense-Other	0	0	0	0	0.00%	0	0	0	0	0.00%
Interest on Long Term Debt	96,495	72,537	69,725	(2,812)	-4.03%	275,701	277,109	166,389	(110,720)	-66.54%
Other Deductible	2,500	(300)	199	499	250.75%	7,500	848	1,127	279	24.76%
TOTAL COST OF ELEC. SERV.	2,354,632	1,939,275	2,119,268	179,993	8.49%	6,954,496	6,329,842	7,144,941	815,099	11.41%
PATRONAGE CAP. & OPER. MARG	19,230	82,789	(80,784)	163,573	-202.48%	173,837	268,289	(6,189)	274,478	-4434.93%
Non-Operating Margins-Interest	74,375	78,156	72,916	5,240	7.19%	191,620	219,200	187,862	31,338	16.68%
Non-Operating Margins-Other	0	8	14	(6)	-42.86%	0	36	43	(7)	-16.28%
G & T Capital Credits	0	0	0	0	0.00%	0	0	0	0	0.00%
Other Capital Credits	0	368	0	368	0.00%	0	368	0	368	0.00%
Extraordinary Items	0	0	0	0	0.00%	0	0	0	0	0.00%
PATR. CAP. OR MARGINS	93,605	161,321	(7,854)	169,175	-2154.00%	365,457	487,893	181,716	306,177	168.49%

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ARIZONA TO THE NAVAJO TRIBAL UTILITY
AUTHORITY, DOCKET NO. E-01824A-00-0504

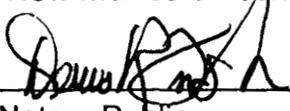
Attached hereto as Exhibit A to the 1,550 consumer accounts of CDEC in the State of Arizona which accounts are shown on Exhibit B, consisting of five pages attached hereto and made a part hereof.

Further Affiant sayeth naught.



Richard Shirley

The foregoing instrument was subscribed, sworn to and acknowledged before me this 10th day of May, 2001 by Richard Shirley, Assistant Manager of Continental Divide Electric Cooperative, Inc., Grants, New Mexico on behalf of said corporation.



Notary Public

My Commission Expires:

July 6, 2004
(Seal)



PUBLIC NOTICE OF THE HEARING OF
CONTINENTAL DIVIDE ELECTRIC
COOPERATIVE, INC. FOR PERMISSION TO
TRANSFER ITS ELECTRIC TRANSMISSION AND
DISTRIBUTION ASSETS IN THE STATE OF
ARIZONA TO THE NAVAJO TRIBAL UTILITY
AUTHORITY

DOCKET NO. E-01824A-00-0504

On July 14, 2000, Continental Divide Electric Co-Op. Inc. (CDEC) filed a joint application for the sale of its electric transmission and distribution systems in the State of Arizona to the Navajo Tribal Utility Authority (NTUA).

The Arizona Corporation Commission will hold a hearing on this matter commencing on June 4, 2001, at 9:00 a.m. at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Public comments will be taken on the first day of the hearing.

The law provides for an open public hearing in this proceeding. Intervention shall be permitted to any person entitled by law to intervene and having a direct and substantial interest in the matter. Persons desiring to intervene must file a written motion to intervene with the Commission, which motion should be sent to the Applicants or their counsel and to all parties of record, and which, at the minimum, shall contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made, if different than the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of Applicants, a shareholder of Applicants, a competitor, etc.).
3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicants or their counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before May 25, 2001. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any customer from appearing at the hearing and making a statement on such customer's own behalf.

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shelly Hood, ADA Coordinator, voice phone number 602/542-3931, E-mail shood@cc.state.az.us Requests should be made as early as possible to allow time to arrange the accommodation.

EXHIBIT A

Table with columns: CN Account#, Service, Left Name, First Name, Address 1, Address 2, City, M St, Zip, Meter #, Bl St, Fl, Rm, Tm, City. Includes entries for 144507900, 144512000, 144513000, etc.

Accounts in Arizona to Be Sold to NTUA (Active Only)

Table with columns: CN Account#, Service, Left Name, First Name, Address 1, Address 2, City, M St, Zip, Meter #, Bl St, Fl, Rm, Tm, City. Includes entries for 144514000, 144515000, 144516000, etc.

Table with columns: CN Account#, Service, Left Name, First Name, Address 1, Address 2, City, M St, Zip, Meter #, Bl St, Fl, Rm, Tm, City. Includes entries for 144517000, 144518000, 144519000, etc.

Page 3

Accounts in Arizona to Be Sold to NTUA (Active Only)

Table with columns: CN Account#, Service, Left Name, First Name, Address 1, Address 2, City, M St, Zip, Meter #, Bl St, Fl, Rm, Tm, City. Includes entries for 144520000, 144521000, 144522000, etc.

EXHIBIT B

Table with columns: CN Account, Service, Last Name, First Name, Address 1, Address 2, City, M:St:Zip, Meter #, S:St:Rate, Tim, City. Contains account data for various individuals like CHOPIN, CHOPIN, CHOPIN, etc.

Table with columns: CN Account, Service, Last Name, First Name, Address 1, Address 2, City, M:St:Zip, Meter #, S:St:Rate, Tim, City. Contains account data for various individuals like LARRO, LARRO, LARRO, etc.

Table with columns: CN Account, Service, Last Name, First Name, Address 1, Address 2, City, M:St:Zip, Meter #, S:St:Rate, Tim, City. Contains account data for various individuals like BERRY, BERRY, BERRY, etc.

Table with columns: CN Account, Service, Last Name, First Name, Address 1, Address 2, City, M:St:Zip, Meter #, S:St:Rate, Tim, City. Contains account data for various individuals like DAVEA, DAVEA, DAVEA, etc.

EXHIBIT B 2

Table with columns: Ctl Account#, Serv Loc, Last Name, First Name, Address 1, Address 2, City, M:31, 2p, Meter #, S:31, Rate, Ten, City. Includes entries for Lee, Waco, Bessie, etc.

Table with columns: Ctl Account#, Serv Loc, Last Name, First Name, Address 1, Address 2, City, M:31, 2p, Meter #, S:31, Rate, Ten, City. Includes entries for Duran, Berman, Curley, etc.

Table with columns: Ctl Account#, Serv Loc, Last Name, First Name, Address 1, Address 2, City, M:31, 2p, Meter #, S:31, Rate, Ten, City. Includes entries for Began, Began, Began, etc.

Table with columns: Ctl Account#, Serv Loc, Last Name, First Name, Address 1, Address 2, City, M:31, 2p, Meter #, S:31, Rate, Ten, City. Includes entries for Began, Began, Began, etc.

EXHIBIT B 3

Ch Account#	Service	Last Name	First Name	Address 1	Address 2	City	St	Zip	Market	St	St	Rate	Term	City
1409 74148900	1714890	1 WHITE	BENSON	PO BOX 1054		SANDBERG	AZ	85112	E348E	AZ	04	RU	AP	
1410 75681102	756811	1 GALE	ISABEL	PO BOX 1055		SANDBERG	AZ	85112	E349E	AZ	04	RU	AP	
1411 42575010	425750	1 DALE	ISABEL	PO BOX 1056		SANDBERG	AZ	85112	E356E	AZ	04	RU	AP	
1412 44465205	444652	1 BOBBE	VANESSA	PO BOX 1057		SANDBERG	AZ	85112	E333E	AZ	04	RU	AP	
1413 77744601	777446	1 JAMES	IRVIN	PO BOX 1058		SANDBERG	AZ	85112	H402D	AZ	04	RU	AP	
1414 43230402	432304	1 TRABETAYE	LEON	PO BOX 1077		SANDBERG	AZ	85112	E319E	AZ	04	RU	AP	
1415 70311402	703114	1 KEISER	TOBE	PO BOX 1078		SANDBERG	AZ	85112	E319E	AZ	04	RU	AP	
1416 71960070	719607	1 LEWIS	TERESA	PO BOX 1080		SANDBERG	AZ	85112	E424E	AZ	04	RU	AP	
1417 71960070	719607	1 JAMES	VERONICA	PO BOX 1080		SANDBERG	AZ	85112	E424E	AZ	04	RU	AP	
1418 46541101	465411	1 NEWCOMB	BANBARA	PO BOX 1081		SANDBERG	AZ	85112	H295E	AZ	04	RU	AP	
1419 44444401	444444	1 MCDONALD	JANET	PO BOX 1082		SANDBERG	AZ	85112	L310E	AZ	04	RU	AP	
1420 70502700	705027	1 LEE	JANET	PO BOX 1112		SANDBERG	AZ	85112	H007E	AZ	04	RU	AP	
1421 76032702	760327	1 SANDERSON	H OF OOO	PO BOX 1120		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1422 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1423 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1424 42955501	429555	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1425 42955501	429555	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1426 72606400	726064	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1427 72606400	726064	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1428 72606400	726064	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1429 72606400	726064	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1430 72606400	726064	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1431 72606400	726064	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1432 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1433 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1434 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1435 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1436 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1437 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1438 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1439 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1440 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1441 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1442 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1443 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1444 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1445 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1446 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1447 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1448 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1449 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1450 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1451 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1452 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	
1453 44450110	444501	1 SANDERSON	H OF OOO	PO BOX 1121		SANDBERG	AZ	85112	L317E	AZ	04	RU	AP	

Ch Account#	Service	Last Name	First Name	Address 1	Address 2	City	St	Zip	Market	St	St	Rate	Term	City
1497 42678100	426781	1 L O S CHURCH	MOSES	8100 SEADOL ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1498 72684000	726840	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1499 72684000	726840	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1500 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1501 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1502 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1503 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1504 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1505 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1506 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1507 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1508 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1509 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1510 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1511 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1512 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1513 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1514 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1515 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1516 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1517 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1518 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1519 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1520 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1521 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1522 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1523 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1524 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1525 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1526 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1527 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1528 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1529 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1530 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1531 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE	NM	87106	E372E	AZ	04	RU	AP	
1532 46518700	465187	1 MCKAY	MOSES	111 ARIZONA ST		ALBUQUERQUE								

6

RESOLUTION
OF THE MANAGEMENT BOARD
OF THE NAVAJO TRIBAL UTILITY AUTHORITY

NTUA-05-00

Approving the Definitive Agreement for Purchase and
Sale and Purchase Power Agreement between the
Utility Authority and Continental Divide Electric
Cooperative, Inc.

WHEREAS:

1. Pursuant to 21 NNC § 7(A)(1), the Management Board of the Navajo Tribal Utility Authority (hereinafter "Authority") is delegated the authority and responsibility for the management and operation of the Authority; and
2. Continental Divide Electric Cooperative, Inc. (CDEC) has been operating as an electric utility business on certain portions of the Navajo Indian Reservation since at least May 7, 1964. By terms of a 1964 Franchise, the Navajo Nation granted CDEC rights-of-way for a term of 25 years and upon expiration of the Franchise, the Navajo Nation had the option to purchase CDEC's lines and facilities on the Reservation at such price and terms as shall be negotiated; and
3. CDEC and the Navajo Nation entered into a further Franchise Agreement dated September 24, 1992, providing for CDEC to continue on an interim basis to provide electric service on the Reservation and install additional facilities and provide electric service on certain additional lands ("New Lands") which were added to the Reservation under the Navajo-Hopi Settlement Act, 25 USC § 640d, et seq.; and
4. The Navajo Nation notified CDEC on December 28, 1994, that it was exercising its option pursuant to the 1964 and 1992 agreements to purchase CDEC's electric system located on the Reservation and on the New Lands, and that NTUA would act as its agent to negotiate and purchase these facilities; and

EXHIBIT 6

5. Subject to the obtaining of corporate, regulatory, and lender approvals, CDEC desires to sell to the Authority all of its facilities located in Arizona and certain other facilities located in and around Standing Rock, New Mexico, as more fully described in Exhibit C attached to the Definitive Agreement for Purchase and Sale (Exhibit A); and
6. CDEC is also willing to sell power and energy to the Authority for the Arizona facilities, as more fully described in the attached Purchase Power Agreement (Exhibit B); and
7. It is in the best interest of the Authority that the Management Board approve the Definitive Agreement for Purchase and Sale and Purchase Power Agreement with CDEC.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Management Board of the Navajo Tribal Utility Authority hereby approves the Definitive Agreement for Purchase and Sale and a Purchase Power Agreement, between the Authority and Continental Divide Electric Cooperative, Inc., copies of which are attached hereto as Exhibits A and B.
2. The Management Board authorizes the two agreements and directs the General Manager to take further actions as are appropriate to obtain lender and regulatory approvals and to close the purchase and sale, and purchase power agreements.

C E R T I F I C A T I O N

This is to certify that a duly called meeting at Dilcon, Arizona, held on the 27th day of April, 2000, at which a quorum was present, the foregoing Resolution was considered and adopted by the Management Board of the Navajo Tribal Utility Authority by a vote of 6 in favor and 0 opposed, and 0 abstaining.


Benjamin Hanley
Assistant Secretary

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It shall be the aim of the CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC. to make electric energy available to its members at the lowest cost consistent with sound economy and good management.

**BY-LAWS OF
CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.
GRANTS, NEW MEXICO**

APRIL 27, 1991

ARTICLE I - MEMBERSHIP

Section 1. REQUIREMENTS FOR MEMBERSHIP. Any person, firm, association, corporation, or body politic or subdivision thereof may become a member in Continental Divide Electric Cooperative, Inc. (hereinafter call the Cooperative) by:

- (a) filing a written application for membership therein;
- (b) agreeing to purchase from the Cooperative as hereinafter specified;
- (c) agreeing to comply with and be bound by the articles of incorporation and by-laws of the Cooperative and any rules and regulations adopted by the board of trustees; and
- (d) paying the membership fee hereinafter specified. No member may hold more than one membership in the Cooperative, and no membership in the Cooperative shall be transferable, except as provided in these by-laws.

Section 2. MEMBERSHIP. Membership in the Cooperative shall be evidenced by a numbered receipt. No receipt shall be issued for less than one membership fee as fixed in these by-laws, nor until such membership fee has been fully paid for in cash.

Section 3. JOINT MEMBERSHIP. The term "member" as used in these by-laws, shall be deemed to include a husband and wife holding a joint membership and any provisions relating to the rights and liabilities of membership shall apply equally with respect to the holders of a joint membership. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions by or in respect of the holders of a joint membership shall be as follows:

- (a) The presence at a meeting of either or both shall be regarded as the presence of one member and shall have the effect of constituting a joint waiver of notice of the meeting;
- (b) The vote of either separately or both jointly shall constitute one joint vote;
- (c) A waiver of notice signed by either or both shall constitute a joint waiver;
- (d) Notice to either shall constitute notice to both;
- (e) Expulsion of either shall terminate the joint membership;
- (f) Withdrawal of either shall terminate the joint membership;
- (g) Either, but not both, may be elected or appointed as an officer or trustee, provided that both meet the qualifications for such office;
- (h) Upon the death of either spouse who is a party to the joint membership, such membership shall be held solely by the survivor, provided however, that the estate of the deceased shall not be released from any debts due the Cooperative.

Section 4. MEMBERSHIP & SERVICE CONNECTIONS FEES. The membership fee shall be five dollars, upon the payment of which a member shall be eligible for one service connection. An additional fee may be charged for each additional service connection.

Section 5. PURCHASE OF ELECTRIC POWER AND ENERGY; POWER PRODUCTION BY MEMBER; APPLICATION OF PAYMENTS TO ALL ACCOUNTS. The Cooperative shall use its best efforts to furnish its members with adequate and dependable electric service, although it cannot and therefore does not guarantee a continuous and uninterrupted supply thereof; and each member, for so long as such premises are owned or directly occupied or used by him, shall purchase from the Cooperative all central station electric power and energy purchased for use on all premises to which electric service has been furnished by the Cooperative pursuant to his membership, unless and except to the extent that the Board of Trustees may in writing waive such requirement, and shall pay therefore at the times, and in accordance with the rules, regulations and rate schedules (including any monthly minimum amount that may be charged without regard to the amount of electric power and energy actually used) established by the Board of Trustees and, if in effect, in accordance with the provisions of any supplemental contract, that may have been entered into. Production or use of electric energy on such premises, regardless of the source thereof, by means of facilities which shall be interconnected with Cooperative facilities, shall be subject to appropriate regulations as shall be fixed from time to time by the Cooperative. Each member shall also pay all other amounts owed by him to the Cooperative as and when they become due and payable. When the member has more than one service connection from the Cooperative, any payment by him for service from the Cooperative shall be deemed to be allocated and credited on a pro-rata basis to his outstanding accounts for all such service connections, notwithstanding that the Cooperative's actual accounting procedures do not reflect such allocation and proration.

EXHIBIT 7

Section 6. TERMINATION OF MEMBERSHIP.

(a) Upon the withdrawal, death, cessation of existence or expulsion of a member, the membership fee shall not be released to the member or his estate... (b) In case of withdrawal or termination of membership in any manner, the Cooperative will repay to the member the amount of the membership fee paid by him provided however, that the Cooperative shall deduct from the amount of the membership fee the amount of any debts or obligations owing from the member to the Cooperative.

ARTICLE II - RIGHTS AND LIABILITIES OF MEMBERS

Section 1. PROPERTY INTEREST OF MEMBERS. In event of dissolution of the Cooperative there shall first be paid all debts and liabilities of the Cooperative and all capital furnished through patronage under Article VII of these by-laws shall next be paid without priority on a pro-rata basis, and the remainder of its property and assets shall be distributed to the members in proportion to the aggregate patronage of each such member during the seven (7) years next preceding the date of the filing of the certificate of dissolution.

Section 2. NON-LIABILITY FOR DEBTS OF THE COOPERATIVE. The private property of the members shall be exempt from execution of other liability for the debts of the Cooperative and no member shall be liable or responsible for any debts or liabilities of the Cooperative.

ARTICLE III - MEETINGS OF MEMBERS

Section 1. ANNUAL MEETING. The annual meeting of the members shall be held either in the month of April or May of each year as set by the Board of Trustees, at such place in the counties of Cibola or McKinley, State of New Mexico, as shall be designated in the notice of the meeting, for the purpose of electing trustees, passing upon reports for the previous fiscal year and transacting such other business as may come before the meeting. It shall be the responsibility of the board of trustees to make adequate plans and preparations of the annual meeting. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

Section 2. SPECIAL MEETINGS. Special meetings of the members may be called by resolution of the board of trustees, or upon a written request signed by any three trustees, by the president or by then per centum or more of all the members, and it shall thereupon by the duty of the secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the members may be held at any place within the County of Cibola or McKinley, State of New Mexico, specified in the notice of the special meeting.

Section 3. NOTICE OF MEMBERS' MEETINGS. Written or printed notice stating the place, day and hours of the meetings and, in case of a special meeting or an annual meeting at which business requiring special notice is to be transacted, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) days nor more than twenty-five (25) days before the date of the meeting, either personally or by mail, by or at the direction of the secretary, or upon default in duty by the secretary, by the persons calling the meeting, to each member. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail, addressed to the member, at his address as it appears on the records of the Cooperative, with postage thereupon prepaid. The failure of any member to receive notice of an annual or special meeting of the members shall not invalidate any action which may be taken by the members at any such meeting.

Section 4. QUORUM. Three percent (3%) of the members present in person shall constitute a quorum at any annual meeting. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice, provided, that the secretary shall notify any absent members of the time and place of such adjourned meeting. For the purpose of the election of trustees in any one district, a quorum of three percent (3%) of the members residing in such district must be present in person.

Section 5. VOTING. Each member shall be entitled to only one vote. Questions shall be decided by a vote of a majority of the members voting thereon in person, except where disposition of property is an issue, (see Article VIII), or removal of trustees is an issue, (see Article IV, Section 5).

Section 6. ORDER OF BUSINESS. The Order of business at the annual meeting of the members and, so far as possible, at all other meetings of the members shall be essentially as follows:

- (a) report as to which members are present in person in order to determine the existence of a quorum;
(b) reading of the notice of the meeting and proof of the due publication or mailing thereof, or the waiver or waivers of notice of the meeting, as the case may be;
(c) reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon;
(d) presentation and consideration of reports of officers, trustees and committees;
(e) election of trustees;
(f) unfinished business;
(g) new business; and
(h) adjournment.

Section 1. GENERAL POWERS. The business and affairs of the Cooperative shall be managed by a board of trustees, one from each of the eight voting districts as defined in Section 7 of Article IV and one of whom shall be a trustee at large. The board of trustees shall exercise all of the powers of the Cooperative except such as are by law, the articles of incorporation, or these by-laws conferred upon or reserved to the members.

Section 2. ELECTION AND TENURE OF OFFICE. At the annual meeting of the members to be held in the year 1974, the members shall elect three trustees, one each from Districts 1, 3 and 4, and said trustees shall serve for a term of three years. In the year 1975, the members shall elect three trustees, one each from Districts 2 and 7, and the trustee at large, and said trustees shall serve for a term of three years. Thereafter, at each annual meeting, the members shall elect three trustees and said trustees shall serve for a term of three years. In the event an election cannot be held due to lack of a quorum, for either the district or the trustee at large, the incumbent trustee shall serve until his successor is elected and qualified. In the event an election cannot be held due to lack of a quorum, for either the trustee at large or the trustee at large, the incumbent trustee shall serve until his successor is elected and qualified. In the event an election cannot be held due to lack of a quorum, for either the trustee at large or the trustee at large, the incumbent trustee shall serve until his successor is elected and qualified. In the event an election cannot be held due to lack of a quorum, for either the trustee at large or the trustee at large, the incumbent trustee shall serve until his successor is elected and qualified.

Section 3. QUALIFICATIONS. No person shall be eligible to become or remain a trustee or to hold any position of trust in the Cooperative who:

- (a) is not a member and bonafide resident in the area served by the Cooperative and of the district which he is to represent. The member at large may be a resident of any of the eight voting districts;
(b) is in any way employed by or financially interested in a competing enterprise or a business selling electric energy or supplies to the Cooperative, or a business primarily engaged in selling electrical or plumbing appliances, fixtures or supplies to the members of the Cooperative.

Upon establishment of the fact that a trustee is holding office in violation of any of the foregoing provisions, the board of trustees shall remove such trustee from office. Nothing contained in this section shall affect in any manner whatsoever the validity of any action taken at any meeting of the board of trustees.

Section 4. NOMINATION AND PROCEDURE FOR ELECTION OF TRUSTEES. It shall be the duty of the board of trustees to appoint not less than sixty (60) days nor more than eighty (80) days before the meeting of the members at which trustees are to be elected, a committee on nominations. The committee selected to make nominations to be acted upon at the annual meeting shall consist of three members, one from each district from which a trustee is to be elected. No member of the board of trustees may serve on such committee. The committee shall meet at the principal office of the Cooperative at least fifty (50) days before the meeting of the members at which the trustees are to be elected and shall nominate one or more candidates from each district from which a trustee is to be elected, and in the year in which the trustee at large is to be elected, the committee shall nominate one or more candidates for trustee at large. The names of the candidates for trustees so nominated shall be posted in a conspicuous place in the principal office of the Cooperative not less than fifty (50) days before such annual meeting.

Any fifteen (15) or more members, residents of any district in which a trustee is to be elected, acting together, may make and file with the secretary of the Cooperative, at the Cooperative's office in Grants, NM; other nominations by petition not less than thirty (30) days prior to the meeting of the members; and the secretary shall post such nominations at the place where the list of nominations made by the committee is posted.

The secretary shall mail with the notice of the meeting, or separately, but at least ten (10) days before the meeting of the members, a statement of the number of trustees to be elected and the names and addresses of the candidates nominated by the committee or by petition, designated by district. The candidate for trustee at large shall be so designated. Such statement shall also designate the candidates nominated by the committee and those nominated by petition.

The members may, at any meeting at which a trustee shall be removed, as provided by these by-laws, elect a successor thereto without compliance with the foregoing requirements with respect to nomination, provided, however, that any such successor must reside in the same district as the trustee in respect of whom the vacancy occurs. Notwithstanding anything herein contained, failure to comply with any of the provisions of this subsection shall not affect in any manner whatsoever the validity of any election of trustees.

Election of trustees shall be printed or mimeographed ballot. The ballots shall list the names of the candidates nominated by the committee and by petition. Separate ballots shall be used for each district in which trustees are to be elected and at the time of registration of the members at the annual meeting members shall be given a ballot containing only the name or names of candidates for trustees to be elected from the district in which such member resides. The names of candidates for trustee at large shall appear on all ballots. The chairman of the annual meeting shall appoint three candidates to conduct the election and canvass the ballots.

(3) Judges to conduct the election and canvass the ballots. Each member of the Cooperative present at the annual meeting shall be entitled to vote or one candidate for trustee at large in the year in which a trustee at large is to be elected. The candidate from each district from which a trustee is to be elected receiving the highest number of votes at such meeting shall be declared elected as trustee. The candidate at large receiving the highest number of votes at such meeting shall be declared elected as trustee. All the votes shall be decided by flipping a coin.

ARTICLE VI - OFFICERS

Section 1. NUMBER. The officers of the Cooperative shall be a president, vice president, secretary, treasurer and such other officers as may be determined by the board of trustees from time to time. The offices of secretary and of treasurer may be held by the same person.

Section 2. ELECTION AND TERM OF OFFICE. The officers shall be elected by ballot, annually by and from the board of trustees at the first regular meeting of the board of trustees held after the annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon as conveniently may be. Each officer shall hold office until the first regular meeting of the board of trustees following the next succeeding annual meeting of the members or until his successor shall have been elected and shall have qualified. A vacancy in any office shall be filled by the board of trustees for the unexpired portion of the term.

Section 3. REMOVAL OF OFFICERS AND AGENTS BY TRUSTEES. Any officer or agent elected or appointed by the board of trustees may be removed by the board of trustees whenever in its judgment the best interests of the Cooperative will be served thereby. In addition, any member of the Cooperative may bring charges against an officer, and by filing with the secretary such charges in writing together with a petition signed by ten per centum (10%) of the members, may request the removal of such officer. The officer against whom such charges have been brought shall be informed in writing of the charges at least ten (10) days prior to the board meeting at which the charges are to be considered and shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence in respect of the charges, and the person or persons bringing the charges against him shall have the same opportunity. In the event the board does not remove such officer, the question of his removal shall be considered and voted upon at the next meeting of the members.

Section 4. PRESIDENT. The president shall:

- (a) be the principal executive officer of the Cooperative and, unless otherwise delinquent by the members of the board of trustees, shall preside at all meetings of the members and the board of trustees;
- (b) sign with the secretary any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the board of trustees to be executed except in cases in which the signing and execution thereof shall be expressly delegated by the board of trustees or by these by-laws to some other officer or agent of the Cooperative, or shall be required by law to be otherwise signed or executed; and
- (c) in general perform all duties incident to the office of president and such other duties as may be prescribed by the board of trustees from time to time.

Section 5. VICE PRESIDENT. In the absence of the president, or in the event of his inability or refusal to act, the vice president shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. The vice president shall also perform such other duties as from time to time may be assigned to him by the board of trustees.

Section 6. SECRETARY. The secretary shall:

- (a) keep the minutes of the meetings of the members and of the board of trustees in one or more books provided or that purpose;
- (b) see that all notices are duly given in accordance with these by-laws or as required by law;
- (c) be custodian of the corporate records and of the seal of the Cooperative and affix the seal of the Cooperative to all documents, the execution of which on behalf of the Cooperative under its seal is duly authorized in accordance with the provisions of these by-laws;
- (d) keep a register of the names and post office addresses of all members;
- (e) have general charge of the books of the Cooperative;
- (f) keep on file, at all times, a complete copy of the articles of incorporation and by-laws of the Cooperative containing all amendments thereto (which copy shall always be open to the inspection of any member) and at the expense of the Cooperative, forward a copy of the by-laws and of all amendments thereto to each member upon request, and
- (g) in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the board of trustees.

Section 7. TREASURER. The treasurer shall:

- (a) have charge and custody of and be responsible for all funds and securities of the Cooperative;
- (b) be responsible for the receipt of and the issuance of receipts for all monies due and payable to the Cooperative and for the deposit of all such moneys in the name of the Cooperative in such bank or banks as shall be selected in accordance with the provisions of these by-laws; and
- (c) in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the board of trustees.

Section 8. MANAGER. The board of trustees may appoint a manager who may be, but who shall not be required to be, a member of the Cooperative. The manager shall perform such duties and shall exercise such authority as the board of trustees may from time to time vest in him.

Section 5. TRUSTEES BY MEMBERS. Any member may bring charges for cause against a trustee and, by filing with the secretary such charges in writing together with a petition signed by at least ten per centum (10%) of the members, may request the removal of such trustee by reason thereof. Such trustee shall be informed in writing of the charges at least ten (10) days prior to the meeting of the members at which time the charges are to be considered and shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence in respect of the charges; and the person or persons bringing the charges against him shall have the same opportunity. The question of the removal of the trustee shall be considered and voted upon at the meeting of the members, by two thirds majority vote of members present and any vacancy created by such removal may be filled by vote of the members at such meeting without compliance with the foregoing provisions with respect to nominations.

Provided, however, that the successor must reside in the same district as the trustee in respect of whom the vacancy occurs.

Section 6. VACANCIES. Subject to the provisions of these by-laws with respect to the filling of vacancies caused by the removal of trustees by the members, a vacancy occurring in the board of trustees shall be filled by the affirmative vote of a majority of the remaining trustees for the unexpired portion of the term.

The member elected as trustee to fill the vacancy must reside in the same district as the trustee to whose office he succeeds.

Section 7. VOTING DISTRICT. The territory served by the Cooperative shall be divided into eight districts, each of which shall be an area having, as nearly as possible, the same number of members and having service problems peculiar to the district. Each district shall be represented by one trustee. There shall be one trustee at large.

The districts shall be described by reference to an official district map of the Cooperative, sub-divided into a grid map bearing numbers, each being ten (10) miles square. The area embraced in the said districts is as follows:

- DISTRICT NO. 1:** The area within the limits of the incorporated City of Grants.
- DISTRICT NO. 2:** All of maps 433, 453 & 454 excepting the parts thereof within the corporate limits of the City of Grants.
- DISTRICT NO. 3:** All of maps 455 to 458 inclusive; 474 to 478 inclusive; 497, 498, 517 and 518.
- DISTRICT NO. 4:** All of maps 333 to 338 inclusive; 353 to 358 inclusive; 373 to 378 inclusive; 394 to 398 inclusive; 414 to 418 inclusive; and 434 to 438 inclusive.
- DISTRICT NO. 5:** All of maps 432, 451, 452; 471 to 473 inclusive; 491 to 496 inclusive.
- DISTRICT NO. 6:** All of maps 427, 428; 447 to 450 inclusive; 467 to 470 inclusive; and 490.
- DISTRICT NO. 7:** All of maps 331, 332; 350 to 352 inclusive; 369 to 372 inclusive; 389 to 393 inclusive; 409 to 413 inclusive; and 429 to 431 inclusive.
- DISTRICT NO. 8:** All of maps 347, 348; 366 to 368 inclusive; 386 to 388 inclusive; 405 to 408 inclusive; 425, 426; 443 to 446 inclusive; and 463 to 466 inclusive.

Not less than sixty (60) days before any meeting of the members at which trustees are to be elected, the board of trustees shall review the composition of the several districts and, if it should be found that inequalities in representation have developed which can be corrected by a redefinition of districts, the board of trustees shall reconstitute the districts so that each shall contain as nearly as possible the same number of members and/or having service problems peculiar to the district.

Section 8. COMPENSATION. Trustees shall not receive any salary for their services, as trustees, except that by resolution of the board of trustees a fixed sum and expenses of attendance may be allowed for attendance of each meeting of the board of trustees, and for attendance at any other meeting or Cooperative function which the board of trustees may request a member to attend.

ARTICLE V - MEETINGS OF TRUSTEES

Section 1. REGULAR MEETINGS. A regular meeting of the board of trustees shall also be held monthly at such time and place in Cibola or McKinley Counties, New Mexico, as the board of trustees may provide by resolution. Such regular monthly meetings may be held without notice other than such resolution fixing the time and place thereof.

Section 2. SPECIAL MEETINGS. Special meetings of the board of trustees may be called by the president or by any three (3) trustees, and it shall thereupon be the duty of the secretary to cause notice of such meeting to be given as hereinafter provided. The president or the trustees calling the meeting shall fix the time and place for the holding of the meeting. Special board meetings may be held any place within or outside the State of New Mexico.

Section 3. NOTICE OF TRUSTEES' MEETINGS. Written notice of the time, place and purpose of any special meeting of the board of trustees shall be delivered to each trustee not less than five (5) days previous thereto, either personally or by mail, by or at the direction of the secretary, or upon a default in duty by the president, by the president or the trustees calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the trustee at his address as it appears on the records of the Cooperative, with postage thereon prepaid.

Section 4. QUORUM. A majority of the board of trustees shall constitute a quorum, provided, that if less than such majority of the trustees is present at said meeting, a majority of the trustees present may adjourn the meeting from time to time; and provided further, that the secretary shall notify any absent trustees of the time and place of such adjournment. The act of the majority of the trustees present at a meeting at which a quorum is present shall be the act of the board of trustees.

Section 9. BONDS AND AGENTS. The treasurer and any other officer or agent of the Cooperative charged with responsibility for the custody of any of its funds or property shall give bond in such sum and with such surety as the board of trustees shall determine. The board of trustees in its discretion may also require any other officer, agent or employee of the Cooperative to give bond in such amount and with such surety as it shall determine.

Section 10. COMPENSATION. The powers, duties and compensation of officers, agents and employees shall be fixed by the board of trustees.

Section 11. REPORTS. The officers of the Cooperative shall submit at each annual meeting of the members reports covering the business of the Cooperative for the previous fiscal year. Such reports shall set forth the condition of the Cooperative at the close of such fiscal year.

ARTICLE VII - DISPOSITION OF REVENUES AND RECEIPTS

Section 1. APPOINTMENT OF REVENUES. The board of trustees shall apportion the revenues of the Cooperative for any fiscal year for the following purposes in the order named:

- (a) to pay or provide for the expenses of operation and maintenance of its facilities during such fiscal year;
- (b) to provide a reasonable reserve for working capital;
- (c) to pay or provide for the payment of interest due in such fiscal year;
- (d) to pay or provide for the payment of principal obligations due in such fiscal year;
- (e) to provide a reserve for the payment of indebtedness of the Cooperative;
- (f) to finance, or to provide, a reserve for the financing of the construction or acquisition by the Cooperative of additional facilities to the extent determined by the board of trustees;
- (g) to provide a fund for education in cooperation for the dissemination of information concerning the effective use of electric energy and other services made available by the Cooperative; and
- (h) to provide a reasonable reserve for contingencies.

Nothing herein contained shall be construed to prohibit the payment by the Cooperative of all or any part of its indebtedness prior to the date when same shall become due.

Section 2. NON-PROFIT OPERATION. The Cooperative shall at all times be operated on a cooperative non-profit basis for the mutual benefit of its patrons. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its patrons.

In the furnishing of electric energy, the Cooperative's operators shall be so conducted that all patrons will, through their patronage, furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a non-profit basis, the Cooperative is obligated to account on a patronage basis to all its patrons for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy. All such amounts in excess of operating costs and expenses at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons as capital. The Cooperative is obligated to pay by credits to a capital account for each patron all such amounts in excess of operating costs and expenses. The books and records of the Cooperative shall be set up and kept in such a manner that at the end of each calendar year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron, and the Cooperative shall, within a reasonable time, publish a notice in the *Enchantment* magazine or a publication of general circulation that any patron may inspect the capital credited to his account any time during business hours at the Cooperative's headquarters in Grants, New Mexico. All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron had then furnished the Cooperative corresponding amounts for capital.

All other amounts received by the Cooperative from its operations in excess of costs and expenses shall insofar as permitted by law, be:

- (a) used to offset any losses incurred during the current or any prior fiscal year, and
 - (b) to the extent not needed for that purpose, allocated to its patrons on a patronage basis and any amount so allocated shall be included as a part of the capital credited to the accounts of patrons, as herein provided.
- If at any time, prior to dissolution or liquidation, the board of trustees shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to patron's account from the Cooperative operations of such capital credits as the Cooperative may receive may be retired in full, or in part, any such retirements of capital shall be made in order of priority according to the year in which the capital was furnished and capital be retired unless, after the proposed retirement, the capital of the Cooperative shall equal at least twenty per centum (20%) of the total assets of the Cooperative.

Capital credited to the account of each person shall be assignable only on the books of the Cooperative pursuant to written instruction from the assignor and only to successors in interest or successors in occupancy in all or in part of such patron's premises served by the Cooperative unless the board of trustees, acting under policies of general application, shall determine otherwise.

Notwithstanding any other provisions of these by-laws, the board of trustees, at its discretion, shall have the power at any time upon the death of any patron, if the legal representatives of his estate shall request in writing that the capital credited to any such patron be retired prior to the time such capital would otherwise be retired under the provisions of these by-laws, to retire capital credited to any such patron immediately upon such terms and conditions, as the board of trustees, acting under policies of general application, and the legal representatives of such patrons' estate shall agree upon; provided however, that the financial condition of the Cooperative will not be impaired thereby.

The patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the articles of incorporation and by-laws shall constitute and be a contract between the Cooperative and each patron, and both the Cooperative and the patrons are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms and provisions. The provisions of this article of the by-laws shall be called to the attention of each patron of the Cooperative by posting in a conspicuous place in the Cooperative's office.

(2a). SPECIAL RIGHT TO ASSIGN. Any member or patron may assign all or any portion of his patronage capital earned or credited or expected to be earned or credited in the future to the Continental Divide Electric Education Foundation, a charitable tax exempt trust, effective as of the date of assignment, subject in all cases to the Cooperative's prior lien for unpaid charges.

(2b). ASSIGNMENT BY FAILURE TO PROVIDE ADDRESS. Notwithstanding any other by-law provision, capital credits and capital credit payments, notice or delivery of which cannot be made for failure of a patron or former patron to claim the same in person, or to furnish an effective mailing address for a period of two years after the Cooperative has mailed the same with sufficient postage to the last known address and to the last address provided to the Cooperative, or after the Cooperative has in good faith attempted to deliver such notice or payment, shall be and constitute an irrevocable gift by the patron to Continental Divide Electric Education Foundation, a charitable tax exempt trust of such credit or payment remaining after the Cooperative's prior claim for charges due has been satisfied.

(2c). CHARITABLE TRUST. It shall be the duty of the Cooperative to take the necessary steps to establish a tax exempt charitable trust and to obtain approval of the Internal Revenue Service of the United States and the Bureau of Revenue of New Mexico and to cause to be named as trustees the officers, from time to time, of the Cooperative, being the President, Vice President, the Secretary and Treasurer, who are to serve as trustees without compensation.

(2d). PRIORITY OF COOPERATIVE'S CLAIM FOR AMOUNTS DUE FROM PATRON. Nothing contained in this article shall be construed to deprive the Cooperative of its first lien against any capital credits to satisfy any unpaid electric bill of the patron; only that portion of a capital credit or payment which is not needed to satisfy an unpaid balance for electric services may be transferred to the Continental Divide Electric Education Foundation under the provisions hereof for the purpose of educational grants to our present active members' immediate families.

(2e). SAVINGS CLAUSE. If any portion of this article shall be held invalid or not effective to accomplish its purpose, the remaining portions of the article shall not be affected thereby and in no event shall this article be construed to adversely affect the exemption of the Cooperative from liability for payment of income taxes on its revenues from the distribution of electricity to its patrons.

Section 3. EFFECTIVE DATE. The benefits accruing members under the capital credits plan of operation under this article shall be retroactive and effective as of the first calendar year in which the records of the Cooperative show that its members and consumers for said year paid for electric service a sum in excess of the operating costs and expenses properly chargeable against the furnishing of such service.

ARTICLE VIII - DISPOSITION OF PROPERTY

The Cooperative may not sell, mortgage, lease or otherwise dispose of or encumber all or any substantial portion of its property unless such sale, mortgage, lease or other disposition or encumbrance is authorized at a meeting of the members thereof by the affirmative vote of not less than two-thirds of all of the members of the Cooperative and unless the notice of such proposed sale, mortgage, lease or other disposition or encumbrance shall have been contained in the notice of the meeting; provided, however, that notwithstanding anything herein contained, the board of trustees of the Cooperative, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust upon, or the pledging or encumbering of any or all of the property, assets, rights, privileges, licenses, franchises and permits of the Cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the board of trustees shall determine, to secure any indebtedness of the Cooperative to the United States of America, or any instrumentality or agency thereof or the Cooperative Utilities Finance Corporation and any other lending agency.

ARTICLE IX – SEAL

The corporate seal of the Cooperative shall be in the form of a circle and shall have inscribed thereon the name of the Cooperative and the words "Corporate Seal, State of New Mexico."

ARTICLE X – FINANCIAL TRANSACTIONS

Section 1. CONTRACTS. Except as otherwise provided in these by-laws, the board of trustees may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

Section 2. CHECKS, DRAFTS, ETC. All checks, drafts or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the Cooperative shall be signed by such officer or officers, agent or agents, employee or employees of the Cooperative and in such manner as shall from time to time be determined by resolution of the board of trustees.

Section 3. DEPOSITS. All funds of the Cooperative shall be deposited from time to time to the credit of the Cooperative in such bank or banks as the board of trustees may select.

Section 4. CHANGE IN RATES. Written notice shall be given to the Administrator of the Rural Electrification Administration of the United States of America not less than ninety (90) days prior to the date upon which any proposed change in the rates charged by the Cooperative for electric energy becomes effective.

Section 5. FISCAL YEAR. The fiscal year of the Cooperative shall be the calendar year beginning January 1 of each year and ending on the 31st day of December of the same year.

ARTICLE XI – MISCELLANEOUS

Section 1. MEMBERSHIP IN OTHER ORGANIZATIONS. The Cooperative shall not become a member of or purchase stock in any other organization without an affirmative vote of the members at a duly held meeting, the notice of which shall specify that action is to be taken upon such proposed membership or stock purchase, provided, however, that the Cooperative may upon the authorization of the board of trustees, purchase stock in or become a member of any corporation organized on a non-profit basis for the purpose of engaging in or furthering the cause of rural electrification, or with the approval of the Administrator of REA, of any other corporation for the purpose of acquiring electric facilities.

Section 2. WAIVER OF NOTICES. Any member or trustee may waive, in writing, any notice of a meeting required to be given by these by-laws. The attendance of a member or trustee at any meeting shall constitute a waiver of notice of such meeting by such member or trustee, except in case a member or trustee shall attend a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting has not been lawfully called or convened.

Section 3. RULES AND REGULATIONS. The board of trustees shall have power to make and adopt rules and regulations, not inconsistent with law, the articles of incorporation or these by-laws, as it may deem advisable for the management of the business and affairs of the Cooperative.

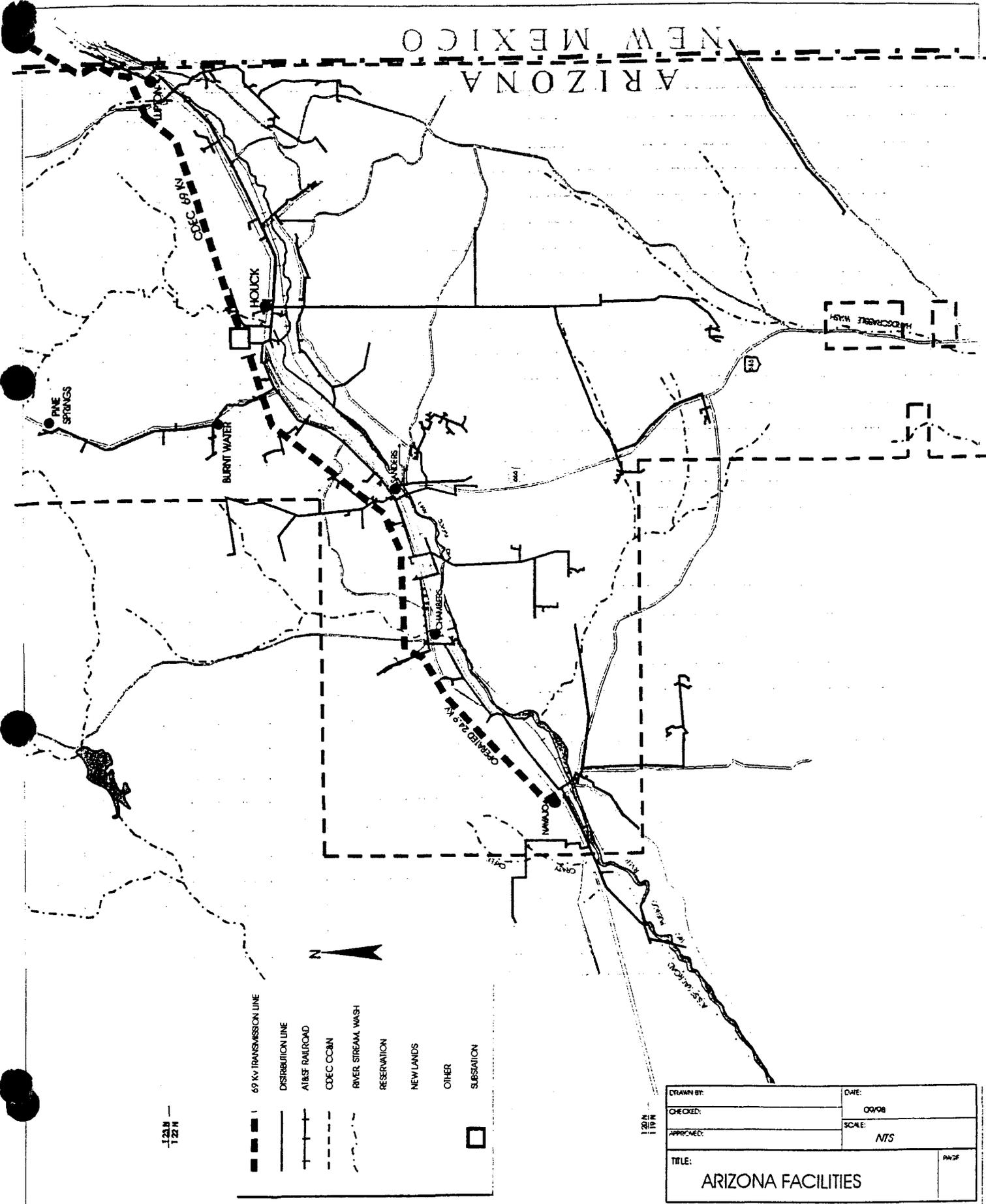
Section 4. ACCOUNTING SYSTEM AND REPORTS. The board of trustees shall cause to be established and maintained a complete accounting system, which, among other things, and subject to applicable laws and rules and regulations of any regulatory body, shall conform to such accounting system as may, from time to time, be designated by the Administrator of the Rural Electrification Administration of the United States of America. The board of trustees shall after the close of the fiscal year cause to be made a full and complete audit of the accounts, books and financial condition of the Cooperative as of the end of such fiscal year. Such audit reports shall be submitted to the members at the next following annual meeting.

ARTICLE XII – AMENDMENTS

These by-laws may be altered, amended or repealed by a majority of members present at any regular or special meeting, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal.

8

ARIZONA
NEW MEXICO

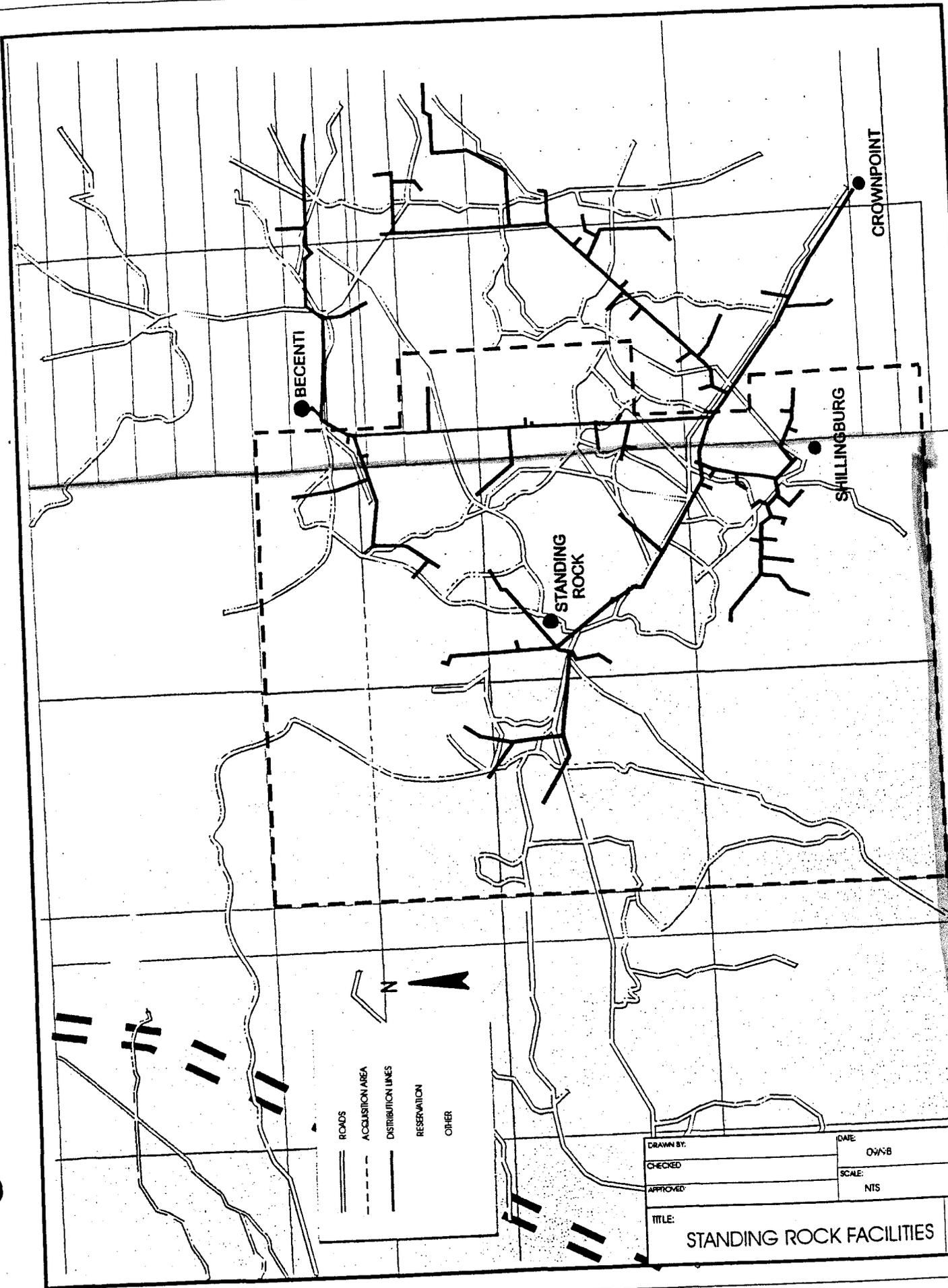


- 69 KV TRANSMISSION LINE
- DISTRIBUTION LINE
- AIRSF RAILROAD
- COEC COBIN
- RIVER STREAM WASH
- RESERVATION
- NEW LANDS
- OTHER
- SUBSTATION

DRAWN BY:	DATE:
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APPROVED:	SCALE: NTS
TITLE: ARIZONA FACILITIES	PAGE:

EXHIBIT 8

8-1



RES Boundary

9



CERTIFICATE OF COMPARISON
OF

CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.

The State Corporation Commission certifies that the attached is a true copy of the following document filed in this office:

Articles of Incorporation-----Filed: September 12, 1945



In Testimony Whereof, the State Corporation
Commission of the State of New Mexico
do hereby certify that the copy to be signed
by the said corporation is a true and
correct copy of the original filed at the City of
Santa Fe, New Mexico
August 19, 1980

Director

Chairman

EXHIBIT E

EXHIBIT 9

Leon...
Electric...

Ent'd *L.P.*
Rec'd _____
In'd *L.P.*

FILED IN OFFICE OF
STATE CORPORATION COMMISSION
OF NEW MEXICO

SEP 12 1945 - 10100A.7

Laurel L. Currier
CLERK

5 48
Filed *S.L.*
3 C.C.F. *S.L.*

EXHIBIT 9

ARTICLES OF INCORPORATION

APR 2 1945

Corporation Commission

of

Continental Divide Electric Cooperative, Inc.,
executed pursuant to the Rural Electric
Cooperative Act, Chapter 47 of the 1939
Session Laws of New Mexico.

We, the undersigned, do hereby execute the within
articles for the purpose of organizing a cooperative, non-profit,
membership Corporation (herein designated as the "Cooperative")
under the laws of the State of New Mexico pursuant to "An Act
authorizing the creation and incorporation of electric co-
operative, non-profit membership corporations to engage in rural
electrification," etc., approved March 3, 1939, and known as the
"Rural Electric Cooperative Act."

FIRST, the name of the Cooperative is Continental
Divide Electric Cooperative, Inc.

SECOND, the address of the principal office of the
Cooperative is Gallup, McKinley County, New Mexico.

THIRD, the names and addresses of the incorporators
of the Cooperative are:

<u>Names</u>	<u>Addresses</u>
<u>Peter T. Mocho</u>	<u>San Mateo, New Mexico</u>
<u>Golden P. Roundey</u>	<u>Bluewater, New Mexico</u>
<u>Mrs. Tom Elkins</u>	<u>Prewitt, New Mexico</u>
<u>Berton Davis</u>	<u>Ramah, New Mexico</u>
<u>Bernard Vanderwagon</u>	<u>Zuni, New Mexico</u>
<u>Homer C. Jones</u>	<u>Thoreau, New Mexico</u>
<u>Dean Kirk</u>	<u>Gallup, New Mexico</u>
<u>Eddie Freas</u>	<u>Bluewater, New Mexico</u>
<u>Don Smouse</u>	<u>Prewitt, New Mexico</u>

FOURTH, the names and addresses of the persons who shall constitute the first Board of Trustees of the

are:

<u>Name</u>	<u>Address</u>
<u>Peter I. Nocho</u>	<u>San Mateo, New Mexico</u>
<u>Golden P. Rounder</u>	<u>Bluewater, New Mexico</u>
<u>Mrs. Tom Elkins</u>	<u>Prewitt, New Mexico</u>
<u>Barton Davis</u>	<u>Ramah, New Mexico</u>
<u>Bernard Vanderwagon</u>	<u>Zuni, New Mexico</u>
<u>Homer C. Jones</u>	<u>Thoreau, New Mexico</u>
<u>Dean Kirk</u>	<u>Gallup, New Mexico</u>
<u>Eddie Freas</u>	<u>Bluewater, New Mexico</u>
<u>Don Swouse</u>	<u>Prewitt, New Mexico</u>

IN WITNESS WHEREOF, we have set our hands this 29th day of August, 1945.

Peter I. Nocho (SEAL)
Golden P. Rounder (SEAL)
Mrs. Tom Elkins (SEAL)
Barton Davis (SEAL)
Bernard Vanderwagon (SEAL)
Homer C. Jones (SEAL)
Dean Kirk (SEAL)
Eddie Freas (SEAL)
Don Swouse (SEAL)

STATE OF NEW MEXICO)
County of Valencia) ss.

On this 29th day of August, in the year 1945, before me a notary public in and for said county, residing therein, commissioned and sworn, personally appeared Mrs. Tom [unclear], Peter T. Mocho, Golden P. Roundey, Eddie Freas, Homer C. [unclear] and Don Smouse, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same, as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said Valencia County, the day and year in this certificate last above mentioned.

[Signature]
Notary Public in and for the
County of Valencia, State of
New Mexico.

My commission expires:

May 14th. 1949

STATE OF NEW MEXICO)
County of McKinley) ss.

On this 29th day of August, in the year 1945, before me a notary public in and for said county, residing therein, commissioned and sworn, personally appeared Barton Davis, Bernard Vanderwagen and Dean Kirk, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same, as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said McKinley County, the day and year in this certificate last above mentioned.

[Signature]
Notary Public in and for the
County of McKinley,
New Mexico.

My commission expires:

7-9-47

10



Dennis

United States Department of Agriculture
Rural Development

Rural Business-Cooperative Service • Rural Housing Service • Rural Utilities Service
Washington, DC 20250

RECEIVED

Dec 23 11 31 AM '00

REGISTRATION
COMMISSION

December 8, 2000

Mr. Dick Shirley, Assistant Manager
Continental Divide Electric Cooperative, Inc.
P. O. Box 1087
Grants, NM 87020

Dear Mr. Shirley,

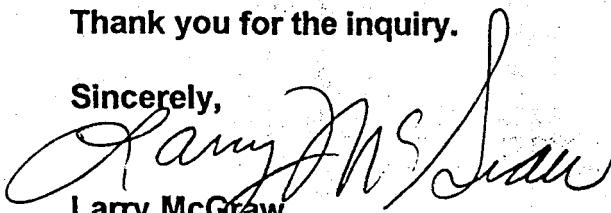
This is in response to your letter dated December 5, 2000, concerning the proposed sale of facilities to the Navajo Tribal Utility Authority (NTUA).

In accordance with 7 CFR 1718, Subpart B, Mortgage for Distribution Borrowers, Section 3.11, Limitations on Transfers of Property, borrowers are given approval to sell assets as long as, "the aggregate value of assets so sold, leased or transferred in any 12-month period is less than 10% of Net Utility Plant" as long as the other provisions of that section are met concerning disposition of the proceeds. I have enclosed that section for your reference.

You should also provide a release of lien to NTUA, and examples are contained in RUS Bulletin 115-1.

Thank you for the inquiry.

Sincerely,



Larry McGraw
General Field Representative

Incorporated in or used in connection with the Mortgaged Property outright and not subject to any conditional sales agreement, chattel mortgage, bailment, lease or other agreement reserving to the seller any right, title or lien.

SECTION 3.08. Restrictions On Additional Permitted Debt: The Mortgagor shall not incur, assume, guarantee or otherwise become liable in respect of any debt for borrowed money and Restricted Rentals (including Subordinated Debt) other than the following: ("Permitted Debt")

- (1) Additional Notes issued in compliance with Article II hereof;
(2) Purchase money indebtedness in non-Utility System property, in an amount not exceeding 10% of Net Utility Plant;
(3) Restricted Rentals in an amount not to exceed 5% of Equity during any 12 consecutive calendar month period;
(4) Unsecured lease obligations incurred in the ordinary course of business except Restricted Rentals;
(5) Debt represented by dividends declared but not paid; and
(6) Subordinated Indebtedness approved by each Mortgagee.

PROVIDED, However, that the Mortgagor may incur Permitted Debt without the consent of the Mortgagee only so long as there exists no Event of Default hereunder and there has been no continuing occurrence which with the passage of time and giving of notice could become an Event of Default hereunder.

PROVIDED, FURTHER, by executing this Mortgage any consent of RUS that the Mortgagor would otherwise be required to obtain under this Section is hereby deemed to be given or waived by RUS by operation of law to the extent, but only to the extent, that to impose such a requirement of RUS consent would clearly violate existing federal laws or Government regulations.

SECTION 3.09. Preservation of Corporate Existence and Franchises: The Mortgagor will, so long as any Outstanding Notes exist, take or cause to be taken all such action as from time to time may be necessary to preserve and renew all franchises, rights of way, easements, permits, and licenses now or hereafter to be granted or upon it conferred the loss of which would have a material adverse effect on the Mortgagor's financial condition or business. The Mortgagor will comply with all laws, ordinances, regulations, orders, decrees and other legal requirements applicable to it or its property the violation of which could have a material adverse effect on the Mortgagor's financial condition or business.

SECTION 3.10. Limitations on Consolidations and Mergers: The Mortgagor shall not, without the prior written approval of each Mortgagee, consolidate or merge with any other

corporation or convey or transfer the Mortgaged Property substantially as an entirety, unless: (1) such consolidation, merger, conveyance or transfer shall be on such terms as shall fully preserve the lien and security hereof and the rights and powers of the Mortgagees hereunder; (2) the entity formed by such consolidation or with which the Mortgagor is merged or the corporation which acquires by conveyance or transfer the Mortgaged Property substantially as an entirety shall execute and deliver to the Mortgagees a mortgage supplemental hereto in recordable form and containing an assumption by such successor entity of the due and punctual payment of the principal of and interest on all of the Outstanding Notes and the performance and observance of every covenant and condition of this Mortgage; immediately after giving effect to such transaction, no default hereunder shall have occurred and be continuing; (4) the Mortgagor shall have delivered to the Mortgagee a certificate of its general manager or other officer, in form and substance satisfactory to each of the Mortgagees, which shall state that such consolidation, merger, conveyance or transfer and such supplemental mortgage comply with this subsection and that all conditions precedent herein provided for relating to such transaction have been complied with; (5) the Mortgagor shall have delivered to the Mortgagees an opinion of counsel in form and substance satisfactory to each of the Mortgagees; and (6) the entity formed by such consolidation or with which the Mortgagor is merged or the corporation which acquires by conveyance or transfer the Mortgaged Property substantially as an entirety shall be an entity--(A) having Equity equal to at least 27% of its Total Assets or a pro forma basis after giving effect to such transaction, (B) having a pro forma TYER of not less than 1.50 and a pro forma DSC of not less than 1.25 for each of the two preceding calendar years, and (C) having Net Utility Plant equal to or greater than 1.0 times its Total Long-Term Debt on a pro forma basis. Upon any consolidation or merger or any conveyance or transfer of the Mortgaged Property substantially as an entirety in accordance with this subsection, the successor entity formed by such consolidation or with which the Mortgagor is merged or to which such conveyance or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of the Mortgagor under this Mortgage with the same effect as if such successor entity had been named as the Mortgagor herein.

SECTION 3.11. Limitations on Transfers of Property: The Mortgagor may not, except as provided in Section 3.10) above, without the prior written approval of each Mortgagee, lease or transfer any Mortgaged Property to any other person or entity (including any subsidiary or affiliate of the Mortgagor

unless (1) there exists no Event of Default or occurrence which with the passing of time and the giving of notice would be an Event of Default, (2) fair market value is obtained for such property, (3) the aggregate value of assets so sold, leased or transferred in any 12-month period is less than 10% of Net Utility Plant, and (4) the proceeds of such sale, lease or transfer, less ordinary and reasonable expenses incident to such transaction, are immediately (i) applied as a prepayment of all Notes equally and ratably, (ii) in the case of dispositions of equipment, materials or scrap, applied to the purchase of other property useful in the Mortgagor's utility business, not necessarily of the same kind as the property disposed of, which shall forthwith become subject to the lien of the Mortgage, or (iii) applied to the acquisition or construction of utility plant.

SECTION 3.12. Maintenance of Mortgaged Property: (a) So long as the Mortgagor holds title to the Mortgaged Property, the Mortgagor will at all times maintain and preserve the Mortgaged Property which is used or useful in the Mortgagor's business and each and every part and parcel thereof in good repair, working order and condition, ordinary wear and tear and acts of God excepted, and in compliance with Prudent Utility Practice regulations and orders, and will from time to time make all needed and proper repairs, renewals and replacements, and useful and proper alterations, additions, betterments and improvements, and will, subject to conditions beyond its reasonable control, at all times use all reasonable diligence to furnish the consumers served by it through the Mortgaged Property, or any part thereof, with an adequate supply of electric power and energy. If any substantial part of the Mortgaged Property is leased by the Mortgagor to any other party, the lease agreement between the Mortgagor and the lessee shall obligate the lessee to comply with the provisions of subsections (a) and (b) of this Section in respect of the leased facilities and to permit the Mortgagor to operate the leased facilities in the event of any failure by the lessee to so comply.

(b) If in the sole judgment of any Mortgagee, the Mortgaged Property is not being maintained and repaired in accordance with paragraph (a) of this section, such Mortgagee may send to the Mortgagor a written report of needed improvements and the Mortgagor will upon receipt of such written report promptly undertake to accomplish such improvements.

(c) The Mortgagor further agrees that upon reasonable written request of any Mortgagee, which request together with the requests of any other Mortgagees shall be made no more frequently than once every three years, the Mortgagor will supply promptly such Mortgagee a certification

(hereinafter called the "Engineer's Certification"), in form satisfactory to the question, prepared by a professional who shall be satisfactory to the Agency, as to the condition of the Mortgaged Property. If in the sole judgment of the Engineer's Certification the need for improvements to the Mortgaged Property or any other part of the Mortgaged Property, such as the need for such improvements and the cost of such improvements and the time when such improvements shall be made, shall be promptly undertaken to accomplish these improvements as are required by the Mortgagee.

SECTION 3.13. Insurance: Restricted Damaged Mortgaged Property: (a) The Mortgagor will take out, as the respect are incurred, and maintain the correct amounts of insurance in conformity with generally accepted utility industry standards for such classes and amounts of insurance of utilities of the size and character of the Mortgaged Property and consistent with Utility Practice.

(b) The foregoing insurance coverages shall be obtained by means of bond or other forms approved by regulatory authority having jurisdiction, and, with respect to Property, shall provide that the liability shall be payable to the Mortgagees and interests may appear by means of the mortgagee clause without contract. Each policy or other contract for such insurance shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, it will not contract shall continue in force for at least 30 days after written notice of cancellation of such insurance.

(c) In the event of damage to or destruction or loss of any portion of the Mortgaged Property which is used or useful in the Mortgagor's business and which shall be insured by insurance, unless each Mortgagee shall otherwise agree, the Mortgagor shall replace or restore such damaged, destroyed or lost portion so that such Mortgagee's interest in the same shall be substantially the same as it was in prior to such damage, destruction or loss, and shall apply the proceeds of the insurance for that purpose. The Mortgagor shall replace the lost portion of the Mortgaged Property or shall complete such restoration promptly after such damage, destruction or loss shall have occurred and shall complete such replacement or restoration as expeditiously as practicable. The Mortgagor shall pay or cause to be paid out of the proceeds of such insurance all costs and expenses in connection therewith. (d) Sums recovered under any policy of insurance shall be paid to the Mortgagor for a daily bond by the Mortgagor for a full amount of the Notes or receivables of any Noteholder to

11

**DIRECT
TESTIMONY
OF
JOEL M. REIKER
DOCKET NO. E-01824A-00-0504**

April 5, 2001

EXHIBIT 11

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF THE JOINT)
APPLICATION BETWEEN CONTINENTAL)
DIVIDE ELECTRIC COOPERATIVE, INC. AND)
THE NAVAJO TRIBAL UTILITY AUTHORITY)
FOR THE APPROVAL OF THE SALE OF)
ELECTRIC UTILITY PROPERTIES AND)
TRANSFER OF CERTIFICATE OF)
CONVENIENCE AND NECESSITY)
_____)

DOCKET NO. E-01824A-00-0504

DIRECT
TESTIMONY
OF
JOEL REIKER
SENIOR RATE ANALYST
UTILITIES DIVISION

April 5, 2001

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Utility Authority's Financial Capability	13
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EXECUTIVE SUMMARY
CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.
NAVAJO TRIBAL UTILITY AUTHORITY
DOCKET NO. E-01824A-00-0504
SALE OF ASSETS AND
TRANSFER OF CC&N

JOEL M. REIKER

On July 14, 2000, Continental Divide Electric Cooperative ("Continental") and the Navajo Tribal Utility Authority ("Utility Authority") filed an application with the Commission requesting approval of the sale of certain electric utility properties in Arizona and the transfer of the Certificate of Convenience and Necessity ("CC&N") from Continental to the Utility Authority.

Continental is a New Mexico-based electric distribution cooperative, which provides electric service to New Mexico and Arizona members. The Utility Authority is a Navajo Tribal entity located in Fort Defiance, Arizona. The Utility Authority provides electric, gas, water, and wastewater utility services to the Navajo Nation. The Utility Authority is not subject to Commission regulation.

On April 13, 2000, Continental and the Utility Authority entered into an agreement under which the Utility Authority will acquire Continental's electric transmission and distribution systems in the state of Arizona and attendant CC&N. The purchase price of the assets is \$2,300,000, compared to a book value of approximately \$2,113,163.

Staff believes that the Utility Authority is a fit and proper entity to assume the CC&N currently held by Continental and the transfer is in the public interest.

Staff recommends that the proposed sale of assets and transfer of the CC&N be approved, subject to a hearing.

1 **INTRODUCTION**

2 Q. Please state your name, occupation, and business address.

3 A. My name is Joel M. Reiker. I am a Senior Rate Analyst employed by the Arizona
4 Corporation Commission ("ACC" or "Commission") in the Utilities Division. My
5 business address is 1200 West Washington, Phoenix, Arizona 85007.

6
7 Q. Briefly describe your responsibilities as a Senior Rate Analyst.

8 A. In my capacity as a Senior Rate Analyst, I provide recommendations to the Commission
9 on mergers, acquisitions, financing and sales of assets. I also perform studies to estimate
10 the cost of capital for utilities that are seeking rate relief.

11
12 Q. Please describe your educational background and professional experience.

13 A. In 1998, I graduated Cum Laude from Arizona State University, receiving a Bachelor of
14 Science degree in Global Business with a specialization in Finance. My course of studies
15 included classes in corporate and international finance, investments, accounting, and
16 economics. In 1999, after working as an internal auditor for one year, I was employed by
17 the Commission as an Auditor III in the Accounting & Rates Section's Financial
18 Analysis Unit. Since that time, I have attended various seminars and classes on general
19 regulatory and business issues, including cost of capital and energy derivatives. In
20 December of 2000, I was promoted to a Senior Rate Analyst.

21
22 Q. What is the purpose of your testimony?

23 A. The purpose of my testimony is to present Staff's analysis and recommendations
24 regarding the proposed sale of certain electric utility properties in Arizona and the
25 transfer of the Certificate of Convenience and Necessity ("CC&N") from Continental
26 Divide Electric Cooperative ("Continental") to the Navajo Tribal Utility Authority
27 ("Utility Authority"), and to provide a recommendation to the Commission.
28

1 Q. Was this testimony prepared by you or at your direction?

2 A. Yes.

3

4 Q. Upon what standards are you basing your recommendations?

5 A. Utility Authority must be found to be a fit and proper entity to receive the CC&N of
6 Continental and the transfer of Continental's electric assets in Arizona must be in the
7 public interest.

8

9 **SUMMARY OF THE TRANSACTION**

10 Q. Please describe the joint application of Continental and Utility Authority.

11 A. On April 13, 2000, Continental and Utility Authority entered into a definitive agreement
12 of purchase and sale ("AGREEMENT") under which Utility Authority will acquire
13 Continental's electric transmission and distribution systems in the state of Arizona and
14 attendant CC&N. Continental currently serves approximately 1,487 customers in Apache
15 County, Arizona, and approximately 25,000 system wide.

16

17 The purchase price of the assets is \$2,300,000, compared to a book value of
18 approximately \$2,113,163.

19

20 Q. Why is Utility Authority purchasing the Continental properties?

21 A. According to responses to Staff's data requests, Utility Authority is purchasing the
22 Continental properties in order to carry out the purposes in its plan of operation, which is
23 to provide electric, gas, and water/wastewater utility services to the Navajo Nation.

24 ...

25 ...

26 ...

27 ...

28 ...

1 Q. Specifically, what assets will be transferred to Utility Authority?

2 A. The application seeks authority to transfer all of Continental's electric assets located in
3 Arizona to Utility Authority. Specifically, these include:

- 4 -38 miles of 69kV line
- 5 -172 miles of single-phase distribution line
- 6 -98 miles of three-phase distribution line
- 7 -.517 acre substation fenced site, 1.15 acre total site
- 8 -Power transformer, 7.5mVA
- 9 -45 various breakers (including substation)

10 Q. How does Utility Authority intend to finance the proposed acquisition?

11 A. According to Utility Authority, it will pay for the acquisition out of its general funds. I
12 will provide a detailed financial analysis of Utility Authority later in my testimony.

13 **PARTIES TO THE TRANSACTION**

14 Q. Please provide a brief description of Continental.

15 A. Continental is a New Mexico-based electric distribution cooperative, which provides
16 electric service to New Mexico and Arizona customers. Continental currently serves
17 approximately 25,000 customers, 1,487, or approximately 6.0 percent of, which are
18 located in Arizona. The divisional office serving Arizona customers is located in Gallup,
19 New Mexico.

20 Q. Why is Continental selling its electric transmission and distribution systems in Arizona?

21 A. Continental provides electric transmission and distribution service on portions of the
22 Navajo Reservation. In accordance with its twenty-five year Franchise Agreement with
23 the Navajo Nation signed in 1964, the terms of the 1964 Franchise Agreement granted
24 Continental rights-of-way for a term of 25 years. Upon expiration of the Franchise, the
25 Navajo Nation had the option to purchase Continental's lines and facilities located on the
26 Reservation. The Navajo Nation exercised its option to purchase the assets pursuant to
27 the 1964 Franchise, but negotiations for the purchase and sale were not completed prior
28 to the expiration of the Franchise. Continental and the Navajo Nation entered into

1 another Franchise Agreement in 1992, which allowed Continental to continue to provide
2 electric service on an interim basis. On December 28, 1994, the Navajo Nation notified
3 Continental that it was exercising its option to purchase the Continental properties, and
4 that Utility Authority would act as its agent to negotiate and purchase these electrical
5 facilities. On April 13, 2000, an agreement for the transfer was finally reached.
6

7 Q. Please provide a brief description of Utility Authority.

8 A. Utility Authority was formed in 1965 by the Navajo Nation, a federally recognized Indian
9 Tribe. Its principal office is located in Fort Defiance, Arizona, with five district offices
10 located in Fort Defiance, Chinle, and Kayenta, Arizona, and Shiprock and Crownpoint,
11 New Mexico. Utility Authority provides electric, gas, water, and wastewater utility
12 services to the Navajo Nation. Utility Authority's service area covers approximately
13 25,000 square miles within the Navajo Indian Reservation in Arizona, New Mexico, and
14 Utah. At the end of 1999, Utility Authority had approximately 500 employees with
15 approximately 31,000 electric customers, 7,000 gas customers, and 26,000
16 water/wastewater customers.
17

18 Utility Authority is not subject to regulation by the Commission. Instead, its operations
19 on tribal land are subject to regulation by tribal law, and are limited by the Navajo Nation
20 Council to providing public utility services.
21

22 **Rates**

23 Q. What rates is Continental currently charging for residential service?

24 A. Continental currently charges a monthly system/service charge of \$5.00 plus \$0.07680
25 per kilowatt-hour ("kWh"). Continental's average residential customer uses
26 approximately 372 kWh per month, resulting in an average monthly residential bill of
27 \$33.57.
28

1 Q. How do Continental's current rates compare to the rates of Utility Authority?

2 A. According to tariff schedules provided by Utility Authority, it charges a system/service
3 charge of \$3.00 plus \$0.0660 per kWh. The monthly bill for 372 kWh under Utility
4 Authority's rates is ~~\$29.55~~ ^{\$27.56}
5 \$6.02

6 Q. Are these the same rates Utility Authority plans to charge after it acquires the Continental
7 electric system?

8 A. Yes. Utility Authority plans to charge these rates to the former Continental customers.
9 The new rates reflect a decrease of \$4.02 per month or 12 percent for the average
10 residential usage.

11
12 Q. Does Utility Authority plan to adjust electric rates in the Continental service area in the
13 next three years?

14 A. No. According to Staff data response JMR-2;

15 Use reference from data response

16 "Utility Authority does not plan to increase its electric rates during the
17 next three years. Utility Authority has a purchase power agreement
18 through at least 2003, with Tucson Electric Power Company which will
19 have the effect of maintaining Utility Authority's cost of power,
20 therefore, Utility Authority will not be increasing its rates."

21 **Service Changes**

22 Q. What will the new electric division be called?

23 A. Utility Authority anticipates that it will use the name "Navajo Tribal Utility Authority" in
24 operating the Continental properties.

25 Q. How will Utility Authority staff and operate the Continental properties?

26 A. Utility Authority will not be hiring or using Continental's employees to operate the newly
27 acquired system but will use personnel already located at its Ft. Defiance, Arizona district
28

1 office. These employees currently provide water and wastewater service to parts of the
2 areas being acquired.

3
4 The Ft. Defiance office will house a line crew, which will respond to outages and
5 perform normal operation and maintenance on the acquired system. The Ft. Defiance
6 crew is 15 miles closer to the service area than the current Continental service crew
7 located in Gallup, New Mexico, 40 miles to the east, and should result in a reduction in
8 response time to outages.

9
10 Q. Will Utility Authority eliminate any maintenance or customer services offices after the
11 proposed transaction is complete?

12 A. Utility Authority does not plan to eliminate any maintenance or customer services offices
13 and is considering opening a sub-office in Sanders.

14
15 Q. Will customers experience any loss of existing services?

16 A. Utility Authority asserts that the customers of Continental will suffer no loss of existing
17 services and expects that response time and the quality of service should be equal or
18 better than the service currently provided by Continental. Further, Utility Authority will
19 combine electric, water and wastewater bills on one billing statement.

20
21 **Security Deposits**

22 Q. How will customer obligations such as security deposits be affected by the transaction?

23 A. According to Continental, security deposits on the account of any Arizona Continental
24 members will be applied to the final bill from Continental and any credit balances will be
25 refunded by Continental to the customer.

26
27 Utility Authority has stated that customers of Continental existing at the time of the close
28 of the transaction will not be required to pay any fees to Utility Authority. Any new

1 customers of Utility Authority added after the close of the transaction will be subject to
2 the normal deposits and connection fees charged to all new customers.
3

4 **Capital Credit Balances**

5 Q. What affect will the proposed transaction have on the Capital Credit balances of
6 Continental's Arizona members?

7 A. According to Continental, "the Capital Credits will continue to be retired on a 20-year
8 cycle as approved annually by the Board of Trustees".
9

10 Q. Please discuss capital credits and how a cooperative's member-owned structure is
11 different from a corporate, investor-owned structure?

12 A. Under the cooperative structure, net margins from operations are used either to improve
13 and maintain the utility's assets or to pay out to members as Capital Credit refunds.
14 Members of the cooperative receive Capital Credits based on the amount of electricity
15 they purchased.
16

17 The current Arizona members of Continental will continue to receive Capital Credits
18 after the close of the proposed transaction. Continental retires its capital credits on a
19 twenty year rotation cycle. For example, if the sale of Continental's Arizona assets is
20 finalized in 2001 and the Arizona members' accounts are terminated in 2001, the current
21 Arizona members will receive Capital Credit disbursements in the year 2021, for their
22 usage in 2001.
23

24 Q. Is Utility Authority projecting any reduction in overhead expense or savings as a result of
25 the acquisition?

26 A. According to Utility Authority, no immediate synergies or decreases in overhead
27 expenses will be realized by Utility Authority as a result of the transaction. The
28 customers will be the main beneficiaries of the acquisition because rates will be lower,

1 there will be potentially faster response times when outages occur and the electric, water
2 and wastewater bills will be on one statement. Further, because Utility Authority will
3 provide various utility services, the affected customers may eventually benefit from the
4 effects of economies of scale.

5
6 **Customer Service and Reliability**

7
8 Q. Has either Continental or Utility Authority provided public notice of their application?

9 A. Yes. Public notice of the application was published in the October 26, 2000, edition of
10 *The Navajo Times*, and the October 25 & 28, 2000 editions of *The Independent*.

11
12 Q. Please discuss the quality of service provided by Continental in Arizona.

13 A. Continental does not track the System Average Interruption Frequency Index ("SAIFI"),
14 which is the average number of times a customer's service is interrupted. However,
15 Continental has provided the system average outage time for Arizona, which was 0.211
16 hours in 1999, and ranged from 0.001 hours to 0.993 hours in the previous five years.

17
18 Q. Has the Consumer Services Section of the Commission received any complaints
19 regarding Continental in the past two years?

20 A. No. The Consumer Services Section of the Commission has received no complaints
21 regarding Continental in the past two years.

22
23 Q. Please discuss quality of service and complaints filed against Utility Authority.

24 A. Because Utility Authority is not regulated by the Commission, there is no record of
25 formal complaints filed against the utility. However, Utility Authority has indicated that
26 it has no formal complaints pending. According to Utility Authority, most complaints are
27 handled directly by the billing clerks. If the customer seeks further resolution, appeal
28

1 may be made to the District Manager, then to the General Manager and finally to Utility
2 Authority Management Board.

3
4 Utility Authority also does not track SAIFI, but has provided its system average outage
5 time for the previous five years. In 1999, Utility Authority's system average outage time
6 was 3.08 hours, and ranged from 2.93 hours to 4.46 hours in the previous five years, all
7 below the RUS guideline of 5.0 hours.

8
9 Q. What action is Utility Authority taking in order to facilitate a smooth and orderly
10 transition for the customers that are presently being served by Continental?

11 A. Utility Authority held a series of community meetings throughout October and November
12 in the affected areas to explain various issues and answer all questions from current
13 Continental customers. Utility Authority provided staff with an outline of its
14 presentation, as well as copies of materials distributed. Some of the materials provided at
15 the meetings include information on the following:

- 16 1) Utility Authority's Budget Payment Plan
- 17 2) Current rates
- 18 3) Utility Discount Program for Senior Citizens
- 19 4) Life-Support Care
- 20 5) Safety
- 21 6) Energy conservation
- 22 7) Utility service requests

23
24 **Regulatory Experience**

25 Q. Is Utility Authority currently subject to rate regulation by the Commission?

26 A. No. Because Utility Authority is a Navajo Tribal entity, it is not subject to rate regulation
27 by the Commission. Thus, after the close of the proposed transaction, the properties
28

1 being purchased by Utility Authority will no longer be subject to regulation by the
2 Commission.

3
4 Q. Are there any governmental/regulatory agencies that oversee the operations of Utility
5 Authority?

6 A. Yes, According to responses to Staff's data requests, the following agencies oversee the
7 various operations of Utility Authority:

- 8
- 9 1) The Government Services Committee of the Navajo Nation Council exercises
10 oversight over Utility Authority. Oversight includes appointment of Management
11 Board members, recommending amendments to the Plan of Operation, receipt of
12 reports on operations and finances, and approval of procedures for appeal of rate
13 decisions.
 - 14
 - 15 2) The Budget and Finance Committee of the Navajo Nation Council receives financial
16 and annual reports from and has authority to order an audit of Utility Authority.
 - 17
 - 18 3) The Office of Navajo Labor Relations has responsibility for enforcement of Navajo
19 preference in employment laws. The Commerce Department of the Division of
20 Economic Development-Navajo Nation has responsibility for enforcement of Navajo
21 preference in contracting laws applicable to Tribal agencies and departments,
22 including Utility Authority.
 - 23
 - 24 4) The Rural Utilities Service ("RUS") of the U. S. Department of Agriculture extends
25 loans for rural electrification to Utility Authority and, as a consequence. Utility
26 Authority is subject to the rules and regulations of the RUS. Projects that are built
27 with federal financial assistance are subject to federal procurement laws.
 - 28

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5) The Navajo Nation Environmental Protection Agency ("NNEPA") enforces environmental, health and safety laws and Utility Authority is subject to its jurisdiction.

6) The Navajo Nation Council recently established a Navajo Nation Occupation Safety and Health Act and Utility Authority is subject to this Act, enforced by NNEPA.

Q. How will electric restructuring affect Utility Authority's electric operations in Arizona?

A. According to Utility Authority, the utility has no immediate plans to participate in restructuring or competition.

Capital Expenditures

Q. Was Continental anticipating any significant capital expenditures in Arizona in the near future?

A. No. According to Continental, its present Work Plan does not include any projects in Arizona between 2000 and 2002.

Q. Has Utility Authority generated any capital budgets for the Continental properties it will be acquiring?

A. Not yet. Utility Authority has stated that it will consider its own capital budgets for the area after the acquisition has been completed.

Utility Authority's Financial Capability

Q. Please discuss Utility Authority's overall financial capability.

A. Utility Authority has provided copies of the Independent Auditors Report prepared by KPMG for 1999, as well as Utility Authority's RUS Form 7 reports for its electric operations for the previous five years. Exhibit JMR-1 shows Utility Authority's income statement and balance sheets for the years 1998 and 1999. It can be seen from the exhibit

1 that Utility Authority had a times interest earned ratio ("TIER") of 2.50 and 1.59 in 1998
2 and 1999, respectively. The TIER measures the number of times earnings will cover
3 interest payments. Generally, a TIER of at least 1.50 is preferred.

4
5 Utility Authority's current ratio, calculated by dividing current assets by current
6 liabilities, was 1.39 in 1999. This ratio indicates the extent to which current liabilities are
7 covered by those assets expected to be converted to cash in the near future. A current
8 ratio above 1.0 indicates the ability to meet current liabilities in times of distress.

9
10 Total equity for 1999 was \$119,840,357, up \$5,460,753 from the previous year, and
11 comprised approximately 79 percent of total capital. Long-term debt excluding the
12 current portion totaled \$32,001,684, comprising approximately 21 percent of total capital.
13 This capital structure represents little financial risk, and is consistent with sound financial
14 health. The majority of Utility Authority's long-term debt is with the Rural Utilities
15 Service ("RUS") and National Rural Utilities Cooperative Finance Corporation ("CFC")
16 at favorable interest rates. Thus, the Authority has a proven ability to attract reasonably-
17 priced capital.

18
19 Q. In your opinion is Utility Authority financially capable of acquiring Continental's electric
20 assets in Arizona?

21 A. Based on Utility Authority's audited financial statements, I believe that it is financially
22 sound and capable of acquiring and operating Continental's electric assets in Arizona.

23
24 **Conclusion and Recommendation**

25 Q. Does Staff recommend approval of the proposed sale of assets and transfer of the CC&N
26 from Continental to Utility Authority?

27 A. Utility Authority has 35 years of experience providing utility service to portions Arizona,
28 New Mexico, and Utah. Staff believes that in addition to lower rates, the current

1 customers of Continental may experience other benefits as a result of the transaction,
2 such as faster response times when outages occur and the convenience of receiving
3 electric, water, and wastewater bills on the same statement.
4

5 Staff believes that, from a technical and operational standpoint, the customers in the
6 affected service areas will not be adversely affected by the proposed sale and transfer of
7 the assets and CC&N. Staff believes that Utility Authority is financially sound and has
8 the financial capability of providing service to the current Arizona customers of
9 Continental. Further, Staff believes that the customers may ultimately benefit from
10 reduced administrative and overhead costs resulting from economies of scale.
11

12 Staff believes that Utility Authority is a fit and proper entity to assume the CC&N
13 currently held by Continental and the transfers are in the public interest.
14

15 Staff recommends that the proposed sale of assets should be approved, subject to a
16 hearing.
17

18 Q. Does this conclude your direct testimony?

19 A. Yes, it does.
20
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28

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 MARC SPITZER
COMMISSIONER
5

RECEIVED
APR 06 2001
ARIZONA CORPORATION COMMISSION

6 IN THE MATTER OF THE JOINT APPLICATION) DOCKET NO. E-01824A-00-0504
BETWEEN CONTINENTAL DIVIDE ELECTRIC)
7 COOPERATIVE, INC. AND THE NAVAJO)
TRIBAL UTILITY AUTHORITY FOR THE)
8 APPROVAL OF THE SALE OF ELECTRIC)
UTILITY PROPERTIES AND TRANSFER)
9 OF CERTIFICATE OF CONVENIENCE AND)
NECESSITY)
10

11 **STAFF'S NOTICE OF FILING**

12 The Arizona Corporation Commission Staff ("Staff") hereby files the Direct
13 Testimony of Joel M. Reiker, Senior Rate Analyst of the Utilities Division in the above-captioned
14 matter.

15 RESPECTFULLY SUBMITTED this 6th day of April, 2001.

16
17 By: Christopher C. Kempley
18 Christopher C. Kempley
19 Chief Counsel, Legal Division
20 Arizona Corporation Commission
1200 West Washington Street
21 Phoenix, Arizona 85007
Telephone: (602) 542-3402
Facsimile: (602) 542-4870

22 The ORIGINAL and TEN Copies of the
23 foregoing were filed this 6th day of April,
2001 with:

24 Docket Control
25 Arizona Corporation Commission
1200 W. Washington Street
26 Phoenix, AZ 85007

27 ...

28 ...

1 COPIES of the foregoing were mailed this
6th day of April, 2001, to:

2 Louis Denetsosie
3 Post Office Box 2544
4 Window Rock, AZ 86515
5 Attorney for Continental Divide Electric Cooperative, Inc.

6 Dennis Francisch
7 5400 Lomas NE
8 Albuquerque, NM 87110
9 Attorney for Continental Divide Electric Cooperative, Inc.

10 Kenneth L. Craig, Manager
11 Engineering & Technical Services Division
12 Navajo Tribal Utility Authority
13 Fort Defiance, AZ 86504

14 Lyn Farmer
15 Chief Administrative Law Judge
16 Hearing Division
17 Arizona Corporation Commission
18 1200 West Washington Street
19 Phoenix, Arizona 85007

20 Deborah Scott
21 Director, Utilities Division
22 Arizona Corporation Commission
23 1200 West Washington Street
24 Phoenix, Arizona 85007

25 *Lorey Martinez*
26 Assistant to Christopher C. Kempley
27 I:\Sells\Docs\WP60\CHRIS\PLEADING\00-504nof1.doc
28

12

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

THE MATTER OF THE APPLICATION
CONTINENTAL DIVIDE ELECTRIC
OPERATIVE, INC. FOR COMMISSION
PROVAL ALLOWING THE
ABANDONMENT OF SERVICE AND
FACILITIES TO 325 ACCOUNTS ON AND
BEHALF OF THE NAVAJO NATION IN MCKINLEY
COUNTY, NEW MEXICO

Utility Case No. 3399

CONTINENTAL DIVIDE ELECTRIC
OPERATIVE, INC.

Applicant.

WRITTEN TESTIMONY OF KENNETH CRAIG ON BEHALF OF
NAVAJO TRIBAL UTILITY AUTHORITY

The following consists of the written testimony of Kenneth Craig on behalf of Navajo
Tribal Utility Authority (hereinafter called "NTUA") given this 10th day of February,
2001.

Kenneth Craig being first duly sworn upon this oath deposes and states:

Question:

State your name and address for the record.

Answer:

My name is Kenneth Craig and my address is: P.O. Box 170 Ft. Defiance, AZ 86504.

Question:

By whom are you employed and in what capacity?

Answer:

EXHIBIT 12

No. NTUA is not subject to the Navajo Nation's PIT and BAT taxes.

Question:

By the law of the Navajo Nation, is CDEC required to charge its customers within the Reservation a PIT and BAT tax which is then paid to the Navajo Nation in addition to the cost of their electricity?

Answer:

Yes. CDEC is subject to the Navajo Nation's PIT and BAT taxes and must charge its customers in addition to its scheduled electric rates. Those taxes are paid by the consumer to CDEC who pays it to the Navajo Nation.

Question:

Did CDEC become delinquent in the collection of the BAT and the payment of the BAT to the Navajo Nation?

Answer:

Yes. As I understand it, CDEC became delinquent because its officers claim they were unaware of the BAT. As a result, there is an arrearage which is being negotiated with the Office of the Navajo Tax Commission and which, hopefully, should result in a certificate of no tax due for CDEC concerning the BAT.

Question:

How much would an electric consumer of NTUA pay monthly for electric service at:

- (A) 350 KWH:
- (B) 600 KWH:
- (C) 800 KWH
- (D) 1200 KWH

Answer:

NTUA's customers would be billed monthly the following amounts:

- (A) At 350 KWH, their bill would be \$ 26.10
- (B) At 600 KWH, their bill would be \$ 42.60
- (C) At 800 KWH, their bill would be \$ 55.80
- (D) At 1200 KWH, their bill would be \$ 82.20

Question:

If you know, how would NTUA's charges compare to CDEC's charges with the BAT and PIT taxes added on?

Answer:

CDEC's charges at 350 KWH would be:

- (A) \$ 31.25 plus PIT of (appraised value of system x 10% x 3%) and BAT at 5% of gross revenue.
- (B) CDEC's charges at 600 KWH would be \$ 46.90 plus taxes.
- (C) CDEC's charges at 800 KWH would be \$ 59.20 plus taxes.
- (D) CDEC's charges at 1200 KWH would be \$ 83.80 plus taxes.

Question:

Is it your opinion that NTUA is ready, willing and able to serve the 325 accounts to be abandoned by CDEC in this proceeding with reliable electric service at comparable rates to CDEC if the Commission approves this transaction?

Answer:

13

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF CONTINENTAL DIVIDE ELECTRIC
COOPERATIVE, INC. FOR COMMISSION
APPROVAL ALLOWING THE
ABANDONMENT OF SERVICE AND
FACILITIES TO 325 ACCOUNTS ON AND
OFF THE NAVAJO NATION IN MCKINLEY
COUNTY, NEW MEXICO

Utility Case No. 3399

CONTINENTAL DIVIDE ELECTRIC
COOPERATIVE, INC.

Applicant.

WRITTEN TESTIMONY OF KENNETH CRAIG ON BEHALF OF
NAVAJO TRIBAL UTILITY AUTHORITY

The following consists of the written testimony of Kenneth Craig on behalf of Navajo Tribal Utility Authority (hereinafter called "NTUA") given this 10th day of February, 2001.

Kenneth Craig being first duly sworn upon this oath deposes and states:

Question:

State your name and address for the record.

Answer:

My name is Kenneth Craig and my address is: P.O. Box 170 Ft. Defiance, AZ 86504.

Question:

By whom are you employed and in what capacity?

Answer:

I am employed by NTUA as the Engineering and Technical Services Division Manager.

I have been working for NTUA for 15 years and I have considerable knowledge of the operations of NTUA.

Question:

What type of company is NTUA?

Answer:

NTUA is a multi-utility company serving the Navajo Nation. The NTUA offers Electric, Natural Gas, Water and Wastewater service on Navajo lands.

Question:

What is NTUA's primary business?

Answer:

NTUA is a public utility, owned by the Navajo Nation, whose primary business is to serve electric, natural gas, water and wastewater to residents of the Navajo Nation on the Navajo Indian lands in Arizona, New Mexico and Utah. The area of service covers about 30,000 square miles for all utilities.

Question:

Does NTUA provide electric utility services in any other states besides New Mexico and Arizona?

Answer:

Yes. The NTUA serves the small communities of Halchita and Monument Valley in Utah.

Question:

How long has NTUA been engaged in the electric utility business?

Answer:

NTUA has been engaged in the electric business since 1959, when it operated as a department of the Navajo Nation. Since 1965, NTUA has operated pursuant to a Plan of Operation adopted by the Navajo Nation Council.

Question:

How many employees work for NTUA?

Answer:

NTUA has 556 regular full time positions budgeted. These positions are for all utilities.

Question:

How does NTUA finance capital additions to its distribution system?

Answer:

NTUA finances in various ways. For electric, financing is from general funds, various bank lines of credit, the Rural Utilities Service (RUS), Community Development Block Grant (CDBG) and the Navajo Nation's Capital Improvement Projects (CIP). For gas, financing is from general funds and various bank lines of credit. For water and wastewater, financing is from general funds, various bank lines of credit, the Federal Government through PL 86-121 and CDBG, and the Navajo Nation's CIP. Also, some funding for the New Mexico portion of the Nation came from the State of New Mexico.

Question:

How many consumers or accounts are currently served by NTUA?

Answer:

Electric – 32,848 meters plus 13,670 security lights

Gas – 7,104 meters

Water – 28,312 meters

Wastewater – 12,161 accounts

Question:

How many electric accounts are served in:

(A) New Mexico

(B) Arizona

(C) Utah

Answer:

The electric accounts served by State are:

New Mexico – 9,952

Arizona – 22,511

Utah - 384

Question:

Is NTUA considered to be a political subdivision of the Navajo Nation?

Answer:

Yes, it is recognized as a political subdivision of an Indian Tribe, eligible for equivalent treatment as a State under the Internal Revenue Code.

Question:

Does NTUA generate its own power?

Answer:

No. NTUA has no facilities to generate its own power.

Question:

Where does NTUA obtain its power from?

Answer:

NTUA purchases power via existing long term contracts from Western Area Power Authority (WAPA), Tucson Electric Power (TEP), Public Service Company of New Mexico, and Utah Power and Light (UP&L). Any amount over contract limits is obtained on the spot market with TEP serving as NTUA's agent.

Question:

Does NTUA borrow construction money from the Rural Utility Service (RUS) of the U.S. Department of Agriculture?

Answer:

Yes. NTUA borrows money from RUS for construction of facilities. NTUA pledges electric revenues to RUS to secure those loans and pays back those loans at an average 5% rate of interest.

Question:

Is NTUA a Rural Electric Cooperative?

Answer:

No. NTUA is not a Rural Electric Cooperative.

Question:

Is NTUA incorporated, and if so, under what jurisdiction?

Answer:

No. NTUA is not incorporated in any jurisdiction.

Question:

Does NTUA accumulate and refund patronage capital to its consumers? If your answer is in the affirmative, state the number of years patronage capital is held before payment to the consumer.

Answer:

No.

Question:

Is NTUA a non-profit corporation?

Answer:

NTUA is not a corporation, however, it operates on a non-profit basis pursuant to Navajo Nation Law.

Question:

What is the value of the total of NTUA's assets and what is the value of all outstanding liabilities of NTUA?

Answer:

The total value of NTUA's assets is \$ 185,766,255.00. The total value of NTUA's liability amount is \$ 57,579,784.00. (These figures are as of 12/31/00 and the financials for the year 2000 are not audited at this time).

Question:

Do you have an opinion as to whether or not NTUA is in good financial condition?

Answer:

NTUA is in excellent financial condition as is reflected in the Annual Report and ratios reported in this document. Attached as Exhibit "A" is a copy of NTUA's latest Annual Report.

Question:

State NTUA's current TIER and DSC.

Answer:

The current TIER for electric is 2.28 compared to the RUS requirement of 1.25. The NTUA DSC for the same period is 3.48. (The financials for the year 2000 are not audited at this time).

Question:

Is the Navajo Nation a federally recognized Indian tribe with sovereign powers?

Answer:

Yes.

Question:

Does the Navajo Nation have the power to license or franchise corporations that serve electric, gas and other utility services on the Navajo Reservation?

Answer:

Yes. A franchise to provide those services on the Navajo Nation is required and must be obtained from the Navajo Nation government.

Question:

Without a franchise, are electric, gas and telephone utilities serving on the Navajo Reservation subject to removal by the Navajo Nation?

Answer:

Yes, that is correct.

Question:

Have you had an opportunity to review the application of Continental Divide Electric Cooperative, Inc. (hereinafter called "CDEC") and the Written Testimony of Dick Shirley dated June 21, 2000, in New Mexico Public Regulation Commission, Case No. 3399? If your answer is affirmative, do you agree with the relief being sought by the application of CDEC and do you agree with the Written Testimony of Dick Shirley?

Answer:

Yes, I do agree with the written testimony of Mr. Dick Shirley.

Question:

If you have any disagreement with the application of CDEC or the Testimony of Dick Shirley, please indicate what that disagreement might be.

Answer:

N/A

Question:

Is NTUA ready, willing and able to render adequate, reliable electric service to the 325 accounts on and off the Reservation in New Mexico which are the subject of NMPRC Case No. 3399?

Answer:

Yes. NTUA has the capacity, the ability and is willing to provide adequate, reliable electric utility service to those 325 accounts in New Mexico that are the subject of this proceeding.

Question:

CDEC seeks to sell and abandon 325 accounts to NTUA. 27 of those accounts are outside the Navajo Reservation Treaty Boundary and 298 accounts are within the Treaty

Boundary. Can you explain why the purchase of those 27 accounts outside the Reservation Boundary along with the 298 accounts on Reservation constitute a single unit which makes the purchase more beneficial to NTUA?

Answer:

Purchase of the system outside the Navajo Reservation Treaty Boundary is necessary to assure the efficient operation of the overall system, reliable service to the consumers involved, and to address future growth in the area.

Question:

Are the 27 accounts that are off the Reservation all Navajo people and are those 27 accounts located on Tribal Trust Lands?

Answer:

The 27 accounts in question are not necessarily on trust lands, however, the customers are Navajo and they reside on Navajo Indian lands of various status.

Question:

What taxes does the Navajo Nation impose on businesses on the Navajo Nation and what is (are) the rate(s) of any such taxes?

Answer:

To my knowledge the Navajo Nation imposes Possessory Interest Tax and a Business Activity Tax.

Question:

Does NTUA charge its customers the Navajo Nation possessory interest tax (PIT) or business activity tax (BAT) in addition to its scheduled rates for electric service?

Answer:

No. NTUA is not subject to the Navajo Nation's PIT and BAT taxes.

Question:

By the law of the Navajo Nation, is CDEC required to charge its customers within the Reservation a PIT and BAT tax which is then paid to the Navajo Nation in addition to the cost of their electricity?

Answer:

Yes. CDEC is subject to the Navajo Nation's PIT and BAT taxes and must charge its customers in addition to its scheduled electric rates. Those taxes are paid by the consumer to CDEC who pays it to the Navajo Nation.

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Answer:

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Question:

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- (A) 350 KWH:
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- (D) 1200 KWH

Answer:

NTUA's customers would be billed monthly the following amounts:

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Question:

If you know, how would NTUA's charges compare to CDEC's charges with the BAT and PIT taxes added on?

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- (C) CDEC's charges at 800 KWH would be \$ 59.20 plus taxes.
- (D) CDEC's charges at 1200 KWH would be \$ 83.80 plus taxes.

Question:

Is it your opinion that NTUA is ready, willing and able to serve the 325 accounts to be abandoned by CDEC in this proceeding with reliable electric service at comparable rates to CDEC if the Commission approves this transaction?

Answer:

Yes. In my opinion NTUA is ready, willing and able to serve those 325 accounts on and off the Reservation in McKinley County, New Mexico, with adequate, reliable electric utility service at rates comparable to CDEC.

Question:

Is NTUA contemplating any rate increases in the next year or two?

Answer:

No. NTUA has no plans to increase rates for the next year or two.

Question:

As far as requests for service is concerned, does NTUA act upon a consumer's request for service within a reasonable time so long as that consumer's point of service is within NTUA's extension policy?

Answer:

Yes. NTUA usually acts immediately upon a request for service so long as that party's point of service is within the rules of our extension policy. Time frames for actual extension of service will vary depending on the scope of required Right of Way acquisition activities. This question is answered in more detail in the answers provided by NTUA in the CDEC response to the intervenor Navajo Communication Company's interrogatories.

Question:

Can you tell me what NTUA's extension policy is whereby the consumer is eligible for service without a contribution?

Answer:

NTUA will extend service at no charge to the consumer so long as the cost of the extension is less than \$ 1,500. Anything over that amount must be paid by the consumer, at cost.

Question:

Is the foregoing all of your testimony on behalf of NTUA?

Answer:

Yes.

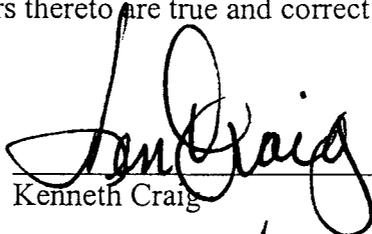
Question:

Thank you for your testimony.

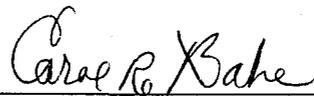
State of Arizona)

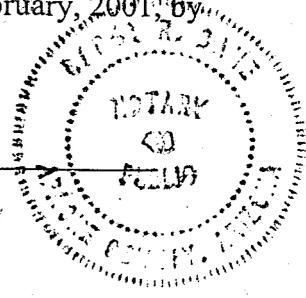
County of Apache) ss.
)

Kenneth Craig being first duly sworn upon oath deposes and states that he has read the foregoing questions and answers composing his direct testimony to the New Mexico Public Regulation Commission and that the answers thereto are true and correct to the best of his knowledge and belief.


Kenneth Craig

SUBSCRIBED AND SWORN TO before me this 20th day of February, 2001, by
Kenneth Craig, a person known to me.


Notary Public



My Commission Expires:
Nov. 16, 2003

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF CONTINENTAL DIVIDE ELECTRIC
COOPERATIVE, INC. FOR COMMISSION
APPROVAL ALLOWING THE
ABANDONMENT OF SERVICE AND
FACILITIES TO 325 ACCOUNTS ON AND
OFF THE NAVAJO NATION IN MCKINLEY
COUNTY, NEW MEXICO,

Utility Case No. 3399

CONTINENTAL DIVIDE ELECTRIC
COOPERATIVE, INC.,

Applicant.

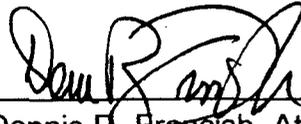
CERTIFICATE OF SERVICE

I hereby certify that the original and thirteen (13) copies of the Written Testimony of Kenneth Craig, on behalf of Navajo Tribal Authority, dated February 20, 2001 was mailed this 23rd day of February, 2001 First Class postage pre-paid to the Clerk of the New Mexico Public Regulation Commission, 224 E. Palace Avenue, Marian Hall, Santa Fe, NM 87501 and that true and correct copies were sent by First Class mail, postage pre-paid this 23rd day of February, 2001 to the following:

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14

NEW MEXICO PUBLIC REGULATION COMMISSION

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NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION OF
CONTINENTAL DIVIDE ELECTRIC
COOPERATIVE, INC. FOR ABANDONMENT OF
SERVICE AND FACILITIES TO 325 ACCOUNTS
ON AND OFF THE NAVAJO NATION IN MCKINLEY
COUNTY, NEW MEXICO

CONTINENTAL DIVIDE ELECTRIC
COOPERATIVE, INC.

APPLICANT

CASE NO. 3399

CERTIFICATE

I certify that the attached is a true and correct copy of
PREPARED DIRECT TESTIMON of TERRY L. RODRIGUEZ
FILED ON March 26, 2001.

ISSUED under the Seal of the New Mexico Public Regulation
Commission at Santa Fe, New Mexico, on **May 07, 2001**

Maria R. Brito/Records Manager

Maria R. Brito

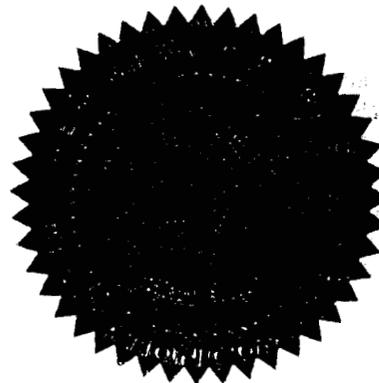


EXHIBIT 14

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION OF)
CONTINENTAL DIVIDE ELECTRIC)
COOPERATIVE, INC. FOR ABANDONMENT OF)
SERVICE AND FACILITIES TO 325 ACCOUNTS)
ON AND OFF THE NAVAJO NATION IN MCKINLEY)
COUNTY, NEW MEXICO)

Utility Case No. 3399

CONTINENTAL DIVIDE ELECTRIC)
COOPERATIVE, INC.)

Applicant)

2001

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MARCH 27 2001

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PREPARED DIRECT TESTIMONY

of

TERRY L. RODRIGUEZ

March 26, 2001

CASE NO. 3399
PREPARED DIRECT TESTIMONY OF
TERRY L. RODRIGUEZ

1 **Q. Please state your name and business address.**

2 A. My name is Terry L. Rodriguez. My business address is the New Mexico
3 Public Regulation Commission ("NMPRC" or "Commission") Utility
4 Division, 224 E. Palace Ave., Marian Hall, Santa Fe, NM, 87501.

5

6 **Q. What is your position with the NMPRC?**

7 A. I am a Public Utility Engineer Specialist in the Utility Division.

8

9 **Q. Please describe your educational background and experience.**

10 A. I received a Bachelors of Science Degree in Electrical Engineering from
11 Louisiana State University in 1964. From June 1964 through October
12 1996, I was employed by the federal government in various positions as
13 an Electrical Engineer, Electronics Engineer, Test Manager, and General
14 Engineer. I began my employment at the Commission in September
15 1998.

16

17 **Q. Have you previously provided testimony before the Commission?**

18 A. Yes. Please see Appendix A for a listing of cases in which I have filed
19 testimony.

20

21 **Q. What is the purpose of your testimony in this case?**

CASE NO. 3399
PREPARED DIRECT TESTIMONY OF
TERRY L.RODRIGUEZ

1 A. My testimony presents Staff's position and recommendation on the
2 application of Continental Divide Electric Cooperative, Inc. ("CDEC") for
3 Commission approval allowing the abandonment of facilities and services
4 to 325 CDEC's consumers in McKinley County, New Mexico, on and off
5 the Reservation.

6

7 **Q. What were CDEC's reasons and what did CDEC request in this**
8 **application?**

9 A. CDEC stated the following in its application filed on June 23, 2000:

10 1. CDEC has been maintaining electrical distribution facilities on the
11 Navajo Reservation in New Mexico and Arizona pursuant to a franchise
12 agreement and extensions granted by the Navajo Nation since 1964 (see
13 page 2 of CDEC's application).

14

15 2. A five year extension of the franchise agreement was granted in
16 1992. This extension included an option for the Navajo Nation to
17 purchase CDEC's facilities on the Reservation. The Navajo Nation
18 exercised that option in 1994 (see page 2 and Exhibit 1-C of CDEC's
19 application).

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PREPARED DIRECT TESTIMONY OF
TERRY L. RODRIGUEZ

1 3. Without a franchise agreement, CDEC cannot continue providing
2 service to the consumers on the Reservation (see page 4 of CDEC's
3 application).

4

5 4. CDEC has filed with both the New Mexico Public Regulation
6 Commission (June 23, 2000, this application) and the Arizona Corporation
7 Commission (July 12, 2000, Docket #01824-4-00-0363, page 3 of CDEC's
8 application) for approval of the abandonment, sale, and transfer of
9 facilities and service in New Mexico and Arizona to the Navajo Tribal
10 Utility Authority ("NTUA").

11

12 **Q. What facilities and services would be abandoned under CDEC's**
13 **application?**

14 A. CDEC would abandon approximately 70 miles of distribution line on the
15 Navajo Reservation and approximately 19 miles of distribution line just off
16 the Reservation in McKinley County, New Mexico. These distribution
17 lines, facilities, and associated CDEC facilities in New Mexico and
18 Arizona, will be sold to the NTUA, acting upon the authority of the
19 NAVAJO NATION COUNCIL. This abandonment of service and facilities
20 in New Mexico will affect 298 consumer accounts on the Reservation and
21 27 consumer accounts off the Reservation.

CASE NO. 3399
PREPARED DIRECT TESTIMONY OF
TERRY L. RODRIGUEZ

1 **Q. When does the latest franchise operating extension expire?**

2 A. CDEC is presently providing service to the customers on the Reservation
3 through March, 2001.

4
5 **Q. Which New Mexico statute applies to CDEC's application, and what**
6 **does the statute state?**

7 A. Section 62-9-5 NMSA 1978 applies. It states the following:

8 No utility shall abandon all or any portion of its facilities
9 subject to the jurisdiction of the commission, or any service
10 rendered by means of such facilities, without first obtaining
11 the permission and approval of the commission. The
12 commission shall grant such permission and approval, after
13 notice and hearing, upon finding that the continuation of
14 service is unwarranted or that the present and future public
15 convenience and necessity do not otherwise require the
16 continuation of the service or use of the facility; provided,
17 however, that ordinary discontinuance of service or use of
18 facilities for nonpayment of charges, nonuser or other
19 reasons in the usual course of business shall not be
20 considered as abandonment.
21

22 **Q. What criterion needs to be met for the Commission to grant its**
23 **approval for the abandonment of utility facility or service under the**
24 **provisions of Section 62-9-5 NMSA 1978?**

25 A. One of the following criteria should be met:

26 1. The continuation of service is unwarranted.

CASE NO. 3399
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TERRY L.RODRIGUEZ

1 2. The present and future public convenience and necessity do
2 not otherwise require the continuation of the service or use of the
3 facility.

4

5 **Q. Is it Staff's opinion that CDEC's application has met the first criterion**
6 **that the continuation of service by CDEC is unwarranted?**

7 **A. Yes, for the following reasons:**

8 1. Service to the affected customers will not be discontinued by this
9 abandonment. From the documentation provided with this application and
10 supplemental information provided by responses to the interrogatories by
11 the various parties in this case, Staff believes that NTUA has the
12 capabilities to provide adequate electrical service to the 325 New Mexico
13 customers that would no longer be CDE customers.

14

15 2. Staff believes that NTUA has provided sufficient information that it
16 has the experience and capabilities to provide service to these New
17 Mexico customers without a significant impact on its operations. Mr. Craig
18 noted in his testimony that NTUA has been engaged in the electrical
19 business since 1959, has 556 regular full time positions, and serves
20 approximately 33,000 customers (9,952 electric accounts in New Mexico)
21 over an approximately 30,000 square mile area. NTUA also has existing

CASE NO. 3399
PREPARED DIRECT TESTIMONY OF
TERRY L.RODRIGUEZ

1 long term electric power supply contracts with Western Area Power
2 Authority, Tucson Electric Power, Public Service Company of New
3 Mexico, and Utah Power and Light for purchasing future power. Staff has
4 no reason to doubt that NTUA can provide adequate and reliable service
5 to these 325 additional New Mexico customers.

6

7 3. CDEC also will no longer have a franchise to provide electric
8 service to consumers on the Navajo Reservation.

9

10 **Q. What is the impact of the proposed abandonment on existing rates?**

11 A. Mr. Craig, the Engineering and Technical Services Division Manager of
12 NTUA, on page 11 in his Written Testimony on Behalf of the NTUA, noted
13 that a 600KWH customer's bill would be \$42.60 for NTUA as compared to
14 a bill of \$46.90 plus taxes for CDEC.

15

16 **Q. Does Staff have any objections to including the 27 CDEC customers
17 and the 19 miles of electric distribution line just off the Reservation
18 in McKinley County, New Mexico in this abandonment ?**

19 A. Staff does not have any objections to including these 27 electric accounts
20 in this abandonment. Mr. Craig noted in his written testimony that the
21 addition of these 27 electric accounts is necessary to assure efficient

CASE NO. 3399
PREPARED DIRECT TESTIMONY OF
TERRY L.RODRIGUEZ

1 operation of the overall system, reliable service to the consumers
2 involved, and to address future growth in this area. Staff has reviewed the
3 maps provided in Exhibit 4 of CDEC's application and concurs that the
4 addition of the distribution line serving these 27 customers would reduce
5 any service interruptions during the transfer of ownership of the electric
6 distribution system on the Reservation and continue to provide reliable
7 electric service at lower rates. The addition of this distribution line in this
8 abandonment will also allow future growth in this area.

9
10 **Q. Were there any interveners in this case?**

11 A. Yes, NCC intervened and stated that their rates for pole attachments
12 would increase due to this abandonment.

13
14 **Q. Did Staff review NCC's allegations as to its increase in pole**
15 **attachment rates, and what are Staff's observations?**

16 A. Staff reviewed the rates and concurs that this abandonment would
17 increase NCC's present rates for the pole attachment fees. As noted in
18 CDEC's interrogatory answers to NCC's questions, NCC presently is
19 being charged \$4.12 per pole per year by CDEC for the 632 poles in the
20 area to be transferred in this abandonment, while NCC is being charged
21 \$10.23 per pole per year for the 1,420 NTUA poles NCC utilizes in New

CASE NO. 3399
PREPARED DIRECT TESTIMONY OF
TERRY L.RODRIGUEZ

1 Mexico, and the approximate 8000 NTUA poles in Arizona. NCC will
2 therefore experience an increase of approximately \$3,900 due to this
3 abandonment, which is less than 4% of the total attachment fees NCC is
4 currently paying NTUA for use of the NTUA poles. The annual rate
5 benefit to the 325 customers being transferred from CDEC to NTUA is
6 \$16,770, much more than the cost to NCC. Further, CDEC can not
7 operate its facilities on the Navajo Reservation without a franchise from
8 the Navajo Nation.

9
10 **Q. What is Staff's recommendation with regard to CDEC's abandonment**
11 **application?**

12 **A.** Staff recommends approval of CDEC's abandonment application. Staff
13 has reviewed the application and interrogatory responses provided by
14 CDEC, NTUA and the Navajo Communication Company, Inc. ("NCC"),
15 and notes that the information necessary for the Commission to approve
16 this abandonment of a portion of CDEC's distribution facilities has been
17 provided. Staff believes that the proposed transaction is consistent with
18 the public interest. Continuation of service by CDEC to these customers
19 is unwarranted since service will be provided by NTUA.

20
21 **Q. Does this conclude your testimony?**

CASE NO. 3399
PREPARED DIRECT TESTIMONY OF
TERRY L.RODRIGUEZ

1 A. Yes.

Appendix A

Testimony Experience of Terry L. Rodriguez NMPRC Public Utility Engineering Specialist

<u>CASE</u>	<u>COMPANY</u>	<u>TYPE</u>
2852	Northern Rio Arriba Electric Cooperative, Inc.	Abandonment
2863	Roosevelt County Electric Cooperative, Inc.	FPPCAC
2872	Continental Divide Electric Cooperative, Inc.	FPPCAC
2972	Mora-San Miguel Electric Cooperative, Inc.	FPPCAC
2973	Kit Carson Electric Cooperative, Inc.	FPPCAC
3054	Columbus Electric Cooperative, Inc.	FPPCAC
3118	Duncan Valley Electric Cooperative, Inc.	FPPCAC
		Rate Adjustment
3044	Otero County Electric Cooperative, Inc.	FPPCAC
3169	Southwestern Public Service Company	FPPCAC
3184	Central Valley Electric Cooperative, Inc.	FPPCAC
3292	Duncan Valley Electric Cooperative, Inc.	Restructuring
3374	Farmers' Electric Cooperative, Inc.	FPPCAC
3456	Southwestern Electric Cooperative, Inc.	FPPCAC

STATE OF NEW MEXICO)
) SS
COUNTY OF SANTA FE)

AFFIDAVIT

I HAVE READ the foregoing Prepared Direct Testimony of Terry L. Rodriguez and the statements contained therein are true and correct to the best of my knowledge, information and belief.

Terry L. Rodriguez
Terry L. Rodriguez

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this
26th day of March, 2001.

Ernesto Sargent
NOTARY PUBLIC

My Commission Expires:

Jan. 14, 2004.

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION)
OF CONTINENTAL DIVIDE ELECTRIC)
COOPERATIVE, INC. FOR COMMISSION)
APPROVAL ALLOWING THE)
ABANDONMENT OF SERVICE AND)
FACILITIES TO 325 ACCOUNTS ON AND)
OFF THE NAVAJO NATION IN MCKINLEY)
COUNTY, NEW MEXICO,)
CONTINENTAL DIVIDE ELECTRIC)
COOPERATIVE, INC.,)
Applicant.)

Utility Case No. 3399

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Prepared Direct Testimony of Terry L. Rodriguez** filed March 26, 2001, was mailed First Class, postage prepaid to each of the following:

Dennis R. Francish, Esq.
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Luis Denetsosie
P.O. Box 2544
Window Rock, AZ 86515

and hand-delivered to:

Dahl Harris, Esq.
NM Public Regulation Commission
Marian Hall
224 East Palace Avenue
Santa Fe, NM 87501

DATED this 26th day of March, 2001.

NEW MEXICO PUBLIC REGULATION COMMISSION

Tina Sargent

Tina Sargent

15

RESERVED for MAPS
of CDEC ARIZONA
FACILITIES AND ACCOUNTS
to BE transferred

16

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER of the Joint Application for the Sale of Continental Divide Electric Cooperative, Inc.'s electric transmission and distribution systems in the State of Arizona to the Navajo Tribal Utility Authority.

Docket No. E-01824A-00-0504

Continental Divide Electric Cooperative, Inc.
and Navajo Tribal Utility Authority,

Joint Applicants.

**WRITTEN TESTIMONY OF RICHARD SHIRLEY, ASSISTANT MANAGER OF
CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.**

THE FOLLOWING consists of the written testimony of Richard Shirley, Assistant Manager of Continental Divide Electric Cooperative, Inc. (hereinafter called "CDEC") given this 21st day of May, 2001.

Richard Shirley being first duly sworn upon oath deposes and states:

Question: State your name for the record.

Answer: My name is Richard Shirley.

Question: By whom are you employed and what is your job title and duties?

Answer: I am the assistant manager of Continental Divide Electric Cooperative, Inc. who is the Applicant in this case.

Question: What is Continental Divide Electric Cooperative, Inc.?

Answer: Continental Divide Electric Cooperative, Inc. (hereinafter called "CDEC") is a Rural Electric Cooperative and a non-profit corporation organized and existing under the laws of the State of New Mexico with authority to conduct business in Arizona. As such, CDEC is a distribution electric cooperative and a public utility subject to the jurisdiction of the Arizona Corporation Commission.

EXHIBIT 16

Question: Does CDEC generate its own electricity?

Answer: No. At the time this case was filed, CDEC purchased all of its electricity at wholesale from Plains Electric Generation & Transmission Cooperative who has merged into Tri-State Electric Generation & Transmission Cooperative. At present, CDEC purchases all wholesale power from Tri-State G&T.

Question: Is CDEC only a distribution cooperative?

Answer: Yes. CDEC does have some transmission line but only for distribution purposes.

Question: By this Joint Application for Commission approval allowing the transfer of service and facilities on and off the Navajo Nation in Apache County, Arizona, what is it in a nutshell that CDEC is seeking to accomplish?

Answer: In 1964 CDEC obtained a franchise from the Navajo Nation for 25 years to serve on the Reservation in McKinley County, New Mexico and also in Apache County, Arizona. CDEC has served the Navajo Nation in both New Mexico and in the State of Arizona since 1964 under that franchise. After the 1964 franchise expired in 1989, a five (5) year franchise was given to CDEC in 1992 by the Navajo Nation. As a part of that five (5) year franchise, the Navajo Nation had an option to purchase CDEC's facilities on the Reservation in both states. In 1994 the Navajo Nation exercised that option to purchase CDEC's facilities on the Navajo Reservation in both Arizona and New Mexico. Because of this situation, it became necessary for CDEC to sell its system on and in some places off the Reservation to the Navajos.

Question: What is the current status of CDEC so far as having a franchise to continue serving the Navajos?

Answer: CDEC's franchise has expired. Without a franchise, CDEC cannot continue to serve on the Navajo Reservation.

Question: Because of this what has CDEC done to protect its position?

Answer: CDEC, having run out of a franchise, entered into a Definitive Agreement of Purchase and Sale with the Navajo Tribal Utility Association (hereinafter called "NTUA") whereby NTUA would purchase all of CDEC's electric distribution facilities on the Navajo Reservation in New Mexico and Arizona and a number of facilities and service accounts off the Reservation in New Mexico and Arizona. CDEC will be compensated by NTUA with a payment of \$2.3 million.

Question: How was the \$2.3 million arrived at?

Answer: Original cost less depreciation. However, there was some give and take on the negotiations resulting in that figure.

Question: How many accounts are affected in New Mexico by this proposed transfer of service and facilities by CDEC?

Answer: The total number of accounts affected in New Mexico is 325 of which 27 are off the Reservation in McKinley County. The remainder are on the Reservation.

Question: Approximately how many miles of line in New Mexico will be sold to NTUA and abandoned by CDEC under this proposal?

Answer: With a margin of error plus or minus 5%, CDEC is selling 70.02 miles of line on the Reservation and 19 miles of line just off the Reservation in New Mexico.

Question: How many customers and miles of line are being transferred by CDEC to NTUA in Apache County, Arizona?

Answer: Approximately 1,691 accounts will be transferred. 854 are off Reservation and 837 are on Reservation. Approximately 329.66 miles of line with a margin of error of 5% are being transferred in Apache County, Arizona with 146.6 miles on Reservation and 178.06 miles off Reservation.

Question: What percentage of CDEC's total assets does this sale to NTUA constitute?

Answer: With assets of approximately \$40,000,000, the \$2.3 million would be

less than 6% of those assets.

Question: From a business standpoint, how does CDEC view this transaction:?

Answer: Because CDEC is now operating without a franchise on the Navajo Reservation, it is good business to sell the system including all of the facilities and accounts for \$2.3 million. Both CDEC's management and its Board of Trustees have studied this matter for some time and it is the opinion of management and the Board of Trustees of CDEC that this is, from a business standpoint, an excellent opportunity to recover what might otherwise be a loss should CDEC have to remove its facilities from the Navajo Reservation.

Question: I will hand you what has been marked as Exhibit 1 and I will ask you to identify that.

Answer: Exhibit 1 is a Definitive Agreement of Purchase and Sale dated April 13, 2000 whereby CDEC has agreed to sell, and NTUA has agreed to purchase, CDEC's facilities on and off the Reservation in New Mexico and Arizona as will be shown in more detail later in this testimony.

Question: What is the purchase price for that transaction under Exhibit 1?

Answer: As mentioned, the purchase price is \$2.3 million and that is found on page 4 of the Definitive Agreement of Purchase and Sale, Exhibit 1.

Question: I will hand you what has been marked Exhibit 1-A and I will ask you to identify that.

Answer: Exhibit 1-A is the five (5) year franchise granted CDEC by the Navajo Nation beginning September 24, 1992 and by the terms of the Agreement, shall be a franchise for five (5) years from the date of execution which by its terms expired on September 23, 1997.

Question: Does Exhibit 1-A grant the Navajo Nation an option to purchase CDEC's system on the Reservation?

Answer: Yes. It does.

Question: Has that option been exercised?

Answer: Yes, it has. That option to purchase was exercised on December 28, 1994 as shown by Exhibit 1-C which is an Exhibit in this case.

Question: I will hand you what has been marked Exhibit 1-B and I will ask you to identify that.

Answer: Exhibit 1-B is a legal description of the franchise lands located within the Treaty Reservation boundaries showing the legal description of the Lupton-Houck area, the area northwest of Sanders in Arizona and Standing Rock area in New Mexico.

Question: Which of these legal descriptions pertain to the Arizona portion of the Reservation?

Answer: The first page of Exhibit 1-B shows the Arizona areas described as Lupton-Houck areas and areas northwest of Sanders.

Question: I will hand you what has been marked Exhibit 1-C and I will ask you to identify that.

Answer: Exhibit 1-C is a letter dated December 28, 1994 signed by then President of Navajo Nation, Peterson Zah giving CDEC notice that it is exercising the option to purchase CDEC's facilities which are located on Exhibit 1-B which I just identified.

Question: I will hand you what has been marked Exhibit 1-D and I will ask you to identify that.

Answer: Exhibit 1-D is another legal description of facilities to be purchased by NTUA. Exhibit 1-D clearly explains the Arizona facilities and the Standing Rock facilities to be purchased by NTUA.

Question: I will hand you what has been marked Exhibit 2 and I will ask you to identify that.

Answer: Exhibit 2 is a Purchase Power Agreement entered into by CDEC and NTUA on April 13, 2000, the same day that the Definitive Agreement of Purchase and Sale (Exhibit 1) was entered into.

Question: What does the Purchase Power Agreement accomplish?

Answer: CDEC has agreed to supply electric energy to NTUA for a three (3) year period so that NTUA can continue serving electric energy through the facilities transferred by CDEC to NTUA.

Question: Will CDEC make a reasonable profit on this Purchase Power Agreement?

Answer: Yes. CDEC will sell power to NTUA at cost plus 2 mils per KWH for three (3) years.

Question: Does CDEC have an adequate power source?

Answer: Yes. CDEC's power source is its wholesale supplier who is Tri-State Generation & Transmission Company. Tri-State started serving CDEC on July 1, 2000 following the merger of Plains Electric G&T into Tri-State. Tri-State is a large generation and transmission cooperative capable of serving loads substantially larger than that which we will be serving to NTUA.

Question: Has the CDEC Board and management approved this Purchase Power Agreement?

Answer: Yes. Lynn Head, President of CDEC, signed the Purchase Power Agreement with CDEC Board of Trustees' approval on April 13, 2000.

Question: I will hand you what has been marked Exhibit 3 and I will ask you to identify that.

Answer: Exhibit 3 is a Resolution by the Board of Trustees of CDEC authorizing

the execution of the Definitive Agreement of Purchase and Sale (Exhibit 1) and the execution of the Purchase Power Agreement (Exhibit 2) whereby CDEC sells power to NTUA for cost plus \$2 mils per KWH for three (3) years.

Question: I will hand you what has been marked as Exhibit 4 and I will ask you to identify that.

Answer: Exhibit 4 is CDEC's financial and statistical report fro the period ending May 3, 2001.

Question: How many accounts are served by CDEC presently in Arizona and New Mexico?

Answer: CDEC serves 23,972 accounts.

Question: How many miles of line has CDEC energized?

Answer: 3,993 miles of line are energized.

Question: Does Exhibit 4 show CDEC's TIER?

Answer: Yes. CDEC's TIER is 2.76 and that is shown on Exhibit 4's last sheet which is a CDEC monthly comparison for the period ending March 31, 2001.

Question: I will hand you what has been marked Exhibit 5 and I will ask you to identify that.

Answer: Exhibit 5 is my Affidavit of Mailing with a list of the names and addresses of accounts on and off the Navajo Reservation in Arizona which will be transferred and sold to NTUA by CDEC. Also attached to the mailing is the Public

Notice required to be mailed and published concerning this case.

Question: Has notice of this Application been sent to all of the accounts listed on Exhibit 5?

Answer: I personally oversaw the mailing of the Public Notice to all of the accounts shown on Exhibit 5.

Question: I will hand you what has been marked Exhibit 6 and I will ask you to identify that.

Answer: Exhibit 6 is a Resolution of the management Board of NTUA approving the Definitive Agreement of Purchase and Sale and Purchase Power Agreement between itself and CDEC and is dated by the certification April 27, 2000.

Question: I will hand you what has been marked Exhibit 7 and I will ask you to identify that.

Answer: Exhibit 7 are the By-Laws of CDEC which currently are in effect.

Question: What is the date of those By-Laws?

Answer: April 27, 1991.

Question: Have any amendments or modifications been made to the By-Laws since April 27, 1991?

Answer: No, none have. This is the current set of By-Laws in effect.

Question: Is there any prohibition in the By-Laws against this proposed abandonment and sale of accounts and facilities to NTUA?

Answer: No. Article VIII entitled Disposition of Property prohibits the sale of a substantial portion of property unless such sale is authorized at a meeting of members with an affirmative vote of not less than two-thirds. It is the position of the Board of Trustees and management and CDEC's attorneys that this sale which amounts to less than 6% of the company assets is not substantial within the meaning of Article VIII. This is especially true since as explained earlier, CDEC without a franchise to serve on the

Reservation and without a willing buyer such as NTUA, would simply have to roll up its wires, lines and haul its facilities out of the Reservation. Used wires, transformers, lines, poles and other facilities would have nowhere near the market value that is being brought to the Cooperative under the Definitive Agreement of Purchase and Sale, Exhibit 1 herein.

Question: In other words, CDEC does not have much choice so far selling its facilities and accounts to NTUA. Is that another way of looking at it?

Answer: Yes, that is another way of looking at it. Without a franchise we would be out of business on the Reservation and that percent of our assets would have little or no value if we simply took our facilities off the Reservation.

Question: I will hand you Exhibit 8 and Exhibit 8.1 and I will ask you to identify that.

Answer: Exhibit 8 is a map of CDEC's Arizona facilities which will be sold and transferred to NTUA. Exhibit 8-1 is a map of the New Mexico facilities which will be transferred and sold to NTUA.

Question: I will hand you what has been marked Exhibit 9 and I will ask you to identify that.

Answer: Exhibit 9 is a copy of a State of New Mexico State Corporation Commission Certificate of Comparison of CDEC showing that the attached is a true and correct copy of Articles of Incorporation of CDEC filed September 12, 1945. The Certificate of Comparison is dated August 19, 1980.

Question: Have there been any amendments or modifications to the Cooperative's Articles of Incorporation since 1980?

Answer: No. Exhibit 9 is a correct and exact copy of the Articles of Incorporation of CDEC which are now in effect.

Question: I will hand you what's been marked as Exhibit 10 and ask you to

identify that.

Answer: Exhibit 10 is a letter dated December 8, 2000 from Larry McGraw, General Field Representative of RUS which cites 7 CFR 1718 Subpart B Section 3.11 which allows for RUS approval of sale of assets so long as such sales or transfers do not exceed 10% of net utility plant in any 12 month period.

Question: Will CDEC have any assets left in Arizona if this transaction is approved by the Arizona Commission?

Answer: No. CDEC will be totally out of Arizona once approval is granted from the Arizona Corporation Commission. By divesting itself of all lines, facilities, accounts and customers in Arizona, CDEC will be totally out of the State of Arizona.

Question: I will hand you what's been marked Exhibit 11 and I will ask you to identify this.

Answer: Exhibit 11 is the direct testimony of Joel M. Reiker, Senior Rate Analyst with the Arizona Corporation Commission in this case, Docket No. E-01824A-00-0504.

Question: In Exhibit 11, does Mr. Reiker favor or disfavor this transaction?

Answer: Joel Reiker's testimony on behalf of the Arizona Corporation Commission staff favorably approves CDEC's sale of assets and customers in Arizona to NTUA. I am also in agreement with Mr. Reiker's testimony.

Question: How do CDEC's rates compare to NTUA rates?

Answer: CDEC's current rates are slightly higher than NTUA's rates.

Question: I will hand you what's been marked as Exhibit 12 and I will ask you identify this.

Answer: Exhibit 12 consists of pages 1, 10 and 11 of Kenneth Craig's testimony on behalf of NTUA.

Question: Can you tell me if the comparison of NTUA rates and CDEC rates on Exhibit 12 appears to be accurate?

Answer: Yes. That comparison is accurate. I have had the opportunity to check those figures and I agree they correctly and accurately show the comparison of rates between the two utilities.

Question: Does NTUA pay a business activity tax and possessory interest tax to the Navajo Nation?

Answer: No. NTUA does not pay either tax.

Question: Does CDEC pay a BAT and PIT tax to the Navajo Nation?

Answer: Yes. CDEC must pay a business activity tax and possessory interest tax to the Navajo Nation. The BAT tax is from 3% to 5% of gross revenue and the PIT tax is based upon right-of-way measured by rods times 10% times 3%.

Question: Are these taxes passed through by CDEC to the consumers within the Navajo Nation?

Answer: Under the 1992 five-year extension to the franchise with the Navajo Nation, Exhibit 1-A, CDEC has passed through the PIT tax. Through oversight, CDEC failed to pay or pass through the BAT tax and this resulted in an arrearage CDEC owed to the Navajo Tax Commission.

Question: Has this arrearage been taken care of?

Answer: At the time this testimony was dictated, it would appear that an agreement has been reached between NTUA and the Navajo Tax Commission concerning CDEC's arrearage on the BAT. Under the 1992 franchise extension, NTUA was responsible for those taxes.

Question: I will hand you what's been marked Exhibit 13 and I will ask you to identify this.

Answer: Exhibit 13 is the written testimony of Kenneth Craig on behalf of Navajo Tribal Utility Authority.

Question: Have you had the opportunity to review Mr. Craig's written testimony?

Answer: Yes, I have.

Question: Do you have any disagreement with Mr. Craig's testimony?

Answer: No. I have no disagreement with Kenneth Craig's testimony. I have reviewed it and from my knowledge of the situation, this is an accurate statement of Navajo Tribal Utility Authority, the scope of its operation and from my standpoint, this shows that the NTUA is quite capable of giving good, reliable electric service at competitive rates to the 1,691 accounts which CDEC proposes to sell and transfer to NTUA.

Question: Has this purchase and sale by CDEC to NTUA of assets and 325 accounts in New Mexico been heard by the New Mexico Public Regulation Commission?

Answer: Yes. The New Mexico Public Regulation Commission held a public hearing on May 16, 2001 for the purpose of taking testimony in support or opposition to this transaction by CDEC and NTUA.

Question: Were there any intervenors in New Mexico?

Answer: Yes. Navajo Communication Company intervened then withdrew its intervention at the hearing in Santa Fe on May 16, 2001.

Question: Has the New Mexico Commission rendered its decision yet?

Answer: No decision has been made at this time.

Question: In your opinion, is this sale to NTUA a good deal for CDEC?

Answer: Yes, this is a very good deal especially since we no longer have a franchise to operate on the Reservation in both states.

Question: Why is CDEC selling some of the facilities off Reservation?

Answer: The non-Reservation consumers along the Sanders-I-40 corridor constitute a better operating unit from NTUA's standpoint. From CDEC's standpoint, it is not feasible to keep only a few accounts in Arizona.

Question: Once CDEC has sold all of its Arizona assets and accounts to NTUA,

assuming Arizona Corporation Commission approval will be given, will CDEC be totally out of Arizona?

Answer: Yes. CDEC will then have no other assets or accounts in Arizona.

Question: I will hand you what has been marked for identification as Exhibit 14 and ask you to identify that.

Answer: Exhibit 14 is a certified copy (by the New Mexico Public Regulation Commission's record keeper) of the testimony of Terry L. Rodriguez on behalf of staff for the New Mexico Public Regulation Commission Case 3399 which is the companion case to this case.

Question: Do you agree with Mr. Rodriguez' testimony?

Answer: Yes. Mr. Rodriguez' testimony was favorable in all respects to this proposed transaction.

Question: What will Exhibit 15 consist of as it currently is not attached?

Answer: Exhibit 15 will be a series of detailed maps showing the accounts and facilities which are to be transferred and sold to NTUA in Apache County, Arizona.

Question: Will those maps, Exhibit 15, be available by the June 4, 2001 hearing in Phoenix?

Answer: Yes. We plan to have the necessary maps at the hearing for proper identification of all accounts and facilities to be sold and transferred in Arizona.

Question: Are you requesting that the Arizona Commission terminate 100% of CDEC's certificate of convenience and necessity to reflect the transfer of all accounts and facilities in Arizona to NTUA?

Answer: Yes. On behalf of CDEC, I am requesting this Commission's approval of this transaction; namely, the sale and transfer of all facilities and accounts in Arizona to NTUA and that CDEC's certificate of convenience and necessity be terminated in Arizona.

