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Arizona Corporation Commission

**BEFORE THE ARIZONA CORPORATION COMMISSION**

CARL J. KUNASEK  
 Commissioner - Chairman

JIM IRVIN  
 Commissioner

WILLIAM A. MUNDELL  
 Commissioner

AZ CORP COMMISSION  
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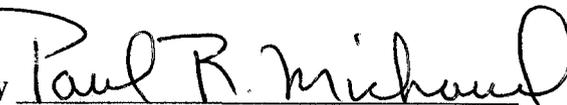
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IN THE MATTER OF COMPETITION IN THE )	DOCKET NO. RE-00000C-94-0165
PROVISION OF ELECTRIC SERVICES )	
THROUGHOUT THE STATE OF ARIZONA. )	
_____ )	
IN THE MATTER OF THE STRANDED )	DOCKET NO. E-01787A-98-0465
COST FILING AND REQUEST FOR A )	
WAIVER OF CERTAIN PORTIONS OF )	
THE RULES FILED BY NAVOPACHE )	NOTICE OF FILING EXECUTED
ELECTRIC COOPERATIVE. )	SETTLEMENT AGREEMENT
_____ )	

Navopache Electric Cooperative, Inc. ("Navopache") hereby files the executed Settlement Agreement in this matter.

RESPECTFULLY SUBMITTED this 5th day of April, 2000.

MARTINEZ & CURTIS, P.C.

By 

Paul R. Michaud  
 2712 North Seventh Street  
 Phoenix, Arizona 85006-1090  
 Attorneys for Navopache Electric  
 Cooperative, Inc.

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**The original and ten (10) copies of the foregoing are filed this 5th day of April, 2000 with:**

DOCKET CONTROL  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

**A copy of the foregoing is mailed this 5th day of April, 2000 to:**

Service List for RE-00000C-94-0165

Service List for E-01787A-98-0465

Jane Rodda, Hearing Officer  
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Deborah Scott, Director  
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By PRM

# SETTLEMENT AGREEMENT

April 5, 2000

This settlement agreement ("Agreement") is entered into on or about April 5, 2000, by Navopache Electric Cooperative, Inc. ("Navopache"), the Arizona Corporation Commission, Utilities Division Staff ("Staff"), and the Arizona Community Action Association ("ACAA"), hereinafter collectively referred to as "the Parties". The Parties stipulate and agree to the following settlement provisions in connection with matters submitted by Navopache to the Arizona Corporation Commission ("Commission") regarding Navopache's implementation plan for stranded cost recovery and unbundled standard offer rates.

## RECITALS:

1. Navopache is an electric cooperative engaged in the distribution and sale of power and energy to its members/customers in the States of Arizona and New Mexico.
2. The Commission has adopted Retail Electric Competition Rules (A.A.C. R14-2-201 *et seq.* and R14-2-1601 *et seq.*) introducing retail electric competition in Arizona.
3. Navopache currently purchases its power supply and associated transmission and ancillary services on a bundled basis from Plains Electric Generation and Transmission Cooperative, Inc. ("Plains"), which is located in New Mexico.
4. Navopache intends to purchase its power supply and certain ancillary services on a partially unbundled basis from Public Service Company of New Mexico ("PNM") and also from the Western Area Power Administration. Navopache also intends to purchase transmission service and some ancillary services from PNM under a separate

contract. In addition, Navopache will obtain power and energy from renewable resources if mandated by the Commission to do so.

5. In Decision No. 61283, dated December 14, 1998, the Commission approved Navopache's unbundled rates for distribution service, metering service, meter reading service, billing service, and a public benefits charge (system benefits charge). In the same Decision, the Commission approved the use of Navopache's current tariffs as its standard offer tariffs.

6. In Decision No. 61677, and in a Procedural Order dated April 21, 1999, the Commission required Affected Utilities, as defined in A.A.C. R14-2-1601, to submit supplements or amendments to their stranded cost filings submitted previously. The April 21, 1999 Procedural Order set dates for filing testimony and conducting hearings.

7. Navopache submitted its stranded cost filing in the form of written testimony on June 14, 1999.

8. On August 11, 1999, Staff submitted its written testimony on Navopache's stranded cost filing and on Navopache's standard offer rates.

9. On August 25, 1999, Navopache filed its rebuttal testimony, responding to Staff's August 11, 1999 testimony.

10. On September 24, 1999, a pre-hearing conference was held, at which time the Hearing Officer suggested that the Parties attempt to reach a settlement regarding stranded costs and unbundled standard offer rates.

11. Navopache provided notice to all intervenors and interested parties, included on the service list in Docket No. E-01787A-98-0465 regarding Navopache's

stranded cost settlement negotiations, and all interested parties and intervenors had a fair opportunity to participate in the settlement negotiations resulting in this Agreement.

**SETTLEMENT AGREEMENT:**

The Parties agree as follows:

**1. Purpose of the Agreement.**

1.1 The purpose of this Agreement is to resolve contested matters regarding Navopache's stranded costs and unbundled standard offer rates in a manner consistent with the public interest. Nothing contained in this Agreement is an admission by any Party that any of the positions taken, or that might be taken by each in formal proceedings, is unreasonable. Acceptance of this Agreement by the Parties does not prejudice any Party in these proceedings on any position pertaining to Navopache's stranded costs and unbundled standard offer rates.

1.2 This Agreement constitutes a final and complete resolution of all currently known outstanding issues pertaining to Navopache's stranded costs and standard offer rates.

**2. Stranded Costs.**

2.1 The Parties agree that Navopache's Implementation Plan for Stranded Cost Recovery, as set forth in Navopache's testimony filed on June 14, 1999 and reflected in Exhibit A to this Agreement, should be approved by the Commission.

2.2 The Parties recognize that there may be circumstances in which the Commission may grant recovery of certain costs related to the implementation of competition. Navopache may request such recovery outside a rate case. Staff will evaluate, at the time such a request is made, whether the application may be appropriately

processed outside a rate case. Examples of such costs are training costs for use of new billing software, the costs of new billing software, or the costs of new metering equipment incurred to meet the requirements of the Commission's Retail Electric Competition Rules.

**3. Fair Access for Potential Competitors.**

3.1 Fair access by potential competitive suppliers to Navopache's customers is ensured through the nondiscriminatory application of Navopache's unbundled rates.

3.2 Navopache's power sale agreement with PNM recognizes that Arizona has adopted a policy of retail electric competition.

3.3 Pursuant to R14-2-1616(A), Navopache is not at present required to file a Code of Conduct. Navopache does not, at present, plan to offer Competitive Services through any competitive electric affiliate. Additionally, Navopache is not, and does not plan at this time to be, a member of any electric cooperative that plans to offer Competitive Services in Arizona.

3.4 Navopache, at present, has no market power in the electric generation market.

**4. Unbundled Standard Offer Tariffs and Bills.**

4.1 Navopache does not, at present, have sufficient information to provide unbundled rates for all services.

4.2 Navopache does not, at present, have billing software that can print out unbundled charges. However, Navopache intends to have this software in place by July 2000. If Navopache's testing of new software indicates that errors in bills may occur, Navopache may extend the intended date for rendering unbundled bills. Navopache will

notify the Commission Staff by letter of the need for any such extensions beyond July 2000.

4.3 Within 20 days of the Commission's issuance of an order approving this Agreement, Navopache will file an unbundled standard offer tariff.

4.3.1 In the tariff, Navopache will: a) unbundle its standard offer distribution, metering, meter reading, billing, and public benefits rates (systems benefits charge) as set forth in its approved unbundled services rates, b) indicate that power supply, transmission, and ancillary service costs cannot be unbundled while service is supplied by Plains, c) indicate that power supply, transmission, and ancillary service costs per kWh vary from month to month, d) indicate that power supply, transmission, and ancillary service costs will be recovered through the purchased power cost adjustment mechanism, e) indicate that PNM charges for generation, transmission and ancillary services will not be unbundled until Navopache's tariffed rates are addressed in Navopache's next rate case proceeding, and f) set forth the stranded cost recovery charge (also called the Competitive Transition Charge or CTC) of \$0.00605 per kWh (effective when service from PNM starts and continuing for ten years), which can be automatically modified annually as total kWh sales (including kWh sales by third parties to Navopache's distribution customers) in its service territory change or which can be automatically reduced at any time if Navopache exercises its right to prepay the remaining principal associated with the Part One Demand Charge as explained on page 7 of Navopache's testimony filed on June 14, 1999. Navopache will notify

the Commission by letter of changes in the stranded cost recovery charge pursuant to this Section 4.3.1.

4.3.2 Navopache's customers who choose a competitive electric supplier will purchase generation, transmission, and ancillary services from an entity other than Navopache. These customers must obtain necessary distribution and other services from Navopache under Navopache's unbundled tariffs and must pay the stranded cost recovery charge or CTC.

4.3.3 Exhibit B to this Agreement sets forth the standard offer service rate elements, which will appear in Navopache's standard offer service tariff.

4.3.4 Until Navopache has tested and implemented its new billing system, it will not be able to include unbundled rates in its bills. Until unbundled bills are sent to customers, Navopache will include in its monthly newsletter (which is sent out with bills) its unbundled rates so that consumers may compare Navopache's standard offer service with competitive service. After the new billing system is in place, and to the extent allowed by the billing software, charges will be presented as follows: a) for generation, transmission, and ancillary services combined, charges at the current implicit tariffed rate, b) for generation, transmission, and ancillary services combined, the purchased power adjustment, c) for generation, transmission, and ancillary services combined, the net charge, d) the competition transition charge, e) metering charges, f) meter reading charges, g) distribution service charges (including billing charges), h) system benefits charges, i) the regulatory assessment, and j) applicable taxes.

**5. Commission Action**

5.1 Each provision of this Agreement is in consideration and support of all other provisions, and expressly conditioned upon acceptance by the Commission without material change. In the event that the Commission fails to adopt this Agreement according to its terms by July 31, 2000, this Agreement will be considered withdrawn and the Parties will be free to pursue their respective positions in any proceedings regarding Navopache's stranded cost and unbundled standard offer rates without prejudice.

5.2 The Parties may, by mutual agreement, extend the date set forth in Section 5.1.

5.3 The Parties must make all reasonable and good faith efforts necessary to obtain final approval of this Agreement by the Commission.

5.4 The Parties will actively defend this Agreement in the event of any challenge to its validity or implementation.

5.5 To the extent any provision of this Agreement is inconsistent with any existing Commission order, rule, or regulation or is inconsistent with the Retail Electric Competition Rules, the provisions of this Agreement will control and the approval of this Agreement by the Commission will be deemed to constitute a Commission-approved variation or exemption to any conflicting provision of the Retail Electric Competition Rules.

**6. Limitations.**

6.1 The terms and provisions of this Agreement apply solely to and are binding only in the context of the provisions and results of this Agreement, and none of the

positions taken herein by the Parties will be referred to, cited, or relied upon by any other Party in any fashion as precedent or otherwise in any proceeding before the Commission or any other regulatory agency or before any court of law for any purpose except in furtherance of the purposes and results of this Agreement.

6.2 Navopache and PNM have entered into a Power Sale Agreement ("PSA"), and are currently negotiating a Transmission Agreement. Navopache's stranded cost plan and this Agreement are contingent upon the successful completion and implementation of the PSA and the Transmission Agreement. The PSA is conditioned upon several factors including the successful completion of the merger of Plains and Tri-State Generation and Transmission Association, Inc.

6.2.1. If the PSA between Navopache and PNM is not implemented because the conditions for implementation listed in Section 3.3 of the PSA are not met, or the PSA is substantially modified so as to materially affect Navopache's stranded costs, then Navopache may re-file with the Commission a new stranded cost recovery plan under Commission Decision No. 61677.

6.2.2. Additionally, if Navopache is unable to negotiate a Transmission Agreement to obtain transmission service (in conjunction with the PSA) on reasonable terms and conditions within 60 days after the implementation of the PSA, then Navopache may re-file with the Commission a new stranded cost recovery plan under Commission Decision No. 61677.

## **7. Miscellaneous Matters.**

7.1 The procedural schedule currently in place in connection with Navopache's stranded costs and unbundled standard offer rates will be suspended pending the

Commission's consideration of issuing an order approving this Agreement. The procedural schedule currently in place in connection with Navopache's stranded costs and unbundled standard offer rates will be vacated upon the issuance of this order.

7.2 If any portion of the Commission order approving this Agreement or if any provision of this Agreement is declared by a court or regulatory body to be invalid or unlawful in any respect, then any Party to this Agreement may, at its sole discretion, have no further obligation or liability under this Agreement.

7.3 In the event of any dispute over the interpretation of this Agreement or the implementation of any of the provisions of this Agreement, the Parties will promptly convene a conference and in good faith shall attempt to resolve such dispute.

7.4 The Parties are aware that there is a rulemaking matter pending before the Commission in Docket No. E-00000A-99-0205 concerning the possible implementation of an Environmental Portfolio Standard.

7.5 On February 22, 2000, the New Mexico Public Regulation Commission ("NMRC") issued a final order in Utility Case No. 2989, which ordered Tri-State Generation and Transmission Association, Inc. and Plains to pay to each of Plains' thirteen member cooperatives (including Navopache) a share of the \$5.2 million gain from Plains' sale of its transmission and other assets to PNM. Navopache's share of the gain is expected to be approximately \$878,000.

7.5.1. Navopache became aware of the NMRC's final order in Utility Case No. 2989 on or about March 31, 2000 and immediately informed Commission Staff. This was approximately three business days before the hearing in this matter, currently scheduled for Wednesday, April 5, 2000. At this time, the parties cannot determine

whether Navopache's share of the gain from Plains' sale of its transmission and other assets to PNM should apply to Navopache's distribution rates, generation rates, the CTC, or some combination of these.

7.5.2. Navopache intends to file a rate case before the end of the year, and Staff believes that the disposition of Navopache's share of the gain from Plains' sale of its transmission and other assets to PNM and its proper allocation should be dealt with in that proceeding.

7.5.3. Navopache agrees to deposit funds from its share of the gain from Plains' sale of its transmission and other assets to PNM in a separate, interest-bearing account. Navopache shall address this matter in its next rate case filing. Navopache further agrees to file its next rate case no later than March 31, 2001.

**8. Resolution of Litigation.**

8.1 Upon issuance by the Commission of an order approving this Agreement that is no longer subject to judicial review, Navopache will withdraw with prejudice all pending litigation (if any) concerning the Retail Electric Competition Rules brought by Navopache against the Commission. At present, no litigation is pending.

DATED this 5th day April, 2000.

(Signatures contained on the following page.)

**NAVOPACHE ELECTRIC COOPERATIVE, INC.**

By: *Paul O'Dair*  
Printed Name: Paul O'Dair  
Title: Manager Financial Services  
Date: 4/5/00

**ARIZONA CORPORATION COMMISSION,**

**UTILITIES DIVISION STAFF**

By: *Deborah R. Scott*  
Printed Name: DEBORAH R. SCOTT  
Title: Director, Utilities Division  
Date: 4/5/00

**ARIZONA COMMUNITY ACTION ASSOCIATION**

By: *Jane Stevenson*  
Printed Name: JANE STEVENSON  
Title: EXECUTIVE DIRECTOR  
Date: 4-5-00

**Navopache Electric Cooperative, Inc.  
Implementation Plan for Stranded Cost Recovery**

1. Navopache's generation-related stranded costs derive from the stranded costs of its historical power supplier, Plains Electric Generation and Transmission Cooperative, Inc. (Plains).
2. Navopache has not identified any stranded cost associated with regulatory assets.
3. Navopache's share of Plains' compensation for stranded cost is approximately \$11,785,410. This amount was determined in a competitive bidding process for Plains' assets conducted during 1998.
4. The winning bidder for Plains' assets is a joint proposal by Tri-State Generation and Transmission Association, Inc. (Tri-State) and Public Service Company of New Mexico (PNM). Plains will be merged into Tri-State.
5. As a result of the bidding process, Navopache is selecting PNM as its power supplier under a contract which permits Navopache to terminate the contract in 10 years.
6. Immediately before the merger of Tri-State and Plains, PNM is advancing to Plains, on Navopache's behalf, Navopache's share of Plains' compensation for stranded cost. PNM recovers Navopache's share of Plains' compensation for stranded cost through the rates it charges to Navopache.
7. Under the PNM contract, Navopache's purchased power costs decrease from \$0.0545 per kWh paid in 1998 under the Plains contract to less than \$0.04 per kWh, **including recovery of stranded costs.**
8. On an annualized basis, over ten years, Navopache's share of Plains' compensation for stranded cost is \$1,775,645 per year.
9. Navopache normally reflects changes in its power supply costs through its purchased power adjustment mechanism which is applied to all customers' kWh charges.
10. Navopache proposes to initially recover its share of Plains' compensation for stranded cost from all customers through its purchased power cost adjustment mechanism on a per kWh basis. Thus, in compliance with Decision No. 60977, stranded costs are allocated to customer classes in a manner consistent with the current rate treatment of those classes. This recovery plan may be modified in subsequent rate cases.
11. Navopache proposes to initially assess a stranded cost recovery charge of **\$0.00605** per kWh. This amount is computed by dividing the annualized amount of \$1,775,645 by the forecast kWh sales in the first contract year in the absence of retail electric competition of 293,390 MWh. This charge applies to standard offer service (as part of Navopache's unbundled rates) and to customers who select a competitive power supplier.
12. Navopache further proposes to automatically modify the charge annually as the total kWh sales (including kWh sales by third parties to Navopache's distribution customers) in its service territory change.
13. Stranded cost recovery related to Navopache's share of Plains' compensation for stranded cost starts at the date of initial service under the PNM contract and ends ten years later.

**Navopache's Unbundled Standard Offer Rate Elements**

Unbundled Service	1-US (residential)	2-US (small commercial)	3-US (small C&I)	4-US (medium C&I)	5-US (large C&I)	6-US (irrigation & water pumping)
Generation including transaction costs & losses	Generation costs per kWh vary from month to month when Navopache purchases from Plains and when Navopache purchases from PNM. Currently these costs are recovered through the purchased power adjustment mechanism which is based on a bundled rate. Therefore, transmission, generation, and ancillary service charges will continue to be bundled.					
CTC	Proposed at \$0.00605 per kWh; may be revised as kWh sales change over time or if Navopache elects to prepay the remaining principal associated with the Part One Demand Rate.					
Generation related billing & collection	Not applicable. Generation service not offered separately.					
Transmission	With Plains service, transmission charges are bundled with generation charges. With new power supply, transmission costs will be set by tariff or contract and are expected to vary per kWh from month to month. Currently transmission costs are recovered through the purchased power adjustment mechanism which is based on a bundled rate. Therefore, transmission, generation, and ancillary service charges will continue to be bundled.					
Metering*	\$2.85/mo	\$8.05/mo	\$24.76/mo	\$26.88/mo	\$26.88/mo	\$12.30/mo
Meter reading*	\$1.18/mo	\$1.19/mo	\$1.42/mo	\$1.78/mo	\$1.78/mo	\$1.42/mo
Spinning reserve	With Plains service, ancillary service charges are bundled with generation charges. With PNM power supply, spinning reserve is bundled with generation service. Currently, these charges are recovered through the purchased power adjustment mechanism.					
Supplemental reserve	Treated same as spinning reserve service.					
Regulation & frequency response	Treated same as transmission service.					
Energy imbalance	Treated same as spinning reserve service.					
Distribution service*	\$5.13/mo \$0.0224/kWh	\$1.42/mo \$0.0293/kWh	\$46.73/mo \$2.92/kW \$0.0182/kWh	\$44.25/mo \$2.92/kW \$0.0205/kWh	\$42.16/mo \$2.92/kW \$0.0182/kWh	\$1.90/HP \$0.024/kWh
Scheduling, system control & dispatch	Treated same as transmission service.					
Reactive supply & voltage control	Treated same as transmission service.					
Must run generation	Not applicable - Navopache has no must run generation and there is no must run generation in Navopache's service area.					
System benefits*	\$0.0005/kWh	\$0.0005/kWh	\$0.0005/kWh	\$0.0005/kWh	\$0.0005/kWh	\$0.0005/kWh
Distribution related billing & collection*	\$2.09/mo	\$2.09/mo	\$2.09/mo	\$2.09/mo	\$4.18/mo	\$1.48/mo

Notes: Schedules 7-US and 8-US for security lights and street lighting are not unbundled.

\* Unbundled rates approved in Decision No. 61283.