

LEGISLATIVE SUMMARY SHEET

Tracking No. 0211-18

DATE: June 21, 2018

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE; REAFFIRMING THE NAVAJO NATION'S SUPPORT OF RESPONSIBLE TRANSITION TO RENEWABLE ENERGY BY OPPOSING "THE CLEAN ENERGY FOR A HEALTHY ARIZONA" INITIATIVE

PURPOSE: The purpose of this legislation is to express the Navajo Nation's opposition to "The Clean Energy for a Healthy Arizona Initiative."

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

PROPOSED STANDING COMMITTEE RESOLUTION
23rd NAVAJO NATION COUNCIL—FOURTH YEAR, 2018

INTRODUCED BY



Primary Sponsor

TRACKING NO. 0211-18

AN ACTION

RELATING TO NAABIK'ÍYÁTI' COMMITTEE; REAFFIRMING THE NAVAJO
NATION'S SUPPORT OF RESPONSIBLE TRANSITION TO RENEWABLE
ENERGY BY OPPOSING "THE CLEAN ENERGY FOR A HEALTHY
ARIZONA" INITIATIVE

WHEREAS:

- A. The Navajo Nation established the Naabik'iyáti' Committee as a Navajo Nation Council standing committee and as such empowered Naabik'iyáti' Committee to assist and coordinate all requests for information, appearances and testimony relating to state legislation impacting the Navajo Nation. 2 N.N.C. §§ 164 (A)(9), 700 (A), 701 (A)(4), 701(A)(6) (2015); *See also* CO-45-12.
- B. The Navajo Nation has a government-to-government relationship with the State of Arizona.
- C. In the State of Arizona, "the legislative authority of the state shall be vested in the legislature, consisting of a senate and a house of representatives, but the people reserve the power to propose laws and amendments to the constitution[.]" Ariz. Const. art. IV, § 1(1).
- D. Under the initiative power of the people, "ten per centum of the qualified electors shall have the right to propose any measure, and fifteen per centum shall have the right to propose any amendment to the constitution." Ariz. Const. art. IV, § 1(2).

- 1 E. For any constitutional amendments to be placed on the 2018 General Election ballot,
2 approximately 225,963 valid signatures must be obtained and provided to the Arizona
3 Secretary of State by July 5, 2018. *Initiative, Referendum and Recall*, Arizona
4 Secretary of State, <https://azsos.gov/elections/initiative-referendum-and-recall>.
- 5 G. On February 20, 2018, the “Clean Energy for a Healthy Arizona” Committee filed an
6 “Application for a Serial Number Initiative Petition,” intending to circulate and file
7 an initiative petition for the November 2018 General Election. The application states,
8 “The Clean Energy for a Healthy Arizona Amendment requires affected electric
9 utilities to provide at least 50% of their annual retail sales of electricity from
10 renewable energy sources by 2030. The Amendment defines renewable energy
11 sources to include solar, wind, small-scale hydropower, and other sources that are
12 replaced rapidly by a natural, ongoing process (excluding nuclear or fossil fuel).
13 Distributed renewable energy sources, like rooftop solar, must comprise at least 10%
14 of utilities’ annual retail sales of electricity by 2030. The Amendment allows electric
15 utilities to earn and trade credits to meet these requirements.” *See Clean Energy for a*
16 *Healthy Arizona Application for a Serial Number Initiative Petition* attached as
17 **Exhibit A**.
- 18 H. “The Clean Energy for a Healthy Arizona” Committee is currently gathering petition
19 signatures in order for the initiative to be placed on the November 2018 General
20 Election ballot.
- 21 I. The Navajo Nation opposes “The Clean Energy for a Healthy Arizona” Initiative for
22 the following reasons:
- 23 1. The proposed amendment may impose a dramatic increase in electricity bills of
24 Arizona residents especially those with low-income and fixed-income. *See*
25 *attached Exhibit B*. According to the Arizona Public Service Company,
26 approximately 2,295 residential and 516 commercial customers are located in
27 Navajo Nation Western Agency.
 - 28 2. The proposed amendment will require Arizona utilities to shut down various
29 power plants that have been providing affordable and reliable energy for decades
30 thereby resulting in a loss of tax revenue and Arizona jobs. The closing of power

1 plants will certainly impact the Four Corners Power Plant and its feeder mine
2 which is owned and operated by the Navajo Transitional Energy Company. The
3 Four Corners Power Plant has been supplying energy to the Arizona Public
4 Service Company for over 50 years. With continued operation over the next 30
5 years, it will provide more than \$6.3 billion in economic value to the Four
6 Corners region with 70% benefitting the Navajo Nation and Navajo families. The
7 plant and supporting mine have a \$225 million impact on the regional economies
8 and pay more than \$100 million in royalties, taxes, and fees to the Navajo Nation
9 and other governmental entities. It is estimated the Four Corners Power Plant will
10 close in 2025 or sooner, if the initiative is passed. The Four Corners Power Plant
11 employs 659 workers and is composed of an approximate 82% Native American
12 workforce. *Four Corners*, APS, [https://www.aps.com/en/ourcompany/generation](https://www.aps.com/en/ourcompany/generation/transmission/generation/Pages/four-corners.aspx)
13 [transmission/generation/Pages/four-corners.aspx](https://www.aps.com/en/ourcompany/generation/transmission/generation/Pages/four-corners.aspx).

- 14 J. The Navajo Nation supports a more responsible and realistic transition to renewable
15 energy that will not imperil Navajo jobs, livelihood, and economy. *See generally* CO-
16 50-13 (Approving the Navajo Nation Energy Policy).

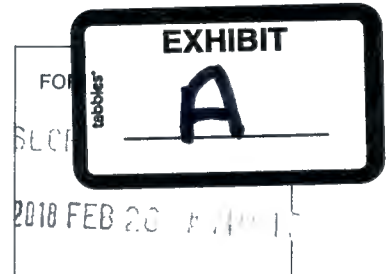
17
18 **THEREFORE, BE IT RESOLVED:**

- 19 A. The Navajo Nation hereby opposes “The Clean Energy for a Healthy Arizona”
20 Initiative for the reasons stated herein.
21 B. The Navajo Nation hereby authorizes the President of the Navajo Nation and the
22 Speaker of the Navajo Nation Council, and their designees, to advocate the Navajo
23 Nation’s opposition to “The Clean Energy for a Healthy Arizona” Initiative.
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STATE OF ARIZONA

Application for Serial Number
Initiative Petition
A.R.S. § 19-111



The undersigned intends to circulate and file an initiative petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Attached hereto is the full title and text, in no less than eight point type, of the measure or constitutional amendment intended to be initiated at the next general election.

☐ Statutory Measure

☒ Constitutional Amendment

Date of Application

2/20/2018

Signatures Required

225,963

Deadline for Filing

July 5, 2018

Serial Number Issued

C-04-2018

The Clean Energy for a Healthy Arizona Amendment requires affected electric utilities to provide at least 50% of their annual retail sales of electricity from renewable energy sources by 2030. The Amendment defines renewable energy sources to include solar, wind, small-scale hydropower, and other sources that are replaced rapidly by a natural, ongoing process (excluding nuclear or fossil fuel). Distributed renewable energy sources, like rooftop solar, must comprise at least 10% of utilities' annual retail sales of electricity by 2030. The Amendment allows electric utilities to earn and trade credits to meet these requirements.

Alejandra Gomez

Name of Applicant

3120 North 19th Avenue

Address

Phoenix AZ 85015

City

State

Zip

602.283.9858

Telephone Number

alex@luchaaz.org

E-mail Address

Clean Energy for a Healthy Arizona

Committee Name

2018-00444

Committee ID No.

Alejandra Gomez

Chairperson

Darryl Tattrie

Treasurer

2910 E Gary Way

Committee Address

Phoenix AZ 85042

City

State

Zip

602.283.9858

Committee Telephone Number

darryl@commoncentsconsulting.net

Committee E-mail Address

By submitting this Application for Serial Number and checking all boxes below, I acknowledge the following:



That I have read and understand the accompanying Instructions for Statewide Initiatives, including the Secretary of State's recommended best practices for printing copies of the Statewide Initiative Petition to be circulated.



That at the time of filing, I was provided instructions regarding accurate completion of the electronic Statewide Initiative Petition form.

Applicant Signature

February 20, 2018

Date

Office of the Secretary of State
1700 W. Washington Street
Phoenix, Arizona 85007

Rev. 06/01/2017

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Official Title

A CONSTITUTIONAL AMENDMENT
AMENDING ARTICLE XV OF THE CONSTITUTION OF ARIZONA TO REQUIRE ELECTRICITY PROVIDERS TO
GENERATE AT LEAST 50% OF THEIR ANNUAL SALES OF ELECTRICITY FROM RENEWABLE ENERGY
SOURCES

Text of Proposed Amendment

Be it enacted by the People of the State of Arizona:

Section 1. Title.

This Constitutional Amendment shall be known as the "Clean Energy for a Healthy Arizona Amendment."

Section 2. Article XV, Constitution of Arizona, is amended by adding Section 20, as follows:

SECTION 20. RENEWABLE ENERGY REQUIREMENT

A. DEFINITIONS

1. "AFFECTED UTILITY" MEANS A PUBLIC SERVICE CORPORATION SERVING RETAIL ELECTRIC LOAD IN ARIZONA.

2. "ANNUAL RENEWABLE ENERGY REQUIREMENT" MEANS THE PORTION OF AN AFFECTED UTILITY'S ANNUAL RETAIL ELECTRICITY SALES THAT MUST COME FROM ELIGIBLE RENEWABLE ENERGY RESOURCES.

3. "CONVENTIONAL ENERGY RESOURCE" MEANS AN ENERGY RESOURCE THAT IS NON-RENEWABLE IN NATURE, SUCH AS NATURAL GAS, COAL, OIL, AND URANIUM, OR ELECTRICITY THAT IS PRODUCED WITH ENERGY RESOURCES THAT ARE NOT RENEWABLE ENERGY RESOURCES.

4. "RENEWABLE ENERGY RESOURCE" MEANS AN ENERGY RESOURCE THAT IS REPLACED RAPIDLY BY A NATURAL, ONGOING PROCESS AND THAT IS NOT MUNICIPAL SOLID WASTE COMBUSTION, TREES LARGER THAN 12 INCHES IN DIAMETER, NUCLEAR OR FOSSIL FUEL.

5. "DISTRIBUTED GENERATION" MEANS ELECTRIC GENERATION SITED AT CUSTOMER PREMISES, PROVIDING ELECTRIC ENERGY TO THE CUSTOMER LOAD ON THAT SITE OR PROVIDING WHOLESALE CAPACITY AND ENERGY DIRECTLY TO THE LOCAL UTILITY DISTRIBUTION COMPANY FOR USE BY MULTIPLE CUSTOMERS IN CONTIGUOUS DISTRIBUTION SUBSTATION SERVICE AREAS. THE GENERATOR SIZE AND TRANSMISSION NEEDS SHALL BE SUCH THAT THE PLANT OR ASSOCIATED TRANSMISSION LINES DO NOT REQUIRE A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY FROM THE CORPORATION COMMISSION.

6. "DISTRIBUTED RENEWABLE ENERGY RESOURCE" MEANS AN ENERGY RESOURCE FROM DISTRIBUTED GENERATION TECHNOLOGIES INCLUDING BIOGAS ELECTRICITY GENERATORS, BIOMASS ELECTRICITY GENERATORS, GEOTHERMAL GENERATORS, FUEL CELLS THAT USE ONLY RENEWABLE FUELS, NEW HYDROPOWER GENERATORS OF 10 MW OR LESS, SOLAR ELECTRICITY RESOURCES, BIOMASS THERMAL SYSTEMS, BIOGAS THERMAL SYSTEMS, COMMERCIAL SOLAR POOL HEATERS, GEOTHERMAL SPACE HEATING AND PROCESS HEATING SYSTEMS, RENEWABLE COMBINED HEAT AND POWER SYSTEMS, SOLAR DAYLIGHTING, SOLAR HVAC SYSTEMS, SOLAR INDUSTRIAL PROCESS HEATING AND COOLING, SOLAR SPACE COOLING, SOLAR SPACE HEATING, SOLAR WATER HEATING, AND WIND GENERATORS OF 1 MW OR LESS AND THAT IS NOT MUNICIPAL SOLID WASTE COMBUSTION, TREES LARGER THAN 12 INCHES IN DIAMETER, NUCLEAR OR FOSSIL FUEL.

7. "DISTRIBUTED RENEWABLE ENERGY REQUIREMENT" MEANS A PORTION OF THE TOTAL ELECTRICITY SALES FOR WHICH AN AFFECTED UTILITY MUST OBTAIN DISTRIBUTED RENEWABLE

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ENERGY CREDITS DERIVED FROM RESOURCES THAT QUALIFY AS DISTRIBUTED RENEWABLE ENERGY RESOURCES.

8. "RENEWABLE ENERGY CREDIT" MEANS THE UNIT CREATED TO TRACK KWH DERIVED FROM AN ELIGIBLE RENEWABLE ENERGY RESOURCE OR KWH EQUIVALENT OF CONVENTIONAL ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.

9. "DISTRIBUTED RENEWABLE ENERGY CREDIT" MEANS THE UNIT CREATED TO TRACK KWH DERIVED FROM A DISTRIBUTED RENEWABLE ENERGY RESOURCES OR KWH EQUIVALENT OF CONVENTIONAL ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.

10. "UTILITY DISTRIBUTION COMPANY" MEANS A PUBLIC SERVICE CORPORATION THAT OPERATES, CONSTRUCTS, OR MAINTAINS A DISTRIBUTION SYSTEM FOR THE DELIVERY OF POWER TO RETAIL CUSTOMERS IN ARIZONA.

B. ELIGIBLE RENEWABLE ENERGY RESOURCES

1. "ELIGIBLE RENEWABLE ENERGY RESOURCES" SHALL INCLUDE ELECTRICITY FROM A RENEWABLE ENERGY RESOURCE DELIVERED TO ARIZONA CUSTOMERS THAT IS GENERATED FROM BIOGAS ELECTRICITY GENERATORS, BIOMASS ELECTRICITY GENERATORS, DISTRIBUTED RENEWABLE ENERGY RESOURCES, ELIGIBLE HYDROPOWER FACILITIES, FUEL CELLS THAT USE ONLY RENEWABLE FUELS, GEOTHERMAL GENERATORS, HYBRID WIND AND SOLAR ELECTRIC GENERATORS, LANDFILL GAS GENERATORS, NEW HYDROPOWER GENERATORS OF 10 MW OR LESS, SOLAR ELECTRICITY RESOURCES, AND WIND GENERATORS.

2. "ELIGIBLE HYDROPOWER FACILITIES" ARE HYDROPOWER GENERATORS THAT WERE IN EXISTENCE PRIOR TO 1997 AND THAT INCREASE CAPACITY DUE TO IMPROVED TECHNOLOGICAL OR OPERATIONAL EFFICIENCIES OR OPERATIONAL IMPROVEMENTS, IN WHICH CASE THE KWH THAT ARE ELIGIBLE TO MEET THE ANNUAL RENEWABLE ENERGY REQUIREMENTS SHALL BE LIMITED TO THE NEW, INCREMENTAL KWH OUTPUT RESULTING FROM THE CAPACITY INCREASE THAT IS DELIVERED TO ARIZONA CUSTOMERS.

3. "NEW HYDROPOWER GENERATOR OF 10 MW OR LESS" IS A GENERATOR, INSTALLED AFTER JANUARY 1, 2006, THAT PRODUCES 10 MW OR LESS AND THAT IS EITHER:

A. A LOW-HEAD, MICRO HYDRO RUN-OF-THE RIVER SYSTEM THAT DOES NOT REQUIRE ANY NEW DAMMING OF THE FLOW OF THE STREAM; OR

B. AN EXISTING DAM THAT ADDS POWER GENERATION EQUIPMENT WITHOUT REQUIRING A NEW DAM, DIVERSION STRUCTURES, OR A CHANGE IN WATER FLOW THAT WILL ADVERSELY IMPACT FISH, WILDLIFE, OR WATER QUALITY; OR

C. GENERATION USING CANALS OR OTHER IRRIGATION SYSTEMS.

4. EXCEPT AS PROVIDED IN SUBSECTION B(2), ELIGIBLE RENEWABLE ENERGY RESOURCES SHALL NOT INCLUDE FACILITIES INSTALLED BEFORE JANUARY 1, 1997.

C. RENEWABLE ENERGY CREDITS

1. ONE RENEWABLE ENERGY CREDIT SHALL BE CREATED FOR EACH KWH DERIVED FROM AN ELIGIBLE RENEWABLE ENERGY RESOURCE, INCLUDING DISTRIBUTED RENEWABLE ENERGY RESOURCES. INITIAL OWNERSHIP OF THE RENEWABLE ENERGY CREDIT SHALL BE ASSIGNED TO THE OWNER OF THE ELIGIBLE RENEWABLE ENERGY RESOURCE.

2. ONE DISTRIBUTED RENEWABLE ENERGY CREDIT SHALL ALSO BE CREATED FOR EACH KWH DERIVED FROM A DISTRIBUTED RENEWABLE ENERGY RESOURCE AND EACH 3,415 BRITISH THERMAL

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UNITS OF HEAT PRODUCED BY A SOLAR WATER HEATING SYSTEM, SOLAR INDUSTRIAL PROCESS HEATING AND COOLING SYSTEM, SOLAR SPACE COOLING SYSTEM, BIOMASS THERMAL SYSTEM, BIOGAS THERMAL SYSTEM, OR SOLAR SPACE HEATING SYSTEM. INITIAL OWNERSHIP OF THE DISTRIBUTED RENEWABLE ENERGY CREDIT SHALL BE ASSIGNED TO THE OWNER OF THE DISTRIBUTED RENEWABLE ENERGY RESOURCE.

3. AN OWNER OF A RENEWABLE ENERGY CREDIT OR DISTRIBUTED RENEWABLE ENERGY CREDIT MAY TRANSFER SUCH CREDITS TO ANOTHER PARTY. EXCEPT IN THE CASE OF DISTRIBUTED RENEWABLE ENERGY RESOURCES, AFFECTED UTILITIES MUST DEMONSTRATE THE DELIVERY OF ENERGY FROM ELIGIBLE RENEWABLE ENERGY RESOURCES TO THEIR RETAIL CONSUMERS SUCH AS BY PROVIDING PROOF THAT THE NECESSARY TRANSMISSION RIGHTS WERE RESERVED AND UTILIZED TO DELIVER ENERGY FROM ELIGIBLE RENEWABLE ENERGY RESOURCES TO THE AFFECTED UTILITY'S SYSTEM, IF TRANSMISSION IS REQUIRED, OR THAT THE APPROPRIATE CONTROL AREA OPERATORS SCHEDULED THE ENERGY FROM ELIGIBLE RENEWABLE ENERGY RESOURCES FOR DELIVERY TO THE AFFECTED UTILITY'S SYSTEM.

D. ANNUAL RENEWABLE ENERGY REQUIREMENT

1. EACH AFFECTED UTILITY SHALL BE REQUIRED TO SATISFY AN ANNUAL RENEWABLE ENERGY REQUIREMENT BY OBTAINING RENEWABLE ENERGY CREDITS FROM ELIGIBLE RENEWABLE ENERGY RESOURCES.

2. AN AFFECTED UTILITY'S ANNUAL RENEWABLE ENERGY REQUIREMENT SHALL BE CALCULATED EACH CALENDAR YEAR BY APPLYING THE FOLLOWING APPLICABLE ANNUAL PERCENTAGE TO THE RETAIL KWH SOLD BY THE AFFECTED UTILITY DURING THAT CALENDAR YEAR:

- (A) IN 2020 NOT LESS THAN 12%
- (B) IN 2021 NOT LESS THAN 14%
- (C) IN 2022 NOT LESS THAN 16%
- (D) IN 2023 NOT LESS THAN 20%
- (E) IN 2024 NOT LESS THAN 24%
- (F) IN 2025 NOT LESS THAN 28%
- (G) IN 2026 NOT LESS THAN 32%
- (H) IN 2027 NOT LESS THAN 36%
- (I) IN 2028 NOT LESS THAN 40%
- (J) IN 2029 NOT LESS THAN 45%
- (K) 2030 AND EACH YEAR THEREAFTER NOT LESS THAN 50%

3. AN AFFECTED UTILITY MAY USE RENEWABLE ENERGY CREDITS ACQUIRED IN ANY YEAR TO MEET ITS ANNUAL RENEWABLE ENERGY REQUIREMENT. ONCE A RENEWABLE ENERGY CREDIT IS USED BY ANY AFFECTED UTILITY TO SATISFY THE REQUIREMENT IN THIS SECTION, THE CREDIT IS RETIRED AND CANNOT BE SUBSEQUENTLY USED TO SATISFY THESE REQUIREMENTS OR ANY OTHER REGULATORY REQUIREMENT. AN AFFECTED UTILITY THAT TRADES OR SELLS ENVIRONMENTAL POLLUTION REDUCTION CREDITS OR ANY OTHER ENVIRONMENTAL ATTRIBUTES ASSOCIATED WITH KWH PRODUCED BY AN ELIGIBLE RENEWABLE ENERGY RESOURCE MAY NOT APPLY RENEWABLE ENERGY CREDITS DERIVED FROM THAT SAME KWH TO SATISFY THE REQUIREMENTS IN THIS SECTION.

E. ANNUAL DISTRIBUTED RENEWABLE ENERGY REQUIREMENT

1. EACH AFFECTED UTILITY SHALL BE REQUIRED TO SATISFY AN ANNUAL DISTRIBUTED RENEWABLE ENERGY REQUIREMENT BY OBTAINING DISTRIBUTED RENEWABLE ENERGY CREDITS FROM DISTRIBUTED RENEWABLE ENERGY RESOURCES.

2. AN AFFECTED UTILITY'S DISTRIBUTED RENEWABLE ENERGY REQUIREMENT SHALL BE CALCULATED EACH CALENDAR YEAR BY APPLYING THE FOLLOWING APPLICABLE ANNUAL PERCENTAGE TO THE RETAIL KWH SOLD BY THE AFFECTED UTILITY DURING THAT CALENDAR YEAR:

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- (A) 2020 NOT LESS THAN 3%
- (B) 2021 NOT LESS THAN 3.5%
- (C) 2022 NOT LESS THAN 4%
- (D) 2023 NOT LESS THAN 4.5%
- (E) 2024 NOT LESS THAN 5%
- (F) 2025 NOT LESS THAN 5.5%
- (G) 2026 NOT LESS THAN 6%
- (H) 2027 NOT LESS THAN 7%
- (I) 2028 NOT LESS THAN 8%
- (J) 2029 NOT LESS THAN 9%
- (K) 2030 AND EACH YEAR THEREAFTER NOT LESS THAN 10%

3. AN AFFECTED UTILITY MAY USE DISTRIBUTED RENEWABLE ENERGY CREDITS ACQUIRED IN ANY YEAR TO MEET ITS ANNUAL DISTRIBUTED RENEWABLE ENERGY REQUIREMENT. ONCE A DISTRIBUTED RENEWABLE ENERGY CREDIT IS USED BY ANY AFFECTED UTILITY TO SATISFY THE REQUIREMENT IN THIS SECTION, THE CREDIT IS RETIRED AND CANNOT BE SUBSEQUENTLY USED TO SATISFY THESE REQUIREMENTS OR ANY OTHER REGULATORY REQUIREMENT. AN AFFECTED UTILITY THAT TRADES OR SELLS ENVIRONMENTAL POLLUTION REDUCTION CREDITS OR ANY OTHER ENVIRONMENTAL ATTRIBUTES ASSOCIATED WITH KWH PRODUCED BY A DISTRIBUTED RENEWABLE ENERGY RESOURCE MAY NOT APPLY DISTRIBUTED RENEWABLE ENERGY CREDITS DERIVED FROM THAT SAME KWH TO SATISFY THE REQUIREMENTS IN THIS SECTION.

Section 3. Severability.

The People of Arizona declare their intention that the provisions of this Constitutional Amendment are severable. If any provision of this Constitutional Amendment is held invalid for any reason, the remaining provisions of this Amendment shall be severed from the void portion and given the fullest possible force and application.

Section 4. Submission to Voters.

The Secretary of State shall submit this Constitutional Amendment to the voters at the next general election as provided by Article XXI, Section 1, Constitution of Arizona.

Section 5. Effective Date and Implementation.

A. If approved by the voters, this Constitutional Amendment shall take effect as of January 1, 2019.

B. The Corporation Commission shall promptly make such changes in and additions to regulations as are necessary to fully implement the provisions of this Constitutional Amendment.

1. No later than 90 days after the Constitutional Amendment takes effect the Corporation Commission shall begin any rulemakings required to implement and enforce this Amendment. These rulemakings must be completed no later than December 31, 2019. The Corporation Commission may open additional proceedings as appropriate to explore implementation details including energy storage, systems operations, and resource planning.
2. Affected Utilities must provide the Corporation Commission with a detailed compliance and implementation plan on an annual basis.

C. The rights established by this Section shall be construed broadly.



KEEP ENERGY AFFORDABLE AND RELIABLE; OPPOSE THE TOM STEYER INITIATIVE

As you may have heard, **an out-of-state group primarily funded by California billionaire Tom Steyer** has filed a ballot initiative with the Secretary of State's office that would amend Arizona's State Constitution to require that Arizona utility companies obtain 50% of their energy from renewable sources by 2030, **less than 12 years from now.**

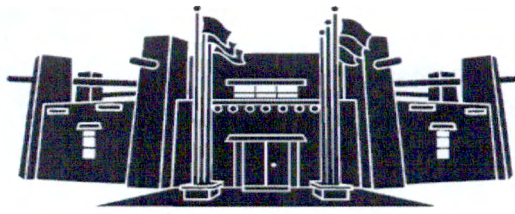
If passed, Tom Steyer's initiative would:

1. **Circumvent Arizona's current structure for regulating utilities**, which has provided Arizona residents with some of the safest, most reliable, and affordable energy in the country for over 100 years
2. Enshrine in the state constitution a regulatory mandate that has the potential to **dramatically increase electricity bills** (especially those of low-income and fixed-income residents), a mandate that could not be changed or modified without a costly ballot initiative or $\frac{3}{4}$ vote of the Legislature—**leaving Arizona residents with the burden of complying with a mandate that will have devastating consequences**
3. Require Arizona utilities to **shut down power plants** that have been providing safe, affordable, and reliable energy for decades, **costing taxpayers tens of millions of dollars** in lost tax revenue and hundreds of high-paying jobs
4. **Threaten the viability of the Palo Verde Nuclear Generating Station**, the largest source of clean, carbon-free energy in the country, **costing 3,000 Arizona families their jobs** and erasing tens of millions of dollars of tax revenue for Arizona schools and public safety
5. **Force Arizona residents to pay hundreds of millions of dollars** for the construction of new, carbon-emitting natural gas plants that would be necessary to generate electricity when the sun is not shining and wind is not blowing
6. **Weaken Arizona's economic competitiveness** by more than doubling residential, commercial and industrial energy costs by 2030

While Tom Steyer's paid spokespeople claim the initiative will reduce Arizona residents' electricity bills and improve public health, the reality is that the initiative will do neither. **Renewable energy is intermittent** and requires support from flexible resources like natural gas or battery storage — these additional resources will require Arizona residents to pay billions of dollars extra to keep the lights on. In addition, the public health issues (asthma and respiratory illnesses) that the initiative spokespeople claim would be addressed by the ballot measure **would not be measurably improved** by shutting down baseload plants such as Palo Verde.

The initiative also includes a requirement that 20% of utilities' renewable generation come from rooftop solar, the **least efficient and most expensive form of solar.**

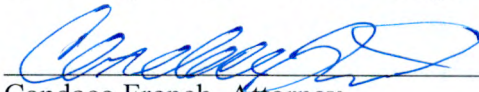
In summary, an out-of-state group funded by a California billionaire is attempting to buy an amendment to the state constitution by inaccurately telling voters that it will clean the air and reduce their electricity bills. In fact, the initiative is certain to **dramatically increase electricity bills, kill thousands of jobs, eliminate tens of millions of dollars in tax revenue, and potentially increase carbon emissions** in Arizona.



MEMORANDUM

TO: Honorable Speaker LoRenzo Bates
23rd Navajo Nation Council Delegate

FROM:


Candace French, Attorney
Office of Legislative Counsel

DATE: June 21, 2018

RE: AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE;
REAFFIRMING THE NAVAJO NATION'S SUPPORT OF RESPONSIBLE
TRANSITION TO RENEWABLE ENERGY BY OPPOSING "THE CLEAN
ENERGY FOR A HEALTHY ARIZONA" INITIATIVE

Per your request, attached is the above-reference proposed resolution and associated legislative summary sheet. Based on existing law and the available information, the resolution as drafted is legally sufficient. However, as with all legislation, the proposed resolution is subject to review by the courts in the event of a challenge.

The Office of Legislative Counsel recommends the appropriate standing committee(s) reviews based on the standing committees powers outlined in 2 N.N.C. §§ 301, 401, 501, 601, and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration. 2 N.N.C. § 164(A)(5).

Please review the proposed resolution to ensure it is drafted to your satisfaction. If you approve, please sign as "Primary Sponsor" and submit it to the Office of Legislative Services where the proposed resolution will be given a tracking number and referred to the Office of the Speaker. If the proposed legislation is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like to make to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0211-18_

SPONSOR: LoRenzo C. Bates

TITLE: An Action Relating To NAABKI'YATI' Committee; Reaffirming The Navajo Nation's Support Of Responsible Transition To Renewable Energy Opposing "The Clean Energy For A Healthy Arizona" Initiative

Date posted: June 21, 2018 at 4:22 PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0211-18

SPONSOR: Honorable LoRenzo C. Bates

TITLE: An Action Relating to Naa’bik’iyati’ Committee; Reaffirming The Navajo Nation’s Support Of Responsible Transition To Renewable Energy Opposing “The Clean Energy For A Healthy Arizona” Initiative

Posted: June 21, 2018 at 4:22 PM

5 DAY Comment Period Ended: June 26, 2018

Digital Comments received:

Comments Supporting (6)	1. Patrick Y. Mann 2. Shawn Benally, Work Week Coordinator; Four Corners Steam Electric Station 3. Arlene Victor, Control Operator at Arizona Public Service Co.; Four Corners Power Plant 4. Merle Benally, Four Corner Facility Operator; Salt River Materials Group/Phoenix Cement Co. 5. Paul Thompson 6. Terry J. Dayish, P.E., Sr. Consultant, Government Affairs.
Comments Opposing (2)	1. Vincent Yazzie; Attachment: Institute for Energy Economics and Financial Analysis. 2. Percy Deal; Attachments: Western Navajo Agency Council Resolution No. WNCAC17- 03-NB3, Chinle Agency Council Resolution No. CAC-01/18-08, Fort Defiance Agency Council Resolution No. FDAC-18-01-001, Hardrock Chapter Resolution No. HR-01/18- 01
Inconclusive Comments	<i>None</i>



Legislative Secretary II
Office of Legislative Services

6/27/2018 8:13 am

Date/Time

0211-18

Patrick.Mann@aps.com

Fri 6/22/2018 9:43 AM

To: comments <comments@navajo-nsn.gov>;

Cc: patmannonnavajo@yahoo.com <patmannonnavajo@yahoo.com>;

NAVAJO NATION,

My name is Patrick Y. Mann, I am an enrolled member of the Dine' (Navajo) Tribe. I am employed as a Maintenance Supervisor here at the Four Corners Power Plant. I am writing to support the Navajo Nation Legislation 0211-18 to oppose the unwanted Tom Steyer Ballot initiative: which the Navajo Nation is referencing to as:

Title of Resolution: AN ACTION RELATING TO NAABIK'I'YATI' COMMITTEE; REAFFIRMING THE NAVAJO NATION'S SUPPORT OF RESPONSIBLE TRANSITION TO RENEWABLE ENERGY BY OPPOSING "THE CLEAN ENERGY FOR A HEALTHY ARIZONA" INITIATIVE.

The impact to the State of Arizona by a billionaire who is a State Representative of California, and who is concerned with the outcome to the economy of California, to initiate legislation that will impact the State of Arizona is hard to believe. I oppose this move by this individual (Tom Steyer), and support the Navajo Nation's opposition of the "THE CLEAN ENERGY FOR A HEALTHY ARIZONA" INITIATIVE.

Respectfully,

Patrick Y. Mann
patrick.mann@aps.com

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0211-18

Shawn.Benally@aps.com

Fri 6/22/2018 12:54 PM

To: comments <comments@navajo-nsn.gov>;

1 attachment

2018 - COAL!.docx;

I am writing in support of Navajo Nation Legislation 0211-18: An Action Relating to Naabik'iyati' Committee - Reaffirming the Navajo Nation's Support of Responsible Transition to Renewable Energy by Opposing "The Clean Energy for a Healthy Arizona Initiative."

I am of the Red House Clan Born for the Water Edge Clan originally from Cove, Arizona. I have worked at the Four Corners Power Plant for 19 years after moving back to the area from Albuquerque, NM; and upon graduating from the University of New Mexico with a Bachelor's degree in Biology and Biochemistry. I have had the privilege to work for Arizona Public Service as an Environmental Scientist for over 12 years and as a work week coordinator for the last 7 years. This experience has allowed me to grow professionally and to become active in the local community to support the younger generation. I am grateful to have had this experience all while being home.

While renewable energy may be the way of the future, a very quick transition to renewables has many negatives that are associated with it including the real possibility of closing down the Four Corners Power Plant. For me, that would mean that I would probably have to move away from home so that I can stay employed and continue to grow professionally. This is certainly not an attractive option for me since I love being home, surrounded by family and performing traditional cultural duties including farming and raising livestock. I would suspect that this would be case for most Navajo employees currently employed at Four Corners Power Plant.

The closing down of the Four Corners Power Plant would obviously have a huge economic impact on the Navajo Nation's investment in Navajo Transitional Energy Company (NTEC). This of course would ultimately affect the Navajo employees at the North American Coal Company (Navajo Mine). This is not to mention the loss of royalties and taxes paid to the Navajo Nation for both mining and power production operations.

On a much larger scale, the negative effects of closing down Four Corners Power Plant and Navajo Mine would be felt most by the community. Because I was not able to get my hands on data related to any local Navajo communities, I have attached is an article that was published in the Farmington Daily Times that outlines just how important the coal mines and the power plants are to the local communities. If giving to San Juan United Way is any indication of the local economic impact, the mines and the power plants directly represent over 60% of the economic engine for our community. Add in the outside contractors and ancillary support services and you are probably at 75%. The bottom line is that the loss of the mine and the power plant will further devastate a community that is already reeling from the cutbacks to date.

In summary, these are the local impacts that can be prevented by a responsible transition to renewable energy and opposing the Tom Steyer Initiative.

**SHAWN BENALLY****WORK WEEK COORDINATOR**

Four Corners Steam Electric Station

P.O. Box 355, Fruitland, NM 87416

Tel 505 598 8885

Shawn.Benally@aps.com

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COAL!

January, 2018

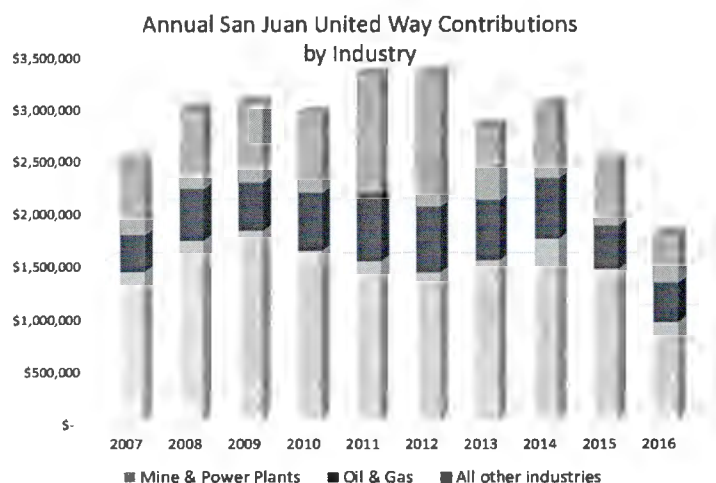
If you read Tom Dugan's book, "GAS!", you might conclude that Farmington is an oil and gas town. That is an understandable misperception. Certainly over the last 60 years, the local economy has been significantly affected by the boom and bust cycles of the oil & gas industry. But hidden under the rise and fall of the economic sea level, so to speak, has been the constant contribution of the coal industry. This is the story of that contribution and the sobering affect that the demise of that industry has had and will continue to have on the economic wellbeing of the community.

Yes, since the plants were built and expanded in the 60's and 70's, San Juan County has been coasting blissfully along, bobbing up and down with the repetitive boom and bust cycle of the oil and gas industry. Meanwhile, the coal industry kept its head down and kept plugging away, day after day, year after year, providing a base for our economy that few appreciated. Until now. As the base has started to erode, all of a sudden it has our full attention.

Just how big is the impact? In 2013 before any stacks at either plant had been shuttered, BHP, APS, and PNM collectively employed 1813 workers (statistics from 4 Corners Economic Development). At an average salary of around \$86,000, that represented \$156 million a year in payroll alone. At that time, the plants and mines represented over 20% of the total tax base for the County. In addition, over the years, the industry has paid hundreds of millions to other local contractors for supplies and services, not counting the hundreds of millions spent to continually upgrade the pollution controls at the plants.

The Historic Base Load

It is hard to put the numbers above in perspective compared to the total economic contribution from all other industries in the County. A pretty representative indicator of economic impact can be inferred by comparing the amount of money donated to San Juan United Way over the years by the various industry segments. Those numbers are plotted for the last 10 years in the graph below.



The mines and the power plants are clearly the base load for the County. Over that 10-year period, the coal industry donated an average of \$1.51 million per year, or 54% of the total. Meanwhile, the oil and gas industry averaged right at \$500K per year, only one third of that donated by the coal industry. All other industries combined (medical, banking, retail, education, manufacturing, etc.) averaged just below \$800K per year, or right at half of the coal industry. There is no doubt that coal is, or was, the king of the economic mountain.

As we speak, the manpower at the two plants and the associated mines is now one third less than in 2013 at 1227 and dropping. Correspondingly, donations from the coal industry dropped to \$940K in 2016, or 38% less than the ten year average. Does a drop in the base industry affect other industries? Absolutely!! In 2016 the "other industry" category gave \$454K, down 43% from their 10 year average, even MORE than coal is down. When employees lose their jobs and/or move away, they no longer eat in our restaurants, shop in our stores, or send their kids to our schools, and consequently we have less to share with the community. The loss of the coal industry affects EVERYBODY in some way.

Interestingly, those most affected by the trends are the poor and the needy. Those people DON'T move away. In fact, as the economy continues to degrade, their numbers will increase, probably in direct proportion to the drop in funding needed to help them in their situations. At the Boys and Girls Club of Farmington, for example, we are budgeting \$52,000 from United Way for 2018, down over 60% from the peak of over \$130,000 back in 2012. In the meantime, our average daily attendance is up over 40% in the last three years. So don't let anybody tell you that the coal industry is not good for the common man

The Future

Unfortunately, the bleeding is not over. PNM just shut down two of their units in December, which will further reduce manpower at the plant and the mine that feeds it. Even more concerning is the complete shutdown of the PNM plant scheduled for 2022. If and when that occurs, there will be one remaining leg on the stool (APS at only two units) that has held us up for all these years. I know our county leaders are frantically working to either convince PNM and the Public Utility Commission to reconsider closing the plant, or to find another buyer to take over the plant. For the sake of the kids, the homeless, and the under-served, let's hope they do.

George Sharpe
Farmington, New Mexico

0211-18

Arlene.Victor@aps.com

Sun 6/24/2018 10:47 PM

To: comments <comments@navajo-nsn.gov>;

I; Arlene Victor am opposing The Clean Energy for a healthy Arizona Initiative (0211-18). It certainly does not benefit Tribal members like myself, to pass this initiative. It would cost more in utilities, and jobs within the Nation: which is at an all-time low could be jeopardized if this initiative were to pass.

Thank you,

Arlenevictor@wildblue.net

Control Operator at Arizona Public Service Co.
Four Corners Power Plant

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0211-18

Benally, Merle <mbenally@srmaterials.com>

Mon 6/25/2018 8:37 AM

To: comments <comments@navajo-nsn.gov>;

Cc: Benally, Merle <mbenally@srmaterials.com>;

Legislation,

Oppose the Clean air act for Arizona, keep our jobs in Arizona. No to California Billijonare.



Merle Benally | Four Corners Facility Operator
Salt River Materials Group/Phoenix Cement Co.
Four Corners Facility
Fruitland, NM 87416
Office: 505.598.8657
Fax: 505.598.8633
mbenally@srmaterials.com | www.srmaterials.com

0211-18

Paul Thompson <paul@walsheng.net>

Tue 6/26/2018 9:56 AM

To: comments <comments@navajo-nsn.gov>;

I support the Tribes position to oppose the Clean Energy for a Healthy Arizona Initiative for the reasons that are listed in the resolution and the fact that I am opposed to people and organizations that don't live in our area telling us what is best for us. We can take care of ourselves – thank you very much. Paul Thompson, President of Walsh Engineering and a Four Corners resident.

0211-18

Terry.Dayish@aps.com

Tue 6/26/2018 12:47 PM

To: comments <comments@navajo-nsn.gov>;

Dear NABI Committee:

This is to express concerns regarding the Clean Energy for a Healthy Arizona initiative presently being circulated in Arizona. The initiative would require Arizona's regulated utilities to get 50% of their power from "renewable" sources. We ask that you formally oppose the effort because of the devastating impact the initiative's proposal will have on the Navajo Nation.

Not only will the initiative double customer bills, it will result in an early closure of the Four Corners Power Plant which collectively with the supporting mining operation employ over 600 people and contribute \$94M annual payroll to our area .

Additionally, the plant pays over \$60M in fees and royalties to the Navajo Nation and over \$12M in taxes.

Put simply, the Navajo Nation and our citizens cannot afford to have this initiative pass.

Again, respectfully request the NABI Committee formally oppose the Clean Energy for a Healthy Arizona initiative by voting in favor of Navajo Nation legislation 0211-18.

Thanks,

TERRY J. DAYISH, P.E.

Sr. Consultant, Government Affairs

P.O. Box 355, Fruitland, NM 87416

Tel (505) 598-8429 Cell (505) 330-0483

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Comment 0211-18

Vincent Yazzie <vinceyazzie@yahoo.com>

Mon 6/25/2018 10:04 AM

To: comments <comments@navajo-nsn.gov>;

Cc: Ed Becenti <rezztone@yahoo.com>;

1 attachment

Cost-of-Coal-From-Mine-Mouth-Prairie-State-Plant-Isnt-the-Bargain-That-Was-Promised1.pdf;

June 25, 2018

Vincent Yazzie
10080 Palomino Road
Flagstaff, AZ 86004
vinceyazzie@yahoo.com
(928) 380-3198

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515

Subject: No to 0211-18

Dear Honorable Delegates,

State of Arizona Corporation Commission (ACC) proposes to raise renewable energy use in the State of Arizona by 80% by 2050. Renewable energy cost is becoming cheaper than coal. Pro-coal advocates have railroaded the Navajo Nation to revenue derived from a dying coal industry. Central Arizona Project has not renewed their power purchase agreement with NGS. The plan to sell NGS is being taking advantage by fly-by-night companies pretending to want to NGS, but actually a plan for Peabody to sell the Kayenta Mine and Black Mesa Mine. The power plant owners and Peabody split with \$5 billion dollars if sold to an unsuspecting buyer especially the Navajo Nation if they could borrow \$5 billion. This scam did not work as there are hidden cost to such a deal such as debt servicing. The victims of this scam are currently trying to borrow more money. See attach Research Memo: Cost of Coal from 'Mine-Mouth' Prairie State Plant Isn't the Bargain that was promised., Institute for Energy Economics and Financial Analysis, Tom Sanzillo

<http://ieefa.org/wp-content/uploads/2015/04/Cost-of-Coal-From-Mine-Mouth-Prairie-State-Plant-Isnt-the-Bargain-That-Was-Promised1.pdf>

Articles attached.

No to 0211-18

Vincent H. Yazzie

Arizona commissioner prepares to file 80% clean energy rule

-

Arizona commissioner prepares to file 80% clean energy rule

Commissioner Andy Tobin said he will docket a draft version of a proposed rule by July 5, with discussion to beg...

Arizona commissioner prepares to file 80% clean energy rule

Author

Robert Walton @TeamWetDog

Published

June 25, 2018

Dive Brief:

- In a letter to fellow regulators and the public, Arizona Corporation Commission member Andy Tobin last week outlined how the commission will proceed in developing a new rule directing utilities to meet an 80% clean energy standard by 2050.
- Tobin will file a draft version of the rule by July 5, to be discussed at the ACC's open meeting scheduled for July 19.
- Tobin announced the plan in January, for utilities in the state to source the bulk of their electricity from renewables and nuclear within about three decades. Along with that, utilities will be directed to deploy 3,000 MW of energy storage by 2030.

Dive Insight:

The process to modernize the Renewable Energy Standard and Tariff, passed in 2006, is a lengthy one but may be in the home stretch. Tobin called his letter an "acknowledgement" of a process that began two years ago, and the beginning of a rulemaking proposal — which typically lasts six to nine months.

"These rules will lower energy costs for ratepayers and businesses around the state, protect our air, water, and forests, avoid costly stranded assets, ensure resiliency, promote economic growth, and establish Arizona as the leader in moving towards a clean energy future," he wrote in the June 22 letter.

Tobin's proposal, through a mechanism called the "Clean Peak Standard," would require utilities to deliver an increasing portion of their renewable energy during peak electricity demand hours, incentivizing storage deployment. According to his letter, the new proposed rules will "lower energy costs for ratepayers and businesses around the state, protect our air, water, and forests, [and] avoid costly stranded assets."

That proposal comes as the state's investor-owned utilities have already met Arizona's 15% renewable energy mandate, and are looking to natural gas. Arizona Public Service is considering 5.3 GW of gas generation by 2030, more than doubling its current capacity. And Tucson Electric Power's plan includes nearly 360 MW of new gas by 2032, a 30% increase in gas capacity.

Recommended Reading:

- [Arizona Corporation Commission RE: Docket No. E.00000Q-16-0289; Review, Modernization and Expansion of the Arizona Energy Standards and Tariff Rules and Associated Rules.](#)  offsite link

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[Despite protests from Navajo miners, Central Arizona Project approves power deal](#)

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Despite protests from Navajo miners, Central Arizona Project approves power deal

[Ryan Randazzo](#), The Republic | [azcentral.com](#) Published 2:48 p.m. MT June 7, 2018 |

Updated 6:29 p.m. MT June 7, 2018

 navajo coal plant protest

(Photo: Nick Oza/The Republic)

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The board of directors overseeing the Central Arizona Project canal on Thursday approved two deals for power to partially replace what they expect to lose next year when the embattled Navajo coal plant near Page closes.

Coal miners from the Kayenta Mine protested at the state Capitol on Wednesday and attended the board meeting of the Central Arizona Water Conservation District, asking the board to put the vote on hold for three months.

They said time was needed for Chicago-based Middle River Power to put together a proposal to buy the Navajo Generating Station and prevent its closure.

The board did not listen. The vote was unanimous except for one member, Mark Lewis, who abstained because of a conflict of interest.

Lewis is on both the CACWD board and the council of Salt River Project, the electric company that runs the plant and decided last year it was no longer economical.

Deal will mean new solar plant

One of the power deals approved Thursday will result in the construction of a 30-megawatt solar plant somewhere along the canal, which will sell power to CAP for just 2.5 cents per kilowatt-hour, one of the cheapest contracts of its kind.

The other agreement is a five-year deal for power from SRP from a variety of sources.

Combined, the contracts only cover about 14 percent of CAP's power needs, and officials said if Middle River or another entity can successfully take over the coal plant, they'll consider taking its power — if it's offered at a reasonable price.

CAP officials said they were concerned for the Navajo and Hopi communities that would be affected by the coal plant's closure, but that ultimately the decision was not theirs.

"I want to be clear, CAP did not have a vote on closing NGS," CACWD President Lisa Atkins said Thursday. "CAP does not own NGS. CAP is not required by law to buy NGS power. ... CAP seeks a long-term, cost-effective, reliable and diverse power portfolio for the benefit of its water users."

Middle River Power optimistic, but not specific

Joe Greco, senior vice president of Middle River Power, addressed the board Thursday. He did not disclose a possible price for the plant or provide other specifics. He said his company could operate the plant efficiently and economically for customers.

The future of the plant on the sprawling Navajo reservation in northern Arizona remained unclear after the announcement by Middle River Power, a portfolio company of Avenue Capital responsible for managing its power plant investments.

But the hundreds of members of the Navajo Nation and Hopi Tribe who work at the plant and the mine that supplies its coal have been heartened that their livelihoods could be saved by the only potential buyer to emerge since the utilities that own the plant announced they would close it.

The water conservation district uses power from the generating plant to operate an aqueduct system that moves Colorado River Water to cities, farmers and tribes in central and southern Arizona.

Greco characterized his company's intentions as serious and said it was looking at options "to keep the NGS operating well into the future."

Hopi chairman: 'Slow this process down'

"Let's slow this process down, answer questions and give the prospective owner a chance," said Timothy Nuvangyaoma, the Hopi Tribe chairman. He said that because the tribe gets about 85 percent of its operating budget revenues from the power plant and coal mine, closing them would result in "economic catastrophe."

Board members denied Greco's request to delay approval of agreements to buy power from several firms for some of the energy necessary to move Arizona's water, saying it needed to move ahead and noting the aqueduct has relied on multiple power sources in the past.

The utilities that own the Navajo Generating Station decided last year to shutter it when its lease expires in late 2019. While supporters of the plant insist it can produce economically priced energy, utility operators say the station is more expensive to run than natural gas-burning plants.

The Associated Press contributed to this report.



Research Memo: Cost of Coal From 'Mine-Mouth' Prairie State Plant Isn't the Bargain That Was Promised

By Tom Sanzillo, Director of Finance, IEEFA

When Peabody Energy developed the Prairie State Energy Campus coal-fired power plant in Southern Illinois a decade ago, it promoted the "mine-mouth plant" as a way to save money on coal transportation costs. The coal from Peabody's Lively Grove coal mine, located next to the plant, was supposed to provide fuel at a bargain price for 30 years to come.

However, a careful review of how the cost of coal is calculated, given the unusual business model governing this plant, demonstrates that any savings expected from using Lively Grove coal have not been realized.

By late 2007, Peabody had sold 95 percent of the ownership of the Prairie State plant to municipal power agencies representing over 200 communities from across the Midwest and Virginia. The total development cost of the plant—mine and ash fill—was approximately \$5 billion, more than \$1 billion more than the estimates most of the communities received when they signed contracts for the power.



Map of PSGC communities. [Link to map](#)

Many of these individual communities signed "take-or-pay" contracts guaranteeing their electric utility revenues to pay back the over \$5 billion of bonds issued to build the plant. The Prairie State plant began operating in 2012. Since the plant opened, the cost of its electricity has soared well beyond what was originally promised, and is roughly twice the cost of power that can be bought on the market.

We have examined the reporting documents that participating communities have received since the plant opened, as well as numerous financing documents, official statements for bond issues, independent data sources and presentations made to the communities. Comparison of Lively Grove coal with other market products is made difficult because the various documents provided by plant owners do not always compare "apples to apples," but we have sifted through various budgets and reports to analyze the promises and compare them to the results.

Our examination shows that:

- The claims by Prairie State Generating Company (PSGC) that buying coal from Lively Grove would be a big cost savings have turned out, for the most part, not to be true. This is because the costs of the mine and its debt service are higher than originally estimated and the plant is running below capacity. Lively Grove coal costs roughly the same as

other Illinois Basin coal would have cost, even taking shipping costs for that coal into account.

- Lively Grove coal also costs about the same as coal that could have been purchased from the Powder River Basin (PRB), even taking shipping costs for that coal into account.
- The quality of the Lively Grove coal has contributed to unplanned outages at the plant, and PSGC has proposed new capital expenditures to improve the mine and plant.

As a matter of price, the Lively Grove coal is about the same price as either delivered higher-quality 11,500 Illinois Basin Coal or 8400 PRB Coal. In an overall sense, given the poor quality of the coal and plant performance to date, Lively Grove has been costlier than other sources of coal might have been. As such, it presents more risk to Prairie State communities and investors going forward.

Understanding PSGC Claims of the Lively Grove Coal Financial Advantage

Coal is classified according to the basin from which it originates and its heat value (for example, ILB 11400 means coal originating in the Illinois Basin region with a heat content of 11400 Btu). The higher the number of the heat value (also known as the Btu value), the more efficient the coal. Other factors that are important in considering the value of the coal are the level of ash content and the level of sulfur and other chemicals.

Besides the Illinois Basin (ILB), the other major coal basins in the country are the Powder River Basin (PRB) and the Central (CAPP) and Northern Appalachian (NAPP) basins.

The heat content is divided by the cost per ton of the coal to determine a value called "MMBtu" (one million Btus) so that it is possible to compare the cost of coal types according to their respective heat values.

IEEFA has examined the claims that Peabody and the various municipal electric agencies made about the cost of the Lively Grove coal at the time that communities were deciding whether to buy into the plant. The coal was marketed to communities as having a Btu value of 8400. This heat value is too low to qualify under any of the marketable coal classifications in the Illinois Basin family. Marketable Illinois Basin coal ranges in heat value from 10500 Btu to 11800 Btu.¹

PSGC's presentations to Cleveland, Ohio² (in November 2014), portrayed the Lively Grove mine costs favorably to other coals on the market. Specifically, they compared the Lively Grove coal to ILB 11400, PRB 8800 and Northern Appalachian 12500 coal.

The purported cost of Lively Grove coal has been a moving target. When PSGC came to the communities with the Prairie State deal, it cited a cost of production of Lively Grove coal of \$14.44 per ton (\$0.86 MMBtu). PSGC has since acknowledged in several studies that the original

¹ Platts covers pricing for ILB 10,500, 11,000, 11,500, 11,800 Btu products

<http://www.platts.com/IM.Platts.Content/MethodologyReferences/MethodologySpecs/coalmethodology.pdf>

² PSGC, Prairie State Update -Cleveland, November 25, 2014, p. 16 (PSGC-Cleveland).

estimate was too low.³ In a September 2013 update to NIMPA,⁴ PSGC acknowledged that the actual cost of production for 2013 was \$18.98 per ton (\$1.13 MMBtu), 30 percent higher than the original estimates. A 2015 debt-refinancing document from American Municipal Power (the largest single owner of the facility) stated that "annual per ton operating costs of the mine remain higher than those originally assumed."⁵ The causes of the operating-cost increases are unspecified in the financing document.

In 2013, PSGC distributed documents to participating communities that cited PSGC's 2013 actual cost of coal as \$18.98 (\$1.13 MMBtu), and compared it to PRB 8800 coal as \$32.03 per ton delivered (\$1.82MMBtu) and ILB 11400 as \$51.52 per ton (\$2.26 MMBtu).

However, this comparison is not complete for two important reasons:

1. The figure for the PSGC cost of production does not include the cost of the bonds to buy and build the mine (debt service). The PRB 8800 and ILB 11400 numbers *do* include debt service. (This omission of debt service is noted with a footnote in the PSGC NIMPA and Cleveland presentations.)

Under the PSGC business model, state authorities and local governments are responsible for the debt service and PSGC is responsible for the costs of production. That leaves no central place where the actual cost of production plus debt service for the mine is calculated and publicized. Coal producers in the normal, private market when they sell coal to a utility or power generator include in their market price both the cost of production and the cost of debt service (and a profit). Normal industry practice when expressing the cost per ton of coal does not bifurcate the cost of operation and debt service.

2. The PRB and ILB figures refer to delivered market price, but the PSGC budget only refers to the cost of production.

The omission of debt service from the PSGC coal price presents an exaggerated comparison with the PRB, CAPP, and NAPP coals. The debt service omission is significant.

Adjusting Lively Coal Price to Include Debt Service

The failure by PSGC and the other owners or the plant to adjust for debt service robs local officials of the opportunity to clearly compare Prairie State coal and power costs with those of other mining and generation facilities (particularly coal generating facilities) and to assess risk.

We calculated a per-ton debt service number and adjusted PSGC's 2013 actual cost of production to include it. We added \$7.31 per ton to the baseline cost of production figure, reflecting the acquisition cost of the coal, price for mine construction and borrowing costs.⁶

³ In the R.W. Beck consulting study accompanying AMP, Inc. Official Statement the cost of production is \$14.70 per ton in 2010 and assumed to grow by approximately 2% annually. Under this scenario the 2013 figure cited in NIMPA as "originally budgeted" should have been \$15.60 per ton. Apparently several new baselines have been established since the official statements. <http://emma.msrb.org/EA421203-EA328116-EA723971.pdf>

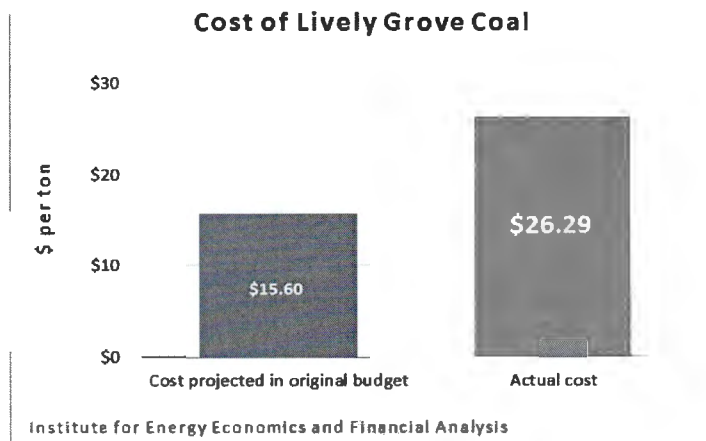
⁴ Prairie State Generating Campus (PSGC), Prairie State Update, NIMPA, September 20, 2013 (PSGC-NIMPA).

⁵ <http://emma.msrb.org/ER828952-ER646158-ER1048046.pdf>, p. 22

⁶ We added in \$202.8 million for the price of mine construction, \$114.3 million for coal reserve purchase by PSGC from Peabody Energy, an additional development fee to Peabody and borrowing costs of approximately \$93 million representing the percentage costs related to the mine purchase and development. We then used a 5% annual interest rate and 30 year

Adding together the PSGC 2013 actual cost of production with the debt service cost yields a cost per ton for Lively Grove coal of \$26.29 (\$1.56 MMBtu). So the real cost of the coal is 68 percent more than the \$15.60 per ton cost presented in the "original budget" in the official statement.

How does this true cost of coal stand up next to the actual market price of comparable market products? If we move to the next logical step and compare the price of coal from Lively Grove with current market coal prices, we



see that there is almost no price difference between the high-quality ILB 11400 coal and the lower-quality Lively Grove 8400. It amounts to a difference of about 1 percent, far from the significant savings portrayed in the PSGC presentations. Lower-quality PRB 8400 coal is slightly more expensive, but only marginally so. Our price comparisons include delivery charges for the PRB and ILB products.

Results of IEEFA Comparison

Coal Type and Assumptions	Btu Value of Coal	\$/Cost per ton	Cost of Coal \$ MMBtu
2013 PSGC Budgeted COP exclusive of debt service¹	8400	\$14.44	\$0.86
2013 Actual COP²	8400	\$18.98	\$1.13
IEEFA PSGC 2013 Actual Cost of Production (COP) including debt service	8400	\$26.29	\$1.56
2015 PSGC Estimated COP³	8400	\$18.31	\$1.09
PRB (PRB-Cleveland – November 25, 2014)	8800	\$32.03	\$1.82 ⁴
PRB (Platts 9.20 per ton; SNL: \$19.00/ton delivery)	8400	\$28.20	\$1.68
Illinois Basin plus truck delivery	11500	\$36.50 ⁵	\$1.58

pay back derive the debt service. Lively Grove has mined on average 4.8 million tons per year over 2012 and 2013 (we believe this amount includes a 1 million stockpile – coal mined and paid for but not burned).

⁷ Prairie State Generating Campus (PSGC), Prairie State Update, NIMPA, September 20, 2013, pg. 6 (PSGC-NIMPA)

⁸ PSGC-NIMPA, p. 18

⁹ PSGC, Prairie State Update -Cleveland, November 25, 2014, p. 16 (PSGC-Cleveland). This 2015 estimate assumes the plant will run at 85% and burn 6 million tons of coal in 2015. The plant has not run at 85% capacity since opening and burns on average 4.5 million tons for the two full years of operation 2012/2013.

¹⁰ PSGC-Cleveland

¹¹ Platts Coal Trader, (Chart), March 7, 2015, p. X, ILB 11500: \$31.00 per ton; \$5.50 per ton delivery:

<http://www.eia.gov/coal/transportationrates/pdf/table3a.pdf>

Since the plant opened, PSGC and others have noted that the poor quality of the coal ¹² ¹³ has contributed to a series of unplanned outages and low capacity factors. Planned capital expenditures have been made to correct for some of these deficiencies. ¹⁴ Neither the ILB 11500 nor the PRB 8400 are known as coal products that contribute to unplanned outages or other plant dysfunctions.

Placing Lively Grove Costs in Perspective

Currently Prairie State power costs its member communities roughly twice as much as electricity that can be purchased on the market. Prairie State's construction budget came in substantially over budget. The market price of coal has dropped over the past few years, and the original exaggerated claims related to Lively Grove's savings do not stand up under scrutiny.

There are no independent audits of PSGC, and no financial consultant or local administrator has put together the many clarifications needed to understand the coal deal. The mine-mouth deal for the coal is what is known as a "market of one." Because there is only one customer for the coal—the Prairie State plant—there are no arm's-length reviews of the transaction, as would occur in a normal sale of coal from a mine to a coal-fired power plant.

Peabody received payment for the mine, for the mine development and for its management; Bechtel was paid for the construction of the overpriced plant; all of the investment banks, lawyers and accountants who took part received fees to underwrite the bonds. Of late, the credit-rating agencies have mostly maintained their support of the project, despite the high costs of its electricity and the threat it poses to local economics and budgets. The more important cost overruns of this project have been accompanied by major mistakes and mischaracterizations, and all of the resulting costs are being borne by households and businesses.

Recommendation

Several communities are looking to refinance their existing indebtedness. Official statements contain some recognition of early plant difficulties and representations that there are now plans in place to make corrections.¹⁵ Absent an engineering audit of the coal mine and other operational matters, the communities buying the electricity and the bond investors who have a stake in the project have no true, independent understanding of the coal issue. Such a study would improve the quality of the diligence.

¹² Testimony by Marc Gerken, AMP President and Interim CEO of Prairie State, at the Paducah City Commission meeting on September 24, 2014 "[Lively Grove coal] is abrasive, high sulfur, and high ash." https://www.youtube.com/watch?v=AfA7myQM0E&list=TLdoGJQ7YV3i9jZ8E_CCCrQK6o8-S28Udd

¹³ James Bruggers, *Louisville Courier-Journal*, Bad bets traps Paducah in coal-fired nightmare, "The mine that supplies Prairie State has 'the worst quality coal I've ever seen an analysis on in my 35 years in the coal plant industry,' said Jeff Parsley, a former TVA executive and energy consultant," February 15, 2015.

¹⁴ The PSGC-NIMPA document (p.20) contains a new schedule of charges of \$25 million per year for the next ten years (\$250 million) including \$53 million for mine improvements. These charges have been incurred within the first eighteen months of operation. They are not financed but appear to be part of a ten year charge.

¹⁵ AMP Official Statement, <http://emma.msrb.org/ER828952-ER646158-ER1048046.pdf>

Legislation 0211-18

Percy Deal <deal.percy@gmail.com>

Mon 6/25/2018 3:00 PM

to: comments <comments@navajo-nsn.gov>;

1 attachment

DOC079.pdf;

Mr. Speaker and the Honorable Members of the Navajo Nation Council, I wish to make comment regard Legislation 0211-18, legislation to express opposition to "The Clean Energy for a Health Arizona" initiative.

Honorable Members of the Council you recall the Navajo Generating Station Extension Lease you negotiated with Salt River Project a year ago. You successfully negotiated cash payments to the Nation totaling \$169.1 million over a period of 30 years, you also negotiated assets to be transferred to the Nation with a estimated value of over \$163 million, which included continued operation of transmission system on the Navajo Nation providing rights to 500 MW transition capacity. You also negotiated some rights to water from the Upper Colorado River Basin

The Arizona Corporation Commissioners are now getting ready to announce a new energy policy for the state to implement 80% clean energy standard by 2050. With this decision Arizona will the lead the Nation in moving away from fossil fuel to renewables.

Also, Arizona Public Service, the main buyer of energy from NGS made a decision it will buy cheaper energy from renewable sources to replace NGS energy. This is a major blow to NGS's ability to sell their energy.

I feel the Navajo Nation is in excellent position it never had to enjoy more revenue, jobs, economic development and strong participation in producing and selling energy from renewables with the use of the transmission lines. This never before opportunity is staring at us with the state's Clean Energy initiative, with Arizona Corporation Commission's coming decisions on clean energy standard and APS's decision to buy energy from renewable sources.

Everything the Nation needs has lined its self for us, this is an opportunity the Nation never had, lets grab it, siege it and do it. Even our communities are supporting transitioning away from fossil fuel, see attached resolutions.

I'm asking you not approved Legislation 0211-18 and but instead move forward to the greatest opportunity now standing in front of us. If possible we also ask to be allowed to present the resolutions attached and several others from chapters and our views be heard at the coming hearings on the legislation.

Thank you very much and May the Great Spirit guild you.



WESTERN NAVAJO AGENCY COUNCIL

HANK STEVENS
President

JERRY WILLIAMS
Vice-President

SARAH SLIM
Secretary



RESOLUTION OF THE WESTERN NAVAJO AGENCY COUNCIL WNAC RESOLUTION N0: WNAC17-03-NB3

Requesting the Navajo Nation President and the Navajo Nation Council to Fully Prepare for a Successful Transition Away from Coal and to Move Ahead on Diversifying the Navajo Nation's Economy, Investing in Renewable Energy, Creating Sustainable Economic Development, Ensuring Proper Restoration of Land, Clean up, and Decommissioning According to Applicable Laws and Restoring the Nation's Water Rights.

WHEREAS:

1. The Western Navajo Agency is an association of duly elected Chapter Officials of eighteen (18) certified Navajo Nation chapters that advocate, promote and support common goals and interests of the respective Chapters; and,
2. The Western Navajo Agency Council is comprised of elected officials from eighteen (18) Navajo Nation Chapters in the Western Navajo Agency and has the responsibility and authority to address matters and projects that will benefit the 18 chapters of the Western Navajo Agency of the Navajo Nation; and,
3. The Navajo Nation Council by legislation approves funds for the operation of the Navajo Nation government including stipends for chapter officials to conduct their chapter businesses including quarterly agency council meetings to act on matters of interest to their agency and the Navajo Nation; and
4. The Navajo and Hopi Tribe in 1969 approved 64,000 acre lease for a period of 50 years on Black Mesa for Peabody Coal Company to mine coal and water (N-aquifer) and to Navajo Generating Station in LeChee to combust coal and up to 34,000 AFY of water from Upper Colorado River Basin to support the operation; and
5. The 69 leases with Navajo Generating Station was replaced in June 2017 by the Navajo Nation to continue the operation through December, 2019 and US Department of Interior gave final approval and set a firm retirement date of December 23, 2019 for the Navajo Generating Station thus Peabody Mine and
6. Within the July, 2017 Replacement Lease the Navajo Nation negotiated revenue in the amount over \$169 million and will have access rights to 500 megawatts of transmission

WESTERN NAVAJO AGENCY COUNCIL CHAPTERS

BIRDSPRINGS/TSIDII TO'II ~ BODAWAY/GAP ~ CAMERON ~ CHILCHINBETO ~ COALMINE CANYON
COPPERMINE ~ DENNEHOTSO ~ INSCRIPTION HOUSE/TS'AH BII'KIN ~ KAIBETO/KAI'BII TO ~ KAYENTALECHEE ~
LEUPP ~ NAVAJO MOUNTAIN ~ OLJATO ~ SHONTO ~ TOLANI LAKE ~ TONANEESDIZI ~ TONALEA



WESTERN NAVAJO AGENCY COUNCIL

HANK STEVENS
President

JERRY WILLIAMS
Vice-President

SARAH SLIM
Secretary



lines and other assets and rights to 1,900 AFY to Colorado River with a promise from SRP to support the Nation for additional water from the Colorado River: and

7. Both industries for almost 50 years used a lot of water to support their operation from the Upper Basin of Colorado River and the N-aquifer of Black Mesa while thousands in the affected areas do not have water; and
8. The cost of energy from coal to consumers are much higher verses energy from renewables resulting in the southwest region to move away from coal by PNM in New Mexico, APS and SRP in Arizona, NV Energy in Nevada, Xcel in Colorado and all utilities in California and elsewhere all across the country leaving no market to sell energy produced from coal; and
9. The Navajo Nation, Department of Interior and Peabody for several months have invited industries to purchase the generating station to continue the operation however it appears due to the trending economy there is no decent buyers; and
10. The US Department of Interior, US Department of Energy and US Department of Agricultural has made available resources to assist communities impacted by coal closures to prepare for a successful transition and diversify their economy and Navajo Nation has received grants for such purposes; and
11. The Navajo Nation can't wait around and hope that the United States will save the coal industry while its unemployment rate continue to climb and losing its revenues, the Navajo Nation needs to move forward using those federal resources now available to move forward and diversify the economy creating businesses, jobs and revenues.

Now Therefore be it Resolved That:

1. The Western Agency Council hereby request the Navajo Nation President and the Navajo Nation Council to fully prepare for a successful transition away from coal and to move ahead on diversifying the Navajo Nation economy, investing in renewable energy using the 500 MW transmission lines, creating sustainable economic development, ensuring proper restoration of land, clean up, and decommissioning according to applicable laws and restoring the Navajo Nation's water rights to the Upper Colorado River Basin and the Black Mesa N-aquifer.

WESTERN NAVAJO AGENCY COUNCIL CHAPTERS

BIRDSPRINGS/TSIDII TO'II ~ BODAWAY/GAP ~ CAMERON ~ CHILCHINBETO ~ COALMINE CANYON
COPPERMINE ~ DENNEHOTSO ~ INSCRIPTION HOUSE/TS'AH BII'KIN ~ KAIBETO/KAI'BII TO ~ KAYENTALECHEE ~
LEUPP ~ NAVAJO MOUNTAIN ~ OLJATO ~ SHONTO ~ TOLANI LAKE ~ TONANEESDIZI ~ TONALEA



WESTERN NAVAJO AGENCY COUNCIL

HANK STEVENS
President

JERRY WILLIAMS
Vice-President

SARAH SLIM
Secretary



CERTIFICATION

We, hereby certify that the foregoing resolution was properly presented at a duly called Western Navajo Agency Council meeting at NaaTsis' Aan Community School., Navajo Mountain, Arizona, where a quorum was present and passed with a vote of 15 in favor, 0 opposed, and 8 abstained on this 17th day of March 2018.

Hank Stevens, President
Western Navajo Agency Council

Motion: Emmett Kerley

Second: Phillip Zahne

WESTERN NAVAJO AGENCY COUNCIL CHAPTERS

BIRDSPRINGS/TSIDII TO'II ~ BODAWAY/GAP ~ CAMERON ~ CHILCHINBETO ~ COALMINE CANYON
COPPERMINE ~ DENNEHOTSO ~ INSCRIPTION HOUSE/TS'AH BII'KIN ~ KAIBETO/KAI'BII TO ~ KAYENTALECHEE ~
LEUPP ~ NAVAJO MOUNTAIN ~ OIJATO ~ SHONTO ~ TOLANI LAKE ~ TONANEESDIZI ~ TONALEA

**RESOLUTION OF THE
CHINLE AGENCY COUNCIL
Resolution No: CAC-01/18-08**

Requesting the Navajo Nation President and the Navajo Nation Council to Fully Prepare for a Successful Transition Away from Coal and to Reclamation and Restoration of Plant and Mine Sites, and Move Ahead on Diversifying the Navajo Nation's Economy, Investing in Renewable Energy, Creating Sustainable Economic Development and Restoring the Nation's Water Rights.

Whereas:

1. The Navajo Nation Council by legislation approves funds for the operation of the Navajo Nation government including stipends for chapter officials to conduct their chapter businesses including quarterly agency council meetings to act on matters of interest to their agency and the Navajo Nation; and
2. The Navajo and Hopi Tribe in 1969 approved 64,000 acre lease for a period of 50 years on Black Mesa for Peabody Coal Company to mine coal and water (N-aquifer) and to Navajo Generating Station in LaChee to combust coal and up to 34,000 AFY of water from Upper Colorado River Basin to support the operation; and
3. The 69 lease with Navajo Generating Station was replaced in July, 2017 by the Navajo Nation to continue the operation until December, 2019 and US Department of Interior recently gave final approval and set a firm retirement date of December 23, 2019 for the Navajo Generating Station; and
4. Within the July, 2017 Replacement Lease the Navajo Nation will have access rights to 500 megawatts of transmission lines and other assets; and
5. To support their operation, since 1969 Peabody Coal Company and Navajo Generating Station has used more than 1.6 million acre feet of water from the Upper Basin of the Colorado River and the N-Aquifer of Black Mesa, while thousands of people in the Black Mesa region and the western reservation do not have access to clean and reliable sources;
6. For consumers, the cost of energy from coal is much higher than energy from renewable sources, which is why utility companies like PNM, APS, SRP, Nevada Energy, LADWP have divested their fossil fuel energy sources; and across the county utility companies are leaving the coal market; and
7. The Navajo Nation and Department of Interior for several months have invited industries to purchase the generating station to continue the operation however it appears due to the trending economy there is no decent buyers; and
8. On or about January 8, 2019 the Federal Energy Regulatory Commission rejected Energy Secretary Perry's proposal to support coal and nuclear power plants due to the current electricity market; and
9. The US Department of Interior, US Department of Energy and US Department of Agricultural has made available resources to assist communities impacted by coal

Resolution No: CAC-01/18-08

- closures to prepare for a successful transition and diversify their economy and Navajo Nation has received grants for such purposes; and
10. The world energy economy has irreversibly turned away from coal, therefore, the Navajo Nation cannot and should not rely on political promises by the Unities States to revive an unprofitable industry.

Now Therefore be it Resolved That:

The Chinle Agency Council hereby request the Navajo Nation President and the Navajo Nation Council to fully prepare for a successful transition away from coal and to move ahead on diversifying the Navajo Nation economy, investing in renewable energy using the 500 MW transmission lines, creating sustainable economic development and restoring the Navajo Nation's water rights to the Upper Colorado River Basin and the Black Mesa N-aquifer.

CERTIFICATION

I hereby certify that the foregoing resolution was considered at a duly called Chinle Agency Council meeting at the Luckachukai Chapter, Navajo Nation, Arizona at which a quorum was present and the same time passed by a vote of 29 in favor 0 opposed and 8 abstained on this 13th Day of January, 2018.

Zane James, President



Timothy Johnson, Vice-President



Valencia Edgewater, Secretary

FORT DEFIANCE AGENCY COUNCIL
NAVAJO NATION

Linda Youvella, President
Lorenzo Curley, Vice President
Francis Lester, Secretary
(Host), Sergeant-At-Arm



District 17 Council
District 18 Council
District 07 Council
Chapter President

RESOLUTION OF THE FORT DEFIANCE AGENCY COUNCIL

Resolution No: FDAC-18-01-001

SUPPORTING AND REQUESTING THE NAVAJO NATION PRESIDENT AND THE NAVAJO NATION COUNCIL TO FULLY PREPARE FOR A SUCCESSFUL TRANSITION AWAY FROM COAL, ENSURING OPERATORS TO COVER COST FOR RECLAMATION AND RESTORATION OF PLANT AND MINE SITES AND MOVE AHEAD ON DIVERSIFYING THE NAVAJO NATION'S ECONOMY, INVESTING IN RENEWABLE ENERGY, CREATING SUSTAINABLE ECONOMIC DEVELOPMENT AND RESTORING THE NATION'S WATER RIGHTS.

WHEREAS:

1. The Fort Defiance Agency Council is a consortium of duly elected Chapter Officials of twenty-eight (28) certified/non-certified Navajo Nation Chapter that advocate, promote, and support common goals and interest of the respective Chapters; and
2. The Fort Defiance Agency Council is comprised of elected officials from twenty-eight (28) Navajo Nation Chapters within the Fort Defiance Agency and has the responsibility and authority to address matters and projects that will benefit the chapters; and
3. Pursuant to 26 N.N.C.; The Fort Defiance Agency Council is duly recognized as certified Agency Council of the Navajo Nation Government, Listed at 11 N.N.C. Part 1, Section 10 and
4. Pursuant to 26 N.N.C.; The Fort Defiance Agency Council is vested with the authority to review and adhere to all matters relating and affecting the Twenty-eight (28) Navajo Communities and chapters at which this council is made of; and make appropriate actions when need be; and
5. The Navajo Nation Council by legislation approves funds for the operation of the Navajo Nation government including stipends for chapter officials to conduct their chapter businesses including quarterly agency council meetings to act on matters of interest to their agency and the Navajo Nation; and
6. The Navajo Nation and Hopi Tribe in 1969 approved a 64,000 acre lease for a period of 50 years on Black Mesa for the Peabody Coal Company to mine coal and water from the N-aquifer; and for the Navajo Generating Station in LaChee to combust coal and to use 34,000 acre feet per year of water from the Upper Colorado River Basin to support their coal operations; and
7. The 1969 lease with Navajo Generating Station was replaced in July 2017 by the Navajo Nation to continue its operation until December 2019 and the US Department of Interior recently gave

final approval and set a firm retirement date of December 23, 2019 for the Navajo Generating Station; and

8. Within the July, 2017 Replacement Lease the Navajo Nation will have access rights to 500 megawatts of transmission lines and other assets; and
9. To support their operation, since 1969 Peabody Coal company and Navajo Generating Station has used more than 1.6 million acre feet of water from the Upper Basin of the Colorado River and the N-aquifer of Black Mesa, while thousands of people in the Black Mesa region and the western reservation do not have access to clean and reliable water sources; and
10. For consumers, the cost of energy from coal is much higher than energy from renewable sources, which is why utility companies like PNM, APS, SRP, Nevada Energy, LADWP have divested their fossil fuel energy sources and are diversifying their electric power by including renewable energy sources and other energy sources; and across the country utility companies are leaving the coal market; and
11. The Navajo Nation and Department of Interior for several months has invited energy companies to purchase the Navajo Generating Station to continue its operation; However, due to the energy economy trending away from coal, there are no buyers; and
12. On or about January 8th, 2018 the Federal Energy Regulatory Commission rejected Energy Secretary Perry's proposal to support coal and nuclear power plants due to current electricity market; and
13. The US Department of Interior, US Department of Energy and US Department of Agricultural have made available resources to assist communities impacted by coal closures to prepare for a successful transition and diversify their economy and Navajo Nation has received grants for such purposes; and
14. The world energy economy has irreversibly turned away from coal, therefore, the Navajo Nation cannot and should not rely on political promises by the United States to revive an unprofitable industry.

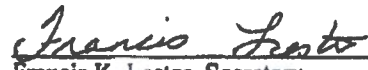
NOW, THEREFORE, BE IT RESOLVED THAT:

The Fort Defiance Agency Council hereby supports and requests the Navajo Nation President and the Navajo Nation Council to fully prepare for a successful transition away from coal, ensure operators to cover costs for reclamation and restoration at plant and mine sites and move ahead on diversifying the Navajo Nation economy, investing in renewable energy using the 500 MW transmission lines, creating sustainable economic development and restoring the Navajo Nation's water rights to the Upper Colorado River Basin and the Black Mesa N-aquifer.

CERTIFICATION

We, hereby certify that the foregoing resolution was duly considered by and moved for adoption by Elmer Clark, Second by Calvin Lee, Sr., thoroughly discussed and adopted by a vote of 42 in favor, 00 opposed and 06 abstained at a duly called meeting at Indian Wells Chapter, the NAVAJO NATION, Indian Wells, Arizona on this 13th day of January 2018.


Linda Youvella, President
Fort Defiance Agency Council


Francis K. Lester, Secretary
Fort Defiance Agency Council


Lorenzo Curley, Vice-President
Fort Defiance Agency Council

**RESOLUTION OF HARDROCK CHAPTER
HR-01/18-01
THE NAVAJO NATION**

Requesting the Navajo Nation President and the Navajo Nation Council to Fully Prepare for a Successful Transition Away from Coal and to Reclamation and Restoration of Plant and Mine Sites, and Move Ahead on Diversifying the Navajo Nation's Economy, Investing in Renewable Energy, Creating Sustainable Economic Development and Restoring the Nation's Water Rights.

Whereas:

1. The Navajo Nation Council by Resolution CS-34-98 enacted the Navajo Nation Local Governance Act and codified it under Title 26 of the Navajo Nation Code; and
2. Pursuant to Title 26 NNC, Section B – 1 & 2, the purpose of the Local Governance Act is to recognize at the local level and to delegate to chapter government with respect to local matters consistent with Navajo Nation laws including costume and tradition and to make decisions over local matters; and
3. The Navajo and Hopi Tribe in 1969 approved 64,000 acre lease for a period of 50 years on Black Mesa for Peabody Coal Company to mine coal and water (N-aquifer) and to Navajo Generating Station in LaChee to combust coal and up to 34,000 AFY of water from Upper Colorado River Basin to support the operation; and
4. The 69 lease with Navajo Generating Station was replaced in July, 2017 by the Navajo Nation to continue the operation until December, 2019 and US Department of Interior recently gave final approval and set a firm retirement date of December 23, 2019 for the Navajo Generating Station; and
5. Within the July, 2017 Replacement Lease the Navajo Nation will have access rights to 500 megawatts of transmission lines and other assets; and
6. To support their operation, since 1969 Peabody Coal Company and Navajo Generating Station has used more than 1.6 million acre feet of water from the Upper Basin of the Colorado River and the N-Aquifer of Black Mesa, while thousands of people in the Black Mesa region and the western reservation do not have access to clean and reliable sources;
7. For consumers, the cost of energy from coal is much higher than energy from renewable sources, which is why utility companies like PNM, APS, SRP, Nevada Energy, LADWP have divested their fossil fuel energy sources; and across the county utility companies are leaving the coal market; and
8. The Navajo Nation and Department of Interior for several months have invited industries to purchase the generating station to continue the operation however it appears due to the trending economy there is no decent buyers; and
9. On or about January 8, 2019 the Federal Energy Regulatory Commission rejected Energy Secretary Perry's proposal to support coal and nuclear power plants due to the current electricity market; and

Resolution No: HR-01/18-01

10. The US Department of Interior, US Department of Energy and US Department of Agricultural has made available resources to assist communities impacted by coal closures to prepare for a successful transition and diversify their economy and Navajo Nation has received grants for such purposes; and
11. The world energy economy has irreversibly turned away from coal, therefore, the Navajo Nation cannot and should not rely on political promises by the Unities States to revive an unprofitable industry.

Now Therefore be it Resolved That:

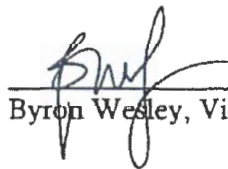
The Hardrock Chapter hereby request the Navajo Nation President and the Navajo Nation Council to fully prepare for a successful transition away from coal and to move ahead on diversifying the Navajo Nation economy, investing in renewable energy using the 500 MW transmission lines, creating sustainable economic development and restoring the Navajo Nation's water rights to the Upper Colorado River Basin and the Black Mesa N-aquifer.

CERTIFICATION

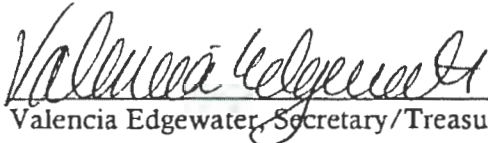
We hereby certify that the foregoing resolution was duly considered by the Hardrock Chapter at a duly called meeting in Hardrock, Navajo Nation, Arizona which quorum was present that same was passed by vote of 96 in favor 0 opposed and 7 abstained on this 19th day January, 2018.



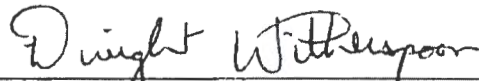
Timothy Johnson, President



Byron Wesley, Vice President



Valencia Edgewater, Secretary/Treasurer



Dwight Witherspoon, Council Delegate

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0211-18

SPONSOR: Honorable LoRenzo C. Bates

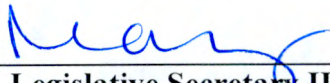
TITLE: An Action Relating to Naa'bik'iyati' Committee; Reaffirming The Navajo Nation's Support Of Responsible Transition To Renewable Energy Opposing "The Clean Energy For A Healthy Arizona" Initiative

Posted: June 21, 2018 at 4:22 PM

5 DAY Comment Period Ended: June 26, 2018

Digital Comments received:

Comments Supporting (3)	1. Paul Thompson 2. Terry J. Dayish, P.E.; Sr. Consultant, Government Affairs 3. Rick Nez
Comments Opposing (1)	1. Lori Goodman, Dilkon Chapter
Inconclusive Comments	<i>None</i>



**Legislative Secretary II
Office of Legislative Services**

7/6/18 9:27am

Date/Time

0211-18

Paul Thompson <paul@walsheng.net>

Tue 6/26/2018 9:56 AM

To: comments <comments@navajo-nsn.gov>;

I support the Tribes position to oppose the Clean Energy for a Healthy Arizona Initiative for the reasons that are listed in the resolution and the fact that I am opposed to people and organizations that don't live in our area telling us what is best for us. We can take care of ourselves – thank you very much. Paul Thompson, President of Walsh Engineering and a Four Corners resident.

0211-18

Terry.Dayish@aps.com

Tue 6/26/2018 12:47 PM

To: comments <comments@navajo-nsn.gov>;

Dear NABI Committee:

This is to express concerns regarding the Clean Energy for a Healthy Arizona initiative presently being circulated in Arizona. The initiative would require Arizona's regulated utilities to get 50% of their power from "renewable" sources. We ask that you formally oppose the effort because of the devastating impact the initiative's proposal will have on the Navajo Nation.

Not only will the initiative double customer bills, it will result in an early closure of the Four Corners Power Plant which collectively with the supporting mining operation employ over 600 people and contribute \$94M annual payroll to our area .

Additionally, the plant pays over \$60M in fees and royalties to the Navajo Nation and over \$12M in taxes.

Put simply, the Navajo Nation and our citizens cannot afford to have this initiative pass.

Again, respectfully request the NABI Committee formally oppose the Clean Energy for a Healthy Arizona initiative by voting in favor of Navajo Nation legislation 0211-18.

Thanks,

TERRY J. DAYISH, P.E.

Sr. Consultant, Government Affairs

--- NOTICE ---

This message is for the designated recipient only and may contain confidential, privileged or proprietary information. If you have received it in error, please notify the sender immediately and delete the original and any copy or printout. Unintended recipients are prohibited from making any other use of this e-mail. Although we have taken reasonable precautions to ensure no viruses are present in this e-mail, we accept no liability for any loss or damage arising from the use of this e-mail or attachments, or for any delay or errors or omissions in the contents which result from e-mail transmission.

Legislation No. 0211-18

Rick Nez <ricknez@hotmail.com>

Mon 7/2/2018 10:01 PM

To: comments <comments@navajo-nsn.gov>;

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515

Legislation No. 0211-18

Title: An action relating to Naabik'iyati Committee; Reaffirming the Navajo Nation's support of responsible Transition to renewable energy opposing "The clean energy for a health Arizona" initiative.

Dear Honorable Members of the 23rd Navajo Nation Council:

We beseech you to oppose the Clean Energy for a Healthy Arizona initiative which would have devastating affect on the Navajo Nation. This initiative will result in the early closure of Four Corners Power Plant which employs over 600 people and contributes \$94 million to annual payroll to our area. Four Corners Power Plant pays over \$60 million in fees and royalties to the Navajo Nation and \$12 million in taxes. The Navajo Nation cannot afford to have this initiative pass.

Respectfully,
Rick Nez
P.O. Box 1827
Kirtland, NM 87417

"The Clean Energy for a Healthy Arizona Initiative."

GMail <lgoodman89@gmail.com>

Wed 6/27/2018 10:17 PM

To: comments <comments@navajo-nsn.gov>;

Dear Honorable Council Delegates,

Legislation 0211-18 Navajo Nation's opposition to "The Clean Energy for a Healthy Arizona Initiative." is not a good move for our Navajo Nation. Please vote against it.

Please remember that Navajo Nation will have 500 MW access to the transmission line where we can sell electricity from solar. Voting against this initiative would prevent Navajo from making money from solar energy. Please read about how solar energy is replacing coal and let's not miss the window of opportunity. Arizona Corporation Commission voted to focus on renewable energy in their energy resource plans and away from fossil fuels.

Please read for yourself on the direction of the energy and utility companies moving away from coal and to solar because it is cheaper.

Thank you,
Lori Goodman
Dilkon Chapter Voter

New report by the Natural Resources Defense Council (NRDC) finds more than \$4 billion in savings if Arizona utilities achieve 50% renewable energy by 2030

- A new report commissioned by NRDC and conducted by ICF International has found that average Arizona electricity bills would be \$3 per month lower in 2030, and \$5 per month lower in 2040, if the Clean Energy for a Healthy Arizona ballot initiative is approved. The initiative calls for 50% renewable energy by 2030.
- [For more information see the NRDC blog post here.](#)

NGS - Central Arizona Project Board Power Purchase Agreement to Partially Replace NGS Power

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