

Jemez Mountains

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Electric Cooperative, Inc

P.O. Box 128, Espanola, New Mexico 87532

March 6, 2013

Katherine Miller, County Manager
County of Santa Fe
Post Office Box 276
Santa Fe, New Mexico 87504-0276

**Re: Jemez Mountains Electric Cooperative, Inc.
Rate Riders 4, 5 and 6**

Dear Ms. Miller:

I am writing in response to your letter of March 4, 2013 regarding Rate Riders 4, 5, and 6 which were noticed as part of the rate filing Jemez Mountains Electric Cooperative (JMEC) intended to make on March 4, 2013.

Let me first inform you that our Board of Trustees decided to defer the filing of Rate Riders 4 (Pueblo de San Ildefonso) and 5 (Pueblo of Nambe) temporarily pending additional discussions with those Pueblos. If the Pueblos are willing to enter into further negotiations, we intend to explore whether we can agree on means to soften the impact of recovery of the costs of the local component of the associated right-of-way costs from customers located within the external boundaries of the each Pueblo. Rate Rider 6 (Pueblo of Pojoaque) and First Revised Rate Rider 2 for recovery of the system component of the Pojoaque right-of-way costs were filed on March 5, 2013.

The postponement of the filing of Rate Riders 4 and 5, and the associated revisions to Rate Rider 2 for recovery of the system components of the right-of-way costs for each Pueblo will require JMEC to republish notice in the enchantment when we intend to proceed with the filings. The May issue will likely be the earliest date we can republish, meaning that the rate riders would not be filed until early June.

I also want to correct a misunderstanding apparent in your letter. You state that one of the County's primary concerns is "whether the cost of the Rights-of-Way is properly born solely by the customers within the exterior boundaries of the pueblo." You then note correctly that the prior rate rider imposed an obligation on the entire customer base for certain portions of the cost of rights of way from Ohkay Owingeh Pueblo. As I will explain in more detail below, Rate Riders 4, 5, and 6 are designed to recover only the local components of the right-of-way costs for each Pueblo. Revisions to Rate Rider 2 are also proposed to recover the system

components of the right-of-way costs for each Pueblo. Thus, the proposed filings followed the same principles approved by the Public Regulation Commission (PRC) for recovery of the cost of rights of way from Ohkay Owingeh Pueblo.

In response to the information requested in your letter and to help respond to your questions, I am enclosing the following documents:

1. Copies of the Certification of Stipulation and Stipulation in PRC Case No. 12-00020-UT. These documents explain the principles and methodology applied in designing rates to recover the cost of rights of way from Ohkay Owingeh Pueblo.
2. A copy of JMEC's Rate 19, which sets up the principles and methodology for recovering costs of rights of way obtained on Native American lands.
3. Copies of maps showing the location of JMEC's facilities on the Pueblos of San Ildefonso, Nambe and Pojoaque. These maps show the facilities designated as "System" in blue and the facilities designated as "Local" in red. The table at the bottom of each map shows the associated right-of-way miles and acreage within the System and Local classifications and the percentage of total rights of way in each classification.
4. Copies of Exhibit A to First Revised Rate Rider 2 and Rate Rider 6 as filed on March 5, 2012.
5. Copies of Exhibit A to Rate Riders 4 and 5 as proposed but not yet filed along with Exhibit A to the associated revisions to Rate Rider 2. Exhibit A to each rate rider is a table showing, among other things, the annual costs to be recovered under the applicable rate rider for the life of the related rights of way, the annual sales in kilowatt hours (kWh) over which recovery of the cost would be apportioned, the resulting charge per kWh, and the additional cost for the applicable average monthly consumption by residential customers to whom the charge applies.

In Case No. 12-00020-UT the Commission approved a Stipulation among JMEC, Commission Staff and Ohkay Owingeh establishing principles and methodology for recovery of costs of rights of way on Native American lands and specifically the cost of JMEC's rights of way from Ohkay Owingeh. Rate 19, which was part of the Stipulation, establishes the general principles and methodology for recovering the costs, Rate Rider 2, which is applicable to all of JMEC's customers provides for recovery of the system component of the costs, and separate rate riders for recovery of the local component of the costs. Rate Rider 3 was designed for recovery of the local component of the cost of the Ohkay Owingeh rights of way. The Stipulation also acknowledges the Commission's ongoing right and authority to review and modify Rate 19 in connection with its review of future rate riders filed pursuant to Rate 19, with the proviso that such future modifications would not affect previously approved rate riders.

Under the Stipulation and Rate 19, Ohkay Owingeh rights of way are divided into two categories. "System Rights of Way" include rights of way for facilities which are necessary for or predominantly support service to customers located outside the outer boundaries of the applicable Pueblo. "Local Rights of Way" include rights of way for facilities which are necessary for or otherwise predominantly support service to customers located within the outer boundaries of the applicable Pueblo. The costs of the rights of way are then allocated between the two categories based on the surface area of the rights of way in each category, and rate factors are developed to recover costs of System Rights of Way from all customers and costs of Local Rights of Way from customers served within the boundaries of the applicable Pueblo, including customers on private lands within the boundaries. I would also note that in PRC Case No. 12-00019-UT, the Hearing Examiner recently recommended approval of a rate very similar to JMEC's Rate 19 for Continental Divide Electric Cooperative providing for recovery of their costs of rights of way on Native American lands. That recommendation is currently pending before the PRC.

By referring to the facilities maps for San Ildefonso, Nambe and Pojoaque, you can see the allocation of rights of way on each Pueblo between system and local. In general and absent special circumstances, JMEC considers rights of way for transmission lines and substations as System Rights of Way and rights of way for distribution lines as Local Rights of Way. For San Ildefonso, 39.07% of the rights of way are classified as System and 60.93% are Local; for Nambe 48.85% are System and 51.15% are Local; and for Pojoaque 71.15% are System and 28.85% are Local. In comparison, for Ohkay Owingeh 47.6% of the rights of way were classified as System and 52.4% as Local.

By referring to Exhibit A to each of Rate Riders 4, 5, and 6, you can see the derivation of the Local rate factors for customers within the boundaries of each Pueblo, including customers on private lands within those boundaries. Exhibit A to Rate Rider 2 shows the derivation of the System rate factor. The exhibits include projections of the rate factors for the remaining lives of the applicable rights of way. As noted in the exhibits for Rate Riders 4, 5 and 6, Local customers are subject to both the applicable Local rate rider and Rate Rider 2. The following table summarizes the initial rate factors for each Pueblo:

| | 2012 Local Sales (kWh) | System Charge / kWh | Local Charge / kWh |
|---------------|---------------------------|---------------------|--------------------|
| Ohkay Owingeh | 30,152,222 (2011) | \$ 0.000400 | \$0.00727 |
| San Ildefonso | 11,429,383 | \$ 0.001093 | \$ 0.055783 |
| Nambe | 7,081,528 | \$ 0.000666 | \$ 0.036825 |
| Pojoaque | 46,733,586 | \$ 0.000935 | \$ 0.003035 |

Both the system and local charges are flat charges per kWh for all metered consumption by all customer classes. Thus, the impact of these charges at any given level of consumption would be the same for any rate classification. In response to your question, there are approximately 1,219 metered customer locations within the boundaries of San Ildefonso, 852 metered customer locations within the boundaries of Nambe, and 1,816 metered customer locations within the boundaries of Pojoaque. There are currently approximately 2,789 metered customer locations within the boundaries of Ohkay Owingeh. JMEC currently serves a total of approximately 31,178 metered customer locations.

JMEC is quite sensitive to the concerns you expressed with the amounts of the proposed rates, particularly the local rates under the San Ildefonso and Nambe rate riders. Recovery of the costs of rights of way purchased from Native American Pueblos and tribes poses very difficult challenges. As you probably know from the County's experiences, the Pueblos have no obligation to consent to rights of way, and JMEC has no authority to condemn rights of way. Thus, the Pueblos are essentially in a position to dictate the price and other terms on which they will grant rights of way. Moreover, where rights of way have expired, JMEC is subject to potentially significant damages and penalties for trespass during the periods it is occupying Pueblo lands without valid rights of way. The cost of rights of way on Pueblo lands thus tends to be far greater than the cost of rights of way on private lands, much of which JMEC obtains without cost.

When you examine the facilities maps for Nambe and Pojoaque, you will see that for the most part the distribution systems within the Pueblo boundaries provide little, if any, benefit to customers outside those boundaries. One of the principles underlying the Rate 19 methodology is that rates should align appropriately with cost causation. Recovering the cost of rights of way needed to serve customers within Pueblo boundaries from those customers is consistent with that principle. JMEC and PRC Staff also hope that allocating costs in this manner provides a signal to the Pueblos that high right-of-way charges will adversely affect service rates to their members and thus help to control those costs. Charging all customers for the cost of rights of way needed to serve customers within Pueblo boundaries defeats both of these objectives. In contrast, the Rate 19 methodology is analogous in many respects to the treatment of local government franchise fees imposed for the use of public ways within municipalities and counties. By state statute, utilities must recover these fees from only those customers located within the boundaries of the local government authority and cannot spread them over their entire customer base.

In the cases of San Ildefonso and Nambe and as shown by the table above, the local rate factors are particularly adversely impacted by the low levels of sales within the Pueblo boundaries. Both Ohkay Owingeh and Pojoaque benefit by having high volume users, such as casinos and hotels, within their boundaries to spread the local costs over much greater sales volumes. San Ildefonso and Nambe lack these kinds of sales loads, and consequently the local right-of-way cost per kWh is much higher.

JMEC anticipated that the San Ildefonso and Nambe rate riders would likely be protested. JMEC also anticipated that the Commission would appoint a mediator to assist in seeking a negotiated resolution to the protests and looked forward to participating meaningfully in mediation. JMEC is therefore willing to work constructively with the County and other stakeholders to develop a resolution to these difficult challenges that equitably treats all of JMEC's customers and members.

I hope that I have addressed your questions. Please feel free to contact me regarding further discussions of these issues.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rose Marie Law".

Rose Marie Law, Acting General Manager

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF JEMEZ MOUNTAINS)
ELECTRIC COOPERATIVE'S ADVICE NOTICE)
NO. 59)
_____)

Case No. 12-00020-UT

CERTIFICATION OF STIPULATION

Carolyn R. Glick, Hearing Examiner for the New Mexico Public Regulation Commission ("Commission"), submits this Certification of Stipulation to the Commission pursuant to 1.2.2.20(B)(5)(b) NMAC. The Hearing Examiner recommends that the Commission adopt the following Statement of the Case, Discussion, Findings of Fact, Conclusions of Law and Decretal Paragraphs in its Final Order.

I. Statement of the Case

On January 5, 2012, Jemez Mountains Electric Cooperative, Inc. ("JMEC") filed its Advice Notice No. 59 with the Commission, proposing Original Rate No. 19 — Access Cost Recovery — and Original Rate Rider No. 2 — 2011-2012 Ohkay Owingeh Pueblo Rate Rider. Original Rate No. 19 established a mechanism for JMEC to recover costs incurred due to a requirement that JMEC make payments to local governments for access expenses. Through Original Rate No. 19, JMEC proposed to recover access expenses from "local consumers," who JMEC defined as "any consumer of the Cooperative that receives electric service from the Cooperative at a location within the jurisdictional boundaries of a Local Government that has required payment for access within those boundaries." Under Original Rate Rider No. 2, JMEC proposed to recover access expenses payable to Ohkay Owingeh Pueblo ("Ohkay Owingeh" or "the Pueblo") through a monthly rate applicable to local consumers receiving service within the jurisdictional boundaries of Ohkay Owingeh.

On January 25, 2012, Ohkay Owingeh Pueblo, Ohkay Owingeh Businesses, Ohkay Owingeh Casino and Ohkay Owingeh Residents filed a protest of Advice Notice No. 59.

On February 1, 2012, Bobby and Prescilla Garcia filed a protest of Advice Notice No. 59.

Under § 62-8-7(G) of the New Mexico Public Utility Act ("PUA"), new rates proposed by a rural electric cooperative generally become effective without a hearing. However, upon the filing of a protest signed by the lesser of 1% of or 25 members of a customer rate class of the rural electric cooperative and if the Commission finds just cause for reviewing the proposed rates, the Commission shall suspend the rates and conduct a hearing concerning the reasonableness of the proposed rates.

On February 2, 2012, the Commission issued an Order Suspending Advice Notice, which ordered that the "entirety of JMEC's Advice Notice #59 is hereby suspended until further order of the Commission." The Commission's Order noted that, at the Commission's February 2, 2012 Open Meeting, JMEC waived its right to challenge any of the protests in order to move the case forward, but reserved the right to challenge the protests at a later time. Order Suspending Advice Notice, ¶ 6. The Commission reserved ruling on the validity of any of the protests. *Id.*, ¶ 7. The Commission designated the undersigned to preside over the case. *Id.*, ¶ C.

On February 6, 2012, Billy and Diana Baum filed a protest to Advice Notice No. 59.

Also on February 6, 2012, the Hearing Examiner issued an Order scheduling a pre-hearing conference on February 22, 2012.

On February 23, 2012, the Hearing Examiner issued a Procedural Order which, among other things, (i) ordered JMEC to mail or e-mail the Notice attached to the

Procedural Order to its customers and publish it in the *Albuquerque Journal*; (ii) set a March 16, 2012 deadline for filing motions for leave to intervene; (iii) appointed William Herrmann as mediator; and (iv) scheduled a mediation on March 19, 2012.

Motions for leave to intervene were filed by over eighty persons.

On March 14, 2012, JMEC filed a Certificate of Compliance indicating that the Notice was mailed to JMEC's customers on February 29, 2012, and was published in the *Albuquerque Journal* on March 2, 2012.

On April 2, 2012, the Hearing Examiner issued an Order Scheduling Second Prehearing Conference. In this Order, the Hearing Examiner stated that she had been informed that some of the parties in this case had reached a tentative settlement. The Order scheduled a pre-hearing conference on April 16, 2012, to set a procedural schedule to consider whether the settlement is just and reasonable. The Order required JMEC to file any settlement agreement by April 16, 2012.

On April 16, 2012, the Hearing Examiner issued a Second Procedural Order which, among other things, (i) granted JMEC an extension of time until April 23, 2012, to file a settlement stipulation; (ii) set an April 30, 2012, deadline for filing statements in opposition to the stipulation; (iii) required each signatory to the stipulation to file Direct Testimony in support of the stipulation on or before May 15, 2012; (iv) set a May 29, 2012, deadline for filing testimony in opposition to the stipulation; (v) set a June 7, 2012, deadline for filing Rebuttal Testimony; and (vi) scheduled a public hearing to begin on June 19, 2012.

On April 23, 2013, JMEC, Ohkay Owingeh and Staff filed a joint motion, seeking an extension of time until April 24, 2012, to file a stipulation. The Hearing Examiner issued an Order granting the joint motion on April 24, 2012.

On April 24, 2012, JMEC, Ohkay Owingeh and Staff filed a Stipulation.

On April 30, 2012, the City of Espanola filed a Statement in Opposition to Stipulation and Loyda Martinez e-mailed a Statement in Opposition to Stipulation.

On May 7, 2012, the Hearing Examiner issued a Bench Request.

On May 16, 2012, the Hearing Examiner issued an Order, in response to the Joint Motion of Staff and Ohkay Owingeh, which modified the Second Procedural Order to (i) extend the deadline for filing Testimony in Support of the Stipulation to May 17, 2012; (ii) extend the deadline for filing Testimony in Opposition to the Stipulation or otherwise responsive to Testimony in Support of the Stipulation to May 31, 2012; and (iii) extend the deadline for filing Rebuttal Testimony to June 8, 2012.

On May 17, 2012, (i) JMEC filed the Direct Testimonies of Michael Deutsch, Cathy Cobb, and Wayne Sowell; (ii) Ohkay Owingeh filed the Direct Testimonies of Larry Phillips, Joe Garcia, and Ben J. Lujan; and (iii) Staff filed the Direct Testimony of Milo Chavez.

A public hearing was held on June 19 and 20, 2012. The following counsel entered appearances: Thomas Olson for JMEC; Germaine Chappelle for Ohkay Owingeh; John Appel for the City of Espanola; and Cydney Beadles for Staff. No Intervenors other than Ohkay Owingeh and the City of Espanola appeared at the hearing. The Hearing Examiner admitted the following exhibits into evidence: Direct Testimony of Wayne Sowell (JMEC Exh. 1); Direct Testimony of Michael Deutsch (JMEC Exh. 2); Direct Testimony of Cathy Cobb (JMEC Exh. 3); Direct Testimony of Larry Phillips (Ohkay Owingeh Exh. 1); Direct

Testimony of Ben Lujan (Ohkay Owingeh Exh. 2); Direct Testimony of Joe Garcia (Ohkay Owingeh Exh. 3); BIA approval page (Ohkay Owingeh Exh. 4); Direct Testimony of Milo Chavez (Staff Exh. 1); Direct Testimony of Russell Naranjo (City of Espanola Exh. 1).

On July 2, 2012, (i) JMEC filed its Initial Post-Hearing Brief; (ii) the City of Espanola filed its Initial Post-Hearing Brief and its Proposed Findings of Fact and Conclusions of Law and Proposed Form of Order; and (iii) Staff filed a Motion for a one-day extension of time to file initial post-hearing briefs.

On July 3, 2012, (i) the Hearing Examiner issued an Order granting Staff's Motion; (ii) Staff filed its Initial Post-Hearing Brief; and (iii) Ohkay Owingeh filed its Initial Post-Hearing Brief.

On July 9, 2012, post-hearing response briefs were filed by JMEC, Ohkay Owingeh, and the City of Espanola.

II. Discussion

A. Commission Standards Governing Approval of Contested Stipulations

It is well settled in New Mexico both as a matter of administrative law and as a matter of public utility law that this Commission may consider and adopt contested stipulations. *Attorney General v. New Mexico Pub. Serv. Comm'n*, 111 N.M. 636, 638-41, 808 P.2d 606, 608-11 (1991). When, as in this case, a contested stipulation is set down for hearing and review, the standards for determining whether that stipulation should be adopted are as follows: (a) the parties and Staff must have had notice and an opportunity to be heard on the stipulation; (b) the stipulation must be fair, just and reasonable and in the public interest; and (c) the stipulation must be in accordance with applicable law. Case No. 10-00086-UT, Final Order Partially Approving Certification of Stipulation, ¶ 13 (7-28-

11). Other criteria applied by this Commission in evaluating stipulations are (a) is the settlement a product of serious bargaining among capable, knowledgeable parties? (b) does the settlement, as a package, benefit ratepayers and the public interest; and (c) does the settlement package violate any important regulatory principle or practice? *Id.*

Under 1.2.2.20(B)(4) NMAC, which governs hearings on contested stipulations, “[t]he proponents of the stipulation have the burden of supporting the stipulation with sufficient evidence and legal argument to allow the commission to approve it.” The standard of proof in administrative adjudications ordinarily is the preponderance of the evidence. Case No. 11-00264-UT, Certification of Stipulation at 17 (12-9-11), adopted by Final Order Approving Certification of Stipulation (12-20-11).

B. Background

JMEC is a rural electric distribution cooperative that serves approximately 26,000 customers in five Northern New Mexico Counties: Rio Arriba; Sandoval; Santa Fe; McKinley; and San Juan. JMEC’s service area encompasses approximately 3,800 square miles. Sowell Direct at 3-4.

JMEC’s service area includes Native American Lands within the jurisdictional boundaries of eight Native American Pueblos — the Pueblos of Ohkay Owingeh, Santa Clara, San Ildefonso, Pojoaque, Nambe, Santa Ana, Jemez, and Zia — plus the Jicarilla Apache Nation and the Navajo Nation (collectively referred to as “Native American Governments”). Except for the Pueblo of Santa Ana, on which JMEC maintains a distribution line for the limited purpose of providing electric service to the historic Village of Tamaya, JMEC maintains utility plant and facilities, including overhead and underground transmission and distribution lines, substations, and related facilities and equipment

(collectively referred to as “utility facilities”) on Native American Lands subject to the jurisdiction of these Native American Governments, including utility facilities that provide service to customers located on Native American lands, to customers located on private land within the outer boundaries of Native American Lands, and to customers located outside the outer boundaries of Native American Lands. Stipulation, ¶ 1.1

JMEC has approximately 447 miles of transmission and distribution lines and six substations located on Native American lands. JMEC currently does not have rights of way supporting all of its facilities located on Native American lands. Wayne Sowell, the General Manager of JMEC, testified that most of JMEC’s rights of way have expired and JMEC has been unable to determine whether some rights of way were ever acquired. Since becoming General Manager of JMEC in 2010, Mr. Sowell has actively pursued negotiations with all eight Pueblos to obtain rights of way and is attempting to open negotiations with the Jicarilla Apache Nation and the Navajo Nation. Sowell Direct at 6-7.

Mr. Sowell testified that, in order to operate and maintain its utility facilities on Native American Lands, JMEC must have rights of way or other rights of access and occupancy granted by the United States of America with the consent and approval of the applicable Native American Government. He further testified that if and to the extent that JMEC operates utility facilities on Native American Lands without properly approved Rights of Way, JMEC is exposed to claims by the affected Native American Governments for trespass, which, in addition to damages, may include exposure to civil fines and penalties under applicable tribal ordinances. For example, on March 1, 2011, Ohkay Owingeh enacted a Civil Trespass Ordinance imposing civil penalties of up to \$10,000 per day for each trespass violation. *Id.* at 7; Tr. at 32.

JMEC has concluded agreements with the Pueblos of Santa Ana, Ohkay Owingeh, San Ildefonso and Nambe for Rights of Way for its utility facilities in place on the Native American Lands of those Native American Governments. The agreements with San Ildefonso and Nambe are awaiting approval by the United States; the agreement with Santa Ana has been approved by the United States. The agreement with Santa Ana involves only the extension of a distribution line providing service to the historic Village of Tamaya and does not require the payment of other compensation by JMEC. Sowell Direct at 9. JMEC has made initial right of way payments to the Pueblos of Ohkay Owingeh, Nambe and San Ildefonso. Tr. Vol. 1 at 65. The Easement Agreement with Ohkay Owingeh is the subject of Rate Rider No. 2 and Rate Rider No. 3, discussed below. JMEC represents that it is or will likely soon be in negotiations with the remaining pueblos and the Jicarilla Apache and Navajo nations to obtain Rights of Way for its utility facilities on the Native American Lands of those Native American Governments. Sowell Direct at 9; Tr. at 42-43.

C. Stipulation

The signatories to the Stipulation are JMEC, Ohkay Owingeh, and Staff (collectively, "Stipulating Parties"). The Stipulating Parties ask the Commission to authorize JMEC Rate No. 19 and JMEC Rate Rider Nos. 2 and 3, to become effective not later than July 31, 2012. Stipulation, ¶ 4.3. References in this Certification of Stipulation to Rate No. 19 and Rate Rider Nos. 2 and 3 are to the versions submitted with the Stipulation.

Prior to the hearing, Intervenors the City of Espanola and Loyda Martinez filed Statements in Opposition to the Stipulation. Loyda Martinez did not appear at the hearing and did not file any post-hearing brief. The City of Espanola participated in the hearing and filed post-hearing briefs, continuing to oppose the Stipulation.

All Native American Governments served by JMEC received notice of this case, *see* Certificate of Service attached to Procedural Order, issued on February 23, 2012, but only Ohkay Owingeh filed a motion for leave to intervene.

1. Rate No. 19

Rate No. 19 is intended to establish the general framework by which JMEC will recover costs of Rights of Way on Native American Lands through rate riders filed and approved in accordance with Rate No. 19. As originally proposed by JMEC, Rate No. 19 would have recovered all of the costs from customers located within the jurisdictional boundaries of the Native American Government to which the costs are paid. Rate No. 19, as proposed by the Stipulating Parties, recovers costs of Rights of Way from both customers located within and outside the jurisdictional boundaries of the Native American Government to which costs are paid. This change reflects the Stipulating Parties' acknowledgement that Rights of Way on Native American Lands enable JMEC to maintain and operate utility facilities that provide service to customers other than those located on lands within the jurisdictional boundaries of the particular Native American Government. Stipulation, ¶ 2.1.

Under Rate No. 19, JMEC would group Rights of Way into two categories: (i) "System Rights of Way," to include Rights of Way for facilities which are necessary for or otherwise predominantly support service to customers located outside the outer boundaries of the Native American Lands of the applicable Native American Government; and (ii) Local Rights of Way, to include Rights of Way for facilities which are necessary for or otherwise predominantly support service to Local Customers located within the outer boundaries of the Native American Lands of the applicable Native American Government.

Total contract cost of the Rights of Way would be allocated between System Rights of Way ("System Costs") and Local Rights of Way ("Local Costs") based on the ratio of the surface area of the Rights of Way in each category to the total surface area of all Rights of Way. Stipulation, ¶ 2.2.

Under Rate No. 19, in addition to the contract costs of Rights of Way, JMEC could recover direct external costs of negotiating and obtaining approval of the Rights of Way, including professional and consulting fees, costs of surveys, appraisals and other studies and reports required for approval and legal and consulting fees (collectively, "Preliminary Costs"). Except as provided in the Stipulation or as the Commission may direct in the future, Preliminary Costs would be allocated entirely to Local Costs. *Id.*, ¶ 2.2(c).

System costs would be recovered through a rate surcharge (the "System Surcharge") applied on a unit of consumption basis to all JMEC customers. The System Surcharge would be aggregated to reflect the cumulative costs allocated to System Costs from charges by all Native American Governments and would be implemented through Rate Rider No. 2 in the form attached to the Stipulation as Exhibit D. *Id.*, ¶ 2.2(d).

Local costs would be recovered through a rate surcharge (the "Local Surcharge") applied on a unit of consumption basis to only those customers receiving service at locations within the exterior boundaries of the applicable Native American Government, whether those locations are on Native American Lands or privately owned lands. The Local Surcharge would thus be specific to each Native American Government to which the right of way compensation is paid. A separate rate rider would be filed to recover the costs allocated to Local Costs for Rights of Way on the Native American Lands of each Native American Government. *Id.*, ¶ 2.2(e).

The System Surcharge and the Local Surcharge would be subject to annual adjustment and reconciliation. JMEC would maintain balancing accounts for the System Surcharge and for each Local Surcharge. The revenues collected from the System Surcharge would be reconciled annually with the System Costs, and each Local Surcharge would be reconciled annually with the costs recoverable through the rate rider implementing that surcharge. Annual adjustments to the System Surcharge and the Local Surcharge would include provision to refund over collections to and collect under collections from customers to whom the surcharge applies, which may be through adjustment to the applicable surcharge for the subsequent year. JMEC would work with Staff to establish filing dates and formats for the annual reports. *Id.*, ¶ 2.3. All new Local Cost Riders and all amendments to rate rider surcharges would be noticed and subject to protest in accordance with 17.9.540 NMAC. JMEC's Initial Post-Hearing Brief at 16.

The Stipulating Parties acknowledge that approval of Rate No. 19 in this case would be subject to the Commission's right and authority to review and modify Rate No. 19 in connection with its review of future Rate Riders filed pursuant to Rate No. 19 and agree that reservation of that right and authority should be a condition of approval of Rate No. 19. However, the Stipulation states that, unless the Commission orders otherwise, future changes to Rate No. 19 should not affect Rate Riders in effect prior to such changes. Stipulation, ¶ 2.4.

2. Recovery of Costs of Rights of Way on Ohkay Owingeh Native American Lands — Rate Rider Nos. 2 and 3

Ohkay Owingeh covers approximately twenty-five square miles and is located north of Espanola, New Mexico. According to 2010 census figures, approximately 6,700 persons

live within the exterior boundaries of the Pueblo. Approximately 16% of these persons are members of the Pueblo. Lujan Direct at 2-3; Tr. Vol. 1 at 137, 158. Approximately 84% of these persons are non-Pueblo members who reside on private lands within the boundaries of the original Pueblo grant. Over time, Ohkay Owingeh's trust lands have been diminished by private land ownership and now is home to the communities of Chamita, El Duende, Ranchitos, Hernandez, and Alcalde. Lujan Direct at 2; Tr. Vol. 1 at 148, 175.

Ohkay Owingeh, formally known as San Juan Pueblo, Tr. Vol. 1 at 76, Vol. 2 at 15, is served by JMEC's Espanola district, which is served from JMEC's Hernandez Substation. Sowell Direct at 5. The Hernandez Substation is located on private land within the external boundaries of the Ohkay Owingeh grant. Three main transmission lines lead out from the Hernandez Substation to eleven distribution substations in the Espanola district. Portions of all three of these transmission lines are located on Ohkay Owingeh lands. JMEC's Alcalde Substation is located on Ohkay Owingeh land. JMEC has approximately 13.68 miles of transmission lines and 36.54 miles of distribution lines located on Ohkay Owingeh land. *Id.* at 10-11. Mr. Sowell testified that Ohkay Owingeh representatives have characterized Ohkay Owingeh as the "hub" of JMEC's Espanola district and he stated that in many respects this characterization is accurate, particularly with respect to the transmission lines crossing the Pueblo. *Id.* at 19. The annual consumption by Ohkay Owingeh residents (including those living on private land within the Pueblo) represents approximately 7.8% of the total consumption of JMEC customers. Tr. Vol. 1 at 132.

JMEC began active negotiations for rights of way with Ohkay Owingeh in 2010. Sowell Direct at 11. At that time, JMEC's rights of way over Ohkay Owingeh lands were the subject of four different agreements, two of which had expired. Exh. WS-4, "Recitals" &

Exh. B to Exh. WS-4 to Sowell Direct. JMEC's relationship with Ohkay Owingeh was strained and JMEC was threatened with trespass claims. Sowell Direct at 11. JMEC paid Ohkay Owingeh a total of \$188,000 over a period of twenty-five years for rights of way under the four prior agreements. Tr. Vol. 1 at 88. Payments that JMEC made to Ohkay Owingeh under the four previous agreements were recovered through base rates. *Id.* at 64.

On August 4, 2011, JMEC and Ohkay Owingeh entered into an Easement Agreement under which JMEC agrees to pay Ohkay Owingeh a total of \$11.25 million for rights of way over, across, in and upon the Pueblo's lands for a term of twenty-five years. Sowell Direct at 12; Exh. WS-4. JMEC has agreed to make the following annual payments to Ohkay Owingeh:

| | |
|----------------|--------------------|
| Years 1 to 5 | \$250,000 per year |
| Years 6 to 10 | \$450,000 per year |
| Years 11 to 15 | \$500,000 per year |
| Years 16 to 25 | \$525,000 per year |

Exh. WS-4, ¶ 4 to Sowell Direct. On August 1, 2011, JMEC deposited the payment for year 1 in escrow subject to BIA approval of the Easement Agreement. Under an October 7, 2011 Amendment to the Easement Agreement, JMEC agreed to release the year 1 payment subject to repayment if the BIA does not approve the Easement Agreement by October 7, 2012. The payment for year 2 is due October 1, 2012. Sowell Direct at 12-13. The Easement Agreement supersedes the previous agreements relating to rights of way over Ohkay Owingeh lands. Exh. WS-4, "Recitals" to Sowell Direct. On June 19, 2012, the BIA granted the requested rights of way on Ohkay Owingeh lands to JMEC. Ohkay Owingeh Exh. 4.

Mr. Sowell testified that the Easement Agreement encompasses four significant concessions by Ohkay Owingeh. First, the Pueblo agreed to negotiate rights of way for all

JMEC facilities on Pueblo land in one package for a term of 25 years. Second, the Pueblo agreed to spread payment for the rights of way over the 25-year term as opposed to demanding immediate, up-front payment. This was particularly significant for JMEC because JMEC cannot obtain RUS financing for intangible assets such as rights of way. Third, Ohkay Owingeh agreed to waive trespass fees and application fees that would otherwise be required under tribal ordinances. Fourth, the Pueblo agreed to grant JMEC right of way for feeder lines coming out of a planned new substation without additional compensation. Sowell Direct at 11-12; Tr. Vol. 1 at 32-33.

Pursuant to the methodology set forth in Rate No. 19, the Stipulating Parties grouped JMEC rights of way within Ohkay Owingeh into two categories: System Rights of Way and Local Rights of Way. Generally, rights of way for transmission facilities were designated System Rights of Way and rights of way for distribution facilities were designated Local Rights of Way. Tr. Vol. 1 at 75, 105. Distribution facilities include single phase, three phase, and underground lines. *Id.* at 92. Exhibit B to the Stipulation is a map that identifies the rights of way by category. System Rights of Way include all transmission lines, the Alcalde Substation site, and an underground express feeder, and are designated as "Category 1" rights of way. Local Rights of Way include all distribution lines except the underground express feeder, and are designated as "Category 2" rights of way. Deutsch Direct at 9. Transmission lines do not exclusively support service outside the boundaries of Ohkay Owingeh; nor do distribution lines exclusively support service inside the boundaries of Ohkay Owingeh. The Stipulation uses the phrase "necessary for or otherwise predominantly support service" to categorize rights of way because it is not practical to

define rights of way on the basis of exclusive use for service within or outside the boundaries of the Pueblo. *Id.* at 10-11.

The Stipulating Parties determined that System Rights of Way comprise 47.6% of the surface area of the Rights of Way and that Local Rights of Way comprise 52.4% of the surface area of the Rights of Way. Exhibits B and C to Stipulation. Thus, the total contract cost of the Rights of Way is allocated 47.6% to System Costs and 52.4% to Local Costs. System Costs are to be recovered through Rate Rider No. 2, applicable to JMEC's entire customer base, consisting of approximately 26,000 customers. Exh. D to Stipulation; Chavez Direct at 4. Local Costs are to be recovered through Rate Rider No. 3, applicable only to customers receiving electric service from JMEC at locations within the outer boundaries of Native American Lands of Ohkay Owingeh, consisting of approximately 2,700 customers. Exh. E to Stipulation; Chavez Direct at 4. The size of the rights of way are twenty feet on each side of the center line for transmission lines and ten feet on each side of the center line for distribution lines. Tr. Vol. 1 at 23-24, 92.

The total System Costs and Local Costs, including Preliminary Costs and Interest Expense, to be recovered under Rate Rider Nos. 2 and 3 over a twenty-five year period is 11,451,269.77. Exh. C to Stipulation (\$6,094,086.18 + \$5,357,183.59). The \$11,451,269.77 consists of \$11,250,000 of access costs, \$8,000 of initial interest expense, \$209,904.52 of Preliminary Expenses and Balancing Account adjustments. Exh. C to Stipulation. The Initial Interest Expense is the costs of carrying the initial payment to Ohkay Owingeh from the time of payment (October 31, 2011) until recovery commences, and is calculated at JMEC's short-term financing rate in effect on the date payment was made. Cobb Direct at 9; Exh. A to Stipulation; Exh. C to Stipulation, n.1. In acknowledgement that this case will have

applicability to the recovery of right of way costs incurred with other Native American Governments, certain Preliminary Costs incurred in connection with the preparation and filing of this case are allocated between System Costs and Local Costs in the same proportion as Rights of Way are allocated between System Rights of Way and Local Rights of Way. What follows are the Preliminary Costs, incurred by JMEC through March 12, 2012, categorized as indicated:

Shared System and Local Costs

| | |
|------------------------------------|--------------|
| Montgomery and Andrews (legal) | \$ 35,865.88 |
| SGS Engineering (rate development) | \$ 5,181.60 |

Local Costs Only

| | |
|--|---------------|
| Transmission & Distribution (BIA right of way surveys) | \$ 150,810.85 |
| Permits West (assistance with right of way negotiations and applications) | \$ 12,823.94 |
| Advanced Subsurface (archaeological survey) | \$ 722.25 |
| Kathleen Khar (BIA appraisal) | \$ 4,500.00 |

Stipulation, ¶ 3.3; Cobb Direct at 9; JMEC's Initial Post-Hearing Brief at 23.

The total System Costs to be recovered through Rate Rider No. 2 are \$5,357,183.59 over a twenty-five year period. Exhibit C to Stipulation. The total System Costs to be recovered in the first year that Rate Rider No. 2 is effective is \$153,634.65. *Id.* In order to level the initial charge and ameliorate the impact of the lag between the payment of the initial System Costs and the effective date of the Rate Rider, the System Costs are averaged for the first five years for recovery during the initial four-year period the Rate Rider is in effect. Exh. D to Stipulation. Under Rate Rider No. 2, the charge per kWh for the first twelve months that the Rider is in effect is \$0.0004/kWh, which was derived by dividing 2011 System Costs by 2011 kWh sales. Exh. D to Stipulation; Cobb Direct at 11. For an

average residential customer using 590 kWh/month, the Rate Rider No. 2 charge would be \$0.24 per month for the first twelve months that the Rider is in effect. Exh. D to Stipulation (Exh. A to Exh. D). JMEC would file annually with the Commission a verified report of actual System Costs for the year, kWh sales, revenue received and the Balancing Account along with a revision of Rate Rider No. 2, if necessary, for the next coming year. Exh. D to Stipulation.

JMEC intends to use Rate Rider No. 2 to recover System Costs payable to Native American Governments besides Ohkay Owingeh. As and when JMEC incurs additional System Costs, it would file revisions to Rate Rider No. 2 and the rate applicable thereunder. Rate Rider No. 2 requires JMEC to file certain supporting documentation with each revision. Exh. D to Stipulation. Rate Rider No. 2 would be effective for so long as JMEC incurs access costs to Native American Governments. Exh. D to Stipulation.

The total Local Costs to be recovered through Rate Rider No. 3 is \$6,094,086.18 over a twenty-five year period. Exhibit C to Stipulation; Tr. Vol. 1 at 117. The total Local Costs to be recovered in the first year that Rate Rider No. 3 is effective is \$219,341.48. Exhibit C to Stipulation. In order to level the initial charge and ameliorate the impact of the lag between the payment of the initial Local Costs and the effective date of the Rate Rider, the Local Costs are averaged for the first five years for recovery during the initial four-year period the Rate Rider is in effect. Exh. E to Stipulation. Under Rate Rider No. 3, the charge per kWh for the 2011 and 2012 payments for right-of-way due from Local Customers in the following twelve-month period is \$.00727/kWh, which was derived by dividing 2011 Local Costs by 2011 kWh sales for customers within the boundaries of Ohkay Owingeh. Exh. E to Stipulation; Cobb Direct at 11-12. For an average residential customer using 590

kWh/month, the Rate Rider No. 3 charge would be \$4.29 per month for the first twelve months that the Rider is in effect. Exh. E to Stipulation (Exh. A to Exh. E). JMEC would file annually with the Commission a verified report of actual Local Costs for the year, kWh sales, revenue received and the Balancing Account along with a revision of Rate Rider No. 3, if necessary, for the next coming year. Exh. E to Stipulation. Rate Rider No. 3 would be effective for so long as JMEC incurs access costs to Ohkay Owingeh. *Id.*

JMEC customers residing within Ohkay Owingeh would be assessed both Rate Rider Nos. 2 and 3 and would pay, under those Riders, a total of \$6,512,060 over twenty-five years. Tr. Vol. 1 at 130.

D. City of Espanola's Opposition

The City of Espanola ("the City") filed the Direct Testimony of Russell Naranjo in Opposition to the Stipulation. Mr. Naranjo, the Director of Planning and Zoning for the City, described the impact of the Stipulation, if approved, on the City and on JMEC ratepayers living or owning property within the City. Mr. Naranjo explained that JMEC is the sole supplier of electricity to the City and its residents. According to the 2010 census, the population of the City is 10,495. Mr. Naranjo testified that there are approximately 6,000 residential units in the City and several hundred businesses. The northeastern portion of the City is located within the boundaries of Ohkay Owingeh. Mr. Naranjo estimated that there are approximately 647 residences and 46 businesses located in the City on private lands within Ohkay Owingeh boundaries. Naranjo Direct at 3-4.

If the Stipulation is approved, all JMEC ratepayers within the City would be subject to Rate Rider No. 2, which would increase the monthly bill for an average residential customer using 590 kWh by \$0.24. If the Stipulation is approved, all JMEC ratepayers

within the City who also reside within Ohkay Owingeh boundaries would also be subject to Rate Rider No. 3, which would increase the monthly bill for an average residential customer using 590 kWh by another \$4.29. *Id.* at 3-4. Mr. Naranjo estimated that approval of Rate Rider No. 2 would increase the City itself's electric bill by \$165.72 per month. Further, he stated that some City facilities are located within Ohkay Owingeh boundaries and would be subject to Rate Rider No. 3, if approved. However, the City had not determined what percentage of its electric use would be subject to Rate Rider No. 3. *Id.* at 6.

Mr. Naranjo also testified regarding the potential impact on the City if JMEC enters into an easement agreement with the Pueblo of Santa Clara ("Santa Clara") and seeks to recover the costs pursuant to the methodology stated in Rate No. 19. Mr. Naranjo stated that a large area within the southern part of the City lies within Santa Clara boundaries. He estimated that 80% of the City's total electrical use is for facilities within Santa Clara boundaries. Assuming that 80% of the City's entire electricity costs became subject to an additional surcharge of \$0.00727 per kWh, the increased cost to the City itself would be approximately \$28,915 annually based on its present use of 414,301 kWh per month. *Id.* Mr. Naranjo acknowledged that he was speculating on the cost impact of potential rate riders to recover costs of rights of way over Santa Clara Pueblo. Tr. Vol. 2 at 31.

In its Initial Post-Hearing Brief, the City of Espanola urges the Commission to reject the Stipulation as presented and to require the Stipulating Parties to submit an amended stipulation which reflects the following:

1. Utility rights of way that are located within existing road or highway rights of way are not subject to the Easement Agreement and may not be used in the determination of fair market value for the lands subject to the Easement Agreement;

2. Rate Rider No. 3 shall be applicable only to points of service on trust lands within the original Grant to San Juan Pueblo (Ohkay Owingeh) and shall not be applicable to private lands located within the Grant; and

3. Rate Rider No. 2 is just and reasonable and may take effect without modification.

City of Espanola's Initial Post-Hearing Brief at 14.

In connection with these recommendations, the City of Espanola states that the Commission should require JMEC and Ohkay Owingeh to renegotiate the Easement Agreement to recognize JMEC's authority to locate facilities within the rights of way of public roads without payment of compensation. The City also states that the Commission should require that any future right of way agreements with other Native American Governments address only rights of way not encompassed within existing public roads. *Id.* at 5-6.

The City asks that the Commission not issue a final order in this case until its proposed modifications to the Stipulation have been made. It does not oppose issuance of an interim order authorizing implementation of Rate Rider No. 2. *Id.* at 15.

III. Analysis and Hearing Examiner's Recommendation

Before addressing the merits of the Stipulation, it is necessary to address two threshold issues. The first such issue is identified as follows in the Commission's February 2, 2012 Order Suspending Advice Notice: "Whether the proposed access recovery riders

are equivalent to franchise fees, and if so, does the Commission have jurisdiction based on *El Paso Electric Co. v. New Mexico Public Regulation Commission*, 2010-NMSC-048, 149 N.M. 174, 246 P.3d 443”?

Section 62-6-4.5 of the PUA addresses franchise fee charges and gross receipts taxes. With respect to franchise fee charges, it states:

A. A franchise fee charge shall be stated as a separate line entry on a bill sent by a public utility or a distribution cooperative utility to a customer and shall only be recovered from a customer located within the jurisdiction of the government authority imposing the franchise fee.

In *El Paso Electric*, El Paso Electric Company (“EPE”) appealed a Commission Final Order that required EPE to stop including franchise fee charges on the bills of customers in Dona Ana and Otero counties and to refund over five million dollars to customers in those counties. The Commission’s Final Order concluded that the Commission had jurisdiction because franchise fees are rates that are charged in connection with utility service. *El Paso Electric*, 2010-NMSC-048, ¶ 4. On appeal, the New Mexico Supreme Court vacated the Commission’s Final Order, holding that franchise fee charges are not rates. *Id.*, ¶ 18. In reaching this holding, the Supreme Court distinguished franchise fee charges from charges that comprise rates. It explained:

[A] utility’s rate is based on its revenue requirements: the costs of supplying the fuel and profit for the utility in an amount sufficient to encourage investment. In contrast, a franchise fee is paid by the utility to the county for use of the county’s rights-of-way; the utility retains none of the monies collected as franchise fee charges but simply passes them through to the counties.

Id., ¶ 13.

If the payments to Ohkay Owingeh are franchise fee payments, then the Stipulation is unlawful because under § 62-6-4.5, franchise fee charges may only be recovered from a

customer located within the jurisdiction of the government authority imposing the franchise fee. Moreover, franchise fee charges properly collected under § 62-6-4.5 are not subject to Commission review.

JMEC initially viewed the payments to Ohkay Owingeh as analogous to franchise fee payments. However, JMEC later changed that view. Tr. Vol. 1 at 68. All parties filing post-hearing briefs — JMEC, Ohkay Owingeh, the City of Espanola, and Staff — contend that the payments to Ohkay Owingeh are *not* franchise fee payments subject to § 62-6-4.5.

Section 62-6-4.5 does not define “franchise fee charge.” Absent such a definition, it is appropriate, in ascertaining legislative intent, to look to other statutes using the terms “franchise fee” and “franchise.” *See* NMSA 1978, § 12-2A-20(B)(6) (in ascertaining the meaning of a statute, a court may consider “a statute or rule on the same or a related subject, even if it was enacted or adopted at a different time[.]”); *Allen v. McClellan*, 75 N.M. 400, 402, 405 P.2d 405, 407 (1965) (“It is a familiar rule of statutory construction that all of the provisions of a statute, together with other statutes in *pari materia*, must be read together to ascertain the legislative intent.”). JMEC represents that “every reference in the New Mexico statutes to ‘franchise’ or ‘franchise fees’ in the public utility or distribution cooperative context refers only to municipalities or counties.” JMEC’s Initial Post-Hearing Brief at 8. For example, § 62-1-3 specifically authorizes “boards of county commissioners and municipal authorities of incorporated cities and towns” to grant franchises and further authorizes a “board of commissioners” to impose charges for reasonable actual expenses incurred in the granting of a franchise. Section 3-42-1 similarly authorizes “[a] municipality” to grant a franchise “for the construction and operation of any public utility.” Section 5-19-1 states that “[m]unicipal and county franchise and other agreements with

public utilities . . . providing access to public rights of way that are in effect as of January 1, 2010, are valid and enforceable agreements" The New Mexico Supreme Court, like the Legislature, has referred to franchise fees as compensation paid to municipalities or counties. See *El Paso Electric*, 2010-NMSC-048, ¶ 13 ("Unlike rates, franchise agreements and the fees imposed thereby are a matter of local concern, whether that locality is a county or municipality."); *City of Albuquerque v. New Mexico Pub. Serv. Comm'n*, 115 N.M. 521, 533, 854 P.2d 348, 360 (1993) (referring to franchise as grant by municipality or county). Thus, the statutory scheme as a whole relating to franchises indicates that § 62-6-4.5 should be interpreted as applying only to access costs imposed by a local government pursuant to state law and not to compensation paid for rights of way on Native American Lands. Because the payments to Ohkay Owingeh are not franchise fees under § 62-6-4.5, *El Paso Electric* does not deprive the Commission of reviewing Rate No. 19 and Rate Rider Nos. 2 and 3.

The second threshold issue is the City of Espanola's argument that JMEC did not need to enter into the Easement Agreement with respect to utility infrastructure that is located within the right of way of public roads and highways crossing Native American Lands. According to the City, to the extent that utility infrastructure is located within the right of way of public roads, such infrastructure should be excluded from the right of ways for which Ohkay Owingeh is entitled to compensation. City of Espanola's Initial Post-Hearing Brief at 2-6.

JMEC's position is that it is required to pay Ohkay Owingeh compensation for rights of way over Pueblo land under the federal Act of February 5, 1948 ("the Act"), codified in part at 25 U.S.C. §§ 322-328, and Chapter 25, Part 161 of the Code of Federal Regulations.

The Act authorizes the United States, acting through the Secretary of the Interior and the Bureau of Indian Affairs ("BIA"), to grant rights of way on Native American Lands. 25 U.S.C. § 323. Under 25 U.S.C. § 324, the United States may not grant a right of way over and across any lands belonging to a tribe organized under the Act of June 18, 1934, the Act of May 1, 1936, or the Act of June 26, 1936 without tribal consent. This consent provision is made applicable to the Pueblo Indians of New Mexico and their lands under 25 U.S.C. § 322. The Code of Federal Regulations provides that no right of way shall be granted "over and across any tribal land . . . without the prior written consent of the tribe." 25 C.F.R. § 169.3(a).

Under 25 U.S.C. § 325, "No grant of a right-of-way shall be made without the payment of such compensation as the Secretary of the Interior shall determine to be just." 25 C.F.R. § 169.12 provides that, subject to certain exceptions, "the consideration for any right-of-way granted or renewed under this part 169 shall be not less than but not limited to the fair market value of the rights granted, plus severance damages, if any, to the remaining estate." Mr. Sowell testified that, in order to obtain rights of way, JMEC must negotiate terms and conditions which are acceptable to the Native American Government on whose lands the facilities are located. He stated that the Native American Government is under no obligation to consent to the grant of rights of way and may demand such compensation for rights of way as it deems appropriate. Mr. Sowell testified that the appraisal required by the United States merely sets the floor for compensation for rights of way, and "the Native American Governments are free to negotiate such consideration as they deem acceptable so long as it is equal to or greater than the appraised value." Sowell Direct at 8-9.

The consideration requirement in 25 C.F.R. § 169.12 has been in effect since 1968. However, it is a relatively recent development that Native American Governments are demanding what they believe is the full compensation owed to them under that law. The amount being paid by JMEC under the Easement Agreement is significantly more than the amount JMEC was paying, for example, in the 1980s. Tr. Vol. 1 at 67. Ohkay Owingeh witness Joe Garcia testified that, in the past, the BIA negotiated right of way agreements on behalf of Native American Governments and “gave a lot of the rights of way away instead of protecting the interests of the tribe that they represent . . . and I think that that became standard practice.” Tr. Vol. 2 at 7.

The City of Espanola’s position is that the law relating to compensation for rights of way over Native American Lands is not entirely reflected within Title 25 of the Code of Federal Regulations and that, under other applicable law, “to the extent that JMEC’s facilities are located within the rights of way for state, county or city highways, roads and streets, even if within the boundaries of the Ohkay Owingeh Grant, no Ohkay Owingeh lease agreement is required and Ohkay Owingeh lacks legal authority to demand the removal, or to control the use, of such facilities.” City of Espanola’s Initial Post-Hearing Brief at 3-4. The City relies on 25 U.S.C. § 311, enacted by the Act of March 3, 1901, and *United States v. Oklahoma Gas & Electric Company*, 318 U.S. 206 (1943), and *United States v. Mountain States Telephone and Telegraph Company*, 434 F. Supp. 625 (D. Mont. 1977). *See id.* at 2-3; City of Espanola’s Statement in Opposition to Stipulation at 5. 25 U.S.C. § 311 authorizes the Secretary of the Interior, upon compliance with such requirements as he may deem necessary, to grant permission to State or local authorities to open and establish public

highways through any Indian reservation or allotted lands "in accordance with the laws of the State or Territory in which the lands are situated[.]"

In *Oklahoma Gas & Electric*, the United States sued a rural electric cooperative that erected a rural service line within the boundaries of a highway constructed by the State of Oklahoma that traversed Indian allotments located outside an established Indian reservation. The Secretary of the Interior had given its permission earlier to the State of Oklahoma for construction of the road under 25 U.S.C. § 311. The State of Oklahoma then granted the cooperative a license to occupy a portion of the highway with its electric service line. The United States contended that the rural electric cooperative needed the permission of the Secretary to locate its service line within the road and that the permission of the State of Oklahoma was not enough.

In resolving the dispute, the Supreme Court stated that the key issue was whether permission to the State of Oklahoma to establish a highway over allotted land under 25 U.S.C. § 311 included the right to permit maintenance of rural electric service lines within the highway bounds. *Oklahoma Gas & Elec.*, 318 U.S. at 207. In addressing the issue, the Court observed that neither 25 U.S.C. § 311, nor the Secretary's regulations that were in place at the time provided an answer. The Court also concluded that no other federal statutes applied and that there was no federal common law on the subject. *Id.* at 209-10. *Oklahoma Gas & Electric* was decided in 1942, before passage of the 1948 Act. Consequently, the Court decided that it should look to state law. And, when it did so, it concluded that separate permission from the Secretary was not required because Oklahoma law permitted utilities to place electric power lines within public road rights of way without having to obtain the permission of the underlying landowner. *Id.*

In *Mountain States Telephone and Telegraph*, the Superintendent of the Flathead Reservation in 1916 authorized a county, under 25 U.S.C. § 311, to establish a public road over reservation lands in Montana. Mountain States Telephone and Telegraph Company (“Mountain Bell”) received permission from the State to bury cable in the public road. The United States brought suit to determine whether Mountain Bell could maintain the line without consent of the Secretary of the Interior and the Tribes. Relying on *Oklahoma Gas & Electric*, the United States District Court found that such consent was not necessary under Montana law. The Opinion was issued in 1977, after passage of the 1948 Act. The Court rejected the government’s argument that Mountain Bell’s use of the road was a trespass under the 1948 Act. The Court concluded that Congress, in passing the 1948 Act, did not intend to change the terms of the 1916 grant, which allowed the state and its subdivisions to make incidental uses of highway rights of way. *Mountain States Tel. & Tel.*, 434 F. Supp. at 629.

In this case, the City of Espanola argues that New Mexico law, like Oklahoma and Montana law, allows utilities to place electric power lines within public rights of way without having to obtain permission of the underlying landowner. Accordingly, the City of Espanola argues that, to the extent that JMEC’s facilities are located in public rights of way, JMEC already has the legal right to use the rights of way for its utility infrastructure. City of Espanola’s Initial Post-Hearing Brief at 2-4.

Mr. Sowell testified that some of the rights of way covered by JMEC’s Easement Agreement with Ohkay Owingeh are on public highways. He did not know whether any of those public highways were created under 25 U.S.C. § 311. Tr. Vol. 1 at 77, 85. Larry

Phillips, Ohkay Owingeh's Realty Officer, testified that rights of way are adjacent to, but not within, public highways. *Id.* at 138.

In its Post-Hearing Response Brief, JMEC responds as follows to the City's argument:

City's assertions may be theoretically accurate. 25 U.S.C. § 311 remains law and was not repealed by the 1948 act dealing with rights of way on Native American lands. . . . The Secretary of the Interior may yet arguably have authority to grant rights of way for public highways unconditionally and without the consent of the affected tribes as was apparently the practice long ago, and state law may yet govern the uses permitted for rights of way so granted. The Secretary's actual practice, however, does not reflect and for many years has not reflected the theoretical limits of his power.

....

Accordingly, under 25 U.S.C. § 311 as it has been applied for decades, JMEC has no authority and cannot obtain authority to place its facilities in public highway rights of way across Native American lands without the consent of the affected Native American Government.

JMEC's Post-Hearing Response Brief at 1-3.

JMEC and Ohkay Owingeh also point out that New Mexico law requires JMEC to obtain permission from Ohkay Owingeh for rights of way across Ohkay Owingeh lands even if the right of way is on a public highway. New Mexico State Highway and Transportation Department regulations state that "[i]n areas where highways pass through land controlled by the U.S. Forest Service, Bureau of Land Management, U.S. Military Bases, Indian Lands and other designated Federally controlled lands . . . the utility owner must also obtain a permit, written permission, or other documented authorization from these agencies for utility installations." 17.4.2.12(H) NMAC.

In response, the City asserts that 17.4.2.12(H) was adopted in 1971 and "[t]he record is devoid of any information as to what portion of JMEC's lines within road and highway rights of way may have been installed before 1971, or whether Ohkay Owingeh

approval was obtained at the time of installation.” City of Espanola’s Initial Post-Hearing Brief at 4 n.1.

The holding of *Oklahoma Gas & Electric* is clearly limited to an interpretation of grants made under 25 U.S.C. § 311 before enactment of the 1948 Act. See *Oklahoma Gas & Electric*, 318 U.S. at 210 (“These considerations, as well as the explicit reference in the Act to state law in the matter of ‘establishment’ as well as of ‘opening’ the highway, indicate that the question in this case is to be answered by reference to that law”); see also *id.* (“In construing this statute as to the incidents of a highway grant”); *Houle v. Central Power Elec. Coop.*, 2011 WL 1464918 at *11 (D. N.D. 2011) (“When the merits of *Oklahoma Gas & Electric* are considered, and not just the outcome, it is clear the case was decided on very narrow grounds and is readily distinguishable from the situation here. In particular, the BIA in this case did not acquire its road easement pursuant to the Act of March 3, 1901, which is limited to the giving of permission for the construction of state and local roads. Rather, as the BIA’s easement states, it was acquired pursuant to the 1948 Act and the Secretary’s regulations at 25 C.F.R. Part 169, which were not in existence when the Supreme Court decided *Oklahoma Gas & Electric* and which provide for a different outcome.”) (recommendation by U.S. magistrate judge). So too is the holding of *Mountain States Telephone & Telegraph Co. Mountain States Tel. & Tel.*, 434 F. Supp. at 627 (under 25 U.S.C. § 311, state law controls, “not because of the power of the state, but because of the congressional adoption of state law as the measure of the federal grant.”).

While the holding of *Oklahoma Gas & Electric* is therefore limited, it, and *United States v. Mountain States Telephone & Telegraph Co.*, do indicate that if JMEC placed any of its infrastructure on a public highway established by a grant under 25 U.S.C. § 311 before

enactment of the 1948 Act, JMEC is not required to obtain permission of a Native American Government to maintain its infrastructure on that public highway.

No evidence was presented in this case as to whether any of JMEC's facilities are located within public highways established pursuant to 25 U.S.C. § 311 before enactment of the 1948 Act. If any of JMEC's facilities are located within public highways established pursuant to 25 U.S.C. § 311 before enactment of the 1948 Act, JMEC at least arguably was not required to compensate Ohkay Owingeh for rights of way associated with infrastructure located on such public highways.

Under these circumstances, the Hearing Examiner could refuse to certify the Stipulation and order additional evidence to be presented on whether any of JMEC's facilities are located within public highways established pursuant to 25 U.S.C. § 311 before enactment of the 1948 Act. *See* 1.2.2.20(B)(5)(a) NMAC. However, this course of action should not be taken, for the following reasons. First, even if it were found that JMEC is not required to compensate Ohkay Owingeh for some rights of way that are the subject of the Easement Agreement, the Commission lacks authority to invalidate or modify the Easement Agreement. *Southwestern Pub. Serv. Co. v. Artesia Alfalfa Growers' Assoc.*, 67 N.M. 108, 117-18, 353 P.2d 62, 68 (1960) (stating that power to pass on validity of a private contract is entrusted exclusively to courts). The Commission *does* have authority to deny JMEC rate recovery of access costs paid to Ohkay Owingeh if it finds that those costs were not reasonably incurred. *See New Mexico Indus. Energy Consumers v. New Mexico Pub. Serv. Comm'n*, 111 N.M. 622, 626, 808 P.2d 592, 596 (1991) (upholding the Commission's exclusion of a utility's capacity contract from the rate amount because the Commission

exercised jurisdiction over the rates, not the contract itself)¹; *In re Petition of PNM Gas Servs.*, 2000-NMSC-012, ¶ 55, 129 N.M. 1, 1 P.3d 383 (finding that substantial evidence supported Commission determination that reservation fees paid by gas utility under two gas purchase contracts with suppliers were not prudently incurred and thus could not be recovered in utility's base rates). Thus, if the Commission found that JMEC did not reasonably incur some of the payment to Ohkay Owingeh, it could deny rate recovery of that portion of the payment. Under those circumstances, if JMEC were an investor-owned public utility, the shareholders and not the customers would have to pick up the share of the cost denied for rate recovery. JMEC, however, is a rural electric cooperative, which is a not-for-profit, customer/member owned business. *See* NMSA 1978, § 62-3-2(A)(3) (stating that "[e]xperience has also proven that rural electric cooperatives are substantially different from investor-owned utilities, particularly relative to setting rates."). If the Commission were to deny rate recovery of some costs paid to Ohkay Owingeh, there is no shareholder to pick up those costs; instead, the customers/members still pick up the cost, although not through inclusion of the payment in rates, but likely through patronage capital. *See id.*, § 62-15-20 (requiring excess revenues to be distributed to members as patronage refunds). Accordingly, it would be, practically speaking, meaningless for the Commission to deny rate recovery of any costs paid to Ohkay Owingeh. *Cf.* Case No. 08-

¹ In *New Mexico Indus. Energy Consumers v. New Mexico Pub. Serv. Comm'n*, the Court explained:

Examination of what the Commission actually has done with regard to the M-S-R contract illustrates the flaw in this argument and requires us to uphold the exercise of jurisdiction. The Commission, by excluding the contract, did not attempt to regulate PNM's purchase of electricity—PNM's contract with M-S-R remains undisturbed by the Commission's actions. PNM simply cannot include the capacity in rates. The Commission, in other words, regulated the *utility* by excluding the contract; it made no attempt to regulate or interfere with the contract to purchase. The general grant of jurisdiction to regulate a utility's rate and service contained in Section 62-6-4(A) provides the statutory authority for this action. 111 N.M. at 627, 808 P.2d at 597.

00022-UT, Certification of Stipulation at 16 (approving stipulation which declined to sanction cooperative in part because doing so would result in additional cost to all cooperative member customers) (10-22-08), approved in relevant part by Final Order Conditionally Approving Stipulation With Compliance Requirements (12-2-08); NMSA 1978, § 62-3-2(A)(3) ("Experience has shown that a rational basis exists to provide procedures for setting rates of rural electric cooperatives different from and more limited than those for setting rates of investor-owned utilities.").

The next step in the analysis is to consider whether the rates proposed in the Stipulation are just and reasonable. NMSA 1978, § 62-8-1 (PUA requires that rates be just and reasonable). Staff witness Milo Chavez aptly stated that this case "is ultimately about who should pay what share of the right-of-way compensation that a rural electric cooperative . . . is obligated to pay a Native American Government for the purpose of locating its power lines and facilities over and across Native American lands." Chavez Direct at 2. In broader terms, the case is about cost allocation. A basic principle of cost allocation in ratemaking is cost causation: attributing costs to those customers or classes that cause them to be incurred and benefit from them. *E.g., City of Albuquerque v. New Mexico Pub. Regulation Comm'n*, 2003-NMSC-028, ¶ 25, 134 N.M. 472, 79 P.3d 297 (rate recovering undergrounding costs from customers located within the jurisdiction requiring the undergrounding was not arbitrary but was valid attempt by Commission to impose the costs of undergrounding on the customers directly benefiting from the service); *System Energy Resources, Inc.*, 41 FERC P61,238 at p.61,616 (1987) ("Principles of fairness in ratemaking support the concept that those who are responsible for the incurrence of costs be the ones who bear those cost burdens."); Case No. 06-00302-UT, Recommended

Decision at 9 (1-12-07) (stating that traditional ratemaking and rate design principles hold that rates should be tied to cost causation or benefits received), adopted in relevant part by Final Order Adopting Recommended Decision (3-6-07). Cost allocation based on cost causation is an attribute of a sound rate structure. See James C. Bonbright, Albert L. Danielsen & David R. Kamerschen, *Principles of Public Utility Rates* at 382-86 (2d ed. 1988) (discussing fairness in apportionment of total costs of service).

It is reasonable that JMEC's customers as a whole bear the costs of rights of way for facilities that are predominantly used to provide service beyond the borders of Ohkay Owingeh. Such facilities, which are primarily transmission lines, deliver energy and other benefits system-wide. Chavez Direct at 5. They enhance JMEC's ability to bring more reliable power to all portions of its service territory and improve JMEC's ability to recover from outages. Tr. Vol. 1 at 28-32. The City of Espanola does not oppose this allocation of System Costs and does not oppose Rate Rider No. 2, subject to exclusion of any cost for right of ways within public highways. City of Espanola's Initial Post-Hearing Brief at 8.

Under cost causation principles, it is also reasonable that customers residing within the boundaries of Ohkay Owingeh bear the costs of rights of way for facilities that are predominantly used to provide service within the Pueblo boundaries. Such facilities are primarily distribution facilities, which deliver energy to individual customers. Chavez Direct at 5. The City of Espanola does not oppose this allocation of Local Costs, except that the City argues that Local Costs should not be assessed on non-tribal customers occupying private claims within the boundaries of Ohkay Owingeh. The City argues that allocation of Local Costs to private landowners within Ohkay Owingeh is unlawful because Ohkay Owingeh lacks jurisdiction over these lands. The City asserts that the Stipulation

“erroneously treats all JMEC customers within the boundaries of the original Grant as if they were on a similar legal footing, when in fact they are not.” According to the City, proposed Rate Rider No. 3 “would amount, in effect, to a tax imposed by Ohkay Owingeh tribal members on themselves, **but also** on the 84 percent of persons residing within the boundaries of the original Grant who are not members of Ohkay Owingeh, most of them simply residing or doing business on **their own private lands** that by federal law are not subject to Ohkay Owingeh jurisdiction.” City of Espanola’s Initial Post-Hearing Brief at 11 (emphasis in original). The result, according to the City, is unjust because private landowners within the boundaries of Ohkay Owingeh have no say in the Ohkay Owingeh political process, but would be required to pay a significant portion of the increased rate under proposed Rate Rider No. 3. *Id.* at 11-12.

The City of Espanola’s argument is misleading because it suggests that Rate Rider No. 3 would be assessed by Ohkay Owingeh itself. This is incorrect. Rate Rider No. 3 would be assessed by JMEC. Ohkay Owingeh’s lack of jurisdiction over private claims within the boundaries of the Pueblo does not foreclose JMEC from assessing Rate Rider No. 3 on all of its customers located within Pueblo boundaries if it is just and reasonable to do so.

It is just and reasonable to assess Rate Rider No. 3 on all customers within the boundaries of Ohkay Owingeh because doing so is fairly based on cost causation. Exhibit B to the Stipulation demonstrates that distribution facilities within the Pueblo are involved in serving customers located on the private claims. Mr. Sowell testified that customers residing on private lands within Ohkay Owingeh boundaries receive benefits from distribution lines located in proximity to them. Tr. Vol. 1 at 41. Additionally, customers residing on private lands within the Pueblo boundaries receive benefits from JMEC’s

payment of the access charges to Ohkay Owingeh: the right of way payments from JMEC are deposited into the Pueblo's general fund and a portion of the general fund is used to fund governmental services provided to all members of the community, regardless of whether they are members of the Pueblo. Lujan Direct at 3. These services include health and wellness services, water and sewer service, schooling, flood protection and environmental restoration, road improvement, and police protection. *Id.* at 3-8; Tr. Vol. 1 at 69.

In conclusion, (i) the Stipulation is fair, just and reasonable and in the public interest; (ii) the Stipulation is in accordance with applicable law; and (iii) the parties and Staff had notice and an opportunity to be heard on the Stipulation. Accordingly, the Stipulation should be approved.

IV. Findings of Fact and Conclusions of Law

1. All findings of fact and conclusions of law contained in the Statement of the Case and Discussion of the Certification of Stipulation are incorporated by reference herein as Findings of Fact and Conclusions of Law.

2. JMEC is a public utility as defined in the Public Utility Act.

3. The Commission has jurisdiction over JMEC and the subject matter of this case.

4. Reasonable, proper and adequate notice of this case has been given.

5. The Stipulation, filed on April 24, 2012, is fair, just and reasonable and should be approved.²

² Because of its length, the Stipulation is not attached to this Certification of Stipulation.

6. Proposed Rate No. 19 sets forth a fair and reasonable mechanism for JMEC to recover costs for access to the lands of Native American Governments to operate and maintain JMEC's plant and facilities.

7. The rates proposed in Rate Rider Nos. 2 and 3 are just and reasonable and should be approved.

8. Proposed Rate No. 19 and Rate Rider Nos. 2 and 3 should become effective as proposed in the Stipulation.

V. Decretal Paragraphs

A. The Findings of Fact and Conclusions of Law and the Decretal Paragraphs contained in the Certification of Stipulation are adopted, approved and ordered by the Commission.

B. The Stipulation is approved.

C. Proposed Rate No. 19 and Rate Rider Nos. 2 and 3 are approved.

D. Proposed Rate No. 19 and Rate Rider Nos. 2 and 3 shall become effective as proposed in the Stipulation.

E. Any matter not specifically ruled on during the hearing or in this Final Order is disposed of consistently with this Final Order.

F. This Order is effective immediately.

G. This Docket is closed.

Issued at Santa Fe, New Mexico on July 11, 2012.

NEW MEXICO PUBLIC REGULATION COMMISSION

Handwritten signature of Carolyn R. Glick in cursive script.

Carolyn R. Glick
Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF JEMEZ MOUNTAINS)
ELECTRIC COOPERATIVE'S ADVICE)
NOTICE NO. 59)
_____)

Case No. 12-00020-UT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *Certification of Stipulation*, was e-mailed to the attached names and e-mail addresses listed below on July 11, 2012:

E-MAILED TO:

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John Appel
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ISSUED at Santa Fe, New Mexico this 11th day of July, 2012.

NEW MEXICO PUBLIC REGULATION COMMISSION



Elizabeth Saiz, Law Clerk

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF JEMEZ MOUNTAINS
ELECTRIC COOPERATIVE'S ADVICE NOTICE
NO. 59

Case No. 12-00020-UT

STIPULATION

Jemez Mountains Electric Cooperative, Inc. ("JMEC"), the Pueblo of Ohkay Owingeh ("Ohkay Owingeh"), and the Staff of the Utility Division ("Staff") of the New Mexico Public Regulation Commission ("Commission" or "NMPRC") (collectively "the Stipulating Parties"), personally or through their authorized representatives, join in this Stipulation (the "Stipulation") proposing a full, complete, fair, just, and reasonable settlement and resolution of all issues in this case. In consideration of the mutual promises, obligations and benefits contained herein, the Stipulating Parties stipulate and agree:

PREAMBLE

Through this Stipulation the Stipulating Parties intend to resolve all issues in this proceeding by agreeing to (i) basic principles and methodology applicable to the mechanism established by JMEC's proposed Rate No. 19 ("Rate 19") for recovering costs incurred by JMEC and assessed by Native American Governments (as defined below) for rights of way, easements, leaseholds, franchises and similar interests (collectively referred to as "Rights of Way") allowing JMEC access to maintain and operate its utility plant and facilities on lands within the jurisdiction of such Native American Governments; and (ii) the appropriate rates under Revised Rate Rider 2 ("Revised Rate Rider 2") and Rate Rider No. 3 ("Rate Rider 3"), as described in this Stipulation to recover the costs

incurred and to be incurred by JMEC for access to lands subject to the jurisdiction of Ohkay Owingeh. For purposes of this Stipulation, the term "Native American Lands" shall refer generally to lands within the jurisdiction of Native American Governments, including lands held in trust by the United States of America for the benefit of Native American Governments, and lands granted or reserved to Native American Governments by treaty or otherwise and subject to Federal restrictions against alienation or encumbrance.

The Stipulating Parties agree that the intent and result of this Stipulation is to serve the public interest by establishing fair, just and reasonable principles, methodology and, in the case of Revised Rate Rider 2 and Rate Rider 3, rates for the recovery by JMEC from its customers of the costs incurred by JMEC for access to Native American Lands for the operation and maintenance of its utility plant and facilities. Resolution on a stipulated basis of the matters set forth herein will conserve resources and avoid the uncertainties to all parties inherent in litigation. The agreements set forth in this Stipulation reflect good faith negotiations, with reasonable "give and take" on issues by all Stipulating Parties, and result in a bargained-for resolution of the entire case in a manner that fairly benefits the parties, ratepayers, and JMEC.

1. BACKGROUND

1.1. JMEC's service area includes Native American Lands within the jurisdictional boundaries of eight Native American Pueblos – the Pueblos of Ohkay Owingeh, Santa Clara, San Ildefonso, Pojoaque, Nambe, Santa Ana, Jemez, and Zia – plus the Jicarilla Apache Nation and the Navajo Nation (collectively referred to as "Native American Governments"). Except for the Pueblo of Santa Ana, on which JMEC maintains a distribution line for the limited purpose of providing electric service to the historic Village

of Tamaya, JMEC maintains utility plant and facilities, including overhead and underground transmission and distribution lines, substations, and related facilities and equipment, (collectively referred to as "utility facilities") on Native American Lands subject to the jurisdiction of these Native American Governments, including utility facilities that provide service to customers located on Native American Lands, to customers located on private land within the outer boundaries of Native American Lands, and to customers located outside the outer boundaries of Native American Lands.

1.2. In order to operate and maintain its utility facilities on Native American Lands, JMEC must have rights of way or other rights of access and occupancy granted by the United States of America with the consent and approval of the applicable Native American Government. Rights of way on Native American Lands are generally governed by 25 U.S.C. §§ 322-328, and 25 CFR Part 169. In particular, 25 CFR § 169.3(a) provides: "No right-of-way shall be granted over and across any tribal land, nor shall any permission to survey be issued with respect to any such lands, without the prior written consent of the tribe." In addition, 25 CFR § 169.12 provides that, subject to certain exceptions, "the consideration for any right-of-way granted or renewed under this part 169 shall be not less than but not limited to the fair market value of the rights granted, plus severance damages, if any, to the remaining estate."

1.3. If and to the extent JMEC operates utility facilities on Native American Lands without properly approved Rights of Way, JMEC is exposed to claims by the affected Native American Governments for trespass, which, in addition to damages, may include exposure to civil fines and penalties under applicable tribal ordinances. Ohkay

Owingehe, for example, has enacted a Civil Trespass Ordinance imposing civil penalties of up to \$10,000 per day for each trespass violation.

1.4 Subject to approval by the United States, JMEC has concluded agreements with the Pueblos of Santa Ana and Ohkay Owingehe for Rights of Way for its utility facilities in place on the Native American Lands of those Native American Governments. The agreement with Santa Ana involves only the extension of a distribution line providing service to the historic Village of Tamaya and does not require the payment of other compensation by JMEC. The agreement with Ohkay Owingehe is the subject of Rate Rider 2 and Rate Rider 3 and is addressed below in this Stipulation. JMEC represents that it is or will likely soon be in negotiations with the remaining six pueblos and the Jicarilla Apache and Navajo nations to obtain Rights of Way for its utility facilities on the Native American Lands of those Native American Governments and is in the process of finalizing agreements with the Pueblos of San Ildefonso, Pojoaque and Nambe.

1.5 JMEC anticipates that the process of negotiating and obtaining federal approval of Rights of Way on the Native American Lands within its service area may take several years. During this process, JMEC anticipates that it will likely be paying compensation to Native American Governments in substantial amounts, as it is currently paying to Ohkay Owingehe. In order to pay those obligations, JMEC represents that it needs the ability to recover the costs of the Rights of Way on a timely basis. JMEC is proposing Rate 19 as a mechanism for timely recovery of right of way costs on Native American Land on an incremental basis as and when the costs are incurred and for equitably allocating such costs among its customers through rates.

2. RATE 19

2.1. Rate 19 is intended to establish the general framework by which JMEC will recover costs of Rights of Way on Native American Lands through rate riders filed and approved in accordance with Rate 19 ("Rate Riders"). As originally proposed by JMEC, Rate 19 would have recovered all of the costs from customers located within the jurisdictional boundaries of the Native American Government to which the costs are paid. The Stipulating Parties acknowledge, however, that Rights of Way on Native American Lands enable JMEC to maintain and operate utility facilities that provide service to customers other than those located on lands within the jurisdictional boundaries of the particular Native American Government.

2.2. The Stipulating Parties agree and recommend that the Commission approve a revised version of Rate 19 ("Revised Rate 19") in the form attached as Exhibit A to this Stipulation. The changes reflected in Revised Rate 19 include:

(a) For purposes of cost recovery, JMEC will group Rights of Way in two categories: System Rights of Way will include Rights of Way for facilities which are necessary for or otherwise predominantly support service to customers located outside the outer boundaries of the Native American Lands of the applicable Native American Government. Local Rights of Way will include Rights of Way for facilities which are necessary for or otherwise predominantly support service to Local Customers located within the outer boundaries of the Native American Lands of the applicable Native American Government.

(b) The total contract cost of the Rights of Way will be allocated between System Rights of Way ("System Costs") and Local Rights of Way ("Local Costs")

based on the ratio of the surface area of the Rights of Way in each category to the total surface area of all Rights of Way.

(c) In addition to the contract costs of the Rights of Way, JMEC will be permitted to recover direct external costs of negotiating and obtaining approval of the Rights of Way, including professional and consulting fees, costs of surveys, appraisals and other studies and reports required for approval and legal and consulting fees (collectively, "Preliminary Costs"). Except as provided in this Stipulation or as the Commission may direct in the future, will be allocated entirely to Local Costs.

(d) System Costs will be recovered through a rate surcharge (the "System Surcharge") applied on a unit of consumption basis to all JMEC customers. The System Surcharge will be aggregated to reflect the cumulative costs allocated to System Costs from charges by all Native American Governments and will be implemented through Revised Rate Rider 2 in the form described below and attached to this Stipulation as Exhibit D.

(e) Local Costs will be recovered through a rate surcharge (the "Local Surcharge") applied on a unit of consumption basis to only those customers receiving service at locations within the exterior boundaries of the applicable Native American Government, whether those locations are on Native American Lands or privately owned lands. The Local Surcharge will thus be specific to each Native American Government to which the right-of-way compensation is paid. A separate rate rider will be filed to recover the costs allocated to Local Costs for Rights of Way on the Native American Lands of each Native American Government.

2.3. The System Surcharge and the Local Surcharges will be subject to annual adjustment and reconciliation. JMEC will maintain balancing accounts for the System Surcharge and for each Local Surcharge. The revenues collected from the System Surcharge will be reconciled annually with the System Costs, and each Local Surcharge will be reconciled annually with the costs recoverable through the rate rider implementing that surcharge. Annual adjustments to the System Surcharge and the Local Surcharges will include provision to refund over collections to and collect under collections from customers to whom the surcharge applies, which may be through adjustment to the applicable surcharge for the subsequent year. JMEC will work with Staff to establish filing dates and formats for the annual reports.

2.4. The Stipulating Parties acknowledge that approval of Rate 19 in this case will be subject to the Commission's right and authority to review and modify Rate 19 in connection with its review of future Rate Riders filed pursuant to Rate 19 and agree that reservation of that right and authority should be a condition of approval of Rate 19. Unless the Commission orders otherwise, however, future changes to Rate 19 should not affect Rate Riders in effect prior to such changes.

3. RECOVERY OF COSTS OF RIGHTS OF WAY ON OHKAY OWINGEH NATIVE AMERICAN LANDS

3.1. The Stipulating Parties agree that the map and table attached as Exhibit B to this Stipulation reflects a fair, just and reasonable allocation of the Rights of Way acquired from Ohkay Owingeh between System Rights of Way (shown in blue as "Category 1" on Exhibit B) and Local Rights of Way (shown in red as "Category 2" on Exhibit B), and the relative area of the Rights of Way in each category.

3.2. The Stipulating Parties further agree that Exhibit C to this Stipulation reflects a fair, just and reasonable allocation of the costs, including Preliminary Costs, as explained in Section 3.3, below, and Initial Interest Expense as defined in Rate 19, for Rights of Way acquired from Ohkay Owingeh between System Costs and Local Costs, and a fair just and reasonable calculation of the Local Surcharge and the portion of the System Surcharge applicable to the costs of those Rights of Way based on the methodology set forth in Revised Rate 19. Because the costs for year 1 and year 2 will be paid or payable by the time the surcharges become effective and could therefore cause the initial surcharges to be significantly larger than the surcharges for subsequent years, Exhibit C averages the right-of-way costs for the first five years for recovery during the first four years the surcharges are in effect. Exhibit C also shows the effect of the resulting Local Surcharge and System Surcharge on the monthly bills of residential customers consuming 590 kilowatt hours.

3.3. The parties acknowledge that this case will have applicability to the recovery of right-of-way costs incurred with other Native American Governments. Accordingly, Exhibit C allocates certain Preliminary Costs incurred in connection with the preparation and filing of this case between System Costs and Local Costs in the same proportion as Rights of Way are allocated between System Rights of Way and Preliminary Rights of Way. Following are the Preliminary Costs reflected in Exhibit C categorized as indicated:

Shared System and Local Costs

| | |
|------------------------------------|--------------|
| Montgomery and Andrews (legal) | \$ 35,865.88 |
| SGS Engineering (rate development) | \$ 5,181.60 |

Local Costs Only

| | |
|---|---------------|
| Transmission & Distribution (BIA surveys) | \$ 150,810.85 |
| Permits West (right of way assistance) | \$ 12,823.94 |
| Advanced Subsurface (facilities location) | \$ 722.25 |
| Kathleen Khar (BIA appraisal) | \$ 4,500.00 |

TOTAL \$ 209,904.52

The parties further acknowledge that the above listed costs include those incurred through March 12, 2012 and propose that remaining reasonable regulatory expenses incurred in this case be reported in the first annual reconciliation reports for Rate Rider 2 and Rate Rider 3, be allocated between System Costs and Local Costs in proportion to the Rights of Way in each category, and be recovered over the three-year period following the effective dates of the revised surcharges filed with those reports.

3.4. The Stipulating Parties therefore agree and recommend that the Commission approve Rate Rider 2 in the form attached as Exhibit D to this Stipulation to recover the System Costs of the Rights of Way acquired from Ohkay Owingeh and Rate Rider 3 in the form attached as Exhibit E to this Stipulation to recover the Local Costs of those Rights of Way.

4. STIPULATION EFFECT

4.1. The Stipulating Parties acknowledge and agree that this Stipulation is made and filed solely in connection with the negotiation, compromise, settlement, and accommodation among the Stipulating Parties with respect to the issues related to JMEC's proposed Rate 19 and associated rate riders and resolves all such issues. The Stipulating Parties specifically agree that this stipulation has no precedential effect on any future proceeding, except as otherwise specifically agreed to in this Stipulation.

4.2. This Stipulation shall not prejudice, bind, or affect any Stipulating Party, or be viewed as an admission, except to the extent necessary to give effect to or to enforce the terms of the stipulation or unless otherwise specifically stated herein. It is the resolution of a unique fact situation, except as otherwise stated herein, and its resolution is unique to the circumstances presented.

4.3. This Stipulation is subject to the approval of the Commission of the matters stipulated. The Stipulating Parties agree that they will use their best efforts to obtain expeditious approval of this Stipulation by appropriate final order of the Commission in this proceeding authorizing Rate 19 and Revised Rate Rider 2 and Rate Rider 3 to become effective not later than July 31, 2012.

4.4. This Stipulation assumes the legality and enforceability of the rates, methodologies and agreements set forth in the Stipulation. Should any rate, methodology, or agreement set forth in this Stipulation be rejected, modified or be directly or indirectly rendered inoperable by either the commission, a court, or by an act of the New Mexico Legislature, any Stipulating Party who is a party to this case shall have the right to withdraw from the Stipulation and declare it void.

4.5. In the event that the Commission does not approve the Stipulation in its entirety without modification, the Stipulation shall be voidable by any Stipulating Party. Stipulating parties shall file a formal statement to void the Stipulation within 30 days of the Commission's final order herein. In the event this Stipulation is not approved by the Commission and thereafter implemented, nothing in the Stipulation or negotiations leading up to its execution shall be construed as an admission of a Stipulating Party's

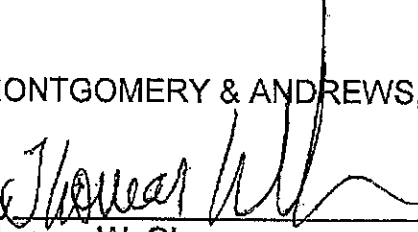
position on any issue and shall not be used or offered into evidence in this or any other proceeding consistent with the provisions of commission procedural rules.

5. EXECUTION OF STIPULATION.

The Stipulating Parties may agree to the terms of this Stipulation through the execution of one or more counterparts or separate signature pages.

DATED this 24th day of April 2012.

MONTGOMERY & ANDREWS, P.A.


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JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.
ORIGINAL RATE NO. 19

NATIVE AMERICAN ACCESS COST RECOVERY

Page 1 of 9

EXPLANATION OF RATE SCHEDULE:

Rate No. 19 is established to provide a mechanism for Jemez Mountains Electric Cooperative, Inc. ("Jemez" or "Cooperative") to recover costs for access to the lands of Native American Governments to operate and maintain the Cooperative's utility plant and facilities. Access costs for utility plant and facilities that are necessary for or otherwise predominantly support the Cooperative's entire system will be recovered from all its customers, while access costs for utility plant and facilities that are necessary for or otherwise predominantly support service to customers located within the outer boundaries of Native American lands will be recovered only from such local customers. Recovery will occur through Rate Riders filed in accordance with this Rate No. 19.

Rate Riders filed in accordance with this Rate No. 19 will consist of separate charges per kWh per month that are applied to either the Entire Customer Base or to Local Customers (as those terms are defined below), and will continue each month until the cost of the access is paid in full. The charge will be shown as a separate line item on the bills entitled "Rate Rider No. [XX]".

This Rate and the Rate Riders filed under this Rate are intended to collect only the costs of the access, applicable taxes, fees and charges in accordance with the Tax Adjustment clause below and certain related costs incurred and are not intended to increase or decrease the Cooperative's margins. All revenues collected from Rate Riders will be allocated to their own single accounts to offset the applicable access expenses paid and any remainder will either be debited or credited to subsequent payments to the Native American Government for rights of way or returned to the customers on a per-kWh basis, whichever may be applicable.

DEFINITIONS:

ADVICE NOTICE NO. 60



WAYNE SOWELL, General Manager

JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

ORIGINAL RATE NO. 19

2012 AUG 17 PM 2 19

NATIVE AMERICAN ACCESS COST RECOVERY

Page 1 of 1

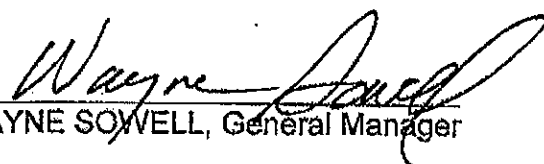
EXPLANATION OF RATE SCHEDULE:

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ADVICE NOTICE NO. 62


WAYNE SOWELL, General Manager

JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.
ORIGINAL RATE NO. 19

NATIVE AMERICAN ACCESS COST RECOVERY

Page 3 of 3

DEFINITIONS: (continued)

Local Rights of Way mean Rights of Way for facilities which are necessary for or otherwise predominantly support service to Local Customers located within the outer boundaries of the Native American Lands of the applicable Native American Government.

Entire Customer Base means all customers served by the Cooperative, including all Local Customers.

Initial Interest Expense means costs of carrying the initial payment to a Native American Government for Rights of Way from the time of payment until recovery commences under an applicable Rate Rider and shall be calculated at the Cooperative's short-term financing rate in effect on the date the payment is made.

Local Customers means customers of the Cooperative that receive electric service from the Cooperative at locations within the outer boundaries of the Native American Lands of a particular Native American Government, including service locations on the Native American Lands of the applicable Native American Government and service locations on private lands located within the outer boundaries of the Native American Lands of the applicable Native American Government.

Rate Rider means a rate rider filed pursuant to this Rate No. 19 and providing a specific surcharge intended to recover either System Costs or Local Costs allocated to that specific Rate Rider.

Rights of Way means rights granted by a Native American Government to the Cooperative allowing the Cooperative access to maintain and operate its utility plant and facilities on the Native American Lands of the Native American Government, and includes rights of way, easements, leaseholds, licenses, franchises and any similar rights.

ADVICE NOTICE NO. 62


WAYNE SOWELL, General Manager

JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.
ORIGINAL RATE NO. 19

NATIVE AMERICAN ACCESS COST RECOVERY

Page 5 of 5

COST RECOVERY:

As to each Native American Government recovery of Access Costs, Preliminary Costs, Initial Interest Expense, and any related fees, charges, and taxes, to the extent not recovered through the Tax Adjustment clause of this Schedule or otherwise recovered through the Cooperative's other service rates, will be allocated between the Entire Customer Base and Local Customers based on the methodology described in this paragraph. Access Costs for a particular Native American Government will be allocated between System Rights of Way and Local Rights of Way in proportion to the surface area of the Rights of Way assigned to each category. System Costs shall be calculated by multiplying the total Access Costs by the ratio of the surface area of the System Rights of Way to the total surface area of the Rights of Way obtained from the applicable Native American Government and, ordered by the Commission, a share of Preliminary Costs. System Costs shall be recovered from the Entire Customer Base on a per-kWh basis through Rate Rider No. 2 described below. Local Costs shall be calculated by multiplying the total Access Costs by the ratio of the surface area of the Local Rights of Way to the total surface area of the Rights of Way obtained from the applicable Native American Government and then adding Preliminary Costs (unless otherwise ordered by the Commission) and Initial Interest Expense. Local Costs for a particular Native American Government shall be recovered from the Local Customers within the outer boundaries of the Native American Lands of that Native American Government on a per-kWh basis through a separate Rate Rider.

RATE RIDER NO 2:

System Costs incurred from all Native American Governments shall be recovered from the Entire Customer Base under Rate Rider No. 2 through a single rate per kWh applicable to all consumption. The rate per kWh shall be modified as necessary to account for and recover new, increased, or decreased System Costs and to address imbalances in the recovery of System Costs. Rate Rider No. 2 is filed with this Rate No. 19 and sets forth the initial rate per kWh, the procedures and

ADVICE NOTICE NO. 62


WAYNE SOWELL, General Manager

JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.
ORIGINAL RATE NO. 19

NATIVE AMERICAN ACCESS COST RECOVERY

Page 7 of 7

ADDITIONAL RATE RIDERS FOR LOCAL COSTS: (continued)

6. Include provisions for an annual reconciliation and Balancing Account in substantially the following form:

The Cooperative will file annually with the New Mexico Public Regulation Commission, a verified report of the actual Local Costs for the year, kWh sales, revenue received and the Balancing Account along with a revision of this Rate Rider for the next coming year. Sales and revenues may be projected for no more than the last three months of the reporting period to allow for compliance with notice and protest periods under 17.9.540 NMAC, subject to the requirement that all projections be reconciled with actual sales and revenues in the following annual report.

The first year of revenue collection for the Local Costs does not include a Balancing Account. After revenues are received for the first year and subtracted from the actual Local Costs for the first year, a Balancing Account will be carried forward into the next year's Local Costs and the charge per kWh will be updated for the second and subsequent years.

At the end of the recovery period, the Balancing Account will be passed through to the Local Consumers on a per kWh basis, either as a charge or a credit.

The Cooperative will file with each new Rate Rider, supporting information, including (i) a map of the Native American Lands of the applicable Native American Government showing the outer boundaries of the Native American Lands, the boundaries of any privately owned lands within the outer boundaries of the Native American Lands, the location, classification and surface area of System Rights of Way and Local Rights of Way, and the total surface area of all Rights of Way; and (ii) a breakdown of the Local

ADVICE NOTICE NO. 62


WAYNE SOWELL, General Manager

EXHIBIT A

RATE RIDER NO. 2 - SYSTEM

JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

CALCULATION OF CHARGE PER KWH AND DETERMINATION OF BALANCING ACCOUNT

OHKAY OWINGEH PUEBLO:

| YEAR | ACCESS COSTS | SYSTEM ACCESS COSTS @ 47.6% | PREVIOUS YEAR BALANCING ACCOUNT | INITIAL INTEREST EXPENSE | PRELIMINARY COSTS | ACTUAL COSTS | TOTAL ANNUAL KWH SOLD(1) | CALCULATED CHARGE PER KWH | REVENUE RECEIVED (2) | BALANCING ACCOUNT | COST PER 580 KWH PER MONTH |
|-------------|------------------|-----------------------------|---------------------------------|--------------------------|-------------------|-----------------|--------------------------|---------------------------|----------------------|-------------------|----------------------------|
| 2011 & 2012 | \$ 312,500.00 | \$ 148,750.00 | \$ - | \$ - | \$ 4,884.65 | \$ 153,634.65 | 386,461,779 | \$ 0.000400 | \$ 154,584.71 | \$ (950.06) | 0.24 |
| 2013 | 312,500.00 | 148,750.00 | (950.06) | - | 4,884.65 | 152,684.59 | 374,153,215 | 0.000410 | 153,402.82 | (718.23) | 0.24 |
| 2014 | 312,500.00 | 148,750.00 | (718.23) | - | 4,884.65 | 152,916.42 | 377,894,747 | 0.000400 | 151,157.90 | 1,758.52 | 0.24 |
| 2015 | 312,500.00 | 148,750.00 | (1,758.52) | - | 4,884.65 | 155,393.17 | 381,673,694 | 0.000410 | 156,486.21 | (1,093.04) | 0.24 |
| 2016 | 450,000.00 | 214,200.00 | (1,093.04) | - | - | 213,106.96 | 385,490,431 | 0.000550 | 212,019.74 | 1,087.22 | 0.32 |
| 2017 | 450,000.00 | 214,200.00 | (1,087.22) | - | - | 215,287.22 | 389,345,335 | 0.000550 | 214,139.93 | 1,147.29 | 0.32 |
| 2018 | 450,000.00 | 214,200.00 | (1,147.29) | - | - | 215,347.29 | 393,238,788 | 0.000550 | 216,281.33 | (934.04) | 0.32 |
| 2019 | 450,000.00 | 214,200.00 | (934.04) | - | - | 213,265.96 | 397,171,176 | 0.000540 | 214,472.44 | (1,206.48) | 0.32 |
| 2020 | 450,000.00 | 214,200.00 | (1,206.48) | - | - | 212,993.52 | 401,142,888 | 0.000530 | 212,605.73 | 387.79 | 0.31 |
| 2021 | 500,000.00 | 238,000.00 | 387.79 | - | - | 238,387.79 | 405,154,317 | 0.000590 | 239,041.05 | (653.26) | 0.35 |
| 2022 | 500,000.00 | 238,000.00 | (653.26) | - | - | 237,346.74 | 409,205,860 | 0.000580 | 237,339.40 | 7.34 | 0.34 |
| 2023 | 500,000.00 | 238,000.00 | (7.34) | - | - | 238,007.34 | 413,297,919 | 0.000580 | 239,712.79 | (1,705.45) | 0.34 |
| 2024 | 500,000.00 | 238,000.00 | (1,705.45) | - | - | 236,294.55 | 417,430,898 | 0.000570 | 237,935.61 | (1,641.06) | 0.34 |
| 2025 | 500,000.00 | 238,000.00 | (1,641.06) | - | - | 236,356.94 | 421,605,207 | 0.000580 | 236,098.92 | 260.02 | 0.33 |
| 2026 | 525,000.00 | 249,900.00 | 260.02 | - | - | 250,160.02 | 425,821,259 | 0.000590 | 251,234.54 | (1,074.52) | 0.35 |
| 2027 | 525,000.00 | 249,900.00 | (1,074.52) | - | - | 248,825.48 | 430,079,472 | 0.000580 | 249,446.09 | (620.61) | 0.34 |
| 2028 | 525,000.00 | 249,900.00 | (620.61) | - | - | 249,279.39 | 434,380,267 | 0.000570 | 247,586.75 | 1,682.64 | 0.34 |
| 2029 | 525,000.00 | 249,900.00 | 1,682.64 | - | - | 251,582.64 | 438,724,070 | 0.000570 | 250,072.72 | 1,509.92 | 0.34 |
| 2030 | 525,000.00 | 249,900.00 | (1,509.92) | - | - | 251,408.92 | 443,111,311 | 0.000570 | 252,573.45 | (1,163.53) | 0.34 |
| 2031 | 525,000.00 | 249,900.00 | (1,163.53) | - | - | 248,736.47 | 447,542,424 | 0.000560 | 250,623.76 | (1,887.29) | 0.33 |
| 2032 | 525,000.00 | 249,900.00 | (1,887.29) | - | - | 248,012.71 | 452,017,848 | 0.000550 | 248,609.82 | (597.11) | 0.32 |
| 2033 | 525,000.00 | 249,900.00 | (597.11) | - | - | 249,302.89 | 456,538,026 | 0.000550 | 251,095.91 | (1,793.02) | 0.32 |
| 2034 | 525,000.00 | 249,900.00 | (1,793.02) | - | - | 248,106.98 | 461,103,406 | 0.000540 | 248,995.84 | (888.86) | 0.32 |
| 2035 | 525,000.00 | 249,900.00 | (888.86) | - | - | 249,011.14 | 465,714,440 | 0.000530 | 246,828.65 | 2,182.49 | 0.31 |
| 2036 | - | - | 2,182.49 | - | - | 2,182.49 | 470,371,584 | - | - | 2,182.49 | - |
| TOTALS | \$ 11,250,000.00 | \$ 5,355,000.00 | \$ (6,903.33) | \$ - | \$ 19,538.60 | \$ 5,367,535.27 | 8,172,925,057 | - | \$ 5,372,356.11 | \$ (5,806.83) | - |

PUEBLO OF POJAOQUE

| YEAR | ACCESS COSTS | SYSTEM ACCESS COSTS 71.15% | PREVIOUS YEAR BALANCING ACCOUNT | INITIAL INTEREST EXPENSE | PRELIMINARY COSTS | TOTAL COSTS | TOTAL ANNUAL KWH SOLD(1) | CALCULATED CHARGE PER KWH | REVENUE RECEIVED (2) | BALANCING ACCOUNT | COST PER 548 KWH PER MONTH |
|-------------|-----------------|----------------------------|---------------------------------|--------------------------|-------------------|-----------------|--------------------------|---------------------------|----------------------|-------------------|----------------------------|
| 2011 & 2012 | \$ 424,793.00 | \$ 302,240.22 | \$ - | \$ - | \$ - | \$ 349,760.59 | 386,461,779 | \$ 0.000935 | \$ - | \$ - | 0.51 |
| 2013 | 73,056.00 | 51,979.34 | (72.97) | - | 47,620.37 | 13,132.76 | 374,153,215 | 0.000035 | 349,633.26 | (72.67) | 0.02 |
| 2014 | 74,517.00 | 53,018.85 | (93.56) | - | (38,773.91) | 52,925.29 | 377,894,747 | 0.000139 | 13,226.32 | (93.56) | 0.08 |
| 2015 | 76,007.00 | 54,078.98 | (127.35) | - | - | 53,951.63 | 381,673,694 | 0.000140 | 53,052.64 | (127.35) | 0.08 |
| 2016 | 77,527.00 | 55,160.46 | (17.03) | - | - | 55,143.43 | 385,490,431 | 0.000142 | 53,968.66 | (17.03) | 0.08 |
| 2017 | 79,078.00 | 57,388.88 | (143.61) | - | - | 56,120.39 | 389,345,335 | 0.000144 | 55,287.04 | (143.61) | 0.08 |
| 2018 | 80,659.00 | 58,537.24 | (112.76) | - | - | 57,276.12 | 393,238,788 | 0.000144 | 56,233.15 | (112.76) | 0.08 |
| 2019 | 82,273.00 | 59,537.24 | 83.47 | - | - | 58,620.71 | 397,171,176 | 0.000146 | 57,192.65 | 83.47 | 0.08 |
| 2020 | 83,918.00 | 60,901.55 | (201.33) | - | - | 59,761.51 | 401,142,888 | 0.000148 | 58,586.86 | 53.85 | 0.08 |
| 2021 | 85,596.00 | 62,119.64 | 137.75 | - | - | 60,700.22 | 405,154,317 | 0.000148 | 59,962.84 | (201.33) | 0.08 |
| 2022 | 87,308.00 | 63,361.92 | (150.60) | - | - | 62,257.39 | 409,205,860 | 0.000151 | 60,562.47 | 137.75 | 0.08 |
| 2023 | 89,054.00 | 64,629.81 | (179.25) | - | - | 63,211.32 | 413,297,919 | 0.000151 | 62,407.99 | (150.60) | 0.08 |
| 2024 | 90,836.00 | 65,921.90 | (118.14) | - | - | 65,803.76 | 417,430,898 | 0.000154 | 63,032.07 | 179.25 | 0.08 |
| 2025 | 92,652.00 | 67,240.31 | (198.54) | - | - | 67,041.77 | 421,605,207 | 0.000155 | 64,927.20 | (118.14) | 0.08 |
| 2026 | 94,505.00 | 68,585.04 | (97.67) | - | - | 68,539.41 | 425,821,259 | 0.000156 | 66,002.30 | (198.54) | 0.08 |
| 2027 | 96,395.00 | 69,956.81 | (97.67) | - | - | 69,859.14 | 430,079,472 | 0.000158 | 67,092.40 | (50.63) | 0.09 |
| 2028 | 98,323.00 | 71,356.34 | 102.01 | - | - | 70,911.32 | 434,380,267 | 0.000159 | 68,632.08 | (97.67) | 0.09 |
| 2029 | 100,290.00 | 72,763.60 | (48.39) | - | - | 72,901.03 | 438,724,070 | 0.000161 | 69,757.13 | 102.01 | 0.09 |
| 2030 | 102,296.00 | 74,239.33 | (117.43) | - | - | 74,190.94 | 443,111,311 | 0.000163 | 71,340.92 | (117.43) | 0.09 |
| 2031 | 104,342.00 | 75,723.52 | (1,768.31) | - | - | 77,236.53 | 447,542,424 | 0.000166 | 72,949.42 | (48.39) | 0.09 |
| 2032 | 106,428.00 | 77,238.31 | (1,768.31) | - | - | 77,236.53 | 452,017,848 | 0.000168 | 74,130.93 | 60.01 | 0.09 |
| 2033 | 108,557.00 | 78,782.97 | (228.84) | - | - | 78,554.13 | 456,538,026 | 0.000169 | 75,765.31 | (1,768.31) | 0.09 |
| 2034 | 110,728.00 | - | (151.61) | - | - | (151.61) | 461,103,406 | 0.000169 | 77,465.37 | (228.84) | 0.09 |
| 2035 | - | - | (1,080.74) | - | - | 8,746.46 | 465,714,440 | 0.000169 | 78,705.74 | (151.61) | 0.09 |
| 2036 | - | - | (1,080.74) | - | - | 8,746.46 | 470,371,584 | - | - | (151.61) | - |
| TOTALS | \$ 2,419,138.00 | \$ 1,721,216.68 | \$ (1,080.74) | \$ - | \$ 8,746.46 | \$ 1,728,882.40 | 8,172,925,057 | - | \$ 1,730,114.75 | \$ (758.52) | - |

EXHIBIT A

RATE RIDER NO. 2 - SYSTEM

JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

CALCULATION OF CHARGE PER KWH AND DETERMINATION OF BALANCING ACCOUNT

ALL LOCAL GOVERNMENT ACCESS COSTS:

| YEAR | ACCESS COSTS | SYSTEM ACCESS COSTS | PREVIOUS YEAR BALANCING ACCOUNT | INITIAL INTEREST EXPENSE | PRELIMINARY COSTS | TOTAL COSTS | TOTAL ANNUAL KWH SOLD(1) | CALCULATED CHARGE PER KWH | REVENUE RECEIVED (2) | BALANCING ACCOUNT | COST PER 585 KWH PER MONTH |
|-------------|--------------|---------------------|---------------------------------|--------------------------|-------------------|-----------------|--------------------------|---------------------------|----------------------|-------------------|----------------------------|
| 2011 & 2012 | \$ - | \$ 148,750.00 | \$ - | \$ - | \$ 4,884.85 | \$ 153,634.85 | 386,461,779 | \$ 0.000400 | \$ 154,584.71 | \$ (950.06) | \$ 0.24 |
| 2012 & 2013 | - | 450,950.22 | (950.06) | - | 52,403.02 | 502,445.16 | 374,153,215 | 0.001335 | 499,484.54 | 2,950.64 | 0.78 |
| 2014 | - | 200,729.34 | 2,950.64 | - | (33,889.26) | 169,790.72 | 377,894,747 | 0.000449 | 169,674.74 | 115.98 | 0.26 |
| 2015 | - | 201,768.85 | 115.98 | - | 4,884.85 | 206,769.48 | 381,673,694 | 0.000542 | 206,867.14 | (97.66) | 0.32 |
| 2016 | - | 298,278.98 | (97.66) | - | - | 268,181.32 | 385,450,431 | 0.000696 | 268,301.34 | (120.02) | 0.41 |
| 2017 | - | 289,360.48 | (120.02) | - | - | 269,240.44 | 389,345,335 | 0.000682 | 269,426.97 | (186.53) | 0.40 |
| 2018 | - | 270,454.00 | (186.53) | - | - | 270,277.47 | 393,238,788 | 0.000684 | 270,155.05 | 122.42 | 0.40 |
| 2019 | - | 271,568.88 | 122.42 | - | - | 271,711.30 | 397,171,176 | 0.000680 | 271,665.08 | 46.22 | 0.40 |
| 2020 | - | 272,737.24 | 46.22 | - | - | 272,783.46 | 401,142,888 | 0.000680 | 272,777.16 | 6.30 | 0.40 |
| 2021 | - | 297,707.66 | 6.30 | - | - | 297,713.96 | 405,154,317 | 0.000735 | 297,788.42 | (74.46) | 0.43 |
| 2022 | - | 298,901.55 | (74.46) | - | - | 298,827.09 | 409,205,860 | 0.000730 | 298,720.28 | 106.81 | 0.43 |
| 2023 | - | 300,119.64 | 106.81 | - | - | 300,226.45 | 413,297,919 | 0.000726 | 300,054.29 | 172.16 | 0.42 |
| 2024 | - | 301,361.92 | 172.16 | - | - | 301,534.08 | 417,430,898 | 0.000722 | 301,385.11 | 148.97 | 0.42 |
| 2025 | - | 302,629.81 | 148.97 | - | - | 302,778.78 | 421,605,207 | 0.000718 | 302,712.54 | 66.24 | 0.42 |
| 2026 | - | 315,821.90 | 66.24 | - | - | 315,888.14 | 425,821,259 | 0.000742 | 315,959.37 | (71.23) | 0.43 |
| 2027 | - | 317,140.31 | (71.23) | - | - | 317,069.08 | 430,079,472 | 0.000737 | 316,968.57 | 100.51 | 0.43 |
| 2028 | - | 318,485.04 | 100.51 | - | - | 318,565.55 | 434,360,267 | 0.000733 | 318,400.74 | 184.81 | 0.43 |
| 2029 | - | 319,856.81 | 184.81 | - | - | 320,041.62 | 438,724,070 | 0.000729 | 319,829.85 | 211.77 | 0.43 |
| 2030 | - | 321,256.34 | 211.77 | - | - | 321,468.11 | 443,111,311 | 0.000725 | 321,255.70 | 212.41 | 0.42 |
| 2031 | - | 322,683.60 | 212.41 | - | - | 322,896.01 | 447,542,424 | 0.000721 | 322,678.09 | 217.92 | 0.42 |
| 2032 | - | 324,139.33 | 217.92 | - | - | 324,357.25 | 452,017,848 | 0.000718 | 324,148.81 | (191.56) | 0.42 |
| 2033 | - | 325,623.52 | (191.56) | - | - | 325,431.96 | 456,538,026 | 0.000713 | 325,511.81 | (79.65) | 0.42 |
| 2034 | - | 327,138.31 | (79.65) | - | - | 327,058.66 | 461,103,406 | 0.000709 | 326,922.31 | 136.35 | 0.41 |
| 2035 | - | 328,682.97 | 136.35 | - | - | 328,819.32 | 465,714,440 | 0.000706 | 328,794.39 | 24.93 | 0.41 |
| 2036 | - | - | 24.93 | - | - | 24.93 | 470,371,584 | - | - | 24.93 | - |
| TOTALS | \$ - | \$ 7,076,216.68 | \$ 3,053.27 | \$ - | \$ 28,285.06 | \$ 7,107,555.01 | 8,172,925,057 | - | \$ 7,104,476.81 | \$ 3,163.20 | - |

(1) 2011 & 2012 Based on January 2011 through December 2011 kWh Sales and 2012 & 2013 based on January 2012 through December 2012 kWh Sales. Following years are based on previous years' actual kWh sales. Estimates for sample based on 1% growth.

(2) Following twelve month period - Estimates for sample based on kWh sold previous year @ Charge per kWh for current year.

EXHIBIT A

RATE RIDER NO. 6 - PUEBLO OF POJOAQUE

JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

CALCULATION OF CHARGE PER KWH AND DETERMINATION OF BALANCING ACCOUNT

| YEAR | ACCESS COSTS | LOCAL ACCESS COSTS @ 28.65% | PREVIOUS YEAR BALANCING ACCOUNT | INITIAL INTEREST EXPENSE(1) | PRELIMINARY COSTS | TOTAL LOCAL COSTS | TOTAL ANNUAL KWH SOLD(2) | CALCULATED CHARGE PER KWH | REVENUE RECEIVED (3) | BALANCING ACCOUNT | COST PER 548 KWH PER MONTH | CALCULATED CHARGE PER KWH W/ LOCAL AND SYSTEM | COST PER 548 KWH W/ LOCAL AND SYSTEM COSTS |
|-------------|-----------------|-----------------------------|---------------------------------|-----------------------------|-------------------|-------------------|--------------------------|---------------------------|----------------------|-------------------|----------------------------|---|--|
| 2011 & 2012 | \$ 424,793.00 | \$ 122,552.78 | \$ - | 13,593.38 | 5,675.25 | 141,821.41 | 46,733,586 | \$ 0.003035 | \$ 141,836.43 | \$ (15.02) | \$ 1.66 | \$ 0.006129 | \$ 3.36 |
| 2013 | 73,056.00 | 21,076.66 | (15.02) | - | 14,379.18 | 35,440.80 | 47,200,922 | 0.000751 | 35,447.89 | (7.09) | 0.41 | 0.003845 | 2.11 |
| 2014 | 74,517.00 | 21,498.15 | (7.09) | - | - | 21,481.06 | 47,672,931 | 0.000451 | 21,500.49 | (9.43) | 0.25 | 0.003545 | 1.84 |
| 2015 | 76,007.00 | 21,928.02 | (9.43) | - | - | 21,818.59 | 48,149,660 | 0.000456 | 21,908.10 | 10.48 | 0.25 | 0.003549 | 1.94 |
| 2016 | 77,527.00 | 22,366.54 | 10.48 | - | - | 22,377.03 | 48,631,157 | 0.000460 | 22,370.33 | 6.70 | 0.25 | 0.003554 | 1.95 |
| 2017 | 79,078.00 | 22,814.00 | 6.70 | - | - | 22,820.70 | 49,117,469 | 0.000465 | 22,839.62 | (18.92) | 0.25 | 0.003559 | 1.95 |
| 2018 | 80,659.00 | 23,270.12 | (18.92) | - | - | 23,251.20 | 49,608,644 | 0.000473 | 23,266.45 | (15.25) | 0.26 | 0.003563 | 1.95 |
| 2019 | 82,273.00 | 23,735.76 | (15.25) | - | - | 23,720.51 | 50,104,730 | 0.000479 | 23,699.54 | 20.97 | 0.26 | 0.003567 | 1.95 |
| 2020 | 83,918.00 | 24,210.34 | 20.97 | - | - | 24,231.31 | 50,605,777 | 0.000479 | 24,240.17 | (8.96) | 0.26 | 0.003573 | 1.96 |
| 2021 | 85,586.00 | 24,694.45 | (8.96) | - | - | 24,685.59 | 51,111,856 | 0.000483 | 24,687.02 | (1.43) | 0.26 | 0.003577 | 1.96 |
| 2022 | 87,308.00 | 25,189.36 | (1.43) | - | - | 25,186.93 | 51,622,953 | 0.000488 | 25,192.00 | (5.07) | 0.27 | 0.003582 | 1.96 |
| 2023 | 89,054.00 | 25,692.08 | (5.07) | - | - | 25,687.01 | 52,139,183 | 0.000493 | 25,704.62 | (17.61) | 0.27 | 0.003587 | 1.97 |
| 2024 | 90,836.00 | 26,206.19 | (17.61) | - | - | 26,188.56 | 52,660,575 | 0.000497 | 26,172.31 | 16.27 | 0.27 | 0.003591 | 1.97 |
| 2025 | 92,652.00 | 26,730.10 | 16.27 | - | - | 26,746.37 | 53,187,181 | 0.000503 | 26,753.15 | (6.78) | 0.28 | 0.003597 | 1.97 |
| 2026 | 94,505.00 | 27,264.69 | (6.78) | - | - | 27,257.91 | 53,719,053 | 0.000507 | 27,235.56 | 22.35 | 0.28 | 0.003601 | 1.97 |
| 2027 | 96,386.00 | 27,809.86 | 22.35 | - | - | 27,832.31 | 54,256,244 | 0.000513 | 27,833.45 | (1.14) | 0.28 | 0.003607 | 1.98 |
| 2028 | 98,323.00 | 28,366.19 | (1.14) | - | - | 28,365.05 | 54,798,806 | 0.000518 | 28,366.78 | (20.73) | 0.28 | 0.003612 | 1.98 |
| 2029 | 100,290.00 | 28,933.67 | (20.73) | - | - | 28,912.94 | 55,346,784 | 0.000522 | 28,897.03 | 21.91 | 0.29 | 0.003616 | 1.98 |
| 2030 | 102,296.00 | 29,512.40 | 21.91 | - | - | 29,534.31 | 55,900,262 | 0.000528 | 29,515.34 | 18.97 | 0.29 | 0.003622 | 1.99 |
| 2031 | 104,342.00 | 30,102.67 | 18.97 | - | - | 30,121.64 | 56,459,265 | 0.000534 | 30,149.25 | (27.51) | 0.29 | 0.003628 | 1.99 |
| 2032 | 106,428.00 | 30,704.48 | (27.51) | - | - | 30,676.87 | 57,023,859 | 0.000538 | 30,678.84 | (1.97) | 0.29 | 0.003632 | 1.99 |
| 2033 | 108,557.00 | 31,318.69 | (1.97) | - | - | 31,316.72 | 57,594,037 | 0.000544 | 31,331.19 | (14.47) | 0.30 | 0.003638 | 1.99 |
| 2034 | 110,728.00 | 31,945.03 | (14.47) | - | - | 31,930.58 | 58,170,038 | 0.000549 | 31,935.35 | (4.79) | 0.30 | 0.003643 | 2.00 |
| 2035 | - | - | (4.79) | - | - | (4.79) | 58,751,738 | - | - | (9.67) | - | 0.003648 | 1.70 |
| TOTALS | \$ 2,419,138.00 | \$ 697,821.33 | \$ (58.51) | \$ 13,593.38 | \$ 20,054.41 | \$ 731,510.61 | \$ 972,567,762 | \$ - | \$ 731,573.91 | \$ (9.67) | \$ - | \$ 0.003648 | \$ 1.70 |

(1) Interest projected at 3.2% per annum.

(2) 2012 & 2013 Based on January 2012 through December 2012 kWh Sales. Following years are based on previous years' actual kWh sales. Estimates for sample based on 1% growth.

(3) Following twelve month period - Estimates for sample based on kWh sold previous year @ Charge per kWh for current year.

OHKAY OWINGEH PUEBLO:

| YEAR | ACCESS COSTS | SYSTEM ACCESS COSTS @ 47.8% | PREVIOUS YEAR BALANCING ACCOUNT | INITIAL INTEREST EXPENSE | PRELIMINARY COSTS | ACTUAL COSTS | TOTAL ANNUAL KWH SOLD(1) | CALCULATED CHARGE PER KWH | REVENUE RECEIVED (2) | BALANCING ACCOUNT | COST PER 590 KWH PER MONTH |
|-------------|------------------|-----------------------------|---------------------------------|--------------------------|-------------------|-----------------|--------------------------|---------------------------|----------------------|-------------------|----------------------------|
| 2011 & 2012 | \$ 312,500.00 | \$ 148,750.00 | \$ - | \$ - | \$ 4,884.65 | \$ 153,634.65 | 386,461,779 | \$ 0.000400 | \$ 154,884.71 | \$ (950.06) | 0.24 |
| 2013 | 312,500.00 | 148,750.00 | (950.06) | - | 4,884.65 | 152,684.59 | 374,153,215 | 0.000410 | 153,402.82 | (718.23) | 0.24 |
| 2014 | 312,500.00 | 148,750.00 | (718.23) | - | 4,884.65 | 152,196.42 | 377,894,747 | 0.000400 | 151,157.90 | 1,758.52 | 0.24 |
| 2015 | 312,500.00 | 148,750.00 | 1,758.52 | - | 4,884.65 | 155,393.17 | 381,673,694 | 0.000410 | 158,486.21 | (1,093.04) | 0.24 |
| 2016 | 450,000.00 | 214,200.00 | (1,093.04) | - | - | 213,106.96 | 385,480,431 | 0.000550 | 212,019.74 | 1,087.22 | 0.32 |
| 2017 | 450,000.00 | 214,200.00 | 1,087.22 | - | - | 215,287.22 | 388,345,335 | 0.000550 | 214,139.53 | 1,471.29 | 0.32 |
| 2018 | 450,000.00 | 214,200.00 | 1,471.29 | - | - | 215,347.29 | 393,238,788 | 0.000550 | 216,281.33 | (934.04) | 0.32 |
| 2019 | 450,000.00 | 214,200.00 | (934.04) | - | - | 213,295.96 | 397,171,176 | 0.000540 | 214,472.44 | (1,206.48) | 0.32 |
| 2020 | 450,000.00 | 214,200.00 | 1,206.48 | - | - | 212,993.52 | 401,142,888 | 0.000530 | 212,805.73 | 387.79 | 0.31 |
| 2021 | 500,000.00 | 238,000.00 | 387.79 | - | - | 238,387.79 | 405,154,317 | 0.000590 | 239,041.05 | (653.26) | 0.35 |
| 2022 | 500,000.00 | 238,000.00 | (653.26) | - | - | 237,346.74 | 408,205,860 | 0.000580 | 237,339.40 | 7.34 | 0.34 |
| 2023 | 500,000.00 | 238,000.00 | 7.34 | - | - | 238,007.34 | 413,297,919 | 0.000580 | 237,712.79 | (1,705.45) | 0.34 |
| 2024 | 500,000.00 | 238,000.00 | (1,705.45) | - | - | 236,294.55 | 417,430,898 | 0.000570 | 237,335.51 | 1,641.06 | 0.34 |
| 2025 | 500,000.00 | 238,000.00 | 1,641.06 | - | - | 236,358.94 | 421,605,207 | 0.000560 | 236,098.92 | 260.02 | 0.33 |
| 2026 | 525,000.00 | 249,900.00 | 260.02 | - | - | 250,160.02 | 425,821,259 | 0.000560 | 251,234.54 | (1,074.52) | 0.35 |
| 2027 | 525,000.00 | 249,900.00 | (1,074.52) | - | - | 248,825.48 | 430,079,472 | 0.000580 | 249,446.69 | (620.61) | 0.34 |
| 2028 | 525,000.00 | 249,900.00 | 620.61 | - | - | 249,279.35 | 434,380,267 | 0.000570 | 247,596.75 | 1,682.64 | 0.34 |
| 2029 | 525,000.00 | 249,900.00 | 1,682.64 | - | - | 251,592.64 | 438,724,070 | 0.000570 | 250,072.72 | 1,508.92 | 0.34 |
| 2030 | 525,000.00 | 249,900.00 | (1,508.92) | - | - | 251,409.92 | 443,111,311 | 0.000570 | 252,573.45 | (1,163.53) | 0.33 |
| 2031 | 525,000.00 | 249,900.00 | 1,163.53 | - | - | 248,736.47 | 447,542,424 | 0.000560 | 250,623.76 | (1,887.29) | 0.33 |
| 2032 | 525,000.00 | 249,900.00 | (1,887.29) | - | - | 248,012.71 | 452,017,848 | 0.000550 | 248,809.82 | (597.11) | 0.32 |
| 2033 | 525,000.00 | 249,900.00 | 597.11 | - | - | 249,302.89 | 456,538,026 | 0.000550 | 251,095.91 | (1,793.02) | 0.32 |
| 2034 | 525,000.00 | 249,900.00 | (1,793.02) | - | - | 248,106.98 | 461,103,406 | 0.000540 | 248,995.84 | (888.89) | 0.32 |
| 2035 | 525,000.00 | 249,900.00 | 888.89 | - | - | 249,011.14 | 465,714,584 | 0.000530 | 248,828.65 | 2,182.49 | 0.31 |
| 2036 | \$ 11,250,000.00 | \$ 5,355,000.00 | \$ (2,182.49) | \$ - | \$ - | \$ 2,182.49 | 470,371,584 | \$ - | \$ - | \$ (5,806.83) | \$ - |
| TOTALS | \$ 11,250,000.00 | \$ 5,355,000.00 | \$ (6,903.33) | \$ - | \$ 19,538.60 | \$ 5,367,635.27 | 8,172,925,057 | \$ 0.000530 | \$ 5,372,356.11 | \$ (2,182.49) | \$ - |

PUEBLO OF POLOAQUE

| YEAR | ACCESS COSTS | SYSTEM ACCESS COSTS 71.15% | PREVIOUS YEAR BALANCING ACCOUNT | INITIAL INTEREST EXPENSE | PRELIMINARY COSTS | TOTAL COSTS | TOTAL ANNUAL KWH SOLD(1) | CALCULATED CHARGE PER KWH | REVENUE RECEIVED (2) | BALANCING ACCOUNT | COST PER 548 KWH PER MONTH |
|-------------|-----------------|----------------------------|---------------------------------|--------------------------|-------------------|-----------------|--------------------------|---------------------------|----------------------|-------------------|----------------------------|
| 2011 & 2012 | \$ 424,793.00 | \$ 302,240.22 | \$ - | \$ - | \$ 47,520.37 | \$ 349,760.59 | 386,461,779 | \$ 0.000936 | \$ 349,833.26 | \$ (72.67) | 0.51 |
| 2012 & 2013 | 73,056.00 | 51,979.34 | (72.67) | - | (38,773.91) | 13,132.76 | 374,153,215 | 0.000035 | 13,226.32 | (93.56) | 0.02 |
| 2014 | 74,517.00 | 53,018.85 | (93.56) | - | - | 52,925.29 | 377,894,747 | 0.000139 | 53,052.64 | (127.35) | 0.08 |
| 2015 | 76,007.00 | 54,078.98 | 127.35 | - | - | 53,991.63 | 385,480,431 | 0.000140 | 53,988.66 | (17.03) | 0.08 |
| 2016 | 77,527.00 | 55,180.46 | (17.03) | - | - | 55,143.43 | 389,345,335 | 0.000142 | 55,267.04 | (143.61) | 0.08 |
| 2017 | 79,078.00 | 56,284.00 | 143.61 | - | - | 56,120.39 | 393,238,788 | 0.000143 | 56,233.15 | (112.79) | 0.08 |
| 2018 | 80,659.00 | 57,388.88 | (112.79) | - | - | 57,276.12 | 397,171,176 | 0.000144 | 57,192.65 | 83.47 | 0.08 |
| 2019 | 82,273.00 | 58,537.24 | 83.47 | - | - | 58,620.71 | 401,142,888 | 0.000146 | 58,566.86 | 53.85 | 0.08 |
| 2020 | 83,918.00 | 59,707.66 | 53.85 | - | - | 59,761.51 | 405,154,317 | 0.000148 | 59,962.84 | (201.33) | 0.08 |
| 2021 | 85,596.00 | 60,901.55 | (201.33) | - | - | 60,700.22 | 409,205,860 | 0.000151 | 60,592.47 | (137.75) | 0.08 |
| 2022 | 87,308.00 | 62,119.64 | 137.75 | - | - | 62,257.39 | 413,297,919 | 0.000151 | 62,407.99 | (150.60) | 0.08 |
| 2023 | 89,054.00 | 63,361.92 | (150.60) | - | - | 63,211.32 | 417,430,898 | 0.000151 | 63,082.07 | 179.25 | 0.08 |
| 2024 | 90,836.00 | 64,569.06 | 179.25 | - | - | 64,809.06 | 421,605,207 | 0.000155 | 64,927.20 | (118.14) | 0.08 |
| 2025 | 92,652.00 | 65,921.90 | (118.14) | - | - | 65,803.76 | 425,821,259 | 0.000155 | 66,002.30 | (198.54) | 0.08 |
| 2026 | 94,505.00 | 67,240.31 | 198.54 | - | - | 67,041.77 | 430,079,472 | 0.000156 | 67,092.40 | (50.63) | 0.09 |
| 2027 | 96,395.00 | 68,585.04 | (50.63) | - | - | 68,534.41 | 434,380,267 | 0.000158 | 68,632.08 | (97.67) | 0.09 |
| 2028 | 98,323.00 | 69,966.81 | 97.67 | - | - | 69,859.14 | 438,724,070 | 0.000159 | 69,757.13 | 102.01 | 0.09 |
| 2029 | 100,290.00 | 71,356.34 | 102.01 | - | - | 71,458.35 | 443,111,311 | 0.000161 | 71,340.92 | (117.43) | 0.09 |
| 2030 | 102,296.00 | 72,783.60 | (117.43) | - | - | 72,901.03 | 447,542,424 | 0.000163 | 72,949.42 | (48.39) | 0.09 |
| 2031 | 104,342.00 | 74,239.33 | 48.39 | - | - | 74,190.94 | 452,017,848 | 0.000164 | 74,130.93 | 60.01 | 0.09 |
| 2032 | 106,428.00 | 75,723.52 | (60.01) | - | - | 75,783.53 | 456,538,026 | 0.000166 | 75,785.31 | (1.79) | 0.09 |
| 2033 | 108,557.00 | 77,298.31 | 1.79 | - | - | 77,236.53 | 461,103,406 | 0.000168 | 77,465.37 | (228.84) | 0.09 |
| 2034 | 110,728.00 | 78,782.97 | (228.84) | - | - | 78,554.13 | 465,714,584 | 0.000169 | 78,705.74 | (151.81) | 0.09 |
| 2035 | 2,419,138.00 | 1,721,216.68 | (1,080.74) | \$ - | \$ 8,746.46 | \$ 1,728,882.40 | 8,172,925,057 | \$ 0.000169 | \$ 1,730,114.75 | \$ (758.52) | \$ - |
| TOTALS | \$ 2,419,138.00 | \$ 1,721,216.68 | \$ (1,080.74) | \$ - | \$ 8,746.46 | \$ 1,728,882.40 | 8,172,925,057 | \$ 0.000169 | \$ 1,730,114.75 | \$ (758.52) | \$ - |

EXHIBIT A
RATE RIDER NO. 2 - SYSTEM
JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

ALL LOCAL GOVERNMENT ACCESS COSTS:

CALCULATION OF CHARGE PER KWH AND DETERMINATION OF BALANCING ACCOUNT

| YEAR | ACCESS COSTS | SYSTEM ACCESS COSTS | PREVIOUS YEAR BALANCING ACCOUNT | INITIAL INTEREST EXPENSE | PRELIMINARY COSTS | TOTAL COSTS | TOTAL ANNUAL KWH SOLD(1) | CALCULATED CHARGE PER KWH | REVENUE RECEIVED (2) | BALANCING ACCOUNT | COST PER 588 KWH PER MONTH |
|-------------|--------------|---------------------|---------------------------------|--------------------------|-------------------|-----------------|--------------------------|---------------------------|----------------------|-------------------|----------------------------|
| 2011 & 2012 | \$ - | \$ 148,750.00 | \$ - | \$ - | \$ 4,884.65 | \$ 153,634.65 | 386,461,779 | \$ 0.000400 | \$ 154,584.71 | \$ (950.06) | \$ 0.24 |
| 2012 & 2013 | - | 450,990.22 | (950.06) | - | 52,405.02 | 502,445.18 | 374,153,215 | 0.001335 | 499,494.54 | 2,950.64 | 0.78 |
| 2014 | - | 200,729.34 | 2,950.64 | - | (33,889.26) | 169,790.72 | 377,894,747 | 0.000449 | 169,674.74 | 115.98 | 0.26 |
| 2015 | - | 201,768.85 | 115.98 | - | 4,884.85 | 206,789.48 | 381,673,694 | 0.000542 | 206,667.14 | (97.66) | 0.32 |
| 2016 | - | 288,278.98 | (97.66) | - | - | 268,181.32 | 385,490,431 | 0.000696 | 268,301.34 | (120.02) | 0.41 |
| 2017 | - | 289,360.46 | (120.02) | - | 269,426.44 | 270,277.47 | 389,345,335 | 0.000692 | 289,426.97 | (186.53) | 0.40 |
| 2018 | - | 270,464.00 | (186.53) | - | - | 271,711.30 | 393,238,788 | 0.000687 | 270,155.05 | 122.42 | 0.40 |
| 2019 | - | 271,588.88 | 122.42 | - | - | 271,711.30 | 397,171,176 | 0.000684 | 271,665.08 | 46.22 | 0.40 |
| 2020 | - | 272,737.24 | 46.22 | - | - | 272,783.46 | 401,142,888 | 0.000680 | 272,777.16 | 6.30 | 0.40 |
| 2021 | - | 297,797.66 | 6.30 | - | - | 297,713.96 | 405,154,317 | 0.000735 | 297,788.42 | (74.46) | 0.43 |
| 2022 | - | 288,901.55 | (74.46) | - | - | 288,827.09 | 409,205,860 | 0.000730 | 288,720.28 | 106.81 | 0.43 |
| 2023 | - | 300,119.64 | 106.81 | - | - | 300,226.45 | 413,297,919 | 0.000726 | 300,054.29 | 172.16 | 0.42 |
| 2024 | - | 301,361.92 | 172.16 | - | - | 301,534.08 | 417,430,898 | 0.000722 | 301,385.11 | 148.97 | 0.42 |
| 2025 | - | 302,629.81 | 148.97 | - | - | 302,778.78 | 421,605,207 | 0.000718 | 302,712.54 | 66.24 | 0.42 |
| 2026 | - | 315,821.90 | 66.24 | - | - | 315,888.14 | 425,821,259 | 0.000742 | 315,958.57 | (71.23) | 0.43 |
| 2027 | - | 317,140.31 | (71.23) | - | - | 317,069.08 | 430,079,472 | 0.000737 | 316,968.57 | 100.51 | 0.43 |
| 2028 | - | 318,485.04 | 100.51 | - | - | 318,585.55 | 434,380,267 | 0.000733 | 318,400.74 | 184.81 | 0.43 |
| 2029 | - | 319,856.81 | 184.81 | - | - | 320,041.82 | 438,724,070 | 0.000729 | 319,829.85 | 211.77 | 0.43 |
| 2030 | - | 321,256.34 | 211.77 | - | - | 321,468.11 | 443,111,311 | 0.000725 | 321,255.70 | 212.41 | 0.42 |
| 2031 | - | 322,693.60 | 212.41 | - | - | 322,896.01 | 447,542,424 | 0.000721 | 322,678.09 | (191.56) | 0.42 |
| 2032 | - | 324,139.33 | 217.92 | - | - | 324,357.25 | 452,017,848 | 0.000718 | 324,548.81 | (79.85) | 0.42 |
| 2033 | - | 325,623.52 | (191.56) | - | - | 325,431.66 | 456,538,026 | 0.000713 | 325,511.61 | 136.35 | 0.41 |
| 2034 | - | 327,138.31 | (79.85) | - | - | 327,058.66 | 461,103,406 | 0.000709 | 327,922.31 | 24.93 | 0.41 |
| 2035 | - | 328,682.97 | 136.35 | - | - | 328,819.32 | 465,714,440 | 0.000706 | 328,794.39 | 24.93 | 0.41 |
| 2036 | - | - | 24.93 | - | - | 24.93 | 470,371,584 | - | - | 3,183.20 | - |
| TOTALS | \$ - | \$ 7,076,216.69 | \$ 3,053.27 | \$ - | \$ 28,285.06 | \$ 7,107,555.01 | 8,172,925,057 | \$ - | \$ 7,104,476.81 | \$ - | \$ - |

(1) 2011 & 2012 Based on January 2011 through December 2011 kWh Sales and 2012 & 2013 based on January 2012 through December 2012 kWh Sales. Following years are based on previous years' actual kWh sales. Estimates for sample based on 1% growth.
 (2) Following twelve month period - Estimates for sample based on kWh sold previous year @ Change per kWh for current year.

EXHIBIT A
RATE RIDER NO. 6 - PUEBLO OF POLOAQUE
JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

CALCULATION OF CHARGE PER KWH AND DETERMINATION OF BALANCING ACCOUNT

| YEAR | ACCESS COSTS | LOCAL ACCESS COSTS @ 28.85% | PREVIOUS YEAR BALANCING ACCOUNT | INITIAL INTEREST EXPENSE(1) | PRELIMINARY COSTS | TOTAL LOCAL COSTS | TOTAL ANNUAL KWH SOLD(2) | CALCULATED CHARGE PER KWH | REVENUE RECEIVED (3) | BALANCING ACCOUNT | COST PER 548 KWH PER MONTH | CALCULATED CHARGE PER KWH W/ LOCAL AND SYSTEM | COST PER 548 KWH W/ LOCAL AND SYSTEM COSTS |
|-------------|-----------------|-----------------------------|---------------------------------|-----------------------------|-------------------|-------------------|--------------------------|---------------------------|----------------------|-------------------|----------------------------|---|--|
| 2011 & 2012 | \$ 424,793.00 | \$ 122,552.78 | \$ - | \$ 13,593.38 | \$ 5,675.25 | \$ 141,821.41 | 46,733,586 | \$ 0.003035 | \$ 141,836.43 | \$ (15.02) | \$ 1.66 | \$ 0.006129 | \$ 3.36 |
| 2012 & 2013 | 73,066.00 | 21,076.66 | (15.02) | - | 14,379.16 | 35,440.80 | 47,200,922 | 0.000751 | 35,447.89 | (7.09) | 0.41 | 0.003945 | 2.11 |
| 2014 | 74,517.00 | 21,498.15 | (7.09) | - | - | 21,491.06 | 47,672,831 | 0.000461 | 21,500.49 | (9.43) | 0.25 | 0.003545 | 1.94 |
| 2015 | 75,007.00 | 21,828.02 | (9.43) | - | - | 21,918.59 | 48,149,660 | 0.000455 | 21,908.10 | 10.49 | 0.25 | 0.003549 | 1.94 |
| 2016 | 77,527.00 | 22,366.54 | 10.49 | - | - | 22,377.03 | 48,631,157 | 0.000460 | 22,370.33 | 6.70 | 0.25 | 0.003554 | 1.95 |
| 2017 | 79,078.00 | 22,814.00 | 6.70 | - | - | 22,820.70 | 49,117,469 | 0.000465 | 22,839.62 | (18.92) | 0.25 | 0.003559 | 1.95 |
| 2018 | 80,659.00 | 23,270.12 | (18.92) | - | - | 23,251.20 | 49,608,644 | 0.000469 | 23,266.45 | (15.25) | 0.26 | 0.003563 | 1.95 |
| 2019 | 82,273.00 | 23,736.76 | (15.25) | - | - | 23,720.51 | 50,104,730 | 0.000473 | 23,699.54 | 20.97 | 0.26 | 0.003567 | 1.95 |
| 2020 | 83,918.00 | 24,210.34 | 20.97 | - | - | 24,231.31 | 50,605,777 | 0.000479 | 24,240.17 | (8.86) | 0.26 | 0.003573 | 1.96 |
| 2021 | 85,596.00 | 24,694.45 | (8.86) | - | - | 24,686.59 | 51,111,635 | 0.000483 | 24,687.02 | (1.43) | 0.26 | 0.003577 | 1.96 |
| 2022 | 87,308.00 | 25,188.36 | (1.43) | - | - | 25,185.93 | 51,622,953 | 0.000488 | 25,182.00 | (5.07) | 0.27 | 0.003582 | 1.96 |
| 2023 | 89,094.00 | 25,692.08 | (5.07) | - | - | 25,687.01 | 52,139,183 | 0.000493 | 25,704.62 | (17.61) | 0.27 | 0.003587 | 1.97 |
| 2024 | 90,836.00 | 26,206.19 | (17.61) | - | - | 26,188.58 | 52,660,575 | 0.000497 | 26,172.31 | 16.27 | 0.27 | 0.003591 | 1.97 |
| 2025 | 92,652.00 | 26,730.10 | 16.27 | - | - | 26,746.37 | 53,187,181 | 0.000503 | 26,735.15 | (6.79) | 0.28 | 0.003597 | 1.97 |
| 2026 | 94,505.00 | 27,254.69 | (6.79) | - | - | 27,257.91 | 53,719,053 | 0.000507 | 27,235.56 | 22.35 | 0.28 | 0.003601 | 1.97 |
| 2027 | 96,395.00 | 27,809.96 | 22.35 | - | - | 27,832.31 | 54,256,244 | 0.000513 | 27,833.45 | (1.14) | 0.28 | 0.003607 | 1.98 |
| 2028 | 98,323.00 | 28,386.17 | (1.14) | - | - | 28,385.05 | 54,798,806 | 0.000518 | 28,385.78 | (20.73) | 0.28 | 0.003612 | 1.98 |
| 2029 | 100,290.00 | 28,993.67 | (20.73) | - | - | 28,912.94 | 55,346,794 | 0.000522 | 28,881.03 | 21.91 | 0.29 | 0.003616 | 1.98 |
| 2030 | 102,295.00 | 29,512.40 | 21.91 | - | - | 29,534.31 | 55,900,262 | 0.000528 | 29,515.34 | 18.97 | 0.29 | 0.003622 | 1.98 |
| 2031 | 104,342.00 | 30,102.67 | 18.97 | - | - | 30,121.64 | 56,459,265 | 0.000534 | 30,149.25 | (27.61) | 0.29 | 0.003628 | 1.99 |
| 2032 | 106,428.00 | 30,704.48 | (27.61) | - | - | 30,676.87 | 57,023,858 | 0.000538 | 30,678.84 | (1.97) | 0.29 | 0.003632 | 1.99 |
| 2033 | 108,557.00 | 31,318.69 | (1.97) | - | - | 31,316.72 | 57,594,097 | 0.000544 | 31,331.19 | (14.47) | 0.30 | 0.003638 | 1.99 |
| 2034 | 110,728.00 | 31,945.03 | (14.47) | - | - | 31,930.56 | 58,170,038 | 0.000549 | 31,935.35 | (4.79) | 0.30 | 0.003643 | 2.00 |
| 2035 | - | - | (4.79) | - | - | (4.79) | 58,751,738 | - | - | - | - | 0.003648 | 2.00 |
| TOTALS | \$ 2,419,138.00 | \$ 697,921.33 | \$ (36.67) | \$ 13,593.38 | \$ 20,054.41 | \$ 731,510.61 | 972,567,762 | - | \$ 731,573.91 | \$ (9.67) | - | \$ 0.003694 | 1.70 |

(1) Interest projected at 3.2% per annum.
(2) 2012 & 2013 Based on January 2012 through December 2012 KWH Sales. Following years are based on previous years' actual KWH sales. Estimates for sample based on 1% growth.
(3) Following twelve month period - Estimates for sample based on KWH sold previous year @ Charge per KWH for current year.

EXHIBIT A
RATE RIDER NO. 4 - PUEBLO DE SAN IL DEFONSO
JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

CALCULATION OF CHARGE PER KWH AND DETERMINATION OF BALANCING ACCOUNT

| YEAR | ACCESS COSTS | LOCAL ACCESS COSTS @ 80.93% | PREVIOUS YEAR BALANCING ACCOUNT | INITIAL INTEREST EXPENSE(I) | PRELIMINARY COSTS | TOTAL LOCAL COSTS | TOTAL ANNUAL KWH SOLD(2) | CALCULATED CHARGE PER KWH | REVENUE RECEIVED (3) | BALANCING ACCOUNT | COST PER 608 KWH PER MONTH | CALCULATED CHARGE PER KWH WITH LOCAL AND SYSTEM | COST PER 608 KWH WITH LOCAL AND SYSTEM COSTS |
|-------------|-----------------|-----------------------------|---------------------------------|-----------------------------|-------------------|-------------------|--------------------------|---------------------------|----------------------|-------------------|----------------------------|---|--|
| 2011 & 2012 | \$ 884,135.73 | \$ 538,703.90 | \$ - | \$ 28,292.34 | \$ 70,569.80 | \$ 637,566.04 | 11,429,383 | \$ 0.055763 | \$ 637,566.27 | \$ - | \$ 33.92 | \$ 0.055763 | \$ 33.92 |
| 2013 | 394,246.00 | 240,215.31 | 0.77 | - | 62,916.02 | 293,132.10 | 11,543,677 | 0.025993 | 293,128.59 | 0.77 | 15.44 | 0.025993 | 15.44 |
| 2014 | 218,907.00 | 133,380.04 | 3.51 | - | - | 133,383.55 | 11,689,114 | 0.011440 | 133,380.26 | 3.51 | 6.96 | 0.011440 | 6.96 |
| 2015 | 218,907.00 | 133,380.04 | 3.29 | - | - | 133,389.33 | 11,779,705 | 0.011327 | 133,383.41 | (0.08) | 6.89 | 0.011327 | 6.89 |
| 2016 | 218,907.00 | 133,380.04 | (0.06) | - | - | 133,379.96 | 11,893,462 | 0.011215 | 133,385.18 | (5.22) | 6.82 | 0.011215 | 6.82 |
| 2017 | 218,907.00 | 133,380.04 | (6.22) | - | - | 133,374.82 | 12,012,397 | 0.011103 | 133,373.64 | 1.18 | 6.75 | 0.011103 | 6.75 |
| 2018 | 218,907.00 | 133,380.04 | 1.18 | - | - | 133,381.22 | 12,132,521 | 0.010984 | 133,384.94 | (3.72) | 6.68 | 0.010984 | 6.68 |
| 2019 | 218,907.00 | 133,380.04 | (3.72) | - | - | 133,376.32 | 12,253,846 | 0.010894 | 133,370.86 | 5.46 | 6.62 | 0.010894 | 6.62 |
| 2020 | 218,907.00 | 133,380.04 | 5.46 | - | - | 133,365.50 | 12,376,984 | 0.010777 | 133,380.29 | 5.21 | 6.55 | 0.010777 | 6.55 |
| 2021 | 218,907.00 | 133,380.04 | 5.21 | - | - | 133,358.25 | 12,500,148 | 0.010671 | 133,389.08 | (3.83) | 6.49 | 0.010671 | 6.49 |
| 2022 | 218,907.00 | 133,380.04 | (3.83) | - | - | 133,376.21 | 12,625,149 | 0.010564 | 133,372.07 | 4.14 | 6.42 | 0.010564 | 6.42 |
| 2023 | 218,907.00 | 133,380.04 | 4.14 | - | - | 133,384.18 | 12,751,400 | 0.010460 | 133,378.84 | 4.54 | 6.36 | 0.010460 | 6.36 |
| 2024 | 218,907.00 | 133,380.04 | 4.54 | - | - | 133,384.56 | 12,878,914 | 0.010357 | 133,366.91 | (2.33) | 6.30 | 0.010357 | 6.30 |
| 2025 | 218,907.00 | 133,380.04 | (2.33) | - | - | 133,377.71 | 13,007,793 | 0.010254 | 133,380.99 | (3.28) | 6.23 | 0.010254 | 6.23 |
| 2026 | 218,907.00 | 133,380.04 | (3.28) | - | - | 133,376.76 | 13,137,780 | 0.010152 | 133,374.74 | 2.02 | 6.17 | 0.010152 | 6.17 |
| 2027 | 218,907.00 | 133,380.04 | 2.02 | - | - | 133,382.06 | 13,269,198 | 0.010052 | 133,381.58 | 0.48 | 6.11 | 0.010052 | 6.11 |
| 2028 | 218,907.00 | 133,380.04 | 0.48 | - | - | 133,380.52 | 13,401,880 | 0.009952 | 133,375.21 | 5.31 | 6.05 | 0.009952 | 6.05 |
| 2029 | 218,907.00 | 133,380.04 | 5.31 | - | - | 133,385.36 | 13,535,889 | 0.009854 | 133,362.45 | 2.90 | 5.99 | 0.009854 | 5.99 |
| 2030 | 218,907.00 | 133,380.04 | 2.90 | - | - | 133,382.94 | 13,671,228 | 0.009756 | 133,376.50 | 6.44 | 5.93 | 0.009756 | 5.93 |
| 2031 | 218,907.00 | 133,380.04 | 6.44 | - | - | 133,386.48 | 13,807,940 | 0.009660 | 133,384.70 | 1.78 | 5.87 | 0.009660 | 5.87 |
| 2032 | 218,907.00 | 133,380.04 | 1.78 | - | - | 133,381.82 | 13,946,019 | 0.009564 | 133,379.73 | 2.09 | 5.81 | 0.009564 | 5.81 |
| 2033 | 218,907.00 | 133,380.04 | 2.09 | - | - | 133,382.13 | 14,085,479 | 0.009469 | 133,386.41 | 6.73 | 5.76 | 0.009469 | 5.76 |
| 2034 | 218,907.00 | 133,380.04 | 6.73 | - | - | 133,386.77 | 14,226,334 | 0.009376 | 133,386.11 | 0.86 | 5.70 | 0.009376 | 5.70 |
| 2035 | 218,907.00 | 133,380.04 | 0.86 | - | - | 133,386.70 | 14,368,937 | 0.009283 | 133,383.89 | (2.99) | 5.64 | 0.009283 | 5.64 |
| 2036 | 218,907.00 | 133,380.04 | 0.86 | - | - | 133,380.70 | 14,512,858 | 0.009190 | 133,381.24 | 26.79 | 5.58 | 0.009190 | 5.58 |
| TOTALS | \$ 6,094,537.73 | \$ 3,713,280.09 | \$ 38.05 | \$ 28,292.34 | \$ 123,485.82 | \$ 3,865,096.30 | 237,865,898 | \$ 0.009283 | \$ 3,865,061.24 | \$ 26.79 | \$ 5.58 | \$ 0.009283 | \$ 5.58 |

(1) Interest projected at 3.2% per annum.
 (2) 2012 & 2013 Based on January 2012 through December 2012 KWH Sales. Following years are based on previous years' actual KWH sales. Estimates for sample based on 1% growth.
 (3) Following twelve month period - Estimates for sample based on KWH sold previous year @ Charge per KWH for current year.

EXHIBIT A
RATE RIDER NO. 5 - PUEBLO OF NAMBE
JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

CALCULATION OF CHARGE PER KWH AND DETERMINATION OF BALANCING ACCOUNT

| YEAR | ACCESS COSTS | LOCAL ACCESS COSTS @ 51.15% | PREVIOUS YEAR BALANCING ACCOUNT | INITIAL INTEREST EXPENSE(1) | PRELIMINARY COSTS | TOTAL LOCAL COSTS | TOTAL ANNUAL KWH SOLD(2) | CALCULATED CHARGE PER KWH | REVENUE RECEIVED (3) | BALANCING ACCOUNT | COST PER 598 KWH PER MONTH | CALCULATED CHARGE PER KWH W/ LOCAL AND SYSTEM | COST PER 598 KWH W/ LOCAL AND SYSTEM COSTS |
|-------------|-----------------|-----------------------------|---------------------------------|-----------------------------|-------------------|-------------------|--------------------------|---------------------------|----------------------|-------------------|----------------------------|---|--|
| 2011 & 2012 | \$ 349,292.00 | \$ 178,692.17 | \$ - | \$ 11,175.42 | \$ 70,972.50 | \$ 260,760.09 | 7,081,528 | \$ 0.036826 | \$ 260,777.27 | \$ - | \$ 22.02 | \$ 0.036919 | \$ 23.87 |
| 2014 | \$ 54,000.00 | \$ 27,621.00 | \$ 2.82 | \$ - | \$ 46,457.18 | \$ 74,091.00 | 7,152,343 | \$ 0.010359 | \$ 74,091.12 | \$ - | \$ 6.19 | \$ 0.012453 | \$ 8.04 |
| 2015 | \$ 54,000.00 | \$ 27,621.00 | \$ (0.12) | \$ - | \$ - | \$ 27,620.88 | 7,223,866 | \$ 0.003824 | \$ 27,624.06 | \$ - | \$ 2.28 | \$ 0.006918 | \$ 4.14 |
| 2016 | \$ 59,400.00 | \$ 27,621.00 | \$ (3.18) | \$ - | \$ - | \$ 27,617.82 | 7,296,105 | \$ 0.003785 | \$ 27,615.78 | \$ - | \$ 2.26 | \$ 0.00679 | \$ 4.11 |
| 2017 | \$ 59,400.00 | \$ 30,383.10 | \$ 2.06 | \$ - | \$ - | \$ 30,385.16 | 7,389,086 | \$ 0.004123 | \$ 30,382.66 | \$ - | \$ 2.47 | \$ 0.007217 | \$ 4.32 |
| 2018 | \$ 59,400.00 | \$ 30,383.10 | \$ 2.50 | \$ - | \$ - | \$ 30,385.60 | 7,442,757 | \$ 0.004083 | \$ 30,388.78 | \$ - | \$ 2.44 | \$ 0.007177 | \$ 4.29 |
| 2019 | \$ 59,400.00 | \$ 30,383.10 | \$ (3.18) | \$ - | \$ - | \$ 30,379.92 | 7,517,185 | \$ 0.004041 | \$ 30,376.94 | \$ - | \$ 2.42 | \$ 0.007135 | \$ 4.27 |
| 2020 | \$ 59,400.00 | \$ 30,383.10 | \$ 2.98 | \$ - | \$ - | \$ 30,386.08 | 7,592,357 | \$ 0.004002 | \$ 30,384.61 | \$ - | \$ 2.39 | \$ 0.007096 | \$ 4.24 |
| 2021 | \$ 59,400.00 | \$ 30,383.10 | \$ 1.47 | \$ - | \$ - | \$ 30,384.57 | 7,668,281 | \$ 0.003962 | \$ 30,381.73 | \$ - | \$ 2.37 | \$ 0.007056 | \$ 4.22 |
| 2022 | \$ 65,340.00 | \$ 33,421.41 | \$ 2.84 | \$ - | \$ - | \$ 33,424.25 | 7,744,964 | \$ 0.004316 | \$ 33,427.28 | \$ - | \$ 2.58 | \$ 0.007410 | \$ 4.43 |
| 2023 | \$ 65,340.00 | \$ 33,421.41 | \$ (3.01) | \$ - | \$ - | \$ 33,418.40 | 7,822,414 | \$ 0.004272 | \$ 33,417.35 | \$ - | \$ 2.58 | \$ 0.007366 | \$ 4.40 |
| 2024 | \$ 65,340.00 | \$ 33,421.41 | \$ 1.05 | \$ - | \$ - | \$ 33,422.46 | 7,900,638 | \$ 0.004230 | \$ 33,419.70 | \$ - | \$ 2.55 | \$ 0.007324 | \$ 4.38 |
| 2025 | \$ 65,340.00 | \$ 33,421.41 | \$ 2.76 | \$ - | \$ - | \$ 33,424.17 | 7,979,644 | \$ 0.004189 | \$ 33,426.73 | \$ - | \$ 2.53 | \$ 0.007283 | \$ 4.36 |
| 2026 | \$ 65,340.00 | \$ 33,421.41 | \$ (2.56) | \$ - | \$ - | \$ 33,418.85 | 8,059,440 | \$ 0.004147 | \$ 33,422.50 | \$ - | \$ 2.51 | \$ 0.007241 | \$ 4.33 |
| 2027 | \$ 71,874.00 | \$ 36,763.55 | \$ (3.65) | \$ - | \$ - | \$ 36,759.90 | 8,140,034 | \$ 0.004516 | \$ 36,760.39 | \$ - | \$ 2.48 | \$ 0.007610 | \$ 4.55 |
| 2028 | \$ 71,874.00 | \$ 36,763.55 | \$ (0.49) | \$ - | \$ - | \$ 36,763.06 | 8,221,434 | \$ 0.004472 | \$ 36,766.25 | \$ - | \$ 2.70 | \$ 0.007569 | \$ 4.50 |
| 2029 | \$ 71,874.00 | \$ 36,763.55 | \$ (3.19) | \$ - | \$ - | \$ 36,750.36 | 8,303,648 | \$ 0.004427 | \$ 36,760.25 | \$ - | \$ 2.67 | \$ 0.007521 | \$ 4.52 |
| 2030 | \$ 71,874.00 | \$ 36,763.55 | \$ 0.11 | \$ - | \$ - | \$ 36,763.66 | 8,386,894 | \$ 0.004384 | \$ 36,757.22 | \$ - | \$ 2.66 | \$ 0.007476 | \$ 4.47 |
| 2031 | \$ 71,874.00 | \$ 36,763.55 | \$ (3.56) | \$ - | \$ - | \$ 36,759.99 | 8,470,551 | \$ 0.004340 | \$ 36,762.19 | \$ - | \$ 2.62 | \$ 0.007434 | \$ 4.45 |
| 2032 | \$ 79,081.00 | \$ 40,439.70 | \$ (2.20) | \$ - | \$ - | \$ 40,437.50 | 8,555,257 | \$ 0.004727 | \$ 40,440.70 | \$ - | \$ 2.83 | \$ 0.007821 | \$ 4.68 |
| 2033 | \$ 79,081.00 | \$ 40,439.70 | \$ (3.20) | \$ - | \$ - | \$ 40,436.50 | 8,640,810 | \$ 0.004680 | \$ 40,439.99 | \$ - | \$ 2.80 | \$ 0.007774 | \$ 4.65 |
| 2034 | \$ - | \$ - | \$ (2.49) | \$ - | \$ - | \$ (2.49) | 8,727,218 | \$ - | \$ - | \$ - | \$ - | \$ 0.003094 | \$ 1.85 |
| 2035 | \$ - | \$ - | \$ (2.49) | \$ - | \$ - | \$ (2.49) | 8,814,490 | \$ - | \$ - | \$ - | \$ - | \$ 0.003094 | \$ 1.85 |
| 2036 | \$ - | \$ - | \$ (2.49) | \$ - | \$ - | \$ (2.49) | 8,902,636 | \$ - | \$ - | \$ - | \$ - | \$ 0.003094 | \$ 1.85 |
| TOTALS | \$ 1,682,424.00 | \$ 845,214.67 | \$ (17.22) | \$ 11,175.42 | \$ 117,439.68 | \$ 973,812.75 | 147,372,939 | \$ - | \$ 973,832.46 | \$ (6.55) | \$ - | \$ 0.003094 | \$ 1.85 |

(1) Interest projected at 3.2% per annum.
 (2) 2012 & 2013 Based on January 2012 through December 2012 KWh Sales. Following years are based on previous years' actual KWh sales. Estimates for sample based on 1% growth.
 (3) Following twelve month period - Estimates for sample based on KWh sold previous year @ Change per KWh for current year.