

PUEBLO OF SANTA ANA

PUEBLO OF SANTA ANA TRIBAL COUNCIL

RESOLUTION NO. 2016-R-66

ADOPTING THE UTILITY CODE

WHEREAS, the Pueblo of Santa Ana is a federally recognized Indian tribe governed under a traditional form of government, and possessing all the inherent sovereign powers of self-government; and

WHEREAS, the Tribal Council of the Pueblo is the duly recognized decision and policy making body for the Pueblo; and

WHEREAS, the Tribal Council adopted the Santa Ana Utility and Environmental Services Ordinance on December 19, 2000, by Resolution No. 00-R-67 ("Utility Ordinance"); and

WHEREAS, the Utility Ordinance has not been amended since it was adopted and needed to be comprehensively revised and updated; and

WHEREAS, the Pueblo's special counsel has prepared a comprehensively revised and updated utility code, in the form attached hereto ("Utility Code"), to fully supplant and supersede the Utility Ordinance; and

WHEREAS, the Tribal Council has determined that it would be in the best interest of the Pueblo to approve and adopt the Utility Code, in the form attached hereto;

NOW THEREFORE BE IT RESOLVED, by the Tribal Council of the Pueblo of Santa Ana as follows:

1. The Utility Code, in the form attached hereto, be and the same is hereby enacted as part of the Pueblo of Santa Ana Tribal Code, and the same shall be promulgated to the Tribal Courts, the Santa Ana Police Department, and other interested parties.
2. The Utility Ordinance, dated December 19, 2000, is hereby repealed.
3. That Authority Revenues are for the exclusive use of the Authority for the necessary operation, maintenance, repair, and extension of the Pueblo's water and sewer

systems and related equipment, and are hereby placed under the control of the Authority in accordance with provisions of the Utility Code.

4. The Governor of the Pueblo or his designee is further authorized to do any and all things necessary to carry out the intent of the Utility Code.

CERTIFICATION

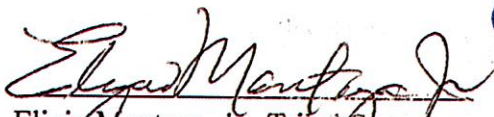
I, the undersigned, as Governor of the Pueblo of Santa Ana, hereby certify that the Pueblo of Santa Ana Tribal Council, at a duly called meeting was convened on the 17th day of November, 2016, at the Pueblo of Santa Ana, at which a quorum was present, approved the foregoing Resolution, and that 13 voted for and 0 were opposed.

GOVERNOR



Myron Arrijo, Governor

ATTEST:



Eligio Montoya, Jr., Tribal Secretary

ARTICLE 4 - TRIBAL UTILITIES CODE

Sec. 15-4-1 Title.

This Article shall be known as the Santa Ana Tribal Utilities Code.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-2 Purpose.

The purpose of the Santa Ana Tribal Utilities Code ("Code") is to establish the Santa Ana Tribal Utility Authority and the Santa Ana Tribal Utility Commission, and to define the policies for the operation, maintenance, repair, and extension of the Pueblo water and sewer systems.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-3 Policy.

It is the policy of the Pueblo of Santa Ana that the Pueblo water and sewer systems shall be operated, maintained, repaired, and extended in a manner that assures that all Pueblo residents, businesses, and other entities on Santa Ana land receive access to potable water and to a safe means for disposing of wastewater in a sanitary and environmentally responsible manner, and that minimizes exposure to adverse conditions that could negatively impact the health of any individual or the community. It is also the policy of the Pueblo that the operation, maintenance, repair, and extension of the Pueblo water and sewer systems shall be carried out in a financially responsible, cost-effective, and appropriately-engineered manner.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-4 Definitions.

Unless the context specifically indicates otherwise, the following terms as used in this Code shall have the following meanings:

- A. "Authority" or "Utility Authority" means the Santa Ana Tribal Utility Authority established by this Code.
- B. "Authority Revenue" means money received by the Authority from billing for the services provided by the Authority, including applicable fees and charges.
- C. "Collection Lines" are those sewer lines by which sewer collection and disposal services are provided to customers. These lines include the mains between manholes and the sections of the sewer lines between customer shut-off/clean-out valves and the mains.
- D. "Commission" means the Santa Ana Tribal Utility Commission, the body established by this Code.

E. “Cross connection” means any physical connection between the Pueblo water system and another piping system, either water or wastewater, where the Pueblo’s water system might come into contact with a source that could contaminate the water.

F. “Customer” means a person or entity that receives water and/or sewer services from the Authority.

G. “Customer lines” means the water and sewer lines between the shut-off/clean-out valve and/or meter and a residence or other building or property, and the water and sewer lines located inside a residence or other building.

H. “Director” means the Director of Tribal Utilities as established by this Code, who is responsible for the daily operations and affairs of the Authority.

I. “Distribution system lines” means the potable water pipelines from the main to the shut-off/clean-out valve and/or meter.

J. “On-site sewage disposal systems” means individual or community septic tanks and subsurface drain fields and associated equipment that collect, treat, and dispose of sewage generated by their users.

K. “Pueblo water and sewer systems” means the water and sewer utilities located on Pueblo lands that provide potable water to, and collect, transport, treat, and dispose of wastewater from, residences, tribal governmental buildings, and businesses located on Pueblo lands. The Pueblo water and sewer systems include water sources, storage tanks, controls, mainlines, valves, hydrants, meters, distribution system lines, collection lines, treatment facilities, pumping stations, mainlines, manholes, community on-site sewage disposal systems, and storm water systems. The systems may be referred to separately as the “Pueblo water system” and the “Pueblo sewer system.”

L. “Storm water system” means a system of drains and channels for carrying off rainfall drained from paved surfaces, roofs, and the like.

M. “Tribal Court” means the Pueblo of Santa Ana Contemporary Court.

N. “Wastewater” means liquid waste, along with dissolved or suspended solids, that results from washing, flushing toilets, and general cleaning at residences, tribal governmental buildings, and businesses.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-5 Utility Authority; Water and Sewer Services; Standards.

A. The Santa Ana Tribal Utility Authority is hereby established, possessing all of the powers, duties, rights, and functions herein defined and as are now and may be hereinafter conferred by the laws of the Pueblo, to operate, regulate, supervise, extend, and administer the Pueblo water and sewer systems.

B. The Authority is a department of the Pueblo, and is subject to the Pueblo's Procurement Code and other applicable Pueblo law, except to the extent it is expressly exempted therefrom.

C. The Authority is responsible for providing safe and adequate water, and the sanitary disposal of wastewater, for a reasonable fee to those homes, businesses, and institutions connected to the Pueblo water and sewer systems. The Authority shall comply with the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*, the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, the Pueblo's Water Quality Standards, and any other applicable federal or Pueblo law.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-6 Powers of the Commission.

The Commission shall have the power and authority to:

A. Review and approve an annual budget for the operation of the Authority prepared by the Director for submission to the Tribal Council;

B. Review and approve the Authority's annual financial statements for submission to the Tribal Council;

C. Prepare and approve annual budget for the Commission for submission to the Tribal Council;

D. Determine and set, based on the Director's recommendations, reasonable rates, fees, and other charges for water and sewer services, and a penalty schedule for violations of this Code;

E. Adopt appropriate regulations to implement the requirements of this Code, based on the Director's recommendations;

F. Recommend to the Tribal Council proposed amendments to this Code, based on the Director's recommendations;

G. Make recommendations to the Governor regarding the execution of contracts on behalf of the Utility Authority, based on the Director's recommendations;

H. Gather community input on expansion of the Pueblo's water and sewer systems and related infrastructure and make recommendations to the Director based on that input.

I. Review and approve the Director's recommendations for the expansion of the Pueblo's water and sewer systems and related infrastructure, provided that, with good cause, the Tribal Council may override the Commission's decision on such matters and direct the Authority to take or not to take certain actions;

J. Handle customer complaints against the Authority as provided for in this Code;
and

K. Perform additional tasks at the direction of the Tribal Council.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-7 Membership; Quorum; Officers.

A. The Commission shall be composed of five persons appointed by the Tribal Council who are capable and willing to perform the duties of the Commission. At least one Commissioner should be a person with professional credentials and experience in water and sewer systems, such as the Indian Health Service-Division of Sanitation Facilities Construction-District Engineer or designee. The Council shall appoint Commissioners by a majority vote. Current Commissioners may nominate successors for the Council's consideration.

B. A quorum of the Commission shall consist of three (3) members, provided that in the event the number of unfilled Commissioner vacancies prevents the gathering of a quorum for purposes of conducting business, the remaining Commissioners shall constitute a quorum.

C. The Commission shall annually elect a Chair, Vice-Chair, and Secretary-Treasurer.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-8 Terms of Office.

Commissioners shall be appointed for three-year terms and shall be eligible for reappointment one time. The terms of the Commissioners shall, to the extent feasible, be staggered so as to maintain continuity in the Commission. Each Commissioner shall serve until his or her term expires, unless he or she is removed, resigns, or dies before the expiration of his or her term. Commissioners may be removed by the Council at will or by the Governor upon reasonable grounds to believe that the Commissioner committed misconduct, acted in excess of his or her authority, or has failed to fulfill his or her duties as a Commissioner.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-9 Compensation.

Commissioners shall be entitled to compensation, as determined by the Tribal Council in approving the Commission's budget. Payments for mileage for Authority-related travel, per diem for attending to Authority business, or other authorized costs, shall be consistent with Pueblo policy.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-10 Reporting to the Tribal Council.

The Director and the Commission shall make annual presentations to the Tribal Council on the Authority's budget and projects, Authority Revenue and grant funding received, and expenditures from Authority Revenue, and the Director shall submit to the Tribal Council annual financial statements for the Authority.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-11 Duties of the Director.

The Director shall have the responsibility for managing the day-to-day business and operating affairs of the Authority, including the operation, maintenance, repair, and extension of the Pueblo water and sewer systems, directly or by contract.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-12 Employees.

A. The Authority shall employ necessary personnel to carry out the operation, maintenance, repair, and extension of the Pueblo water and sewer systems and to handle the Authority's necessary bookkeeping and clerical work. Such personnel shall be under the supervision of the Director.

B. All employees of the Authority, including the Director, shall be Pueblo employees, hired pursuant to Pueblo policies and procedures and subject to such policies and procedures.

C. The Director shall report directly to the Governor.

D. The Director shall prepare job descriptions for all positions deemed necessary for the Authority's operations, and pay scales shall be in conformity with Pueblo policies and procedures. All employees shall have the same rights, benefits and responsibilities as other Pueblo employees as outlined in the Pueblo's Personnel Policies and Procedures Manual.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-13 Annual Budget.

The Director shall prepare, for review and approval by the Commission and the Tribal Council's, an annual budget for the Authority setting forth the reasonable costs of operating, maintaining, repairing, and extending the Pueblo water and sewer systems, administration, personnel, liability and other insurance, a reserve for major repairs and replacements, and other costs reasonably related to the functions of the Authority.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-14 Deposits and Disbursements .

A. The Pueblo's Finance Department shall maintain an Authority account into which tribally-budgeted funds, grant funds, Authority Revenue, and all other funds received by the Authority will be promptly deposited and credited, and from which expenses will be debited. The Finance Department and the Authority shall each keep separate ledgers for each of the foregoing sources of funds, and suitable records of deposits to and disbursements from each.

B. The Authority shall invoice customers for services received and any applicable fees or charges, collect payments from customers, and forward all payments received to the Finance Department for processing in accordance with this Code and Pueblo policies.

C. All disbursements from the Authority's account shall be in accordance with the Pueblo's procurement policies. Disbursements of Authority Revenue shall also require the concurrence of the Commission.

D. The Pueblo's Finance Department shall provide monthly account statements to the Authority, which the Authority shall reconcile against its records.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-15 Exclusive Use of Authority Revenue.

Authority Revenue is for the exclusive use of the Authority for the necessary operation, maintenance, repair, and extension of the Pueblo water and sewer systems and related equipment. Authority receipts shall not be transferred or loaned to the Tribal General Fund or any other accounts of the Tribe or other Tribal departments.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-16 Bonding.

The Director and any other person(s) designated to handle funds for the Authority shall be bonded for amounts up to \$200,000.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-17 Water or Sewer Service.

Every residence and business within the service area of the Authority shall be required to be connected to the Pueblo water and sewer systems, provided that such services are available, or can be reasonably made available, in the area where the residence or business is located, and further provided that all of the following conditions are met:

A. The applicant agrees to comply with all provisions of this Code and any regulations duly adopted by the Commission, and to promptly pay all fees, penalties, costs, damages, or other charges assessed by the Authority, and is currently in compliance with and has corrected any prior violations of this Code;

B. Customer lines are installed, operated, and maintained to prevent cross connections or backflow; and

C. The applicant is not delinquent on any account with the Authority or the Pueblo.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-18 Waste of Water; Cross-Connection and Backflow Prevention; Waste Disposal.

A. The Authority may terminate a customer's service when the customer has repeatedly wasted water. Such waste is evidenced by the fact that hydrants, taps, hoses, or other fixtures are permitted to run continuously when not in productive use. Where such conditions have been observed, the Authority shall give the customer written notice that water services to the premise will be terminated if the condition is not corrected within forty-eight (48) hours after receipt of the notice. Service shall be resumed only after the customer corrects the condition causing wastage of water, and pays charges for the water used, a reconnection fee, and any assessed penalties.

B. A customer may not make a cross-connection with the Pueblo water system. Any non-Pueblo-water-system source must be totally disconnected from the household plumbing prior to connecting the household plumbing to the Pueblo water system. Disconnection done solely by a valve shall not be allowed. Until such time as the Pueblo adopts a code or the Commission adopts regulations to govern cross-connection and backflow prevention, the standards for cross-connection and backflow prevention shall be the current edition of the Uniform Plumbing Code published by the International Association of Plumbing and Mechanical Officials.

C. Customers who operate food establishments must comply with Commission regulations regarding the disposal of fats, oils, and grease, including any requirements related to grease interceptors. Customers shall not dispose of any toxic, radioactive or otherwise hazardous waste into the Pueblo sewer system or storm system. Toxic and hazardous waste include but are not limited to: petroleum-based oils, pesticides, gasoline, anti-freeze, solvents, paint, and poisons.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-19 Conservation of Resources; Water Shortages.

The Authority shall operate, maintain, repair, and extend the Pueblo water and sewer systems in a manner that will maximize the conservation of resources. Customers shall be encouraged to conserve water. The Authority may offer assistance and service to customers for water conservation as it determines are feasible. During water shortages declared by the Authority, each customer shall limit his or her use of water according to allocations established by the Authority.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-20 Right of Entry - Inspections.

The Director or his or her designee is authorized to make limited, reasonable inspections, at reasonable times, of customer's premises served by the Authority when the Authority has reasonable cause to believe that customer utility fixtures, lines or equipment are being operated in a manner that would likely disrupt or interfere with the Pueblo water and sewer systems, or where the Authority has reasonable cause to believe there is a violation of this Code or Commission regulations. Except in case of an emergency, the Authority shall give the customer at least twenty-four (24) hours' written notice prior to entry and inspection; such notice shall include the purpose of the inspection and the authority to conduct such an inspection. The Authority may seek a Tribal Court order enforcing its right of entry and inspection if entry and inspection are refused after any required notice is made. If the Tribal Court determines that the customer unreasonably interfered with the Authority's inspection, it may assess court costs and related expenses against the customer.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-21 Public Hearings.

The Commission shall hold a public hearing whenever a new fee schedule is proposed for adoption, and may convene public hearings on other topics as it deems appropriate, including rule hearings should the Commission determine such is necessary. All customers shall be given at least seven (7) days' written notice of a public hearing; adequate notice for a public hearing will be provided at appropriate places within the community and will include means such as, but not limited to, e-mail and posting on the marquee at the Tribal Administration complex, or by inclusion in bills sent to customers. Notices for public hearings about a new fee schedule shall include the proposed fee schedule. The Authority shall take into consideration comments received at a public hearing when deciding the matter for which the public hearing was called.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-22 Notice to Customers - Rates and Penalties.

Fee schedules (for rates, fees, and other charges for water and sewer services) and penalty schedules will become effective upon their approval by resolution of the Commission or on the date specified in the schedule, if any. A copy of a fee or penalty schedule adopted by the Authority shall be posted by the Authority and sent to each customer at least thirty (30) days prior to the date the schedule takes effect.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-23 Promulgation of Regulations.

A. Scope. The Commission shall have the authority to issue regulations not inconsistent with this Code, governing the proceedings of the Commission, the terms of service to customers, and other matters reasonably related to the foregoing and the implementation of this Code. The Director shall draft proposed regulations for the Commission's consideration.

B. Notice. The Commission shall publish proposed regulations in order to provide interested parties an opportunity to comment. The notice will invite written comments and give a

deadline for their submission not less than thirty (30) days after the first publication of notice. The Commission may, but is not obligated to, hold a public hearing on any proposed regulations, and if so shall make prior public announcement of the date, time and place of any such hearing, in accordance with Tribal Utilities Code Section 15-4-21.

C. Publication. The Commission shall publish the proposed regulation by posting notices for at least thirty (30) days at appropriate places within the community on Pueblo lands informing interested parties that the proposed regulation is available for inspection at the Authority's office. The notice shall identify the subject matter of the proposed regulations.

D. Effective Date. A regulation will become effective upon its approval by resolution of the Commission on the date specified in the resolution.

E. Promulgation. A copy of all regulations adopted will be filed and made available for public inspection at the Authority's office, and the Director shall endeavor to provide copies of relevant regulations to affected parties.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-24 Service fees; Delinquent accounts; Stopping service.

A. The Authority shall invoice customers for services provided, according to the fee schedule adopted by the Commission.

B. Payments shall be made in the name of the Santa Ana Tribal Utility Authority and submitted to the Authority. The Authority shall submit all payments received to the Pueblo's Finance Department for deposit into the Authority's account.

C. If a payment past due is not paid within ten (10) working days after the next regular monthly due date, the account shall be declared delinquent. The Authority shall immediately notify the customer in writing that an account has been declared delinquent and of the sanctions that may be imposed without further notice. Notice of delinquency shall be made by certified mail, return receipt requested, or by such other means so as to provide proof of receipt by the customer.

D. The Authority may stop service to a customer with a delinquent account on any weekday except Friday. Notwithstanding the foregoing, the Authority shall not stop service to a residential customer for nonpayment: (1) if someone living in that residence is seriously ill, provided that the customer provides a letter from a licensed physician, physician's assistant or nurse practitioner certifying that a person residing in the home is seriously ill, and stating that stopping service will harm the ill person in the home; (2) if there is an infant under the age of twelve (12) months living in the residence; (3) if all of the adult residents are older than 65 years; or (4) if stopping service would cause a serious and immediate threat to the health or safety of a person living in the residence or nearby. In such instances, the customer must enter into a reasonable payment plan for the delinquency.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-25 Sanctions Authorized.

Upon the failure of a customer to comply with any provisions of this Code or with any duly adopted regulation of the Commission, the Authority may:

- A. Terminate service(s);
- B. Assess penalties based on a penalty schedule adopted by the Commission;
- C. Assess late charges based on a schedule adopted by regulation of the Commission;
- D. Assess damages resulting from the customer's non-compliance;
- E. Declare a forfeiture of all or part of a customer's deposit;
- F. File suit for damages in a court of competent jurisdiction; and

G. With regard to violation by a non-residential, non-tribal customer, file a lien against the customer's property, foreclose on the lien in a court of competent jurisdiction, and seek satisfaction of the judgment from the customer's property.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-26 Complaints Against the Authority.

A. Any customer or any applicant for services who is aggrieved by any action of the Authority shall, within ten (10) calendar days after any action giving rise to a complaint, present a complaint to the Authority staff member(s) designated to receive customer complaints for resolution and action. The Authority shall have in place procedures to handle complaints, and all complaints shall be handled in a courteous and professional manner. Complaints that cannot be resolved within ten (10) calendar days shall be referred to the Director. If the Director cannot resolve the complaint within five (5) working days after receiving the complaint, the Director shall refer the complaint to the Commission in writing.

B. The Commission shall handle each such complaint in a manner that provides for due process. The Commission will resolve such complaints within ten (10) working days and will issue a written decision. The Chair may call a special meeting of the Commissioners to resolve complaints as deemed necessary.

C. The Commission's decision may be appealed pursuant to Sections 15-4-27 through 15-4-29.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-27 Sovereign Immunity; Appeals.

A. The Tribal Council hereby waives the sovereign immunity of the Authority and the Commission for the express, sole, and limited purposes of allowing review as provided for in this Code by the Tribal Court of Commission actions and decisions; *provided*, that any such

appeals must be timely and properly filed; and *provided further*, that such waiver is made only to the extent necessary for the determination of rights and obligations under this Code and any regulations promulgated hereunder and does not waive immunity with respect to any suit against the Pueblo, the Authority, the Commission or any contractor or employee of the Authority for monetary damages. The Tribal Court is prohibited from ordering the Authority to pay any amount (including attorneys' fees and costs) other than a refund of amounts paid by the customer and sought in an appeal. This waiver is strictly limited and specifically does not waive the sovereign immunity of the Tribal Council, Pueblo, or of any other commission, agency, officer, employee, or agent thereof.

B. The Authority and the Commission may each waive its sovereign immunity protection in contract or otherwise only with the approval of the Governor.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-28 Finality of Commission Decisions.

If no appeal is timely made to the Tribal Court, a decision by the Commission will be final, binding, and enforceable, and will not be subject to any appeal to any court or tribunal. Nothing in this section shall limit the Tribal Council's power, with good cause, to override a decision by the Commission regarding matters related to the expansion of the Pueblo water and sewer systems and related infrastructure and to direct the Authority to take or not to take certain actions.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.

Sec. 15-4-29 Appeals from Commission Decisions.

A. Appeals to the Tribal Court. The Tribal Court shall have exclusive jurisdiction to hear all appeals from final decisions of the Commission, and the procedural rules of that court shall apply.

B. Filing a Notice of Appeal to the Tribal Court. Within twenty (20) calendar days after the customer's or aggrieved party's receipt of a final decision of the Commission or with twenty (20) calendar days of the effective date of a regulation promulgated by the Commission, the customer or aggrieved party may file an appeal to the Tribal Court, by filing a Notice of Appeal with the court clerk stating the date of the decision and the specific issue or finding being appealed. A filing fee equal to the court's fees for filing a civil action shall accompany the Notice. The party appealing the decision must serve a copy of the Notice of Appeal on the Authority and the Commission, care of the Director. Thereafter, the Commission shall file a full record of its proceedings with the Tribal Court.

C. Review on the Record. The Tribal Court shall consider the appeal only to the same extent and upon the same theories and evidence as were asserted at the hearing before the Commission. All such appeals shall be upon the administrative record presented to the Commission, together with briefs and argument.

D. Standard of Review. The Tribal Court shall set aside a decision of the Commission only if it finds the decision to be:

1. arbitrary, capricious, or an abuse of discretion;
2. not supported by substantial evidence in the record; or
3. otherwise not in accordance with applicable law.

E. Decisions of the Tribal Court. The Tribal Court shall issue a written decision on all appeals, which decision shall be final, binding, and enforceable, and will not be subject to any further appeal to any court or forum.

Enacted by Res. No. 2016-R-66, approved November 17, 2016.