

Tribal Renewable Energy – Final Technical Report

1. Award Number: DE-FG36-05GO15165

Recipient Organization: Little Traverse Bay Bands of Odawa Indians

Project Title: Little Traverse Bay Bands of Odawa Indians Strategic Energy Planning

Partners: Tribal Work group consisting of Tribal Government staff
Tribal Administrator
GIS Department Director
Environmental Services/Air Quality Director
Planning Department Staff
LTBB Legal Department
Economic Development Department Staff
Natural Resources Department Director
Housing Department Director
Grant Office (Program Administration)
Consultant – Steven Smiley
Non-cost sharing partners have been added to the workgroup and include:
A Tribal member that also fills the position of Director of Victories Hotel (owned by LTBB)
Tribal member and private business owner

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2. THIS PROJECT HAS RESULTED IN NO AUTHORIZED DISTRIBUTION NOTICES, SUCH AS PATENTABLE MATERIAL OR PROTECTED DATA AND IS NOT APPLICABLE TO THIS PROJECT/PROGRAM

3. Executive Summary:

The purpose of the Little Traverse Bay Bands of Odawa Indians (“LTBB” or “Tribe”) First Steps Toward Developing Renewable Energy and Energy Efficiency on Tribal Lands

Project was to begin or initiate the process of planning for the development of renewable energy and energy efficiency for the Tribe. This was accomplished through the formation of a renewable energy planning workgroup that created a strategic energy plan and developed a draft Tribal energy code. Through collaborative efforts and information sharing by the workgroup the Project also resulted in increased knowledge by the program workgroup and the community on energy issues and renewable energy options. This was achieved (in part) through the Project consultant and renewable energy expert as a leader, participant and contributor on the Project workgroup. The Project results reflect an increased understanding, awareness, expertise and capability leading towards the implementation of the strategic plan. The completed Project centered on energy issues and renewable energy options related to Tribal operations and Tribal member households as relevant and applicable to the Tribes' location in northern-lower Michigan.

4. Accomplishments vs. Goals and Objectives:

Project Goal: To initiate the process for the Little Traverse Bay Bands of Odawa Indians to develop renewable energy and energy efficiency on Tribal lands. This was accomplished by creating an LTBB comprehensive energy plan, creation of a Tribal energy code, and increase the capacity of the workgroup and Tribal community through increased knowledge, awareness and expertise in implementation of the Tribe's energy plan.

Objective 1: By the end of the 3rd quarter of the Project period a comprehensive energy plan will be created for the Little Traverse Bay Bands of Odawa Indians. The Project workgroup accomplished this objective within the Project period. In addition to the comprehensive energy plan the workgroup created a vision statement and a mission statement that will help guide future activities towards planning and implementation of renewable energy. An outline form of the strategic plan has been included in this report.

Objective 2: By the end of the Project and energy code will be developed. Once the plan was developed it provided direction for an energy code. The work towards a code continues with the workgroup initiating the development during the final month of the Project period and a rough draft created prior to the submission of this final report. The workgroup will review the outline and prepare the code for submission in the Tribal Government process for adoption of the energy code.

Objective 3: By the end of the Project there will be an increase in capacity, capability, knowledge base, awareness and expertise for implementation of the strategic energy plan. This objective was accomplished by the workgroup through a collaborative effort of information sharing and with the information provided by the Project consultant. The Tribal community members participating in the Project workshops (2) also resulted in increased knowledge and understanding. Two special presentations were conducted for specific focus groups within the Tribe with positive results. Tribal community exposure to renewable energy continues with monthly newsletter articles that were initiated during the final quarter of the Project period.

5. Project Activities:

During the first Project month the LTBB Strategic Energy Planning Project was Awarded and Project activities were initiated. The Project consultant was contacted and an agreement (contract) was developed. The Project workgroup participants were notified and the first monthly meeting was held on August 16, 2005. This initial meeting included a review of the Project work plan and an initial overview of energy – how it is measured, the types of energy and cost comparisons. The Project consultant facilitated the meeting and began information and data collection to develop an overview of LTBB energy use. The Project work group met for the second monthly meeting on September 13, 2005. The presentation of energy use and comparisons of the types of energy (including renewable energy) continued. The meeting included a general discussion about the Project, Project expectations and tentative schedule for the remaining monthly meetings. The first community-wide meeting was also discussed.

The Project is on schedule as startup was not delayed. The working group has a sincere interest in energy issues and the potential for developing renewable energy for the Tribe. At the same time the working group understands the importance of accomplishing these first steps and creating a plan that will someday benefit the Tribe both in terms of energy efficiency, use and economics.

There were no issues or concerns related to tasks, budget or schedule during this initial reporting period.

The LTBB Strategic Energy Planning Project actively continued the work that was initiated during the first two months of the Project. The working group, which is the core of this Project, continued to meet on a monthly basis for each of the three months in this reporting period. During these meetings the working group continued to learn about the various types of renewable energy. This education process has been more than just an overview where the working group has a realistic understanding of the types of alternative and renewable energy. The working group was presented information from a fact-finding trip Project consultant Steve Smiley had made to northern Europe – Denmark, Sweden and Germany. This information provided real life situations where renewable energy has been used successfully.

During this reporting period Project Administrator Albert Colby Jr. attended the Department of Energy Tribal Energy Program Conference in Denver, Colorado where he presented an overview of the LTBB Project. The Project assistant attended the Native Renewables Energy Summit: Solutions for Tribes and Cities, also in Denver. This conference was two days of presentations that related to all different aspects of renewable energy and strategies for integrating and implementing renewable energy. The information acquired through this conference has provided additional resources for the LTBB working group. In addition, two of the working group attended one day of a renewable energy conference within the State of Michigan. The results of this conference was that the attendees from the working group believed the information was not as comprehensive or as relevant to the Tribe as other conferences have been.

The working group also scheduled the first of the two community presentations to take place in January 2006. Initially the community presentation was tentatively scheduled for December 2005 however many scheduling conflicts prevented this from

happening. During the December 2005 monthly working group meeting plans were made and assignments accepted for the community presentation.

Discussion at the December working group meeting included input from a guest attending the meeting, Winona LaDuke. Ms. LaDuke has ties to the LTBB and was willing to meet with the working group as the time of the meeting coincided with a trip/visit to the Harbor Springs, MI area. Her comments provided encouragement as well as sharing her experiences in her community. Since her visit, Ms. LaDuke has provided resource materials from the Honor the Earth organization that she represents. This information is yet another resource for the LTBB Project as it moves forward to development of an energy plan.

The Project workgroup has begun discussion of an energy vision for the Tribe. It is expected there will be closure to this at the February workgroup meeting. Tentatively the vision is, "Energy Sovereignty for the Next Seven Generations".

The LTBB Strategic Energy Planning Project actively continued the work that was initiated during the previous months of the Project. The working group continued to meet on a monthly basis for each of the three months in this reporting period (January – March 2006). During these meetings the working group continued to learn about the various types of renewable energy. One monthly meeting focused on learning more about biomass and the Project consultant brought a guest from Denmark (Evald Anders) who is noted for his expertise in biomass and district heat systems in that country and provided an in-depth presentation about biomass. The workgroup met at least two times in addition to the monthly meetings during this reporting period in preparation for the workshop/presentations in order to review and finalize the content to be covered at the workshop/presentations.

Newsletter articles were discussed and with the development of the vision and mission and the strategic plan in process, the workgroup will develop and submit articles to keep the Tribal community informed. The deadline for article submission is almost more than a month ahead of the subsequent newsletter and missing these deadlines has prevented newsletter submission.

The Project held the first of two community workshops held in January 2006. The first workshop was postponed from December due to conflicting schedules. The attendance was small however the attendees were very interested in the topic, the materials presented, and the work that is being done by the workgroup. A survey/questionnaire was given to each attendee and the results show favorable approval for the workshop and interest in the topic. It is through this community workgroup that a Tribal member who is also a business owner asked to attend the workgroup meetings. The workgroup has welcomed this input and interest in renewable energy and strategic energy planning. The second of two community workshops was scheduled to take place in early June 2006. The Workgroup also requested time during a Tribal Council work session to make a presentation to inform the Council about the Project and what has been accomplished. It is believed this will help to increase Council interest and eventual approval for an energy code. The workgroup has plans to request a date to present to the Tribal Elders after an elders meal time. The Elders meet twice per week for lunch and often programs provide informational presentations after the meal. The Project workgroup believes it will be important for the elders to be aware of

the issues and the renewable energy options that the Tribe may consider pursuing. This will also help to meet this objective. As of this final report, these presentations have not taken place. A request for time on the Council agenda has been requested and the workgroup is waiting notification of the date and time. Once this occurs, the workgroup will provide the Council with the strategic plan and formation about renewable energy for the LTBB. The workgroup did make a presentation to the Tribe's new casino work group and was able to share highlights of what has been learned for renewable energy use and options that this group may consider as it continues the work of building a new casino/resort for the Tribe.

During this reporting period Project Administrator Albert Colby Jr., the Environmental Services Department Director, and the Planning Department Technician attended a workshop sponsored by the International Institute for Indigenous Resource Management, Council of Energy Resource Tribes and the National Tribal Environmental Council entitled "Preparing for the Environmental, Political, Cultural, Economic and Other Implications of Energy Development in Indian Country". The workshop took place in March and was located in Denver, Colorado with the purpose to provide information on the impacts of energy development on a wide range of tribal interests but also set out strategies and approaches by which the interests can be protected and advanced.

The Project assistant, Planning Technician, the Economic Development Department Research Assistant, and a staff member from the LTBB Natural Resources Department attended a one-day workshop in Traverse City, Michigan sponsored by the Traverse City Light and Power Company and featured Anders Evald as the primary speaker. This workshop gave these LTBB workgroup members an additional opportunity to learn more about biomass and district heating systems that receive heat from biomass. This workshop was located in northern Michigan and within easy driving distance of LTBB. Attendance at workshops continues to increase the LTBB workgroup members' knowledge and understanding of energy and renewable energy issues. This knowledge is helping the workgroup as it begins the task of creating a strategic energy plan for the Tribe.

The Project workgroup has developed an energy vision for the Tribe and a mission statement during this reporting period. The vision statement is, *"To establish energy sovereignty on the Waganakising Odawa Reservation and the greater community for the next seven generations."* The strategic energy workgroup has developed a mission statement as well. *LTBB Strategic Energy Mission: "To develop renewable energy sources and foster energy conservation."* Currently the workgroup has identified key areas to be included in the strategic energy plan and the April meeting began the identification of the primary objectives. This work will continue in the current Project period.

The LTBB Strategic Energy Planning Project actively continued the work that was initiated during the previous months of the Project for the period of April through June 2006. The core working group continued to meet on a monthly basis for each of the three months in this reporting period. During these meetings the working group continued to learn and share collected information about the various types of renewable energy, resources available for the Tribe and current Tribal energy use (type, quantity and cost). The workgroup met one additional time for the community workshop.

During this reporting period the Economic Development Assistant who is also a member of the Project workgroup attended a renewable energy conference entitled "Mackinaw City Energy Efficiency/Renewable Energy Conference on May 18 & 19, 2006. This conference brought together organizations interested in renewable sources for Michigan energy. The conference provided valuable resources related to the topic of renewable energy. The Project workgroup attendee submitted a report on the conference along with collected resource materials. The working group remains committed and are actively contributing to the progress of the Project.

The Project held the second of two community workshops on June 14, 2006. The strategic plan that was completed in the previous month was presented as part of this workshop. Despite the small number in attendance the attendees expressed a real interest in the topics covered and the strategic energy plan. There were questions and discussion and contact information was provided in the event any of the attendees had questions after the workshop. A survey/questionnaire was given to each attendee and the results show favorable approval for the workshop and interest in the topic. The workgroup has welcomed input and interest in renewable energy and strategic energy planning.

One activity that took place during the final month and since the conclusion of the Project period is the development of a booklet that includes all the relevant information collected by the workgroup for this Project. The booklet is a way of providing information to the community as well as the Tribal Council and keep the ideas regarding renewable energy for the Tribe visible and at the forefront. This booklet was developed by members of the workgroup and has been a result of workgroup collaboration.

The workgroup has completed the strategic energy plan and has presented it to the community in both a workshop and as part of a newsletter article. The LTBB Energy Code is nearing completion with a rough draft completed that will provide a vehicle for the Tribe to address energy issues and integration of renewable energy in the future. The Project has accomplished its intent to pull the various interests in energy issues together and create an approach for the Tribe to address these issues. The Project working group has stayed on task and is committed to the importance of continuing their efforts for the Tribe.

As this has been a planning Project, there were no specific methodologies used or significant data elements that were collected. Baseline information related to current Tribal energy use was collected and shared by the Project consultant with the workgroup and as part of the community workshops. The Project results have created the beginning for the Tribe in having a comprehensive approach to integration of renewable energy. The tribe now has the planning accomplished so it can now move forward to determine feasibility for renewable energy options for the Tribe.

6. Identify products developed:

The Project developed a strategic energy plan – written broadly – but covering all aspects of energy for the Tribe. The following pages include the Energy Plan. The Project has also developed a draft Energy Code that is nearing completion. The draft has been attached. The code as presented does not reflect the final format.

This Project has resulted in no formal publications, web sites, networks, technologies, inventions/patent applications or licensing agreements, or other products.

7. Project involving computer modeling:

This is not applicable to this Project and therefore there is nothing to report.

Strategic Energy Plan

LTBB Odawa Energy Workgroup

June 14, 2006

Vision Statement

■ *To establish energy sovereignty on the Waganakising Odawa reservation and the greater community for the next seven generations.*

Mission Statement

■ *Develop renewable energy sources and foster energy conservation.*

Goals (1-4)

Goal 1

■ Develop wind energy resources on the 1855 reservation and outlying Tribal properties.

Goal 2

■ Develop bio-energy resources on the 1855 reservation and outlying Tribal properties.

Goals(1-4)

Goal 3

■ Develop solar energy resources on the 1855 reservation and outlying Tribal properties.

Goal 4

■ Implement combined heat and power technology on the 1855 reservation and outlying Tribal properties.

Goals 1-4 (Objectives and Tasks)

- Conduct Study
- Identify property
- Identify use for energy type
- Inventory resources within study area
- Evaluate results
- Identify technology
- Develop Proposal
- Organize info from study
- Provide written recommendation to Tribal Council

Goals 1-4 (Objectives and Tasks)

- Design
- Select engineer
- Plan specifications and estimate cost
- Determine applicable regulations (ie. Permits, etc.)
- Secure Funding
- Tribal Council appropriation
- Other sources of funding

Goal 5

Goal 5

■ Promote and implement energy efficiency services.

Goal 5 (Objectives and Tasks)

- Develop educational information
- DVD, brochure, poster
- Promote energy conservation and efficiency
- Website
- Develop energy efficiency co-op
- Bulk purchases=savings
- Distribute energy efficient household products (ie. weather stripping, light bulbs, appliances)

Goal 5 (Objectives and Tasks)

- Establish a technical assistance service
- Energy/pollution prevention assessment
- Web-based service
- Resource directory, product reviews
- Referral service

Goal 6

Goal 6

- Establish a Tribal Department of Public Works

Goal 6 (Objectives and Tasks)

- Establish a Board of Directors
- By-laws
- Determine administrative structure
- Executive director
- Budget
- Administrative procedures
- Other personnel

Goal 6 (Objectives and Tasks)

- Identify partners and opportunities for collaboration
- Local
- Inter-tribal
- Regional
- National

Goal 7

Goal 7

- Establish a Tribal Energy Statute.

Goal 7 (Objectives and Tasks)

- Draft energy statute
- Submit Statute to Legal Department for review
- Financial impact statement
- Submit Statute to Executive branch
- Draft regulations upon enactment by Legislative Branch

Goal 8

Goal 8

- Promote and Implement Renewable Fuels for Transportation

Goal 8 (Objectives and Tasks)

- Develop educational information regarding renewable fuels
- DVD, brochure, poster
- Promote renewable fuels
- Website
- Explore and evaluate renewable fuels
- Identify market and production sources for renewable fuel
- Provide renewable fuels at Tribal gas station

Renewable Energy Code

SECTION 1.03 JURISDICTION

1. This Title shall be applicable to all natural gas, electric, water, sewer, telecommunication and railroad services provided on the Reservation.
2. Chapter VII, regarding Negotiation of Rights of Ways Across the Reservation, shall be applicable to all crossings of Reservation lands by wires, pipelines, fiber, rail, or other conduits and related facilities for transmitting or transporting energy, telecommunications, water/sewer or utility related products or information, when such crossings require the use of Tribal land rights.
3. Enforcement of this Title shall be as described herein, or pursuant to the Tribal Court System.
4. To the extent any agreement exists with any Third Party which conflicts with the provisions in this Title, the agreement shall control.

SECTION 1.04 DEFINITIONS

1. Tribal Council: "Tribal Council" means the governing body of the _____ Tribe, established pursuant to Article _____ of the Constitution of the Tribe.
2. Franchise: A "Franchise" is the right to provide energy, telecommunications, or other public utility services under the jurisdiction of this Title within the Reservation. A Franchise may be "Exclusive" which means that only one entity has the right to provide services within the franchised area, or "nonexclusive" which means that more than one entity may provide similar services within that franchised area.
3. Order: An "Order" is a decision of the public Utilities Committee regarding a franchise, which sets or adjusts rates and tariffs, prescribes or enforces rules and regulations, or is otherwise necessary and convenient to carry into effect the provisions of this Title.
4. Public Utility: The term "public utility" means every corporation, company, individual, or association that owns, controls, operates or manages, except for private use, any equipment, plant or generating machinery, transmission lines or pipelines or produces, transmits, delivers, or furnishes heat, light, water, sewer, telephone or rail service, or power.
5. Public Utilities Committee: The "Public Utilities Committee" refers to the Tribal committee established hereunder with the authority and jurisdiction to supervise and control the public utilities described herein.
6. Reservation: "Reservation" means the territory within the present confines of the exterior

boundaries of the _____ Reservation, and all lands outside the exterior boundaries of the Reservation which are under the jurisdiction of the _____ Tribe(s), and such other lands without such boundaries as may be added thereto under any laws of the United States.

7. Third Party: A “Third Party” is any party not already referenced.
8. Tribe or Tribal: “Tribe or Tribal” shall refer to the Kickapoo Tribe in Kansas, the Prairie Band Potawatomi Nation, the Sac & Fox Nation of Missouri in Kansas, or the Iowa Tribe Of Kansas and Nebraska, Individually or collectively.

CHAPTER II: PROHIBITION OF STATE TAXES

SECTION 2.01 STATE TAXES PROHIBITED

All entities providing services under this Title are hereby prohibited from assessing, or including within invoices or bills sent to any entity within the Reservation, for service provided within the Reservation, any tax, tariff, or collection established or imposed by the State of Michigan and not explicitly approved or ratified by the Tribal Council, or its designee.

CHAPTER III: PUBLIC UTILITY COMMITTEE

SECTION 3.01 CREATION OF PUBLIC UTILITY COMMITTEE

A Public Utility Committee is hereby established which shall have the purposes, powers, and authorities described herein. The Public Utility Committee may herein be referred to as the “Committee”.

SECTION 3.02 GENERAL PURPOSES, POWERS & AUTHORITY OF PUBLIC UTILITY COMMITTEE

1. The purpose for which the Committee is organized is to provide an entity through which the Tribe may regulate the actions of Third Parties providing services related to all natural gas utility, electrical utility, other energy utility, water, sewer and telecommunications services. The Committee may also regulate certain railroad functions as described herein.
2. The Committee shall have the power and authority to consider and adopt rules, terms and conditions relating to the quality and character of each kind of product or service to be furnished or rendered by any public utility furnishing such product or service within the Reservation; to require and permit any public utility to make such additions or extensions to its physical plant as may be reasonable and necessary for the benefit of the public, and

may designate the location and nature of such additions and extensions and the time within which such shall be completed; and to provide a reasonable and lawful penalty for noncompliance with any of the provisions adopted hereunder.

SECTION 3.06 ORDERS OF THE PUBLIC UTILITY COMMITTEE

1. The Committee may regulate Third Parties under its jurisdiction by issuing one of the following types of Orders:
 - a. Orders Approving Franchises or Disapproving a Franchise under Chapter IV of this Title. An Order Disapproving a Franchise may contain a listing of requirements to be met for reconsideration.
 - b. Orders Approving Rates or Tariffs or Disapproving Rates or Tariffs under Chapter V of this Title. An Order Disapproving a Rate or Tariff may contain a listing of requirements to be met for reconsideration.
 - c. Orders Enforcing conditions of Franchises or Rates or Tariffs under Chapter VI of this Title.
2. The Committee shall create a process consistent with the provisions of the Title leading up to the issuance of each of the above types of Orders. When the process is initiated by the Committee by the issuance of a Notice of Franchise pursuant to Chapter IV of this Title, or by issuance of a Notice of Ratemaking pursuant to Chapter V of this Title, or by issuance of a Notice of Enforcement pursuant to Chapter VI of this Title, such Notice shall be accompanied by a tentative schedule for completion of the process and ultimate issuance of the Order.
3. All Orders must be approved by and signed by at least a majority of the members of the Committee.
4. All orders, regulations, services, rates, classifications, etc. fixed by the Committee shall be in force and effect 30 days after approved and shall be prima facie reasonable unless changed or modified by the Committee, Tribal Council or Tribal Court.

CHAPTER IV: FRANCHISES

SECTION 4.01 FRANCHISE REQUIREMENT

1. All providers of artificial or natural gas, electric light, water, power or heat, street railways, telegraph and telephone line operators, and other entities providing energy or utility services to customers on the Reservation must obtain a franchise to provide service within the Reservation.
2. All Franchises shall be Nonexclusive.

SECTION 4.02 EXISTING AGREEMENTS

In no way does this title impair existing agreements between the Tribe and Third Parties relating to the provision of services within the Reservation.

SECTION 4.04 OBLIGATIONS OF FRANCHISEE

1. As a condition for carrying on the commercial transactions on tribal lands and as a condition for the operation and maintenance of facilities on tribal lands to conduct those commercial transactions, all Franchisees shall be bound by the obligations set forth herein.
2. A particular Franchise may contain exemptions from one of more of these obligations. No exemption will be effective unless it explicitly references this Section 4.04 and the exempted subsection number in the Committee's Order granting the Franchise. A particular Franchise may contain additional obligations specific to the service provided.
3. The following obligations attach to Franchises:
 - a. **Obligation to Serve:** All Franchisees within the Reservation are obligated to continue providing such services at rates consistent with other customers within the State of Michigan and under service conditions consistent with service to other customers within the State of Michigan until notice has been provided to the Franchisee by the Committee that the provision of service is no longer an obligation, or until the Committee approves rates and/or regulations governing such service which are different from those customarily provided to other customers within the State of Michigan.
 - b. **Public Benefit Funds Collected:** All funds collected from customers within the Reservation which are collected for the benefit of the public under a State of Michigan or Committee-approved rate shall be utilized for those purposes to benefit residents of the Reservation. Funds collected from customers within the Reservation may not be used to benefit other customers not within the Reservation.
 - c. **Competition:** All Franchisees serving customers within the Reservation shall be in competition with others providing similar services, as follows:
 - i. All infrastructures designed for the delivery of the service shall be open to use by any other service providers. Use of the infrastructure owned by one service provider by another service provider may be subject to charges by the owning entity, however, such charges shall be provided under the same terms and conditions that the service provider owning the infrastructure provides to itself.
 - ii. Such charges shall be public information, to be shared with interested parties at their request.
 - iii. Use of the infrastructure shall be provided on a first come-first served basis. All capacity of the infrastructure not in use during the month of a request shall be available for use by the next requesting service provider who has customers ready and willing to use the system.

- iv. Capacity for use of the system may be sold in reasonable minimum quantities.
 - v. Any customer switching to a new service provider using the same infrastructure must do so in writing.
- d. Publication and Filing of Rates, Rules and Regulations and Contracts:
 - i. All public utilities shall publish and file with the Committee, in such form and at such time as the Committee may prescribe, copies of all schedules of rates or tariffs, rules and regulations and contracts between public utilities pertaining to any and all jurisdictional services to be rendered by such public utilities.
 - ii. Maps of their service territory and the infrastructure therein. The Committee may require that such maps maybe in an electronic format sufficient for input into a GIS database.
 - iii. The annual measured usage of each service provided on the Reservation.
 - iv. The annual measured usage of each service provided to the Tribe and/or its subsidiaries, if such Tribal customer makes use of the service provided within the Reservation.
 - v. The annual amount of any Public Benefits Funds collected, and the manner of use of those funds.
 - vi. An annual corporate report verified by the oath of an office thereof.
 - vii. Other information as is requested by the Committee after reasonable notice.
- e. Quality and Reliability of Service:
 - i. All Franchisees shall establish and maintain reasonably sufficient and efficient service consistent with service provided to similarly situated customers within the State of Michigan. The Committee may Order higher standards of reliability where such standards are in the best interest of the Tribe, however, the Committee shall also approve rate increases as necessary and just to fund needed infrastructure or technical improvements for meeting such higher standards.
 - ii. A Franchisee's revenues will also be reduced where electricity providers sell to others or retire facilities which cause a decrease in electrical generating capacity and decrease the power available to the reservation or tribal customers, upon a finding that such actions were inefficient or imprudent.
 - iii. A lack of prudence shall be presumed, and revenues reduced accordingly, if any tribal, state or federal entity assesses a fine or penalty for safety or quality assurance violations against a public utility.
- f. Tribal Employment: tribal employment laws and quotas for hiring of tribal members shall bind all Franchisees.
- g. Metering and Billing
 - i. Meters shall at all times be properly calibrated so that accurate measurement of services used is maintained. Evidence of such calibration shall be provided to the Committee upon request. The Committee shall have authority to audit the measurement of all services provided under terms described by the Committee.
 - ii. Bills shall be in a format which provides information to customers in a manner

that is easy to understand and which promotes conservation of resources.

- h. **Disconnection or Discontinuation of Service Policies:** Franchisees shall maintain reasonable public policies for disconnection of customers and for discontinuation of service to customers. Such policies shall provide for reasonable notice prior to disconnection, except in the case of emergencies.
- i. **Provision of Data:** Franchisees shall furnish to the Committee, in such form and such detail as the Committee shall prescribe, all tabulations, computations, and all other information required by it to carry into effect any of the provisions of the Title and shall make answers to the best of their knowledge, to all questions submitted by the Committee. Whenever required by the Committee, every Franchisee shall deliver to the Committee copies of any and all maps, profiles, contracts, agreements, franchises, reports, books, accounts, papers and records in its possession or in any way relating to its property or affecting its business containing evidence relating to the merits of or pertinent to the hearing of any issue pending before the Committee.
- j. **Inventory of Physical Properties:** Franchisees shall file with the Committee an inventory of all its physical properties on the Reservation, designating the exact location of its property. Such inventory shall show in detail the cost of construction together with the depreciation charges incident thereto since construction, or may show the replacement cost of such properties, if in the opinion of the Committee the original cost and depreciation charges cannot be obtained. In the event any Franchisee refuses or neglects to file such inventory, or the inventory so filed is inaccurate, the Committee may send its agents upon the ground and make an inventory as desired by the Committee. The entire cost of making such inventory by the agents of the Committee shall be paid by the Franchisee from its profit and loss account and shall Not be charged to operating expenses, and such payment shall be made to the Tribe.
- k. **Improvements:** Franchisees shall make improvements to their existing plant, scales, equipment, apparatus, facilities or other physical property, or erect new structures in a manner and within the time specified by the Committee upon a finding of the Committee, after the opportunity to be heard by the Franchisee, that such Improvement, addition, extension, repair or change promotes the security or Convenience of its employees or the public.
- l. **Interconnection Standards and Obligations:** Franchisees shall maintain reasonable public policies for interconnection to their facilities. No Franchisees shall disapprove an interconnection that meets national standards of safety and reliability. The Tribe and its subsidiaries shall have the right to interconnect wholesale or retail facilities to the facilities of any Franchisee under the same terms and conditions as the Franchisee interconnects to its own facilities.
- m. **Joint Use of Equipment:** Franchisees shall permit the use of their conduits, subways, tracks, wires, poles, pipes or other equipment or any part thereof on, over, or under any street or highway, by any other Franchisee, after an opportunity to be heard, upon

Order of the Committee. The Order shall include findings that:

- i. Public convenience and necessity require the joint use of poles or facilities,
 - ii. Such use will not result in irreparable injury to the owner or other users of the equipment,
 - iii. That such Franchisees have failed to agree upon such use or the terms and conditions or compensation for the same,
 - iv. The Franchisee to whom the use is permitted is liable to the owner, or other users of such conduits, subways, tracks, wires, poles, pipes, or other equipment for such damage as may result from their use, and
 - v. Appropriate compensation is set forth.
- n. Safety: Franchisees shall act in a manner as to promote and safeguard the health and safety of its employees, customers, and the public, and to this end to prescribe the installation, use, maintenance, and operation of appropriate safety or other devices and appliances, and to establish appropriate standards of equipment, and to require the performance of any other act necessary for the health or safety of its employees, customers, or the public.
- o. Authority to Enter Premises: Franchisees shall allow Members of the Committee and their agents to enter upon any premises occupied by any Franchisee for the purpose of making the examinations and tests and exercising any of the other powers provided for in this Title ____ and to set up and use on such premises any apparatus and appliances necessary therefore. The agents and employees of such Franchisee shall have the right to be present at the making of such examination and tests.
- p. Net Metering: All electrical utility Franchisees shall have policies providing for Net Metering on the Reservation. Net Metering is the ability of utility customers to install distributed generation behind the Franchisee's meter and to run that generator as needed, while the meter nets power coming in to the customer and the power going out of the customer's meter.
- q. Energy Conservation: Franchisees shall promote energy conservation as is set forth in 4.05.
- r. Low Income Programs: Franchisees shall maintain a program for subsidizing low income persons within the Reservation as is set forth in 4.06.
- s. Environmental Obligations: Franchisees shall protect the environment as is set forth in 4.07 and in other Federal and Tribal laws.
- t. Special Responsibilities: Franchisees shall have the special utility responsibilities set forth in 4.08 and in other Federal and Tribal laws.
- u. Maintenance: Franchisees shall have the maintenance obligations as set forth in 4.09.
- v. Federal Regulations: Franchisees shall have all obligations described in federal

regulation, including but not limited to those set forth in 25 U.S.C. Sec.169.5.

SECTION 4.05 ENERGY CONSERVATION

1. Weatherization: Franchisees providing electrical utility related services shall promote the weatherization of tribal buildings through programs similar to those available to customers within the State of Michigan. Any state or federal funds received for these programs by the Franchisee shall be available for use within the Reservation, if like funding is not also available to the Reservation.
2. Energy Efficiency: Franchisees providing electrical utility related services shall promote efficient use of energy through educational programs, technical assistance programs, energy audits, and financial assistance for improving energy efficiency. Any state or federal funds received for these programs by the Franchisee shall be available for use within the Reservation, if like funding is not also available to the Reservation.

SECTION 4.06 LOW INCOME PROGRAM

1. Franchisees providing electrical utility related services shall maintain a program for subsidizing low income persons within the Reservation through programs similar to those available to customers within the State of Michigan. Any state or federal funds received for these programs by the Franchisee shall be available for use within the Reservation., if like funding is not also available to the Reservation.
2. The Tribe may provide Franchisees with names of customers eligible for these programs if the Tribe determines that the elderly or handicapped, or others should receive a preference in this program.

SECTION 4.07 ENVIRONMENTAL OBLIGATIONS

1. Facilities on Reservation: Franchisees shall be bound by Federal and Tribal environmental laws regarding all facilities on the Reservation. Franchisees have a duty to protect plants, animals water, air, and land within the Reservation while doing business on the Reservation and shall adjust their practices when environmental harm can be avoided. Franchisees shall work with the Tribal Environmental, Fisheries, and Cultural Resources offices when issues arise regarding their actions within the Reservation.
2. Notice of Off-reservation Environmental Issues: Franchisees shall provide written notice to The Tribe of all new activities or proposals of the Franchisee that may have a significant impact on the regional environment. Such notice is required of, but no limited to:
 - a. Proposed construction of new facilities likely to cost over \$50,000.
 - b. Proposed changes in company policy significantly affecting the environment.
 - c. Applications for licenses or extension of licenses to Federal entities.
 - d. Transfer of significant ownership of assets of the company.

- e. Major Federal or State initiatives.
- 3. No energy utility providing service to this Reservation or its customers shall consider the use of any renewable energy source other than nuclear as the basis for establishing higher rates or surcharges for any service or commodity, nor shall such utility subject any customer utilizing any renewable energy source to any other prejudice or disadvantage on account of the use of any such renewable resource.

SECTION 4.08 SPECIAL UTILITY RESPONSIBILITIES

In exercising its functions within the boundaries of the Reservation, the Franchisee shall adhere To the following principles:

- 1. No Franchisee shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No Franchisee shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service.
- 2. Except in emergency situations, the Franchisee shall use reasonable efforts to include the customers within the boundaries of the Reservation in the decision making processes which it undertakes for decisions directly affecting service within the Reservation.
- 3. All powers of the Franchisee shall be exercised in good faith and in a manner believed to be in the best interests of the Tribe and Franchisee's customers.

SECTION 4.09 MAINTENANCE OBLIGATIONS

- 1. All Franchisees shall give notice to the Tribe prior to entering the Reservation for maintenance purposes. Such notice shall include a description of the maintenance to be performed and the time line for the procedures. In the case of an emergency, best efforts shall be made to provide such notice. Franchise documents shall provide the point of contact for notice.
- 2. Franchisees shall allow Tribal representatives to accompany them during maintenance. Tribal representatives shall have the authority to establish reasonable procedures for protection of cultural plants, cultural places, and the environment.
- 3. Franchisees shall keep the trimming of trees and other vegetation to a minimum. Franchisees shall consult with Tribal representatives prior to trimming trees or clearing rights of ways. Such Tribal representatives shall have the authority to establish reasonable procedures for trimming of trees and clearing of rights of ways, after consideration of safety and reliability issues described by Franchisee.

SECTION 4.10 OWNERSHIP OF WIRES AND FACILITIES

1. Unless an easement or right-of-way document signed by the Tribe and approved by the Bureau of Indian Affairs exists with regard to Franchisee facilities, no Franchisee holds real property rights or may claim that real property rights have been transferred due to the existence of facilities on the Reservation. All facilities without such documentation are deemed to be personal property.
2. Any new facilities installed on the Reservation by Franchisees in order to extend service to new customers shall be the personal property of the Tribe, and not the personal property of the Franchisee, when the new facilities are paid for by the new customer or by a particular user. The Franchisee shall provide notice to the Tribe of each such facility constructed.
3. Any facilities which are the personal property of the Tribe pursuant to this Section that are used by Franchisee to deliver their product or service shall be operated and maintained by the Franchisee in a manner consistent with the operation and maintenance of their own facilities.

SECTION 4.11 TERM OF FRANCHISE

Each Franchise shall explicitly describe its starting and ending date. No Franchise shall be granted or extended for any longer period of time than 20 years from the date of such grant or extension, unless a previous agreement controls such term.

SECTION 5.04 SALE OF FRANCHISE OR PROPERTY TO BE APPROVED BY COMMITTEE

1. No Franchisee owning, controlling or operating any property located within the Reservation which is used in the generation, transmission, distribution, or supply of electric power and energy to the Reservation public or any portion thereof shall merge, sell, lease, assign or transfer, directly or indirectly, in any manner whatsoever, any such property or interest therein, or the operation, management or control thereof, or any Franchise covering the same, except when authorized to do so by Order of the Committee.

CHAPTER VI. ENFORCEMENT OF CONDITIONS OF FRANCHISES OR RATES AND TARIFFS

SECTION 6.01 ENFORCEMENT

1. The Tribal Attorney, when requested, shall give the Committee such counsel and advice as the committee may from time to time require. It is hereby made the duty of the Tribal attorney to aid and assist the Committee in all hearings, suits, and proceedings in which the Committee seeks assistance.

2. The Rates and Charges and Rules and Regulations of the Public Utilities shall at all times be reasonable and just and reasonably necessary in order to maintain reasonably sufficient and efficient service, and at the instance of the Committee or consumer, such reasonableness may be reviewed and determined by the Tribal Council.
3. The Committee shall have authority to enforce the terms and conditions of Franchises or Rates and Tariffs by ordering fines and penalties as are just and reasonable, designed to compensate the tribe or customers of the Franchisee, or designed to prevent additional breaches of such terms and conditions. Such Orders shall be enforceable by the Tribal Court, upon institution of an action by the Tribal Attorney.

CHAPTER VII. NEGOTIATION OF LAND RIGHTS ACROSS RESERVATIONS

SECTION 7.02 VALUATION OF RIGHTS OF WAYS

1. In recognition of the unique land status of the Tribes' Reservation as described in treaty, and in recognition of the special purposes for which this land was reserved from the public domain or other uses by the United States, the granting of real property rights across the Reservation shall only be done with due deliberation and with adequate financial or other consideration.
2. Consistent with 25 C.F.R. Sec. 169.12, such consideration shall be greater than the "fair market value" of off-reservation land rights due to the unique character of Reservation lands and due to the lack of similar or comparable real property transactions for property of this type.

SECTION 7.03 TERMS OF RIGHTS OF WAYS

All rights of ways granted under this Title shall be limited in tenure to 25 years from the date of consent.

SECTION 7.05 TRIBALLY RETAINED RIGHTS

The Tribes shall retain all rights not specifically granted to holders of rights of ways, including but not limited to:

1. The right to tax property or activities within the right of way
2. The right to regulate and pass laws regarding property or activities within the right of way.
3. The right to control access to the land within the right of way, except as is superseded by the grant of right of way.

CHAPTER VIII: OBLIGATIONS OF THIRD PARTIES HOLDING LAND RIGHTS ACROSS RESERVATION

SECTION 8.01 INTERCONNECTION

All holders of rights of ways on the Reservation shall permit the interconnection of tribal facilities, where safety and reliability are not compromised, and where not prohibited by federal or other tribal law.

SECTION 8.03 NATURAL RESOURCES PROTECTION

1. Facilities on Reservation: All holders of rights of ways on the Reservation shall be bound by Federal and Tribal environmental laws regarding all facilities on the Reservation. All holders of rights of ways on the Reservation have a duty to protect plants, animals, water, air, and land within the Reservation while doing business on the Reservation and shall adjust their practices when environmental harm can be avoided. All holders of rights of ways on the Reservation shall work with the Tribal Environmental, Fisheries, and Cultural Resources offices when issues arise regarding their actions within the Reservation. All Holders of right of ways have a duty to restore such right of ways to their pre-construction Condition
2. Notice of Off-reservation Environmental Issues: All holders of rights of ways on the Reservation shall provide written notice to the Tribe of all new activities or proposals of the right of way holder that may have a significant impact on the regional environment. Such notice is required of, but not limited to:
 - a. Proposed construction of new facilities likely to cost over \$50,000.
 - b. Proposed changes in company policy significantly affecting the environment.
 - c. Applications for licenses or extension of licenses to Federal entities.
 - d. Transfer of significant ownership of assets of the company.
 - e. Major Federal or State initiatives.