

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Consenting to Grant of Arizona Public Service Electrical Utility Right-of-Way  
to Serve the Florence Community in the Gu Achi District)**

**RESOLUTION NO. 17-15Z**

1     **WHEREAS,**     **the Tohono O'odham Legislative Council is vested with the power to “administer**  
2                   **land and other public property, and by law, ordinance or resolution, to prevent**  
3                   **the sale, disposition, lease, use or encumbrance of Tohono O'odham national**  
4                   **lands, interests in lands, rights-of-way, or public resources when such sale,**  
5                   **disposition, lease, use or encumbrance will, in the opinion of the Tohono**  
6                   **O'odham Council, be injurious to the best interests of the Tohono O'odham**  
7                   **Nation as a whole” (Constitution of the Tohono O'odham Nation, Article VI,**  
8                   **Section 1(i)(l)); and**

9     **WHEREAS,**     **“The unallotted lands of the Tohono O'odham Nation and all lands hereafter**  
10                   **acquired by the nation, or held for the use of the nation or its members, are a**  
11                   **valuable public resource and shall be held as national lands forever” and are**  
12                   **subject to the management and control of the Legislative Council (Constitution,**  
13                   **Article XVI, Section I); and**

14     **WHEREAS,**     **the Nation's Legislative Council approved Hewel Ni'ok to seek a FCC license and**  
15                   **funding for the construction of a radio communication tower (KOHF-LP 101.1 FM)**  
16                   **in the Gu Achi District which included funds to cover the costs for electrical**  
17                   **service for the new facility (Resolution No. 13-343); and**

18     **WHEREAS,**     **Arizona Public Service (“APS”) has existing electrical utility rights-of-way across**  
19                   **portions of the Florence Community, and Hewel Ni'ok asked APS to extend its**  
20                   **electrical service to the radio communications tower site; and**

21     **WHEREAS,**     **the Nation's Legislative Council gave APS approval to survey a route to extend**  
22                   **electrical service to the radio communications tower site (Resolution No. 16-394);**  
23                   **and**

24     **WHEREAS,**     **APS filed an application for right-of-way under 25 U.S.C. §§ 323-328, and 25 C.F.R.**  
25                   **Part 169, to construct, own, operate, maintain, relocate, and remove a 12kV**  
26                   **distribution line across lands in the Gu Achi District—APS attached a legal**  
27                   **description (Exhibit A) and survey exhibit (Exhibit B) depicting the planned utility**  
28                   **easement for the 12kV electric line to its application, which are attached and**  
29                   **incorporated by this reference (hereafter, “APS Right-of-Way Application”); and**

30     **WHEREAS,**     **the Gu Achi District Council on April 7, 2017 passed Resolution No. 0417-223**  
31                   **supporting the consent for the grant of right-of-way to APS; supporting the**

**RESOLUTION NO. 17-157**

**(Consenting to Grant of Arizona Public Service Electrical Utility Right-of-Way to Serve the Florence Community in the Gu Achi District)**

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1 approval of any needed service line agreements; and recommending that  
2 valuation and compensation be waived since current home site assignees as well  
3 as other potential community development will benefit from the planned  
4 electrical utility right-of-way; and

5 **WHEREAS,** the Agricultural and Natural Resources and the Cultural Preservation  
6 Committees have reviewed the APS Right-of-Way Application and recommend  
7 consenting to the grant of easement for a right-of-way on the terms and  
8 conditions included in the APS application, and in the Secretary of the Interior's  
9 grant of right-of-way; and

10 **WHEREAS,** the Tohono O'odham Nation acknowledges that the APS electrical distribution  
11 line, once constructed, will benefit the Florence Community by improving the  
12 health, welfare, and safety of its members and therefore feel it is in the best  
13 interest of the Nation to consent to a waiver of valuation and compensation as  
14 provided in 25 C.F.R. §169.110(a)(2).

15 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative Council consents to  
16 the grant of easement to APS for a right-of-way to construct, own, operate,  
17 maintain, relocate, and remove a 12kV distribution line across lands in the Gu  
18 Achi District as described in Exhibit "A" and "B" to the APS Right-of-Way  
19 Application.

20 **BE IT FURTHER RESOLVED** by the Tohono O'odham Legislative Council that the grant for a right-  
21 of-way be for a period of fifty-years; that the valuation and compensation for the  
22 grant of the right-of-way be waived; and that any Service Line Agreement required  
23 under 25 CFR §§ 169.51-169.56 for electrical service at the Hewel Ni'ok radio  
24 communications tower site be approved.

25 **BE IT FINALLY RESOLVED** by the Tohono O'odham Legislative Council that the Nation's  
26 Chairman is authorized and directed to take any necessary actions to execute this  
27 resolution.

28 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 17<sup>TH</sup> day**  
29 **of APRIL, 2017 at a meeting at which a quorum was present with a vote of 3,021.4 FOR; -0-**  
30 **AGAINST; -0- NOT VOTING; and -0- ABSENT, pursuant to the powers vested in the Council by**  
31 **Article VI, Section 1(i)(l) and Article XVI Section 1 of the Constitution of the Tohono O'odham**  
32 **Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting**  
33 **Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section**  
34 **16 of the Act of June 18, 1934 (48 Stat.984).**  
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TOHONO O'ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin, Legislative Chairman

17 day of April, 2017

ATTEST:

Evonne Wilson, Legislative Secretary

17 day of April, 2017

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 17 day of April, 2017 at 4:21 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin, Legislative Chairman

APPROVED

on the 18 day of April, 2017

DISAPPROVED

at 8:20 o'clock, A.M.

EDWARD D. MANUEL, CHAIRMAN  
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 18 day of

April, 2017, at 8:30 o'clock, A.M.

Evonne Wilson, Legislative Secretary

**ACTION: CONSENTING TO GRANT OF ARIZONA PUBLIC SERVICE ELECTRICAL UTILITY RIGHT-OF-WAY TO SERVE THE FLORENCE COMMUNITY IN THE GU ACHI DISTRICT**

**Moved: COUNCILWOMAN LORETTA LEWIS**

**SECOND: COUNCILMAN BILLMAN LOPEZ**

**DATE: APRIL 17, 2017**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 367.2	1. FRANCES MIGUEL (Roberta E. Harvey)	183.60	X			
	2. VERNON J. SMITH (Gloria Zazueta)	183.60	X			
CHUKUT KUK 332.1	1. ETHEL GARCIA (Marla Kay Henry)	166.05	X			
	2. BILLMAN LOPEZ (Patricia Vicenti)	166.05	X			
GU ACHI 265.0	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	132.50	X			
	2. LORETTA LEWIS ( )	132.50	X			
GU VO 250.6	1. GRACE MANUEL (Dallas Lewis)	125.30	X			
	2. PAMELA ANGHILL ( <i>Absent</i> ) (Jeffery Antone, Sr.) ( <i>Present</i> )	125.30	X			
HICKIWAN 205.8	1. LOUIS R. LOPEZ (Shirley Molina)	102.90	X			
	2. SANDRA ORTEGA ( )	102.90	X			
PISINEMO 219.9	1. CHESTER ANTONE (Caroline D. Garcia)	109.95	X			
	2. MONICA K. MORGAN ( )	109.95	X			
SAN LUCY 226.5	1. DIANA MANUEL (Lorraine Eiler)	113.25	X			
	2. JANA MONTANA (Gloria Ramirez)	113.25	X			
SAN XAVIER 228.6	1. DANIEL L.A. PRESTON III (Felicia Nunez)	114.3	X			
	2. RACHEAL VILSON-STONER (Olivia Villegas-Liston)	114.3	X			
SCHUK TOAK 180.6	1. ANTHONY J. FRANCISCO JR. (Teresa F. Donahue)	90.3	X			
	2. QUINTIN C. LOPEZ (John Fendenheim)	90.3	X			
SELLS 513.5	1. ARTHUR WILSON (Beverly Rivas)	256.75	X			
	2. BARBARA HAVIER (Idalcen Reyes)	256.75	X			
SIF OIDAK 231.6	1. LUCINDA ALLEN ( )	115.80	X			
	2. MARY LOPEZ ( )	115.80	X			
<b>TOTAL</b>		<b>3,021.4</b>	<b>3,021.4</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>