

PUEBLO OF ACOMA LAWS 2003 (2022 Replacement)

**TITLE 20
UTILITY AUTHORITY**

This Supplement includes laws enacted since the Pueblo of Acoma Laws 2003 pursuant to Tribal Council Resolutions dated January 1, 2013 through December 31, 2021.

PUEBLO OF ACOMA LAWS 2003 (2022 REPLACEMENT)

TITLE 20 UTILITY AUTHORITY

These laws may be cited by Title, Chapter, Section and Year
as "Section or §_ _ _ Pueblo of Acoma Laws 2003 (2022
Replacement)"

PUEBLO OF ACOMA LAWS 2003
(2022 REPLACEMENT)

TITLE 20
UTILITY AUTHORITY

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PUEBLO OF ACOMA LAWS 2003 (2022 Replacement)

**TITLE 20
UTILITY AUTHORITY**

Origins: Enacted by Tribal Council Resolution No. TC-NOV-14-13-V1a.

Annotations: In 1997, pursuant to Tribal Council Resolution No. TC-JUL-16-97-3A, the Pueblo of Acoma Tribal Council enacted the initial Utility Authority Board. In 2009, pursuant to Tribal Council Resolution No. TC-NOV-05-09-V1a, the Pueblo of Acoma Tribal Council combined a number of governmental functions into a single agency known as the "Acoma Public Works Utility Authority." The 2013 resolution reaffirms the 1997 and 2009 resolutions and adopts a Utility and Solid Waste Services Tariff. Tribal Council Resolution No. 2019-008 amended provisions concerning use of revenues generated by Pueblo of Acoma Solid Waste, Water and Wastewater Utilities.

Chapter 1. GENERAL PROVISIONS

20-1-1 **Title and Date.** This is hereby titled: Utility & Solid Waste Services Tariff. This Tariff shall become effective on November 14, 2013.

20-1-2 **Purpose.** The purpose of the Tariff is to define Customer services and obligations related to the provision of utilities and solid waste services and to establish the Fee Schedule for receipt of such services within the Pueblo of Acoma Reservation.

20-1-3 **Policy.** It shall be the policy of the Pueblo of Acoma Utility Authority to operate, maintain and manage the public utilities and essential solid waste services of the Pueblo of Acoma so that the customers are provided with a high level of services designed to minimize exposure to adverse conditions which could negatively impact the physical and environmental health of any individual or the community. It shall also be the policy of the Utility Authority that the operation, maintenance and management of the public utilities and solid waste services shall be carried out through an efficient program and in a financially responsible, cost effective, and self-sufficient manner.

20-1-4 **Jurisdiction.** This Tariff is adopted pursuant to the authority granted to the Utility Authority per Tribal Council Resolution No. TC-NOV-14-2013-V1a.

Chapter 2. DEFINITIONS.

20-2-1 **Definitions.** Unless the context specifically indicates otherwise, the meaning of terms used in this Tariff shall be set forth in this Chapter 2.

- A. "Appurtenances" are the real and personal property owned by the Utility Authority or the Pueblo located on, near or under the roadways and streets, such as but not limited to fire hydrants, valves, manhole covers and drains.
- B. "Collection Lines" are those sanitary sewer lines owned, operated and maintained by the Utility Authority or Pueblo by which sanitary sewage collection and disposal services are provided to customers.
- C. "Community", for the purposes of this Tariff, shall include, any area located inside of the exterior boundaries of the Pueblo of Acoma reservation. Reservation includes all lands held in trust by the United States for the Pueblo of Acoma.
- D. "Contractor" shall mean any individual, firm or organization which contracts with the Pueblo, Utility Authority or Customer to provide solid waste services, utility repairs, design, inspection, reconstruction or operation.
- E. "Curb Stop" means the underground shut-off valve owned by the Utility Authority or Pueblo and generally located at the land assignment line for connection to the customer's service.
- F. "Customer Classifications" include:
 - 1. RESIDENTIAL - Single family detached homes served by individual services.
 - 2. SMALL BUSINESS -Any tribal member owned business that is separately constructed from the tribal members' residential home for the purpose of conducting a business.
 - 3. SMALL COMMERCIAL - Any small (served by less than 2" inch line/meter) retail/industrial, offices, hotels, motels, shopping centers, or any multiple dwelling units i.e., duplexes, residences with guest houses, triplexes, four-plexes, apartment complexes, condominiums, town homes, or mobile homes served by common meters.
 - 4. LARGE COMMERCIAL - Any large (served by 2" inch line/meter or greater) retail/industrial, offices, hotels, motels, shopping centers, or any multiple dwelling units i.e., duplexes, residences with guest houses, triplexes, four-plexes, apartment complexes, condominiums, town homes, or mobile homes served by common meters.
 - 5. PUBLIC AUTHORITY - Government buildings, hospitals, schools and other facilities that provide public and quasi-public services.

- G. "Customer" means a residential, small business, small commercial, large commercial or public authority or other organization that uses, is entitled to use, or is obligated to pay for the use of or provision of services from the Utility Authority.
- H. "Customer Lines" are the potable water lines, sanitary sewer lines, and septic systems located immediately adjacent to, inside of, or under a customer's building, property, or land assignment which are either connected to utility service lines or are maintained by the customer separately from utility service lines or otherwise maintained by the Utility Authority.
- I. "Distribution System Lines" are those potable water lines and sewer collection lines owned, operated and maintained by the Utility Authority or Pueblo. For water service, the distribution line includes all lines/appurtenances up to and including the water meter or curb-stop valve. For sewer service, this includes the main sewer line to the start of the property line or land assignment.
- J. "Garbage" shall mean all degradable and non-degradable refuse and solid waste without economic value that is generated through the course of normal living by the customers and organizations in the community, also known as "Solid Waste".
- K. "Director" shall mean an individual hired by the Pueblo or Utility Authority Board to oversee and manage the operation(s) of the Utility Authority.
- L. "Meter" is a device, owned by the Utility Authority, for measuring the amount of water provided to a particular customer.
- M. "On-Site Sewage Treatment and Disposal System" shall mean individual or community septic tanks and subsurface drain fields and associated appurtenances that collect, treat and dispose of liquid waste generated by customers, also known as "septic systems".
- N. "Off-reservation" is any area located outside of the exterior boundaries of the Pueblo of Acoma reservation. Reservation includes all lands held in trust by the United States for the Pueblo of Acoma.
- O. "Operator" shall mean an individual hired by the Utility Authority to provide direct day to day operational and maintenance services for the public water, wastewater and/or solid waste service.
- P. "Regulation" is a rule of law or procedure duly adopted by the Utility Authority for purposes of implementing the requirements of this Tariff.
- Q. "Utilities and Solid Waste Services" are those basic services necessary

for supporting customer operations, use and development, including, but not limited to, water, sewer, and garbage collection.

- R. "Utility Authority" is the agency responsible for, and authorized to manage, the water, wastewater and solid waste services of the Pueblo of Acoma, as established through Tribal Council Resolution No. TC-JUL-16-97-3A and TC-NOV-05-09-VIA.
- S. "Utility Authority Board" is the governing body of the Pueblo of Acoma Utility Authority. The Utility Authority Board has oversight and review of all functions conducted by the Pueblo of Acoma Utility Authority and reports to the Pueblo of Acoma Tribal Council.
- T. "Vendor" is any individual firm, contractor or organization who supplies parts, equipment, supplies and/or services to the Utility Authority.
- U. "Shall" is mandatory. "May" is permissive.
- V. "Sewage" shall mean all water-carried wastes or wastewater.
- W. "Public Utilities" shall mean all utilities owned, operated or managed by the Utility Authority for the Pueblo of Acoma.

Chapter 3. UTILITY AUTHORITY BOARD

20-3-1 Establishment. The Pueblo of Acoma Tribal Council, having determined that comprehensive oversight and regulation of all utilities is of benefit to all people of the Pueblo, that a Board charged with regular oversight, management and planning is necessary to carry out these functions and determines that it is in the best interest of the Tribal Government for the Pueblo to perform this function hereby creates the Utility Authority Board. The Utility Authority Board shall have oversight and review of all functions to be conducted by the Utility Authority.

The Utility Authority is formed exclusively for public purposes to assist the Pueblo in performing essential governmental functions of developing, improving, operating and maintaining (1) water systems; (2) wastewater systems; (3) solid waste disposal systems; (4) electric generation, transmission and distribution systems; (5) natural gas systems; (6) telephone and cable television systems; and (7) other related utility infrastructure ("Utility System"), within and adjacent to the Pueblo of Acoma, and to engage in any lawful act or activity for which similar entities may be organized under the laws of the Pueblo of Acoma or at the direction of the Acoma Tribal Council. In order to carry out these purposes, the Utility Authority is authorized to perform the following functions within the Pueblo of Acoma Indian Reservation:

- A. To develop, improve, operate, maintain and promote existing and new Utility Systems providing services with the Pueblo of Acoma;
- B. To develop, improve, expand, maintain and operate such extensions of existing and new Utility Systems as are efficient and feasible;
- C. To plan for, provide and furnish utility services to all areas of the Pueblo of Acoma, where such services are determined to be feasible and economical;
- D. To promote the use of utility services where available in order to improve the health, safety and welfare of the residents of the Pueblo of Acoma;
- E. To operate as a governmental utility authority of the Pueblo of Acoma and to be responsible to the Board of Directors, the Acoma Tribal Council and the Office of the Governor; and
- F. To operate and maintain the utilities of nearby off-reservation communities that are connected to the main utility systems of the Pueblo of Acoma, when necessary and authorized by the Utility Authority Board.

20-3-2 Mission Statement. The Pueblo of Acoma Utility Authority through its, Water & Wastewater Department and Solid Waste Management Department are committed to provid[ing] safe and reliable utilities services to the community at an affordable cost, while promoting conservation and efficiency to ensure that the future generations of the Pueblo of Acoma will inherit a self-sustaining system that protects cultural resources and quality of life.

20-3-3 Organization, Authority and Appeal of Any Decisions. The Utility Authority Board shall assume all review of all functions conducted by the Utility Authority. Moreover, any individual or entity who receives a decision by the Utility Authority may appeal that decision to the Utility Authority Board. Decisions of the Utility Authority Board are final. All appeals [] to the Utility Authority Board must be appealed within five (5) business days of the decision.

20-3-4 Initial Organization. Initially, the Pueblo of Acoma Tribal Council shall be the Utility Authority Board. However, when Acoma Tribal Council by majority vote decides otherwise then it shall establish the Utility Authority Board under the provisions of this section.

20-3-5

Board Composition.

- A. Number. The Acoma Tribal Council, after consultation with the Tribal Administration, shall appoint not more than five (5) regular members to the Utility Authority Board from the general public. In addition, there shall be two additional Utility Authority Board members who shall serve as ex-officio capacity, with one of the ex-officio members appointed from Tribal Administration and the other appointed from Tribal Council.
- B. Terms. Each member of the Utility Authority Board shall be appointed to serve for a 3 year term, and/or until their replacement has been approved, which must be no more than 3 months after the completion of a 3 year term. Utility Authority Board terms shall be staggered to ensure continuity of a quorum at all Board meetings.
- C. Vacancies. Vacancies shall be filled by the Acoma Tribal Council for the unexpired portion of the term of service.
- D. Ex-officio Members. In addition to the regular board members described herein, there shall be ex-officio board members, who serve but may not vote.
- E. Removal. Any member of the Utility Authority Board may be removed by the Acoma Tribal Council for neglect of duty or other good cause.

20-3-6

Powers & Duties.

- A. Officers. The Utility Authority Board shall elect by majority vote for the positions of Chair, Vice Chair and Secretary. Such elections shall be conducted annually at the first regular meeting at the beginning of the New Year. The Chair shall serve as liaisons to the Tribal Administration and Acoma Tribal Council.
- B. Reporting. In addition to the duties set forth above, the Utility Authority Board shall report to the Acoma Tribal Council at least once every 6 months regarding its responsibilities as well as making such recommendations as are necessary. Moreover, should the Utility Authority Board seek any change in any tariff or fee charged for services provided it shall first submit the request as well as the basis for the request to the Acoma Tribal Council for its review and comment. Should Acoma Tribal Council disapprove of the proposed change to the tariff or fee it will not go into effect.

- C. Meetings. The Utility Authority Board shall meet at least once a month in order to carry out its duties as set forth herein.
- D. Conducting Business. The Board shall establish and approve its own rules of policies [and] procedure[s] for considering issues that may come before it.

20-3-7 Payment to the Utility Authority Board. Utility Authority Board members shall be reimbursed for travel and other necessary business expenses incurred in carrying out official duties at rates commensurate with those set by the Utility Authority Board. Moreover, the Utility Authority Board may be paid stipends at rates comparable to other regional Boards, as determined by Tribal Council. All expenses shall be paid from revenue raised from tariffs and fees of the Utility Authority.

20-3-8 Conflict of Interest. Utility Authority Board members shall neither engage in any activity, nor have any interest or acquire any interest, direct or indirect, which would conflict or cause a perception of conflict with any manner or degree with the performance of duties required by their position on the Utility Authority Board. A conflict of interest occurs when circumstances create a possibility that a Utility Authority Board member's duty of undivided loyalty to Utility Authority Board may be compromised. Should a possible conflict of interest develop for a Utility Authority Board member, he or she shall determine whether the conflict of interest exists, prepare a written statement about the potential conflict of interest for filing with the Utility Authority Board records and shall recuse themselves including, but not limited to abstaining from voting on any matter that may benefit such member.

Chapter 4. UTILITY AUTHORITY - OPERATION

20-4-1 Services Provided. The services provided by the Utility Authority shall include but are not limited to water, wastewater, solid waste collection and disposal services. Additional services may be provided upon approval by the Utility Authority Board.

20-4-2 Water Services. The Utility Authority is responsible to provide safe, adequate water, for a fee, to those customers connected to the distribution system lines of the public water system. Responsibility for maintenance will include water sources, storage tanks, controls, mainlines, valves, hydrants and service lines up to and including the meter or curb stop only. Individual customer water meters and curb stops are owned by the Utility Authority, and it is the responsibility of the Utility Authority to maintain the meters and curb stops.

20-4-3 Wastewater Services. The Utility Authority is responsible to provide sanitary disposal of domestic liquid waste, for a fee, to those customers connected to the collection lines of community sewage systems. Further, the Utility

Authority may, for a fee, provide maintenance, repair and new installation for on-site sewage disposal systems. Responsibility for maintenance will include treatment facilities, pumping stations, mainlines and manholes. On-site sewage treatment and disposal systems are the responsibility of the customer. The service line from the property/land assignment boundary to the building and interior building plumbing are the responsibility of the customer.

20-4-4 Garbage Services. Garbage collection and disposal service shall be provided by the Utility Authority for a fee, and can be found in the *User Fee Schedule*, to residential and commercial customers located within the exterior boundaries of the Pueblo of Acoma. The Utility Authority may enter into a contract with a solid waste collection contractor in order to provide this service to the Pueblo.

20-4-5 Future Services. The Utility Authority is formed exclusively for public purposes to assist the Pueblo in performing essential governmental functions of developing, improving, operating and maintaining (1) water systems; (2) wastewater systems; (3) solid waste disposal systems; (4) electric generation, transmission and distribution systems; (5) natural gas systems; (6) telephone and cable television systems; and (7) other related utility infrastructure ("Utility System"), within and adjacent to the Pueblo of Acoma, and to engage in any lawful act or activity for which similar entities may be organized under the laws of the Pueblo of Acoma or at the direction of the Acoma Tribal Council. In order to carry out these purposes, the Utility Authority is authorized to perform the following functions within the Pueblo of Acoma Indian Reservation:

- A. To develop, improve, operate, maintain and promote existing and new Utility Systems providing services within the exterior boundaries of the Pueblo of Acoma;
- B. To develop, improve, expand, maintain and operate such extensions of existing and new Utility Systems as are efficient and feasible;
- C. To plan for, provide and furnish utility services to all areas of the Pueblo of Acoma, where such services are determined to be feasible and economical;
- D. To promote the use of utility services where available in order to improve the health and welfare of the residents of the Pueblo of Acoma;
- E. To operate as a governmental utility authority of the Pueblo of Acoma and to be responsible to the Utility Authority Board, the Acoma Tribal Council and Tribal Administration; and

- F. To operate and maintain the utilities of nearby off-reservation communities that are connected to the main utility systems of the Pueblo of Acoma, when necessary and authorized by the Utility Authority Board.

20-4-6 Maintenance Schedule. The Utility Authority shall develop and follow a regular schedule of maintenance services as prescribed in the Utility Authority's *Integrated Solid Waste Management Plan and Water & Wastewater Operation and Maintenance Manual* for capital assets. A record shall be kept of all routine maintenance and repairs performed.

20-4-7 Customer Complaints & Right to Request a Hearing. Customers who have quality of service concerns, are seeking to avoid discontinuance of service, or have other concerns that they are seeking to have remedied may file a complaint with the Utility Authority.

- A. Complaints must be initially presented in writing to the Customer Service Representative/Billing Technician for resolution and action.
- B. If the initial attempt to resolve the complaint is not satisfactory, then Customers have the right to submit a written appeal to the Director, if the appeal is made within five (5) business days of the written decision rendered by the Customer Service Representative/Billing Technician.
- C. If the appeal is not resolved to the Customers satisfaction, the Customer has the right to request a hearing by the Utility Authority Board, if the request is made within five (5) business days of the written decision rendered by the Director. Until such time as Acoma Tribal Council designates a separate board of directors, separate from Acoma Tribal Council, the Acoma Tribal Council will be the final means to which to resolve any complaints.

Annotations: The Tribal Council has appointed members to the Utility Board separate from Acoma Tribal Council. See also §20-3-3 for appeals to the Utility Authority Board.

The Utility Authority Board will meet monthly, if needed, to hear matters and weigh evidence presented by the Customer(s) and the Director. The Customer has the right to have a representative at the hearing, to testify, and to present witnesses. The Customer has the right to examine the Utility Authority's records pertaining to the Customer service.

In cases where the Utility Authority has notified a Customer of the Utility Authority's intent to involuntarily discontinue service and the Customer has requested a hearing, service will not be discontinued during the hearing process. In addition, the Customer has the right to a post-discontinuation

hearing if there was no hearing before discontinuation, if such post-discontinuation hearing is requested within five (5) business days following the discontinuation of services.

20-4-8 Emergency Notification. An emergency notification plan will be developed by the Utility Authority and reviewed annually for notifying customers of:

- A. Discontinued and interrupted service for more than eight (8) hours;
- B. Substandard conditions in water quality. This includes bacteriological chemical or physical quality deficiencies;
- C. Change in services;
- D. Any other conditions which may adversely affect the health of the community residents or visitors; or
- E. Water shortages.

20-4-9 Limits of Responsibility. The Utility Authority shall not be responsible for, nor shall it maintain or repair, any private or domestic water or sewer system or garbage except by specific agreement establishing fair rates of compensation to the Utility Authority and approved and signed contract between the Utility Authority and owner of such facilities. The Utility Authority shall not be liable for any loss or damage beyond its control resulting from any defect in, or damage to, a Customer's water or sewer lines or fixtures, garbage storage facilities, or hydrants.

20-4-10 Inspections. The Utility Authority, or its authorized representative, is hereby authorized to make limited, reasonable inspections, at reasonable times, of any grounds or buildings served by the Utility Authority to the extent necessary to read meters, to inspect Customer process equipment, to test or inspect Customer cross connection control equipment, Utility Authority equipment, and for testing and changing or removal of meters. Utility Authority staff shall work with designated official in cases where entry and/or inspection is needed. Except in cases of emergency where life, limb or property are threatened, or in cases of immediate water shortages, the Utility Authority shall give the Customer at least 24 hours' notice prior to requesting permission to enter and inspect. If permission to enter and inspect is denied or impeded in any way, the Utility Authority may terminate service after five (5) days written notice is given to the Customer. Where the permission to enter and inspect is unreasonably withheld, the Utility Authority may assess related expenses and add them to the affected Customer's bill.

20-4-11 Disruption of Service. The Utility Authority may discontinue water, sewage service or solid waste services to perform repairs, provided that advance

notice has been given to affected customers. Provided, however, that in cases of emergencies where loss of life, limb or property is threatened, or in cases of immediate water shortage, services may be disrupted without advance notice. The Utility Authority shall not be responsible for consequent damage as a result of lack of water, sewage and solid waste services or during authorized disruptions of service.

The Utility Authority shall not be liable for any associated damages or delay caused by the breaking or leaking of any pipe, valve, fixture or other contrivance as a result of the lack of water or sewage to or from any mains, services, hydrants, lines or reservoirs during authorized disruptions of service.

20-4-12 Permits. No connection, re-connection with, disconnections from, other private use of any Utility Authority water, sewer system, septic system or other utility service or facility shall be made without written permission of the Utility Authority. No construction of any private water or sewer system including septic systems, or other private utility is authorized without written permission from the Utility Authority. The Utility Authority may require construction plans from the permit applicant as it determines necessary to decide whether or not a permit should be issued. The Utility Authority shall require a fee for construction permits. All construction and permits issued will follow the Albuquerque Area Indian Health Service Sanitation Facilities Construction Technical Provisions 2012 or latest revision.

20-4-13 Water Shortage - Services Preference. In cases of a water shortage proclaimed by the Utility Authority, the Utility Authority shall regulate the amount of water any Customer may be allocated. The Utility Authority also may give preference to the Customers and/or determine amounts of water to be allocated, provided the Utility Authority allocates water according to public necessity of convenience, and provides for fair allocations between Customers. Any Customer violating a legal allocation may have water service discontinued. Service shall be resumed only upon receipt of payment of all required and applicable fees and deposits.

20-4-14 Unnecessary Waste of Water. The Utility Authority reserves the right to terminate Customer's service when the Customer has repeatedly and unduly wasted water. Such undue waste is evidenced by the fact that hydrants, taps, hoses and other fixtures are permitted to run continuously without specific prior approval of the Utility Authority. Where such conditions have been observed, the Utility Authority, having been notified of the condition, may terminate water to the premises if the condition is not corrected within 48 hours after receipt of a written notice. Service shall be resumed only after correction of the condition causing waste of water and receipt of payment of all required and applicable fees and deposits. (Nothing in this law is to be construed with affecting, amending, or changing the authority of the Acoma

Ditch Bosses over irrigation systems. Neither is this law to be construed as providing any authority of the Acoma Ditch Bosses over the Water & Wastewater Systems within this law.)

Annotations: Acoma Ditch Bosses, appointed by the Field Chiefs, are generally subject to traditional law. Cross-reference § 1-3-2(c) of the Pueblo of Acoma Laws 2003.

20-4-15 Conservation of Resources. The Utility Authority shall conduct operations, maintenance and repair services in a manner that will maximize the conservation of natural, financial, and property resources. Customers of the Utility Authority shall be encouraged to conserve water resources. The Utility Authority may offer assistance and service to Customers for water resource conservation and may provide materials and recovery assistance as determined to be feasible by the Utility Authority.

20-4-16 New Customer Services. Customers requiring services for any building or grounds within the service area of the Utility Authority shall apply for services. Provision of services is contingent upon all of the following conditions being met:

- A. Utility facilities as determined by the Utility Authority are adequate to meet the additional load. Customers shall provide adequate notice to the Utility Authority when they are planning to increase load through expansion;
- B. New customers shall apply for utility services on a Utility Authority application form. One application form shall be completed for each meter/service line requested to be installed;
- C. Facilities have been inspected to ensure that they meet Acoma Utility Authority standards as established by Section [20-4-12], as amended;
- D. The Utility Authority reserves the right to reject a request for utility services where the Customer has an unpaid account or fee with the Utility Authority. Where a service request is denied due to a unpaid past due account with the Utility Authority, the Customer shall pay such account balance in full and pay a deposit to be determined by the Utility Authority, before service is provided;
- E. Customer shall agree to abide by and adhere to this Tariff;
- F. Customer to provide a copy of land assignment; and
- G. Customer shall provide payment of all applicable utility fees.

Chapter 5. CUSTOMER OBLIGATIONS

- 20-5-1 Conditions for Service, Payments. As a condition for receiving utility services from the Utility Authority, the Customer shall comply with all provisions of this Tariff, and any regulations duly adopted by the Utility Authority as well as any other applicable codes or regulations, including being current in the payment of all fees, deposits, costs, damages, or other charges assessed by the Utility Authority.
- 20-5-2 Reading of Meters. Reserved.
- 20-5-3 Maintenance; Repairs; Liability. The Customer shall be responsible for maintaining and repairing water and sewer lines located on or in the Customer's grounds or building in compliance with applicable regulations. The Customer shall notify the Utility Authority in advance of major maintenance or repairs planned for water and sewer lines. The Customer shall permit the Utility Authority to inspect the work for compliance with applicable regulations prior to completion of major repairs. The Customer shall be liable for any damage to the Utility Authority's lines, equipment or other property caused by the Customer or any party performing work on behalf of the Customer (i.e., Customer's guests, invitees, tenants, agents, employees, contractors, licensees or permittees or other persons).
- 20-5-4 Meter Tests. Reserved
- 20-5-5 Account Adjustments. Reserved
- 20-5-6 Customer Termination of Service: Abandonment. A Customer planning to vacate any grounds, building or residence served by the Utility Authority shall notify the Utility Authority in writing one (1) week prior to the date the Customer plans to either vacate or terminate service, whichever is later. A Customer who fails to give notice is responsible for all charges accrued up to one (1) week after notice is received by the Utility Authority, or up until service is terminated, whichever comes first. In any event, the Customer shall be responsible for all charges for utility services through the final meter reading as of the effective date of termination.
- 20-5-7 Water Shortages. During water shortages, as determined by Utility Authority, Customers shall limit the use of water according to allocations established by the Utility Authority. Water used for human needs at hospitals, nursing homes and similar types of facilities are designated as high priority to be maintained in an emergency. Allocation priorities will address water used for human needs at other types of facilities such as hotels, office buildings, and manufacturing plants. The volume of water and other types of water uses at these facilities will be carefully considered. After reviewing the data, common

sense will dictate allocation priorities to protect domestic requirements over certain types of economic needs. **The following priority system will be used:**

- A. First Priority. Hospitals, health care centers, health care providers and educational facilities.
- B. Second Priority. Domestic water supply, excluding industrial and commercial uses of public water supply. Domestic use is defined as use for general household purposes for human needs such as cooking, cleaning, drinking, washing and waste disposal.
- C. Third Priority. Water uses involving consumption of less than 10,000 gallons per day.
- D. Fourth Priority. Reserved
- E. Fifth Priority. Reserved

20-5-8 Large Users of Water. Before proceeding with the installation of any equipment which will require the use of large quantities of water within short periods of time, the Customer shall consult with the Utility Authority for advice as to the best method of installation and for information concerning the conditions under which the water will be supplied to the Customer. In general, the Utility Authority reserves the right to limit the size of service connections or openings through which service is provided for filling storage tanks, hydraulic equipment, private fire service, or other classes of service capable of drawing relatively large quantities of water which could therefore result in undue fluctuations of pressure in portions of the Utility Authority's system.

20-5-9 Inspections. The Customer shall not unreasonably withhold permission for the Utility Authority to enter and inspect the Utility Authority's and Customer's fixtures, lines and equipment when necessary to ensure that they are operating in a manner that would not likely disrupt or interfere with the provision of utility services. The Customer shall be liable for any costs or related expenses caused by his/her unreasonable withholding of permission.

20-5-10 Permits. A Customer, applicant or any other potential user of utility and solid waste services shall obtain written permission from the Utility Authority prior to making any connection, re-connection with, disconnection from, or other private use of any Utility Authority water or sewer system, appurtenance, or other utility service or facility. The Customer or applicant shall obtain a permit approval from the Utility Authority prior to constructing any private water or sewer system, or other private utility. All fees assessed by shall be

paid by the Customer prior to construction.

20-5-11 Cross-Connections. The Customer shall not make a cross-connection with the Public Water supply. A cross-connection is defined as any physical connection between the Utility Authority or Pueblo water system and another non-potable piping system either water or waste. Any individual source must be totally disconnected from the Customer's plumbing prior to making connection to the Utility Authority system. Disconnection done solely by a valve shall not be allowed. In cases where the Utility Authority deems a backflow prevention device is needed to protect the integrity of the Public Water supply, the Customer will be responsible for the purchase and installation of an approved backflow prevention device as determined by the Utility Authority.

20-5-12 Solid Waste Containers. The Utility Authority shall provide disposal containers to all customers unless the Customer can provide documentation that they are under contract with an alternative waste hauling service. The Customers shall properly maintain the containers and prevent the harborage of rodents or vermin. There shall be no excessive accumulation of refuse, garbage or solid waste in the community or around individual Customer sites. The containers shall be placed at an accessible location identified by collection personnel. The Customer is responsible for all waste not contained in the container.

Detailed information concerning Customer responsibilities, safety tips, care of containers, and other useful information, will be provided to Customers when they are issued containers, in a document titled *Residential Responsibility Agreement Form*. Additional restrictions on what waste may or may not be dropped off at the transfer station may be included.

20-5-13 Use of Sewerage System. The Customer shall use the sewerage collection, treatment and disposal system only for the disposal of normal liquid waste including waste from toilet facilities, shower and bathing facilities and kitchen facilities.

20-5-14 Unauthorized Disposal. No Customer shall discharge or cause to be discharged any of the following described liquids or wastes, to any public sewer:

- A. Any substances prohibited by applicable environmental regulations including, but not limited to, heavy metals, radionuclide's, volatile and synthetic organics, petroleum products, flammables or explosives; or if it appears likely, in the opinion of the Utility Authority, that such waste can harm or have a deleterious effect on a wastewater facility, have an adverse effect on the receiving stream, or otherwise endanger life, limb, public property and/or may otherwise endanger the local

environment or constitutes a nuisance;

- B. Any water or waters with a pH less than 5.5 or greater than 9.5;
- C. Any persistent pesticides that have a tendency to concentrate to toxic levels in non-target organisms;
- D. Any solid or viscous substance in quantities or of such size that the substances are capable of causing obstruction to the flow in sewers or interfere with the proper operation of wastewater facilities; or
- E. Unauthorized discharge of storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted process waters.
- F. The Utility Authority will provide Pollution Prevention information to customers to educate them on pollutants of concern and proper disposal options and make arrangements for receipt of household hazardous waste so that it is not discarded into sewage and solid waste systems.

Requests for waivers of requirements will be reviewed by the Utility Authority and granted or denied based on compliance with regulatory requirements and impact on wastewater treatment facilities.

20-5-15 Toxic Waste Disposal. All hazardous wastes including bio-hazardous waste must be disposed of off the Pueblo at a sanitary landfill approved for the disposal of toxic wastes. Toxic and hazardous waste include but are not limited to: oil, pesticides, gasoline, organic solvents, paint, poisons and other manufactured chemical compounds. The Utility Authority will implement a residential program to allow for periodic disposal of residential household hazardous waste.

20-5-16 Pretreatment Requirements. The Utility Authority may require the installation and operation of pretreatment or separation devices and appurtenances at the expense of the Customer. These devices shall treat or pre-treat effluent substances to comply with Sections [20-4-10] and [20-4-11] above and in addition, shall include but not be limited to the following:

- A. Any liquid or vapor having a temperature higher than 150° Fahrenheit;
- B. Any water or waste containing fats, grease, wax or oil, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32°F and 150° F;

- C. Any water and waste containing high concentrations of dissolved solids which would cause the wastewater treatment facilities to exceed stream standards or any discharge standards (if applicable);
- D. Any water or waste containing unusual or excessive discoloration caused by materials such as, but not limited to, dye wastes and vegetable tanning solutions;
- E. Any volumes of flow or concentration of waste in excess of the sewage system's capacity; or
- F. Any excessive amounts of detergents or laundry wastes.

Chapter 6. FEE SCHEDULES AND BILLING

20-6-1 Fee Schedule Establishment. Fees for utility services shall be developed by the Utility Authority and can be found in the *User Fee Schedule*. The *User Fee Schedule* may be reviewed and revised annually by the Utility Authority and Utility Authority Board and shall be submitted for review and approval by the Acoma Tribal Council. Fees shall be based on the estimated average annual costs for the provision of all utility services. The *User Fee Schedule* may include a basic rate for all services, payment of which shall be required of each customer regardless of whether or the extent to which the Customer uses any of the services. The *User Fee Schedule* may also include other fees, charges, deposits, and assessments which the Utility Authority is authorized to levy as provided under various sections of this Tariff.

20-6-2 Public Hearing. The Utility Authority shall hold a public hearing whenever revisions to the *User Fee Schedule* are proposed for adoption. Notice shall be mailed to each Customer and shall specify the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The mailing shall be sent to Customers within 30 days but not less than seven (7) days from the date of the hearing. Following the public hearing the Utility Authority shall set a fee schedule, taking into consideration comments received at the hearing. Rate and fees schedules shall be submitted for review and approval to the Acoma Tribal Council.

20-6-3 Notice to Customers. A copy of the *User Fee Schedule* adopted by the Utility Authority shall be provided to each new Customer upon application and shall be mailed to all existing Customers within 30 days of adoption of revision of *User Fee Schedule*.

20-6-4 Monthly Statements. Each month the Utility Authority shall mail to all utility Customers a statement detailing the following information:

- A. The Customer's name; address and account number;

- B. Billing cycle covered;
- C. The types and levels of services used in the current month;
- D. The billed cost of the current month's service and any additional services rendered, plus an accounting of bills or charges past due, if any;
- E. The date the payment is due;
- F. Fees associated with non-payment; and
- G. The location to mail or deliver payment.

20-6-5 Due Date. The date specified by the Utility Authority, by which payments shall become due.

20-6-6 Past Due Payments. Payments not received within 30 days after the specified due date are considered past due. The Utility Authority shall issue a Notice of Payment Past Due to the Customer, detailing the payment owed and the consequences for failure to pay. The notice shall be sent no later than the date the next billing notice is sent out.

20-6-7 Delinquent Accounts. An account shall be considered delinquent if payment has not been received by the payment past due date specified on the billing notice.

20-6-8 Notice of Delinquency. The Utility Authority shall notify the Customer in writing once Customer's account has been determined to be delinquent. Notice will include a list of the sanctions which may be imposed with and without further notice. Notice of Delinquency shall be made by mail.

20-6-9 Deposits. The Utility Authority may require that new Customers pay a deposit as a condition of receiving utility services, per the Deposit Requirements shown in the Utility Authority's *Schedule of Service Fees, Deposit Requirements, and Discontinuation/Restoration of Services* schedule and as contained herein. Deposits will be returned after the Customer is in good standing (no service discontinuations for non-payment and no more than three (3) payment deferral agreements within 12 consecutive months). Checks will be mailed to Customers for deposit returns when operationally feasible, however deposits may be utilized to cover delinquent balances, when determined necessary.

20-6-10 Responsibility for Tenants. Any Customer having tenants, whose supply of utility services is dependent upon a blanket agreement between the Customer and the Utility Authority covering all the Utility Authority services on the premises, shall agree to accept financial responsibility for the full payment

amount, as computed for all separate services.

20-6-11 Allocation of Revenues. All revenues generated by the Pueblo of Acoma Solid Waste, Water and Wastewater utilities may be pledged irrevocably to secure indebtedness incurred by the Pueblo of Acoma and used to pay principal and interest due on such indebtedness. It is the expectation of the Pueblo of Acoma Tribal Council that all revenues of the Pueblo of Acoma Utility Authority generated through utility rates and not pledged to secure indebtedness will be handled in the following manner:

(a) Half of the annual revenues generated by the utility rates will be placed into a secure reserve account, to be used solely for capital improvements to maintain and improve Acoma utility systems; and

(b) The other half of the annual revenues generated will be used to offset annual tribal appropriation for the operation and maintenance of the Acoma Utility Authority, with any revenues generated from growth and development fees into the reserve account for utility capital improvement.

Origin: Resolution No. TC-NOV-14-13-VIa

Annotation: Tribal Council Resolution No. 2019-008 amended the provision to add the first sentence "All revenues...may be pledged irrevocably to secure indebtedness..."; to replace "Acoma Solid Waste, Water and Wastewater Departments" with "Acoma Utility," and to clarify the allocation and use of revenues not pledged to secure indebtedness.

Chapter 7. DISCONTINUANCE AND RESTORATION OF SERVICE

20-7-1 Fraudulent Use. If the Utility Authority detects fraudulent use of any utility by a Customer, such Customer's service will be discontinued without advance notice. Services shall not be reinitiated until the Customer has given the Utility Authority satisfactory assurance that such fraudulent use will be discontinued and shall have paid the Utility Authority an amount estimated by the Utility Authority to be reasonable compensation for utilities fraudulently used or diverted and not paid for, and in addition, shall have a penalty charge assessed in addition to applicable fees. The Utility Authority reserves the right to refuse services to any Customer who previously engaged in fraudulent use of utility services.

20-7-2 Dangerous Conditions. If a dangerous condition is found to exist on the Customer's premises, services will be discontinued without advance notice. The Utility Authority shall notify the Customer promptly of the nature of the dangerous condition. If the Customer does not remedy the dangerous condition within two (2) business days of being notified, discontinuation and restoration charges as well as other applicable fees, shall be assessed and shall be paid prior to reinitiating services.

- 20-7-3 Misuse or Misapplication of Service. If a utility service is being misused or misapplied by the Customer so as to cause low pressure or other unsatisfactory conditions affecting the quality, safety, or continuity of service to other Customers, the Utility Authority will discontinue such service after two (2) days of written notice. The Utility Authority reserves the right to discontinue service without advance notice if the misuse of any utility service causes a dangerous condition or failure of service to other Customers. If the Utility Authority is compelled to discontinue service for these causes, discontinuation fees, restoration fees and other additional fees and deposits may be assessed and become payable prior to restoration of services.
- 20-7-4 Resale. If any utility service is resold by the Customer without the written consent of the Utility Authority, service will be discontinued after two (2) days written notice and restoration will be made until assurance is given, in writing, that the service (or commodity) will not be sold again or delivered to any other party. If service is discontinued for this cause, discontinuation fees, restoration fees and other additional fees and deposits may be assessed and become paid prior to restoration of services.
- 20-7-5 Meter Tampering. Customers who tamper with, interfere with, or break the seals of meters or other equipment of the Utility Authority will be assessed a Tampering Fee and shall be subject to discontinuation of services. Customer shall also be subject to a restoration fee and other applicable fees and deposits prior to restoration of services.
- 20-7-6 Right of Entry. Whenever the Utility Authority shall permanently discontinue utility service; the Utility Authority shall have the right at any reasonable time after discontinuation, to enter upon the premises and remove the meter and any other Utility Authority property.
- 20-7-7 Discontinuance for Non-Payment. The Utility Authority is authorized to discontinue service after a Customer has been delinquent for two (2) calendar months from the initial billing date. In cases where the Utility Authority has notified a Customer of the Utility Authority's intent to involuntarily discontinue service and the Customer has submitted a written appeal; service will not be discontinued during the appeal process.
- 20-7-8 Notice of Discontinuation of Services. Prior to discontinuation of services for non-payment, the Utility Authority must mail a Final Notice of Discontinuation of Services a minimum of eight (8) days before discontinuation or must deliver the Final Notice of Discontinuation of Services a minimum of five (5) days prior to discontinuation of services. No Notice of Discontinuation of Services will be required for emergencies or whenever a Customer provides a bad check (check returned for non-sufficient funds), in an effort to avoid discontinuation of services.

Chapter 8. ENFORCEMENT; FEES; SANCTIONS

20-8-1 Authority and Enforcement. The Utility Authority is authorized by Tribal Council Resolution No. TC-NOV-14-2013-VIa to collect established fees for service and to impose sanctions and fees for non-payment. The Utility Authority shall enforce its regulations, fee collections and provisions of this Tariff by discontinuing services of any and all violators and delinquent bill payers or impose other penalties and sanctions as authorized.

20-8-2 Attachment of Customer's Property. The Utility Authority shall not seek to attach Customer's property, nor seek to have fines assessed by Tribal Court, except for excessive delinquency or in limited cases of blatant or continued abuses or destruction of property.

20-8-3 Fee Schedules. The Utility Authority shall develop and adopt fee schedules which establish specific fees, fines and assessments for violation and non-compliance with the provisions of this Tariff. The fees schedules shall be reviewed for appropriateness annually by the Utility Authority Board.

20-8-4 Sanctions Authorized. The following sanctions may be imposed by the Utility Authority for Customer's failure to comply with any provisions of this Tariff or with any duly adopted regulation of the Utility Authority:

- A. Termination of service(s);
- B. Assessment of fees based on fee schedules adopted by regulation of the Utility Authority;
- C. Assessment of late charges based on a schedule adopted by regulation of the Utility Authority;
- D. Assessment of damages resulting from the Customer's non-compliance;
- E. Forfeiture of all or part of a deposit;
- F. Filing of a lien against the Customer's physical property after the account is declared delinquent if delinquency exceeds \$1,500.00;
- G. Transferring the account balance to the account of a new address, where the Customer is residing, regardless of whose name the new service is in;
- H. Enforcing a lien by seeking judgment and satisfaction from the Customer's property from Tribal Court;
- I. Filing suit for damages in Tribal Court; and

- J. Referring violations that may involve criminal conduct to the Tribal Police or Tribal Prosecutor.

20-8-5 Sanctions Guidelines. The Utility Authority shall use the following guidelines when considering the appropriate sanctions to be imposed in any given case:

- A. Whether the sanction is required by this Tariff or other applicable law, or whether imposition is discretionary;
- B. The minimum sanction needed to effect compliance;
- C. The irreparable harm to operation of the Utility Authority and to the Pueblo, if the sanction is not imposed;
- D. The Customer's past record of compliance or non-compliance, or good faith efforts to achieve compliance;
- E. The irreparable harm to other persons or property if the sanction is not imposed; or
- F. The effectiveness of similar sanctions in securing compliance in other cases.

Chapter 9. MISCELLANEOUS PROVISIONS

20-9-1 Validity. Severability. The validity of any section, clause, sentence or provision of this Tariff shall not affect the validity of any part of this Tariff which can be given effect without such invalid part or parts.

20-9-2 Amendments. The [Tribal Council retains] the authority to amend and approve this Tariff at any time.

Annotation: Cross-reference §20-3-6 for limitation on Utility Authority Board's powers and duties. See also §20-6-2 for reference to Tribal Council power to review and approve amendments.

20-9-3 Suspension of Tariff. No employee, officer, contractor or agent of the Pueblo of Acoma is authorized to suspend or alter any of the provisions of this Tariff without the formal approval of the Acoma Tribal Council.

20-9-4 Sovereign Immunity. Nothing in this law shall be construed in any way [to waive] sovereign immunity without the explicit written consent of the Acoma Tribal Council.

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APPENDIX

Appendix

A.	User Fee Schedule	20-A-1
B.	Service Fee Schedule	20-A-3

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APPENDIX A

USER FEE SCHEDULE

Meter Size	Residential Flat Rate (monthly)	Small Business (monthly)	Small Commercial (monthly)	Large Commercial (\$/gal)	Public Authority (monthly)	Tap Fee	Dev Fee
Water							
5/8", 3/4"	\$ 15.00	\$ 37.50	\$ 50.00		\$ 15.00	\$ 520.00	\$ 1,899.00
1"						\$ 600.00	\$ 3,166.00
1 1/4"						Cost	\$ 4,748.50
1 1/2"						Cost	\$ 6,331.00
2"				\$ 0.010		Cost	\$ 10,130.00
2 1/2"				\$ 0.015		Cost	\$ 16,144.50
3"				\$ 0.015		Cost	\$ 22,159.00
4"				\$ 0.020		Cost	\$ 37,986.00
6"				\$ 0.020		Cost	\$ 61,000.00
Wastewater							
5/8", 3/4"	\$ 15.00	\$ 37.50	\$ 50.00		\$ 15.00	\$ 520.00	\$ 1,899.00
1"						\$ 600.00	\$ 3,166.00
1 1/4"						Cost	\$ 4,748.50
1 1/2"						Cost	\$ 6,331.00
2"						Cost	\$ 10,130.00
2 1/2"						Cost	\$ 16,144.50
3"						Cost	\$ 22,159.00
4"						Cost	\$ 37,986.00
6"						Cost	\$ 61,000.00
Solid Waste				Septic Tank Pumping			
Category		Container	Amount		Amount		
Residential - monthly		90 gal	\$ 15.00		Four (4) pumpings credited on account		
Residential (additional can)		90 gal	\$ 15.00				
Small Business - monthly		90 gal	\$ 37.50				
Small Business (additional can)		90 gal	\$ 15.00		Additional pumpings \$55.00 per tank		
Small Commercial - monthly		90 gal	\$ 50.00				
Large Commercial - monthly		300 gal	\$ 75.00				
Public Authority - monthly		90 gal	\$ 15.00				
Tipping Fee (per load)		\$10.00 Covered		\$15.00 Un-covered		(No fee with paid bill)	

Residential Flat **Rate:** \$45.00 per month per household (this is for water, wastewater and solid waste service). This is the same rate if a Customer has a septic system or is on a sewer line. This allows for up to four (4) septic tank pumpings (if needed) per year. The four (4) septic pumpings are a credit on Customer address and cannot be transferred to another address or calendar year. The Customer may use these pumping credits anytime needed on days when the Utility Authority perform this service (every Tuesday and Thursday). The Utility Authority will not pump a septic tank that does not need a pumping.

The Utility Authority is responsible for water delivery up to and including the water meter or water shutoff. The Customer is responsible for the water service line after the meter or shut off and all internal plumbing. The Utility Authority is responsible for wastewater service up to the start of the Customer land assignment.

Things to remember with the Utility Bill;

- **Due Date:** Date of when payment is due (will be clearly stated on bill);
- **Penalty:** 30 days after the due date, the billing system automatically assesses a 10% penalty on the full balance;
- **Disconnection:** The billing system will only allow for customers to be in arrears for two (2) months. Disconnection of water service and garbage collection service will commence thereafter;
- **Tampering Fee:** If Customer water has been disconnected due to non-payment and tampering of the line has occurred, a \$200.00 penalty will be assessed, per occurrence, to the Customer's account. All tampering fee(s) will be required to be paid in advance before service will be restored;
- **Restoration Fee:** A \$100.00 restoration fee will be assessed for all disconnections and will be required to be paid in advance before services will be turned on.

APPENDIX B

SERVICE FEE SCHEDULE

Late Payment Fees

Account Balances not paid within thirty (30) days of billing due date shall be subject to a Late Payment Fee equal to ten percent (10%) of the delinquent balance and will be applied to Customer's account balance at the point at which the account becomes delinquent. This fee will be applied each time a Customer's account becomes delinquent. Late Payment Fees and Late Payment Interest Fees do not apply to deposits.

Returned Check - Non-Sufficient Funds (NSF) Fee

Accounts will be charged a \$35.00 fee for checks returned for non-sufficient funds due to lack of funds or account closure or for any other valid reason given by Customer's bank for not honoring the Customer's check. This charge will be made for every such occurrence. Customer will be charged the amount charged by the Utility Authority's bank for processing the non-sufficient funds check, to the Utility Authority.

New Account Administration Fee

(Applies to new accounts established after July 1, 2014) Any customer establishing a new account for utility services shall be assessed a one-time \$20.00 fee to cover administrative costs. In addition, Customers will be required to pay deposits and fees, when applicable.

Discontinuation of Service Fee for Non-Payment

Reserved.

Restoration of Service Fees

A \$100.00 fee will be charged for restoration of services. Restoration of services will only occur during normal business hours (8:00 a.m. - 4:30 p.m. daily except Saturday, Sunday, Federal and Acoma Holidays).

Tampering Fee

A \$200.00 fee will be charged for tampering or for fraudulent use of utility services, in addition to a discontinuation fee, restoration fee and other applicable fees and deposits. All applicable fees and deposits must be paid in full prior to restoration of services.

Meter Test Fee

Reserved.

Lien Fee

Reserved.

Tapping Fee

Tapping fees will be assessed to cover the costs of service connection tapping into water and sewer mains. The fee covers the main tap, corporation stop and service line including the curb stop and meter and all appurtenances.

Permit Fee

Permit fees will be assessed to recover the cost of plan review, site inspections and other administrative costs. Utility Authority staff will develop cost estimates according to the size and complexity of the construction project.

Growth & Development Fee

Growth and Development fees will be assessed to cover the expense of expanding water and sewer systems to accommodate growth. Assessed fees will be dedicated to cover future capital improvements so that new users cover the costs of growth rather than existing users.

Deposit Requirements

(NOTE: Deposits are not subject to interest accrual or late payment fees)

Renters \$50.00

Discontinuation of Service on Delinquent Accounts \$100.00

Non-Residential Accounts (Two (2) months estimated billing amount) minimum \$100.00