

EXHIBIT A

COW CREEK BAND OF UMPQUA TRIBE OF INDIANS

TRIBAL LEGAL CODE

TITLE 300

Umpqua Indian Utility Cooperative

300-10 PURPOSE AND AUTHORITY

300-10-10 Authorization and Repeal of Inconsistent Legislation.

The Cow Creek Band of Umpqua Tribe of Indians is organized under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); the provisions of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act of December 29, 1982 (P.L. 97-391), as amended by the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgement Funds Act of October 26, 1987 (P.L. 100-139); and the Cow Creek Tribal Constitution, duly adopted pursuant to a federally supervised constitutional ballot, on July 8, 1991.

Pursuant to Article III, Section 1 of the Tribe's Constitution, the Cow Creek Tribal Board of Directors is the governing body of the Tribe. Pursuant to Article VII, Section 1 (d) of the Tribe's Constitution, the Board has the power to "administer the affairs and assets of the Tribe". Pursuant to Article VII, Section 1 (g) of the Tribe's Constitution, the Board has the power to "manage all economic affairs and enterprises of the Tribe...". Pursuant to Article VII, Section 1 (i) of the Tribe's Constitution, the Board has the power to "enact ordinances and laws governing the conduct of all persons or tribally-owned land; to maintain order and protect the safety, health, and welfare of all persons within the jurisdiction of the Tribe; and to enact any ordinances or laws necessary to govern the administration of justice, and the enforcement of all laws, ordinances or regulations...". Pursuant to Article VII, Section 1 (l) of the Tribe's Constitution, the Board has the power "to enter into loan agreements, joint venture business partnerships, to assign business or other income as collateral for loans, and to enter into other financial arrangements as required for the development and management of business enterprises or land acquisition, including the enactment of such ordinances as are necessary and appropriate." Pursuant to Article VII, Section 1 (r) of the Tribe's Constitution, the Board has the power "to enter into grant and contract agreements with any Federal, state, county, local or other agency, or private or charitable foundation or organization and to submit grant and contract applications to such agencies, organizations, etc." Pursuant to Article VII, Section 1 (s) of the Tribe's Constitution, the Board has the power "to develop and implement comprehensive short-term and long range plans for the Tribe." Pursuant to Article VII, Section 1 (t) of the Tribe's Constitution, the Board has the power to "have such other powers and authority necessary to meet its obligations, responsibilities, objectives, and purposes as the governing body of the Tribe".

Pursuant to the foregoing and the Tribe's retention of the full spectrum of sovereign powers, the Board has the authority, desires to and does hereby establish this Title 300 and the Umpqua Indian Utility Cooperative as an entity of tribal government in order to further the best interests of the Tribe, its members and their communities and for the purposes of acting as a tribal utility, which requires managing the natural gas, electrical, energy, water, sewer, telecommunications, and minerals utility functions of the Tribe, and to regulate all utility matters of third parties on the Reservation, and for the purposes of facilitating economic development of the Reservation, and providing and saving tribal revenues by effectively managing tribal utility resources.

Any prior Tribal regulations, resolutions, orders, motions, legislation, codes or other Tribal laws which are inconsistent with the purposes and procedures established by this Title 300 are hereby repealed to the extent of any such inconsistency.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-10-20 Definitions

As used in this Title 300:

- (a) "Board" means the Umpqua Indian Utility Cooperative Board of Directors.
- (b) "Reservation" means all lands of the Tribe and any lands which may in the future come within the jurisdiction of the Tribe by any lawful means.
- (c) "Tribe" means, and "Tribal" refers to, the Cow Creek Band of Umpqua Tribe of Indians.
- (d) "Umpqua Indian Utility Cooperative" refers to the entity of tribal government established in 300-10-10. It may also be herein referred to as the "Utility".

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-10-30 Period of Duration

The Utility shall be perpetual, or until this Charter is revoked or surrendered by action of the Board.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-10-40 No Utility Profits

The Utility shall be operated on a not-for-profit basis and any and all Utility earnings and income shall be reinvested into the Utility to further its operations and purposes.

300-10-50 Purposes of Umpqua Indian Utility Cooperative

- (a) The purpose for which the Utility is organized is to provide an entity through which the Tribe may exercise all natural gas utility, electrical utility, other energy utility, water and sewer utility, telecommunications utility, and mineral use and development functions for the benefit of the Tribe, and to regulate all such utility matters of third parties on the Reservation.
- (b) The Utility may provide services within the Reservation and outside of the Reservation pursuant to applicable law.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-20 POWERS AND UTILITY RESPONSIBILITIES

300-20-10 Utility Powers

The Utility is authorized to do the following:

- (a) To sue in the name of the Utility and to permit suit against itself in the name of the Utility in courts of competent jurisdiction, preserving the privileges and immunities it enjoys by virtue of its status as a subdivision of the Tribe, provided, that the Utility may only waive the defense of sovereign immunity in suit in accordance with the applicable procedures of Tribal law and provided further that no judgement lien, garnishment or attachment may be made upon any property or income of the Utility other than that property or income belonging to the Utility and specifically mortgaged, pledged or assigned as collateral for its corporate debts or liabilities in writing approved by the Utility Board.
- (b) To engage in any lawful act necessary to fulfill the purposes set forth in Section 300-10-50 hereof;
- (c) To buy, sell, lease, and otherwise acquire and own and maintain personal property, interests in real property, and commodities which are necessary or proper for the carrying on of a utility business.
- (d) To carry on its business either within or outside of the exterior boundaries of the Reservation.

- (e) To purchase, take by gift or bequest, hold, assign, mortgage, pledge, sell and dispose of any bonds, securities, or evidence of indebtedness created by any other corporation, utility or organization that is in existence under the laws of the United States, any state, Indian tribe, nation, government, or country and to exercise all the rights, privileges and powers of such ownership.
- (f) To enter into and make contracts of every kind and nature with any person, firm, association, utility, corporation, municipality, nation, Indian tribe, state, body politic or other entity.
- (g) To incur debts, borrow, and secure the payment of any capital in any lawful manner, including the sale or other disposal of bonds, indentures, obligations, negotiable and transferable instruments and evidence of indebtedness of all kinds.
- (h) To apply for, register, or otherwise acquire, and use any trademark, trade name, patent, invention, or process used in connection with or secured under letters patent, and to grant, sell and give licenses in respect thereto.
- (i) To apply for, purchase or acquire by assignment, transfer or otherwise, and to exercise, carry out and enjoy any license, power authority, franchise, concession, right or privilege which any government or authority or any corporation or other public body may be empowered to enact, make, or grant.
- (j) To employ or appoint employees, agents, or contractors and to define their duties and fix their compensation.
- (k) To sell, convey, mortgage, pledge, lease, exchange, transfer or otherwise dispose of business property or assets in the usual or regular course of its business to the extent not conflicting with applicable law.
- (l) To adopt by-laws and other policies for the regulation of the internal affairs of the Utility consistent with this Title 300.
- (m) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, and other incentive plans for any or all of its directors, officers and employees.
- (n) To apply for and administer grants consistent with the Utility purposes.
- (o) To pass, publish, and administer rules regarding the use of utility facilities by third parties within the Reservation.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-20-20 **Limitations on Corporate Powers**

The Utility shall have no power:

- (a) To expressly or by implication enter into any agreement of any kind on behalf of the Tribe.
- (b) To pledge the credit of the Tribe.
- (c) To dispose of, pledge, or otherwise encumber real or personal property of the Tribe, except as explicitly authorized in properly executed and approved lease or other agreements between the Utility and the Tribe or the Utility.
- (e) To waive any right, privilege, or immunity of the Tribe or to release any obligation owed to the Tribe.
- (f) To sell or otherwise dispose of all or substantially all of the Utility's assets without prior written consent of the Board by resolution duly adopted in accordance with applicable Tribal law.
- (g) To own real property in fee simple title.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-20-30 **Special Utility Responsibilities**

In exercising its utility function within the boundaries of the Reservation, the Utility shall adhere to the following principles:

- (a) Any service provided to the general public shall be provided in a manner that is non-discriminatory and based on publicly available criteria, except that the Utility may provide preference to members of the Tribe.
- (b) All rates for services shall be reasonable and consistent with sound business principles and consistent with Section 300-10-50, above.
- (c) All rates for standard services shall be publicly available to customers.
- (d) Except in emergency situations, the Utility 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.
- (e) All powers of the Utility shall be exercised in good faith and in a manner which is believed to be in the best interests of the Tribe and Utility customers.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-30 UTILITY BOARD AND OPERATIONS

300-30-10 Utility Board

- (a) The business affairs of the Utility shall be managed by its Utility Board. A majority of the Utility Board shall be members of the Tribe. The Utility Board shall in all cases act as a board, regularly convened, by a majority vote, and they may adopt such rules and regulations for the conduct of their meetings and the management of the Utility as they may deem proper as long as such rules or regulations are not inconsistent with this Title. A Utility Board member's duties shall be performed in good faith, in a manner the member believes to be in or not opposed to the best interests of the Utility, and with such case as an ordinarily prudent person would use under similar circumstances in a like position.
- (b) The initial Utility Board shall consist of the Cow Creek Tribal Board of Directors. Thereafter, the number of Utility Board Members shall be five, but may thereafter be increased or decreased at any time by a duly adopted resolution of the Board.
- (c) A Chairperson and a Vice Chairperson shall be chosen by the Utility Board. The Chairperson shall be responsible for presiding over meetings of the Utility Board. The Vice Chairperson shall assume the duties of the Chairperson in the absence of the Chairperson. In the event of a tied vote, the vote of the Chairperson shall break the tie. A quorum of Utility Board Members shall consist of a majority of Utility Board Members. A quorum shall not be deemed to exist if the majority of Utility Board Members present are not Tribal members. In the event of a quorum not being present, a lesser number may adjourn the meeting from time to time without further notice.
- (d) Regular or special meetings of the Utility Board may be called upon the request of the Chairperson or of any two Utility Board Members. Notice of meetings, other than the regular meeting shall be given by service upon each Utility Board Member in person orally at a preceding meeting; or by telephone or mailing to the last known post office address of the member, at least three days before the date therein designated for such meeting, including the day of mailing. Such notice shall specify the time and place of such meeting, and the business to be brought before the meeting. No business other than that specified in such notice shall be transacted at any special meeting.
- (e) Each Utility Board Member shall have one vote. A majority of a quorum shall carry any issue, except in the case of a tie.

- (f) The Utility shall hold an annual meeting with the Board beginning with the year 2000. The meeting shall be for the purpose of reporting on the annual activities and transacting any business that may come before the Utility Board. Notice of the meeting shall be posted at the Tribal offices at least 30 days in advance of the meeting.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-30-20 Compensation for Board Members

- (a) The Utility Board members shall receive such expense salary or compensation for their services as may be determined by the Board.
- (b) Utility Board members shall be entitled to compensation for their expenses, including travel expenses, incurred in the discharge of their duties. All requests for reimbursement must be made in accordance with policy and must be approved by the Utility Board Chairperson.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-30-30 Terms

- (a) Utility Board Members shall be appointed for staggered terms: one position for an initial period of 1 year, two positions for an initial period of 2 years, and two positions for an initial period 3 years. Thereafter, all terms shall be for 2 years.
- (b) Utility Board Members may resign by submitting written notice of their resignation, and such resignation shall be accepted by the Board at the next Board meeting.
- (c) Any Utility Board Member may be removed for cause by a majority vote of the Board at a duly called meeting after the Board has had the opportunity to fully review the matters constituting cause for removal and after allowing any affected utility director to appear before the Board and respond to the allegations which constitute cause for removal. Cause for removal shall be limited to the following:
1. Such Utility Board Member has failed to attend any four meetings of the Board out of any eight consecutive meetings, unless any of such absences is excused by the Board; or
 2. Such Utility Board Member has, during his or her term on the Board, been convicted of any crime reflecting upon such member's honesty or ability to fulfill the fiduciary obligations imposed by law upon such member; or

3. The Utility Board has found, in a meeting where the topic was scheduled for discussion, that the Utility Board Member has committed malfeasance or breached his fiduciary duty to the Utility.

- (h) A vacancy shall exist from the date of any Utility Board meeting at which a Utility Board Member is removed or whose resignation is accepted as provided herein.
- (i) The Board will name new appointments to fill any vacancies in the Utility Board within thirty days of the Utility Board meeting where such vacancy occurs. Any vacancy created by the expiration of a Utility Board Member's term may be filled with the exiting Utility Board Member.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-30-40 Eligibility to Serve

(a) To be eligible for election to the Utility Board an individual must be at least 18 years of age, a resident of the Tribe's federal service area knowledgeable and have experience in one or more of the following fields:

- 1. financial management,
- 2. human or natural resources,
- 3. utility management,
- 4. law,
- 5. engineering, or
- 6. economic development.

(b) A Utility Board Member shall vacate his office if during the term of the office he or she shall be a party to a contract for profit with the Utility that presents a conflict of interest with the fiduciary duties of the Utility Board Member.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-30-50 Authority of the Utility Board

(a) The Utility Board shall manage the general affairs and business of the Utility. The Directors shall in all cases act as a board, regularly convened, by a majority vote, and they may adopt such rules and regulations for the conduct of their meetings and the management of the Utility as they may deem proper, not inconsistent with this Title, and applicable tribal or federal law.

(b) The Utility Board shall have the authority to exercise corporate powers to manage the following utility functions on behalf of the Tribe:

1. Natural gas
2. electricity
3. other energy
4. water
5. sewer
6. telecommunications
7. mineral use and development.

(c) The Utility Board shall have the authority to exercise the Utility powers over utility functions by adopting and administering rules for the regulation of third parties' activities involving these utility functions on Reservation lands.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-30-60 Officers

- (a) All the officers of the Utility shall be appointed by a majority vote of the Utility Board at such time as the Utility Board requires such appointment.
- (b) The officers of the Utility will be the General Manager, the Assistant General Manager(s), the Secretary and the Treasurer. Any two or more offices may be held by the same person. The Utility Board may by resolution add additional officer positions at any time.
- (c) An Officer shall vacate his office if during the term of the office he or she shall be a party to a contract for profit with the Utility which presents a conflict of interest with the fiduciary duties of the Officer.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-40 ASSETS AND LIABILITIES

300-40-10 Assets

Subject to the contractual rights of others, including the Cow Creek Band of Umpqua Tribe, the Utility shall have as its assets:

- (a) All property of the Tribe transferred to the Utility subject to any conditions set out in the Board's resolution authorizing the transfer of such properties,

- (b) All real or personal property whether of a tangible or intangible nature otherwise acquired.
- (c) Funds acquired by grant, gift, loan, or by other means,
- (a) All earnings, interest, dividends, accumulations, contract rights, claims and other proceeds arising from the above listed assets.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-40-20 Funds and Accounting

- (a) All cash assets shall be deposited, invested, re-invested, or paid out pursuant to the contractual obligations of the Utility and in accordance with the standards of prudent business practices so as to ensure the continued existence, integrity and viability of the Utility. Assets of each of the different utility functions shall be segregated for banking and accounting purposes.
- (b) An accounting system shall be established and used by the Utility in conformity with generally accepted accounting principles. The accounting system shall insure the availability of information as may be necessary to comply with common utility standards.
- (c) The Utility Board shall, at least quarterly, report in writing to the Tribal Board of Directors on the financial and operating status of the Utility.
- (d) The Utility shall, within 120 days following the close of the Utility's fiscal year, submit to the Board an audited financial statement showing the status of the Utility as of the last day of the Utility's fiscal year. An audited statement may be waived in writing by the Board.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-50 GENERAL PROVISIONS

300-50-10 Severability

If any section, or any part thereof, of this Title 300 or the application thereof to any party, person, or entity in any circumstances shall be held invalid for any reason whatsoever by a court of competent jurisdiction or by federal legislative enactment, the remainder of the relevant section or part of this Code shall not be affected thereby and shall remain in full force and effect as though no section or part thereof has been declared to be invalid.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-50-20 No Waiver of Sovereign Immunity; No Retroactivity

Nothing in this Title 300 shall provide or be interpreted to provide a waiver of the sovereign immunity of the Tribe or any of its governmental officers, employees and/or agents.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-50-30 Amendment or Repeal of Umpqua Indian Utility Cooperative Code

After this Title 300 becomes effective pursuant to Section 300-50-40 below, this Umpqua Indian Utility Cooperative Code shall not be amended or repealed other than by passage of a Resolution approved by a vote of 8 members of the Board.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment:

300-50-40 Effective Date

This Title 300 shall be effective upon adoption hereof by Resolution approved by no less than eight (8) members of the Tribal Board of Directors by roll call vote.

Source: Tribal Board of Directors Resolution No. _____ Dated _____.

Comment: