MCKINLEY COUNTY ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT

OPEN MEETINGS ACT
RESOLUTION NO. 2020-DEC-001

WHEREAS, the McKinley County Electric Generating Facility Economic District Authority (the "Authority"), the governing body of the McKinley County Electric Generating Facility Economic District (the "District"), an electric generating facility economic district established and existing pursuant to the Electric Generating Facility Economic District Act, NMSA 1978, Sections 71-10-1 to -11 (2020) (the "EGFEDA"), met in [regular] session [via Zoom] on December 28, 2020, at 1:00 pm; and

WHEREAS, Section 1(B) of the Open Meetings Act, NMSA 1978, Sections 10-15-1 to -4 (1974, as amended through 2013) (the "Act"), provides that, except as otherwise provided in the Constitution of New Mexico or the Act, all meetings of a quorum of members of any board, commission, administrative adjudicatory body or other policymaking body of any state agency or any agency or authority of any county, municipality, district or political subdivision, held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or taking any action within the authority of or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times; and

WHEREAS, Section 1(D) of the Act further provides that any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public; and

WHEREAS, Section 1(D) of the Act requires the Authority to determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to the Authority;

NOW, THEREFORE, BE IT RESOLVED BY THE MCKINLEY COUNTY ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT AUTHORITY, THE GOVERNING BODY OF THE MCKINLEY COUNTY ELECTRIC GENERATING FACILITY ECONOMIC DISTRICT:

1. All meetings shall be held at the [INSERT LOCATION] located at [INSERT ADDRESS] at [INSERT TIME] [a.m./p.m.], or at such other time and location as indicated in the notice of meeting.

2. Unless otherwise specified, regular meetings shall be held as indicated on the annual meeting schedule adopted by the Authority at the first meeting held by the Authority in each fiscal year. The annual meeting schedule of the Authority for Fiscal Year 2021 shall be as set forth on Exhibit A hereto. The applicable meeting notice shall indicate how a copy of the agenda for each meeting may be obtained, which agenda will be available at least seventy-two (72) hours prior to the meeting at (a) [INSERT LOCATION/ADDRESS] or (b) at such other

location identified in the meeting notice. Notice of any other regular meetings will be given at least [ten] ([10]) calendar days in advance of the meeting date.

3. Special meetings may be called by the Chairperson or any other member of the Authority upon three (3) calendar days' notice. The notice shall include an agenda for the meeting or information on how members of the public may obtain a copy of the agenda. The agenda shall be available to the public at least seventy-two (72) hours before any special meeting.

4. Emergency meetings will be called only under unforeseen circumstances that, if not addressed immediately by the Authority, will likely result in injury or damage to persons or property or substantial financial loss to the District or the Authority. The Authority will avoid emergency meetings whenever possible. Emergency meetings may be called by the Chairperson or a majority of the members upon twenty-four (24) hours' notice, unless the unforeseen threat of injury, damage or substantial financial loss requires giving less notice. The notice for all emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda. Within ten (10) days of taking action on an emergency matter, the Authority shall report to the New Mexico Attorney General's Office the action taken and the circumstances creating the emergency; provided that the requirement to report to the Attorney General's Office is waived upon the declaration of a state or national emergency.

5. For the purposes of regular meetings described in paragraph 2 of this resolution, notice requirements are met if notice of the date, time, place and agenda for the meeting or information on how members of the public may obtain a copy of the agenda is placed in a newspaper of general circulation in McKinley County, New Mexico (the "County"). The Secretary of the Authority shall also mail copies of the written notice to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation which have made a written request for notice of the Authority's public meetings.

6. For the purpose of special meetings and emergency meetings described in paragraphs 3 and 4 of this resolution, notice requirements shall be met by posting notice of the date, time, place and agenda for the meeting or information on how members of the public may obtain a copy of the agenda [INSERT LOCATION]. The Secretary of the Authority shall also provide telephone notice to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of the Authority's public meetings.

7. In addition to the information specified above, all notices shall include the following language: "ATTENTION PERSONS WITH DISABILITIES: If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the meeting, please contact the District at [INSERT LOCATION AND ADDRESS], at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the District at [INSERT LOCATION AND ADDRESS], if a summary or other type of accessible format is needed."

8. The Authority may close a meeting to the public only if the subject matter of such discussion is exempted from the open meeting requirement under Section 10-15-1(H) of the Act.

(a) If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the Authority taken during the open meeting. The legal authority for the closure and the subject(s) to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting and the vote of each individual member on the motion calling for the vote on a closed meeting shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in a closed meeting.

(b) If a closed meeting is called for when the Authority is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and the subject(s) to be discussed with reasonable specificity is given to the members of the Authority and to the general public.

(c) Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure or in the notice of the separate closed meeting. This statement shall be approved by the Authority under Section 10-15-1(G) of the Act as part of the minutes.

(d) Except as provided in Section 10-15-1(H) of the Act, any action taken as a result of discussions in a closed meeting shall be made by vote of the Authority in an open public meeting.

9. Members of the Authority may participate in and hold a meeting by means of video conference or telephone conference as provided in, and subject to the requirements of, the Act, i.e. when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by video conference or telephone conference can be identified when speaking, all participants are able to hear each other at the same time, and members of the public attending the meeting are able to hear any member of the Authority who speaks during the meeting.

10. This Resolution shall be effective for the period beginning on December 28, 2020 through June 30, 2021.

[*Remainder of page intentionally left blank*.]

Passed by the McKinley County Electric Generating Facility Economic District Authority this 28 day of December, 2020.

MCKINLEY COUNTY ELECTRIC
GENERATING FACILITY ECONOMIC
DISTRICT AUTHORITY

_____
Chairperson

ATTEST:

_____
Secretary

CERTIFICATE

I hereby certify that the above and foregoing Resolution was duly passed by the McKinley County Electric Generating Facility Economic District Authority, the governing body of the McKinley County Electric Generating Facility Economic District at its [regular] meeting held on December 28, 2020, and that a quorum was present and that the vote was _____ (__) ayes and _____ (__) nays; _____ (__) member(s) did not vote or were absent.

By: _____
Secretary

EXHIBIT A

REGULAR MEETING SCHEDULE FOR FY 2021

1. Regular meetings of the McKinley County Electric Generating Facility Economic District Authority (the "Authority"), the governing body of the McKinley County Electric Generating Facility Economic District, shall be held on the dates identified below, at [INSERT TIME] [a.m./p.m.] [via Zoom [OR INDICATE LOCATION OF MEETINGS]].

[INSERT MEETING DATES]

2. Other regular meetings may be held on such dates and times as determined by the Authority, at [INSERT LOCATION AND ADDRESS], or at such other time and location as indicated in the notice of meeting.

3. Notice shall be given of such regular meetings by at least [ten] ([10]) calendar days' advance notice of the meeting date, and providing that an agenda for each meeting will be available at least seventy-two (72) hours prior to the meeting from the [Secretary of the Authority], whose office is located at [INSERT LOCATION/ADDRESS].