



Equitable Transition for Navajo Nation

CO-AUTHORED BY:

YULIN HONG
KRISTINA KEMM
MARCUS REID
CYNTHIA LEE



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Executive Summary

The Navajo Generating Station has been the backbone to the development of Arizona, ensuring access to water and electricity. Navajo Nation has been a vital contributor to all of Arizona as they have leased their land, granted their water, offered their work for the Navajo Generating Station yet, a portion of their population do not have adequate access to water and electricity. Salt River Project (SRP), Arizona Public Service Electric (APS), Tucson Electric Power (TEP), Nevada Energy (NV Energy), Los Angeles Department of Water and Power (LADWP), and Bureau of Reclamation all have a stake in the closure of the NGS coal plant. The Navajo Nation is facing economic and environmental consequences post-closure. Roughly 85% of the NGS employees of NGS and Kayenta Mine were Navajo—the closure is projected to sever 1,500 direct and indirect jobs and benefits for the Navajo Nation. The utility stakeholders should have an obligation to propose a transition plan/fund to support the Navajo Nation during their transition out of coal.

To redress these consequences, the Arizona Corporation Commission (ACC) should urge utility companies to 1) provide water and electricity access to the Navajo Nation, 2) provide jobs and lost income to those affected by the closure of NGS, and 3) ensure Navajo representation within utilities' decision-making processes.



The Navajo Nation is dealing with economic repercussions due to the early closure of the Navajo Generating Station (NGS). NGS was projected to provide 520 million dollars in total and indirect economic benefits to state and local economies in 2020 and was also projected to initially keep running until 2044. However, because of the overall economic infeasibility of coal as compared to other sources of energy in addition to environmental concerns, NGS has shut down more than 20 years earlier than intended. This has left the Navajo Nation without a major piece of their economy. More than 600 Navajo people were employed by NGS.

The Navajo Nation has been critical to the success of the United States' largest economies. In fact, over the last sixty years the utilities companies and their ratepayers have been beneficiaries of affordable and reliable coal. In addition to coal there has been a residual benefit to a large amount of water. The aforementioned has been a well utilized source beneficial to large scale commerce in the United States--especially the southwest regions of the country.

However, the current policies do not address the issues in the Navajo Nation. There is not a solid transition plan that serves the people that allowed others such great strides. There are many stakeholders of current and past that have been recipients of brokered deals that overwhelmingly benefited them more than the Navajo Nation. Many robust economies in the southwest region would lack the foundation that was afforded by the deals that provided power and water. This allowed cities and towns to form around the electricity and water that we all depend upon.

Lack of Running Water and Electricity

NGS was a critical capital investment to the development of Phoenix and Tucson. However, the Navajo Nation has been left underdeveloped. 10% of Navajo residents do not have running water and roughly 40% of households still do not have access to electricity. This irony here is highlighted in recognizing that NGS provided both electricity and water (through the Central Arizona Project) to residents in Phoenix and Tucson. However, the Navajo Nation's own energy and resources have not been developed despite their monumental role in helping to build up the surrounding regions.

In fact, not only have they not received access to crucial utilities, but the Navajo people have also shouldered the adverse health effects as a result of the pollution that NGS has caused. There are many reasons why health disparities exist within the Navajo Nation. However, the lack of running water and electricity has been highlighted during the coronavirus pandemic. The Centers for Disease Control (CDC) has recommended frequent hand washing. Moreover, as the situation has become more fluid information is sent through electronic means. Without electricity and water this made mitigation more challenging.

Loss of a Critical Economic Hub

Since the closing of the Navajo Generating Station some of the stakeholders have offered varying degrees of support. For example, since revoking its ownership of the Navajo Generating station and maintaining its ownership of transmission lines, the Los Angeles Department of Water and Power (LADWP), has been receptive to the Navajo Nation hosting renewable energy. LADWP is taking strides towards replacing coal with renewables and natural gas and has entered into negotiations with leadership of the Navajo Nation to allow them to generate the renewable energy that LADWP is requiring to move towards being carbon-free. This has created a desirable collaboration because the Navajo Nation prefers renewable energy and LADWP is looking to provide the same to their ratepayers.

Salt River Project (SRP) has introduced a plan to the Navajo Nation that includes some reemployment opportunities to those that can adhere to stringent employment terms that include moving, extended commute, or applying for candidacy at contractors that are decommissioning the plant. They have also formed a private-public partnership with the city of Page to address some of the economic factors to include partnering with a handful of career placement agencies such as Coconino County Rapid Response, a pre-layoff and reduction in force assistance program; Navajo Nation Department of Personnel Management, and jobs within APS and Tucson Electric Power.

Navajo Generating Station provides an enormous amount of economic benefits to local and state economies; it was projected to provide 520 million dollars in total economic benefits in 2020. This includes direct and indirect economic benefits. Keeping in mind that it was projected to initially keep running until 2044, this served as an immense economic blow to the Navajo Nation. Thus, SRP's job loss recovery plans are inadequate.

Lack of Navajo Representation

Finally, the agreements that initially led to these inequitable deals resulted from the Navajo Nation's lack of agency within the decision-making processes.

First, negotiating a coal lease with Peabody coal that supplied NGS, the tribe was very much influenced and forced into the lease by Stewart Udall, the Secretary of the Department of Interior at the time. Additionally, the contracts about the use of coal were negotiated by Attorney John Sterling Boyden; although he was retained for legal representation by the Navajo Nation, Boyden was also being paid by Peabody Coal. This conflict of interest was not disclosed to the Navajo Nation. Furthermore, the Indian Mineral Leasing Act of 1938 helped with tribal control over extraction but still needed approval by the Department of the Interior (DOI) or Bureau of Indian Affairs (BIA). Thus, in the 1960s, the BIA officials presented energy contracts for the Navajo Council without the Nation's full understanding or how it will affect them, largely due to language barriers.

Because of these reasons, the initial contracts that the Navajo Nation had when beginning their relationship with utility companies and energy development granted them no agency, which set a foundation of their voice not being included in important discussions.



Ensuring Access to Basic Utilities

Establishing a transition fund could render financial support to provide access to water and electricity to the Navajo Nation. 40% of Nation’s households do not have running water and 10% of their households do not have electricity. The transition fund would require an investment in Light Up the Navajo to provide electricity to the Navajo Nation. Light up the Navajo strives to connect homes to the electric grid —their last project connected 300 homes on the reservation. However, by the time there is enough money raised and resources to provide access to 15,000 homes who don’t have electricity, it would take approximately 30 years. An investment in this project that is already instituted will reduce the number of homes who don’t have electricity and it will reduce the number of years to give access to electricity in the Navajo Nation.

Additionally, the transition fund would support an investment in water infrastructure to transport water. One in three Navajo families haul water to their homes everyday. The NGS share should form an exploratory committee to move forward with meaningful infrastructure, specifically water. This could include supplying the Navajo Nation with Lobbyists to increase budgetary inclusion in infrastructure deals in local, state and national governments.

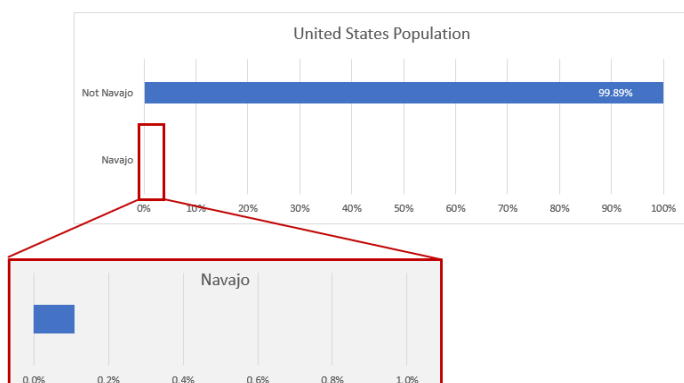


Table 1.1 is to impart how much of the Navajo Nation represents the total population. However only 47% of the Navajo population live on the reservation which is 0.476% of the total population.

Table 1.2 demonstrates the majority of the U.S. population that lives without access to electricity is on the Navajo Reservation.

0.101%

of people in the United States
are Navajo

70%

of households in the United
States without electricity are in
the Navajo Nation

Recovery of Revenue

The transition plan will compensate the loss of revenues for the Navajo Nation and the 600 Navajo employees. The coal plant was shut down 25 years prior to its retirement—the Nation was not in the position to transition or recover their community and revenues. Recently, in January 2020, the Navajo Nation intervened in the Tucson Electric Power (TEP) rate case— and plans on intervening into the APS rate case soon, to recover their loss of revenue and develop renewable energy plans. As noted, Navajo Nation has never intervened in a rate case— evidencing the disproportionate impact that the NGS closure has had on the Navajo communities. Approval upon the Navajo Nation’s interventions in the rate cases could initiate an adjuster mechanism to pursue future clean energy development to alleviate economic loss. Not only TEP and APS but all NGS shareholders should aid the Navajo Nation in their development of their potential renewable energy projects as they have the financial capacity to do so. Supporting renewable energy development will create on sight jobs for the Navajo Nation. It is reported that clean energy employment grew by 3.6% in 2018. The utilities shareholders have responsibilities to coal communities such as the Navajo Nation that have based their economy on coal generation.

Equitable Representation of Navajo Nation

The transition will support Navajo representation on the utility boards to keep the Navajo Nation’s best interest regarding their territory and energy developments. The Navajo Nation knows best of what their communities need for their future, and thus, their voice is critical in future decision-making.

There are three ways through which the Navajo Nation should be represented: 1) holding positions of senior leadership, 2) through utility companies’ commitment to social responsibility, and 3) through advisory boards.

First, the Arizona Corporation Commission (ACC) should compel the utilities to hire Navajo people into positions of senior leadership within their companies. Although there is an existing management interference doctrine that prevents the Commission from acting within the constitutional and statutory authority to permit management in pertinent circumstances, the ACC could warrant its authority to protect the health and the safety of the public and customers. Thus, it is inexplicable that these utilities serve the Navajo Nation and utilize their resources yet do not have Navajo representation to protect the health and safety of their communities.

On the condition that there are legal roadblocks for the utilities to presume Navajo representation, it is their responsibility to resolve in order to serve their communities. While several Navajo people have been assigned to technical jobs—90% of NGS employees were Navajo, the upper echelons of management still lack a strong tribal presence. Given the importance of senior leadership in decision-making processes that affect the welfare of tribal communities, this representation is critical. Having a diverse input in boardrooms will not cause a disadvantage to the utility companies. Having more diverse input in the decisions that affect others will create more equitable outcomes. In-turn, the addition of new ideas will create reliable synergies that benefit stakeholders. Moreover, it can amplify the voices of those who may not be heard but will stand to be some of the most impacted, good or bad.

Secondly, we advise that the ACC and utility companies sign a pledge of social responsibility. Similar to the Business Roundtable “Statement on the Purpose of a Corporation,” which has been signed by 181 of the world’s most notable companies, this pledge should include a commitment to “...support the communities in which [the companies] work...[because they] respect the people in [their] communities.” An important stakeholder and community in the business of the utility companies is the Navajo Nation as they have been fundamental in the landscape of energy development. Thus, this pledge should address the commitment to the benefit of the welfare of Native peoples.

Finally, to fulfill this commitment to the Navajo Nation as part of their social responsibility, the utility companies should set up advisory boards for the tribal nations. These advisory boards should meet with the boards of the companies at least every fiscal quarter to discuss changes in the company as well as the outlook and strategies moving forward. They should especially be consulted when decisions impact the Navajo Nation directly—to achieve this, utility companies should send courtesy statements to their tribal advisory boards when any of their ideas may affect the tribal community. After these statements are sent, the companies should hold a forum to openly discuss the implications of these ideas so that well-informed and equitable decisions can be reached as a result.

As elucidated, there are several gaps in establishing an equitable energy landscape within the Navajo Nation. The tribal Nation has historically provided resources for NGS and the development of Arizona— a strong transition plan needs to be developed to promote Navajo water and electricity access, reparate revenue and lost jobs, and give agency to Navajo decision-making.
