

SOUTHERN UTE INDIAN TRIBAL CODE
TITLE 25
SOLAR POWER AND DISTRIBUTION CODE
TABLE OF CONTENTS

ARTICLE 1. FINDINGS, PURPOSES, AND DEFINITIONS	1
25-1-101. FINDINGS	1
25-1-102. PURPOSES	2
25-1-103. DEFINITIONS	2
ARTICLE 2. GENERAL PROVISIONS	3
25-2-101. SOLAR POWER FACILITIES	3
25-2-102. LIMITATION ON TRIBAL CUSTOMER SOURCES OF SOLAR ENERGY	3
25-2-103. TRIBAL ACCESS TO DISTRIBUTION FACILITIES AND SERVICES	3
25-2-104. OVERSIGHT AND MANAGEMENT.....	4
ARTICLE 3. ADDITIONAL PROVISIONS	5
25-3-101. SEVERABILITY	5
25-3-102. EFFECTIVE DATE	5
25-3-103. SOVEREIGN IMMUNITY	5
25-3-104. RESERVED POWERS	5

TITLE 25

SOUTHERN UTE INDIAN TRIBAL CODE

SOLAR POWER AND DISTRIBUTION CODE

Article 1. FINDINGS, PURPOSES, AND DEFINITIONS

25-1-101. Findings. The Southern Ute Indian Tribe, acting through the Southern Ute Indian Tribal Council, hereby makes the following legislative findings:

- (1) The development of renewable solar energy resources within the Southern Ute Indian Reservation promotes the health, safety and general welfare of the Tribe, its members, and the public.
- (2) The generation of electrical power from solar energy resources by the Tribe, or entities owned by or affiliated with the Tribe, to serve tribal buildings and facilities located on lands owned by the Tribe (whether in trust or in fee) within the exterior boundaries of the Reservation would allow the Tribe to increase the efficiency of its economic resources, while also reducing the direct or indirect reliance of the Tribe on energy sources the use of which has adverse environmental impacts.
- (3) Because solar energy resources are not finite or subject to depletion, the generation of power from and use of solar energy resources by the Tribe will provide a long-term, sustainable alternative to conventional energy use for at least a portion of the Tribe's electrical energy needs.
- (4) The most efficient design for utilizing tribal solar energy resources is through the fabrication and installation of solar photovoltaic generating stations from which power can be generated and delivered to existing power suppliers who will distribute power to such tribal buildings or facilities.
- (5) The distribution of electric power to serve consumers within the Reservation requires the use of tribal land for the location of transmission and distribution lines, facilities and equipment.
- (6) The Tribal Council, as the governing body of the Tribe, possesses the authority to regulate the use of tribal land for the benefit of the Tribe, its members and the public.
- (7) Because solar generation facilities cannot produce electric energy at all times, utilization of solar generation facilities also requires access to and use of

conventional or other electric energy resources to replace electricity produced by solar generation facilities when such energy generation is interrupted or not available.

25-1-102. Purposes. The purposes of this Solar Power Generation and Distribution Code are the following:

- (1) to promote and regulate the generation, transmission, distribution and management of solar power by the Tribe or entities owned by or affiliated with the Tribe;
- (2) to ensure that electric distribution systems located on or connected to tribal lands are available for use pursuant and subject to any contract approved pursuant to Section 25-2-104 of this Code in transmitting or distributing power from the Tribe's solar facilities to tribal buildings or facilities within the exterior boundaries of the Reservation; and
- (3) to ensure that electric power suppliers who supply electric power to the Tribe, its buildings and facilities, continue to supply power to said buildings and facilities in a manner consistent with prudent utility practice, pursuant and subject to any contract approved under Section 25-2-104 of this Code, and in such amounts needed to replace Tribally Generated Solar Electric Power during those periods of time when the production of Tribally Generated Solar Electric Power is not available.

Nothing in this Code is intended to prevent the Tribe from electing to take electric service, in whole or in part, from an electric power supplier authorized to serve Tribal Customers within the exterior boundaries of the Reservation, including the Tribe, under then-existing tariffs, terms, and conditions proscribed by such electric power supplier in compliance with applicable State, Federal and Tribal laws. To the extent the Tribe intends to take electric service under different tariffs, terms, or conditions than such then-existing tariffs, terms or conditions, such different terms and conditions shall be reflected in one or more contracts executed by the Tribe's Utility Division or alternative designee and approved by the Tribal Council pursuant to Section 25-2-104 of this Code.

25-1-103. Definitions. As used in this Code, the following terms shall be defined as follows:

- (1) **Code.** This Solar Power Generation and Distribution Code.
- (2) **Reservation.** The Southern Ute Indian Reservation, the exterior boundaries of which are confirmed in Public Law No. 98-290.
- (3) **Tribal Council.** The Southern Ute Indian Tribal Council.

- (4) **Tribal Customer.** The Tribe or any department, division or subsidiary or affiliate of the Tribe desiring to use solar electric power at its building or facility located within the Reservation.
- (5) **Tribally Generated Solar Electric Power.** Electric power generated through solar photovoltaic or other solar power generation methods by the Tribe, or entities owned by or affiliated with the Tribe, at facilities located on land owned by the Tribe (whether in fee status or held in trust for the Tribe) within the exterior boundaries of the Reservation.
- (6) **Tribe.** The Southern Ute Indian Tribe.

Article 2. GENERAL PROVISIONS

- 25-2-101. Solar Power Facilities.** The Tribe, or entities owned by or affiliated with the Tribe who obtain or have obtained the prior written consent of the Tribal Council, may establish one or more facilities within the exterior boundaries of the Reservation to produce solar electric power, in accordance with this Code.
- 25-2-102. Limitation on Tribal Customer Sources of Solar Energy.** In order to ensure the economic viability of the construction of solar energy generation facilities by the Tribe or entities owned or affiliated with the Tribe, unless otherwise authorized by the Tribal Council, the Tribe hereby designates Tribally Generated Solar Electric Power as the only permissible source of solar electric power to be used at buildings and facilities owned by a Tribal Customer, when such Tribally Generated Solar Electric Power is available for such use. This limitation on source is not intended to affect the source of electric power sold by suppliers of electricity to the Tribe during those periods when Tribally Generated Solar Electric Power is not reasonably available to the Tribal Customer.
- 25-2-103. Tribal Access to Distribution Facilities and Services.** Any electric distribution company operating within the Reservation, which owns distribution facilities located on tribal lands within the Reservation, including without limitation, power lines, power poles, substations, or meters, shall make such facilities available for use pursuant and subject to the terms and conditions of any contract approved under Section 25-2-104 of this Code for the purposes of:
- (1) measuring the volume of Tribally Generated Solar Electric Power produced at a tribal solar electric generating facility;
 - (2) accepting such Tribally Generated Solar Electric Power into its distribution system for delivery to the building or facilities owned by a Tribal Customer within the exterior boundaries of the Reservation for use at the Tribal

Customer's building or facilities; and delivering electric power for consumption by a Tribal Customer in those instances in which Tribally Generated Solar Electric Power is not available and an alternative source of electric power is needed by the Tribal Customer.

- (3) Nothing in this Section is intended to limit the Tribe's ability to take service from an electric distribution company authorized to serve Tribal Customers within the exterior boundaries of the Reservation, including the Tribe, pursuant to that electric distribution company's standard terms and conditions, to the extent the Tribe elects to take such service under such standard terms and conditions as set forth in Section 25-1-102.

25-2-104. Oversight and Management.

- (1) The Tribal Council hereby directs the Tribe's Utilities Division, or such other division of the Tribe as the Tribal Council may designate in the future, to manage, operate, and maintain the facilities owned by the Tribe used to generate or use Tribally Generated Solar Electric Power. In those instances in which a tribally owned or affiliated entity owns the generation facilities used to produce the Tribally Generated Solar Electric Power, the Tribe's Utilities Division (or the Tribal Council's alternative designee) shall supervise and oversee the management, operation and maintenance of such facilities by such entity. The Tribe's Utilities Division (or the Tribal Council's alternative designee) shall take all other necessary and proper actions related to the development and operation of tribal solar energy facilities to ensure that such facilities are operated safely and with a minimum of delay, interruption or loss of service.
- (2) The Tribal Council hereby authorizes the Tribe's Utilities Division, or such other division of the Tribe as the Tribal Council may designate in the future, to negotiate with electric service suppliers on behalf of the Tribe or a Tribal Customer to:
 - (a) interconnect any Tribally Generated Solar Electric Power Project with electric facilities owned by an electric service supplier; or
 - (b) wheel electricity from any Tribally Generated Solar Electric Power Project to one or more delivery points over distribution or transmission facilities owned by an electric service supplier.

To the extent that any such contract contains terms and conditions other than such terms and conditions the electric service supplier makes available to other customers or in a tariff, any such contract shall not be effective until approved by resolution of the Tribal Council.

Article 3. ADDITIONAL PROVISIONS

- 25-3-101. Severability.** If any portion of this Code is held to be invalid, the remainder shall continue in full force and effect.
- 25-3-102. Effective Date.** This Code shall be effective on the date that the same has been approved by the Secretary of the Interior or the authorized representative of the same.
- 25-3-103. Sovereign Immunity.** Nothing in this Code is or will be interpreted as a waiver of the sovereign immunity of the Tribe, its agencies or enterprises or the officials of the Tribe acting in their official capacities.
- 25-3-104. Reserved Powers.** Nothing in this Code is intended to diminish or impair the power of the Tribe to enact laws in the future or otherwise exercise its inherent power in relation to electric service or utility matters that are broader in scope than the limited matters addressed in this Code.

TITLE 25
SOLAR POWER GENERATION AND DISTRIBUTION CODE
(SOLAR CODE)

History and Amendments¹

The Southern Ute Indian Tribal Solar Power Generation and Distribution Code (Solar Code) adopted by Tribal Council Resolution No. 2015-14 on February 9, 2015.

The revised Solar Power Generation and Distribution Code, adopted by Tribal Council Resolution No. 2015-85 on May 12, 2015, approved by the Bureau of Indian Affairs and effective on May 19, 2015.

Resolution No. 2021-151 repealed and replaced Title 25 – Solar Code with a reformatted Solar Code for online publication. The 2021-151 reformatted version contained only minor technical corrections, no substantive revisions.

Resolution No. 2023-079 authorized on-line publication of the 2021-151 reformatted Solar Code and provided an effective date of May 25, 2023.

¹ This page does not constitute an official part of any code. Information contained on this page is solely for informational and historical purposes and is from sources deemed reliable.