



WHITE EARTH RESERVATION

CHAIRMAN Michael Fairbanks **SECRETARY-TREASURER** Michael LaRoque
DISTRICT I Henry Fox **DISTRICT II** Eugene Sommers **DISTRICT III** Laura Erickson

White Earth Band of Ojibwe Tribal Utility Commission BOARD VACANCY ANNOUNCEMENT

COMMISSIONERS NEEDED: (1 VACANCY)

COMMISSIONER(S): The Commission shall comprise of 5 voting members appointed by the Tribal Council.

COMPENSATION: Compensation will be determined by the RBC.

TRIBAL UTILITY COMMISSION BOARD MEETING FREQUENCY: The Tribal Utility Commission will meet as regularly scheduled and as determined. Meeting times, locations, and hours will vary and be determined by the Commissioners.

Authorizing Law : The White Earth Reservation Business Committee adopted the White Earth Band of Ojibwe Title 23: Utilities Code on June 7, 2022 Resolution No. 001-22-021A.

The Tribe created and established a Tribal Utility Commission in Chapter Two of the Utilities Code, which will be a governmental agency and political subdivision of the Tribe. The Tribal Council declares it to be in the public interest that all utilities located, operating or providing services within the Reservation be regulated as provided within the Tribal Utilities Code and that the Tribal Utilities Commission shall have general supervision of all Utilities providing those Utility Services on the Reservation, except as otherwise provided in the Utilities Code or any other law.

Composition and Role: The Commission shall comprise of five (5) voting members appointed by the Tribal Council. At least three (3) Commissioners shall be members of the White Earth Band of Ojibwe and all Commissioners must be residents of the White Earth Reservation and maintain residency throughout the term of office.

The Tribal Council shall designate a Commissioner to serve as the Chair of the Commission.

The Tribal Council shall designate a Commissioner to serve as the Vice Chair of the Commission.

Of the initial members of the Commission appointed, three members shall be appointed for a term of office that will expire in three years and two members shall be appointed for a term of office that will expire in two years. Members of the Commission shall be appointed for a term of office of three years and shall continue to serve until their successor is appointed and qualified.

The members of the Commission, acting jointly, shall hire an Executive Director to assist the Commission to perform the duties and exercise the powers granted under the Utilities Code. This position will be responsible for the supervision of the Commission.

The Commission shall enjoy all rights and privileges of a tribal government agency, including sovereign immunity.

The Commission shall be independent of, and act independently and autonomously from, the Reservation Business Committee in all matters within its purview. No prior or subsequent review by the Reservation Business Committee of any actions of the Commission is required or permitted except as otherwise explicitly provided in the Utilities Code or the White Earth Nation's governing documents.

All Commissioners shall be licensed by the Commission. All Commissioners shall meet the following qualifications:

- Must demonstrate experience in any of the following for at least 4 years in a progressive leadership position; Finance and Administration, Project and Engineering and/or Construction Management, Utility Systems Management, Field Operations and Maintenance, Legal and Compliance Management, Economic Development Management, Corporate Management, HR and Service Equity Management, or Natural Resource Management.
- Never have been convicted of, pled guilty to, or pled *nolo contendere* to a felony in any court of competent jurisdiction unless the conviction has been expunged

The following individuals may not serve on the Commission:

- Sitting Reservation Business Committee members;
- Federal or state employees;
- Owners, operators, members, managers, officers, directors, volunteers, employees, agents, or contractors of entities conducting business with the Tribal Utility Commission;
- Any other Person who has a significant influence over the Tribal Utility Commission; or
- Any Person who has a direct financial interest in the Tribal Utility Commission

A Commissioner may be removed by the Tribal Council for neglect of duty or for malfeasance, misfeasance, or for misconduct in office.

The Tribal Utilities Commission shall ensure compliance with the Tribal Utilities Code and applicable regulations. The Tribal Utilities Commission is vested with the powers, rights, functions, and jurisdiction to regulate, in accordance with the Tribal Utilities Code, every utility defined within the code. The exercise of such powers, rights, functions, and jurisdiction is prescribed as a duty of the Commission.

Any party to any proceeding heard by the Tribal Utilities Commission who is aggrieved by the decision or by the entry of any final order or decision of the Tribal Utilities Commission may seek judicial review in the Tribal Court. A preliminary, procedural, or intermediate Commission action is not subject to review.

General Powers and Duties: The Tribal Utilities Commission shall have general supervision of all Utilities providing utility services on the Reservation, except as otherwise provided in this Code or any other law.

The Commission shall have power to:

- a. Hold investigations, inquiries or hearings concerns any matters covered by the provisions of this Code, or by any other Titles relating to utilities subject to such rules and regulations as the Commission may establish, consistent with due process.
- b. Require utilities or other persons to conform to the laws of the Tribe and to all rules, regulations, and orders of the Commission not contrary to law.
- c. Require filing of reports, rates, classifications, schedules, timetables, standards, guidelines, or other internal utility documents in effect and used by such utilities or other person and all other information desired by the Commission relating to the investigations or any of the duties assigned to the Commission by this Title.
- d. Compel obedience to its lawful order by proceedings or mandamus or injunction or other proper proceedings, in the name of the Tribe, in any court having jurisdiction over the parties or over the subject matter, including but not limited to the Tribal Court.
- e. Employ and fix the compensation of rate experts, engineers, cultural resource specialists, and all other expert help, and assistance for rate increase application hearing, investigations, and proceedings relating to utilities.
- f. Cooperate with and receive technical and financial assistance from the United States or any state for any purposes relating to utilities subject to the jurisdiction of the Commission, including the authority to file any reports, hold hearings, and promulgate regulations required for any such purposes.
- g. Promulgate and enforce rules and regulations consistent with the Title, generally applicable procedure rules of the Tribe, and the Constitution.
- h. Require by regulations the filing of any forms or reports necessary for implementation of this Title.
- i. Delegate to an individual Commissioner, or to the Director or other members of the Commission staff or Tribal staff, such of its functions as may be necessary to administer this Title efficiently; provided that the Commission may not delegate its powers to promulgate rules and regulations, to hear or rule upon any complaints filed with the Commission pursuant to this Title, or to take any action reserved to the Commission by this Title.
- j. Exercise all other authority delegated to it by law or as may be reasonably necessary in the implementation of any provision in this Title.
- k. Except as provided in this Title, the Commission may exercise one or more of the above powers, in its discretion, and may, by appropriate rule or regulations issued after notice and hearing, assume regulatory authority over one or more classes of utilities within the Reservation. Failure to exercise one or more powers delegated under this Title shall not be deemed a waiver of or a limitation on the Commission's ability to exercise such powers in the future.
- l. The Commission is hereby vested with the powers, rights, functions, and jurisdiction to regulate, in accordance with the provisions of this Code, every utility as defined herein. The exercise of such powers, rights, functions, and jurisdiction is prescribed as a duty of the Commission.
- m. The Commission shall supervise all rates, tariffs, and charges of all utilities located or operating within the Reservation. It shall have the power, after notice and hearing, to originate, establish, modify, adjust, promulgate, and enforce all rates, tariffs, and charges of all utilities. Whenever the Commission, after hearing, shall find any existing rates, tariffs, charges, or schedules unjust, unreasonable, insufficient, unjustly discriminatory, or otherwise in violation of any of the provisions of this Title, the Commission by order shall fix reasonable rates, joint rates, wheeling rates, charges, or schedules to be followed in the future in lieu of those found to be unjust, unreasonable, insufficient, unjustly discriminatory, or otherwise in violation of any provision of law.
- n. After environmental review, the Commission has the power to approve the siting of facility locations for generation, pipelines, transmission/distribution power lines, cell towers, fiber/broadband lines, storage and other facilities related to the provision of Utility Services.
- o. The Commission has the authority to negotiate and make recommendations for RBC consent to Utility leases and easements.

White Earth Band Members who are interested in applying to serve a three or two year term as a Commissioner of the Tribal Utilities Commission should complete the application and provide all information requested. Incomplete applications will not be considered.