

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0281-19\_\_\_\_\_      SPONSOR: Mark Freeland

**TITLE: An Action Relating to Resources and Development, approving guaranties in favor of ATN International, INC. and the United States Government, Department of Agriculture, Rural Utility Service for Kayenta Solar Project Financing**

*Date posted: September 23, 2019 at 5:35pm*

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**LEGISLATIVE SUMMARY SHEET**

**Tracking No.** 0281-19

**DATE:** September 20, 2019

**TITLE OF RESOLUTION:** PROPOSED STANDING COMMITTEE RESOLUTION;  
AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, APPROVING  
GUARANTIES IN FAVOR OF ATN INTERNATIONAL, INC. AND THE UNITED  
STATES GOVERNMENT, DEPARTMENT OF AGRICULTURE, RURAL UTILITY  
SERVICE FOR KAYENTA SOLAR PROJECT FINANCING

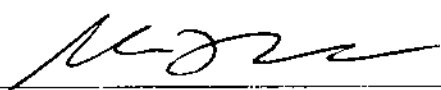
**PURPOSE:** The purpose of this proposed resolution is to approve a Guaranty by NTUA in favor of ATN International, Inc. and approve a Parental Guaranty by NTUA in favor of United States Government, Department of Agriculture, Rural Utility Service.

**This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.**

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PROPOSED STANDING COMMITTEE RESOLUTION  
24<sup>th</sup> NAVAJO NATION COUNCIL -- First Year, 2019

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0281-19

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, APPROVING  
GUARANTIES IN FAVOR OF ATN INTERNATIONAL, INC. AND THE UNITED  
STATES GOVERNMENT, DEPARTMENT OF AGRICULTURE, RURAL UTILITY  
SERVICE FOR KAYENTA SOLAR PROJECT FINANCING

BE IT ENACTED:

**Section One. Authority**

- A. The Resources and Development Committee has oversight authority over public utilities. 2 N.N.C. § 500.
- B. Pursuant to 21 N.N.C § 7(B)(8), the Management Board of the Navajo Tribal Utility Authority (NTUA) is authorized to make loan guarantees, provided that no such guarantee is excess of \$200,000 shall be made without the prior written approval of the Resources and Development Committee of the Navajo Nation Council.

**Section Two. Findings**

- A. Investment Tax Credits are authorized by the Internal Revenue Code Section 48. Such tax credits cannot be utilized directly by NTUA because of its tax-exempt status. NTUA created a corporation under Delaware law through which the use

1 of investment tax credit financing could be accomplished. This corporation is  
2 known as NTUA Generation, Inc. and is wholly owned by NTUA.

3 B. Furthermore, NTUA Generation, Inc. has applied for and received a loan  
4 approval from the United States Government, Department of Agriculture's Rural  
5 Utility Service for the debt financing for both the Kayenta I and Kayenta II solar  
6 projects.

7 C. The Investment Tax Credits financing utilizes an equity investment from ATN  
8 International, Inc. to contribute to the permanent financing of the Kayenta II  
9 Solar Project.

10 D. NTUA, through NTUA Generation, Inc., has constructed the Kayenta Solar  
11 Projects to serve the Navajo Nation.

12 E. As additional security for equity investment utilizing Investment Tax Credit  
13 financing described above with ATN International, Inc. desires a guaranty by  
14 NTUA of the financial obligations of NTUA Generation, Inc. A description of  
15 the terms and obligations are set forth in the attached Guaranty attached hereto  
16 as **Exhibit A**.

17 F. Also, as additional security for the debt financing transaction described above  
18 with the Rural Utility Service, it is required that NTUA provide parental  
19 guaranty to secure the financial obligations of NTUA Generation, Inc. A  
20 description of the terms and obligations are set forth in the attached Guaranty  
21 attached hereto as **Exhibit B**.

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23 **Section Three. Approval**

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25 The Resources and Development Committee of the Navajo Nation Council hereby  
26 approves:

27 A. Guaranty by NTUA in favor of ATN International, Inc., attached herto as  
28 **Exhibit A**; and

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- B. Parental Guaranty by NTUA in favor of United States Government, Department of Agriculture, Rural Utility Service, in a form substantially similar to the document attached hereto as **Exhibit B**; and
- C. NTUA is authorized to make modifications to the forms attached hereto to the extent needed to complete the financing transactions described herein.