

RESOLUTION No. 2018-3

A RESOLUTION ACKNOWLEDGING AND APPROVING THE ISSUANCE OF REFUNDING BONDS BY THE ARKANSAS RIVER POWER AUTHORITY, AND RELATED MATTERS

WHEREAS, The Town of Holly (the "*Member*") is a member of the Arkansas River Power Authority (the "*Authority*") pursuant to the provisions of the Organic Contract Creating and Establishing the Arkansas River Power Authority as a Separate Governmental Entity dated November 8, 1979 (as amended to the date hereof, the "*Organic Contract*");

WHEREAS, the Member and the Authority have entered into the Agreement for the Supply of Electric Power and Energy to Municipal Members of the Arkansas River Power Authority dated December 13, 1983 (as amended to the date hereof, the "*Power Supply Agreement*"), pursuant to which the Authority sells and the Member purchases all of the net power supply requirements of its municipal electric utility system, and (ii) the Resource Pooling and Surplus Generation Sale Agreement (the "*Pooling Agreement*"), relating to the power pool administered by the Authority;

WHEREAS, the Authority has previously issued its Revenue Refunding and Improvement Bonds, Series 2003, and its Power Improvement Revenue Bonds, Series 2006, Series 2007, Series 2008 and Series 2010 (collectively, the "*Outstanding Bonds*"), which are currently outstanding the the aggregate principal amount of \$143,210,000;

WHEREAS, substantially all of the proceeds of the Outstanding Bonds were issued to finance the acquisition of the Lamar Repowering Project, an electric generating facility that is no longer in service;

WHEREAS, the Authority now proposes to issue its Power Revenue Refunding Bonds from time to time in multiple series (the "*Refunding Bonds*") to refund the Outstanding Bonds in order to achieve debt service savings and other purposes that will benefit the Authority, the Member and the other members of the Authority;

WHEREAS, the debt service savings realized by the Authority from the issuance of the Refunding Bonds and the refunding of the Refunded Bonds will better enable the Authority to stabilize and reduce the wholesale rate it charges to the Member and the other members of the Authority for power supply services provided under the Power Supply Agreement;

WHEREAS, in order to induce the Authority to proceed with the issuance of the Refunding Bonds and the refunding of the Refunded Bonds, and to provide necessary assurances to the purchasers and owners from time to time of the Refunding Bonds, the Member's governing body desires to adopt this resolution to evidence its acknowledgement and approval of the issuance of the Refunding Bonds by the Authority;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Holly, Colorado, as follows:

Section 1. Approval of Refunding Bonds; Provision of Additional Information. The Member acknowledges and approves the issuance from time to time of the Refunding Bonds by the Authority for the purpose of refunding the Outstanding Bonds, and providing necessary reserves for and paying the costs of issuance of the Refunding Bonds; *provided that* the final maturity of the Refunding Bonds shall be not later than October 1, 2043.

Section 2. Cooperation with the Authority's Continuing Disclosure Undertakings. The Member acknowledges that in connection with the issuance of the Refunding Bonds:

(i) it will be necessary for the Authority to enter into continuing disclosure undertakings to provide updated annual financial and operating information and notices of certain reportable events pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "*Continuing Disclosure Undertakings*"); and

(ii) such financial and operating information will include updated financial and operating information with respect to the Member and its electric utility system comparable to the information contained in the Authority's Official Statements for the Refunding Bonds.

The Member agrees to provide such updated annual financial and operating information as may be requested by the Authority from time to time in order to enable it to comply with the provisions of its Continuing Disclosure Undertakings.

Section 3. Ratification and Confirmation of Organic Contract, Power Supply Agreement and Pooling Agreement. The Organic Contract, the Power Supply Agreement and the Pooling Agreement are each hereby ratified and confirmed as the legal, valid and binding obligations of the Member. The Member acknowledges and agrees that the Organic Contract and the Power Supply Agreement shall each remain in full force and effect until the Refunding Bonds have been paid or discharged in full in accordance with their terms;

Section 4. Further Authority.

(a) The Mayor and the Town Clerk are hereby authorized and directed to execute and deliver a certificate of the Member in substantially the form attached hereto as *Exhibit A* at the time of each issuance of Refunding Bonds by the Authority.

(b) The firm of Mendenhall & Malouff, special council for the Town of Holly, is hereby authorized and directed to execute and deliver an opinion of counsel to the Member in substantially the form attached hereto as *Exhibit B* at the time of each issuance of Refunding Bonds by the Authority.

Section 5. Miscellaneous; Effective Date.

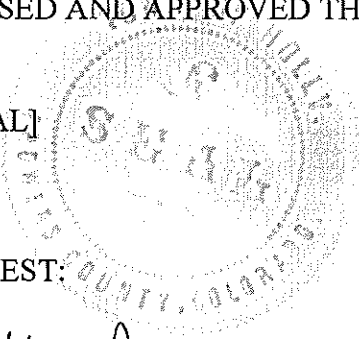
(a) All previous acts and resolutions in conflict with this resolution or any part hereof are hereby repealed to the extent of such conflict.

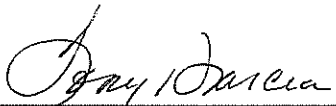
(b) In case any provision in this resolution shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(c) This resolution shall take effect immediately upon its adoption and approval.

PASSED AND APPROVED THIS 7th DAY OF MARCH, 2018.


[SEAL]





Tony Garcia, Mayor

ATTEST:



Megan Jara, Town Clerk/Treasurer

CERTIFICATE OF MEMBER

STATE OF COLORADO)
)
COUNTY OF PROWERS)

The undersigned hereby certify that they are the Mayor and the Town Clerk of the Town of Holly, Colorado (the “Member”), a member of Arkansas River Power Authority (the “Authority”), and that as such they are authorized to execute this Certificate on behalf of the Member and hereby certify as follows:

1. This Certificate has been executed pursuant to Section 24.4 of the Agreement for the Supply of Electric Power and Energy to Municipal Members of the Arkansas River Power Authority dated December 13, 1983 (as amended to the date hereof, the “Power Supply Agreement”), in connection with the issuance by the Authority of its \$_____ Power Revenue Refunding Bonds, Series ___ (the “Refunding Bonds”), which are being issued to refund certain bonds previously issued by the Authority (the “Refunded Bonds”).

2. The Member is a statutory town duly created and validly existing under the laws of the State of Colorado, and is governed by a Board of Trustees (the “Governing Body”) composed of [__] members.

3. Attached hereto as *Exhibit A* is a true, complete and correct copy of a resolution acknowledging and approving the issuance of the Refunding Bonds by the Authority and related matters (the “Resolution”). The Resolution was duly adopted by a majority of the Governing Body present and voting at a regular public meeting of the Governing Body held on March 7, 2018, at which a quorum was present and acted throughout, all in accordance with law and applicable procedural rules of the Governing Body. The Resolution is in full force and effect and has not been amended, modified, repealed or supplemented.

4. The March 7, 2018, meeting of the Governing Body at which the Resolution was adopted was open to the public at all times and was duly called, noticed and held in conformity with applicable laws of the State of Colorado (the “State”) and procedural rules of the Governing Body.

5. (a) No petition was filed with the Member or any of its officers seeking to refer the Resolution to the electors of the Member in accordance with the provisions of State law; and (b) no litigation has been instituted, is pending or has been threatened to require a referendum election on the Resolution.

6. The Member owns and operates an electric utility system (the “System”) that distributes and furnishes electric energy to consumers located within the established service area of the System.

7. The Member has previously authorized, executed and delivered (a) the Power Supply Agreement, (b) the Organic Contract Creating and Establishing the Arkansas River Power Authority as a Separate Governmental Entity dated November 8, 1979 (as amended to the date hereof, the "*Organic Contract*") among the Member, the other members of the Authority and the Authority, and (c) the Resource Pooling and Surplus Generation Sale Agreement (the "*Pooling Agreement*") among the Member, the other members of the Authority and the Authority relating to the power pool administered by the Authority. The Power Supply Agreement, the Organic Contract and the Pooling Agreement are each in full force and effect and constitute the legal, valid and binding agreements of the Member.

8. David R. Willhite and Johnnie Lyons have been duly appointed by the Governing Body as the Member's representatives on the Authority's Board of Directors, and have been serving in such capacity since at least January 1, 2018.

9. On and as of the date of this certificate, the representations and warranties of the Member in the Power Supply Agreement are true and correct, and the Member is not in breach of or default under the Power Supply Agreement and is in compliance with its obligations thereunder.

10. The Member has not used, has not had any expectation that it will use and will not use any of the electric energy purchased from the Authority under the Power Supply Agreement in a manner that would adversely affect the tax-exempt status of interest on the Refunded Bonds or the Refunding Bonds.

11. The undersigned have reviewed the descriptions of, and financial and operating information relating to, the Member and the System set forth under the caption "THE MEMBERS" in, and in APPENDIX B to, the Authority's Official Statement dated _____ with respect to the Refunding Bonds. Such descriptions and information, as of the date of the Official Statement and as of the date hereof (a) were and are true and correct in all material respects and fairly and accurately present the financial and operating position of the System for the periods and as of the dates presented and (b) did not and do not omit to state a material fact necessary in order to make such statements and information not misleading.

Dated: _____, 2018.

TOWN OF HOLLY, COLORADO

By _____
Mayor

By _____
Town Clerk

[Seal]

FORM OF OPINION OF COUNSEL TO THE ARPA MEMBERS

_____, 2018

Arkansas River Power Authority
P.O. Box 70
Lamar, Colorado 81052

Ladies and Gentlemen:

I am the duly qualified and acting attorney for the Town of Holly, Colorado (the “*Member*”) and am delivering this opinion to you in connection with the issuance on the date hereof by the Arkansas River Power Authority (the “*Authority*”) of its \$ _____ Power Revenue Refunding Bonds, Series ____ (the “*Refunding Bonds*”).

The Member has previously executed and delivered (i) the Organic Contract Creating and Establishing the Arkansas River Power Authority as a Separate Governmental Entity dated November 8, 1979 (as amended to the date hereof, the “*Organic Contract*”), (ii) the Agreement for the Supply of Electric Power and Energy to Municipal Members of the Arkansas River Power Authority dated December 13, 1983 (as amended to the date hereof, the “*Power Supply Agreement*”), and (iii) the Resource Pooling and Surplus Generation Sale Agreement (the “*Pooling Agreement*”) among the Member, the other members of the Authority and the Authority relating to the power pool administered by the Authority. This opinion is being delivered to you pursuant to Section 24.4 of the Power Supply Agreement in connection with the issuance of the Refunding Bonds on the date hereof. The Organic Contract, the Power Supply Agreement and the Pooling Agreement are referred to collectively in this opinion as the “*Agreements*.”

As counsel to the Member and in connection with the opinion set forth below, I have examined (i) those documents relating to the existence, organization and operation of the Member and its electric utility system (the “*System*”), (ii) the ordinances, resolutions and proceedings of the Member relating to the authorization, execution and delivery by the Member of the Agreements, including the resolution adopted by the Member on March 7, 2018 in connection with the Authority’s issuance of the Refunding Bonds (the “*2018 Resolution*”), (iii) certified copies of the Agreements, (iv) the portions of the Authority’s Official Statement dated _____ with respect to the Refunding Bonds identified in paragraph 11 below (together with any amendments or supplements thereto to the date hereof, the “*Official Statement*”), and (v) such other documents, information, facts and matters of law as are necessary for me to render the opinions contained herein.

Based upon the foregoing, I am of the opinion that:

1. The Member is a statutory town duly created and validly existing under the laws of the State of Colorado (the “*State*”), and duly qualified to own, operate and furnish electric service through the System.

2. The Member had and has full legal right, power and authority to enter into the Agreements and to perform its obligations thereunder, and the Member complied and has complied with all provisions of the laws of the State which were or are condition precedents to entering into the Agreements, or performing the Member’s obligations thereunder.

3. The 2018 Resolution (a) has been duly adopted by the Member at a meeting of its governing body duly noticed and held in full compliance with the laws of the State, (b) is in full force and effect, and (c) has not been amended, modified, repealed or rescinded.

4. Each of the Agreements has been duly authorized, executed and delivered by the Member and constitutes the legal, valid and binding obligation of the Member and is enforceable under the present law of the State in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors’ rights generally or by usual equity principles in the event equitable remedies should be sought.

5. The Member’s obligation to make payments to the Authority under the Power Supply Agreement is a special obligation payable solely from the revenues and other available income of the System as a cost of purchased electric energy and an operating expense of the System. The application of the revenues and other available funds of the System to make such payments is not subject to any prior lien, encumbrance or restriction.

6. There is no pending or, to my knowledge, threatened, action or proceeding affecting the Member (nor to my knowledge is there any basis therefor), which (a) purports to affect the authorization, legality, validity or enforceability of any of the Agreements, or (b) involves the possibility of any judgment or liability, not fully covered by insurance, which may result in any material adverse change in the business, affairs, properties or assets, or in the condition, financial or otherwise, of the System.

7. The performance by the Member of its obligations under the Agreements does not conflict with or constitute a breach of or default under any agreement, indenture, bond, note, resolution or other instrument to which the Member is a party or by which it or the properties of the System are bound or affected, or any applicable law, ruling, regulation, ordinance, judgment, order or decree to which the Member (or any of its officers in their respective capacities as such) or its properties are subject.

8. No event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute a material default or event of default under any agreement, indenture, bond, note, resolution or other instrument to which the Member is a party or by which it or the properties of the System are bound or affected, which breach or default would have a material adverse impact on the ability of the Member to fully perform its obligations under the Agreements.

9. The Member has lawful authority to fix and collect rates, fees and charges for the services provided by the System. Such rates, fees and charges for utility services provided to customers located within the corporate boundaries of the Member are not subject to regulation by any authority of the State or the United States, and have been duly and validly adopted by the Member and are in full force and effect.

10. The Member has lawful authority to own the System and, to my knowledge, the Member (a) has good and merchantable title to the properties comprising the System and (b) holds all permits, licenses and approvals necessary for the operation of the System.

11. In addition to the foregoing, I have examined the material describing the Member and the System in the Official Statement under the caption "THE MEMBERS" and in APPENDIX B to the Official Statement. Based upon the foregoing, I am of the opinion that such statements and information (excluding financial, operating, statistical or accounting data contained or incorporated therein, as to all of which I do not express any opinion or belief) are true and correct in all material respects as of the date of the Official Statement and as of the date hereof, and no facts have come to my attention which would lead me to believe that, as of the date of the Official Statement and as of the date hereof, such statements and information contained or contain any untrue statement of a material fact or omitted or omit to state any material fact necessary in order to make such statements, in the light of the circumstances under which they were made, not misleading.

I hereby authorize Goldman Sachs & Co. LLC, as the underwriter of the Bonds, and Chapman and Cutler LLP, as bond counsel, to rely on this opinion as though addressed to them.

Respectfully submitted,