

## Council Meeting Staff Report

January 7, 2020

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Agenda No.:	B.
Indexes (Council Goals):	* 2019 Council Goal - Investing in Infrastructure
Presenters:	Steven Lynne
Legislative File:	12631-20

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### Title

Discussion of Potential Changes to the Management of Profit Transfers from the Joint Utility System Fund to the General Fund.

### Body

At the March 19, 2019 County Council meeting the "Transfer of Revenues from Electric and Gas Funds to the General Fund" was discussed and approved. Because this annual process is driven by County Charter, Ordinance and Resolution, this item was passed for 2019. However, Council had ongoing questions regarding this practice and agreed to consider options and alternatives for future years.

Staff from the County Attorney's office, the Department of Public Utilities (DPU), the County Manager's office, the Finance Division and Council Leadership discussed, collaborated and developed a new proposed path forward for managing these transfers differently in the future. This initial draft proposal has been shared with the Utility Board Chair, the Joint Council / BPU policy subcommittee, and the entire Board of Public Utilities (BPU). To date the feedback is positive.

### Overview and Summary of Proposal

The primary drivers of the proposed changes are to:

1. Assure consistency with word and Intent of Charter (get "back to basics"), this includes:
  - a. Being sure that LAC Charter, Sections, 504, 506, and 509 are being met;
  - b. Specifically, assure that items 1-5 of Section 509 are being met and ***that both near-term and long-term utility infrastructure requirements and expenses are being planned and budgeted appropriately.***
    - i. In the past, mechanisms and timing for gas and electric purchase did result in potential yearly profits (or losses) but these mechanisms have been replaced with more real-time purchasing approaches.
    - c. Specifically, for Section 509 item 4, appropriately set franchise fees that would normally be assessed against privately owned gas and electric utilities.
      - i. These are currently set at 2% and changes to this have not been considered in over 25 years.
      - ii. Franchisee fees are now set at 3%, consistent with comparable communities.
2. Improve transparency (to the DPU, BPU, County Council, and the public) regarding how the County informs, understands, and presents data regarding options and decisions regarding rates, reserves, infrastructure maintenance and replacement, and capital investment.
3. Facilitate performing "what if" option analysis for DPU for rates, reserves, infrastructure

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maintenance and replacement, and capital investment to clearly elucidate trade-offs for different approaches.

This focus has led to a proposal that includes four initial documents:

1. A draft Ordinance Amending Chapter 40, Article II, Division 2, Sections, 40-63, 40-65 and 40-67 to Clarify the Transfer of Operating Profits from the Department of Public Utilities to the General Fund and to Clarify the Appropriate Procurement Code for the Department which:
  - a. More clearly states financial review process to reflect how it is actually being performed and alignment with the other changes to the ordinance. (reword Section 40-63 (b))
  - b. Removes the requirement for the annual 5% profit transfer. (Delete Section 40-63 (c)(11))
  - c. Changes the definition of the Schedule of Funds to include data regarding reserve balances. (Update Section 40-65)
  - d. Clarifies that expenditures and obligations must be created in accordance with the County's procurement code. (Section 40-67)
2. A draft Resolution Repealing Incorporated County of Los Alamos Council Resolution 97-07, A Resolution Establishing a Methodology for Computing Electric and Gas Operating Profits for Transfer to the County General Fund
  - a. This draft resolution repeals the 1997 methodology for managing a 5% transfer to the County's General Fund.
3. A draft Resolution to Update the Franchise Fee for the Incorporated County of Los Alamos, Department of Public Utilities Pursuant to Charter Section 506
  - a. This draft resolution updates the franchise fee from 2% to 3% based on current comparison with other communities in New Mexico.
4. A draft updated version of LAC County Council 's Financial Policies. Key proposed changes include:
  - a. Deletion of the paragraph concerning "Utility Profit Transfers to the General Fund."
  - b. Addition of a section entitled "Utilities Budget" which documents that a Schedule of Funds (as required in LAC Charter, Sections 506, and 509 and County Code Chapter 40) is prepared as part of the budget development and approval process and includes 10-year projections of rates, revenues, funding reserves, and the capital project program plan.
  - c. Clarification that Council will review and approve the DPU utility reserve policy in accordance with the County Code Section 40-45.

## **Next Steps**

Staff is seeking input from the entire Council on this proposed path forward. After integrating any new input received at this meeting, staff expects to introduce the ordinance at the January 14, 2020 Council meeting, and then have all 4 items considered for approval at the February 4, 2020 Council meeting. If approved, the DPU would develop their proposed budget for FY 2021 and FY2022 with these changes incorporated.

To the extent that the need for resources is greater and in a different utility subfund than the subfunds initially affected by these changes (electric and gas), there may be a set of follow-up rate changes proposed that effectuate moving the resources to the subfund of higher need. **For example purposes only**, if the Gas subfund has more resources if the 5% automatic profit transfer is eliminated, and the Gas subfund is deemed financially better off than the Water subfund, then there

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could be a set of off-setting rate changes proposed that lower gas rates and increase water rates (and keeping the overall utility bill relatively level), thus making more resources available in the Water subfund for investment into infrastructure and reserve requirements.

#### **Fiscal and Staff Impact**

In FY18 DPU paid \$321,153 in Franchise fees to the General Fund. With the proposed revision this would increase to \$481,729. In FY18 DPU paid \$781,421 in "Profit Transfer" to the General Fund. With the proposed revisions this transfer would be eliminated. The net result is \$620,845 lower costs to the Utilities Systems and lower interfund revenues for the County General Fund. That savings in the Utilities funds provides the opportunity for increased investment in infrastructure, reserves and provide for a blended utilities rate stabilization. There is no specific staff impact.

#### **Attachments**

- A - Incorporated County of Los Alamos Draft Code Ordinance No 02-302
- B - Incorporated County of Los Alamos Draft Resolution No 19-29
- C - Incorporated County of Los Alamos Draft Resolution No 19-30
- D - Draft Updates to LAC County Council Financial Policies
- E - Draft Format of Schedule of Funds and Budget Projections
- F - Incorporated County of Los Alamos Resolution 97-07
- G - Existing Charter and Code Excerpt