

MINUTES  
THE TOWN OF PATAGONIA  
COMMITTEE TO STUDY THE FEASIBILITY OF CREATING A MUNICIPAL  
ELECTRIC UTILITY MEETING, SPECIAL MEETING  
WITH MARSHALL MAGRUDER  
FEBRUARY 8, 2012  
6:00PM

CALL TO ORDER: Meg Gilbert called the meeting to order at 6:10pm and handed the meeting over to Deborah Fain who introduced the guest speaker, Marshall Magruder.

PRESENT: Marshall Magruder, Deborah Fain, Jim Rowley, Fred McGee, Ted Piper, Abbie Zeltzer, Dave Teel, Meg Gilbert (these last 2 left early to go to a council meeting), Gary Gay, Jerry Rodman, Bob Ollerton.

See attached notes provided by speaker.

ADJOURN: Meeting ended 9pm.

# Notes for 8 Feb Meeting in Patagonia

## Agenda

### 1. Municipal Utility

#### 1.1 What is it?

A municipal utility is an "enterprise" owned by the municipality, and as the owner, the Town is responsible to provide reliable, safe power and rates that are fair and reasonable for its customers. Note, a municipality owned utility can extend into unincorporated parts of the county that might be possible long-term additions to the municipality. A key ingredient is working together to achieve multi-disciplinary but common goals.

#### 1.2 Why become one?

The benefits of community ownership, give meaning to these owners.

- Freedom from most outside controls, utility is under local control not Willcox

- Freedom to set "fair and reasonable" rates to raise the revenue to cover costs

  - The rates for a municipal utility are not governed by the ACC

- Freedom to choose who you want to provide your power

  - Can be from within or without the service area

  - Usually purchased by a PPA, with the town setting its specifications

    - How much, what hours,  $\pm$  variances, sources, etc. = a contract

- Freedom for the Town to determine how it wants to manage the utility

  - Can split, some by town's staff and employees and by contractors

  - Recommend public bidding for all outside services

Town to benefit from its managed utility or utility must be managed to benefit the town.

  - Users to find town-owned utility to be better than the present situation

#### 1.3 What are the pitfalls? (pp. 16-17)

Town becomes responsible to provide any customer in the service area power.

Town has to pay the initial costs to purchase the utility assets

Town will probably have a bond to pay SSVEC for the present assets

Town will answer to citizens electricity complaints including service and rates

  - Reliability to be a key concern and driver of performance

  - Costs to be contained and slowly changing to avoid "rate shock"

Recommend Performance-Oriented Measures be continually monitored

  - NO surprises involving costs, reliability, etc.

  - Use for incentivizing personnel and contractors, usually money is best

Note: The Town could have a local rural utility cooperative (truly cooperative) formed (breakaway from SSVEC) instead of actual town ownership

### 2. Steps to becoming a Municipal Utility.

#### 2.1 Legal

Town will need to determine its Service Area

Town will have to purchase the present SSVEC assets

Need detailed inventory, date placed in service (for depreciation)

Need to determine Fair Market Value (FMV)

Town will need to purchase power through a Purchase Power Agreement (PPA)

Town MUST vote to approve the

**2.1.1 ACC Requirements**

The ACC cannot regulate a municipal utility

A municipal utility is not a public service corporation, as defined by ACC and A.R.S.

The Town will need a Certificate of Need & Necessity (CC&N) to define its Service Area

ACC issues a CC&N to the Municipal Utility

ACC can resend, modify, amend, etc. a CC&N

A CC&N will give the municipal utility its "permit" to operate in the service area

Town will need to show it can supply electricity at a reasonable cost for a CC&N

Town will need a CC&N prior to purchasing SSVEC assets (A.R.S. 40-282)

Will need to provide its articles of incorporation

Will need to show it has received approval from the county.

Will need to show that the SSVEC franchise is being replaced by a Patagonia CC&N

Town may obtain "preliminary" CC&N before final actions, such as voter approval

Showing that public interest would benefit must be shown to ACC before it grants CC&N

Public interest is the controlling factor when issuing a CC&N

Competing sources determinants are compared in terms to provide service:

Experience and qualifications

Amount of money and time required to be spend for the service

Customer's ultimate expenses

Commission is required to investigate all CC&N applicants in the public interest

CC&N gives the holder a monopoly to supply the Service Area

What does SSVEC's CC&N give it to supply services in its Service Area?

**2.1.2 Impact of delayed Franchise Renewal of existing contract**

Franchises can run out

What benefits does the present Franchise provide SSVEC?

What are the benefits of the present Franchise for the Town?

What will be the impact if both of these cease (when Franchise runs out)

SSVEC is obligated to try good faith negotiation with the Town for a NEW Franchise

What does the Town want in a New Franchise?

Does the Town want to change the utility tax rate or keep some?

What other communities Franchises provide features that will benefit the Town?

**2.2 Organization**

The Town must not micromanage the utility but the Town MUST know what's going on

Performance measures are a good way to communicate

Professional electricity management companies exist.

Recommend there be ONE point of contact

Between Mayor/City Council/Mgr and the utility  
The Point of Contact serve at the pleasure of the City Council/Mayor  
Can be fired by an established process  
Contracts can be broken under an established process

## **2.3 Operational**

### **2.3.1 Feasible to compete service (SSVEC and UNSE)?**

First, you will need to interconnect SSVEC and UNSE via a small substation  
Need some new 24.9/13.2 kV distribution lines to connect.  
Need a transformer to convert between companies  
Need to convert "Y" ground (UNSE) to "Delta" ground scheme at substation  
Second, Need a "Cross Boundary" agreement between Town/SSVEC/UNSE  
To be approved by ACC

### **2.3.2 How to set value for existing infrastructure?**

First, determine original basis (cost) and when placed in service  
Second, determine depreciation since being placed in service  
Third, subtract depreciation from original basis to determine adjusted basis (it's worth)  
May have to make present value to help determine FMV  
Fourth, the recent SSVEC rate case included the derivation of FMV for the coop  
A review of these details will show how SSVEC determines FMV  
The ACC reviewed the proposal, deleted many terms, with resultant FMV for rates  
ACC may request hearings on value of utility (A.R.S. 40-251)  
Fifth, add "return on investment" to RMV (margin for a municipal utility) for Revenue  
Sixth, determine "rate structure" to set rates for rate categories with total = Revenue

### **2.3.3 When to negotiate with Utility Companies?**

Every discussion, at this stage, with the utility company should part of the overall strategy  
A strategic plan is needed to set the steps or sequence of events planned  
Strategic planning team continually reviews/modifies plan based on situational changes  
Key persons kept informed as to next actions, and understand who is doing what and why  
Franchise run-out date is a key date, when strategies may change  
Before expiration, you need to be conducting one-on-one negotiations  
What does present franchise agreement say about when 25 years passes?  
Do you continue as before or ???  
Attorney must ensure your side doesn't make commitments it can't keep (legally)  
Best for an attorney to be spokesperson to ensure this is on track  
After expiration, you have NO obligations remaining from the Old Franchise  
Unless the present agreement continues without a franchise  
Town can cancel a franchise agreement; usually what this entails is in the present one

### **2.3.4 How should we go about negotiating with power suppliers?**

First, the strategy planning team determines the requirements what you want...  
Examples, 50% renewable by 2020, reliability with less than 5 hours outage/year,

Faster response to an outage, better frequency/voltage controls, different  
billing process,

Second, using these as requirements, determine what this costs in the market

Purchase power in \$/MW-hour from Palo Verde or from a wind farm or Willcox

Third, determine what you will pay to still have a safety margin based on revenue

Fourth, use negotiation practices to obtain the minimum price you will pay based on  
requirements with your safety margin so you won't lose money