

ARTICLE V. UTILITIES

500. Utilities Department.

There shall be a Department of Public Utilities which shall operate the County-owned electric, gas, water and sewer utility systems under jurisdiction and control of the Board of Public Utilities.

501. Board of Public Utilities.

501.1. Qualifications and Terms for Membership on the Board of Public Utilities. The Board of Public Utilities shall consist of five (5) members who shall be appointed by the Council. To be eligible for appointment and service on the Board of Public Utilities, a proposed member (1) must have been a resident of the County of Los Alamos for not less than one (1) year prior to the date of his appointment; (2) must be registered to vote in the County of Los Alamos; (3) must not hold any public office or be an employee of the County government; and (4) must not conduct any business with the Department of Public Utilities except as a consumer. A Board member may be removed any time during his appointment if he lacks any qualification for membership; if he willfully and intentionally violates any express prohibition of this section; if he is convicted of a felony or of a misdemeanor involving moral turpitude; if he is absent without a reasonable excuse from all regular meetings of the Board of Public Utilities during any continuous period of ninety (90) days; if he removes his residence from the County; or if he votes on matters of substantial financial interest to himself. The Council shall appoint one member for a five-year term to begin on the first day of July each year. Vacancies shall be filled by the Council for any unexpired term. A member of the Board of Public Utilities shall hold office until a successor has been appointed. As approved by the Board of Public Utilities, members of the Board shall be entitled to reimbursement for reasonable expenses incurred in carrying out their duties.

501.2. Conflict of Interest. Any member of the Board of Public Utilities who has a financial interest, other than as a consumer, in the outcome of any policy, decision or determination of the Board of Public Utilities shall not vote on that issue.

501.3. Organization of the Board of Public Utilities. The Board of Public Utilities shall adopt and shall file with the Council procedural rules and regulations not inconsistent with this Charter. No action shall be taken by the Board of Public Utilities except by the affirmative vote of at least three members. Three members shall constitute a quorum for the business of the Board. The Board shall meet at least once a month. The meetings and records shall be public. The County Administrator and the Utilities Manager shall be ex officio but non-voting members of the Board of Public Utilities.

(Ord. No. 389, § 5, 1994)

502. Manager of the Department of Public Utilities.

The head of the Utilities Department shall be known as the Utilities Manager. The Board of Public Utilities shall appoint, suspend or remove the Utilities Manager only with the formal approval of the Council. The Manager shall be appointed solely on the basis of his professional qualifications. The Manager shall conduct the business of the Utilities Department subject to the policies established by the Board. All other officers and employees of the Utilities Department shall be appointed and removed by the Manager in accordance with the regulations of this Charter and the personnel ordinance.

503. Cooperation with Other County Departments.

The Utilities Department shall have the right to require the services of the various County offices and departments and shall reimburse such departments to the extent agreed to by the Board and the Administrator. The Utilities Department may provide its services to other County offices and departments and shall be reimbursed from non-utility funds to the extent agreed to by the Board and the Administrator. Utility commodities shall be sold to the County on a compensatory basis and the Department of Public Utilities shall be reimbursed for these commodities from non-utility funds.

504. Rates and Charges.

The rates to be paid by consumers for electricity, gas, water and sewer service shall be proposed by the Board of Public Utilities and shall become effective upon adoption by the County Council. The Board of Public Utilities shall hold a public hearing before a change in rates or charges is put up for adoption. Two weeks before the hearing[,] a notice of the hearing and the proposed change must be published. The Department of Utilities shall be operated on a compensatory basis. The rates and charges shall be just, reasonable, and comparable to those in neighboring communities and shall be uniform for all consumers of the same class. Different rate schedules may be established for different classes of consumers. Charges for other services provided by the Department of Public Utilities shall be set by the Board of Public Utilities.

505. Accounting and Reporting.

The Department of Public Utilities shall, not later than forty-five (45) days or other time set by ordinance after receipt of the report of the annual audit required by this Charter, furnish the Board of Public Utilities and the Council its annual report which shall include balance sheets, prepared according to generally accepted accounting principles, showing the financial condition, as of the end of the previous fiscal year, of each utility in the Department and of the Department as a whole. Such reports shall be kept on file in the County Clerk's office and shall be public records. A summary of the annual report shall be sent to all consumers.

(Ord. No. 389, § 6, 1994)

506. Budget.

The Department of Public Utilities Manager shall formulate the proposed budget with the Board of Public Utilities for timely submission to the Council for adoption. The proposed budget shall include payments to be made to the County in lieu of the franchise fees and the taxes that would be normally assessed against privately owned gas and electric utilities. It shall also include a proposed Schedule of Funds which shall prescribe the necessary annual rates for funding from revenue the replacement reserves, extension reserves, and any other reserves required.

(Ord. No. 389, § 7, 1994)

507. Bond Issues.

Subject to applicable state statutes[,] the Council, on the recommendation of the Board of Public Utilities, may authorize the issuance and sale of revenue bonds and general obligation bonds to finance the acquisition, construction, improvements and extensions of the utilities.

508. Investment of Funds.

The Board shall have the right to invest the reserve and contingency funds of the Department in accordance with laws and statutes of the State of New Mexico governing investment of public funds by local governing boards and bodies.

509. Priority of Budgeted Expenditures.

In order that the Department of Public Utilities can plan and utilize its proceeds for the maintenance, improvement and extension of the utilities system before any part of such proceeds is diverted to general County purposes, all funds derived from the operation of the utilities shall be managed and expended in accordance with the following policies. From the proceeds of the operation of the Department:

1. There shall first be set aside the funds required for current operations.
2. There shall next be set aside the funds required to redeem and pay interest on any bond issue for the utility which shall become due and payable during the next fiscal year.
3. There shall next be provided an adequate reserve to finance replacements required by normal depreciation of the utility plant or equipment as provided in the Schedule of Funds. These reserves may not be used by the County for financing County operations.
4. There shall be paid to the General Fund those amounts set forth in the budget as payments to be made to the County in lieu of franchise fees and taxes that would be normally assessed against privately owned gas and electric utilities.
5. There shall next be a provision for additions and improvements foreseen as necessary to meet future requirements for the utility systems as provided in the Schedule of Funds.
6. All remaining operating profits shall be transferred to the County General Fund.

510. Management Audit.

Within two years of the adoption of this Charter and at least every five years thereafter, the Board of Public Utilities shall employ a qualified consultant to review, comment, and make recommendations as to the operation and condition of the County Utilities.