# SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT BOARD MEETING NOTICE AND AGENDA

## JOINT MEETING OF THE BOARD OF DIRECTORS AND COUNCIL WORK STUDY SESSION

**Thursday, June 11, 2026, 9:30 AM**

**PERA Training and Conference Center**
**1 E. Continental Drive, Tempe, AZ 85288**

Roll Call
Safety Minute

1. Call to Order..... PRESIDENT CHRIS DOBSON

2. History and Formation of Salt River Project ..... MARISSA SOTOMAYOR

   Informational presentation regarding the history and formation of the Salt River Project, including the formation of the Salt River Valley Water Users' Association (Association), the acreage voting system, the 1917 Agreement between the Association and the United States, and the formation of the Salt River Agricultural Improvement and Power District (District).

3. Legal Framework of the Association, the District, and their Respective Roles ..... MICHAEL O'CONNOR and KEN LEE

   Informational presentation regarding the legal framework of the Association, the District, and their respective roles as part of SRP.

4. SRP District Water Support Obligation ..... MICHAEL O'CONNOR

   Informational presentation regarding the District's water support obligation to the Association.

5. Good Governance and the Role of a Director ..... SUSAN SHULTZ, THE BOARD INSTITUTE

   Informational presentation regarding good governance and the role of a director.

6. Public Power Board Governance Models..... DELIA PATTERSON

   Informational presentation regarding various public power Board governance models used throughout the United States, such as elected, appointed, hybrid, and city council run public power entities.

7. SRP Governance – Potential Considerations and Process
.....JIM PRATT, ROB TAYLOR, and MICHAEL O'CONNOR

   Informational presentation regarding potential considerations and process for SRP governance.

8. Role of SRP Legal Department – Independent Counsel for Boards
..... MICHAEL O'CONNOR

   Informational presentation regarding the role of SRP general counsel, the SRP Legal Department, and potential independent counsel for the SRP Board.

9. Closing Remarks..... JIM PRATT

10. Adjourn.....PRESIDENT CHRIS DOBSON

The Board and Council may vote during the meeting to go into Executive Session, pursuant to A.R.S. §38-431.03 (A)(3), for the purpose of discussion or consultation for legal advice with legal counsel to the Board and Council on any of the matters listed on the agenda.

The Board and Council may go into Closed Session, pursuant to A.R.S. §30-805(B), for records and proceedings relating to competitive activity, including trade secrets or privileged or confidential commercial or financial information.

Visitors: The public has the option to attend in-person or observe via Zoom and may receive teleconference information by contacting the Corporate Secretary's Office at (602) 236-4398. If attending in-person, all property in your possession, including purses, briefcases, packages, or containers, will be subject to inspection.

**THE NEXT JOINT MEETING OF THE BOARD OF DIRECTORS AND COUNCIL WORK STUDY SESSION IS SCHEDULED FOR TUESDAY, AUGUST 25, 2026**

# SAFETY MINUTE

## SRP Board and Council
## Work Study Session

Sara McCoy
Director, Safety

June 11, 2026




ONE SRP SAFETY

# HEAT STRESS PREVENTION: PACE YOURSELF

## WATER

- Consume adequate fluids (water & sports drinks)
- Increase water intake BEFORE activity
- Include electrolytes

## REST

- Take a break
- Work shorter shifts
- Slow down
- Plan strenuous work for the cooler parts of the day

## SHADE

- Shaded areas offer relief
- Fans / Evaporative Cooling
- Climate-controlled vehicles/buildings
- Know the signs of heat stress
- Keep body temperatures in normal range

**EARLY INTERVENTION CAN PREVENT A LIFE-THREATENING EVENT**

**LACK OF ACCLIMATIZATION IS A MAJOR RISK FACTOR FOR FATALITIES**

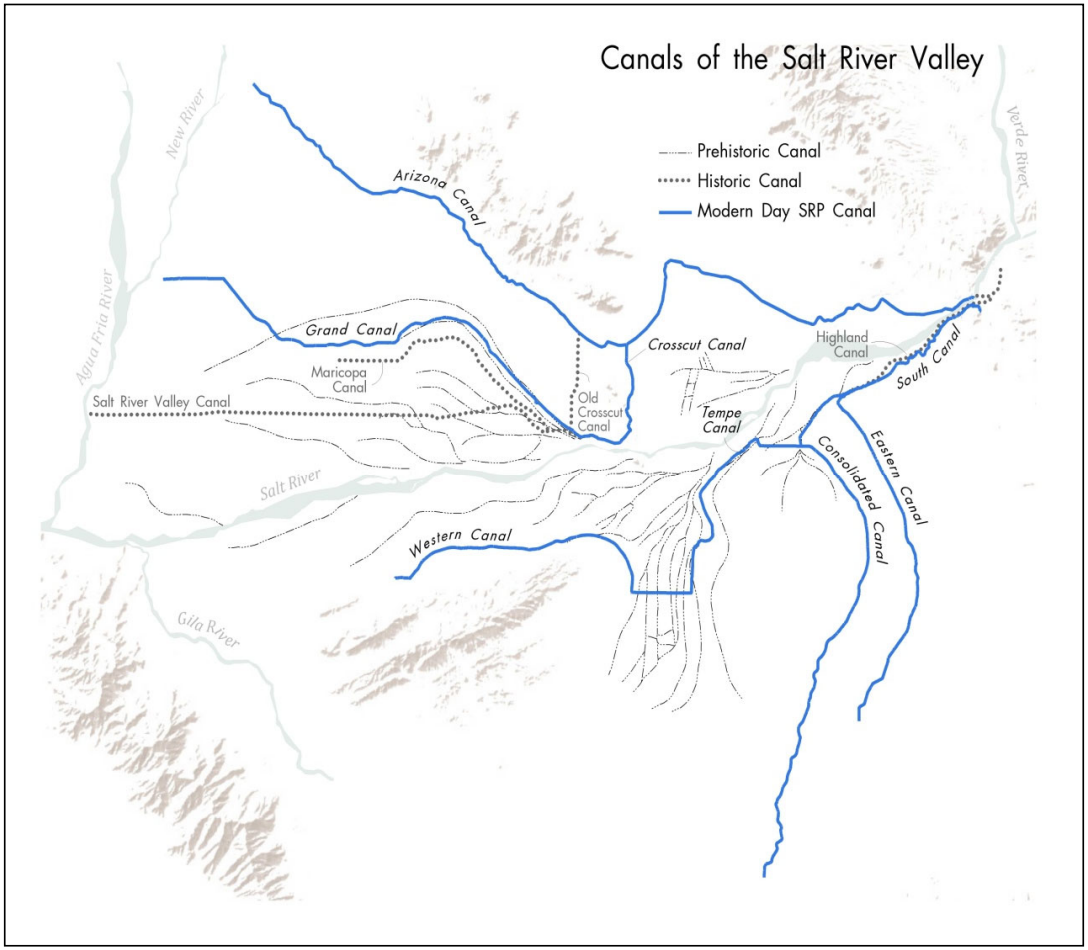
# SRP History – Formation of "The Project" – the Association and the District and their Development Over the Years

Marissa Sotomayor | June 11, 2026

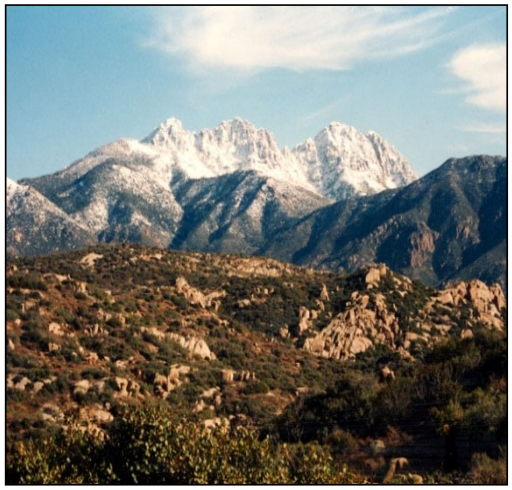
Work Study Session




**Bridge over Grand Canal, 1909**



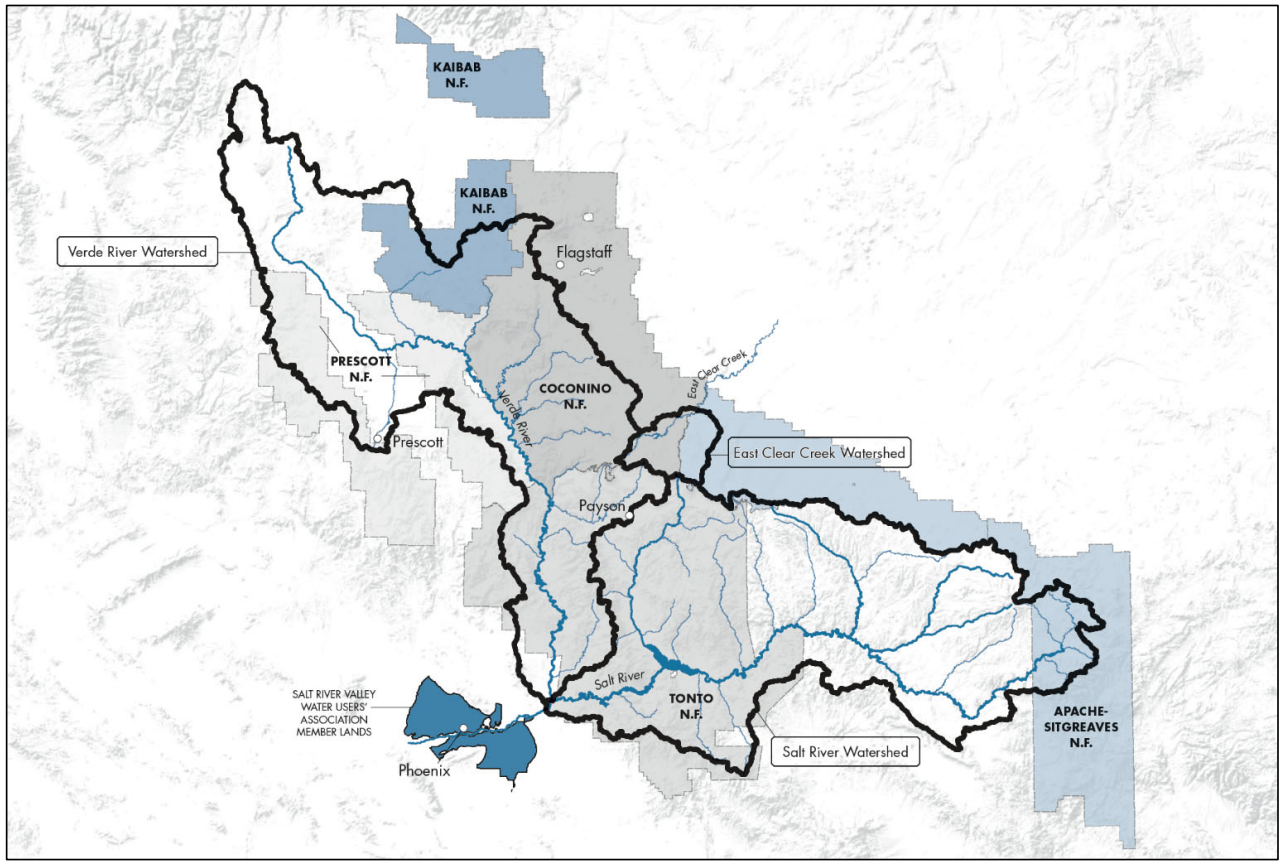

# Early Canals: Pre−1880s



**Four Peaks, 1995**



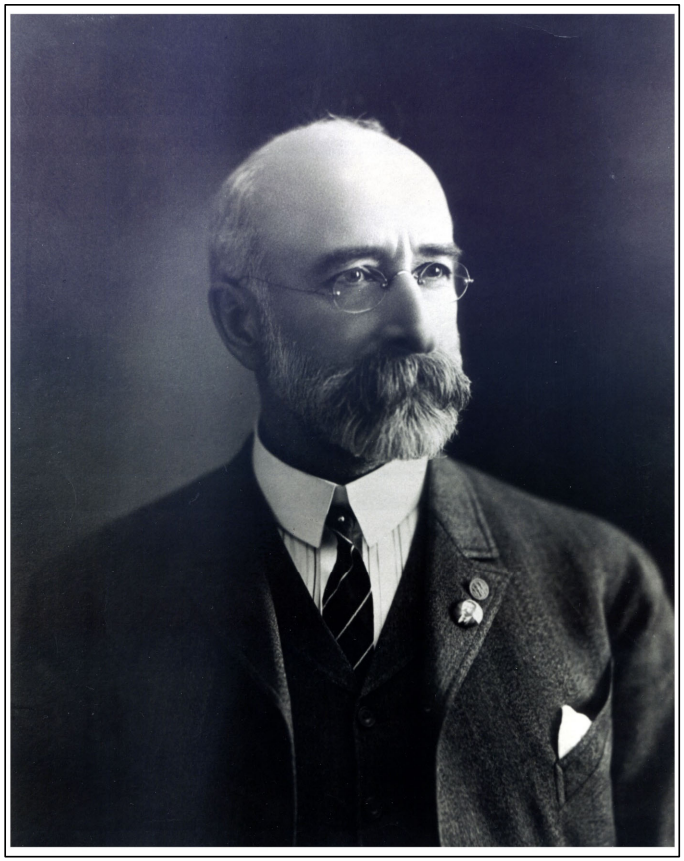

**Tonto Forest Sign, 2006**




# Forests For Water Production: 1890s

President Theodore Roosevelt



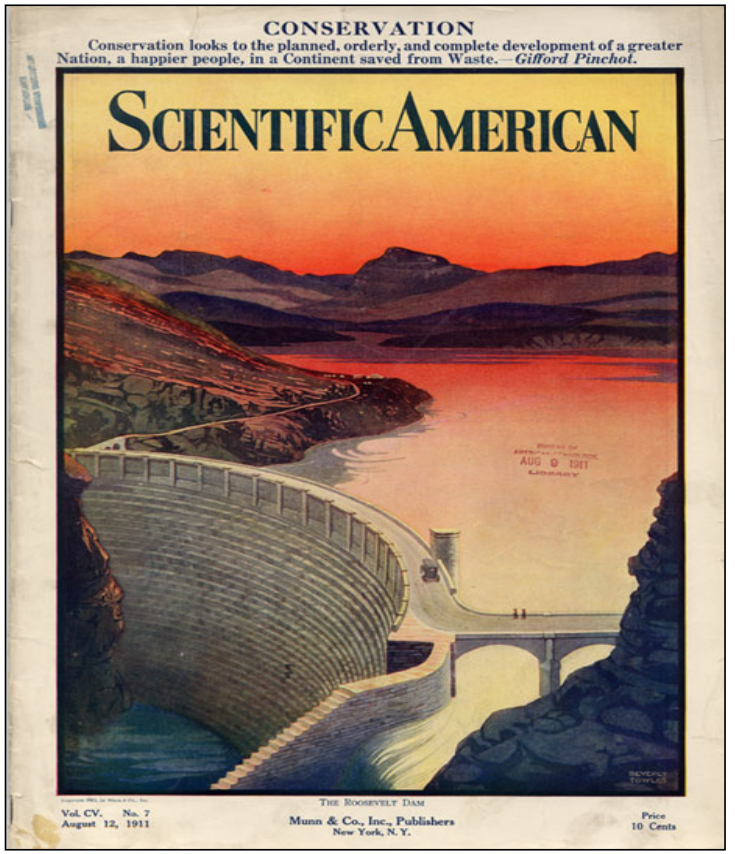



Benjamin Fowler, first SRVWUA President

# Reclamation Act and the Association: 1902/03




Roosevelt Dam construction, stiff legged derrick, 1910

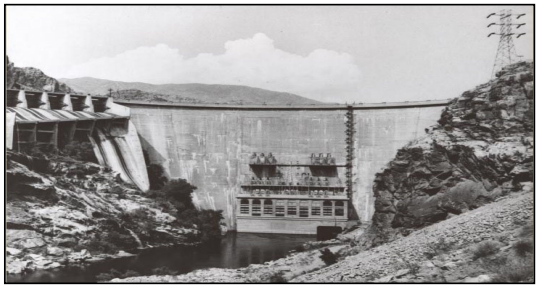



# Theodore Roosevelt Dam: 1904–1911




**"Water Temple," Van Buren Street and 2nd Avenue, c. 1913**

# Association Operates SRP: 1917



**Horse Mesa Dam**



**Mormon Flat Dam**



**Stewart Mountain Dam**




# Cragin Plan: 1922

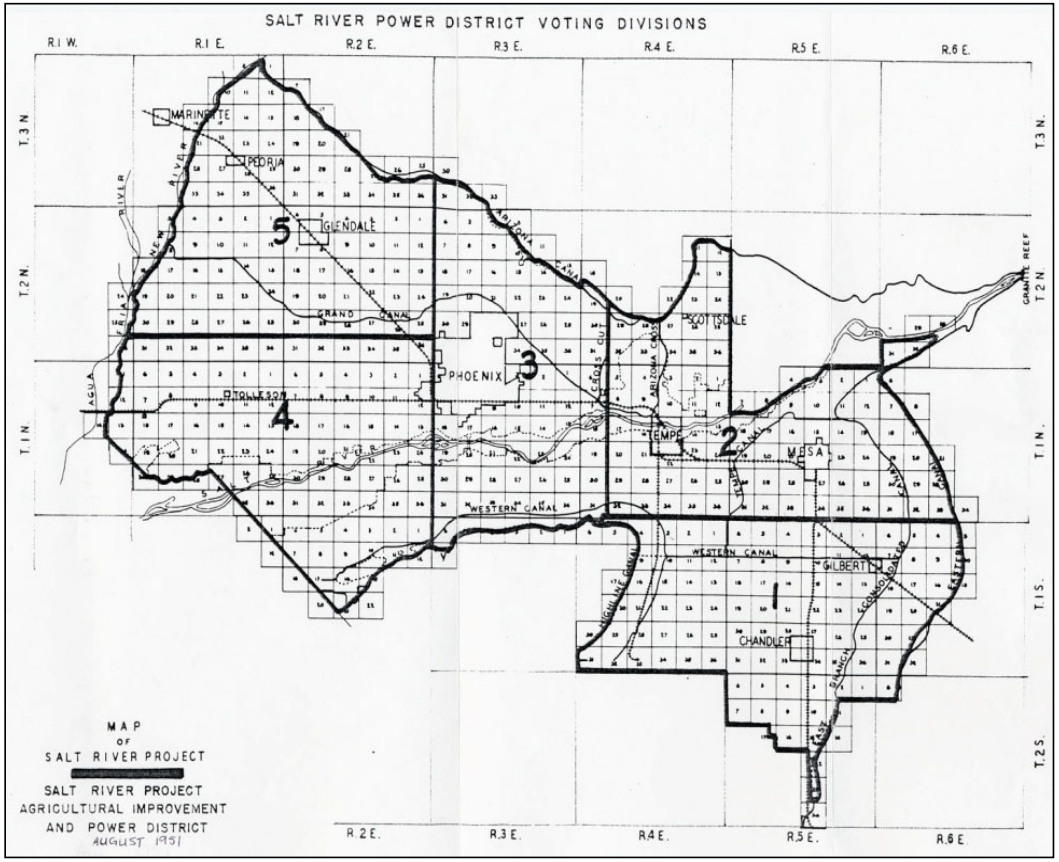


**Bartlett Dam, 1938**



**Horseshoe Dam, c. 1945**

# Creation of District and Verde Dams: 1937–1949




**Northcutt Ely**

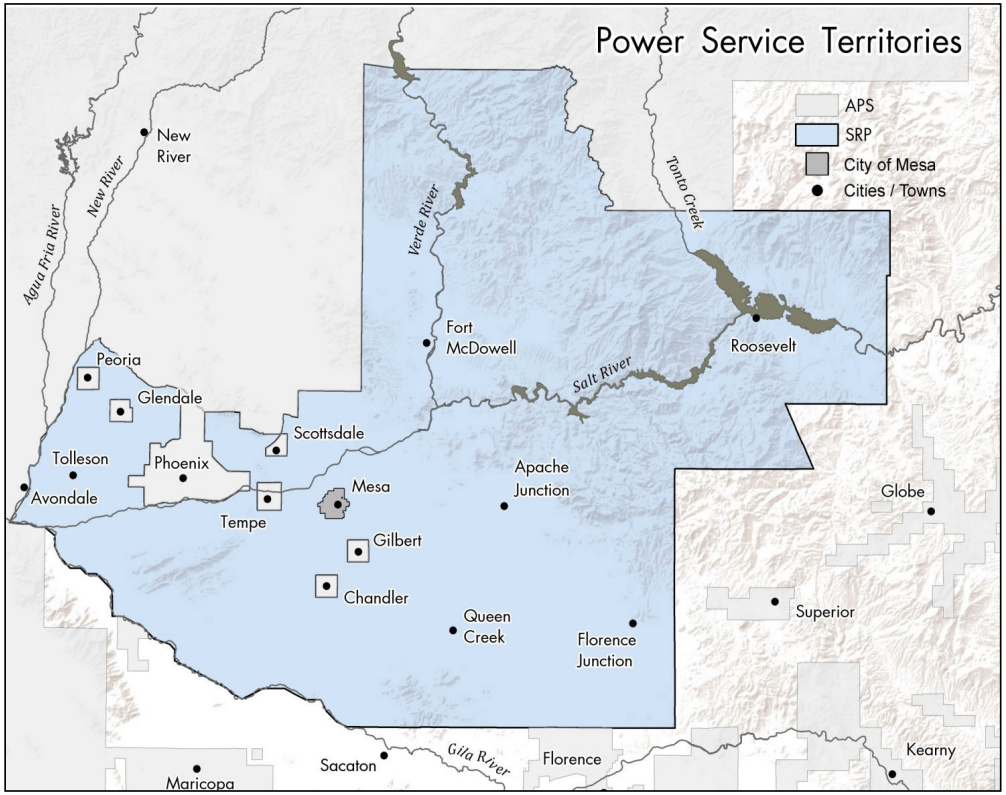


# Amending the 1937 Contract: 1949

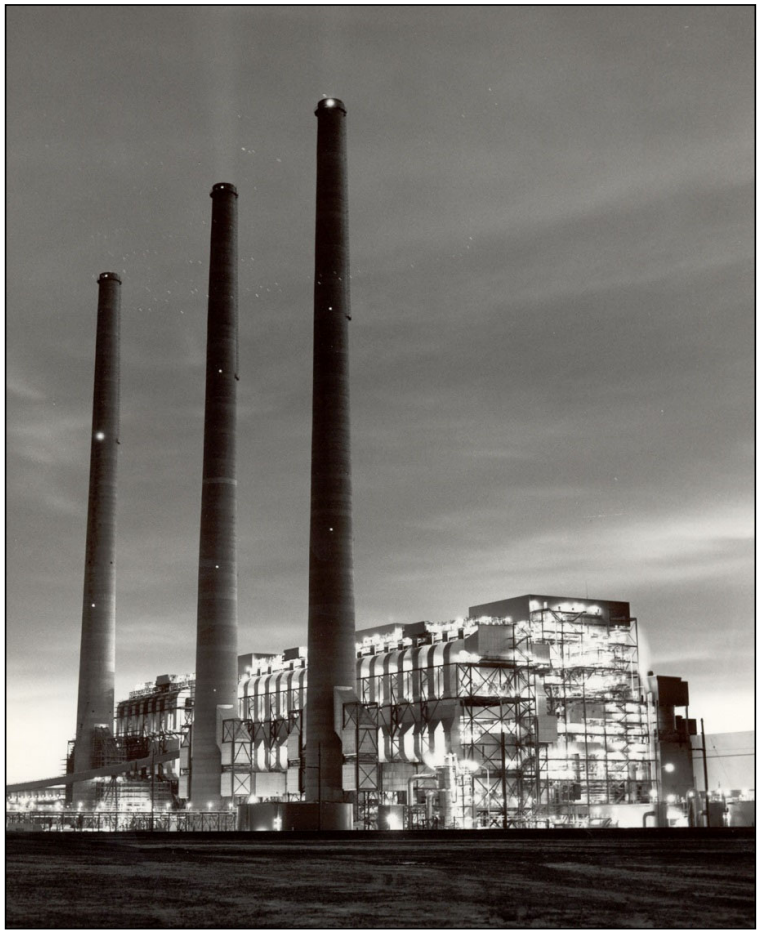
**Slipforming lateral, c. 1960**



**SRP/APS Service Territory**

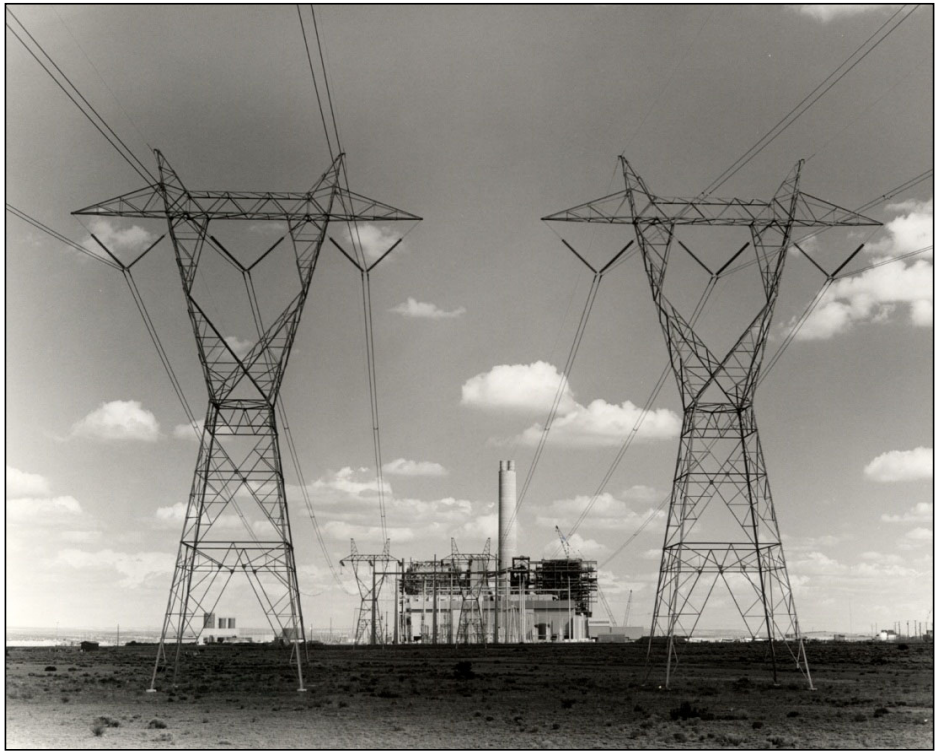



# Adapting to Growth: 1952–1955

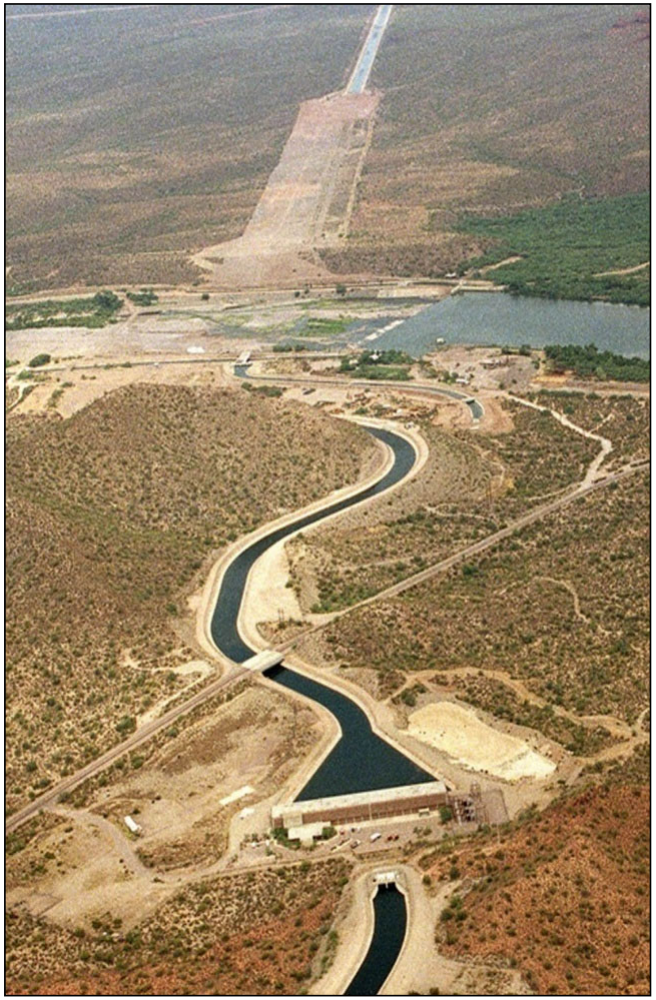


NGS, 1980

Coronado Generating Station, c 1980s



# Increasing Power Demand: 1970s–1980s



**SRP/CAP Interconnect, c. 1991**

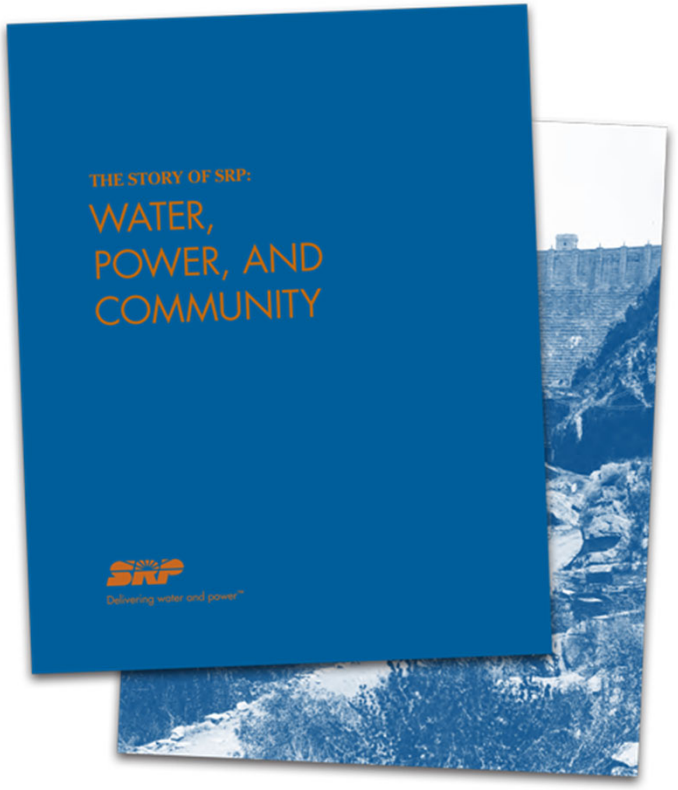
**Theodore Roosevelt Dam, c. 1996**



# Building Water Resiliency: 1990s






www.srpnet.com/history





# SRP Heritage

# Questions?

# thank you!

# Legal Framework of the Association and the District and their Respective Roles

Michael J. O'Connor & Ken Lee| June 11, 2026

Work Study Session

# Topics

1. Formation of Association
2. Formation of District
3. Contractual and Legal Relationship Between Association and District
4. Major Governance Events 1950-2020
5. Basic Governing Structure
6. 2012 Board Resolution Regarding Roles

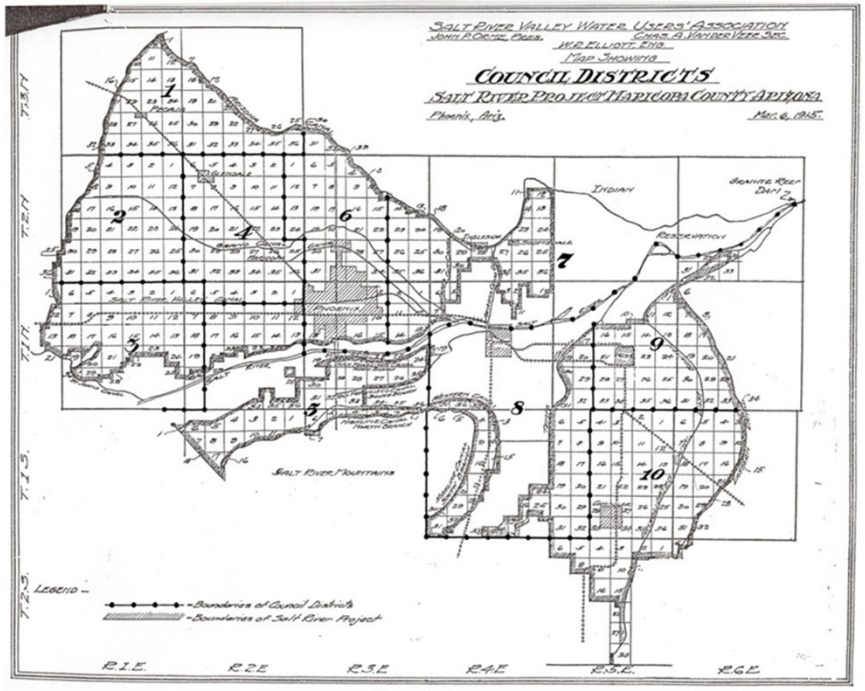
# Judge Joseph Kibbey

- Kibbey's decisions formalized key Arizona water rights concepts:
  - Prior Appropriation
  - Appurtenance
- Primary author of the SRVWUA Articles of Incorporation



# Formation and Governance of SRVWUA, 1903

- Board of 10 governors, elected from 10 voting districts
- Council of 30 members, 3 elected from each district.
- President and vice-president elected at-large



# 1917 Agreement with USA

## Association:

- Obtained operational control of the Project
- Permitted to keep power revenues to reinvest for the benefit of the Project

## USA:

- Retained title to water storage and delivery system
- Set repayment obligation for cost of project at ~$10 million
- The USA reserved the right to terminate the Agreement if in USA view, the project is not properly cared for and maintained.



"Water Temple," Van Buren Street and 2nd Avenue, c. 1913

# Formation of the District - 1937

- Association vote – approval of legislation
- District as a political subdivision of the State of Arizona
- Allowed the debt of the Association to be refinanced at reduced interest rates through the issuance of tax-exempt bonds
- Initial contract between District and Association 1937

# Amended Contract between the Association and the District, 1949

## Clarified that the District:

- Received all the “water and power rights” and revenues formerly of the Association
- Operated the power system
- Required to financially support the Association activities

## Clarified that the Association:

- Was responsible for operation and management of the irrigation system as an agent of the District
- Remains a separate entity

## Association transferred title to all its assets – but not shareholder water rights.

## District agreed to financially support the Association.



**Northcutt Ely, SRP attorney, played a key role in the 1949 contract and clarification of District and Association roles**

# District Water Support Obligation

The District, since its formation, and consistent with

i. reclamation principles and law;

ii. the purpose of the Association and the District; and

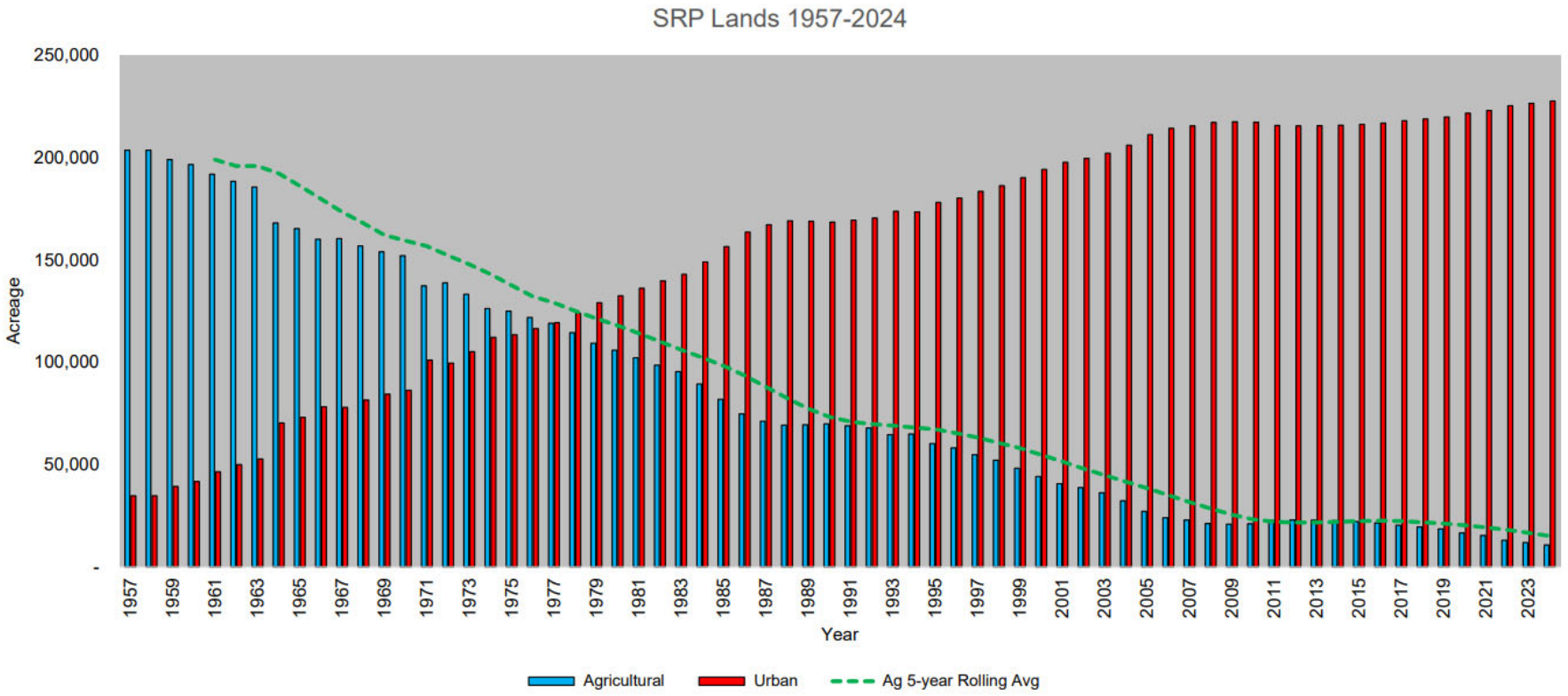
iii. the requirements of the 1937 and 1949 Contracts between the District and the Association

Has an obligation to and has appropriately used electric revenues to financially support its water storage and delivery operations.

# Adapting to Change

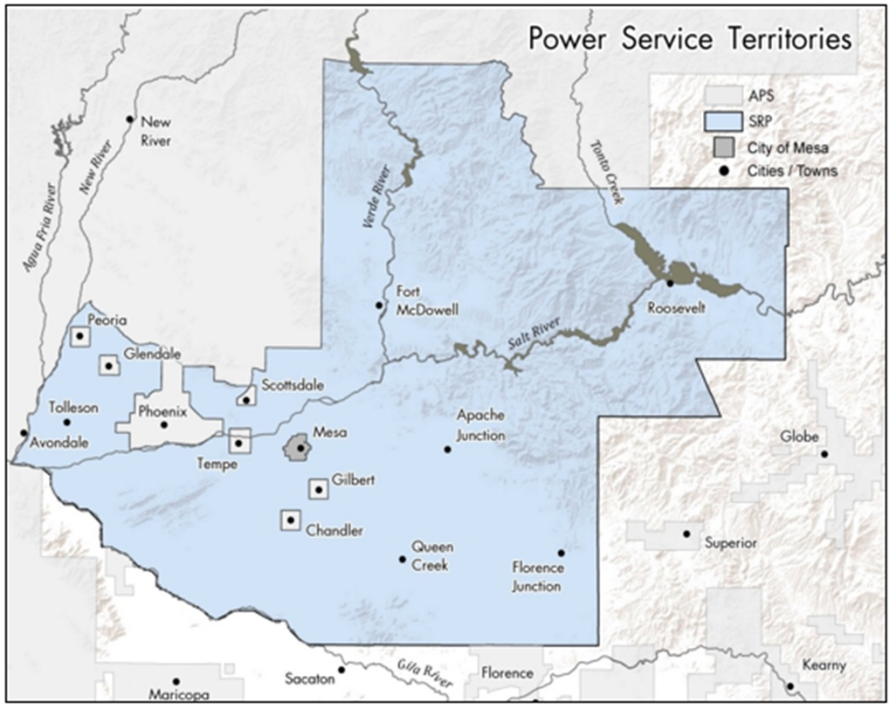
## SRP Lands

Major transition from agricultural to urban land use from 1957 - 2024



# 1955 SRP-APS Agreement

- SRP reaffirmed electric service territory in the Valley and eastern mining area
- APS kept for electric service territory the townsites, 15 percent area, most of the rest of the state
- Approved by the Arizona Corporation Commission
- Remains in place today




SRP and APS Territories

# Revenue Bonds, 1971

- District Board vote and changes to AID statute allow for use of Revenue Bonds in 1971
- SRP has only issued revenue bonds since 1971
- All general obligation bonds have since been retired
- As part of the legislative process during this change to the AID, SRP agreed to ACC limited review oversight of bond issues



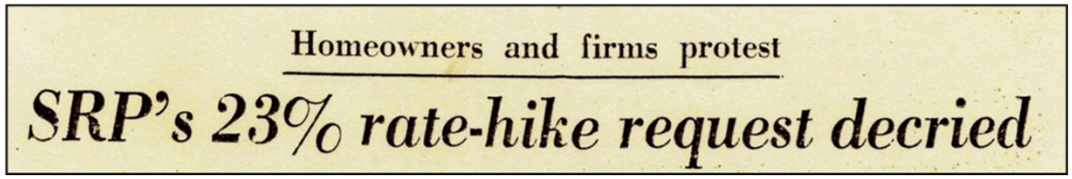

SRP bond drive, 1970

# Four Seats at Large, 1976



SRP Board, 1977

- 1975: SRP rate increases lead to public concern
- ACC looks to regulate SRP, but declines, while Legislature explores modification of SRP legislation
- 1976: added four at-large seats to District Board (staggered)
  - One eligible property owner, one vote



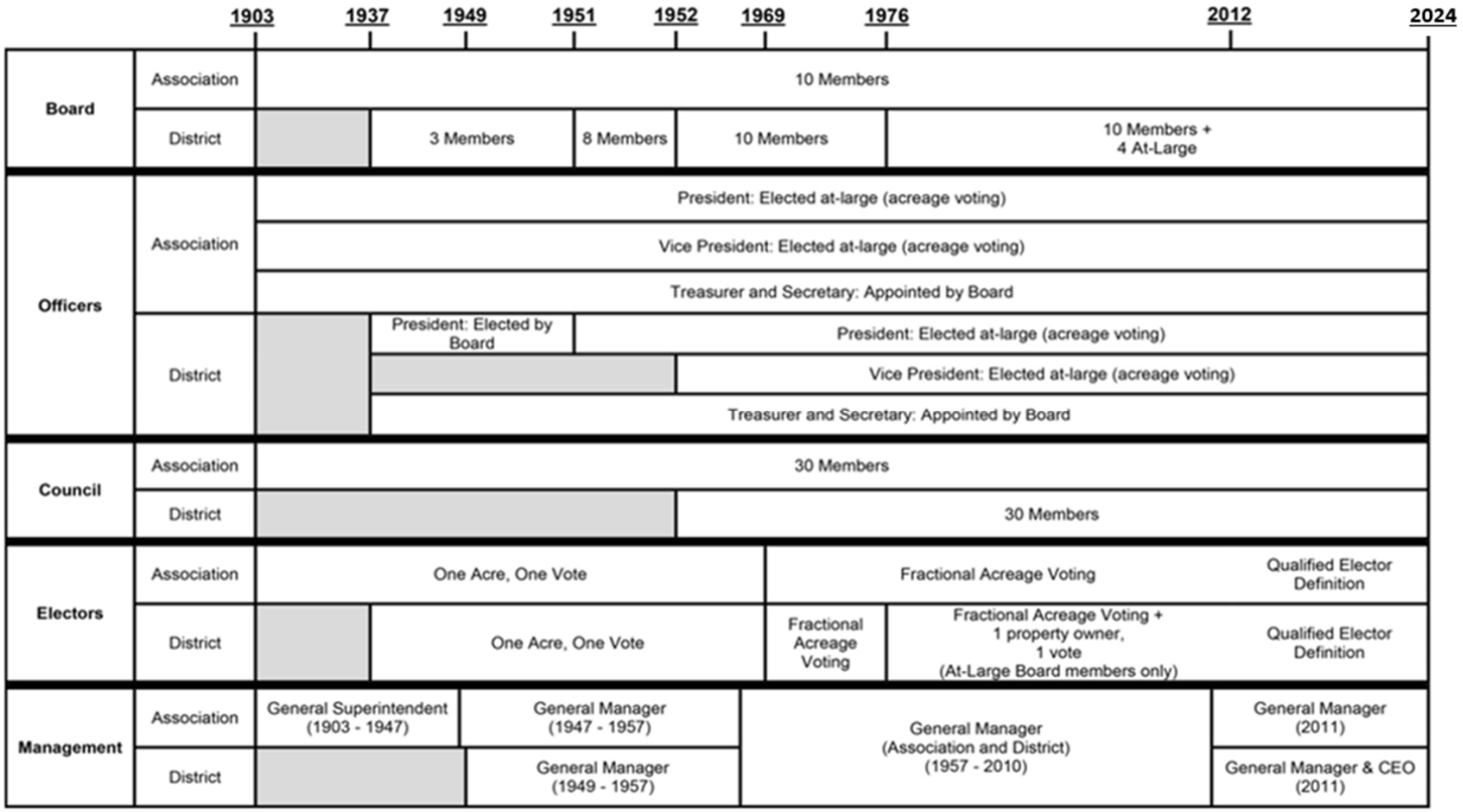
Homeowners and firms protest

SRP's 23% rate-hike request decried

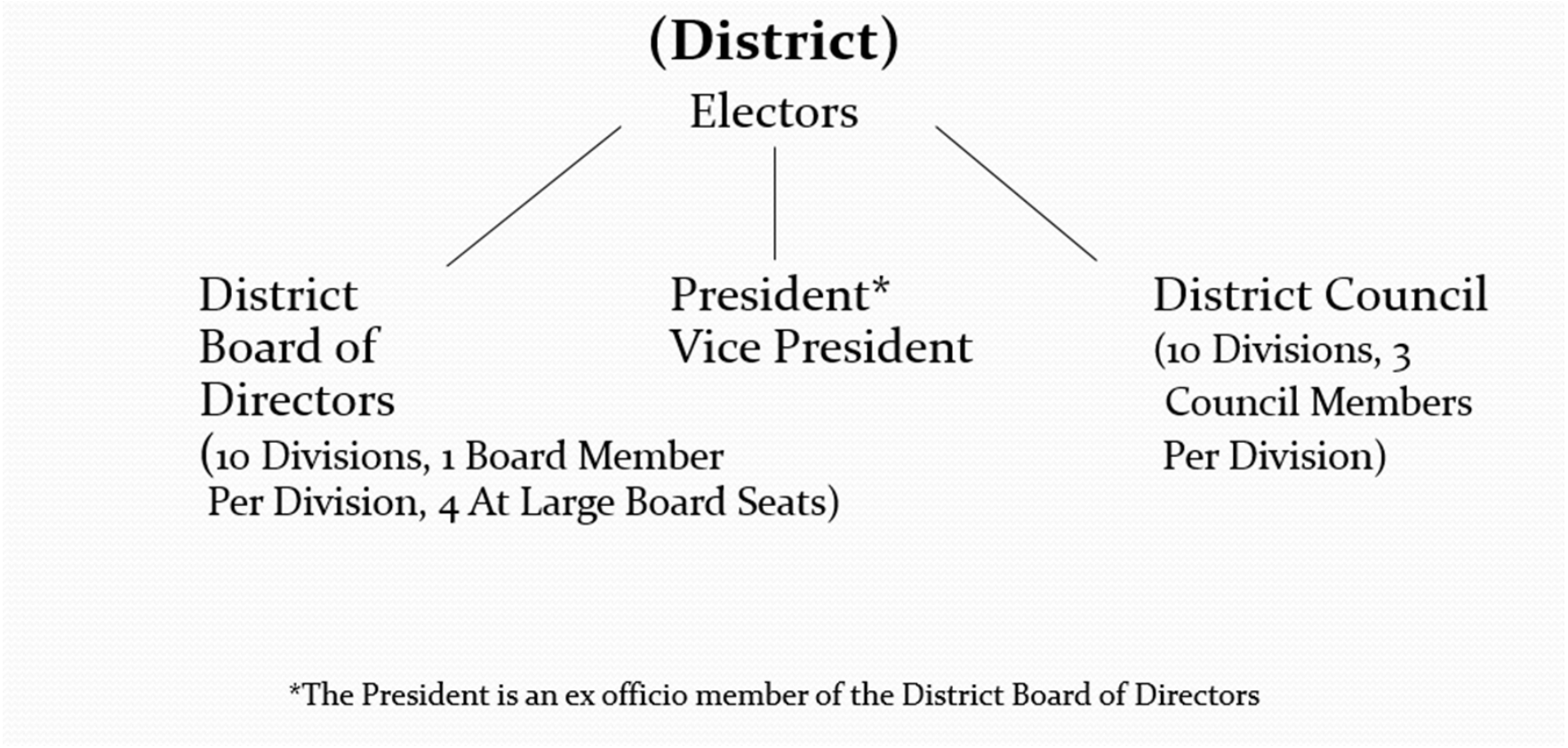
# 2002 Memorandum of Understanding – District & Association

- Background of Agreement – Purpose and Intent
- Terms of Agreement – Maintaining Status Quo and Preventing Conflict Between the District and the Association
- Provides for mediation and interim financial water support during any dispute between the District and the Association
- Challenges if ever invoked – Operational, Governance and Legal Representative Issues

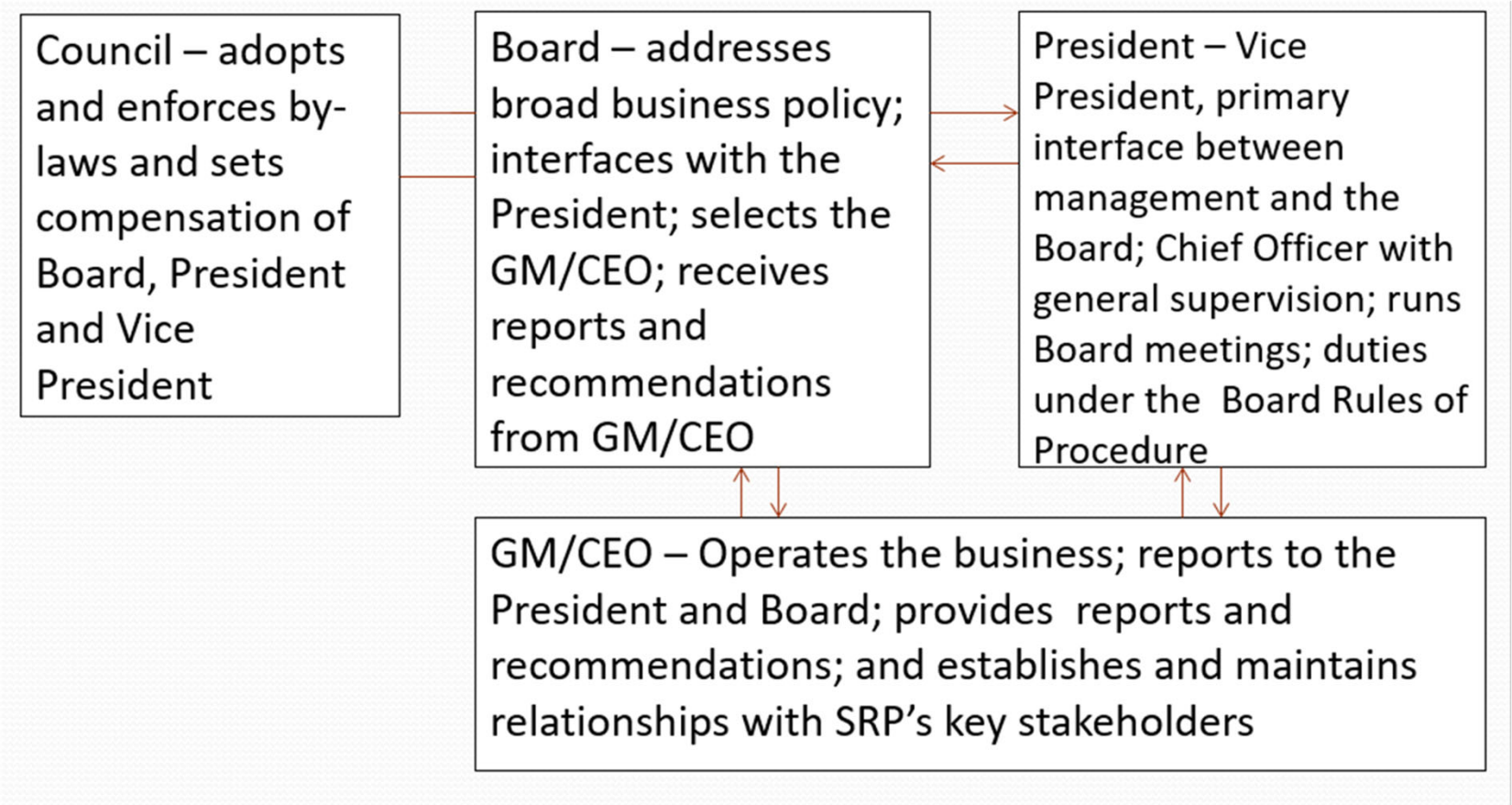
# Structure and Governance Evolution



# Diagram of Elected Official Regarding Governance



# Basic Structure*






***From the December 3, 2012 District Resolution***

# Statutory Authority of the Board of Directors - District

- Statutory A.R.S. §48-2334 – Procedures for participation by interested persons in proposed changes in electric rates.
- Statutory A.R.S. §48-2335 Administrative Powers of the Board:

  The Board may, for and in the name of the District:

  "Manage and conduct the business and affairs of the District."
- Statutory A.R.S. §48-2336 General Powers of Board:

  A. The Board shall, for and in the name of the District…
- District By-Laws Article III:

  "The Board of Directors shall have such powers, duties and authority as provided in the Arizona Revised Statutes, together with such additional powers and duties as may be provided or authorized by the By-Laws."

# Combined District Board Resolution December 3, 2012

- Section 1. Recitation of Authority.

  The Board is authorized to establish an organizational structure by Arizona statutes, including A.R.S. § 48-2335(1).

- Section 2. Organizational Structure for SRP Management.

  To promote an efficient business organization and to minimize risk, the Board of Directors establishes the table of organization set forth in Attachment A, a copy of which is attached to this resolution and is on file in the Corporate Secretary's Office, as it may be modified from time to time. It is expected that all elected officials and employees shall reasonably respect this structure.

# District Board Resolution December 3, 2012

Section 3. Organizational Structure for the SRP Board.

The Board is responsible for the oversight of general management of the business of SRP. Under ordinary circumstances, the Board shall:

1. Oversee the conduct of the business and its long-term strategy;
2. Review and where appropriate approve SRP's financial objectives and major plans and actions to assure SRP's financial integrity;
3. Review and where appropriate develop compensation and succession planning policies;
4. Perform such other functions as are prescribed by law, or assigned to the Board under statutes, articles or bylaws.

In addition, the Board may, for example consistent with the above:

1. Initiate and adopt plans, commitments and actions;
2. Initiate and adopt changes in accounting principles and practice;
3. Provide advice and counsel to officers and the GM/CEO and the GM Staff;
4. Ensure management accountability;
5. Make recommendations to the Council.

# District Board Resolution December 3, 2012

Section 4. Organizational Structure for the SRP President and Vice President.

The President is the chief officer of SRP and has general supervision duties under the Arizona statutes. Under ordinary circumstances the President may, for example:

1. Provide a liaison role between the Board and the GM/CEO, insuring that Board directives are carried out and bringing to the Board matters appropriate for Board consideration, reporting on activities to the Board on a regular basis, where possible monthly;
2. Provide advice and guidance to the GM/CEO;
3. In coordination the GM/CEO provides an interface with the public and elected officials on issues of importance to SRP;
4. To perform such duties as set forth in the Board's Rules of Procedure;
5. To perform such additional functions as provided under the Arizona Statutes and those functions similar to the role of a Chairman of the Board.

The Vice President, among any other function requested, shall provide advice to the President and serve as the President in the event that the President is unavailable.

# District Board Resolution December 3, 2012

Section 5. Organization Structure for General Manager/CEO.

The General Manager/CEO shall be responsible for SRP's business operations. In that role the GM/CEO shall

1. be responsible for SRP's day to day operations;
2. be the executive liaison to the President, the Board of Directors and the Council and shall provide material updates to allow the Board and Council to fulfill their statutory duties;
3. establish and maintain relationships with SRP's key stakeholders;
4. provide leadership to SRP workforce;
5. provide strategic vision for SRP and to communicate such to the Board and implement such upon approval of the Board.

Section 6. Organizational Structure of the Relationships Between the Board, the President, the GM/CEO and the Council

The attached Attachment B provides a graphic display the general relationships between the Board, the President, the GM/CEO and the Council.

# District Board Resolution December 3, 2012

## Section 7. Board Communication with Third Parties.

1. SRP Board Members, from time to time, may receive inquiries from outside sources concerning SRP business.
2. As a general rule, individual Board Members are not authorized to be a spokesperson for SRP. A Board Member receiving an inquiry or request for comment regarding SRP business should refer the communication to the President and the GM/CEO or other such individual as designated by the GM/CEO to respond.
3. To the extent that a Board Member responds to a public inquiry about SRP business, the Board Member should advise the President and the GM/CEO of such substantive communication.
4. As a general rule, the GM/CEO and the GM Staff shall formulate and coordinate all SRP's communication with the public and shall inform the Board of such activities as appropriate.
5. This resolution shall not be interpreted to interfere or impair an elected official's ability to communicate his or her position to the electorate.

# District Board Resolution December 3, 2012

## Section 8. Board Access to SRP Management.

1. The Board of Directors, subject to the specific sections below, should respect the table of organization (Attachment A) with regard to any communication with SRP Management.
2. The Board of Directors should primarily use the President and secondarily, the GM/CEO and the GM Staff, as the liaison for communication, requests for information and/or action from the Board to SRP Management and their employees. The President and the GM/CEO shall keep each other informed of all such material communications and requests.
3. The Board of Directors shall, in the exercise of its duties regarding succession planning, become familiar with the members of the senior management team and in particular, the GM Staff. The Board of Directors, while not involved in any formal evaluation of such senior management team, should request the GM/CEO provide periodic updates regarding the senior management team and to provide the Board of Directors sufficient exposure of such team to the Board of Directors.

# District Board Resolution December 3, 2012

## Section 9. The Board Evaluation and Compensation of GM/CEO.

1. The GM/CEO is a critical position to SRP's short and long term success. The Board, therefore, should have a role regarding the review and evaluation of the GM/CEO and succession planning for such position.

2. The Board shall place an emphasis on and expect the highest level of performance and ethical conduct on the part of the GM/CEO in order to establish such tone throughout the entire organization.

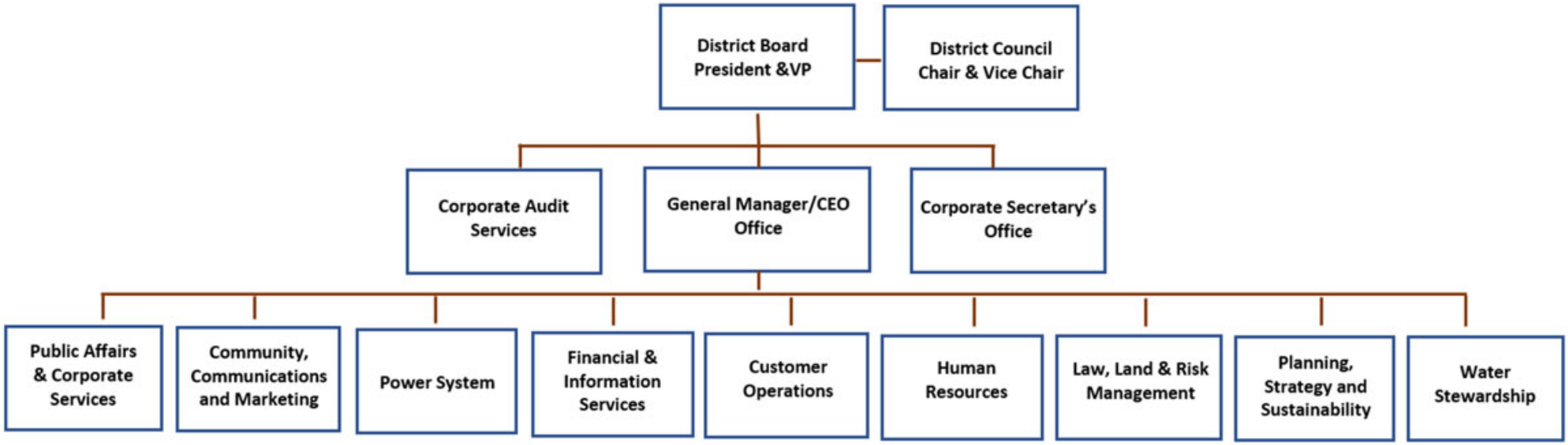
3. The President, as the Chief Officer, shall coordinate with the GM/CEO to allow the GM/CEO to present on an annual basis to the Board a review of the GM/CEO activities and the performance of SRP as a whole. The Board may provide feedback to the GM/CEO on such performance at any time.

4. The President, as Chief Officer, shall in consultation with the Compensation Committee timely set and monitor the GM/CEO compensation. The Compensation Committee of the Board shall set the salary range for the GM/CEO (as well as the ranges for salary grades for all SRP employees). The President shall communicate the proposed GM/CEO salary within the salary range to the Compensation Committee for its review and then approval or rejection. The President shall communicate the results of such process to the GM/CEO once the process has been completed.

## Section 10. Effective Date.

This Resolution shall take effect immediately.

# Organizational Chart



# Association Articles of Incorporation

## Board of Governor Duty and Responsibilities

## Article VI – Governing Bodies and Management

- Section 1. The exercise of the corporate powers of this Association and the management of its affairs be vested in:
    1. A Council,
    2. A Board of Governors, and
    3. A President, Vice-President, Treasurer, Secretary and such other officers and agents as shall or may be, from time to time, created and established by the Council. (Amended December 16, 1969).

# Association Articles of Incorporation

## Board of Governor Duty and Responsibilities

## Article VIII – Board of Governors

- … Section 8. The Board of Governors shall have the administration of the corporate affairs and business of the Association, and shall manage and conduct the same to all the provisions of these Articles and of the By-Laws; provided, however, that except for lawful exchanges of waters, the Board of Governors may not sell, dispose of, distribute, or deliver any of the waters of this Association including the ground waters within the exterior boundaries of the Salt River Reservoir District to or for use on lands not now receiving or lawfully entitled to receive water from or through the works and facilities of the Salt River Project. (Amended December 16, 1969)

# Questions?

# thank you!

# SRP District Water Support Obligation

Michael J. O'Connor | June 11, 2026

Work Study Session

# Agenda

- Introduction
- Reclamation experiment
- Building and operating the Project
- District formation
- Association-District Agreements
- Water Support in the Courts



# Water Support: The Cement that Binds SRP Together

- The Salt River Federal Reclamation Project ("Project") is one of the first federal reclamation projects constructed under the Reclamation Act of 1902
- SRP is comprised of two entities:
  - Salt River Valley Water Users' Association ("Association") is a territorial private corporation formed in 1903
  - Salt River Project Agricultural Improvement and Power District ("District") is a political subdivision of the State of Arizona formed in 1937
- Together, these two entities collectively operate the Project, which is owned by the United States of America



# Reclamation Act of 1902, Pub. L. 57-161



US to build water storage projects to develop communities and economies in the west



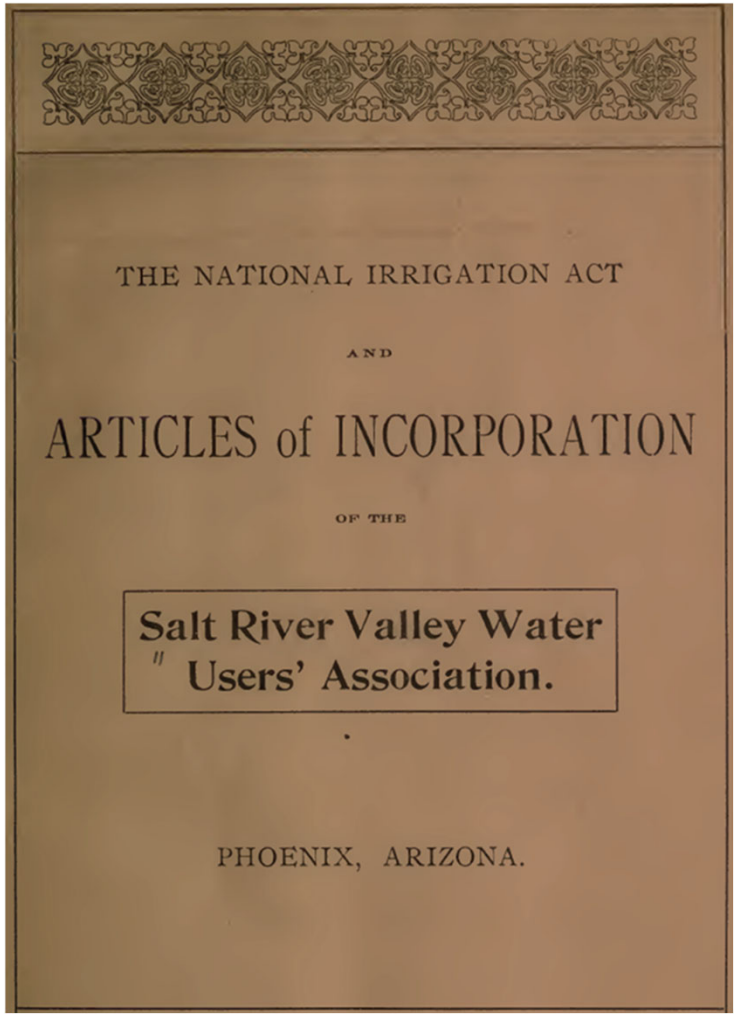
Farmers pay the US for construction, maintenance, and operating costs



Challenge: do not bankrupt the farmers

# Building and Operating the Project

- Secretary of Interior Authorized construction in 1903
  - Roosevelt and Granite Reef Dams
  - Water delivery infrastructure
- Association formed 1903
- 1904 US-Association Agreement:
  - US agreed to build the Project
  - Association agreed to pay the US for (1) the construction costs and (2) continuing operations and maintenance costs


THE NATIONAL IRRIGATION ACT

AND

ARTICLES of INCORPORATION

OF THE

Salt River Valley Water Users' Association.

PHOENIX, ARIZONA.

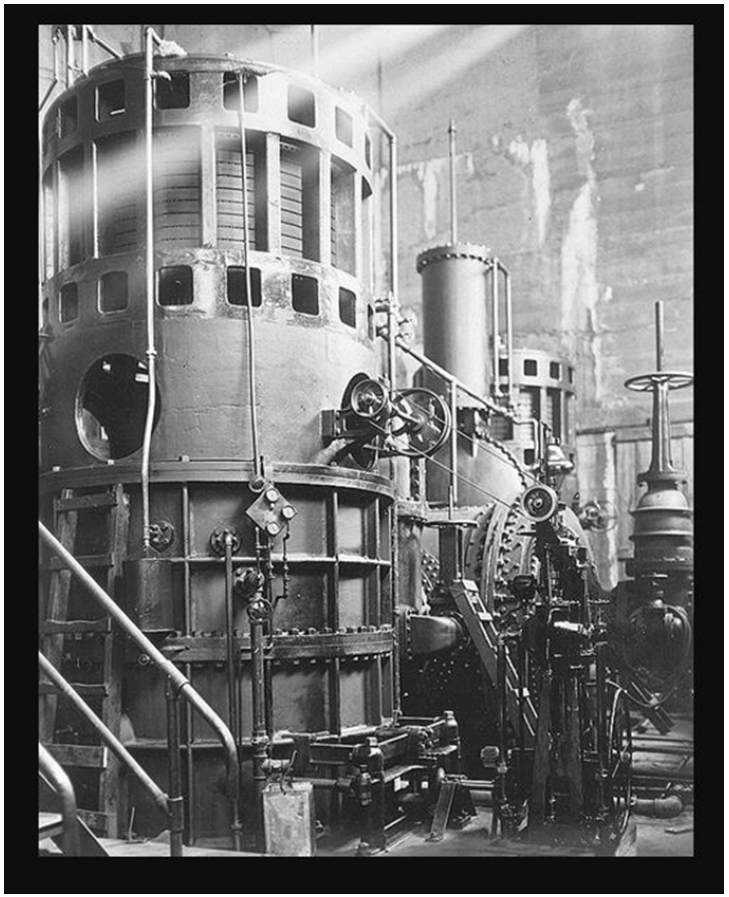
# Building and Operating the Project (continued)

- 1917 US-Association Agreement
  - US transferred Project operations and maintenance to the Association; kept title
  - Pay back for construction charges set at $10.1 million
  - Association to keep the power revenues to help pay back the US and cover operations costs



# Building and Operating the Project (continued)

- 1922 Cragin Plan:
  - Visionary plan to develop the hydropower potential of the Project
- 1922 Amendment to the Reclamation Act
  - Applied specifically to SRP
  - Power revenues applied to pay back the US
- 1924 Fact Finder's Act
  - Power revenues credited to operating agency for reinvestment in the Project
  - 1935 Bartlett Dam and Verde River development



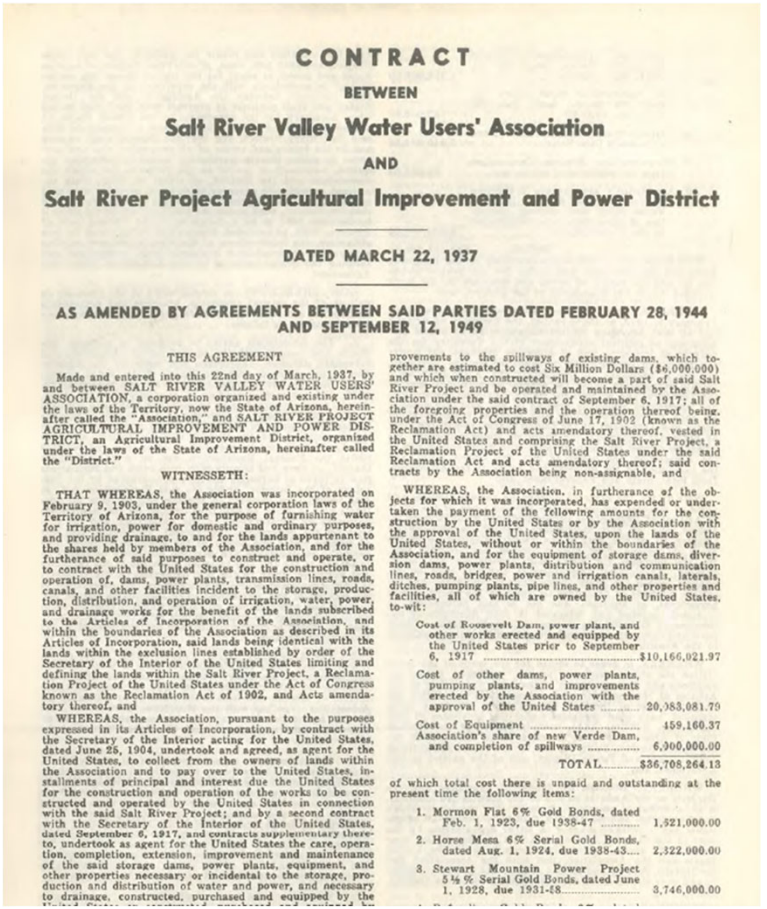
# District Formation and Water Support

- Money is tight:  Depression, Cragin Plan and Bartlett Costs
- Options:  (1) bonding authority, (2) assessments from water users
- Political Subdivision, the District formed 1936:
  - 7 of 9 purposes directly related to water
  - Support Association's obligation to pay the construction charges to the US, and
  - Help pay to operate the project for the shareholders

| Purposes of the District, A.R.S. § 48-2303 | |
|---|---|
| 1 | Secure water necessary to irrigate the lands |
| 2 | Storage, regulation, control or distribution of water |
| 3 | Develop additional water for irrigation |
| 4 | Drainage |
| 5 | Increase, enlarge or extend, operate and maintain any irrigation or drainage works |
| 6 | Provide new or additional means for irrigation or drainage |
| 7 | Provide power or a means of communication |
| 8 | Reduce the cost of irrigation, drainage and power to the owners of the lands in the district by the sale of surplus water or power produced, owned or controlled by the district |
| 9 | Finance or refinance debt |

# District-Association Agreements and Water Support

- 1937 Agreement as amended 1944 and 1949:
  - Association transferred all its assets to the District in exchange for District assuming Association's obligations to shareholders
  - Use District's electric revenues to reduce and support water storage and delivery obligations
  - Association becomes the agent of the District to operate system below Granite Reef Dam
- 2002 Memorandum Between District and Association: Identifies the initial process and amount of District's water support in the event of a dispute between District and Association over the extent of the District's financial obligation



CONTRACT

BETWEEN

Salt River Valley Water Users' Association

AND

Salt River Project Agricultural Improvement and Power District

DATED MARCH 22, 1937

AS AMENDED BY AGREEMENTS BETWEEN SAID PARTIES DATED FEBRUARY 28, 1944 AND SEPTEMBER 12, 1949

THIS AGREEMENT

Made and entered into this 22nd day of March, 1937, by and between SALT RIVER VALLEY WATER USERS' ASSOCIATION, a corporation organized and existing under the laws of the Territory, now the State of Arizona, hereinafter called the "Association," and SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Agricultural Improvement District, organized under the laws of the State of Arizona, hereinafter called the "District."

WITNESSETH:

THAT WHEREAS, the Association was incorporated on February 9, 1903, under the general corporation laws of the Territory of Arizona, for the purpose of furnishing water for irrigation, power for domestic and ordinary purposes, and providing drainage, to and for the lands appurtenant to the shares held by members of the Association, and for the furtherance of said purposes to construct and operate, or to contract with the United States for the construction and operation of, dams, power plants, transmission lines, roads, canals, and other facilities incident to the storage, production, distribution, and operation of irrigation, water, power, and drainage works for the benefit of the lands subscribed to the Articles of Incorporation of the Association, and within the boundaries of the Association as described in its Articles of Incorporation, said lands being identical with the lands within the exclusion lines established by order of the Secretary of the Interior of the United States limiting and defining the lands within the Salt River Project, a Reclamation Project of the United States under the Act of Congress known as the Reclamation Act of 1902, and Acts amendatory thereof, and

WHEREAS, the Association, pursuant to the purposes expressed in its Articles of Incorporation, by contract with the Secretary of the Interior acting for the United States, dated June 25, 1904, undertook and agreed, as agent for the United States, to collect from the owners of lands within the Association and to pay over to the United States, installments of principal and interest due the United States for the construction and operation of the works to be constructed and operated by the United States in connection with the said Salt River Project; and by a second contract with the Secretary of the Interior of the United States, dated September 6, 1917, and contracts supplementary thereto, undertook as agent for the United States the care, operation, completion, extension, improvement and maintenance of the said storage dams, power plants, equipment, and other properties necessary or incidental to the storage, production and distribution of water and power, and necessary to drainage, constructed, purchased and equipped by the

provements to the spillways of existing dams, which together are estimated to cost Six Million Dollars ($6,000,000) and which when constructed will become a part of said Salt River Project and be operated and maintained by the Association under the said contract of September 6, 1917; all of the foregoing properties and the operation thereof being under the Act of Congress of June 17, 1902 (known as the Reclamation Act) and acts amendatory thereof, vested in the United States and comprising the Salt River Project, a Reclamation Project of the United States under the said Reclamation Act and acts amendatory thereof; said contracts by the Association being non-assignable, and

WHEREAS, the Association, in furtherance of the objects for which it was incorporated, has expended or undertaken the payment of the following amounts for the construction by the United States or by the Association with the approval of the United States, upon the lands of the United States, without or within the boundaries of the Association, and for the equipment of storage dams, diversion dams, power plants, distribution and communication lines, roads, bridges, power and irrigation canals, laterals, ditches, pumping plants, pipe lines, and other properties and facilities, all of which are owned by the United States, to-wit:

| | |
|---|---|
| Cost of Roosevelt Dam, power plant, and other works erected and equipped by the United States prior to September 6, 1917 | $10,166,021.97 |
| Cost of other dams, power plants, pumping plants, and improvements erected by the Association with the approval of the United States | 20,083,081.75 |
| Cost of Equipment | 459,160.37 |
| Association's share of new Verde Dam, and completion of spillways | 6,900,000.00 |
| TOTAL | $36,708,264.13 |

of which total cost there is unpaid and outstanding at the present time the following items:

| | |
|---|---|
| 1. Mormon Flat 6% Gold Bonds, dated Feb. 1, 1923, due 1938-47 | 1,521,000.00 |
| 2. Horse Mesa 6% Serial Gold Bonds, dated Aug. 1, 1924, due 1938-43 | 2,322,000.00 |
| 3. Stewart Mountain Power Project 5½% Serial Gold Bonds, dated June 1, 1928, due 1931-48 | 3,746,000.00 |

# Water Support and the Courts

| Decision | Language |
|---|---|
| *City of Mesa v. SRPAIPD*, 92 Ariz. 91, 373 P.2d 722, (1962). | "The privileges and immunities granted extend only so far as they have a legitimate relationship to the legal objectives for which the District is organized." (p. 726)<br><br>"[A]n irrigation district's authority to sell electricity is incidental to its primary purpose of providing water for irrigation." (p. 733) |
| *Uhlmann v. Wren*, 401 P.2d 113, 97 Ariz. 366 (1965) | "[T}he development and sale of such power is authorized only as an incidental phase of reclamation, not as a primary or independent end in itself. The statute and its amendments are reclamation acts, not commercial power development acts." |
| *Ball v. James*, 451 U.S. 355 (1981) | Stipulated facts provided the underlying factual basis for the Supreme Court decision to uphold acreage voting; describes the purpose of the District revenues relating to the water support obligation of the District to the Association |

# Scope of Water Support

- Under the 1949 Amendment the scope of water support refers to the O&M of the  Irrigation & Drainage system (below Granite Reef Dam)
  - Does not include capital replacements & additions to the SRP Irrigation & Drainage system (to be the responsibility of the District)
  - There is no specific reference to water related work such as:
    - Reservoir operations, weather forecasting, watershed monitoring, forest restoration, etc.
    - Water strategy & policy work
    - Water rights & contracts work
    - Recharge projects, CAP/SRP Interconnection Facility (CSIF) and similar projects

# Shareholder Water Pricing Principles

- Equity

  Ensure that prices for water and services for shareholders are applied in a fair manner consistent with their legal rights and the District's obligation relating to water;

- Cost Relation

  Establish prices that are in relation to costs consistent with the By-Laws and the legal obligations between the District and the Association;

# Shareholder Water Pricing Principles (continued)

- Gradualism

  Implement prices for water and services to shareholders that are predictable, and smooth the impacts of highly variable expense and revenue factors;

- Sufficiency

  Recover sufficient costs, as determined by the Board of Directors, consistent with the District's legal obligations to support the operations and maintenance of the SRP Irrigation and Drainage System

# Non-Shareholder Water Pricing Principles

- Use of SRP Water Infrastructure and Water

  Prices for use of SRP water infrastructure and shareholder water shall cover the cost of such services considering the market value of the use of such infrastructure and water

- Water Resource Services

  Prices for water resource services to non-shareholders shall cover the cost of such services considering the market value of such services

# 2035 Water Support Goal

- There are two financial support targets in this goal:
  - A percentage target of the O&M of the Irrigation & Drainage system; and
  - A percentage target of total electric revenues
- The 2035 water support goal would be as follows:
  - By 2035, 60% of the Irrigation & Drainage O&M expenses will be met from electric revenues

AND

  - The total amount of financial support to water system O&M will not exceed 2.5% of total electric revenues

# Ball v. James - The Stipulated Facts

**Stipulated Fact #16**

The primary purpose for the acquisition and construction of the Salt River Project under the Federal Reclamation acts was for the development, storage and distribution of water for the irrigation of arid and semi-arid lands. The development, storage, and distribution of water to Association-subscribed lands was the primary purpose of the Association in contracting with the United States to guarantee the repayment of construction funds and to operate the Salt River Project.

# Ball v. James - The Stipulated Facts

**Stipulated Fact #17**

The development and sale of electrical power in connection with the Salt River Project by the United States and by the Association was undertaken not for the primary purpose of providing electricity to the public but to support the primary irrigation functions by supplying power for reclamation uses and by producing revenues which could be applied to increase the amount and reduce the cost of water to Association subscribed lands.

# Ball v. James - The Stipulated Facts

**Stipulated Fact #33**

The Association and its member landowners would not have transferred title to its property and control of the Salt River Project, including the power system, to a public body governed under a voting system without acreage voting and open to all qualified state electors solely on the basis of residence on District land.

# Ball v. James - The Stipulated Facts

**Stipulated Fact #34**

The District was organized for the purpose of continuing the operations of the Association, the principal objective of which was to provide water for use within the geographic boundaries of the Association and District. Landowners were the intended beneficiaries *inter Win* because electric revenues were to be used to reduce the cost of development, storage and distribution of water to District lands. Subsequent to its formation in 1937, the District has continued to use electric revenues to defray the expense of providing water to District lands.

# Questions?

# thank you!

# Good Governance and the Role of a Director

Susan Shultz | June 11, 2026

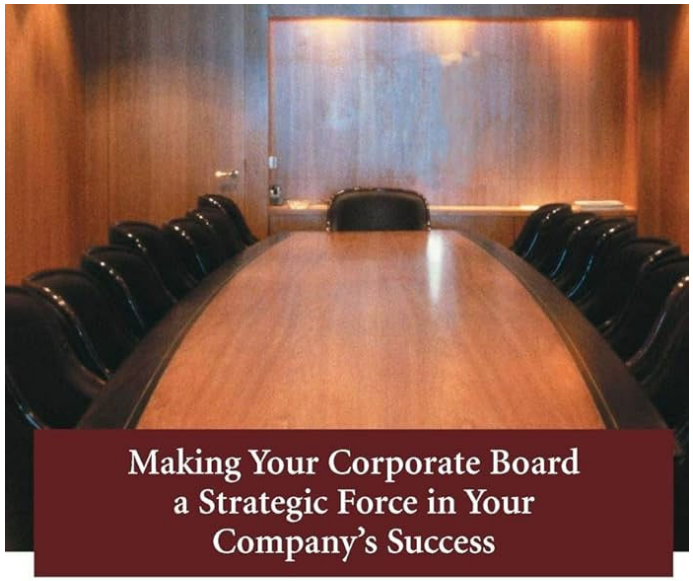
Work Study Session

# Agenda

1. My Background
2. My General knowledge of SRP
3. Topics I will be addressing:
    a. What is Good Governance
    b. Role of the Board or Directors in good governance
    c. Role of management in good governance
4. How these observations may be helpful to Salt River Project

# My Background

1. Founder – The Board Institute, Inc
2. Founder – SSA Executive Search International Ltd.
3. Author – “The Board Book: Making Your Corporate Board a Strategic Force in Your Company’s Success”
4. Board Consultant/Director – for profit/not for profit entities
5. Long time Arizona resident
6. American Management Association
    a. Prior membership – Board of the ASU School of Agribusiness and Environmental Resources


Making Your Corporate Board
a Strategic Force in Your
Company's Success
THE BOARD BOOK
Susan F. Shultz

# What is “Good Governance”

Good governance is when the board(s) and management work in concert to sustain and enhance the purpose of the corporation.

SRP Mission: We serve our customers and communities by providing reliable, affordable and sustainable water and energy.

SRP Vision: A secure water and clean energy future empowers Arizona to thrive for generations to come.

# What is the role of the Board of Directors in “Good Governance”?

1. To enhance the enterprise and pursue excellence
2. To protect and represent the interests of all the stakeholders
3. To oversee and enrich the strategic direction of the corporation
4. To focus on policy, oversight and strategy
5. To review managements implementation of the agreed upon strategy

# What is the role of the Board of Directors in “Good Governance”? Continued

6. To select and ensure that the right leadership is in place and has the resources necessary to succeed
7. To ensure the future success of the corporation by succession planning
8. To address the “big issues” relative to the purpose of the corporation and drive a cohesive vision
9. Prioritize and sustain allegiance to the corporation
10. To model ethical and legal standards for the entire corporation

# What is the role of management in “Good Governance”?

1. Provide strategic vision, communicate the proposed strategy to the board, and implement the strategy upon approval of and any modification by the board
2. Run the day-to-day operations of the company
3. Maintain compliance with all federal, state and local rules and regulations
4. Provide timely material and accurate information to the Board of Directors, both good and bad
5. Be accountable to the Board for the execution or lack of execution of the strategic direction

# What makes a “good director”?

1. The quality of a director makes the difference
2. The director should know the business
    a. Know the key metrics
    b. Know the strengths and weaknesses
    c. Do your homework
3. The director should actively participate
    a. Attend all the meetings
    b. Ask questions
    c. Speak up, share ideas
    d. Listen

# What makes a “good director”? continued

4. Don’t micromanage
5. Delegate the implementation of the strategic direction and operations to management
5. Comply with all legal requirements, including those regarding disclosures
6. Manifest allegiance to the success of the enterprise
7. Support Board decisions once made
8. Support management – not an adversarial relationship

# What makes a “good director”? continued

9. Build the culture
    a. Share your opinions – add new thoughts
    b. Don’t confuse taking a position with destructive controversy
10. Avoid unnecessary conflicts with other board members, council members and management
    a. Quality of board’s dialogue enables strategic synergies that enhance the organization
    b. Leadership starts from the top
    c. Bad governance means that things go unstated, hidden agendas fester, and issues do not get properly addressed

# How is this applicable to Salt River Project?

1. SRP is a very complex institution
2. SRP and its leadership, the board and executive management play a critical role in the continued success of SRP and the valley
3. The concepts above can be applied and used to foster “good governance”

# January 5, 2025 – Prior Board Presentation

## Director Kennedy Question

Director Kennedy asked for the top 5 insights/takeaways for SRP Board members.

Susan Schultz's response:

1. Board member allegiance to the Organization – act for the overall good of the Organization.
2. Teamwork among the Board.
3. Once a Board decision is made, support and advocate for that position.
4. Appropriate collaboration between Board and management.
5. Board member engagement.

# My Attendance at the June 1, 2026, Board Meeting and the June 4, 2026, Strategic Planning Committee

- Observations
- Thoughts
- Suggestions

# Questions?

# thank you!

# Public Power Governance Models

Delia Patterson | June 11, 2026

Work Study Session

# What is Public Power?

- Community-owned, not-for-profit utilities
- ~2,000 systems nationwide; 55+ million people served
- Wide range in size — most small, some very large
  - Median public power utility serves 2,000 customers/5,500 people
- Major Public Power Associations
  - American Public Power Association (APPA)* – ~1,400 members
  - Large Public Power Council (LPPC) – ~29 members

*Handouts: APPA's ***2025 Governance-Survey*** and APPA's **Policymakers Handbook: A Nuts and Bolts Guide to Governance in Public Power**

# Major Types of Public Power Governance Models

1) Independent Utility Board (non-City Council)
2) City Council Run
3) Hybrid Governance
4) Joint Action Agency Model (non-City Council)

# Model 1 – LPPC Independent Utility Board

- Dedicated governing board focused solely on utility operations
- Members may be **elected** or **appointed**
- Operates as a public enterprise but separate from general government functions

# LPPC Independent Utility Board (non-City Council) Elected

| Utility | Governing Body | Governance Model |
|---|---|---|
| Chelan County PUD No. 1 | Elected Board of Commissioners | Independent |
| Clark Public Utilities | Elected Board of Commissioners | Independent |
| Grant PUD | Elected Board of Commissioners | Independent |
| Imperial Irrigation District (IID) | Elected Board of Directors | Independent |
| Nebraska Public Power District (NPPD) | Elected Board of Directors | Independent |
| Omaha Public Power District (OPPD) | Elected Board of Directors | Independent |
| Salt River Project (SRP) | Elected Board and Councils | Independent |
| SMUD | Elected Board of Directors | Independent |
| Snohomish County PUD No. 1 | Elected Board of Commissioners | Independent |

# LLPC Independent Utility Board (non-City Council) Appointed

| Utility | Governing Body | Governance Model |
|---|---|---|
| Grand River Dam Authority (GRDA) | Appointed Board of Directors | Independent |
| Long Island Power Authority (LIPA) | Appointed Board of Trustees | Independent |
| Lower Colorado River Authority (LCRA) | Appointed Board of Directors | Independent |
| Nashville Electric Service (NES) | Appointed Electric Power Board | Independent |
| New York Power Authority (NYPA) | Appointed Board of Trustees | Independent |
| Orlando Utilities Commission (OUC) | Appointed Commission | Independent |
| Santee Cooper | Appointed Board of Directors | Independent |

# Model 2 – LPPC City Council-Run Governance

- Utility governed alongside other municipal services
- Implication: more direct accountability, but broader competing priorities – Transfer Payments

| Utility | Governing Body | Governance Model |
|---|---|---|
| Austin Energy | Austin City Council | City Council |
| Colorado Springs Utilities | Utilities Board (City Council members) | City Council |
| Seattle City Light | Seattle City Council | City Council |

# Model 3 – LPPC Hybrid Governance Models

- Utility has governing body and oversight by city council or other body for significant actions
- Implication: balances oversight with dedicated expertise

| Utility | Governing Body | Governance Model |
|---|---|---|
| CPS Energy | Board of Trustees + City Council | Hybrid |
| JEA | Appointed Board of Directors + City Council | Hybrid |
| Lincoln Electric System | Administrative Board + City Council | Hybrid |
| Los Angeles Dept. of Water and Power (LADWP) | Board of Commissioners + City Council | Hybrid |
| Puerto Rico Electric Power Authority (PREPA) | Appointed Board + Federal Oversight | Hybrid |
| Tacoma Public Utilities | Utilities Board + City Council | Hybrid |

# Model 4 – LPPC Joint Action Governance Model

- Member-elected and governed
- Implication: regional/shared governance among members

| Utility | Governing Body | Governance Model |
|---|---|---|
| American Municipal Power (AMP) | Member-elected Board of Trustees | Joint Action |
| ElectriCities of North Carolina | Member-elected Board of Directors | Joint Action |
| MEAG Power | Member-elected Board | Joint Action |
| Platte River Power Authority (PRPA) | Member-elected Board of Directors | Joint Action |

# Federal Entity – Tennessee Valley Authority (TVA)

- Federal public power entity governed by federal statutes
- 9-member Board (Presidentially appointed, Senate confirmed)
- Board authority: strategy, policy, and CEO oversight

# Public Power Utilities with Electric Customers Outside of their Service Territories

# Large Public Power Council Governance Survey & SRP Governance Research – 2025 Data

Overview

- 26 LPPC utilities surveyed - 16 respondents
- Reviewed Austin Energy (2012) and Colorado Springs Utilities (2011) Governance Evaluations
- Supplemented LPPC survey respondents with review of additional 9 other utilities – 25 total

| Utility | Advisory Panel | Total Customers | % inside | % outside |
|---|---|---|---|---|
| Imperial Irrigation District | Energy Consumers Advisory Committee | 160,000 | 40% | 60% |
| Greenville, NC | Greensville Utilities Commission (GUC) | 80,000 | 50% | 50% |
| Tacoma Public Utilities | N/A | 181,600 | 60% | 40% |
| **Salt River Project** | **Customer Utility Panel** | **996,076 *** | **58%** | **42%** |
| Tucson Water | Citizen's Water Advisory Committee | 235,000 | 60% | 40% |
| CPS Energy | Community Input Committee (CIC) | 950,000 | 65% | 35% |
| Gainesville Regional Utilities | Gainesville Utility Advisory Board | 105,000 | 67% | 33% |
| Austin Energy | Electric Utility Commission | 541,368 | 75% | 25% |
| Fayetteville Public Works Commission | Community Advisory Group (CAG) | 76,317 | 86% | 12% |
| City of Lafayette, Public Utilities Authority | N/A | 59,209 | 95-97% | 2% |

| | Governing Authority | w/ Advisory Panel |
|---|---|---|
| City Authority | 8 ------ (32%)<br>AE, Tucson, Greenville, CSU, Springfield-IL, Tallahassee, Gainesville, Lafayette-LA | 6 ------ (75%)<br>AE, Tucson, Greenville, CSU, Gainesville, Tallahassee |
| Independent Authority | 17 ------ (68%)<br>CPS, MLGW, Knoxville, Eugene, Snohomish, JEA, Lafeyette-NC, Springfield-MO, Tacoma, LES, IID,OUC, Chelan, SMUD, PRPA, NPPD, GRDA | 4 ----- (24%)<br>CPS, MLGW, Springfield-MO, IID |
| **Total** | **25** | **10** |

# Customer Utility Panel

- SRP's situation is not unique
  - 60% (159 out of 265 municipal respondents) of APPA members have customers outside of municipal boundary – 2025 Survey
  - 40% (10 out of 25) of SRP researched utilities with customers outside of their service territory boundary have an advisory panel
- CUP
  - Similar structure to other utilities
  - Members approved by the Board
  - Meets on a Regular Basis
  - Kept informed on SRP as a whole and action items in their areas
  - Provides an opportunity for feedback directly to Board
  - CUP Chair reports out to Board

# Key Takeaways

- Public power is locally owned and governed, but governance structures vary widely
  - No single “standard” model
- As utilities grow in size and complexity, governance often evolves beyond city council
  - Increased use of independent boards and hybrid structures
- Governance design reflects community priorities—but also shapes decision speed, oversight, and accountability
- SRP is aligned with industry practices
  - Advisory panels (CUP) are a common tool to provide broader customer input
- Governance structure is a strategic choice, with tradeoffs—not a one-size-fits-all solution

# Questions?

# thank you!

AMERICAN PUBLIC POWER ASSOCIATION

Powering Strong Communities

# Policymakers Handbook

## A NUTS AND BOLTS GUIDE TO GOVERNANCE IN PUBLIC POWER

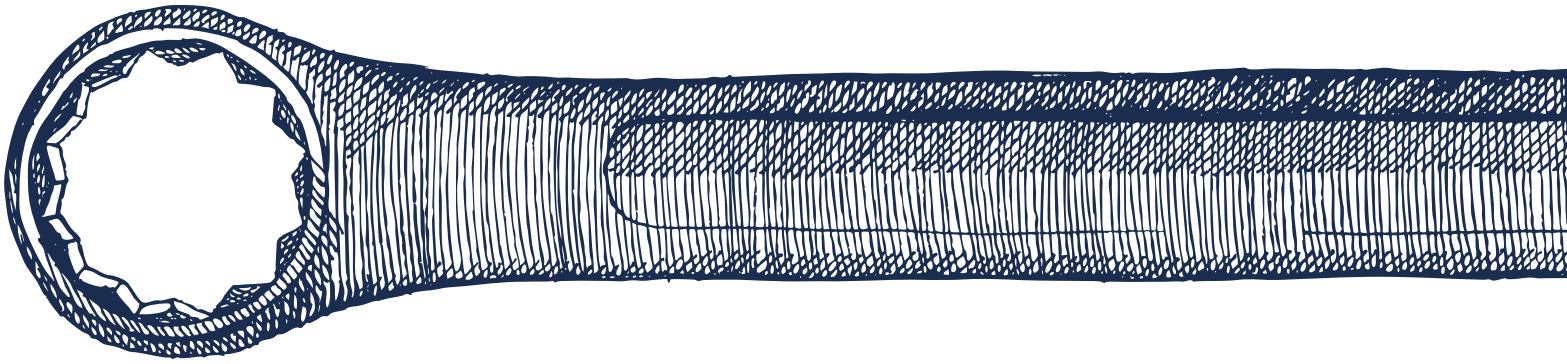


# ABOUT THE AUTHOR

Steve VanderMeer has been working in and around governance and public power since 1988, when he became the assistant to the city manager in Fort Collins, Colorado, and worked directly with the city council. After that, Mr. VanderMeer moved over to the utility, where he ran marketing and energy service activities. In 1998, Mr. VanderMeer joined Hometown Connections, the subsidiary formed by the American Public Power Association to provide support to the 2,000 public power utilities in the nation. Throughout that time, Mr. VanderMeer has worked with a wide range of municipal governments and nonprofit organizations in strategic planning, governance, organizational assessments, public participation, market research, and customer service. In addition to this publication, he is the author of the American Public Power Association publication, *Customer Service, Building a Strong Infrastructure for Your Utility.* Additionally, Mr. VanderMeer speaks frequently to governing boards across the nation, teaches governance workshops and facilitates board retreats. Mr. VanderMeer holds a BA from the University of Michigan and a Master's in Public Administration from the University of Pennsylvania.

# Policymakers Handbook

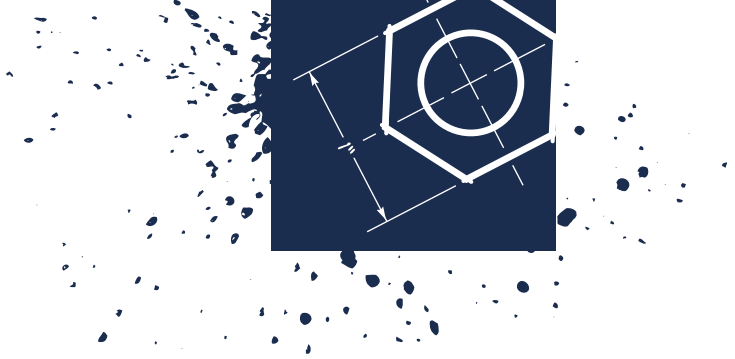
## A NUTS AND BOLTS GUIDE TO GOVERNANCE IN PUBLIC POWER



AMERICAN PUBLIC POWER ASSOCIATION
Powering Strong Communities

The American Public Power Association is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. We represent public power before the federal government to protect the interests of the more than 49 million people that public power utilities serve, and the 93,000 people they employ. Our association advocates and advises on electricity policy, technology, trends, training, and operations. Our members strengthen their communities by providing superior service, engaging citizens, and instilling pride in community-owned power.

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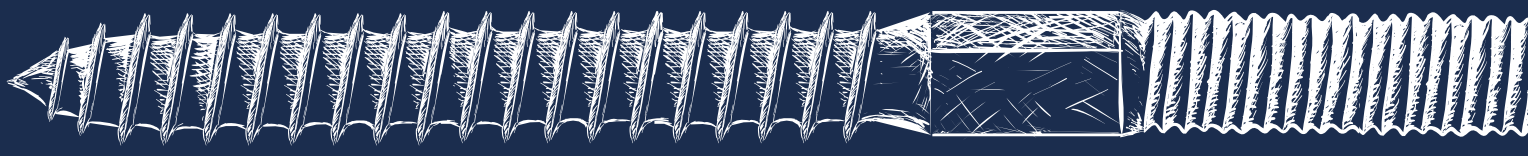
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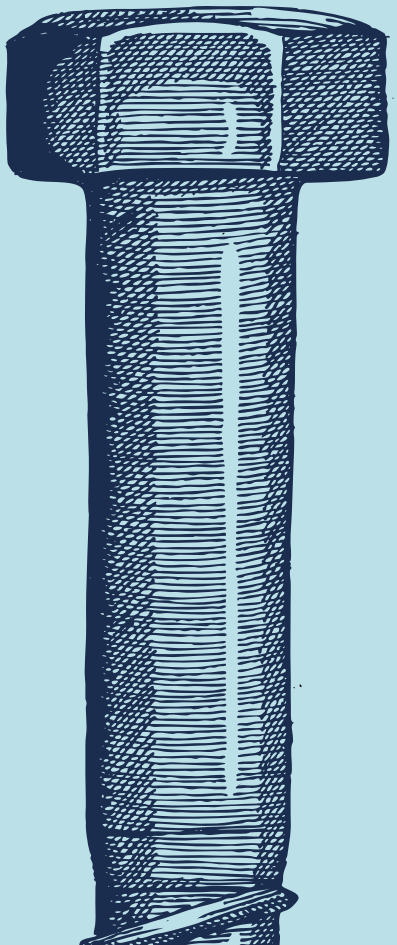
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# INTRODUCTION

The American Public Power Association is pleased to provide this updated governance handbook for managers and board members of public power utilities. This is a reference book, not a comprehensive exploration of the history and evolution of governance. This volume provides insights and examples on the nuts and bolts of public power governance. There are many excellent books on governance available that take that deeper dive, including the APPA publication *Governing for Excellence: Raising the Bar on Public Power Governance.* As you move through this book, we hope you find it an informative and enjoyable read.

We wish to thank the many public power institutions who provided examples of the work they are doing to ensure a strong governance process in their organizations.





# GOVERNING FOR PUBLIC POWER

## What Is Public Power?

Public Power is the designation of a large diversity of utilities across the United States. It is a collection of more than 2,000 community-owned electric utilities, serving more than 45 million people, or about 15 percent of the nation's electricity consumers. Public power utilities are owned by units of state and local governments and operate on a not-for-profit basis. They are often referred to as enterprise activities of local governments because they are not tax-supported like general government. Through utility rates, public power utilities generate revenues to cover their operating costs, plus debt service, reserves and often contributions to their cities' general funds in the form of payments in lieu of taxes (PILOT) or other transfers.

These are what all public power utilities have in common. Beyond that, the variation among them is significant. Some of the nation's largest cities — Los Angeles, San Antonio, Jacksonville, Seattle and Nashville — operate publicly owned electric utilities. Yet most public power communities are small, with their utilities serving 3,000 or fewer customers. Small towns and cities across the United States are dotted with publicly owned utilities. Some public power utilities provide only electric service, while others may also provide water and wastewater services, natural gas and broadband.

## The Public Power Advantage

Since the 1880s, public power has represented a win-win-win option for electric utilities, the local municipalities and the customers they serve. The majority of public power utilities are more than




100 years old, which is a remarkable testament to the success of this business model. Public power utilities are rooted in the American tradition of local people providing for their basic community needs. Indeed, the genesis of most public power utilities can be traced back to a time when the local community either did not have electric service of any kind or did not believe its needs were being met by the for-profit investor-owned utility serving it. High pricing, low reliability and electric bills paid to out-of-town corporations were typical trigger points for local leaders to pursue local ownership and control.

Today, public power provides its communities with reliable, responsive, not-for-profit electric service. It is distinguished by five hallmarks:

1. **Community-owned:** Public power utilities are owned by the communities they serve. Revenues remain in the community, both for utility infrastructure as well as through transfers to the local government's general fund. They provide local jobs and support the local economy. Customers are often personally acquainted with utility staff and see them at local events and businesses.

2. **Locally operated and controlled:** Public power utilities are directly accountable to the people they serve through local elected or appointed officials. They are regulated and governed by a local board or city council. If you live in a public power community, you have a voice in decision-making for your utility.

3. **Low-cost:** Public power utilities have access to tax-exempt financing and generally have stronger credit ratings than privately owned utilities. Community-owned utilities operate efficiently, and many have access to less expensive hydro power.

4. **Nonprofit:** Surplus revenues stay in the community and are invested in system improvements shared with local governments or used to reduce electric bills. Revenues are not distributed to outside shareholders. Instead, revenues provide hometown jobs, support for local nonprofit agencies and economic vitality.

5. **Customer-focused:** Public power utilities are dedicated to the singular mission of delivering the highest level of service and value to their customer-owners for the long term. Public power utilities focus on the specific needs of customers, including high reliability and lower rates, as well as local priorities, which may include new technologies, economic development, environmental concerns or advanced communications.

Local control means decisions are made locally, reflecting the needs and character of the communities they serve. Because decisions are made locally, community engagement is fostered. As a public entity, conducting business in the light of day, governing boards must act with transparency in their work. Governing board members live in the communities they serve, public meetings are held in those communities, creating opportunities for community feedback and input. Public power governing boards may look quite different across the nation, but they all hold one thing in common: they are focused on the success of the utility in meeting customer and community needs.

## Models of Public Power Governance

The vast majority of public power utilities are governed by one of two models: The first model is an independently governed utility. The sole responsibility of an independent utility governing board is the utility, which may also include water, wastewater, broadband or natural gas operations. Financially, the utility operates through an enterprise fund or funds, separate from the municipality's general fund. Governing board members may be appointed by the mayor or city council, or they may be elected. Among the nation's 2,000 public power utilities, about 40 percent are independently governed, and among those, about two-thirds are appointed by the city council or mayor while the balance is elected. Independent governing boards are charged with maintaining the long-term health of the utility operations they govern, acting in the best interests of their customers or ratepayers.

The second model is a city council governing board, whose governance responsibilities typically include most other municipal activities such as parks, streets, public transportation, libraries, police, fire, planning, etc. The utility is operated as an enterprise fund and, when addressing utility issues, the board should be acting in the best interests of the utility's customers. Sometimes this is easier said than done, which will be explored later in the handbook.

## THE UTILITY ADVISORY BOARD

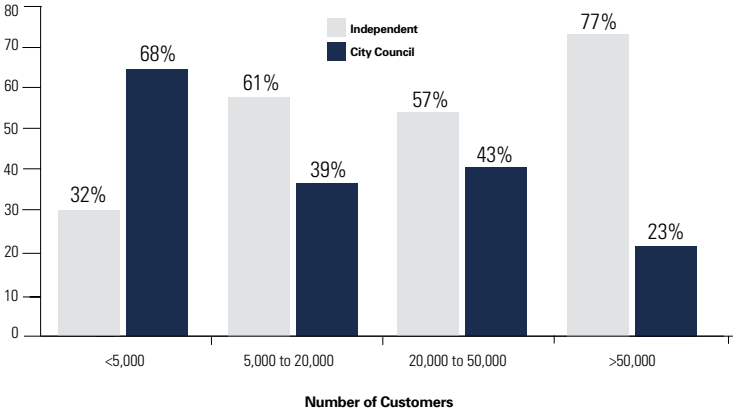
It can go by many names, but for the most part utility advisory boards, are appointed to advise the city council on matters related to the utility, which could include rate increases, utility policies, operating and capital budget development, or hearing customer complaints. City councils, with responsibilities across the spectrum of municipal operations, may find it difficult to invest the time they would ideally like to address utility issues. The advisory board can take the additional time necessary to understand complex utility issues and then provide recommendations to the city council. In theory, this is a great way to provide city councils deeper stakeholder insights into utility operations, by looking to concerned and engaged citizens or customers for input. In practice, however, this ideal often falls short. Advisory board members in many utilities complain of not being heard or valued. There may be confusion or acrimony among both the city council and the advisory board about roles and responsibilities. Advisory boards are rarely imbued with any authority, so their influence comes primarily from how their communications are with the city council, which in many cases is limited.

The advisory board can be a highly beneficial part of the governing process. To be effective, roles, responsibilities and expectations must be clear, lines of communication must be open and maintained, and the opinion of the advisory board must be sought out and valued. Some city councils will assign a liaison to the board, who attends all or some of the advisory board's meetings. Others will schedule joint study sessions between the city council and the advisory board, creating a more informal venue for an exchange of ideas. As part of a city council's self-assessment, effective communications with boards and commissions should be evaluated and, if necessary, improved upon.

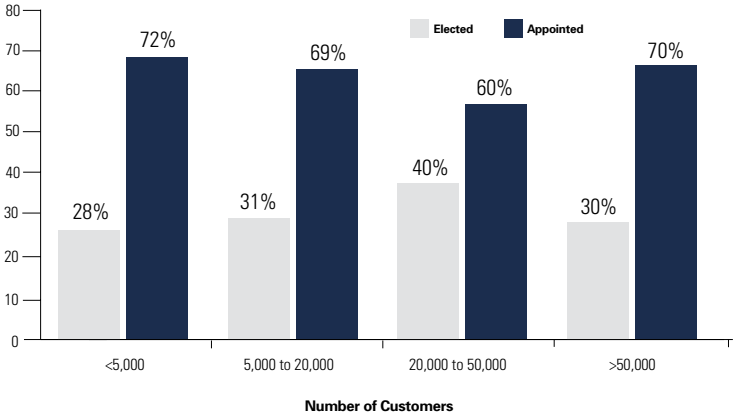
Some governing boards – particularly city council-based governing boards, rely on citizen advisory boards appointed to explore and discuss utility policies and priorities and report back in some manner to the city council or utility board.

As we examine the many advantages of public power, it becomes apparent how important the role of the governing board is. The autonomy of the local board can vary depending on laws specific to each state. Although the large majority of public power utilities are governed almost entirely through locally elected or appointed officials, in a few states, public power utilities are regulated to some extent by state utility commissions. But most public power communities have regulatory authority vested in their local city governing body, such as a city council, or independently elected or appointed utility boards.

### GOVERNANCE: INDEPENDENT VS. CITY COUNCIL




### INDEPENDENT GOVERNING BOARD: APPOINTED VS. ELECTED




Source: 2015 APPA Governance Survey

In most states, whether independently governed or governed by a city council, public power utilities enjoy a great deal of autonomy to create policies, set rates and respond to the needs of the communities they serve. In a few states, some elements of public power utilities, such as rates, are regulated by their state utility commissions. Public power utilities in Indiana, Maine, Maryland, Rhode Island, Vermont and Wisconsin are subject to state regulation. In about a dozen other states, the state utility commission has some oversight of public power utilities. Over the past twenty years, public power has witnessed a trend of state governments seeking to exercise greater control over public power utilities, often in the area of the environment and conservation. Even though public power is often leading the way on these topics, the threat to local autonomy is a concern.

## Other Public Power-Focused Organizations

The two models described above reference the norms for electric distribution utilities. There are other organizations in the milieu of public power, two of which are outlined below.

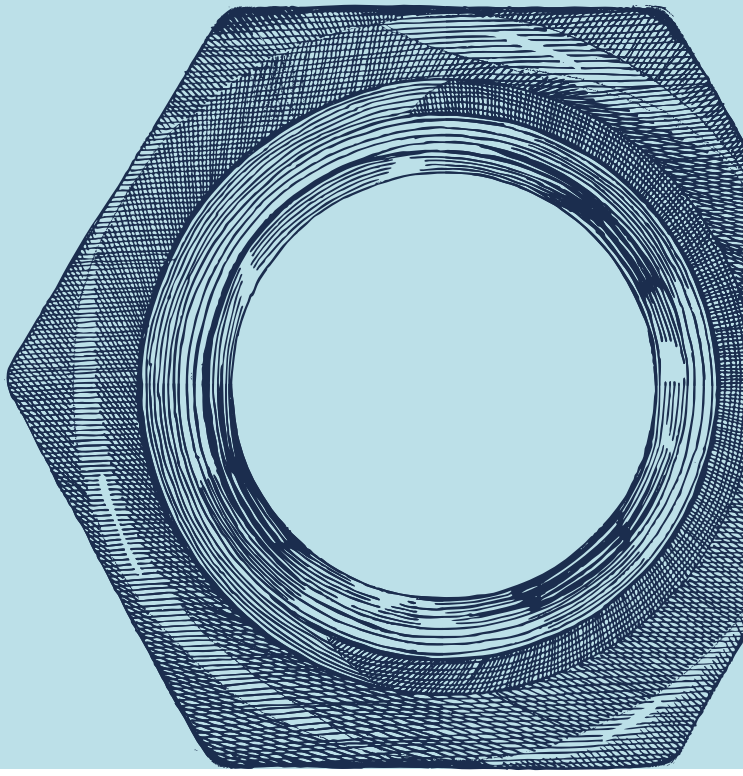
### Joint Action Agencies

Joint action agencies (JAAs) are a group of fifty-four organizations that aggregate power demand from their member-owners to secure reliable, low-cost wholesale power. As economies of scale have historically encouraged larger generation projects, JAAs have played an important role in securing that power, either through their own generation facilities or through long-term purchase power contracts (or combinations of these). The Grand River Dam Authority in Oklahoma was the first JAA formed, in 1935, while much of the growth in JAAs occurred in the 1970s and 1980s. Most public power distribution systems are affiliated with a JAA, while a few purchase power directly on the wholesale market or generate their own power.

The governing boards of most JAAs are made up of representatives from all or some of their members. Board members may include executive staff or governing board members from among member utilities. Much like the work of governing boards for distribution utilities has gotten more challenging, so too have the issues facing JAAs. These agencies excel at acquiring reliable, low-cost power on behalf of their members, which has historically been what the vast majority of their members were looking for. Prices of coal-fired generation, hydro power and nuclear power, which constituted the preponderance of the industry's fuel supply, were very predictable. Savvy procurement strategies allowed JAAs to lock in low-priced generation through long-term contracts. As the electric utility

## WHO SHOULD GOVERN YOUR JAA?

Among many JAAs, governance roles have historically been filled by executive staff from their member utilities. Other JAAs have included a mix of executive staff and board members from among their member utilities. More recently, some member utilities are calling for greater governing board representation on the JAA governing board. As a reflection of the increasingly complex – and political – wholesale power market, governing board members from among the utility members are seeking a larger role in JAA governance. These people note that thriving in this more complicated landscape is not always achieved through better engineering or contract negotiations; many JAA decisions are unavoidably more political in nature. This discussion seems a healthy one for public power to embrace and will no doubt continue.



industry has evolved, the needs of distribution utilities have grown. Many local public power utilities now turn to joint action agencies for other services such as introducing renewable power into the supply portfolio or renegotiating long-term power contracts that are no longer economical. JAA governing boards are evaluating their fundamental roles and adapting so they can continue providing strong value to their members.

JAA governing board structures reflect a wide range of approaches that allow their members to have effective representation. Smaller JAAs, with a dozen or so members, will frequently have each member represented on the board. As JAAs increase in member size, with some exceeding one hundred member utilities, the logistics of representation become more challenging. Many large JAAs will rely on executive committees, subcommittees and regional subgroups to foster wider representation. JAAs recognize that their financial health is linked to the health of their members; yet the converse is also true: distribution utilities benefit greatly from a well-run, financially healthy JAA. Again, strong governance will be increasingly important to weather the many new challenges facing public power.

## Other Types of Electric Utilities

To contrast the public power business model, there are two main alternatives to public power: cooperatives and investor-owned utilities (IOUs).

### Cooperatives

The business model of cooperatives, also known as co-ops, REAs (rural electric associations), and EMCs (electric membership corporations), is similar to public power's. There are about 800 co-ops with an average of 24,500 electricity customers each. They are private nonprofit organizations, owned by their membership, as opposed to the public ownership of public power. Both public power and co-ops can be referred to as "consumer-owned" utilities, with one owned by its members/customers while the other is owned by a governmental entity such as a city, county, state. That ownership also dictates the key differences in governance: in co-ops, the board is elected by its members, whereas in public power, the board is either an elected city council or an elected or appointed utility governing board.

As nonprofits, co-ops return their excess revenues to their members, rather than the government agency that owns the public power utility. Rural electric cooperatives generally occupy more rural areas of the country and cover 56 percent of the U.S. landmass. Co-ops were spawned by enactment of the Rural Electrification Act of 1936, a New Deal law passed to bring the benefits of electricity to unserved areas of the country. Residents and businesses in rural areas formed electric cooperative associations and gained access to low-cost federal loans to finance construction of electric utility infrastructure.

### Investor-Owned Utilities

Investor-Owned utilities, or IOUs, serve nearly three-quarters of U.S. electric customers. Through continuing mergers and acquisitions, the number of IOUs has dwindled considerably, while the average number of customers at an IOU has grown to several hundred thousand with many serving millions of customers across multiple states. Not surprisingly, most IOUs have had to turn to more automated and less personalized interactions with their customers as local customer service offices are consolidated. Opportunities for customer input on the utility's operations look very different from public power, which may require a trip to the state capital to speak in front of the state's public service commission. IOUs, as their name suggests, are owned by shareholders or investors. Profits are returned to these shareholders, who may reside anywhere, as opposed to public power, whose "shareholders" are its community and its customers. Ratemaking and regulation occur through the state public utility or service commission. The mission of an IOU is to optimize its return on investment for its shareholders, while the mission of public power is to optimize benefits for its local customer/owners, usually in the form of lower rates, higher reliability and transfers to the local government's general fund to help support other municipal operations.

### The Public Power Advantage

Financial benefits for the community are an important hallmark of public power. IOUs, while focusing on shareholder value and returns on investment, do return some revenues to the communities they serve. This is usually through a franchise fee, occupation or property taxes. So how does the value to the community of each of these business models stack up against each other? In the public power world, this is typically done through transfers from the utility enterprise fund to the local government's general fund. Yet this is only a portion of the value returned to the community. For most public power utilities, in-kind services and cost-sharing with the city represent a large portion of the utility's value to the city. These might include:

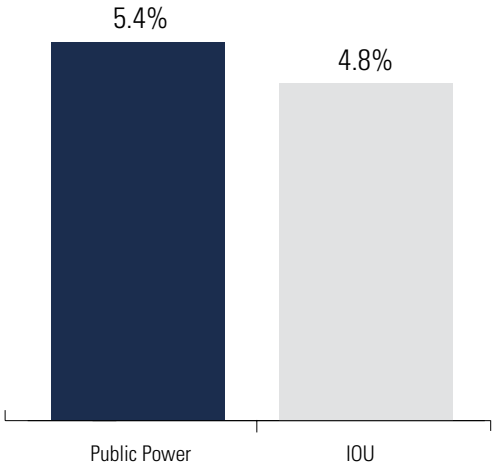
- Free or reduced cost electric services, such as
  - Streetlighting
  - Lighting and electric for municipal buildings, traffic signals, water and wastewater treatment facilities

- The use of utility employees for
  - Installation of temporary lighting
  - Putting up banners and city signs
  - Electrical repair for other departments
  - Traffic signal maintenance
  - Tree trimming

When added together, transfers plus in-kind services, the dollar value of public power compared to IOUs comes into stark relief. Public power contributions to local governments average 5.4 percent of annual operating revenues; IOU contributions average 4.8 percent.

### PAYMENTS TO LOCAL & STATE GOVERNMENTS

**Percent of Electric Operating Revenue - 2018**




Yet dollar amounts from transfers and in-kind services only begin to describe the extent of public power's value to its communities. In addition, most utilities are also providing:

- **Savings through more efficient municipal operations:** The savings utilities help the city achieve because the utility is a municipal department; e.g., shared (more efficient) metering or billing operations; shared personnel; shared office space, etc.
- **Lower rates:** The sum of all the money everyone in the community (residential and business customers) saves on electric bills because the utility's rates are lower than nearby investor-owned or electric cooperative utilities
- **Local employment:** The sum of all the wages, salaries and benefits the utility pays its employees who live in the community; additionally, each dollar of utility employees' paychecks will circulate through the local economy many times.
- **Supporting local business:** The dollar value of all the goods and services the utility purchases from local companies, or value of the utility's business to local financial institutions
- **Community sponsorships and engagement:** The value of community sponsorships, in-kind contributions (e.g., assistance with stadium or special event lighting) and other community activities
- **Energy efficiency and customer programs:** The dollar value of the total amount of energy saved by members of the community through utility energy-efficiency programs or the value of other utility programs that help customers
- **Economic development:** Many utilities help attract new business to the community or help existing businesses expand, which can have a large economic impact on the community

Knowing this information and being able to tell your story is critical. Public power utilities can be an attractive candidate for acquisition by IOUs or co-ops; they are frequently under-valued and city leaders, who may not fully appreciate that value, may be enticed by the large checks these competitors offer. It is critical that every public power utility and its governing board have a clear idea of just how valuable their utility is.

## The Importance of Good Governance Today

For the electric utility industry's first one hundred years, governance of a community-owned utility was straightforward: Secure the lowest cost, most reliable wholesale power, deliver it across a well-maintained distribution system of substations, poles and wires and set rates in a manner that minimizes financial impacts to customers while ensuring the long-term health of the system. Utility governance typically entailed periodic approval of wholesale power purchases, approval of an annual budget, setting equitable rates and the occasional approval of large-ticket expenditures. For some boards, the high point of their activities may be over which bucket truck the utility should acquire.

Today, the landscape has shifted enormously and issues requiring careful governance deliberation and decision-making increasingly show up on meeting agendas. In the 1990s, utility customers began asking

for alternatives to the fossil-fueled energy their utility relied on. As a result, lowest cost power was no longer the only factor to consider in securing wholesale power. Governing boards were asked to gauge their community's appetite for green power, at what cost, and who would bear the additional costs of environmentally friendly power—all customers or only those requesting a greener source of power?

As the Industrial Age was replaced by the Information Age, new technologies began to change the way utilities operated and changed customers' expectations of their utilities. Supervisory control and data acquisition (SCADA) and geographic information systems (GIS) and more recently automated metering infrastructure (AMI), have provided real-time insights for utilities into their distribution systems. This has afforded more sophisticated operations, more equitable rate structures and more choices for customers.

For customers, it was no longer acceptable to pay only by cash or check, either in person or through the mail. Customers demanded more. More options to pay their bill, such as online billing, pre-pay billing, picking their own billing date, being able to use credit cards or, more recently, cryptocurrency. Customers sought greater transparency and insights into their energy use and control over how they will use that energy.

The days of lumping customer groups into a few categories, for example residential, commercial, industrial, are no longer enough. This means governing boards, who are elected or appointed to *reflect the voices of utility customers,* now must respond to many different needs from different types of customers. In a diverse community, boards must address the needs of a wide variety of residential customers:

- Low-income
- Renters
- All electric
- High use
- Elderly
- English as a second language
- Tech savvy

Clear segments also exist among commercial and industrial customers, for example:

- Those with high load factors
- Customers willing to have load interrupted in exchange for a lower rate
- National companies with little local decision-making regarding utility use
- Small business owners looking to optimize their energy use

Each of these customer groups has different needs and different expectations of the utility. How do you as a governing board ensure that the utility understands these needs and, if appropriate, act to accommodate those needs?

This is a critical time in the utility industry, and public power must keep up. Publicly owned electric utilities serve important and distinctive roles in the market as reliable, low-cost electric providers. This status is based primarily on their operating structure as not-for-profit, consumer-owned entities subject to local oversight and control. Because of their inherent efficiencies, consumer focus and proven performance record, public power utilities have historically served as a yardstick for the electric power industry. With this tradition of service and performance and the continued focus on what is best for their customers rather than stockholders, public power utilities are well situated to continue as viable competitors in a changing electricity market.

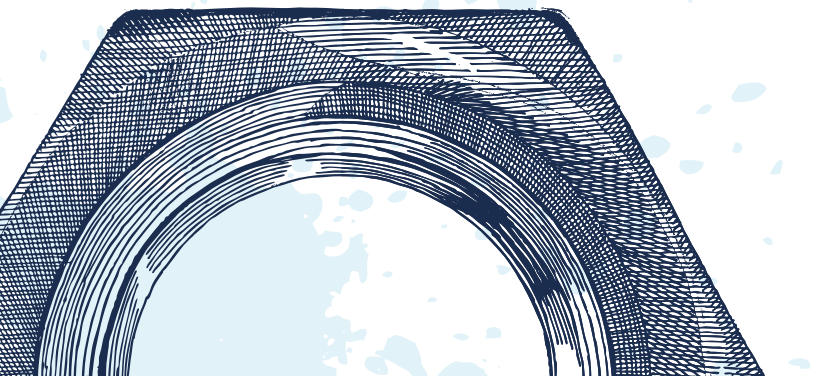
At the same time, as rapid change in technology and customer expectations continues, growth in state and federal regulation threatens to encroach upon the sovereignty that public power has long enjoyed. Local control has been a lynchpin of the public power values proposition from day one. Yet today, federal and state policymakers are including public power in decisions previously reserved for IOUs, such as renewable portfolio standards, net metering and energy optimization standards. How will public power governing boards retain their local autonomy? This is increasingly an issue for utility boards, joint action agencies and municipal electric associations.

It should be clear to all that our industry has moved from an era marked by certainty and incremental change, to an era of great uncertainty and potentially

more seismic changes. How public power responds to these uncertainties ultimately falls squarely in the lap of utility governing boards. Most governing boards are not built for speed or radical change; they are built for conservative, deliberative, inclusive and thoughtful decision-making. How will your board keep up with this rapidly changing industry?

For some, simply selling out may seem like the path of least resistance. Indeed, offers to buy out the local utility are appearing from neighboring IOUs, co-ops or private equity firms. If the governing board and city leaders do not have a clear picture of their utility's value, they may make decisions not in the best long-term interests of the community, losing the proverbial goose that laid the golden egg. Looking ahead, governance issues will play an increasingly critical role in translating the needs of the community and customers and creating clear direction on where the utility must be to meet those needs.

The core values of public power that sustained our industry for the past 140 years should continue to support its success in the coming years. Yet the industry landscape will look different. Public power has historically provided more reliable service at less cost, while providing good paying jobs and channeling significant dollars to the municipality's general fund to support parks, streets, public safety, libraries and many other amenities. Low-cost, reliable power will remain a strength of public power. Local utility policymakers today must be poised to deal with accelerating and increasingly turbulent changes.





# THE FINE PRINT:

## Charters, Bylaws, Codes of Conduct - What Will Guide Board Actions and Behaviors?

### Charters

Why does your utility exist? At some point in the last 140 years, a group of local government leaders decided a community-owned utility was in the best interests of the people they represented. Most of those public utilities exist because of some kind of enabling legislation from either municipal or state action. Most public power utilities are municipally owned. Other forms of ownership include political subdivisions of the state (such as public utility districts, public power districts, and irrigation districts that also provide electric service). There are also several state-chartered utilities (for example, Sacramento Municipal Utility District in California and Santee Cooper in South Carolina) and joint action agencies (JAAs), which are typically formed under state law to provide wholesale power supply and other services to member community-owned utilities.

So why are we interested in what seems like ancient history? Why not just hit the ground running and never look back? Public agencies are generally created only after a great deal of deliberation and scrutiny, and with language that establishes their authority and their limitations. The resulting charter defines the organization, powers, functions and essential procedures of the utility. In the case of city council-governed utilities, the functioning of the utility may be defined in the broader municipal charter. Most utilities can lay their hands on their charter. A few may have no charter. In one case in New England, the utility's charter and other documents were lost in 1915

when the nearby river spilled its banks, destroying or washing away much of their equipment, furniture and their founding documents.

A charter is an important part of a utility's operations, as it typically guides, at the broadest level, what can and cannot be done. For many utilities, charters have remained unchanged since their founding, often making them unnecessarily restrictive, placing the utility at odds with current community norms and expectations, and potentially running counter to current state or federal laws that may preempt portions of the charter. Given that the median age of public power utilities is more than one hundred years, many utilities may be working with charters reflecting a very different time, when city leaders were in no position to anticipate the vast changes in power supply, technology and community expectations. More than one utility, attempting to respond to changing community needs and expectations, has been stopped dead in its tracks when the language of its charter prevented it from moving ahead. Many utilities have found language in their charters that creates uncertainty, if not clear restrictions on utility actions that are commonplace today.

If you are new to the utility, spend some time reviewing your charter so you have a good understanding of what the utility can or must do. If your utility has not reviewed its charter recently, do so now. For many public utilities or city governments, regular charter review is commonplace. Yet for others, the charter remains unchanged and may be a potential stumbling block for addressing current community needs. Some readers may be concerned that opening up the enabling legislation to scrutiny and revision may be equivalent to opening Pandora's Box, much like the fears of many at the federal level of convening a constitutional convention. While there is certainly merit to this concern, periodic review of the organization's charter, done in a deliberate and transparent manner is simply good governance. If you have not already, consider forming a charter review committee. Your legal counsel can provide direction on how to proceed.

In the interest of good governance, make the process transparent. Consider tapping members of the broader community to serve on the review committee or create other opportunities for involvement of the utility's "owners" or stakeholders. If you serve customers outside of your city, how will you capture their voices? What legal steps are required to make a charter change? Is state action required, or can changes be made locally? For many utilities, charter changes are done through referendum or a citizen initiative. Others, whose charters originated from state legislation, may need to turn to state lawmakers for revisions.

Every governing board must be familiar with the charter under which they govern. Regular review and housekeeping should be done every few years.

## Bylaws

While the vast majority of utilities operate under some form of enabling legislation or charter, bylaws are often not required by law for a public agency. Legal requirements for bylaws will vary from state to state. For the purposes of this handbook, bylaws can be viewed as picking up where the charter ends and may describe the order of business for board meetings, behaviors and any other non-negotiables that your governing body deems necessary. Unlike a charter, which may require a vote of the people, bylaws are often treated much like ordinances, requiring a simple majority vote of the board. As such, they are also more easily changed should conditions warrant it.

Bylaws provide a code of conduct and operating manual for an effective board. Bylaws usually speak to the mechanics of the governing process, establishing processes for meetings, committees, conflict resolution, codes of conduct, etc. This could include:

- **Directors and officers:** Bylaws often state the roles, responsibilities, duties and terms of directors and officers.
- **Board member succession and removal:** What constitutes grounds for removal? How will a replacement be determined and for what period?
- **Meetings:** Information about regular meetings, as well as annual and/or special meetings, including the frequency and place of meetings, the type of notice required, and whether directors may vote by written proxy.
- **Checks and balances:** Bylaws should include structures for checks and balances, including the signatures required for execution of legal documents, signatures required for checks, and other controls over financial transactions and transfers of assets.
- **Committees:** Bylaws may describe the types of committees, responsibilities of committees, and qualifications for those serving on a committee.
- **Amendments:** Bylaws should set out how to amend the bylaws in the future.

- **Conflicts of interest:** Perhaps the most important policy a board can have. See the additional discussion below.
- **Confidentiality policies:** What information should remain confidential, such as personnel matters, customer data, contract negotiations
- **Document retention and whistle-blower protections:** The passage in 2002 of the Sarbanes-Oxley Act created federal guidelines protecting whistleblowers. Although the act largely targets corporations, boards of all organizations – private, charitable, or governmental – are required to establish a policy for preserving documents for current or future examination of organizational performance. Boards also are required to establish policies to protect from retribution any employees (whistle blowers) who reported unethical or criminal activity within the organization.
- **Codes of conduct:** Expectations for behavior and decorum as it relates to interactions between board members, with staff or with customers or the general public.

Where formal bylaws are not required, it is still a good idea for boards to have some kind of operating manual that outlines its practices and conduct.

## Conflicts of Interest

If nothing else, a board must have a clear statement on conflict of interest. As a sign of our more litigious times, the accusation of conflict of interest has become increasingly common among municipal boards and commissions. Not all conflicts of interest are financial. Even perceived conflicts of interest are open to wide interpretation. Address and define this issue now, not when it appears during a future board vote. If you have not already, consider these four safeguards:

1. Establish a written conflict-of-interest policy, which is periodically reviewed (some state laws include conflict-of-interest provisions that must be included).
2. Clearly publicize the policy, to avoid awkward interactions where the policy is not clear to constituents or the board itself. Many boards begin each meeting with a brief review of its conflict of interest policies.
3. Make disclosure a normal practice.
4. If major purchases could involve a conflict of interest, obtain competitive written bids.

When a perceived conflict of interest does arise, there are varying levels of response. At a minimum, disclosure is an important first step. From there, the individual and the board - often with input from the legal counsel and/or general manager – have several choices:

- Disclose, but participate in discussion and vote
- Disclose, participate in discussion but refrain from vote
- Disclose, refrain from both discussion and vote
- Disclose, recuse (leave room)

While there are frequently activities that present a clear conflict of interest, many more are ambiguous. As part of any board orientation or training, the conflict-of-interest policy is worthy of discussion.

Reading through the fine print is certainly not the most glamorous thing a board member can do. Yet, for any governing board member, more than a passing familiarity with the organization's charter, codes and policies is important if the board is to govern effectively and legally. Review your documents, discuss them as a board, if appropriate, with legal counsel in the room. Clarify ambiguity and, if needed, take the necessary steps to update and confirm the role of the utility and its governing board.






# ROLES, RESPONSIBILITIES AND DUTIES

## Who Does What?

A governing board has many responsibilities and the authority to exercise those responsibilities. Individual board members also have responsibilities, but, for the most part, have no authority in their capacity as an individual board member.

### Overall Board Responsibilities

It is only as a board as a whole that governing decisions are made. All authority of a governing board comes from the decisions made through a majority vote of the board.

#### The Hiring, Firing, Oversight, Assessment of, and Direction of the CEO

The governing board's primary duty is to sustain the long-term viability of the organization and enhance its performance on behalf of owners. This cannot be achieved without an effective chief executive officer managing the utility and implementing the board's directives. For most utilities, the CEO is the only person over whom the board has direct control (in some organizations, a comptroller, clerk or legal counsel may also report directly to the board). The dynamic of a constructive board/CEO relationship is one of the more challenging elements of effective governance. While the board directs, oversees and evaluates the chief executive's performance, it must also provide encouragement when further development is needed, identify corrections when the CEO's performance falls short, and reward exceptional performance. In some cases, it may have to fire the CEO if performance is substandard.

With a strong CEO in place, it is critical for the board to provide clear and unambiguous direction and strive to delineate board-level decisions from CEO-level decisions. Individual board members, including the board chair, must be mindful of not providing direction unilaterally, without board consent, particularly as they relate to policy-level discussion.

A clear evaluation process should also be in place. The board regularly reviews the CEO's performance against the job description and the board's expectations. Numerous examples of CEO evaluations are available either online or through APPA. Every board should have in place a clear and predictable evaluation process. A sample evaluation is included in Appendix A.

When it is time to replace the CEO, the task of hiring can be made easier when the board has ample notice and can conduct the process in an orderly fashion, allowing adequate time for the search, interviews, reference checks and negotiations. Similarly, the task is simplified when an obvious internal replacement is available. Yet, unless there exists a very strong internal candidate, turning quickly and exclusively to an internal candidate is a temptation the board may want to think twice about. Today, because CEOs must exhibit the management skills, marketing savvy and technical knowledge necessary to navigate the rocky road of industry change, hiring decisions should be made deliberately and strategically.

Compensation is never an easy subject, but in the world of public power, there are additional factors that further complicate the discussion. Performance is just one element of setting CEO compensation. Setting a salary range would seem an easy exercise: simply benchmark against market and adjust up or down accordingly, depending on the size of the utility and its complexity (for example, providing additional services such as water, wastewater, telecommunications, etc.). Unfortunately, it is rarely this straightforward. First, one must decide which market to benchmark against. Utility CEOs frequently move between cooperatives and public power; less common is movement between investor-owned utilities and public power. IOU CEO salaries are typically an order of magnitude higher, so including them in "the market" is simply not realistic.




It would seem fair, however, to describe all consumer-owned electric utilities – co-ops and public power – as a reasonable market. Their operations and utility sizes may be similar, although the majority of co-ops are electric only. Yet even in this more narrowly defined market, substantial differences remain, as utility directors for co-ops earn higher salaries than their public power counterparts.

Because of all these extenuating factors, it is rare to find a current compensation study that addresses a utility's unique conditions. So now the board must decide whether to commission its own compensation study, or simply take a best guess at what the market is. Yet, that's just the first step. Boards must also factor in the financial condition of the utility and the ability to adequately compensate the director while adhering to financial policies that reflect its financial strength (for example, maintain adequate cash reserves). Additionally, the utility may have a compensation philosophy for all employees; for example, it will pay the median plus 3 percent of market. The board should be aware of CEO and senior staff salaries during the budgeting process to ensure that the formal or informal compensation philosophy is honored.

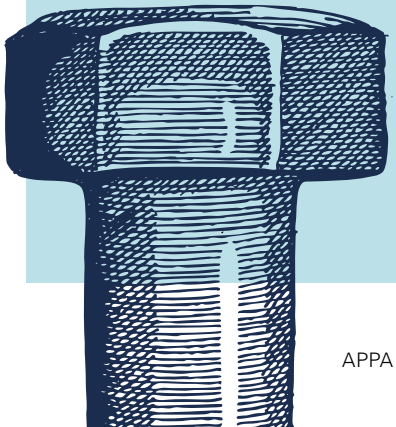
### Financial Oversight

While managing a utility's day-to-day finances is the job of the CEO and senior staff, the board has ultimate responsibility for overseeing the organization's financial affairs and maintaining the long-term financial health of the organization. This is not to suggest that all board members must be CPAs, quite the contrary. All board members should possess enough financial literacy to understand basic terminology, read and evaluate financial statements, and be able to ask the right questions in determining the financial health of the organization. In practice, this may include several activities:

- **Developing and approving the utility's budget.** Typically, the organization's staff is responsible for drafting an annual budget, which lays out projected income and expenses for the upcoming year or years. The board is responsible for reviewing and approving the budget. In its oversight function, the board should examine the budget to ensure that the projected expenses and income are comprehensive and realistic, based on the organization's prior financial performance as well as any new initiatives

## SALARY COMPRESSION IN CITY COUNCIL-GOVERNED, COUNCIL-MANAGER UTILITIES

As the electric industry evolves, executive compensation – really electric utility compensation across most titles – has experienced strong upward pressure. Salaries at investor-owned and cooperative utilities have increased at a much faster rate than in public power. Nonetheless, the rise in these other sectors has pulled public power along with it. For most independently governed public power utilities, the effect has been to raise compensation substantially. In city council-governed utilities, however, there is often another complicating factor. In council-manager cities, it is common for the utility director to report to the city manager. The challenge is that, in today's executive compensation market, the upward pressure on utility CEO compensation has pushed the average salary of a utility CEO above that of the average compensation of a city manager in a similarly sized community. Tradition – and sometimes ego – dictates that the boss gets paid more than subordinates. There are a few exceptions today in public power, where the utility director is paid more than the city manager. Yet these remain exceptions, the result being that utility directors, who may report to a city manager, are among the lowest paid in the industry. In many cases this is defensible, when the city manager plays an active role in the leadership of the utility and is effectively acting as the utility CEO. For most governing boards it may be a moot point; the city manager, not the board, may set the utility director's salary. Nonetheless, it is appropriate for a governing board to expect the city manager to compensate at a level that will attract a strong group of candidates.



## CODIFYING REVENUE TRANSFERS

Almost all public power utilities provide some kind of return on investment to the government agency that owns the utility. Payments in lieu of taxes (PILOTs) are revenues transferred from the utility enterprise fund to the government's general fund. In many utilities, financial policies prescribe how that transfer is determined and the amount to be transferred. American Public Power Association surveys show the two most common transfer policies are either the percent of gross operating revenue or a flat amount paid annually. Less common are property tax equivalents, charge per kilowatt-hour sold or percent of net utility plant in service.

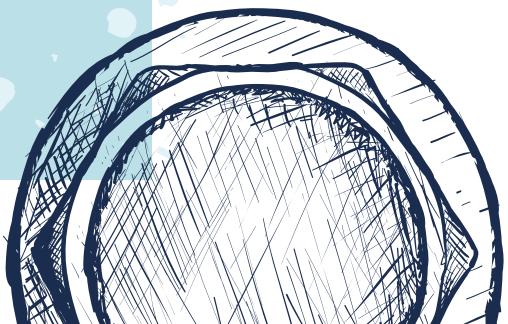
This same survey shows that a large percentage of public power utilities have no policy or guidance on how much is to be transferred. In many cases, it is a number derived only after the city council determines the general fund budget, using the utility enterprise fund to make up any gaps. This is a risky practice for several reasons. Utilities, whose planning horizon can be decades out, need strong revenue forecasting models in order to make sound financial decisions. Unpredictable transfer amounts make it difficult for the utility to build strong models. Philosophically, an enterprise fund is designed to run like a standalone business, with revenues set at a level to ensure coverage of operating, capital and power supply costs, with a known amount returned to its "owner." If transfer amounts are capricious or excessive, *electric customers* may believe they are subsidizing services that should be funded by *taxpayers*.

identified through a strategic planning or other process. The budget process is a time when all the CPAs and numbers people on a board can shine and their insights can be enormously helpful. At the same time, care should be exercised to make sure the rest of the board is not left behind as discussion dives down into the line item level.

The budget review process can be contentious as utility priorities compete for limited resources and individual board members find themselves lobbying for or against elements of budget. The board chair, board members and the CEO should all be mindful of the stresses a budget process can produce and agree on a process that encourages candor and disagreement while maintaining a respectful dialogue.

- **Setting rates that are fair yet sustainable to utility operations.** Rates, and the high bills they create for some, tend to be among the most common source of customer complaints to utilities and their boards. Boards must weigh the needs of today's utility customer against the long-term fiscal stability of the utility and its future customers. Utilities have many tools to help the governing board make decisions based on good information. Cost-of-service and rate studies can be helpful in ensuring fair and sustainable rates, while also minimizing cross-subsidization that can occur between rate categories. With the advent of smart meters, meter data can support more sophisticated rate options, such as time-of-use or real-time rates. Rate-setting is ultimately a political decision, weighing the needs of current and future customers.

- **Ensuring financial policies for long-term viability.** Public power utilities tend to be fiscally conservative. This has served public power very well over the decades, through depressions, recessions and pandemics. Many utilities have codified this prudence by creating policies that encourage strong financial stewardship. These might include policies on cash reserves, debt service coverage, rate stabilization, compensation, payments of lieu of taxes (PILOTs) and others. Governing boards of every size public power utility should review and periodically update financial policies that enhance long-term sustainability.



- **Reviewing financial indicators and metrics.** Most utilities have access to a wide range of financial indicators. The challenge is sharing information in a way that the board can follow without getting into the weeds. Graphs and charts tend to be more effective explanatory tools than spreadsheets. Most utilities have an abundance of financial metrics that staff uses to monitor the utility's financial health. The challenge is often finding those higher-level metrics that allow the board to maintain an appropriate level of oversight, long- term view of that health.

  These might include:
  - Bond rating
  - Debt service coverage
  - Reserve fund levels
  - Competitive rate comparisons
  - Asset depreciation

  The board should look beyond periodic financial reports and consider how the organization's current financial performance compares with that of previous years, and how its financial future appears. If the organization's cash reserves are declining over time, or if future revenue seems likely to change, the board will need to take steps to achieve or maintain financial stability. Trends should be more important to governing boards than snapshots.

- **Approving large expenditures.** Boards should avoid going into too much detail in their effort to help. More than one utility CEO has shared that the board will take twice as long debating the merits of a new utility vehicle than they take approving multimillion-dollar power contracts. Many utilities still operate under purchasing policies that were established in the last century. The dollar thresholds set years ago are very likely no longer appropriate, resulting in an increasing number of routine purchases requiring bids or requests for proposal that need board approval. A periodic review of the organization's purchasing policies is an important part of maintaining smooth utility operations (unfortunately, in some states, municipal purchasing policies are set by the state).

- **Approving the issuance of debt through long-term bonds.** While many utilities follow a "pay-as-you-go" philosophy for capital expansion, many will at one time or another need to issue debt to finance expansion. Some independently governed utilities may issue debt directly, while others must work through their city council for this. Beyond who has the ability to issue debt, your utility's bond rating is determined in part by the rating companies' assessments of strong governance practices. The three major bond rating companies – Moody's Investors Service, Fitch Investors Service, and Standard & Poor's – examine governance structure and effectiveness when assessing a public power utility's creditworthiness. More importantly, bond ratings may be affected by board decisions or specific actions that impact a utility's ability to keep creditors' investments safe. The policies set by your governing board can have a significant impact on your bond rating, specifically:

  - maintaining your debt service coverage, funding reserves, and sustaining your operating liquidity;

  - the amount of political influence that affects the utility decision-making process;

  - the willingness and length of time necessary for a board or council to decide on rate increases or respond to a fiscal emergency;

  - how payments-in-lieu-of-taxes and other transfers to the city general fund are determined (use of an agreed-upon, predictable formula is preferred) and whether the amount of the transfer places undue stress on the utility's financial position and causes rates to become uncompetitive;

  - the utility's ability to identify, prepare for and mitigate risks;

  - the governing board members' backgrounds and expertise in business management, finance, law, and other areas needed for high-level decision-making; and

  - the governing body's ability to plan on a long-term basis, due to the long lead times of the electric power business and its sizable capital needs.

Becoming conversant and comfortable with these financial activities may require additional training of board members, possibly during new board member orientation or through other means. CEOs should work closely with their boards to ensure that information provided is accurate, timely and not overly technical or detailed. Striking the right balance of detail is difficult and will change as board members and CEOs come and go. CEOs should also recognize that board members are far more likely to protest having too little information

than too much or too complicated. Few people are eager to admit they do not understand the materials provided for them. With this in mind, it is a good idea to check periodically with board members to determine whether there are better ways of presenting pertinent information.

### Strategic Planning

Here is an area where boards have historically taken a back seat to staff. In the past, strategic planning rarely rose above the level of a good capital plan. Today, public power governing boards are called upon to think more broadly. This is due to the many changes inside and outside of the industry. These include:

- **New opportunities.** Technology improvements are changing the way utilities deliver power and changing the relationship with customers. Many customers are no longer content with the once-a-month paper bill that offers no insights into their usage or paying only by cash or check. Customer-facing technologies can open up new options for communicating with and assisting customers. New technologies also offer opportunities for new services. These can range from added tools for energy efficiency and conservation to the provision of entirely new utility services, such as high-speed broadband.

- **Competition.** This used to mean with IOUs and co-ops. Today competition is not limited to these traditional sources, as new market entrants see opportunities to make money in a changing industry. These competitors will bring new technologies and ways of relating to customers that may disrupt traditional business strategies and customer relationships.

Increased competition, new technologies and changing behaviors and expectations of the utility's customers all call for truly strategic deliberation, or the utility faces falling permanently behind. Today, boards must play a meaningful role in determining the future of the utility.

### Oversight and Assessment of Utility Mission, Services and Programs

With or without a strategic plan, the board must monitor and support utility activities against the organization's mission or strategic direction. In addition to financial metrics, measures describing other aspects of utility operations should be developed. This could include utility-specific measures, such as reliability, power quality, system losses, as well as customer service metrics, such as a customer satisfaction index. For utilities that do not regularly conduct market research, other measures may be appropriate. These could include customer complaints, on-hold time, first call resolution. Smaller utilities may struggle to capture certain kinds of data, which can make it more difficult for the board to have a good sense of how things are running. The American Public Power Association tracks a number of performance metrics that are reported each year in its *Statistical Report*. These can offer good insights into what's "normal" elsewhere. However, given differences in reporting methodologies from one utility to another, a utility's best insights often come from measuring against itself over time, revealing trends and potential red flags.

The governing board is ultimately responsible for ensuring that the utility's activities reflect the "owners" values and needs. To this end, the board must adhere to legal and ethical standards, articulate the utility's role and value to the community and, periodically, the board must evaluate its own effectiveness.

## The Individual Board Member

The individual board member's authority comes only from the decisions made by the board as a whole. It can be challenging for a knowledgeable and dedicated board member to refrain from helping out by diving in on a utility project. Not surprisingly, retired utility staff who sit on utility boards have some of the greatest difficulty remaining hands off. And yet, boards and individual board members must avoid usurping the authority of the CEO.

The individual board member, while lacking authority, nonetheless has many responsibilities. They include:

- Attending meetings. Sounds simple but work and family can often challenge perfect attendance. Many bylaws have attendance requirements to remain on the board.

- Coming prepared to review and discuss issues on the agenda. The board packet can at times feel overwhelming to review prior to the board meeting. If this is the case for your utility, review how information is shared between the board and the CEO.

- Being prepared to support the discussion through thoughtful, professional and respectful dialogue. Board dynamics vary greatly from one organization to the next. If rancor and bad blood permeate the board room, it may be time to stop and assess.

- Being willing to disagree or raise a red flag if not comfortable with the direction proposed. At the other end of the spectrum from the rancorous boards, are those boards where disagreement is actively

suppressed. Respectful disagreement and debate is an important tenet of good governance. Attempting to squelch that dialogue will result in poor decisions. Some utilities that find themselves in this situation will designate a rotating "devil's advocate," who is assigned to try looking at the topic from an opposing point of view.

- Remaining up to date on industry issues, trends and challenges. Public power governing boards must make the effort to understand changes affecting the industry.

- Actively seeking lines of communication with utility stakeholders. Utility boards, especially appointed boards, often struggle with their role as the voice of the utility's owners. Interactions with utility stakeholders often extends only so far as friends, neighbors, work colleagues or fellow parishioners. How can you find new avenues of communication? And what should you be communicating? Ideally, board members are both collectors of stakeholder input and messengers of the value of public power and of the utility.

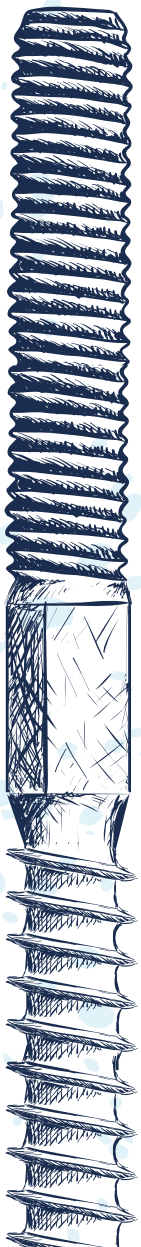
## Legal Duties of Governing Board Members

In discharging their responsibilities, board members must adhere to high standards of behavior and ethics. These include duty of care, duty of loyalty and duty of obedience. While seemingly straightforward, these duties can become an important benchmark when questions arise regarding board member actions. Let's look more closely at each of these.

### Duty of Care

This references the obligation of a board member to use his or her best judgment in making decisions. Board members must act to obtain knowledge and secure the facts necessary to achieve clarity on the issues in front of them. When necessary, independent expertise may be sought out in support of making informed decisions. In practice, duty of care asks that board members:

- Attend meetings
- Participate in discussions
- Review briefing materials prior to the board meeting
- Seek advice or counsel when complex decisions are made
- Understand and follow board policies and procedures



## CONFLICT OF INTEREST OR NOT?

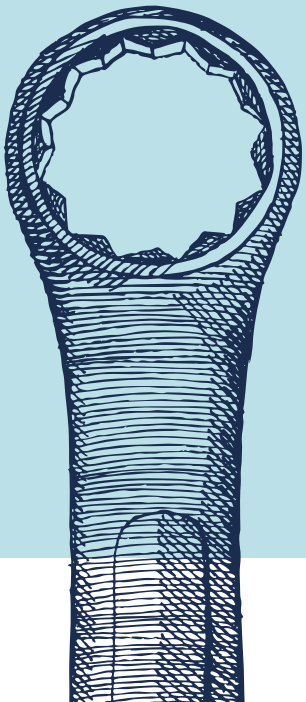
### HOW WOULD YOU APPROACH THESE EXAMPLES?

### SCENARIO ONE:

A city councilmember sits on the independent utility board as an ex officio member. The board is voting on whether to increase the percentage of gross revenues that are transferred to the city's general fund as part of the utility's PILOT (payment in lieu of taxes). This will cause the utility to draw its cash reserve fund below its stated thresholds. Yet the city's general fund operations have been hurt from lower-than-average tax revenues. Does that ex officio city councilmember have a conflict of interest? As part of duty of loyalty, must the councilmember put the interests of the utility first? What would you do?

### SCENARIO TWO:

A local resident and utility customer is incensed at the utility's acquisition of several acres of vacant land adjacent to her own, in order to build its future operations center. She believes this will drastically impact her property value. At the next election, on a platform of killing this project, she runs for and wins a seat on the board. When the decision comes in front of the board to budget for construction of the operations center, she must make a decision. Can she even vote on this, or must she recuse herself? What would you do?



**Duty of Loyalty**

When acting on behalf of an organization, board members must set aside their own interests, whether professional or personal, and the interests of any other organization. Board members will not authorize or engage in transactions except those that offer the best possible outcomes or terms for the utility. In practice, duty of loyalty prohibits board members from:

- Acting for personal gain
- Acting for gain of others, superseding utility interests
- Taking unethical advantage of utility business opportunities
- Speaking/acting in a way that puts the utility in a negative light or taints the utility's reputation
- Not respecting the confidentiality of the organization's protected internal affairs by disclosing them to outside individuals in a way that may hurt the organization.

Conflicts of interest are addressed under duty of loyalty. This is an area that can trip up board members if they are not careful. Accusations of conflict of interest are used increasingly in public discourse as a weapon. Without clear delineation of what constitutes a conflict of interest, decision-making can be thrown off balance. What once was interpreted to be strictly a *financial* self-interest, conflict of interest claims today frequently address even *perceived* conflicts of interest, which may be open to wide interpretation.

Boards that have ex-officio members need to be particularly mindful of potential conflicts of interest, as the utility board and other affiliations may have competing interests (see sidebar on this page for further discussion on this). Address and define the conflict-of-interest policy issue now, not when it erupts during a future board vote.

**Duty of Obedience**

This references the obligation of the board member to remain obedient to the organization's mission, bylaws, and policies as well as honoring the terms and conditions or other standards of appropriate behavior such as laws, rules, and regulations. Further, the board must act or use its resources in compatible ways or purposes. In practice, this means that board members must:

- Ensure compliance with the organization's mission
- Follow all laws and codes affecting public, nonprofit organizations



- Follow the organization's charter, governing documents and bylaws

The basis for the duty of obedience lies in the public's trust that the organization will effectively manage utility revenues and other funds to fulfill the organization's mission.

One last thought on the role of the individual board member. When formal decisions are made, it is important that the board speaks with one voice, usually through the board chair or general manager. Those not on the prevailing side, who did their best to lobby for a different direction, must now support the board's direction and not undermine the board's ability to carry out their stated decision. This can be hard to do, particularly on issues that turn emotional or acrimonious. Ongoing recriminations, especially carried out in public, tend only to diminish the public's opinion of the board and the utility.

## The Board Chair

Let's turn our attention to the position of board chair. It might seem that the chair has more authority than an individual board member, but that is rarely the case. Some municipalities and utilities have conferred additional authority on the position of board chair, such as when the mayor in a strong mayor form of government oversees the organization. But generally, like other board members, the chair's authority comes when the board acts *collectively*. Nonetheless, the board chair does hold additional responsibilities. They include:

- Presiding over the meeting in a professional and orderly fashion. The goal of an effective board meeting is not expediency, but rather an efficient yet thoughtful discussion resulting in clear decisions and direction.
- Being fully conversant with the issues covered on the agenda.
- Ensuring board members have a clear understanding of the topics at hand and pausing where necessary to provide ample background.
- Working with the utility CEO between meetings to review agenda items and other utility issues.
- In many organizations, the board chair and CEO set the agenda for the next meeting. An interesting and appealing alternative to this is to create the next meeting agenda as one of the last items on the current meeting's agenda. In this way, the entire board is involved in managing the board's agenda.
- Being the spokesperson for the board and potentially the utility.

Even though the board chair has only one vote, the added visibility and stature that comes with it may allow the chair to use the bully pulpit to advance certain issues. While not uncommon, board chairs should be encouraged not to abuse the added influence that comes with the chair role. The chair must ensure that minority voices are heard, and that the entire board is engaged in the decision-making process. To minimize any undue influence by the board chair, many boards have the chair speak last on issues, so they do not intentionally or unintentionally dissuade fellow board members from their positions. Others will have the board chair vote only on issues requiring a tiebreaker.

## The Chief Executive Officer (CEO)

As noted above, most boards supervise a single employee. The generic term we are using here is CEO, but in your utility, they may be called the general manager, director, executive director, superintendent or city manager. The CEO represents the bridge from policy to action. To borrow language from John Carver, who pioneered *Policy Governance* as an approach to governance, boards should focus on the *ends*, while providing the CEO significant leeway in the *means* necessary to support the board's priorities.




## MANAGING BOARD-STAFF COMMUNICATIONS

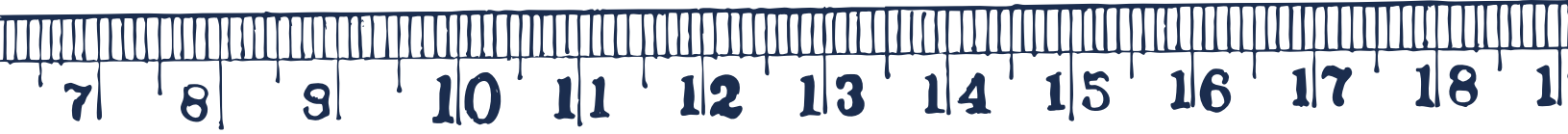
Should all board-staff communications run through the CEO? Most boards will have very few direct reports: a CEO, perhaps legal counsel, clerk or comptroller. Outside of these direct reports, all other utility employees report to another utility employee. Going outside the lines of communication may be viewed as meddling or undermining the authority of the CEO. At least one public power utility CEO has resigned because of the board's (and staff's) refusal to honor the lines of reporting. Yet, other CEOs may welcome and encourage a close relationship between the board and his or her staff. Of course, there is no right answer here, only a word of caution that board communications down into the organization chart should be open and transparent, and that board members refrain from providing direction – either implicitly or explicitly.

Things can get challenging when staff has a serious complaint of malfeasance or mismanagement about the CEO (or one of the board's other direct reports). Some mechanism must be in place to provide employees a safe opportunity to air their complaints. As representatives of the utility's owners/stakeholders, the board needs to know if employees have serious criticisms to raise; but these matters must be handled in a defined manner.

With board approval, the CEO manages the resources and operates the utility in accordance with the board's policies. This person works closely with the board and board chair to provide background and materials necessary for the board to make informed decisions on issues. This could include:

- Coordinating new board member orientation
- Periodically assessing levels of information shared with the board to ensure it is neither overwhelming nor incomplete.
- Coordinating communications between the board and utility staff

The board-CEO relationship is critical to the effective operations of the utility. This requires both sides of the relationship to work to nurture and strengthen that relationship. In our discussion of ends and means above, it was in reference to boards "staying out of the weeds." It is equally important that the CEO avoids making policy for the board. It is easy to stray too far either way, as the line between ends and means is not always clear. Long-tenured CEOs, especially those working with relatively inexperienced board members, may find it tempting and expedient to walk the board through policy decisions. Resist this temptation. On any given day, there is a nonprofit board somewhere turning to its CEO and asking, "what should we do?" Boards are the embodiment of community values and priorities. Boards must balance the tangled factors – technical, financial, ethical, emotional – that go into difficult decisions. Should the CEO run the board meeting? Ideally no. Let the board and the board chair become comfortable grappling with the issues and complexities brought in front of them. A well-informed and confident board is an asset to the CEO and the utility.






# CREATE THE TEAM: BOARD DEVELOPMENT

Today's utility landscape has created a significant need for strong board governance. Creating a strong team of board members who can roll up their sleeves and wade into an uncertain and at times chaotic future may mark the difference between utilities that thrive and those that founder. How do you achieve that and what does it mean to be a team? Let's looks at some of the ways to strengthen board development.

## Board Recruitment

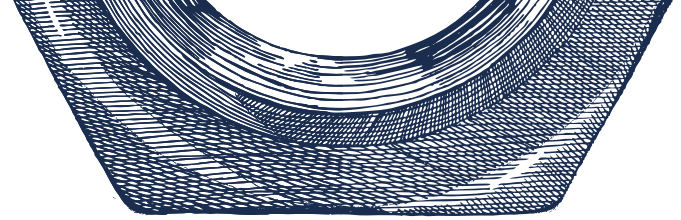
Members for most utility boards come either through the appointment by the mayor or city council, or through a direct election by voters – either utility-wide or by districts. With that in mind, the notion of "recruitment" may seem misplaced here. Nonetheless, utility boards can take several steps to ensure that future board members can be successful and committed to strong utility operations. The easiest way may simply be to be a well-run board, with a reputation for integrity, transparency, community focus and stewardship. Who wouldn't want to serve on that board? But if a board is widely viewed as combative, disrespectful and indifferent, it takes a special kind of fortitude to step up to serve. Whether the board has a good reputation or bad, it is in the utility's and its customers' interests for the board to become more effective.

Are you doing any kind of succession planning today in anticipation of current board members cycling off? Have you done an inventory of skills the board needs? What skills do you need and what skills will be lost due to retirements or term limits? Keep an eye out for community members who could be effective members of your board. Invite them to sit in on a board meeting or two. Identify individuals who have the interest and aptitude to give back to the community. This advice applies for both elected and appointed boards. If appointed, introduce prospective board members to the mayor or city councilmembers who will make these appointments. If elected, walk them through the process needed to get on the ballot. Some utilities with elected boards conduct orientation sessions, open to all candidates, to begin establishing relationships as early as possible. See the board orientation discussion below for ideas on what that could look like.

A few caveats are important here. First, understand local election laws to ensure that board members' activities are appropriate. While most activities involved with generating interest are fine, care should be taken with activities involved in getting them appointed or elected. Exercise caution endorsing a candidate, formally or informally. Should they be up against another person and lose, your public show of support may strain the relationship with a new board member. Partisan elections may further complicate efforts at board development and unity, although many partisan city councils work effectively with each other. While it is rare, a few independent utility boards hold partisan elections for board seats. While partisan boards may change the calculus, it does not have to stand in the way of boards working to improve their effectiveness.

Second, use caution recruiting only among your own circles of friends. If you look only within your existing circles, chances are good that they will all look and act a lot like you. If board diversity is a goal, and it should be, you may have to look more broadly in the community. Look for strong leaders who represent different ages, genders or ethnicities that are representative of the customer base. Renters, low-income and minority utility customers are often underrepresented on governing boards.

Third, does your utility serve a significant portion of customers who reside outside of the city limits? And if so, can non-residents serve on the governing board? If the governing board is a city council, the answer is almost certainly no. And if the governing board is independent, more often than not, the answer is still no. How will the governing board work to ensure that non-residents are represented? City councils may consider the use of a utility advisory board (see sidebar on page 24) that includes non-residents.



## Board Orientation and Training

Given the growing complexity of the utility industry, the quicker new board members can hit the ground running, the more effective the board will be. If your board has term limits, the urgency of a strong board orientation is greater. Whether appointed or elected, new board members can struggle to get up to speed on organization policies, strategy and culture, slowing their transition and the board's effectiveness. Creating a smooth transition to a new governing board and quickly establishing roles and responsibilities, as well as a strong policy focus, can be facilitated by a strong new board member orientation.

**What information should be shared:** A CEO has to walk a fine line between overwhelming new board members with information and providing so little information that new board members will struggle understanding key utility policies and issues and their role in addressing them. Many utilities create a notebook of all information considered important for a board member while providing a broader overview during initial orientation meetings. This might include:

- Organizational history (most public power utilities have a lot of interesting history)
- The Public Power Advantage (see further description on page 6 of this book)
- The organization's charter, bylaws and policies
- Strategic plan or organizational priorities and significant issues/challenges
- Vision, mission, values
- Organization chart
- The comprehensive annual financial report or other relevant financial documents
- Budget, including an overview of major sources of funding and expenses
- The utility's rates and, if available, the rates policy
- Key utility metrics such as reliability, financial stability, customer service, etc.
- Other affiliated organizations, such as a joint action agency and national and state associations

There are several decisions to make regarding the mechanics of new board member orientation. Do you want to reach all new members at once or meet with them one on one? Can new board members meet for several hours at one sitting, or should you consider meeting for thirty to sixty minutes one or more times a month (e.g., prior to a regularly scheduled board meeting)? What role should existing board members or the board chair play in orientation? Including other senior staff in the orientation can be very helpful, allowing for introductions and letting staff report on their functional areas within the utility. This is also an appropriate setting to reinforce the proper roles and relationships of board and staff, making clear the CEO's role as the only employee of the board, and outlining communication channels should other staff be involved with board-level issues.

**Consider providing a tour of the utility:** offices, warehouse, substations, etc., giving them a better understanding of the breadth of operations and the staff who run them. If generation facilities – either the utility's or the wholesale provider – are nearby, schedule a visit there. Some utilities have had success assigning existing board mentors for the first several months of a new board member's tenure. This mentor typically talks with the new board member between the arrival of the board packet and the scheduled meeting, to make sure the agenda and materials are clear. After the board meeting, the mentor can answer any questions and check the mentee's comfort level and understanding of the issues and their role.

## Ongoing Training and Development

Any effective team recognizes that training and development must be ongoing, and this is no different with a governing board. Set aside time during board meetings for information-sharing and updates. Share articles from relevant publications that help frame local utility issues. Get board members subscribed to APPA's *Public Power* magazine and the *Public Power Daily,* a daily email with industry news.

At least once a year, try to meet for a board retreat, creating a more relaxed setting for taking a step back to assess the board's progress and discuss strategies for the future. It can be helpful if it is conducted away from the utility and board room, where meetings tend to be more formal and structured. As referenced above,

a key responsibility for governing boards is to provide strategic direction for the utility. A formal strategic planning process – with board involvement central to its creation – can be an excellent approach for fostering board development; it not only generates strategic direction, but also helps board members understand their colleagues and promotes a stronger board.

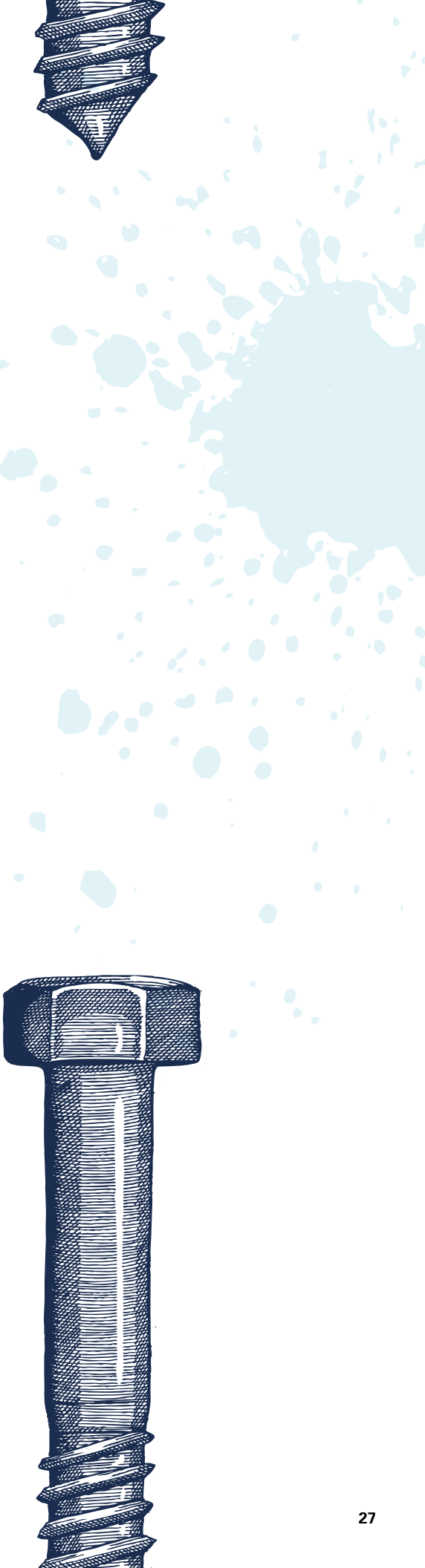
## Board Assessment

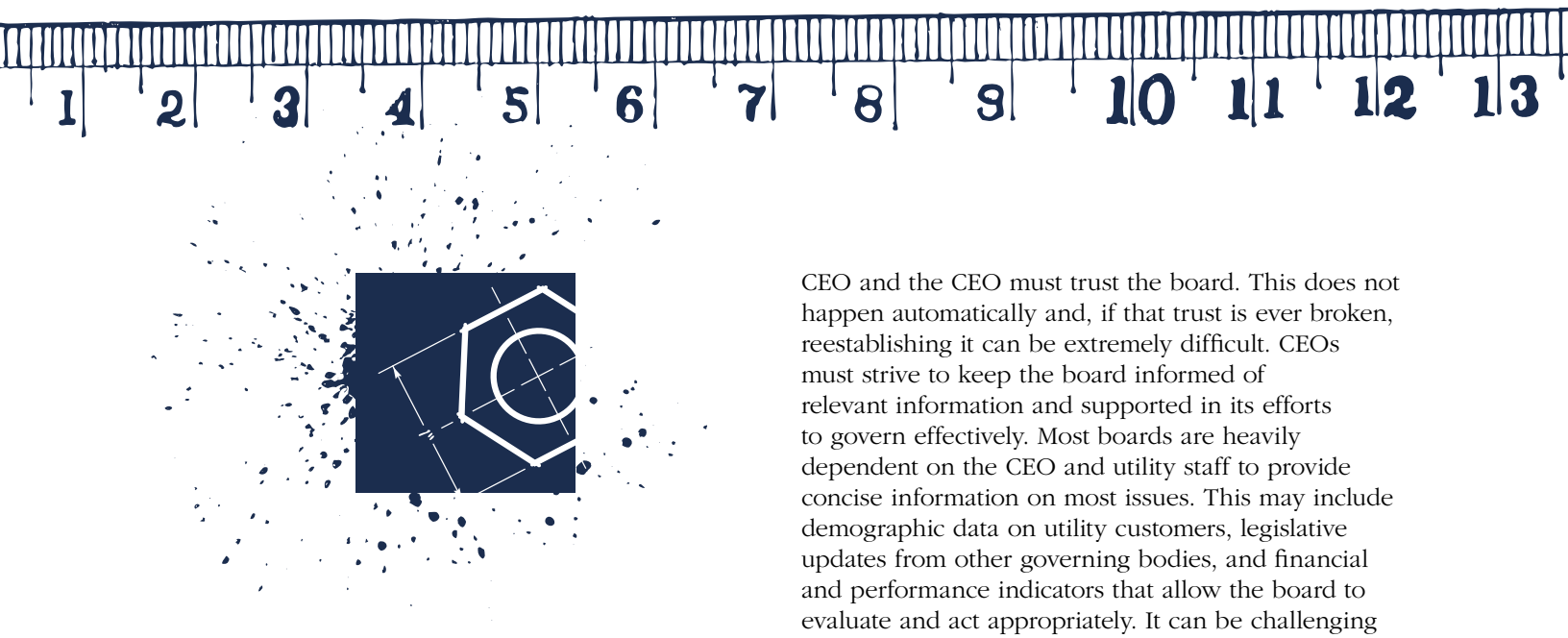
Being a board member can be a challenging and difficult task. An effective board strives to improve itself. A regular and thorough self-assessment by the board can help boost effectiveness. Yet nationally, among nonprofit boards, only about half report doing formal self-assessments. The effectiveness of a governing body has a major impact on the overall performance of an organization. A board that assumes responsibility for its own performance and continually works to improve will be more effective. The importance of your governing body's commitment to continuous evaluation and improvement cannot be overstated. Identifying potential improvements comes through self-reflection. Developing and implementing effective governance processes requires a board to conduct open and honest discussions and commit the time necessary for this important undertaking.

There are numerous examples of nonprofit board self-assessment available online. At a minimum, boards should evaluate themselves on the following criteria:

- Communications
- Responsibilities
- Financial
- Strategic planning and prioritization
- CEO oversight and support
- Board development

A sample self-assessment is included in Appendix B.





# COMMUNICATIONS

Like any effective team, a board with a strong communication structure is more likely to be successful. If there are poor communications, the best board will not reach its potential. This includes communications within the board, between the board and CEO, and between the board and customers and other stakeholders.

## Internal Board Communications

These communications are critical, and one might think internal communications would be the easiest to maintain. Yet boards must be mindful of open records and open meetings requirements when communicating outside of a formal board meeting. Laws vary by state and municipality, but most laws proscribe certain communications outside of public meetings, particularly when a quorum is achieved, either intentionally or accidentally. Electronic communications, such as emails, conference calls or video conferencing have introduced their own complications. The laws can be confusing and potentially inhibit communications. Notification and transparency will bring most communications in line with existing sunshine laws. Legal counsel can provide direction on what forms of communication are appropriate for your organization and when confidentiality is permitted.

## Board-CEO Communications

Effective communications between the board and the CEO are critical to the smooth functioning of the utility. At the root of this is trust. Boards must trust their CEO and the CEO must trust the board. This does not happen automatically and, if that trust is ever broken, reestablishing it can be extremely difficult. CEOs must strive to keep the board informed of relevant information and supported in its efforts to govern effectively. Most boards are heavily dependent on the CEO and utility staff to provide concise information on most issues. This may include demographic data on utility customers, legislative updates from other governing bodies, and financial and performance indicators that allow the board to evaluate and act appropriately. It can be challenging to the CEO to effectively translate complex financial or operations data into something easily understandable to an average board member, who may lack the financial or engineering background to decipher anything too detailed. The board and CEO must find a balancing point where the board is getting the right level of information, delivered in the right format and at the right time.

A final note on the board-CEO relationship in a city council-governed utility. In this governance model, it is possible that the head of utility operations does not report directly to the board. In cities with a council-manager form of government, the CEO is typically the city manager and thus the supervisor of the utility head. The utility head is one step removed from the governing board, so ensuring the effective flow of communications becomes more important. Fortunately, many city managers in public power communities take a strong interest in utility operations and long-term viability. Utility enterprise fund transfers may account for a large percentage of the general fund budget, so it is in everyone's interest to ensure that the utility remain financially and operationally healthy. In today's electric industry, change is no longer marked in decades, but rather years or even months, as technology, new competitors and changing customer demographics and expectations are putting tremendous pressure on utilities to adapt.

For years, the city's electric department remained largely unchanged, providing a large and consistent source of revenue without a great deal of governing board or city manager involvement. Today that is no longer the case, making it critical that city councils recognize both the great threats and opportunities that have emerged from these changes. Regardless of the reporting relationships, all boards must ensure that they remain current with trends, threats and opportunities and other factors that may impact utility operations.




## Board-Stakeholder Communications

Typically, in the past, when we talk about a board's stakeholders in the context of governance, we are referring to other government agencies, (see sidebar article, this page) governing boards, politicians and perhaps major industrial accounts. Much less frequently is there any expectation of governing board engagement with the utility's customers – the actual "owners" of the utility. This is fairly common across the wide range of public and private nonprofits, perhaps because, for many of them, the revenue sources and primary beneficiaries are not the same. For example, a school board looks to taxpayers and parents as primary stakeholders, while the students are the beneficiary. In an electric utility, the revenue source – electric rates – are from the same people who use that service, thus a utility's stakeholders are pretty clear. Despite this, utility boards often delegate customer engagement to the utility's customer service operation, the CEO and perhaps a periodic customer satisfaction survey, managed by staff, who may or may not share the survey results with the board.

In today's industry, public power must continue to close the distance between utility and customer, and the board's role in that engagement should only grow. Customers today often want more than low-cost, reliable power. Some want the utility to go greener, some want to pay their bill on a cycle of their choosing or pay with cryptocurrency, while others want to prepay their utility bill, much like they do the gas in their car. Some want the utility to step in and deliver a service not currently offered today. Responding to this diversity of needs and expectations should not reside solely with staff. Ultimately, these kinds of decisions will have to be addressed at the governing level. The governing board should not put the onus entirely on staff for customer engagement to interpret with constituents want.

Now is the time to elevate the importance of stakeholder engagement, and customers are a key stakeholder group. Through a strategic planning process or simply through discussion of customer service as a priority, boards are increasingly making explicit the importance of strong customer service. There are many ways a board can enhance customer engagement. This might include having board members join staff at an information booth at a local festival or open houses at utility facilities, scheduling listening sessions at a local coffeehouse, or exploring how to encourage greater attendance and participation at board meetings. The closer boards get to utility stakeholders, the more likely that boards will govern in a way that addresses vital needs.

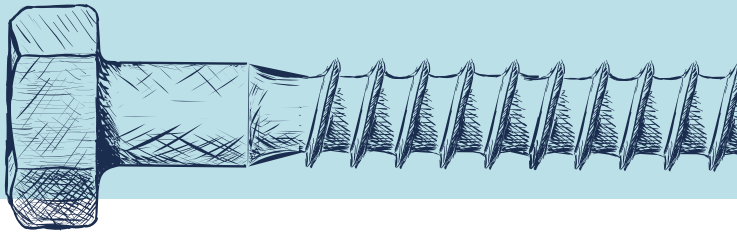
## INDEPENDENT UTILITY BOARDS AND THEIR RELATIONSHIP TO CITY COUNCIL

In communities where an independent utility board exists, the board should have a close working relationship and effective communications with the mayor and city council. Natural communications will occur concerning areas of joint responsibility or interest, such as the transfer to the city's general fund, proposed rate increases and issuing bonds. Informal communications and good working relationships should be in place throughout the year, not just at budget time. The support of the mayor, council, and other government agencies (such as the planning commission) will help the utility gain acceptance for proposed projects or programs. Local government officials can also assist the utility in carrying its message to the rest of the community.

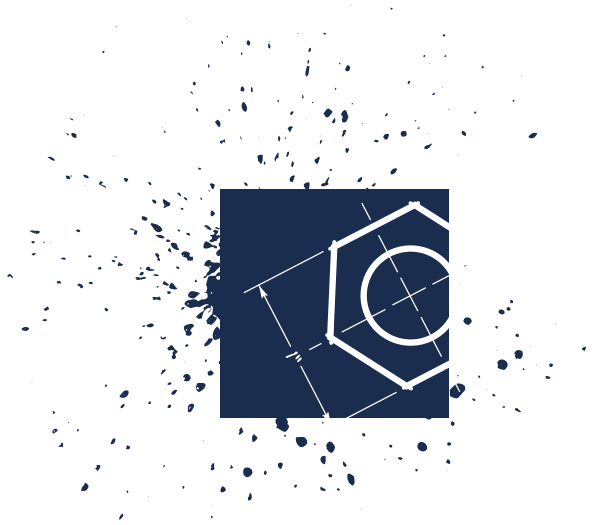
A proposed rate increase is a good example. When the chief executive and governing board foresee the need for a rate increase, explaining the timing and reason for that increase to local leaders as early as possible will make them better informed when they are questioned or challenged by the public. Added support for the proposed increase may result.

Many utilities with independent governing boards will have regular–oftentimes annual–meetings with the city council to discuss topics of strategic importance. Ideally these are done in a work session or study session format, with a less structured format and agenda.

Similarly, if your organization has a citizen advisory board, establishing a pathway for regular and meaningful communication is important. Advisory boards can quickly become discouraged if they feel the governing board is not paying attention to their activities and recommendations.





# THE BOARD MEETING: DESIGN IT FOR SUCCESS

What makes a successful board meeting? Is it that it ended on time? That no disagreements came up? That no one person dominated conversation? That everyone showed up? That the board packet closely followed the agenda? At least one utility board member has shared that a successful meeting is when no customers showed up to complain!

Governance takes place only when a quorum of a board is present and acting in its official capacity. For independent governing boards, this typically means one meeting a month, lasting about ninety minutes. While a city council meets more often, the occasions when utility business is on the agenda may be much lower than with the independent board. This means that if a utility is lucky, it may get a dozen or two hours a year of the board's attention to focus on issues of strategic importance. This is not a lot of time for a deliberative body to complete its work. Every board should be laser-focused on making meetings efficient and productive. There are any number of things that can distract from that focus. Let's look at a few of them.

## Before the Meeting

### Creating the Agenda

A good meeting does not stand a chance if the agenda is poorly conceived. One would think this is easy, yet many organizations continue to hamstring themselves by accepting the status quo as the only way to proceed. Given that most cities and public power utilities are at least one hundred years old, many of today's governance protocols and customs are rooted in a very different time. Whether formally adopted or informally followed, Robert's Rules of Order (RRO) have an enormous influence across virtually every nonprofit board. While RRO does not speak specifically to agenda setting, the Order of Business that RRO outlines tends to dictate the flow of many agendas.

**Here is a typical board agenda:**

Call to Order

Opening Ceremonies

Roll Call

Announcements

Information Sharing

Public Participation
(sometimes restricted here only to comments referencing this meeting's agenda with a separate agenda item shown toward the end of the meeting)

Consent Calendar

Order of Business:

- Reading and approval of minutes
- Reports of standing committees, officers
- Reports of special or ad hoc committees
- Old business
- New business

Program
(if any, such as presentation, demonstration, etc.)

Adjourn

The first thing that stands out here is that the actual conducting of business is loaded at the tail end of the meeting. The goal of a governing board should be to have a robust, intentional and deliberative dialogue of issues of the greatest strategic importance to the utility and its stakeholders. What can you do to get to the meat of your agenda sooner?




If you are not already, consider using a consent agenda, into which all administrative and non-strategic issues are bundled and voted on without discussion. This could include reading and approval of minutes. If committee reports require approval, consider moving them into the consent agenda. If not, simply supply committee reports in the board packet. If a board member or anyone else present at the meeting wishes to, items can be removed from the consent agenda for individual consideration.

Consider moving all information-sharing, board or CEO reports to the end of the agenda. Or better yet, fold them into the board packet and discuss only if board members wish to comment on or question any of them.

And how are the topics for consideration developed? For most boards, it is common for the CEO and board chair to draft an agenda several days prior to the board meeting. They will review the previous meeting to

## ROBERT'S RULES OF ORDER: BLESSING OR CURSE?

Robert's Rules of Order (RRO) were first published in 1876 by U.S. Army Captain Henry Martyn Robert and originally titled *Pocket Manual of Rules of Order for Deliberative Assemblies*. For better or worse, RRO influences almost every governing board's meetings. RRO is not a form of governance. Rather, it is a form of parliamentary procedure. Today's editions of RRO run longer than 800 pages and can offer insights into almost every imaginable motion, rule and procedure. Most boards loosely follow the tenets of RRO. From the standpoint of ensuring a deliberative, fair and inclusive process, RRO can be a very useful tool. Without some guidelines for procedure, a board leaves itself open to arbitrary or capricious behavior by board members or others, undermining the integrity of the board and the trust stakeholders have placed in it.

RRO is often criticized as a source of stress for board members. It is perceived as rigid and overly formal. When can a *friendly amendment to the motion* occur? Does *call the question* stop debate? What is a *subsidiary motion*? What does it mean to *lay on the table*? For many, the language is foreign, and therefore somewhat intimidating. Sometimes a board has an RRO whiz, who is continually citing chapter and verse of what can and cannot be done. RRO was not created to constrain discussion, but rather to encourage that discussion is systematic, deliberative and inclusive. Even Captain Roberts himself made this clear:

"Know all about parliamentary law, but do not try to show off your knowledge. Never be technical, or more strict than is absolutely necessary for the good of the meeting. Use your judgment; the assembly may be of such a nature through its ignorance of parliamentary usages and peaceable disposition, that a strict enforcement of the rules, instead of assisting, would greatly hinder business; but in large assemblies, where there is much work to be done, and especially where there is liability to trouble, the only safe course is to require a strict observance of the rules."

RRO can be a helpful resource, particularly with controversial topics and rancorous boards, where it is important to hear all sides of the issues and minimize some members of the board from dominating discussion.

Each board's embrace of RRO may differ from one another. Typically, smaller, less formal governing boards will dispense with much of the formality of RRO, while still seeking to foster a robust dialogue on the topics at hand. Larger boards, often under greater stakeholder scrutiny, may rely more heavily on RRO to ensure steps have not been skipped or voices unheard. For all boards, RRO can be an effective tool for ensuring a strong deliberative process.

look for unfinished business, adding that and any new business for the next agenda. It is not clear why this approach has become the norm, but it certainly puts the power of the pen in their hands. Is there another way? How about creating the agenda for the next meeting at the conclusion of the existing meeting? In this way, the entire board is a part of the agenda-setting process, fostering greater engagement and buy-in, and helping to link the discussion from one meeting to the next.

What should the agenda include? It is very easy for a board agenda to become cluttered with time-grabbing items or extensive parliamentary procedures. Ideally, a board's agenda should focus on the strategic priorities of the utility. After all, the board is setting the long-term direction of the utility while the CEO and staff implement those strategies. There are often exceptions required, such as purchasing approvals, or personnel or operational policy updates requiring board approval. Nonetheless, both the CEO and the board should be diligent in protecting the agenda from more non-strategic issues than absolutely necessary. Many governing boards with an active strategic plan in place will require that all agenda items brought in front of them reference at least one organizational strategic priority.

The agenda should also be very clear about which items are for discussion and decision-making and which ones are simply informational. If time is available, it can be nice for staff to provide an update on something of interest to the board, but it should be clear that, while questions are welcome, this item is not seeking direction or confirmation, but rather is presented as information only. If time is tight, consider foregoing a presentation and simply include information in the board packet. This same philosophy should apply to any committee reports; unless there is a reason to brief the board in the meeting, save it for the board packet. If you do wish to present information-only items or committee reports, consider putting them at the end of the agenda to ensure more important strategic items are given ample time for discussion.

Assuming board development has been identified as an action item for a board, time may also be set aside for this. This might include reviewing board member responsibilities and legal obligations, reviewing as a matter of course, the board's conflict-of-interest policy, conducting periodic self-assessments of board performance, or conducting a primer on industry trends, how to read financial statements, or reviewing recent stakeholder engagement.

### The Board Packet

The board packet. Something that sounds so straightforward, may be anything but that. Staffs will stress over the compilation of the board packet, trying to sort out relevant from less relevant information, providing annotation where necessary and having all of it come together in what always seems like too little time. Board members will stress over being able to read and understand the whole thing prior to the next meeting, knowing that this volunteer duty is also competing for time with their paid jobs, families, chores and other facets of daily life. Further, they may find some information far too technical or detailed, while questioning why another piece of information is not included in the packet.

How does an organization make the board packet process less stressful? Probably the first thing is to recognize the need for improvement and that there are rarely rules preventing the organization from modifying its process (be sure to do a quick scan of bylaws or policies to confirm that). Second is to query stakeholders in the process to learn what is or is not working. Is the format easily understood? Is there too much information provided? Too little? Would going paperless and moving to electronic packets work better? Is it provided early enough to allow time for busy board members to read through it? What would make the process work better? It is easy for a utility CEO to overestimate the level of industry and utility knowledge possessed by board members, as well as the time they have to digest the information included. The result can be overly detailed spreadsheets, an excess of jargon or acronyms, or simply too much information. For most boards, summary graphs and pictures will be more effective than spreadsheets, technical reports or whitepapers. The stresses of the board packet may never go entirely away, but boards should take it upon themselves to ensure the process is optimized for its needs.

In most utilities, board packets are publicly available so stakeholders with interest in a topic are not shut out of information. Some cities and utilities post this information on their website prior to each board meeting.

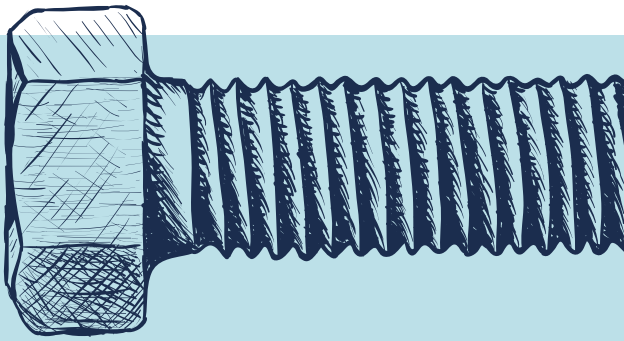
## During the Meeting

So we have arrived at the board meeting: where the rubber meets the road, where the sausage is made. A strong agenda was created. Routine matters have been minimized, leaving as much time as possible for the substantive topics. The board has been briefed through a thorough, yet concise and easily readable packet. A

quorum is established, and the board chair is ready to bring the meeting to order. How do you make the most effective use of this precious time, fostering informed discussion and clear outcomes and direction?

For many boards, one of the early elements in the agenda may be public participation. City councils and independent utility governing boards tend to have very different experiences when it comes to public participation. You will find further discussion on citizen participation in the sidebar, but please understand that a board's primary role is to represent and interpret the interests of the organization's "owners," so fostering stronger owner engagement should be a priority of every governing board.

With citizen participation completed, the board at last is addressing the topics requiring their input and direction. This is where a good board chair is so important, as she orchestrates the interplay of people and issues, moving quickly through the minor details, bending tangential discussions and comments back to the topic at hand, searching for areas of disagreement, while fostering an environment that encourages appropriate disagreement, ensuring thorough and complete discussions, yet recognizing when that point is reached and moving ahead to a decision, and finally summarizing direction and next steps. Through all of this, the board chair is monitoring participation, making sure all members are engaged and contributing to the discussion, not allowing



## FOSTERING STAKEHOLDER ENGAGEMENT, ORGANIZATIONAL TRANSPARENCY & PUBLIC TRUST

Governance can get messy, and that is by design. If every decision could be made through data research, return-on-investment analysis, and a big enough spreadsheet, cities and utilities would not need governing boards: all decisions would be obvious. Yet we know that many issues in local governance impact constituents, customers and other stakeholders very differently. It is up to the governing board to sort through the best information available and to weigh the positive and negative impacts on stakeholders to arrive at the best possible decision.

Hearing from the public can produce anxiety, as it is often the least predictable part of the meeting and can turn ugly if not managed well. Controversial topics can bring out heated emotions. The chair must maintain proper decorum throughout, while encouraging open and frank discussion. It is times like this when board chairs earn their pay (which of course is minimal, if not zero). Clearly defined bylaws addressing appropriate behaviors can help. Even room layout, including lighting and temperature, can dramatically affect the tone of both the public and board's perceptions and reactions.

Because there are often perceived winners and losers, the process by which the governing board arrives at decisions can become as important as the decision itself. If the stakeholders believe their voices were not heard, or that deal-making was going on behind closed doors, their trust in the eventual outcome becomes tenuous, if not caustic.

Public participation can be a very lengthy portion of the meeting for city councils, particularly when controversial issues arise in the community. Many city councils will put time limits on individual speakers to accommodate all who wish to speak.

Independent utility boards often have the opposite problem: no attendees at all to their board meetings. Assuming you want public participation, and you should, how might you encourage customers, the media and other stakeholders to attend your meetings? Lots of factors may come into play, including the time of day the meeting is held, where the meeting is held (for example in the basement or other areas of utility building that is normally non-public), how meetings are posted or advertised, and what the utility's relationship is with the local media. Many independently governed utilities are taking creative steps to encourage positive public interaction.

one or two to dominate. Below, in the section on board conflict, we will explore board dynamics in greater detail.

## After the Meeting

Ideally, some time should be set aside within a few days of the meeting for the CEO to discuss with the board chair and perhaps vice chair or members of the executive committee, to assess the outcomes of the meeting. This should include both the decisions made and the meeting itself. So, for example, for agenda items that provide direction:

- Is it clear what the direction is?
- Is it clear who is to take the lead on this and when the board can expect an update on its progress?
- How does the agenda look for the next board meeting?

When reviewing the meeting itself, you may want to discuss:

- Was the information provided before the meeting sufficient? Too much?
- Were any presentations given by staff helpful? Confusing?
- Did anything come out of citizen participation that needs to be addressed?
- Was board member participation thorough? Were certain board members dominating the conversation? Did others have little to contribute? Do we know why?
- Was everyone in attendance and on time?

Like any well-run organization, the governing board should take it upon itself to strive to continuous improvement, making the process of governing as smooth and transparent as possible.

## Board Conflict: When Things Don't Go As Planned

Board members will disagree; it is the nature of governance, and not necessarily a bad thing. Board members should recognize that disagreement among themselves on the desired outcome of a board decision is not a sign of dysfunction. Even in a small, fairly homogenous community, different stakeholders will have different views. Remember, the goal of the board first and foremost is to oversee the best interests of the organization and its stakeholders. It is not to race through a series of unanimous decisions, but rather to ensure that each decision is deliberate and reflects different – and at times opposing – stakeholder needs and interests. Disagreement is a natural byproduct of a diversity of views and should be encouraged.

Disagreement on a topic does not mean you are stating your dislike of that other board member, although sometimes board members interpret disagreement as a personal slight. Words matter in these cases and board members should take care to use language that reflects on the topic and not on the person.

For some boards finding things to disagree about is not a problem, yet the culture of others is to minimize disagreement or dissent, in order to get along. While there can be a problem of *too much* disagreement, so too can *too little*, where critical analysis is minimized. Some boards, concerned that they may not be making a sufficiently broad or critical assessment of an issue, may consider designating a devil's advocate, whose job is to prod and challenge board assumptions and question whether groupthink is stifling discussion.

You are encouraged to bring critical thinking to your board discussions and, if appropriate, calmly and logically share your disagreements. This is no guarantee that the board can rationally move forward toward a clear decision. It is at these times when frustration, fatigue and impatience can turn a deliberate and level-headed discussion into something much different. How does a board deal with impasse, where no suitable way through is apparent? If there is no urgency, the board may wish to take another tack. For example, the board may:

- Consider tabling the discussion for a future meeting. Sometimes, just the passage of time, allowing for cooler heads and additional introspection, is all that is needed to reach a more successful conclusion.
- Form an ad hoc committee to search for solutions. Perhaps those board members closest to the issue could meet outside of a regular board meeting to search more thoroughly for areas of agreement and disagreement.
- Reach out to stakeholders/constituents/customers who have a direct interest in the topic. How confident are board members that they understand stakeholder views on the subject? This is an opportunity to test their views and perspectives.
- Ask utility staff for additional information or insights that may inform discussion.

If there is urgency to the decision, the board chair, or perhaps one of the board members less caught up in the disagreement, can seek to reframe the issue in a way that allows the disagreeing parties to find more common ground, potentially amending the language of the decision to create a win-win outcome.

Of course, not every decision can be a win-win, and there will be times when the board chair must call a vote, knowing the board is divided. This is not a black mark against the board, far from it. It is a sign that the board is taking its responsibility to its owners seriously.

### When Disagreement Turns to Rancor

As nice as it is to discuss the theories of good governance and the inherent nobility of all people, the reality is that not all boards always function peaceably and without friction. It is beyond the scope of this book to heal dysfunctional boards. Nonetheless, there are steps boards can take to minimize the unpleasant aspects of conflict while still encouraging candor and genuine conversation. When a board member is on the losing side of a decision he or she feels strongly about, it can be tempting to publicly disparage the process or other board members. You may want to make it clear to your constituents that you thought this was a terrible idea and so you speak out, perhaps to the media or simply at a future social gathering. It is one thing to note your dissent. It is quite another to disparage the board or individual members publicly. Such denunciation undermines the trust the community invests in the board and increases the likelihood that future board deliberations will suffer. Many bylaws or codes of conduct contain language around disparagement, but even without such language, the board chair and the rest of the board should be clear on appropriate and inappropriate behaviors. While honesty–and potentially disagreement–are to be encouraged, hostility, disrespect, animus or vindictiveness have no place on a well-run governing board.

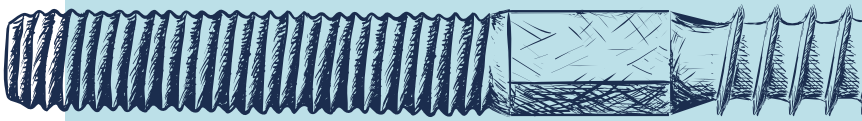
How does each part of a governing board play a role in supporting a professional and civil discussion? Let's look at these roles in more detail.

- **Board chair.** Ultimately, the chair must keep control of the meeting, enforcing meeting rules and stepping in where necessary. The chair must rise above personal feelings on the topic at hand to mediate disagreement. This can be particularly challenging if the chair is one of the parties in conflict (and one of the reasons that on some boards, the board chair only votes to break a tie). The chair should consider following up with aggrieved parties after the meeting to ascertain deeper issues that may be in play and look for ways to address them.
- **Board member.** Individual board members must understand the line between disagreement and disparagement. Unfortunately, there is no hard and fast line that demarks these; differences in personalities of board members almost ensure that one person's spirited discussion is another's disdain or ridicule. While easier said than done, do not keep score of past grudges, winners and losers. Attempt to address the issue at hand, free from old baggage, without trying to settle past conflicts.
- **CEO.** Do not rush to solve internal governing board disputes; this is a part of the ongoing maturation process of any group. Your best board is one that can function capably and without heavy involvement of the CEO. However, if new information or clarification may help resolve feuding, offer it up, but carefully. The CEO may also want to follow up with the board chair to discuss ideas for less rancorous future meetings.

# CONCLUSION

As the utility landscape changes, so too must governance in public power. This is clearly one of the most disruptive times facing the industry in its 140-year history. The nation's 2,000 public power utilities are in a tremendous position to find new ways of adding value to the customers and communities they serve. Yet much of this work cannot be done without an informed and engaged governing board, as it sorts through community priorities and the utility's ability to respond. We hope this handbook has prompted questions and actions within your utility on the way governance should happen. As discussed in the preceding chapters, there is no one right way to govern; there are many permutations that make the situation in your community unique. This does not mean your governing board should not review governance models and seek ways to improve upon its effectiveness.

The American Public Power Association is always here to help. Through its many publications, listservs, webinars and conferences, APPA strives to be a valuable resource to governing boards and staff, as they continue to meet and exceed their customers' and communities' expectations. We wish you great success on that journey.



# APPENDIX A: SAMPLE CEO EVALUATION

Below are a number of areas by which a board may evaluate the CEO.
This is not an exhaustive list but may offer some insights into different aspects of CEO performance.

**Leadership**
- Does the CEO demonstrate the leadership, initiative and persistence needed to support the utility's mission, strategies, goals and objectives?
- Does the CEO demonstrate understanding of industry forces that may affect the utility?
- Does the CEO possess the flexibility necessary to adapt to changing conditions both within the utility as well outside?
- Does the CEO exercise good judgment and the ability to sort through complex issues?
- Has the CEO maintained effective relationships with other community leaders?

**Board Relations**
- Does the CEO manage the correct balance of information-sharing with the board, ensuring sufficient information without overwhelming the board with data?
- Does the CEO communicate well with the board at its board meetings?
- Does the CEO communicate well with individual board members between meetings?
- Does the CEO work with the board to support proper roles and responsibilities between management and governance?
- Does the CEO keep the board apprised of issues and topics that may have community or media interest?

**Strategic Planning**
- Is the CEO maintaining a focus on the issues of greatest strategic importance?
- Has the board played a meaningful role in strategic discussion and planning?
- Has the CEO kept the board up to date on strategic planning and the industry trends and forces that may impact that plan?

**Customer/Community Relations**
- Has the CEO made clear the utility's commitment to serving community interests?
- Has the CEO fostered a culture of customer service among all utility employees?
- Has the CEO supported and encouraged mechanisms that help determine community needs and customer satisfaction?
- Has the CEO behaved in such a way that a positive utility image is strengthened?

**Financial/Administrative**
- Has the CEO managed the utility's financial operations to ensure long-term viability?
- Is a sound budgeting process in place that supports short-term and long-term goals?
- Do current administrative policies allow for efficient operations in the deployment of staff and other utility resources?

**Utility Operations**
- Does the CEO demonstrate an understanding and command of utility operations?
- Does the CEO provide the proper amount of delegation to ensure employees have a clear understanding of their roles and the knowledge and resources necessary to effectively deliver services?

**Employee Development**
- Has the CEO fostered an environment that supports career development and ongoing growth among the workforce?
- Has the CEO maintained a culture supportive of the workforce, creating a positive and attractive place to work?
- Is a succession plan developed and being maintained?

# APPENDIX B: SAMPLE BOARD SELF-ASSESSMENT

Many boards now seek to assess their own performance as effective governors of utility or municipal operations. Below are a number of areas by which that performance can be assessed.

## Communications

### Within the board

- Are communication channels clear and, where appropriate, spelled out through bylaws or policies?
- Are open meetings requirements adhered to and respected?
- Is the role of committee work clear and information effectively shared between committees and the board as a whole?
- Are communications between board members respectful?
- Are board members willing to offer opposing views?

### Between the board and the CEO

- Is information shared in a timely manner and at the appropriate level of detail?
- Are board meetings conducted with an appropriate level of decorum and respect?
- Does the board respect reporting relationships with non-direct reports?
- Do individual board members respect the governing board's role in providing clear directions to the CEO?
- Are all board members kept apprised of relevant utility information and developments?

### Between the board and stakeholders

- Are opportunities to build communications with owners/stakeholders available and promoted?
- Are upcoming board meetings clearly advertised?
- Are board meeting minutes posted on the website?
- Does the board actively seek ways to enhance board engagement with stakeholders, either formally through public meetings or informally through visibility at events, scheduled meet-and-greets, etc.? If there is a utility advisory board, are adequate communication channels in place to ensure the governing board receives meaningful input from its advisory board?

## Responsibilities

- Do proper formal structures (bylaws, policies, charter) exist and are they up to date?
- Are responsibilities of the board, board officers and individual board members clear?

## Financial

- Do board members have an appropriate level of understanding of the utility's financial condition?
- Is the board engaged in decisions on operating and capital budgets?
- Does the board receive appropriate metrics on the utility's financial condition?

## Strategic Planning and Priorities

- Does the board play an integral role in the development of strategic priorities?
- Does the board understand and respect the line between strategy and operations, ends and means?
- Does the board have access to information–external and internal to the organization – that allows it to make informed decisions?

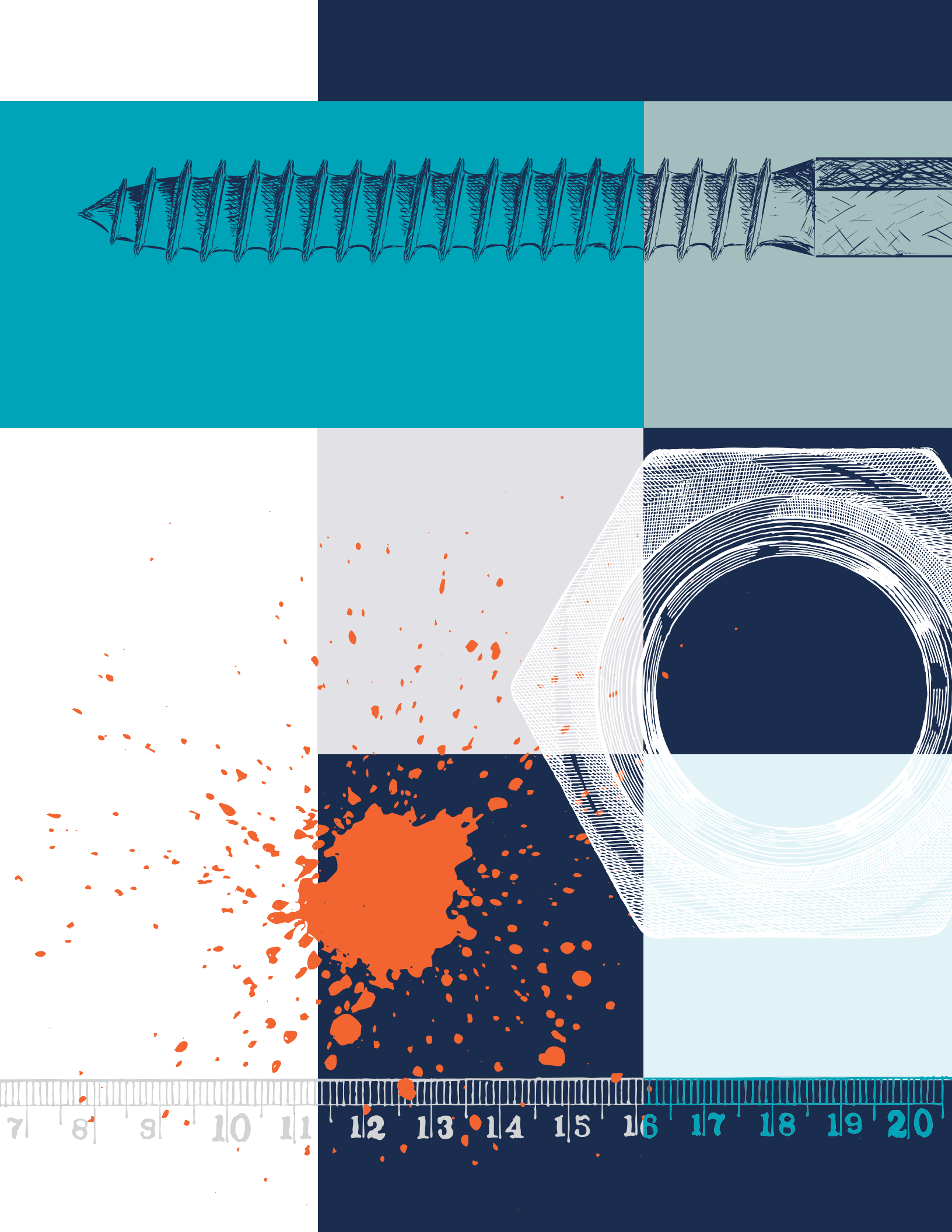
## CEO Oversight and Support

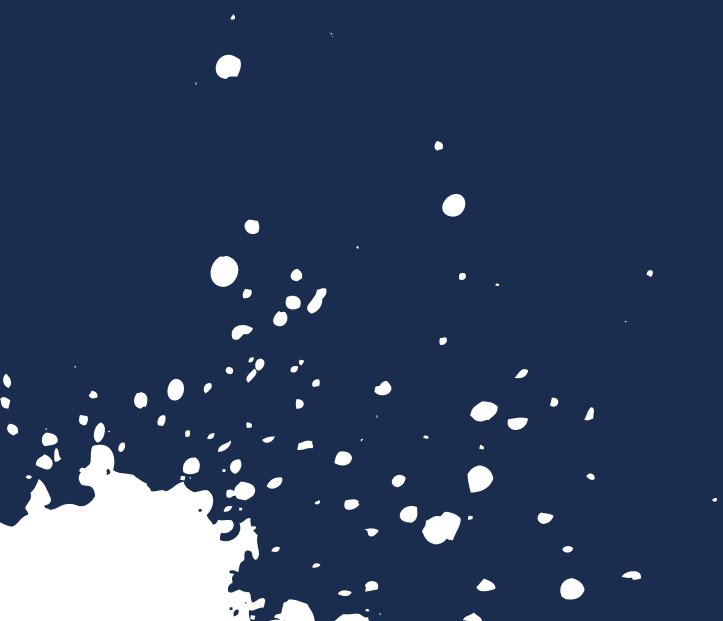
- Does the board have the information necessary to provide meaningful feedback and direction to the CEO?
- Are the role distinctions between the board and CEO clear and adhered to?
- Does the board have a current job description of the CEO?

## Board Development

- Does the board seek to stay informed on issues–in the industry, the community and the utility–that may impact the utility's future?
- Are ongoing training, conferences and workshops encouraged and supported?
- Are efforts made to identify potential board members and encourage their future participation?
- Are new board members provided a strong orientation to utility and board activities, issues and responsibilities?

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Powering Strong Communities

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# 2025 Governance Survey



July 2025

AMERICAN PUBLIC POWER ASSOCIATION

Powering Strong Communities

**PREPARED BY**

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AMERICAN PUBLIC POWER ASSOCIATION

PUBLISHED JULY 2025

The American Public Power Association is the voice of not-for-profit, community-owned utilities that power approximately 2,000 towns and cities nationwide. We represent public power before the federal government to protect the interests of the 55 million people that public power utilities serve across the United States and its territories. We advise on electricity policy, grid technology and operations, and workforce development in support of safe, modern, and resilient utilities.

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## Introduction

This report on the eleventh Governance Survey from the American Public Power Association summarizes the various ways local governments exercise control over public power utilities. This includes the type of governing bodies that oversee public power utilities; how the members of the governing body are selected; what, if any, term limits and compensation to which governing body members are subject; and the authorities granted to utility governing bodies.

This report provides a look into the trends in these structures nationally and which structures are more common based on the utility's revenue, total customer count, and type of governing body. The trends are not meant to convey a sense of which governance structure is "right" for public power, rather, they aim to show the breadth of choices that can comprise local decision-making. Communities evaluating their governance structure, or those looking to establish a public power utility, might wish to review these options to see what choices are right for their utility and community.

## Profile of Respondents

From February to April 2025, approximately 1,900 public power utilities received the questionnaire and 284 participated in the survey. Excluded from the survey are public power organizations that primarily sell power at wholesale, such as joint action agencies. Although 284 utilities completed the survey, not all respondents answered every question.

Please note that due to rounding, some data may not equal 100%.

Tables 1 and 2 provide breakdowns of respondents by utility revenue and customer count. This can be useful to further describe the utilities in a selected class. Revenue and customer data are from the Energy Information Administration (EIA) Form EIA-861 and EIA-861S, using 2023 data.

**Table 1. Number of Respondents by Customer Count**

| Customers | Number of Responses | Percent |
|---|---|---|
| Less than 1,000 | 43 | 15% |
| 1,000 to 2,000 | 32 | 11% |
| 2,000 to 4,000 | 44 | 16% |
| 4,000 to 10,000 | 69 | 24% |
| 10,000 to 20,000 | 39 | 14% |
| 20,000 to 40,000 | 25 | 9% |
| 40,000 to 100,000 | 18 | 6% |
| 100,000 or more | 13 | 5% |

**Table 2. Number of Respondents by Revenue Class**

| Revenue (In Millions) | Number of Responses | Percent |
|---|---|---|
| Less than $3 | 56 | 20% |
| $3 to $6 | 29 | 10% |
| $6 to $10 | 25 | 9% |
| $10 to $15 | 30 | 11% |
| $15 to $25 | 36 | 13% |
| $25 to $50 | 38 | 13% |
| $50 to $100 | 37 | 13% |
| $100 or more | 33 | 12% |

Ninety-five percent of respondents are municipally owned utilities. The other 5% are state-owned utilities or political subdivisions, for example countywide utilities, tribally owned utilities, public power districts or public utility districts in Washington, Oregon, and Nebraska, and irrigation or utility districts in Arizona and California.

The majority of respondents are governed by a city council (57%), and 40% are governed by an independent utility board. The term "city council" includes similar entities such as a county council, town council, borough council, board of selectmen, and board of aldermen. The remaining 2% of respondents are governed by a utility improvement district, board of directors, board of trustees, or a utility commission.

Independent utility boards that are appointed are more than twice as common as independent utility boards that are elected. However, almost all public power utilities not owned by a municipality are governed by elected independent utility boards, a

mix of elected and appointed independent utility boards, or a unique scenario. The majority of city council members are elected, though 4%, or seven utilities, say that their city council is comprised of appointed members or a mix of elected and appointed members. Tables 3 and 4 summarize survey respondents by customer and revenue size and the by type of governing body which exercises primary control over the utility.

**Table 3. Type of Primary Governing Body**

| | Number of Responses | Independent Utility Board | | | City Council | Other |
|---|---|---|---|---|---|---|
| | | *Elected* | *Appointed* | *Mixed* | | |
| **Total** | **284** | **11%** | **28%** | **1%** | **57%** | **2%** |
| **Revenue (in Millions)** | | | | | | |
| Less than $3 | 56 | 0% | 9% | 0% | 91% | 0% |
| $3 to $6 | 29 | 7% | 10% | 0% | 79% | 3% |
| $6 to $10 | 25 | 12% | 24% | 0% | 64% | 0% |
| $10 to $15 | 30 | 23% | 33% | 0% | 43% | 0% |
| $15 to $25 | 36 | 8% | 28% | 3% | 58% | 3% |
| $25 to $50 | 38 | 8% | 53% | 0% | 39% | 0% |
| $50 to $100 | 37 | 27% | 38% | 5% | 22% | 8% |
| $100 or more | 33 | 12% | 33% | 3% | 45% | 6% |
| **Customers** | | | | | | |
| Less than 1,000 | 43 | 2% | 5% | 0% | 93% | 0% |
| 1,000 to 2,000 | 32 | 3% | 19% | 0% | 78% | 0% |
| 2,000 to 4,000 | 44 | 7% | 23% | 0% | 68% | 2% |
| 4,000 to 10,000 | 69 | 16% | 36% | 1% | 45% | 1% |
| 10,000 to 20,000 | 39 | 15% | 38% | 3% | 41% | 3% |
| 20,000 to 40,000 | 25 | 24% | 40% | 4% | 28% | 4% |
| 40,000 to 100,000 | 18 | 11% | 33% | 0% | 44% | 11% |
| 100,000 or more | 13 | 15% | 38% | 8% | 38% | 0% |

A large majority (90%) of elections for the utility's governing body are nonpartisan, which means the individual running does not declare a political party or allegiance. All utilities with independent utility boards indicated that their elections are nonpartisan, as well as 87% of utilities governed by a city council.

**Table 4. Governing Body Election by Type of Governing Body**

| Type of Governing Body | Number of Responses | Nonpartisan Elections | Partisan Elections |
|---|---|---|---|
| City Council | 151 | 87% | 13% |
| Independent Utility Board | 34 | 100% | 0% |
| **Total** | **187** | **90%** | **10%** |

City councils play a large part in determining the makeup of appointed independent utility boards as they either appoint or approve the board in most cases. Forty-seven percent of the boards are appointed by the mayor, but 82% of the time, the city council must approve the appointed position. Over half (53%) of appointees need to be approved. The city council appoints the board jointly with the mayor for 6% of utilities and on its own for 26% of utilities. Another 17% of utilities have alternative situations for who appoints the governing board, including a combination of the city council and county commissioners, a combination of the city manager and city council, public utility commission, select board, utility supervisor, village president, county commission or other members of the independent utility board.

The majority of respondents with appointed and elected independent utility boards said those boards name their own chair (84%). When the city council is the governing body, the mayor is the chair for 62% of respondents, the city council names its own chair for 27% of respondents, and for 10% of respondents, the chair is elected in the general election. Other ways the governing chair is named include by rotation.

**Table 5. How Governing Body Chair Is Named**

| Type of Governing Body | Number of Responses | Mayor Is Chair | Chair Is Elected | Named by Other Members of the Governing Body | Appointed | Other |
|---|---|---|---|---|---|---|
| Elected Independent Utility Board | 32 | 0% | 13% | 84% | 0% | 3% |
| Appointed Independent Utility Board | 79 | 0% | 8% | 84% | 8% | 1% |
| City Council | 162 | 62% | 10% | 27% | 3% | 1% |
| Other | 7 | 0% | 0% | 71% | 29% | 0% |
| **Total** | **284** | **36%** | **9%** | **50%** | **5%** | **1%** |

## Term Length of Governing Body

Term lengths typically range from one to seven years, with 70% of respondents reporting term lengths of three to four years. Approximately 87% of the utilities reporting governing body terms longer than four years are governed by independent utility boards. Table 6 shows the percentage of respondents by length of governing body term for each type of governing body. Most of the term lengths that are five years or longer occur at utilities with more than $15 million in revenue, or with more than 20,000 customers.

**Table 6. Term Length by Type of Governing Body**

| Type of Governing Body | Number of Responses | 2 Years or Fewer | 3 to 4 Years | 5 to 6 Years | 7 Years or More | Unlimited |
|---|---|---|---|---|---|---|
| Elected Independent Utility Board | 30 | 0% | 60% | 23% | 13% | 3% |
| Appointed Independent Utility Board | 78 | 3% | 62% | 19% | 15% | 1% |
| City Council | 160 | 19% | 77% | 1% | 1% | 3% |
| Other | 7 | 0% | 57% | 43% | 0% | 0% |
| **Total** | **279** | **11%** | **70%** | **9%** | **7%** | **3%** |

## Term Limits on Governing Body

Nearly one in five (18%) of individuals serving on public power utility governing bodies are subject to term limits. The overwhelming majority (83%) of reported term limits were either two or three terms. Utilities with appointed independent utility boards, more than $25 million in revenue, and more than 40,000 customers are most likely to apply term limits to those serving on the governing body.

### Table 7. Term Limits on Governing Bodies

| | Number of Responses | Percent with Term Limits |
|---|---|---|
| **Total** | **282** | **18%** |
| **Type of Governing Body** | | |
| Elected Independent Utility Board | 32 | 6% |
| Appointed Independent Utility Board | 79 | 28% |
| City Council | 160 | 13% |
| Other | 7 | 43% |
| **Revenue (in Millions)** | | |
| Less than $3 | 42 | 10% |
| $3 to $6 | 32 | 6% |
| $6 to $10 | 44 | 7% |
| $10 to $15 | 69 | 12% |
| $15 to $25 | 39 | 21% |
| $25 to $50 | 25 | 44% |
| $50 to $100 | 18 | 39% |
| $100 or more | 13 | 46% |
| **Customers** | | |
| Less than 1,000 | 55 | 11% |
| 1,000 to 2,000 | 28 | 0% |
| 2,000 to 4,000 | 25 | 8% |
| 4,000 to 10,000 | 30 | 7% |
| 10,000 to 20,000 | 36 | 17% |
| 20,000 to 40,000 | 38 | 21% |
| 40,000 to 100,000 | 37 | 30% |
| 100,000 or more | 33 | 45% |

## Citizens Advisory Committee

Ten percent of respondents have a citizens advisory committee or board that serves in an advisory capacity to the governing body. Utilities governed by city councils are more likely than those governed by independent utility boards to have a citizens advisory committee.

### Table 8. Citizens Advisory Committee

| | Number of Responses | Percent with Citizens Advisory Committee |
|---|---|---|
| **Total** | **284** | **10%** |
| **Type of Governing Body** | | |
| Elected Independent Utility Board | 32 | 6% |
| Appointed Independent Utility Board | 79 | 1% |
| City Council | 162 | 14% |
| Other | 7 | 14% |
| **Revenue (in Millions)** | | |
| Less than $3 | 56 | 2% |
| $3 to $6 | 29 | 7% |
| $6 to $10 | 25 | 8% |
| $10 to $15 | 30 | 3% |
| $15 to $25 | 36 | 11% |
| $25 to $50 | 38 | 8% |
| $50 to $100 | 37 | 14% |
| $100 or more | 33 | 27% |
| **Customers** | | |
| Less than 1,000 | 43 | 0% |
| 1,000 to 2,000 | 32 | 6% |
| 2,000 to 4,000 | 44 | 7% |
| 4,000 to 10,000 | 69 | 7% |
| 10,000 to 20,000 | 39 | 8% |
| 20,000 to 40,000 | 25 | 20% |
| 40,000 to 100,000 | 18 | 28% |
| 100,000 or more | 13 | 31% |



As shown in Table 9, the primary activities of the citizens advisory committee involve rates, budget, and sustainability. Respondents could select multiple activities. "Other" responses include feedback on customer experience, development, land use, recreation, legal hearings, planning, capital projects, compliance oversight, enterprise policy, power supply, and recommendations for items needing board approval.

### Table 9. Activities of the Citizens Advisory Committee

| Primary Activities | Number of Responses | Percent |
|---|---|---|
| Rates | 18 | 69% |
| Budget | 13 | 50% |
| Sustainability | 12 | 46% |
| Environmental Stewardship | 10 | 38% |
| Other | 9 | 35% |
| Purchasing | 8 | 31% |
| Technology Adoption | 8 | 31% |
| Staffing | 6 | 23% |
| Customer Complaints | 4 | 15% |
| None of the Above | 1 | 4% |

## Number of Meetings

Governing bodies have a median of 13 meetings per year, or approximately one per month, and an average of 17 meetings per year. City council governing bodies have a median of 24 meetings.

### Table 10. Number of Meetings per Year

| | Number of Responses | Median | Average |
|---|---|---|---|
| **Total** | **282** | **13** | **17** |
| **Type of Governing Body** | | | |
| Elected Independent Utility Board | 32 | 12 | 14 |
| Appointed Independent Utility Board | 79 | 12 | 13 |
| City Council | 160 | 24 | 20 |
| Other | 7 | 12 | 22 |

### Table 10. Number of Meetings per Year

| Revenue (in Millions) | Number of Responses | Median | Average |
|---|---|---|---|
| Less than $3 | 56 | 12 | 14 |
| $3 to $6 | 28 | 24 | 19 |
| $6 to $10 | 25 | 24 | 20 |
| $10 to $15 | 29 | 13 | 17 |
| $15 to $25 | 36 | 24 | 20 |
| $25 to $50 | 38 | 13 | 17 |
| $50 to $100 | 37 | 12 | 17 |
| $100 or more | 33 | 13 | 18 |
| **Customers** | | | |
| Less than 1,000 | 43 | 12 | 13 |
| 1,000 to 2,000 | 32 | 20 | 18 |
| 2,000 to 4,000 | 42 | 17 | 18 |
| 4,000 to 10,000 | 69 | 15 | 19 |
| 10,000 to 20,000 | 39 | 12 | 17 |
| 20,000 to 40,000 | 25 | 12 | 18 |
| 40,000 to 100,000 | 18 | 20 | 21 |
| 100,000 or more | 13 | 12 | 13 |

Four in ten utilities do not conduct work sessions, which are often used to allow board members to focus on long-term planning and do not involve direct actions and decisions, in addition to regular meetings. Governing bodies that do conduct work sessions typically conduct two to three sessions per year.

### Table 11. Number of Work Sessions

| Number of Work Sessions | Number of Responses | Percent |
|---|---|---|
| None or as needed | 113 | 40% |
| 1 to 2 sessions | 35 | 13% |
| 2 to 3 sessions | 59 | 21% |
| 4 to 5 sessions | 24 | 9% |
| 6 to 10 sessions | 13 | 5% |
| More than 10 sessions | 36 | 13% |
| **Total** | **280** | |

## Orientation and Board Development

Forty-four percent of utilities provide an orientation to members of their board. Orientations for board members are more likely among independent utility boards and the largest three customer and revenue classes.

**Table 12. Utility Orientation Provided to Board Members**

| | Number of Responses | Percent with Orientation |
|---|---|---|
| **Total** | **282** | **44%** |
| **Type of Governing Body** | | |
| Elected Independent Utility Board | 32 | 56% |
| Appointed Independent Utility Board | 79 | 56% |
| City Council | 160 | 35% |
| Other | 7 | 71% |
| **Revenue (in Millions)** | | |
| Less than $3 | 43 | 16% |
| $3 to $6 | 32 | 28% |
| $6 to $10 | 43 | 35% |
| $10 to $15 | 68 | 41% |
| $15 to $25 | 39 | 51% |
| $25 to $50 | 25 | 80% |
| $50 to $100 | 18 | 72% |
| $100 or more | 13 | 92% |
| **Customers** | | |
| Less than 1,000 | 56 | 18% |
| 1,000 to 2,000 | 28 | 36% |
| 2,000 to 4,000 | 25 | 28% |
| 4,000 to 10,000 | 29 | 34% |
| 10,000 to 20,000 | 36 | 42% |
| 20,000 to 40,000 | 38 | 53% |
| 40,000 to 100,000 | 37 | 73% |
| 100,000 or more | 33 | 79% |

Board member orientation typically includes an overview/history of the utility, a facility tour, ethics, open meeting laws, and utility financial statements and audits. The word cloud (Figure 1) shows the content included in these orientations, with the larger words and phrases indicating the most common topics or items utilities offer as part of their orientation.

**Figure 1. Content of Board Member Orientation**





A plurality (42%) of governing bodies has an orientation with city or utility staff, including training from the heads of various utility departments, such as legal and human resources. "Other" responses include private business, state resources, and a combination of provider types, such as the city manager and utility staff, the chair of the board, general manager and utility staff, the city administrator and city clerk, utility staff and an association, the city manager and utility department heads, the general manager and commission members, and the mayor and utility director.

### Table 13. Provider of Board Member Orientation

| Provider | Number of Responses | Percent |
|---|---|---|
| Utility or city staff | 50 | 42% |
| General manager or equivalent position | 22 | 18% |
| Association | 19 | 16% |
| City attorney | 3 | 3% |
| City manager | 3 | 3% |
| Other | 23 | 19% |
| **Total** | **120** | |

Seventy percent of governing bodies do not commit time to ongoing board development. Governing bodies that do commit time toward ongoing board development spend a median of 10 hours per year on this effort. Elected independent utility boards are more likely to spend time toward ongoing board development, with a median of 22 hours per year.

### Table 14. Median Hours per Year Spent on Ongoing Board Development

| Type of Governing Body | Number of Responses | Median Number of Hours |
|---|---|---|
| Elected Independent Utility Board | 10 | 22 |
| Appointed Independent Utility Board | 33 | 9 |
| City Council | 33 | 8 |
| **Total** | **80** | **10** |

## Compensation of Governing Body Members

Overall, 80% of members of utility governing bodies are paid, and this percentage is roughly the same for both city councils and independent utility boards. Utilities in the top revenue and customer classes are less likely to compensate members of their governing bodies.

### Table 15. Governing Body That Exercises Control Over the Utility Is Paid

| | Number of Responses | Percent with Paid Governing Body |
|---|---|---|
| **Total** | **282** | **80%** |
| **Type of Governing Body** | | |
| Elected Independent Utility Board | 32 | 81% |
| Appointed Independent Utility Board | 79 | 78% |
| City Council | 160 | 81% |
| Other | 7 | 86% |
| **Revenue (in Millions)** | | |
| Less than $3 | 54 | 87% |
| $3 to $6 | 29 | 86% |
| $6 to $10 | 25 | 88% |
| $10 to $15 | 30 | 77% |
| $15 to $25 | 36 | 89% |
| $25 to $50 | 38 | 79% |
| $50 to $100 | 37 | 73% |
| $100 or more | 33 | 64% |
| **Customers** | | |
| Less than 1,000 | 41 | 85% |
| 1,000 to 2,000 | 32 | 97% |
| 2,000 to 4,000 | 44 | 77% |
| 4,000 to 10,000 | 69 | 86% |
| 10,000 to 20,000 | 39 | 74% |
| 20,000 to 40,000 | 25 | 80% |
| 40,000 to 100,000 | 18 | 50% |
| 100,000 or more | 13 | 69% |

Survey respondents reported compensation data on either an annual, monthly, or per meeting basis. All responses were converted to an average rate per meeting. Table 16 shows the median compensation for each type of governing body and customer and revenue class. Median compensation generally increases as customer count and revenue increases. When respondents provided multiple payment amounts, the median compensation was selected. For the 210 utilities that pay their board members, the median payment per meeting is $150.

**Table 16. Median Meeting Compensation of Governing Body Members**

| | Number of Responses | Median Payment Per Meeting |
|---|---|---|
| **Total** | **210** | **$150.00** |
| **Type of Governing Body** | | |
| Elected Independent Utility Board | 25 | $475.00 |
| Appointed Independent Utility Board | 60 | $122.50 |
| City Council | 119 | $150.00 |
| **Revenue (in Millions)** | | |
| Less than $3 | 46 | $89.19 |
| $3 to $6 | 21 | $100.00 |
| $6 to $10 | 21 | $100.00 |
| $10 to $15 | 21 | $106.25 |
| $15 to $25 | 30 | $183.33 |
| $25 to $50 | 28 | $216.67 |
| $50 to $100 | 23 | $325.00 |
| $100 or more | 19 | $543.48 |
| **Customers** | | |
| Less than 1,000 | 34 | $70.83 |
| 1,000 to 2,000 | 29 | $102.27 |
| 2,000 to 4,000 | 31 | $100.00 |
| 4,000 to 10,000 | 56 | $196.15 |
| 10,000 to 20,000 | 24 | $248.17 |
| 20,000 to 40,000 | 17 | $325.00 |
| 40,000 to 100,000 | 10 | $373.61 |
| 100,000 or more | 8 | $1,391.74 |

A majority of utilities (60%) do not reimburse members for board-related travel and expenses. Of the 103 utilities that do pay for board-related travel, including but not limited to, attending meetings with regional, state, or national representatives; attending conferences; and attending events on behalf of the utility, the median annual payment per person is $1,000.

**Table 17. Median Compensation Per Person for Board-Related Travel**

| | Number of Responses | Median Payment Per Person |
|---|---|---|
| **Total** | **103** | **$1,000.00** |
| **Type of Governing Body** | | |
| Elected Independent Utility Board | 18 | $3,550.00 |
| Appointed Independent Utility Board | 36 | $1,096.50 |
| City Council | 45 | $750.00 |
| **Revenue (in Millions)** | | |
| Less than $10 | 40 | $550.00 |
| $10 or more | 63 | $1,500.00 |
| **Customers** | | |
| Less than 10,000 | 56 | $775.00 |
| 10,000 or more | 47 | $1,500.00 |

Survey respondents were asked whether governing board members were eligible for either the city's or utility's medical benefit plans. Members elected to independent utility boards are more likely to receive medical, vision, and dental benefits from the city or utility than members appointed to independent utility boards. Utilities in the highest revenue and customer classes are more likely to provide benefits to their governing body. Other benefits include discounts on their utility bill, telehealth, business travel accident insurance, life insurance, health reimbursement accounts, phone stipends, and gym memberships.

### Table 18. Percent of Governing Board Members Eligible for City/Utility's Employee Benefit Plans

| | Medical | Vision and Dental | Retirement | Other |
|---|---|---|---|---|
| **Total** | **17%** | **15%** | **12%** | **8%** |
| **Type of Governing Body** | | | | |
| Elected Independent Utility Board | 43% | 40% | 24% | 19% |
| Appointed Independent Utility Board | 11% | 9% | 6% | 3% |
| City Council | 13% | 13% | 12% | 7% |
| Other | 29% | 29% | 29% | 17% |
| **Revenue (in Millions)** | | | | |
| Less than $3 | 2% | 0% | 9% | 4% |
| $3 to $6 | 7% | 7% | 4% | 0% |
| $6 to $10 | 16% | 16% | 13% | 13% |
| $10 to $15 | 10% | 7% | 14% | 13% |
| $15 to $25 | 17% | 17% | 15% | 10% |
| $25 to $50 | 8% | 5% | 6% | 6% |
| $50 to $100 | 31% | 29% | 14% | 19% |
| $100 or more | 48% | 48% | 25% | 4% |
| **Customers** | | | | |
| Less than 1,000 | 2% | 0% | 2% | 3% |
| 1,000 to 2,000 | 3% | 3% | 19% | 4% |
| 2,000 to 4,000 | 16% | 16% | 7% | 7% |
| 4,000 to 10,000 | 11% | 9% | 14% | 16% |
| 10,000 to 20,000 | 13% | 11% | 5% | 3% |
| 20,000 to 40,000 | 40% | 36% | 21% | 14% |
| 40,000 to 100,000 | 33% | 33% | 12% | 8% |
| 100,000 or more | 69% | 69% | 38% | 0% |

Note that the survey asked only about *eligibility* for medical, vision, dental, and retirement benefits. It did not ask who was responsible for paying for the benefit plans: the city/utility or the governing board member.

## Authority of Governing Body

Survey respondents were asked to indicate which governing body or individual has final approval for eight specific actions: setting retail electric rates, approving the utility budget, setting salaries of key utility officials, issuing long-term bonds, making financial investments for the electric utility, approving purchased power contracts, exercising the right of eminent domain, and hiring and firing utility personnel. For utilities under city council control, the authority for these functions overwhelmingly resides with the city council, except for the last function — hiring and firing utility personnel. However, for utilities under the control of an independent utility board, the results are more mixed. While the independent utility board has authority for at least half of the functions for a majority of utilities, the city council – either on its own or jointly with the independent utility board – retains authority for a significant number of utilities with an appointed independent utility board.

The following descriptions and tables summarize the distribution of the authority under independent utility boards as the primary governing body and under city councils as the primary governing body.

### Elected Independent Utility Board as Primary Governing Body

Approximately 32 utilities reported that an elected independent utility board is their primary governing body. A majority of these utilities list the elected independent utility board as retaining final authority for half of the functions. Elected independent utility boards are most likely to have final approval over the utility budget (88%), setting retail electric rates (84%), approving purchased power contracts (75%), and issuing long-term bonds (72%). Half of the elected independent utility boards have final approval over setting salaries of key utility officials. Fewer elected utility boards have the final approval for exercising the right of eminent domain (45%), making financial investments for the utility (35%), and hiring and firing personnel (3%).

Table 19 summarizes the results by revenue class. For each of the eight functions, the table shows the percentage of responses indicating power of final approval for the general manager, independent utility board, city council, state utility commission, or other position. The city manager and mayor are not included as options as no utilities with elected independent utility boards indicated their authority over the given actions.

Most of the "other" responses shown in Table 19 indicate a board of citizen commissioners among one public utility district. Additional "other" responses include:

- The chief financial officer or city treasurer to make financial investments for the utility;
- A risk management committee to approve purchased power contracts and the energy management staff to make smaller transactions; and
- The CEO, vice presidents, and directors or immediate supervisors for larger utilities to hire and dismiss utility personnel.





There are differences when comparisons are made by revenue class, but the same general pattern remains. Larger percentages of utilities report that the independent utility board has final approval over setting retail rates, approving the utility budget, issuing long-term bonds, and approving power purchase contracts. Smaller percentages report that the board has approval over setting salaries of key utility personnel, making financial investments, exercising the right of eminent domain, and hiring and dismissing utility personnel.

**Table 19. Exercise of Specific Authorities for Utilities with Elected Independent Utility Boards, by Revenue**

| Authorities | Number of Responses | General Manager | Independent Utility Board | City Council | State Utility Commission | Other |
|---|---|---|---|---|---|---|
| **Less than $10 Million in Revenue** | | | | | | |
| Set retail electric rates | 12 | 17% | 67% | - | 8% | 8% |
| Approve utility budget | 12 | - | 83% | - | 8% | 8% |
| Set salaries of key utility officials | 12 | 33% | 58% | - | - | 8% |
| Issue long-term bonds | 12 | 8% | 67% | 8% | 8% | 8% |
| Make financial investments for electric utility | 11 | 45% | 36% | 9% | - | 9% |
| Approve purchased power contracts | 12 | 8% | 83% | - | - | 8% |
| Exercise right of eminent domain | 11 | 18% | 36% | 27% | 9% | 9% |
| Hire and dismiss utility personnel | 12 | 92% | 8% | - | - | - |
| **$10 Million or More in Revenue** | | | | | | |
| Set retail electric rates | 20 | - | 95% | 5% | - | - |
| Approve utility budget | 20 | 5% | 90% | 5% | - | - |
| Set salaries of key utility officials | 20 | 55% | 45% | - | - | - |
| Issue long-term bonds | 20 | 5% | 75% | 20% | - | - |
| Make financial investments for electric utility | 20 | 50% | 35% | - | - | 15% |
| Approve purchased power contracts | 20 | 20% | 70% | - | - | 10% |
| Exercise right of eminent domain | 20 | 30% | 50% | 15% | - | 5% |
| Hire and dismiss utility personnel | 20 | 95% | - | - | - | 5% |

**Appointed Independent Utility Board as Primary Governing Body**

Approximately 79 utilities reported that an appointed independent utility board is their primary governing body. A majority of these utilities list the appointed independent utility board as retaining final authority for all of the eight functions except for issuing long-term bonds (44%) and hiring and dismissing utility personnel (14%). Appointed independent utility boards are most likely to have final approval over approving the utility budget (77%), approving purchased power contracts (75%), setting retail electric rates (73%), setting salaries of key utility officials (62%), making financial investments for the electric utility (57%), and exercising the right of eminent domain (51%).

Table 20 summarizes the results by revenue class. For each of the eight functions, the table shows the percentage of responses indicating power of final approval for the general manager, independent utility board, city council, city manager, state utility commission, mayor, or other position.

Most of the "other" responses shown in Table 20 indicate split responsibilities, such as one body having authority over residential rates and another commercial, the board setting the general manager's salary and the general manager setting the salaries of other staff members, and board decisions needing approval from the city council. Additional "other" responses include:

- The state power authority to set retail electric rates;
- The president/CEO and audit and financial committee to set salaries of key utility officials;
- The state's local government commission and voters in some cases to issue long-term bonds; and
- The finance director or manager to make financial investments for the electric utility.

There are differences when comparing by revenue, but the same general pattern remains. Larger percentages of utilities report that the appointed



independent utility board has final approval over retail rates, budget, salaries, and purchased power contracts, and smaller percentages report that the board has approval over hiring and firing personnel. Responsibilities of issuing long-term bonds, making financial investments, and exercising the right of eminent domain differ by utility size.

Appointed independent utility boards are more likely to have the final authority to set salaries of key officials and make financial investments for the electric utility compared to elected independent utility boards, especially at utilities with less than $10 million in revenue. At utilities with elected independent utility boards, the general manager (or equivalent position) is more likely to have decision-making power for these functions. Elected independent utility boards are also more likely to have final authority to issue long-term bonds, especially at utilities with more than $10 million in revenue, compared to appointed independent utility boards, where the city council is more likely to have final authority.

**Table 20. Exercise of Specific Authorities for Utilities with Appointed Independent Utility Boards, by Revenue**

| Authorities | Number of Responses | General Manager | Independent Utility Board | City Council | City Manager | Mayor | State Utility Commission | Other |
|---|---|---|---|---|---|---|---|---|
| **Less than $10 Million in Revenue** | | | | | | | | |
| Set retail electric rates | 24 | - | 83% | 4% | - | - | 8% | 4% |
| Approve utility budget | 24 | - | 96% | 4% | - | - | - | - |
| Set salaries of key utility officials | 24 | 8% | 88% | 4% | - | - | - | - |
| Issue long-term bonds | 24 | 4% | 63% | 29% | - | - | - | 4% |
| Make financial investments for electric utility | 24 | 17% | 79% | - | - | - | - | 4% |
| Approve purchased power contracts | 24 | 4% | 83% | 4% | - | - | - | 8% |
| Exercise right of eminent domain | 23 | - | 65% | 30% | - | - | - | 4% |
| Hire and dismiss utility personnel | 24 | 67% | 29% | 4% | - | - | - | - |
| **$10 Million or More in Revenue** | | | | | | | | |
| Set retail electric rates | 55 | - | 69% | 16% | - | - | 13% | 2% |
| Approve utility budget | 55 | - | 69% | 27% | - | - | 2% | 2% |
| Set salaries of key utility officials | 55 | 35% | 51% | 5% | 2% | 2% | - | 5% |
| Issue long-term bonds | 55 | - | 36% | 55% | - | - | - | 9% |
| Make financial investments for electric utility | 55 | 36% | 47% | 5% | 2% | 2% | - | 7% |
| Approve purchased power contracts | 55 | 7% | 71% | 16% | - | - | - | 5% |
| Exercise right of eminent domain | 55 | 4% | 45% | 44% | - | 2% | - | 5% |
| Hire and dismiss utility personnel | 54 | 85% | 7% | 4% | - | 2% | - | 2% |

### City Council as Primary Governing Body

One hundred sixty-two utilities reported that the city council is their primary governing body. For all customer classes combined, two-thirds or more of these utilities indicate that the city council has final approval for seven of the eight functions surveyed. The lone exception is hiring and firing utility personnel (34%). For this function, where a city council does not have final approval, an individual controls these decisions in most other cases. The utility general manager or the city manager most often has final hiring and firing authority.

Most of the "other" responses shown in Table 21 indicate split responsibilities, such as the city council and mayor sharing responsibilities. Additional "other" responses include:

- Human resources and special committees on the governing board to set salaries of key utility officials;
- The city's finance director, treasurer, or a town meeting to issue long-term bonds;
- The city treasurer, finance director, or controller to make financial investments for the electric utility;
- Shared responsibility with the utility's joint action agency for approving purchased power contracts;
- A town meeting to exercise the right of eminent domain; and
- The CEO, human resources, and direct supervisors to hire and dismiss utility personnel.

There are differences in the city council's authority when comparing by utility revenue. For example, the proportion of city councils that maintain authority for hiring and firing, setting salaries, and making financial investments decreases as utility size increases.

**Table 21. Exercise of Specific Authorities for Utilities with City Councils, by Revenue**

| Authorities | Number of Responses | General Manager | Independent Utility Board | City Council | City Manager | Mayor | State Utility Commission | Other |
|---|---|---|---|---|---|---|---|---|
| **Less than $10 Million in Revenue** | | | | | | | | |
| Set retail electric rates | 102 | - | 1% | 89% | - | 1% | 7% | 2% |
| Approve utility budget | 102 | 1% | 1% | 96% | - | 1% | - | 1% |
| Set salaries of key utility officials | 101 | 3% | 1% | 84% | 7% | 3% | - | 2% |
| Issue long-term bonds | 99 | 1% | 1% | 94% | - | 1% | - | 3% |
| Make financial investments for electric utility | 101 | 6% | - | 74% | 11% | 2% | - | 7% |
| Approve purchased power contracts | 101 | 6% | 1% | 90% | - | 1% | - | 2% |
| Exercise right of eminent domain | 98 | 3% | - | 94% | - | 1% | - | 2% |
| Hire and dismiss utility personnel | 102 | 24% | - | 49% | 18% | 7% | - | 3% |
| **$10 Million or More in Revenue** | | | | | | | | |
| Set retail electric rates | 59 | - | 3% | 81% | 3% | 2% | 10% | - |
| Approve utility budget | 59 | - | 7% | 88% | - | 3% | 2% | - |
| Set salaries of key utility officials | 59 | 15% | 7% | 41% | 29% | 7% | - | 2% |
| Issue long-term bonds | 58 | 3% | 2% | 79% | 2% | 3% | 2% | 9% |
| Make financial investments for electric utility | 59 | 14% | 5% | 51% | 3% | 2% | 2% | 24% |
| Approve purchased power contracts | 59 | 12% | 8% | 68% | 5% | 2% | 2% | 3% |
| Exercise right of eminent domain | 58 | 2% | - | 90% | - | 3% | 3% | 2% |
| Hire and dismiss utility personnel | 59 | 51% | - | 7% | 31% | 7% | - | 5% |



## Issuing Bonds and Selling the Utility

Tables 22 and 23 present information on actions required to issue bonds and sell the utility. Eighteen percent of responding utilities require a voter referendum to issue bonds, and smaller utilities are more likely than larger utilities to require a referendum.

**Table 22. Voter Referendum Required to Issue Revenue Bonds**

| | Number of Responses | Percent Requiring Referendum |
|---|---|---|
| **Total** | **270** | **18%** |
| **Type of Governing Body** | | |
| Elected Independent Utility Board | 30 | 20% |
| Appointed Independent Utility Board | 78 | 8% |
| City Council | 151 | 23% |
| Other | 7 | 14% |
| **Revenue (in Millions)** | | |
| Less than $3 | 52 | 37% |
| $3 to $6 | 26 | 15% |
| $6 to $10 | 22 | 32% |
| $10 to $15 | 30 | 17% |
| $15 to $25 | 35 | 11% |
| $25 to $50 | 36 | 8% |
| $50 to $100 | 36 | 14% |
| $100 or more | 33 | 3% |
| **Customers** | | |
| Less than 1,000 | 40 | 35% |
| 1,000 to 2,000 | 29 | 28% |
| 2,000 to 4,000 | 41 | 22% |
| 4,000 to 10,000 | 66 | 14% |
| 10,000 to 20,000 | 38 | 8% |
| 20,000 to 40,000 | 24 | 17% |
| 40,000 to 100,000 | 18 | 6% |
| 100,000 or more | 13 | 0% |

Fifty-five percent of utilities require a voter referendum to sell the utility. Of those requiring a referendum, 77% require the approval of a simple majority to sell the utility, and 23% require a supermajority.

Fifty-eight percent of utilities require a vote of the governing body to sell the utility. Of those requiring a vote by the governing body, 79% require a simple majority of the vote and 21% require a supermajority.

A few entities either did not indicate the action needed to sell the utility or said that the utility cannot be sold. "Other" requirements to sell the utility included permission from bond holders or beneficiaries of trust, action from the state, including the legislature or public service commissions, approval from the city council (for utilities governed by an independent board), completion of contractual implications with a joint action agency, a town vote, or vote of multiple parties, such as board, city council, and mayor. A quarter of utilities require both a vote of the governing body and a voter referendum to sell the utility.

### Table 23. Action Required to Sell the Utility

| | Number of Respondents | Vote of Governing Body | Referendum of Voters | Both | Other |
|---|---|---|---|---|---|
| **Total** | **264** | **58%** | **55%** | **25%** | **10%** |
| **Type of Governing Body** | | | | | |
| Elected Independent Utility Board | 29 | 38% | 72% | 24% | 14% |
| Appointed Independent Utility Board | 77 | 43% | 77% | 31% | 14% |
| City Council | 147 | 73% | 41% | 22% | 7% |
| Other | 7 | 14% | 43% | 14% | 0% |
| **Revenue (in Millions)** | | | | | |
| Less than $3 | 49 | 76% | 43% | 27% | 6% |
| $3 to $6 | 28 | 75% | 32% | 14% | 14% |
| $6 to $10 | 23 | 74% | 52% | 30% | 9% |
| $10 to $15 | 28 | 50% | 61% | 18% | 4% |
| $15 to $25 | 34 | 53% | 47% | 24% | 18% |
| $25 to $50 | 35 | 49% | 69% | 29% | 14% |
| $50 to $100 | 36 | 42% | 64% | 19% | 3% |
| $100 or more | 31 | 48% | 71% | 35% | 16% |
| **Customers** | | | | | |
| Less than 1,000 | 38 | 74% | 34% | 18% | 3% |
| 1,000 to 2,000 | 30 | 73% | 47% | 27% | 17% |
| 2,000 to 4,000 | 40 | 60% | 58% | 20% | 8% |
| 4,000 to 10,000 | 66 | 58% | 50% | 27% | 12% |
| 10,000 to 20,000 | 36 | 58% | 64% | 25% | 8% |
| 20,000 to 40,000 | 24 | 33% | 71% | 21% | 8% |
| 40,000 to 100,000 | 16 | 38% | 75% | 25% | 19% |
| 100,000 or more | 13 | 54% | 69% | 46% | 15% |

## Payments in Lieu of Taxes

Seventy-one percent of survey respondents make payments in lieu of taxes (PILOT) to their state or local governments. These payments may be called by a different name, such as tax equivalents or transfers to the general fund. Results differ by utility size, as less than half of the utilities in the smallest revenue and customer classes make payments in lieu of taxes, compared to approximately 80% or more of the utilities in the five largest classes. Table 24 shows the percentage of respondents that make payments in lieu of taxes by governing body, revenue class, and customer count.

**Table 24. Utilities that Make Payments in Lieu of Taxes**

| | Number of Responses | Percent Making PILOT Transactions |
|---|---|---|
| **Total** | **281** | **71%** |
| **Type of Governing Body** | | |
| Elected Independent Utility Board | 32 | 50% |
| Appointed Independent Utility Board | 79 | 89% |
| City Council | 159 | 69% |
| Other | 7 | 29% |
| **Revenue (in Millions)** | | |
| Less than $3 | 54 | 43% |
| $3 to $6 | 28 | 64% |
| $6 to $10 | 25 | 64% |
| $10 to $15 | 30 | 80% |
| $15 to $25 | 36 | 81% |
| $25 to $50 | 38 | 89% |
| $50 to $100 | 37 | 78% |
| $100 or more | 33 | 82% |
| **Customers** | | |
| Less than 1,000 | 41 | 37% |
| 1,000 to 2,000 | 32 | 56% |
| 2,000 to 4,000 | 43 | 77% |
| 4,000 to 10,000 | 69 | 80% |
| 10,000 to 20,000 | 39 | 82% |
| 20,000 to 40,000 | 25 | 88% |
| 40,000 to 100,000 | 18 | 78% |
| 100,000 or more | 13 | 85% |

More detailed information on payments in lieu of taxes and other payments and contributions is available in APPA's biannual *Public Power Pays Back* report. The report includes data on the amount and type of payments and contributions, summaries by customer size class and region, and comparisons with investor-owned utilities. The most recent report is available at **www.PublicPower.org/Resource/Public-Power-Pays-Back**

## Utility Service to Customers Outside of Municipal Boundaries

The public power utilities that completed APPA's survey include both municipally owned utilities and other political subdivisions that provide electric service — such as state-owned utilities, public power districts, public utility districts, tribally-owned districts, and municipal utility districts. Only the 269 respondents that are municipally owned utilities provided information about service to customers outside of the municipality's boundaries. One hundred and fifty-nine, or 60% of respondents from municipally owned utilities, serve at least some customers located outside the municipality's boundaries.

### Table 25. Utilities Serving Customers Outside of Municipal Boundary

| | Number of Responses | Percent |
|---|---|---|
| **Total** | **265** | **60%** |
| **Type of Governing Body** | | |
| Elected Independent Utility Board | 21 | 38% |
| Appointed Independent Utility Board | 79 | 65% |
| City Council | 157 | 59% |
| Other | 5 | 80% |
| **Revenue (in Millions)** | | |
| Less than $3 | 54 | 50% |
| $3 to $6 | 28 | 54% |
| $6 to $10 | 25 | 48% |
| $10 to $15 | 28 | 68% |
| $15 to $25 | 33 | 64% |
| $25 to $50 | 37 | 68% |
| $50 to $100 | 32 | 59% |
| $100 or more | 28 | 75% |
| **Customers** | | |
| Less than 1,000 | 41 | 46% |
| 1,000 to 2,000 | 32 | 56% |
| 2,000 to 4,000 | 43 | 58% |
| 4,000 to 10,000 | 63 | 63% |
| 10,000 to 20,000 | 37 | 62% |
| 20,000 to 40,000 | 23 | 70% |
| 40,000 to 100,000 | 16 | 50% |
| 100,000 or more | 10 | 100% |

Utilities that served customers outside of the municipality's boundaries were asked to estimate the percentage of their total customers residing outside of the boundaries. Table 26 shows that 44% of these utilities serve a relatively small number of customers – 5% or less of their total customers – outside of the boundaries. Alternatively, approximately a quarter of the utilities reported that more than 20% of their customers are outside of the municipal boundaries.

### Table 26. Share of Customers Outside Municipal Boundaries

| Share of Customers | Number of Responses | Percent |
|---|---|---|
| 1% or less | 27 | 17% |
| More than 1% and up to 5% | 42 | 27% |
| More than 5% and up to 10% | 25 | 16% |
| More than 10% and up to 20% | 21 | 13% |
| More than 20% | 41 | 26% |
| **Total** | **156** | |

The 159 utilities that serve customers outside municipal boundaries were asked about the relationship between the utility and customers located outside of the municipality. Seven percent of these utilities include a representative for customers outside the municipality on the governing body. Fourteen percent make payments in lieu of taxes, conduct in-kind services, provide grants, or conduct annual meetings with governing officials to jurisdictions served outside of the municipal boundaries. A quarter (25%) have separate rate schedules for customers outside of the municipal boundaries. Larger utilities are the most likely to have a governing body representative for customers outside the municipality and are most likely to make payments to jurisdictions outside the municipal boundaries, but there is little difference in utility size for the likelihood of having a separate rate schedule.




### Table 27. Utilities that Serve Customers Outside Municipal Boundaries

| | Number Of Responses | Requirement To Serve Outside Of Municipal Boundary | Requirement To Make PILOT, Provide Grants, Or Conduct Meetings Outside Of Municipal Boundary | Separate Rate Schedule For Customers Outside Of Municipal Boundary |
|---|---|---|---|---|
| **Total** | **157** | **7%** | **14%** | **25%** |
| **Type of Governing Body** | | | | |
| Elected Independent Utility Board | 8 | 38% | 25% | 25% |
| Appointed Independent Utility Board | 50 | 12% | 24% | 12% |
| City Council | 91 | 2% | 5% | 34% |
| **Revenue (in Millions)** | | | | |
| Less than $3 | 27 | 0% | 4% | 22% |
| $3 to $6 | 15 | 0% | 13% | 33% |
| $6 to $10 | 12 | 0% | 0% | 50% |
| $10 to $15 | 19 | 5% | 11% | 26% |
| $15 to $25 | 20 | 5% | 5% | 40% |
| $25 to $50 | 24 | 4% | 21% | 17% |
| $50 to $100 | 19 | 11% | 21% | 11% |
| $100 or more | 20 | 30% | 35% | 15% |
| **Customers** | | | | |
| Less than 1,000 | 19 | 0% | 5% | 21% |
| 1,000 to 2,000 | 18 | 0% | 6% | 33% |
| 2,000 to 4,000 | 25 | 0% | 4% | 32% |
| 4,000 to 10,000 | 39 | 5% | 13% | 38% |
| 10,000 to 20,000 | 22 | 5% | 9% | 9% |
| 20,000 to 40,000 | 16 | 19% | 38% | 6% |
| 40,000 to 100,000 | 8 | 38% | 50% | 13% |
| 100,000 or more | 9 | 22% | 22% | 22% |

Finally, 227 utilities (85%) that provide utility services in addition to electricity were asked which other utility services are provided by the municipal government. Utilities governed by a city council are more likely to provide additional services (92%) compared to utilities governed by an independent utility board, including both appointed (80%) and elected (52%) independent utility boards. There is little difference between revenue and customer count. Water and sewer are the most common utility services provided by the municipal government.

### Table 28. Other Utility Services Provided by the Municipal Government

| Service | Number of Responses | Percent |
|---|---|---|
| Gas | 41 | 18% |
| Water | 213 | 94% |
| Sewer | 166 | 73% |
| Wastewater | 136 | 60% |
| Broadband | 37 | 16% |
| Fiber (leasing) | 37 | 16% |
| Other | 45 | 20% |

Respondents included services such as stormwater, garbage/trash, sanitation, landfill, solid waste, and phone and cable services in the "other" category.

Among utilities that provide services in addition to electricity, 92% of governing bodies also oversee the additional services.

### Table 29. Percent of Utilities Whose Governing Body Oversees Additional Services

| | Number of Responses | Percent |
|---|---|---|
| **Total** | **225** | **92%** |
| **Type of Governing Body** | | |
| Elected Independent Utility Board | 10 | 70% |
| Appointed Independent Utility Board | 63 | 84% |
| City Council | 144 | 99% |
| Other | 5 | 80% |
| **Revenue (in Millions)** | | |
| Less than $3 | 47 | 96% |
| $3 to $6 | 24 | 100% |
| $6 to $10 | 21 | 95% |
| $10 to $15 | 22 | 91% |
| $15 to $25 | 29 | 93% |
| $25 to $50 | 30 | 93% |
| $50 to $100 | 29 | 86% |
| $100 or more | 23 | 83% |
| **Customers** | | |
| Less than 1,000 | 36 | 94% |
| 1,000 to 2,000 | 27 | 100% |
| 2,000 to 4,000 | 36 | 94% |
| 4,000 to 10,000 | 56 | 93% |
| 10,000 to 20,000 | 30 | 90% |
| 20,000 to 40,000 | 18 | 89% |
| 40,000 to 100,000 | 13 | 85% |
| 100,000 or more | 9 | 78% |

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# SRP Governance – Potential Considerations and Process

Jim Pratt, Michael J. O'Connor, Rob Taylor| June 11, 2026

Work Study Session

# SRP Governance is Unique and Complicated

- SRP Governance
  - Association Articles of Incorporation
  - Association By-Laws
  - District – Arizona Revised Statutes – Title 48
  - District By-Laws
  - 1917 Agreement between the Association and the United States
  - 1937/1949 Association and District Contract
  - 2002 Memorandum of Understanding between the Association and the District
- SRP Key Legal Authorities Regarding SRP Governance
  - Uhlmann v Wren
  - Ball v James

# SRP Governance – Process Regarding Change

- SRP Board role
- SRP Council role
- Association shareholder role
- Arizona Legislature/Arizona Governor
- Department of Interior United States

# SRP Governance – Topics Regarding Change

- Increasing voting within the reservoir boundary
- Entity voting within the reservoir boundary
- Changing the acreage voting within the reservoir boundary
- Allowing voting outside the reservoir boundary
- Allowing representation outside reservoir boundary
- Different Board structure appointments or seats by operation of law
- Role of the Customer Utility Panel

# Working Assumptions

- SRP's self governance is critical to the success of SRP, its customers and shareholders
- Fundamental to SRP's existence and success is the provision and support of water to the lands with the Reservoir Boundary
- The service provided to electric customers outside the reservoir boundary are identical including pricing, programs, reliability and customer service to those provided within the District
- Current voting system has been held to be legal and Constitutional
- Any changes in SRP voting or voter eligibility would require changes to Arizona statutes and or the Association articles of incorporation
- Any recommendation for change will need approval of all four governing bodies

# Legislative Consideration

- Volatile political environment
  - Legislative turnover
  - Legislative leadership uncertain; new Senate President
  - Potential for continued divided government
- Title 48 legislative risks
- One SRP – Consensus key to success

# Questions?

# Role of SRP Legal Department – Independent Counsel for Boards

Michael J. O'Connor | June 11, 2026

Work Study Session

# Agenda

- What is the SRP Legal Department's role with regard to its representation of SRP?
- Who does the SRP Legal Department represent, i.e., who is the client?
- Should the Board have a separate lawyer?
- Are there situations where the Board must have a separate lawyer?
- Are there situations where an individual Board member must have a separate lawyer?

# The SRP Legal Department

- There are twenty-one lawyers on staff at SRP as SRP employees, considered to be “in-house lawyers”.
- SRP also engages private law firms to represent SRP and SRP employees on an as needed basis – often for litigation matters.
- The in-house attorneys handle several items such as land issues, environmental, regulatory, claims, litigation, water, contract negotiations, employment issues, labor union issues, etc.
- SRP’s lawyers engage and supervise the legal work performed by outside law firms.

# SRP Legal Department

- SRP in-house lawyers represent SRP (the entity) and SRP employees and elected officials acting in the course and scope of their employment or official duties.
- Recall that SRP is comprised of the Salt River Project Agricultural Improvement and Power District (the “District”) and the Salt River Valley Water Users’ Association (the “Association”).
- Recall that SRP has four (4) elected bodies: the District Board, the Association Board, the District Council and the Association Council (each, a “Governing Body”).

# SRP Legal Department Represents SRP

- SRP, as an entity, can only act through individuals.
- The SRP in-house lawyers represent and provide legal advice to SRP employees in the course and scope of their employment.
- SRP, at all times, is the in-house lawyer's client and the in-house lawyer has duties to the entity.

# SRP Lawyers – Ethical Duties

- SRP's in-house lawyers, like all Arizona lawyers, are bound by the Arizona Rules of Professional Conduct (Arizona Supreme Court – Rule 42).
- Ethical Rule (E.R.) 1.13 (a) – A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents. In the government context, "constituents" are "client representatives".
- E.R. 1.13 (f) – In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interest are adverse to those constituents with whom the lawyer is dealing.

# SRP Lawyers' Representation of SRP Employees

- SRP in-house lawyers represent employees in the course and scope of the employee's employment with SRP – it is not a general personal representation.
- Examples:
  - SRP employee, John Smith, while driving an SRP vehicle to a job site, is involved in a motor vehicle accident and is sued. SRP in-house lawyers will represent Mr. Smith in the lawsuit.
  - SRP employee, John Smith, while driving home from work in his personal car, is involved in a motor vehicle accident and is sued. SRP in-house lawyers will not represent Mr. Smith.
  - SRP employee, John Smith, submits false time sheets to SRP. SRP in-house lawyers do not represent Mr. Smith and after notifying him, will represent SRP adverse to Mr. Smith
  - SRP employee and senior executive, John Smith, submits false expense reports to SRP. SRP's in-house lawyers do not represent Mr. Smith and after notifying him, will represent SRP adverse to Mr. Smith.
  - SRP District Board member, John Smith, along with other Board members, are sued for allegedly approving a transaction that adversely impacts a company. SRP in-house lawyers, consistent with and subject to SRP By-Laws, will represent Board member Smith as lawsuit is based on Board member's action taken within course and scope of Board member duties.

# SRP Lawyers' Representation of SRP Governing Bodies and Elected Officials

- Because the SRP Legal Department represents SRP (the entity), the SRP Legal Department receives requests for and provides legal advice to SRP's Governing Bodies and elected officials when they are acting in their official capacity on behalf of SRP.

# SRP Lawyers' Representation of SRP Governing Bodies and Elected Officials

- For some legal work, e.g., corporate bond transactions and potential litigation involving claims against the Board, the SRP Legal Department will engage private law firms to assist and make presentations to the Board. The scope of that engagement will depend on the situation.

# Separate Representation

- The SRP Legal Department provides legal advice to SRP, the entity. Because the SRP Board is part of the entity, there is generally no reason for the SRP Board to have a separate lawyer.
- There are, however, limited situations when the Board or individual Board members may need "separate" legal representation:

  A. Legal claim brought against a Board member for violation of the Open Meeting Law.

  B. Legal claim brought against a Board member for actions outside official SRP duties.

  C. Legal claim brought against a Board member outside the scope of SRP defense/indemnity obligations under the bylaws.

  D. Legal claim between Board members.

# Separate Representation (continued)

E. Legal claim between the District and the Association.

F. Legal claim between the Board and the Council.

G. Legal claim between the Board and SRP management.

H. Potential other scenarios.

# Sources:

- Arizona Rules of Professional Conduct, Arizona Supreme Court Rule 42
- Model Rules of Professional Conduct, Rule 1.13
- “Role of the General Counsel”, Association of Corporate Counsel, updated September 2009
- “The Roles and Responsibilities of the General Counsel”, Markkula Center for Applied Ethics at Santa Clara University, 2013
- “Indispensable Counsel – The Chief Legal Officer in the New Reality”, Veasey and Di Guglielmo, Oxford University Press, 2012

# Questions?

# thank you!