

**CITY OF TRUTH OR CONSEQUENCES  
PUBLIC UTILITY ADVISORY BOARD  
MONDAY, JUNE 21, 2021**

**MINUTES**

**REGULAR MEETING**

Regular meeting of the Public Utility Advisory Board of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, June 21, 2021 at 5:30 pm.

**CALL TO ORDER**

**ROLL CALL:**

George Szigeti, Chairman  
Jeff Dornbusch, Vice-Chairman – ABSENT  
Ron Pacourek, Member  
Gil Avelar, Member - ABSENT  
Don Armijo, Member

**ALSO PRESENT:**

Bruce Swingle, City Manager  
Bo Easley, Electric Department Director  
Sonya Williams, Utility Office Manager  
Dawn C. Barclay – Deputy City Clerk

**1. APPROVAL OF AGENDA:**

Member Pacourek made a motion to approve the agenda. Member Armijo seconded.  
Motion carried unanimously.

**2. APPROVAL OF MINUTES:**

- a. Regular meeting of May 17, 2021.
- b. Workshop meeting of June 14, 2021.

Member Armijo made a motion to approve the minutes with correction noted by Chairman Szigeti. Member Pacourek seconded. Motion carried unanimously.

### **3. COMMENTS FROM THE PUBLIC: (3 Minute rule applies)**

**Ariel Dougherty** – Addressed the board in person. She was unclear how the board was going move forward with the adopted changes to Ordinance 664. She also voiced her concern for the following; \$8 fee on utility bills, overcharge of .04 cents and the cost of the new transformers. She mentioned some benefits the solar citizens provide to the city. She also objects to the re-appointment of the current board members and voiced her concern about discrimination.

**Ron Fenn** – Addressed the board in person. He began reading his provided handout which was made part of the agenda packet referred to as “Modified Contract Agreement with City of Truth or Consequences Utility Department” also addressing the “15 points” handout referring to the format for the City utility bill.

### **4. NEW BUSINESS:**

#### **a. Discussion/Action: Recommendation of Re-appointment for Don Armijo.**

**Member Pacourek** made a motion to approve the re-appointment of Don Armijo. **Chairman Szigeti** seconded the motion. Motion carried unanimously.

#### **b. Discussion/Action: Recommendation of Re-appointment for Gil Avelar.**

**Chairman Szigeti** made a motion to approve the re-appointment of Gil Avelar. **Member Pacourek** seconded the motion. Motion carried unanimously.

#### **c. Discussion/Action: Recommendations for Proposed Changes to Ordinance 664.**

**Chairman Szigeti** - Recapped the changes from the Workshop. Under state law Municipalities do not have the right to restrict the construction of a solar facility on private property. He also stated It is very difficult to accurately predict what a 90% usage would be for a given customers bill and the formula being currently used is oversizing the systems. He proposed that the City adopt the same procedure that Sierra Electric is currently using to bill their solar customers. They reimburse kilowatt hour, per kilowatt hour for the energy they consume in a particular month. Sierra Electric pays .02 cent (+) per kilowatt hour for excess production. His suggestion is to reimburse at .05 cent per kilowatt hour for that extra production on a monthly basis.

**Member Pacourek** – Commented on Chairman Szigeti’s statement by saying there would be an added burden to the Utility Office to print reimbursement checks every month. He also would like to see an option to use the credit on an as needed basis. In addition, he would like to have the option to request a check once a year for unused credit.

**Member Armijo** – Asked the board if there is a reference anywhere in the State Statute about the size of system that can be installed. He also stressed to the board his concern about a customer installing a

system consisting of several acres and becoming a business with no limitations as to the size of unit installed on the property.

**Chairman Szigeti** - Acknowledged Member Armijo's concern by saying it is something they have to keep in mind. He also brought up the fact about the State Law which says there is a permit up to 10 kilowatts and anything over that limit does require a more in-depth permit.

**Member Armijo** – Elaborated on his suggestion that any credits earned must be used within a year. He also asked Sonya Williams, Utility Office Director if she had a time of completion for the utility bill format upgrade. Ms. Williams replied it would be sometime after the fiscal year.

**Chairman Szigeti** made a motion to red line Ordinance 664 along with consulting with the City Attorney before bringing back to the Public Utility Advisory Board's next scheduled meeting. **Member Armijo** seconded the motion. Motion carried unanimously.

#### **5. REPORTS FROM THE BOARD:**

Chairman Szigeti reported the City Commission voted 4 to 1 against reducing the meter reading fee. It will remain at \$50. He reminded that the board the Utility Department's reports will be made available at the July meeting. Chairman Szigeti suggested that PUAB members be included on the same notification list as the City Commissioners regarding city Utilities matters.

#### **6. REPORTS FROM STAFF:**

Bruce Swingle, City Manager – Stated there is a meeting set up with the AG's Office who will advise the City on rights regarding the \$50 meter reading charge.

#### **7. ADJOURNMENT**

There being no further business to come before the Public Utility Advisory Board, Chairman Szigeti requested for a motion to adjourn meeting. Member Pacourek seconded. Motion carried unanimously. The meeting was adjourned.

**PASSED AND APPROVED ON THIS 19<sup>th</sup> DAY OF JULY 2021.**

  
George Szigeti, Chairman  
Public Utility Advisory Board

## **Modified Contract Agreement with City of Truth or Consequences Utility Department.**

I, Ronald W Fenn, a man, in response to the non-negotiated, unilateral changes of my contract with the City of Truth or Consequences for Electrical Service herein adjust and modify my Contract Terms.

Whereas there has existed a tacit contract: "purchase for services" between the parties for more than twenty years without default or failure to pay and

Whereas a new agreement for Co-Generation has been in force since June of 2019, that provides mutual benefit to myself and the City,

Whereas the recent "smart-meter" program was not negotiated in "good faith" or with "full-disclosure" to the community "owners of the utility" for which the entity exists and the denial of a legally required election for a Initiative Moratorium Ordinance per NM Stat § 3-14-18 (2019),

Whereas harm, both real and theoretical exists in the technology including: fire hazard, radio frequency radiation health effects, surveillance features which violate the Constitutionally protected right to security and sanctuary of ones home and for potential problems related to cybersecurity hacking,

Whereas in the case of Co-Generation where power supplied to the City exceeds that purchased from the City, no extraordinary measures or policies can or need be shown to be beneficial when self reading and reporting for accounting purposes is offered and proven effective,

Whereas under the terms set forth in Ordinance 664, (currently under review for violation of the Solar Rights Act [47-3-1 to 47-3-5 NMSA 1978] no requirement for account "settlement" prior to discontinuance of the service defers compensation to some future time and at some undetermined rate leaves the substantial capital investment in my solar generation facility in limbo

Whereas there has not been shown another need or requirement for "metering" other than for providing billing and accounting data, no extreme measures need be taken when such information is otherwise provided,

Therefore: I will only conditionally accept your offer of a fee exceeding that already in the monthly Service Fee as long as it is waived each month the utility department receives a date stamped photo record, emailed to the utility office each month on a mutually determined day and frequency, showing electric usage, also that the City's sends no one out to read the meter when such record is provided, unless meter tampering or other violation of the City's equipment is reasonably suspected or annual verification is required. Further, just as compensation is deferred, the punitive fee, if any shall only be collected upon the final settlement of the Electric Utility account. Credit already removed from this account to date shall be restored pursuant to this agreement. This is my conditional acceptance to your contract offer.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Dated

Account # 2006-03625-00  
\_\_\_\_\_

☐ Accepted ☐ Denied Date: \_\_\_\_\_

City Manager: \_\_\_\_\_ Utility Manager: \_\_\_\_\_

Print Name: \_\_\_\_\_

To insure accurate and verifiable customer billing, City Utilities need to provide proper Invoices with Itemized charges. To accomplish this the following need to be changed or incorporated in the Utility Bill.

1. Dates of Meter Reading or Data capture both Previous and Current.
2. Service Month needs to be recorded, and needs not include days as the Service charge is not adjusted or pro-rated by the actual number of service days reflected in the billing month.
3. Actual Days between reading or capture dates needs to be supplied which can be automatically calculated by the computer subtracting "Previous" from "Current" dates.
4. Service Charges must be removed from rate calculations and Itemized accordingly.
5. Rates must be shown with each utility and usage to assist customer in verifying and reconciling their bills.
6. Meter Reading amounts, and meter multipliers (when used) must be clearly calculated and multiplied by the appropriate unit rate which must be shown for each utility and sub division.
7. Electrical Demand quantity must be shown with its Cost factor, multiplied and shown as an itemized sub total.
8. Taxes must be itemized for each Utility with a different rate with its appropriate rate and included in the Subtotal column.
9. Penalty dates for late payment when shown must include the penalty rate.
10. In Solar production accounts, only the Net quantity (kWh REC subtracted from kWh DEL and negative amounts treated as zero charge) is multiplied by the Utility Rate and shown as Total Elect.
11. There is no need to show Solar Credit as the meter readings automatically in real time provide the data for the next billing period. The practice of showing dollar credit falsely calculated on a rate that will never be honored is illogical and misleading. In the event of a "settlement" for excess production the account meter can be reset. If the city just allowed Solar Producers to have Analog meters they would automatically show the Net by running bi-directionally and dispel the notion that the non-solar customers are somehow subsidizing the individuals who have made great financial investments in their systems.
12. As the "Adjustment" is a fixed amount it should not be separated from the Base Rate, but be combined to reflect the actual Rate charged as in the City's Utility Rate Sheet.
13. Subtotals for each utility can be added and shown as an Amount Due.
14. The Net Metering process will eliminate the need for separate Electric bills for Solar producers as there is no monetary credit that can be applied to the other utilities.

15. Solar Production must be re-coded to reflect its negative consumption to honestly reflect the overall utility condition. Since exported solar reflected in the REC reading is put back into the local grid and sold to nearby users without compensation until a future undetermined date at a not yet determined rate. The City Utility benefits from not having to purchase that quantity from a commercial source and pay for it within the month. The locally produced solar output is additionally not subject to transportation costs and accompanying losses or middleman profits.

Current Billing practices are nearly impossible to decipher without a great deal of requests for information or other research.

Anyone would balk at a bill or receipt for purchases from a store or business that did not itemize the charges that allows the consumer to rectify their bills and spending.

Here is an example of the format for Electric Service (in this case for a commercial business) that can be adapted easily for Residential or Commercial accounts

In the interest in better service to the Utility Consumers of Truth or Consequences I hope that these changes may be adopted and I offer my assistance to the city in making this happen on a volunteer basis. This has been a large part of my business experience and ability.

Sincerely,  
Ron Fenn  
316 N Foch St  
T or C, NM 87901  
575-894-1543