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Over the past year or so I have developed an interest in local energy issues, and particularly electrical power, in Independence, Missouri ("City"). To better understand this issue, I have, among other things, communicated with Leon Daggett, the Director, and Paul Mahlberg, the Assistant Director, of the Independence Power and Light Department ("IPL"). I also received a telephone call from Robert Heacock on January 29, 2014. It was a cordial conversation during which we talked about a number of IPL matters. Mr. Heacock acknowledged the usefulness and success of the "Independence Model" of citizen participation in City government. He also solicited suggestions about how the City could enhance citizen understanding of the energy issue.

During the past three months, which included the recently concluded City Council elections, there has been increased citizen awareness of IPL related issues. These have included electrical rates, health concerns, social justice issues and environmental impacts of power generation and distribution. With that has come a renewed interest in how relevant Independence City Charter ("Charter") and City Code provisions come into play, including the purpose and role of IPL, the Public Utility Advisory Board ("PUAB") and the City Management Analyst ("Analyst").

All of this has lead me to take seriously Mr. Heacock's solicitation of suggestions about how the City "can do it better." With that in mind I will first outline my understanding of relevant sections of the City Charter and the City Code. After that I will make some observations and suggestions.

THE CITY CHARTER

"Public power is hometown power!" So says the American Public Power Association (APPA), of which IPL is a member. The APPA further states that "Public power provides a public service--electricity at a reasonable price," noting that "community ownership and governance provide wide latitude to make local decisions that best suit local needs and values" in a way that "helps protect all consumers--in public and private power communities--from private price and efficiency abuses."

The Charter, adopted in 1961, established the framework within which the City is to manage its hometown power. According to its preamble, the Charter was adopted "to provide for more efficient, adequate and economical government." The Charter (3.12 - 3.18) sets out how utilities operating within the City, including IPL, are to operate. Among other things it makes clear that IPL "shall not be used directly or indirectly as a general revenue producing agency." Ultimately the bottom line is that IPL "shall be operated in a businesslike manner," and after providing for prudent reserves, IPL "*shall apply all annual profits to rate reductions.*"

According to the Charter several groups and individuals play a number of important roles related to hometown power in Independence.

Owner. IPL is a City department but the actual IPL assets are owned by the City.

Governing Body/City Council (Council). IPL is governed by the seven members of the Council who are elected by the voters. The Council makes the policy decisions related to the ownership and operation of IPL. In a very real sense, the Council is the equivalent of the board of directors of an investor owned, profit-making, power company.

Management. Under the Charter (3.3) the city manager, who is appointed by the Council, is the City's chief administrative officer, and in that capacity appoints the IPL director. The IPL director is then charged with managing the operation of the IPL.

City Management Analyst (Analyst). Under the Charter (2.11) the Analyst is "an officer of the city elected by the sole act of the council," whose duties "include the *continuous investigation of the works of the departments.*" The City Code, in Article 3, states that the Analyst is to "conduct both performance and financially related audits." The City Code also requires the Analyst to "audit all proposed utility rate increases prior to any action being taken by the city council on proposed rate increases."

Public Utility Advisory Board (PUAB). The Charter created the PUAB, which is "composed of seven (7) members appointed by council for overlapping four (4) year terms" (3.15). The Charter grants extensive powers to the PUAB (3.16) that go well beyond those of many other City commissions, boards and committees. The PUAB is designed to play critical roles in enabling the City to provide power at reasonable rates, maintain local control of the IPL, and assure protection of the rate payers. It is particularly important to understand the actions the PUAB is obligated and empowered to undertake.

PUAB Duties. The Charter (3.16) requires the PUAB to: (i) "hold public meetings," (ii) "adopt rules for the transaction of business and keep a record of the proceedings," and (iii) "report its findings recommendations at least annually, to the council, the people of the city, the city manager, and the respective director(s) of the public utility operated within the city to which findings and recommendations apply."

PUAB Powers. Of perhaps greater importance, the PUAB has been granted important discretionary powers (3.16), including the power to: (i) "conduct public hearings on matters relating to public utilities," (ii) "subpoena witnesses," (iii) "compel the production of documents as evidence," (iv) "inspect all public utilities," (v) "recommend to the executive or legislative officials of the city, programs for the financing, use, ownership, service, operation, or franchising of public utilities operating within the city, including but not limited to recommendations regarding rate adjustments, long range planning, the employment and termination of the services of consultants, to the city, the review of recommendations made by consultants to the city, the issuance of debt obligations of the city and the construction of new and expansion of existing facilities."

PUAB/Council Relationship. The Charter (3.18) contemplates an ongoing interactive relationship between the PUAB and other City government officials. It specifically requires the "council, city employees and all other public officials" to "cooperate and consult with the board on all policy and planning matters related to such public utilities." Furthermore, it states that the "Council shall not pass any ordinance, resolution, motion or other proposition which relates to any matter of policy or planning of a public utility operated within the city without first giving the board the opportunity to submit to the council the board's findings and recommendations relating to such matters." The Charter continues: "In case the council passes an ordinance, resolution, motion or proposition contrary to a board finding or recommendation, the council shall upon the board's request, "communicate its reasons to the board for its passage." Lastly, the Charter requires the Council, if it takes an emergency action prior to consultation with the PUAB, each such Council action "specify distinctly the reasons for not giving the board the opportunity to submit its findings and recommendations to the council."

OBSERVATIONS AND SUGGESTIONS

Charter in Good Shape. The good news is that the 1961 Charter established a well thought out framework within which the City is still able to obtain the benefits of hometown power. I believe the prudent actions undertaken by the parties described in the Charter will result in those benefits flowing to the rate payers, without any Charter amendments.

Annual Rate Reductions. As noted above, The Charter requires that IPL be operated like a business, and mandates that "after providing for depreciation accruals and amortization of bonds and for reasonable accumulation of surplus," IPL "*shall apply all annual profits to rate reductions.*" Although the Charter does not state who should undertake those annual calculations, they would logically seem to be the responsibility of IPL. After completing the annual calculations, it would also make sense for IPL to

communicate the results to the PUAB. After reviewing those results, the PUAB would be in a position to make recommendations to the Council, which would then be able to authorize any required annual rate reductions.

Proposed Rate Increases. Based upon recent conversations with Mr. Mahlberg, I understand that a rate study ("2014 Rate Study") is currently being conducted. After the 2014 Rate Study is received IPL would presumably make a preliminary decision as to whether rate increases are to be recommended. If rate increases are recommended and the City believes rates should be increased, the audit by the Analyst would be the next logical step.

Once the 2014 Rate Study and the Analyst's audit is completed, there would be good opportunity for the PUAB, exercising the powers granted by the City Charter, to conduct public hearings on the proposed rate increases. Following the public hearings the PUAB could analyze the evidence and submit its recommendations to the Council. Before making a decision on rates, the Council should perhaps consult with the PUAB regarding the proposed rate increases. If in the unlikely event the Council were to approve rate increases contrary to recommendations of the PUAB, the PUAB, as permitted by the Charter should consider requesting that the Council communicate to the PUAB and the public the reasons for the Council's actions.

Long Range Planning. IPL has a history of prudent long range planning to assure that rate payers receive dependable electrical power. Past IPL planning has dealt not only with rate levels, but has also recommended that IPL diversify both the sources of purchased electricity, and the types of fuels to be used to provide the required electricity. Clearly such long range planning efforts continue on an ongoing basis. However, opportunities for public participation in those processes should be significantly enhanced. The IPL, the Council, and especially the PUAB, have the ability to actively engage the public in the long range energy planning processes. Considering the PUAB's broad range of powers including its power to hold public hearings, it is the natural City agency to provide the primary venue for public engagement and participation. The Council, especially through televised hearings and study sessions, could also increase citizen accesses to information on important energy-related topics.

Efficiency and Conservation Programs. The cheapest energy is the electricity that IPL never has to generate. Efficient generation of electricity can also be achieved through what is called "distributed solar generated" electricity, which means that the electricity is generated at or near the point it is used--like panels on the roof, or photovoltaic roofing material. IPL is to be commended regarding its energy efficiency programs. It is also to be encouraged to add to those programs and to provide additional effective financial incentives that will motivate more customers to adopt new and innovative ways to reduce the need for electricity. This would have the positive result of reducing the need to purchase electricity from far-away producers and then having to pay to transport that electricity over many miles of transmission lines.

The Interest of the Public. Issues related to the production and delivery of electricity are complex. Various Independence groups have expressed concerns about electricity. Those concerns include the impact of high cost energy upon individuals, businesses, public schools and other governmental

agencies, churches, nonprofit organizations and so on. High rates not only negatively impact the quality of life within the community, but also hamper the ability of economic development officials to attract new businesses and other desirable economic activity to Independence. There are also social costs of the air and water pollution resulting from power generation. These costs impact people's economic well being and health, and also imperil the health of the planet.

Public Information. The fact that energy issues are complex, and that there are many constituencies with broadly varying points of view, is all the more reason to provide easy public access to information about energy issues. Fortunately, technology provides increasingly effective ways to communicate useful information on a timely basis. For years the City has operated its website, televised some City meetings, and provided other ways to inform its citizens. These efforts are to be commended, but there is a need to enhance public access to information about IPL and PUAB.

Without accurate, timely information residents are at a significant disadvantage when it comes to participation in decisions that directly impact their own lives. To facilitate better citizen participation I would hope that the Council will provide better website information about all utilities, including electrical power. I encourage you to: (i) increase accessibility of the public to IPL and the PUAB, (ii) add the PUAB to the City website including meeting dates, times, places and agendas, meeting packets, minutes, annual reports, special reports, long-range planning documents and other relevant information, (iii) hold PUAB meetings in the evening as is the practice of the Council, the Planning Commission, the Board of Adjustment, the Park Commission and other City groups, (which would make it easier to recruit qualified civic minded residents who are employed to be able to serve on the PUAB, and would also make it easier for working residents to attend and participate in the meetings); (iv) provide more public discussion and additional educational venues in order to develop more informed rate payers. Again, the PUAB, with its broad powers, is uniquely equipped to conduct hearings, symposiums, workshops, and other activities aimed at informing the public about all aspects of electrical power.

Public Participation. The world faces important long-range energy issues. They cannot be solved by any one municipality. Residents in every municipality will continue to be impacted by the major changes in the amount of energy being consumed on a planet-wide basis. Because those impacts (financial, health, environmental), all have local impacts, it is essential that the City engage its citizens in deciding just how energy issues will play out here. As noted above, the City has developed and used "the Independence Model" in which citizens are charged with the responsibility to monitor and report to City residents about how the City has expended public funds dedicated to specific purposes. For example, the model has been used to monitor the City's use of sales tax proceeds dedicated to the maintenance of parks, streets, and storm water facilities. Those monitoring groups report to the Council and the public, usually twice each year. The Independence Model should be expanded to include IPL and the PUAB, which would be the logical obvious entity to be the monitoring agency; it already has a Charter- imposed obligation to report at least annually to the Council, the people and others. The Council will fill two seats on the PUAB during 2014. This presents an opportunity to solicit a broader range of citizens willing to serve on the PUAB, and to appoint knowledgeable, articulate members dedicated to moving the PUAB into a significantly expanded role of service to citizens, residents and ratepayers.

THE FUTURE

Historically the City has reaped positive results from the operation of IPL in a prudent and businesslike manner. However, the future presents new demands for creative, forward thinking action. Rapid changes in the regulatory environment and energy markets, as well as the emergence of impressive new technologies, present unprecedented opportunities to continue, and even improve, the benefits of hometown power. I commend these suggestions to you for your thoughtful consideration as the City prepares to make important decisions about how to enable citizens and rate payers to enjoy the benefits of hometown power.

Best regards,

Roger W. Hershey