

## Victor Kilman - `~Fwd: Charter Review Committee Submission

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**From:** Victor Kilman  
**Subject:** `~Fwd: Charter Review Committee Submission

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Victor,

On behalf of the Electric Utility Board, I am submitting the Board's recommendation regarding proposed amendments to the City Charter. Specifically, the Board is recommending that Chapter 1, Article XII of the City Charter be amended.

Attached is an outline showing how this charter provision reads today, a bulleted list of what the proposed amendment is attempting to accomplish and a redline of how the charter would read if the proposed amendment was incorporated. Also attached is the Board's resolution proposing this particular amendment.

Please let me know if there is anything else you need from me prior to Monday's Charter Committee meeting.

Thanks.

Matt

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## ***As the City Charter reads today:***

### **Lubbock City Charter, Chapter 1, Article XII [Electric Utility Board]**

#### **Sec. 1. [Electric utility board.]**

The City of Lubbock's electric utility shall be governed, managed and operated by a board composed of nine members appointed by the City Council who shall be citizens and eligible voters of the City of Lubbock. Said board members shall serve terms of two (2) years, except that five members shall have initial terms of one (1) year as determined by the drawing of lots. The Board shall appoint a director of electric utilities and a general counsel for electric utilities, who shall serve at the pleasure of the Board. The director shall appoint all employees of the electric utilities except those employees serving exclusively under the general counsel's direction and authority. The Board shall determine the transfer and disbursement of all net revenues of the City's electric utility. The City Council shall retain the right to establish rates, exercise the power of eminent domain on behalf of the electric utility, issue obligations in the name of the electric utility, and approve the budget of the electric utility. Other duties and responsibilities of the board shall be as specified by the City Council in an appropriate ordinance adopted for such purpose to be effective no later than January 1, 2005.

(As amended Nov. 2, 2004)

## ***Proposed Charter Amendment Outline:***

### *Highlights of proposed changes:*

- *Allows indefinite number of terms for Board members*
- *Budget authority/approval with the Board*
- *Sole authority to issue rebates to retail electric customers rests with Board*
- *Approval Debt issuance for revenue backed bonds with the Board*
- *May make recommendations to City Council for Board vacancies*
- *Caps the franchise fee equivalent (FFE) at what is being charged by the City to other utilities – currently 5% of LP&L's gross retail revenue*
- *Caps the payment in lieu of taxes (PILOT) at 1% of LP&L's gross retail revenue*
- *Requires separate line item for FFE and PILOT on LP&L bills*

## **Charter Amendment Language**

### **Section 1: Board Established**

The City of Lubbock's electric utility shall be governed, managed and operated by a board composed of nine members appointed by the City Council who shall be citizens and eligible voters of the City of Lubbock. Said board members may serve an indefinite

number of terms with each term lasting shall serve terms of two (2) years, except that five members shall have initial terms of one (1) year as determined by the drawing of lots.

### **Section 2: Powers and Duties of Electric Utility Board**

The Board shall appoint a director of electric utilities and a general counsel for electric utilities, who shall serve at the pleasure of the Board. The director shall appoint, direct and manage all employees of the electric utilities except those employees serving exclusively under the general counsel's direction and authority. The Board shall approve the budget of the City's electric utility which shall be submitted to the City for inclusion in the City's annual budget. Subject to the terms and conditions of this article, the Board shall determine the transfer and disbursement of all net revenues of the City's electric utility including any rebates to the retail customers of the City's electric utility. The Board shall have the authority to issue obligations in the name of the City's electric utility that are secured solely by the electric revenue of the City's electric utility. The Board shall make recommendations to the City Council for appointments to fill any vacancies on the Board.

### **Section 3: Powers and Duties Retained by the City Council**

The City Council shall retain the right to establish rates, exercise the power of eminent domain on behalf of the electric utility, and issue obligations in the name of the electric utility that are secured in part or wholly by the tax revenue of the City of Lubbock, and approve the budget of the electric utility. Other duties and responsibilities of the board not inconsistent with those outlined in this article shall be as specified by the City Council in an appropriate ordinance adopted for such purpose, to be effective no later than January 1, 2005.

### **Section 4: Transfers to the City's General Fund, Fees Equivalent to a Franchise Fee and Payment in Lieu of Taxes**

In any fiscal year, the City Council may require the City's electric utility to transfer to the City's general fund a fee equivalent to a franchise fee equal to or less than any franchise fee charged by the City to any other public utility located within the City's municipal boundaries. In any fiscal year, the City Council may also require a payment in lieu of taxes from the City's electric utility no greater than one percent (1%) of the gross retail electric revenue of the City's electric utility. The amount of the transfer for the franchise fee equivalent and the payment in lieu of taxes shall not be included within the retail rates of the City's electric utility but shall be collected from each retail electric customer of the City's electric utility and signified by separate line item on the customer's bill or invoice for each type of transfer. The City Council may not require any further transfer from the City's electric utility to the City's general fund or any other fund of the City other than as outlined herein.

## RESOLUTION

WHEREAS, on November 2, 2004, the voters of the city of Lubbock voted to amend the Charter of the City of Lubbock providing for an Electric Utility Board composed of nine Lubbock citizens and eligible voters appointed by the City Council be created to govern, manage and operate the City's electric utility;

WHEREAS, the Lubbock City Charter was amended by adding Chapter 1, Article XII, Section 1 which outlines certain responsibilities and duties of the Electric Utility Board;

WHEREAS, since the establishment of the Electric Utility Board by charter election on November 2, 2004, under the Board's leadership, Lubbock Power & Light has consistently built cash reserves for LP&L, stabilized the rates of LP&L and transferred funds to the City of Lubbock's general fund; and

WHEREAS, the City Council is scheduled on January 14, 2010 to appoint a commission to further study possible changes, alterations and amendments to the Lubbock City Charter;

WHEREAS, the Electric Utility Board believes it to be in the best interest of the City of Lubbock and its municipally owned electric utility, Lubbock Power & Light, to improve the efficiency and competitiveness of Lubbock Power & Light, to recommend certain amendments to the Lubbock City Charter as it relates to the powers and duties of the Electric Utility Board in the following manner; NOW THEREFORE:

BE IT RESOLVED BY THE ELECTRIC UTILITY BOARD OF THE CITY OF LUBBOCK

SECTION 1: THAT Chapter 1, Article XII of the City Charter be amended to read as follows:

### **Electric Utility Board**

#### **Section 1: Board Established**

The City of Lubbock's electric utility shall be governed, managed and operated by a board composed of nine members appointed by the City Council who shall be citizens and eligible voters of the City of Lubbock. Said board members may serve an indefinite number of terms with each term lasting two (2) years, except that five members shall have initial terms of one (1) year as determined by the drawing of lots.

#### **Section 2: Powers and Duties of Electric Utility Board**

The Board shall appoint a director of electric utilities and a general counsel for electric utilities, who shall serve at the pleasure of the Board. The director shall appoint, direct and manage all employees of the electric utility except those employees serving exclusively under the general counsel's direction and authority. The Board shall approve the budget of the City's electric utility which shall be submitted to the City for inclusion

in the City's annual budget. Subject to the terms and conditions of this article, the Board shall determine the transfer and disbursement of all net revenues of the City's electric utility including any rebates to the retail customers of the City's electric utility. The Board shall have the authority to issue obligations in the name of the City's electric utility that are secured solely by the electric revenue of the City's electric utility. The Board shall make recommendations to the City Council for appointments to fill any vacancies on the Board.

**Section 3: Powers and Duties Retained by the City Council**

The City Council shall retain the right to establish rates, exercise the power of eminent domain on behalf of the electric utility and issue obligations in the name of the electric utility that are secured in part or wholly by the tax revenue of the City of Lubbock. Other duties and responsibilities of the board not inconsistent with those outlined in this article shall be as specified by the City Council in an appropriate ordinance adopted for such purpose.

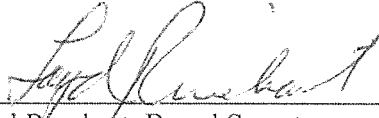
**Section 4: Transfers to the City's General Fund, Fees Equivalent to a Franchise Fee and Payment in Lieu of Taxes**

In any fiscal year, the City Council may require the City's electric utility to transfer to the City's general fund a fee equivalent to a franchise fee equal to or less than any franchise fee charged by the City to any other public utility located within the City's municipal boundaries. In any fiscal year, the City Council may also require a payment in lieu of taxes from the City's electric utility no greater than one percent (1%) of the gross retail electric revenue of the City's electric utility. The amount of the transfer for the franchise fee equivalent and the payment in lieu of taxes shall not be included within the retail rates of the City's electric utility but shall be collected from each retail electric customer of the City's electric utility and signified by separate line item on the customer's bill or invoice for each type of transfer. The City Council may not require any further transfer from the City's electric utility to the City's general fund or any other fund of the City other than as outlined herein.

Passed by the Electric Utility Board this 12 day of JANUARY, 2010.

  
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W.R. COLLIER, CHAIRMAN

ATTEST:




Loyd Rinehart, Board Secretary

APPROVED AS TO CONTENT:



Gary Zheng  
Chief Executive Officer – LP&L

APPROVED AS TO FORM:



Matthew L. Wade  
General Counsel – LP&L