

Utility Rates, Billing, & Collections

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Before we get to the boring stuff...

Why did the electrical cords
break up?

What do you call
dangerous amounts of
precipitation?

What do you call a
conversation between two
trash cans?

Agenda

- City Fees
- How a City Sets Rates:
 - Electric
 - Water
 - Solid Waste
- How to Encourage Customers to Pay

City Fees Overview

- Most utility fees are “user fees” (for use of City energy, water, and garbage collection services)
- User fees should not exceed the cost of service
 - If there is a reasonable relationship to the cost of service and no legal prohibition against the fee, the city can generally charge the fee
 - Fees that generate excess revenue are often found to be unconstitutional taxes
- Fees must be charged for a public purpose

Electric Rates

“ A municipality may purchase, construct, or operate a utility system inside or outside the municipal boundaries **and may regulate the system in a manner that protects the interests of the municipality**. The municipality may own land inside or outside its boundaries for these purposes.”

How does this work?

- Austin Energy: The Austin City Council adopted a policy that AE's rates should be reviewed *at least once every five years*.
 - As part of this process, the City will hire a consumer advocate who is knowledgeable and experienced in ratemaking issues to represent residential and small business customers. The City may also hire an impartial hearing examiner to conduct the review and make recommendations.
- New Braunfels Utilities: NBU does not have a formal policy regarding how often a rate change should occur. The NBU Board of Trustees looks at rate design on an as needed basis and adjusts accordingly.

True or False?

The Public Utility Commission of Texas has exclusive original jurisdiction to approve water and sewer utility rates in the corporate limits of a Texas home rule municipality.

A. True

B. False

Water Rates

“Governing body of each municipality has **exclusive original jurisdiction** over all water and sewer utility rates, operations, and services provided by a water and sewer utility within its corporate limits.”

“The utility commission shall have exclusive original jurisdiction over water and sewer utility rates, operations, and services not within the incorporated limits of a municipality exercising exclusive original jurisdiction over those rates, operations, and services as provided in this chapter.”

How does this work?

- NBU: Again, no formal policy regarding how often a rate change should occur. The NBU Board of Trustees looks at rate design on an as needed basis and adjusts accordingly.
- Austin Water: Direction to staff from Council at March 8, 2018 meeting:
 - “ prior to any future rate changes being implemented, the independent hearings process for Austin Water will be completed.”

State Law – Municipal Solid Waste Service

What does state law say about municipal solid waste service?

A municipality is required to ensure that solid waste management services are provided to all persons in its jurisdiction by either a public agency or a private person.

See Tex. Health & Safety Code 363.113.

State Law – Municipal Solid Waste Service

Texas Health & Safety Code Section 364.034 states that a city may:

- (1) Offer solid waste disposal service to persons in its territory;
- (2) Require the use of City service by those persons;
- (3) Charge fees for the service; and
- (4) Establish the service as a utility separate from other utilities in its territory.

State Law – Municipal Solid Waste Service

A municipality may:

- **Adopt rules regulating solid waste collection, handling, transportation, storage, processing, and disposal.**
 - Tex. Health & Safety Code 363.111(a)
- **Prohibit processing or disposal of municipal or industrial solid waste in certain areas.**
 - Tex. Health & Safety Code 363.112
- **Offer recycling and other resource recovery services to persons in its jurisdictional boundaries and charge fees for the service.**
 - Tex. Health & Safety Code 363.114
- **Enter contracts to furnish or receive solid waste management services on terms considered appropriate by the city's governing body.**
 - Tex. Health & Safety Code 363.116-117

“ [m]uni customers elect the city council members that either operate the utility or appoint a board to do so. If you are not happy with your service... you can vote for new city council members.”

How Do We Encourage
Customers to Pay??

Deposits

Local Government Code § 552.0025(c):

A municipality may require varying utility deposits for customers as it deems appropriate in each case.

Types of Deposit/Credit Security Commonly Accepted

1. Cash (\$200 for Austin; \$250 or double the annual average of the residence's historical building for NBU);
2. Letter from previous utility service provider;
3. Setting up automatic bill pay from checking account;
4. Credit check; or
5. Guaranty of payment.

Late Fees

A utility late charge represents an ordinary cost of doing business, not a fee imposed to raise revenue.

A city may charge a late fee “so as long as the applicable rate ordinance provides for such charges, and so long as there is a reasonable relationship between the amount of the late charge and the cost it purports to recoup.” Tex. Att’y Gen. Op. No. JH-1289 (1978).

If a customer fails to pay their electric or water bill, you can...

- A. Throw them in jail
- B. Disconnect their utility service without notice
- C. Repossess their vehicle
- D. Place a lien on the property

Local Government Code § 552.0025(d)

"a municipality may by ordinance impose a lien against an owner's property, unless it is a homestead as protected by the Texas Constitution, for delinquent bills for municipal utility service to the property."

Collections

- Options to help increase collections:
 - Deferred Payment Agreements
 - An elderly individual (over 60) may request a delay of bill payment date without penalty

Disconnections

Due process is required: a customer must be given notice and an opportunity for a hearing before service is terminated. *Memphis Light, Gas & Water Division v. Craft*, 436 U.S. 1 (1977)

New Braunfels Utilities Service Conditions Policy

- NBU Policy provides the circumstances in which a customer may be disconnected for nonpayment.
- Past due notice (with NBU contact information) and two automated phone calls are provided to a customer before disconnection for nonpayment.

NBU Exception

Critical Care Accounts: If customer or person residing in the home has been diagnosed by a physician as being dependent upon an electric powered device to sustain life, or prevent impairment of a major life function, the customer is qualified to be designated as a "Critical Care" customer. NBU will not disconnect for non-payment if the customer has qualified as a Critical Care customer.

Austin City Code Chapter 15-9, Article 7

- Notice of Service Disconnection:
 1. May be delivered by mail. Hand delivery, electronic transmission, or telephone, either pre-recorded message or in person;
 2. Shall be available in both English and Spanish; and
 3. Shall include:
 - a) The reason for the proposed disconnection;
 - b) If applicable, notice of the customer's right to a hearing before service is disconnected, including that the customer must request a hearing in writing on or before the due date of the notice;
 - c) The date of the proposed disconnection, excluding a holiday or weekend; and
 - d) If in writing, prominent notice that the document is a disconnection notice.

City of Austin Exceptions

○ Extreme weather conditions

- Heat: 102 degrees F or higher
- Cold: 32 degrees F or lower

○ Medically vulnerable residents

- Defined as persons on life support or who have a critical or serious illness that requires or would be impaired without heating or A/C
 - Critical illnesses include multiple sclerosis, paraplegia, etc.
- Must apply for medically vulnerable designation

Legislative Update

Customer disconnection impacts of Senate Bill 3 (2021):

- Legislature created definitions of “critical care residential customer” and “critical load industrial customer” (relating to electric power service)
- Electric utilities must provide notice to customers of how to obtain these designations
- Customers with these designations are considered critical load and are prioritized for power restoration

Thank You!

