



# MEMORANDUM

EUGENE WATER & ELECTRIC BOARD



TO: Commissioners Brown, Mital, Helgeson, Manning and Simpson  
FROM: Roger Gray, General Manager;  
Jeannine Parisi, Community and Local Government Affairs Coordinator  
DATE: July 10, 2014  
SUBJECT: Resolution No. 1410 Amending Contribution in Lieu of Taxes  
OBJECTIVE: Board Action on Resolution No. 1410

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## Issue

EWEB and the City of Eugene wish to revise how Contributions in Lieu of Taxes payments are calculated to create a more predictable and stable funding stream, and to provide for greater transparency and ease of administration. The General Manager and Eugene City Manager have negotiated a new agreement that makes good fiscal sense to both organizations. Management requests Board approval for a resolution enacting these changes as required by City Charter.

## Background

In 1943, the State Legislature enacted ORS 225.270, whereby cities owning a municipal electric power plant shall, for the purposes of reducing general property taxes, pay to itself not less than three percent of the gross operating revenue of such plant. Beginning in 1943, EWEB began making Contributions in Lieu of Taxes (CILT) payments to the City at this 3% rate. At the request of the City Council, in 1955, EWEB increased CILT contributions of 6% of gross operating revenues.

In November 1976, voters approved a new City Charter including Section 44(4) stating that the 1976 rates of payment to the City in lieu of taxes shall continue until changed by agreement by the Board and City Council.

Since then, the City and EWEB have entered into numerous agreements refining the methodology for calculating CILT payments consistent with the 1976 Charter language, but reflecting changing legislation, power contracts, market conditions, and EWEB power trading practices. Additionally, EWEB has made other business practice changes and accounting corrections that have impacted CILT payments over time. Some changes have limited documentation which has created ambiguity over time, while other changes have not been fully endorsed by both agencies.

## Discussion

As the City has struggled to close a multi-million dollar budget gap, staff were asked to work with our city counterparts to come to resolution on a number of outstanding issues involving CILT that:

- Ensured equity and fairness to both parties, with no impact on ratepayers
- Resulted in a more predictable, stable payment stream for budgeting purposes
- Standardized, streamlined and made the payment methodology more transparent and simple
- Clearly documented and codified changes to remove ambiguity

After a series of discussions, last month, EWEB supplied the City with a “term sheet” consistent with these principles. This agreement retains the 6% rate of retail CILT as is, but trades the boom/bust cycle of wholesale and other variable revenues streams for an annual fixed amount. This fixed amount was based on a conservative average of the past 10 years of variable payments, and as such, can be achieved without adding costs to ratepayers. The initial annual fixed payment will be \$825,000; CILT payments on wholesale revenue alone have varied from over \$3.5 million to less than \$100,000 in the past ten years.

By eliminating the volatility of wholesale CILT, EWEB and the City have more budget certainty. Additionally, as an economic development incentive, the new agreement gives the City Manager and EWEB General Manager the ability to negotiate specific CILT payments for new and existing industrial customers that are subject to separate power sales contracts.

#### **TBL Assessment**

None was conducted as minimal social, economic or environmental impacts are implicated by this change. However, if approved, the City would have an additional \$500,000 it can firmly budget in 2015, which translates into fewer service cuts to residents. Further, no rate impacts to EWEB customers are anticipated, and simplifying the payment methodology will reduce program administration and staff time.

#### **Recommendation**

Attached is a resolution that if approved, authorizes the General Manager to enter into a new CILT agreement with the City of Eugene. The resolution describes the public policy attributes to be achieved, as well as the core changes impacting future CILT payments to the City. The City Manager has prepared a similar resolution for City Council approval on July 14.. City Council and EWEB Board of Commissioner action would formalize that these changes are mutually acceptable, consistent with City Charter requirements, and would go into effect January 1, 2015.

In preparation for implementation, staff are in the process of aligning the Cost of Service Analysis with the new agreement and assessing billing system modifications to record CILT transactions. Billing system changes, particularly of this magnitude, are challenging and labor-intensive. Full implementation of these changes will depend on functionality of the new CIS system planned for implementation in 2016-17; however this process has helped uncover potential issues and identify design requirements.

Management is also planning for bill presentment changes consistent with the Board’s interest in improved clarity between EWEB and City charges. While having a line-item associated with individual CILT charges is one potential outcome, management is de-coupling CILT as a separate line item from a broader redesign of the entire EWEB bill. This decoupling is due to workload issues and the need to “sequence” work in a non-disruptive way with the limited staffing resources we

currently have to complete the bill redesign work, which is aimed primarily at enhancing the customer experience.

Instead, EWEB staff is taking a staged approach to explaining CILT payments that uses existing communications channels (such as a bill insert or Pipeline) to better educate customers about the long-standing practice of collecting CILT. This outreach effort can start as soon as this fall, and will help staff test messaging and avoid unintended consequences, such as increased call volumes related to a “new charge” on the bill. The overall bill redesign is expected to be completed and implemented by the spring of 2015, and also will include a communications campaign to inform customers about changes in the bills’ appearance and any other enhancements.

**Requested Board Action**

Management recommends Board approval of Resolution No. 1410.

**EUGENE WATER & ELECTRIC BOARD**

**RESOLUTION NO. 1410**

**July 2014**

**APPROVING A REVISED METHODOLOGY FOR DETERMINING THE CONTRIBUTION IN LIEU OF TAX PAYMENT ON ELECTRICITY SALES TO THE CITY OF EUGENE.**

**The Eugene Water & Electric Board finds that:**

**A.** Since 1943, the Eugene Water & Electric Board (EWEB) has made contributions in lieu of tax (CILT) payments to the City of Eugene. For more than 50 years, the amount of the CILT payments has generally equaled 6% of gross operating revenues of the electric utility.

**B.** In November 1976, voters approved a new City Charter. Section 44(4) of the Charter provides that the 1976 rates of CILT payment would not change unless approved by the EWEB Board and the City Council.

**C.** Since 1976, the City and EWEB have entered into a number of agreements revising and refining the amount of and methodology for CILT payments. Those revisions have included differentiating between retail and wholesale power sales, with the CILT payments for retail based on gross operating revenues and the CILT payments for wholesale based on net revenues. Other revisions have included specific arrangements for sales from EWEB's steam operation and certain large-scale power contracts to individual customers. Changes in the electric power market have made it challenging to determine net revenues for wholesale power sales from particular electric generating sources, as well as making it difficult to predict what the CILT payments might be, which in turn has made it increasingly difficult for the City and EWEB to reliably forecast those potential revenues as part of preparing the future budgets.

**D.** EWEB and the City now desire to revise the CILT agreements to create a predictable and stable payment stream and a more streamlined methodology for calculating CILT payments.

**NOW, THEREFORE, BE IT RESOLVED** by the Eugene Water & Electric Board that:

**Section 1.** Based on the above findings, which are hereby adopted, the Board approves a change in the payments to the City of Eugene pursuant to Section 44(4) of the Eugene Charter of 2002. Beginning in January 2015, EWEB's CILT payments to the City will consist of two components: (a) a percentage of operating revenues from retail electric sales, as further defined in a Memorandum of Understanding between the City and EWEB, and (b) an annual payment of no less than \$825,000 which will replace the more volatile wholesale and other miscellaneous revenue based CILT payments.

**Section 2.** The retail sales percentage component shall be 6% except when, for economic development and/or job retention purposes, the City Manager and General Manager agree to a different percentage for those large retail customers subject to separate power sales contracts.

**Section 3.** The EWEB General Manager is authorized to enter into, and amend when appropriate, a Memorandum of Understanding (MOU) with the City Manager to define terms, establish appropriate inflationary factors for the annual payment component, and other terms the City Manager and General Manager determine are appropriate to implement this Resolution, provided however that all such terms are consistent with the terms of this Resolution and applicable law.

**Section 4.** Nothing in this Resolution is intended to affect any of EWEB's payments to the City for calendar year 2014. Beginning on January 1, 2015, the provisions of this Resolution shall replace all prior Resolutions and other agreements between EWEB and the City which otherwise would govern CILT payments on or after January 1, 2015.

**Section 4.** This Resolution shall become effective after (a) the Eugene City Council approves a resolution containing the same changes in payments as in this Resolution, and (b) the City Manager and EWEB General Manager execute the MOU referenced in Section 1 of this Resolution.

Adopted at a meeting of the Eugene Water & Electric Board on July 22, 2014.

THE CITY OF EUGENE, OREGON  
Acting by and through the  
Eugene Water & Electric Board

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President

I, TARYN M. JOHNSON, the duly appointed, qualified and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is a true and exact copy of the Resolution adopted by the Board at its July 22, 2014 Regular Board Meeting.

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Assistant Secretary