

OFFICIAL PROCEEDINGS OF THE
BOARD OF WATER, ELECTRIC,
AND COMMUNICATIONS TRUSTEES
OF THE CITY OF MUSCATINE, IOWA
MARCH 31, 2009 – 5:30 P.M.

The Board of Trustees met in regular session at Muscatine Power and Water's Administration/Operations Building, 3205 Cedar Street, Muscatine, Iowa, on Tuesday, March 31, 2009 at 5:30 p.m., CST.

Chairperson Doyle Tubandt called the meeting to order. Members of the Board were present as follows: Trustees Doyle Tubandt, Warren Heidbreder, Scott Ingstad and Gary Carlson. Trustee Joan Axel was absent.

Also present were Sal LoBianco, General Manager of Muscatine Power and Water; Donald W. Kerker, Board Secretary; Duane J. Goedken, Board Attorney; Charles Potter, KWPC/KWCC Radio Station; Jamin Friedl, Virchow Krause; Ray Danz, Gary Wieskamp, Erika Cox, Brandy Dulceak, Mike Avesing, Kathy Danz and Brenda Christensen of Muscatine Power and Water.

Chairperson Tubandt asked if there was anyone in attendance who wished to make any public comments. Mr. Charles Lorensen expressed concern about the Board of Trustees regular meeting notice being occasionally published incorrectly in the Muscatine Journal, and the meeting correction notice not being easily located. Mr. Lorensen also expressed concern over the challenges he had of dealing with the complexity of connecting to the digital system and the continued irritation he has of dealing with the interpretation of rate changes. Chairperson Tubandt thanked Mr. Lorensen for his comments.

The minutes of the February 24, 2009 regular meeting were presented, as previously submitted to all Board members in written form. Trustee Ingstad moved, seconded by Trustee Heidbreder, that minutes be approved and placed on file as submitted. Motion carried. All Trustees present voted aye.

The list of expenditures and transactions for February was presented as previously submitted to all Board members in written form. After review and discussion, Trustee Carlson moved, seconded by Trustee Ingstad, to ratify payment of \$5,787,508.27 for the Electric Utility, \$353,653.14 in the Water Utility, and \$802,157.28 for the Communications Utility for a cumulative total of \$6,943,228.69. Motion carried. All Trustees present voted aye.

The next item on the agenda was a recommendation to receive and place on file the 2008 Audit for the Electric, Water and Communications Utilities. Mr. LoBianco asked Mr. Kerker to review the audit process. Mr. Kerker stated that Virchow Krause & Company, LLP (VK) had recently completed the independent audit for MP&W covering the calendar year 2008. VK was engaged by the Board of Trustees for a three-year contract covering calendar years 2006, 2007 and 2008. This is the second three-year contract that MP&W has had with VK. The Electric Utility bond covenants require that an audit be completed within ninety days from year-end. Mr. Kerker told the Board that the Board's Audit/Finance Committee, which includes Trustees Ingstad and Heidbreder, had met with the General Manager, Director of Finance and Administrative Services and the auditor representatives early in the day to discuss the audit in detail. Discussion in the Audit/Finance Committee meeting was focused on items required by Statement on Auditing Standards 114, Auditor's

Communication with those Charged with Governance. The Board was given a copy of the audit, management's representation letter to the auditors and a summary of passed adjusting journal entries. Mr. Kerker introduced Jamin Friedl of VK to give a brief review of what was presented to the Audit/Finance Committee and to answer any questions the Board may have regarding the Audit. Mr. Friedl stated to the Board that the Audit had gone well. He gave a brief overview on highlights of the auditor's response that had been presented earlier to the Audit/Finance Committee. Mr. Friedl also thanked Don Kerker and his financial staff for the well prepared audit documentation and the cooperation received from everyone in completing the Board's audit. Trustee Heidbreder stated that the financial statements received an unqualified opinion, which is the goal. He said that he and Trustee Ingstad had a private meeting with the auditors and that they were in agreement that the Board should receive and place on file the 2008 Muscatine Power and Water annual audit. Both Trustee Heidbreder and Mr. LoBianco also thanked the accounting staff and management for all the work during the audit process.

Trustee Ingstad moved, seconded by Trustee Carlson, to receive and place on file the 2008 audit of the Electric, Water, and Communications Utilities records. Motion carried. All Trustees present voted aye.

Mr. Friedl left the meeting at 6:10 p.m.

Mr. LoBianco asked Mr. Wieskamp to review the next item on the agenda. Mr. Wieskamp explained to the Board that at the end of April MP&W will be launching a newly revised website www.mpw.org. This will be the third time that MP&W has launched a new version of the website, the last revision occurred in 2002. DMW Design of Davenport, Iowa was hired to help with the redesign process and to provide insight as to the best design options. Internally, Utility Relations and Information Systems led the project with content input and review from other departments.

The goal of this project was to create a user friendly, up-to-date website that will enhance the information about Muscatine Power and Water and its products and services. The website usage continues to grow, clearly surpassing usage of seven years ago. As technology improves, design opportunities increase, allowing for much more user friendly navigation of the site.

Mr. Wieskamp introduced Kathy Danz, Communication Specialist, who acted as the lead on this redesign project. Ms. Danz gave a brief overview of the new website to the Board, highlighting all the new features of the website.

Next Mr. LoBianco explained to the Board that on October 17, 2008, the Federal Energy Regulatory Commission ("FERC") issued a new Rule that requires Independent System Operators and Regional Transmission Organizations ("RTOs") to allow retail customers, including the retail customers of public power systems, to bid and sell their retail demand response into the RTOs' wholesale electricity markets. Mr. LoBianco introduced Mr. Danz and Ms. Dulceak to explain the new rule further. Ms. Dulceak explained that the Rule also requires RTOs to accept bids from third-party Aggregators of Retail Customers ("ARCs") that aggregate the demand response of individual retail customers for purposes of participating in RTO markets. The Rule provides a mechanism for most public power systems to opt-out of many of the Rule's requirements. APPA has advised its members to consider addressing this issue sooner rather than later because ARCs are already out signing up the demand response of large end-use customers served by some public power systems. Although MP&W is not currently participating in an RTO/ISO, it is possible that MP&W will participate in an RTO/ISO in the future.

Ms. Dulceak continued that the effectiveness and benefits of load serving entity based demand response programs may be substantially undermined by FERC's new rule, which would likely siphon-off retail demand response into the RTOs' wholesale energy and ancillary services markets. The potential negative consequences from ARCs include: undermining existing demand response programs; inducing volatility in the RTO markets from unpredictable demand response bids; unpredictable changes in loads affecting the local system; and, potential costs for resource and operational changes necessary to follow ARC load, such as scheduling changes and RTO penalties. In addition, because some interruptions are predictable and can be expressly tied to triggers coordinated with power supply resource plans, public power systems can get additional value for all of their customers by integrating demand response into their planning and avoiding the need to carry planning reserves for interruptible load.

Trustee Tubandt asked about the logic of FERC allowing this new rule and Ms. Dulceak explained that it is being widely contested and that APPA is in the process of filing an application for rehearing of FERC's Order No. 719. Among the issues APPA will seek rehearing on is the ARC issue. APPA's position is that to preserve state and local jurisdiction over retail electric service provided by public power systems, the Commission should reverse the presumption set out in Order No. 719. In other words, an RTO should assume that loads behind public power systems are not available for third party aggregation unless the relevant retail electric regulatory authority for a public power system notifies the RTO that its loads are eligible for aggregation. APPA also plans to argue that FERC's failure to even to consider APPA's compromise proposal on this issue is in legal error.

In an effort to prevent the negative impact of potential ARCs should MP&W join an RTO/ISO, staff recommends adoption of the enclosed Resolution.

General discussion was conducted on customer reaction and how this may appear that this is not in the best interest of the customer, but is in the best interest of the community, because if this resolution is not passed, it could possibly cause the increase of rates. Ms. Dulceak gave the Board an example of how this process might work for the aggregator and retailer and what the benefits to all would or would not be. The Board approved the following resolution.

RESOLUTION 09-05

Whereas, the Federal Energy Regulatory Commission (FERC) issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 (October 28, 2008) and pursuant to Order No. 719, issued 18 C.F.R. § 35.28(g)(1)(iii) which provides: "Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator's or regional transmission organization's organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate."

Whereas pursuant to Order No. 719, FERC issued 18 C.F.R. § 35.28(g)(1)(i)(A) which provides: "Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or

regional transmission organization's tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator's or regional transmission organization's bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority."

Whereas, pursuant to the authority vested in the Board of Electric, Water and Communications Trustees for the City of Muscatine, Iowa, the Board is authorized to adopt resolutions governing the provision of electric power to retail customers within the boundaries of Muscatine Power and Water's system.

Whereas, Muscatine Power and Water is a load-serving entity with an obligation to serve at retail, and the Board has determined that it would be harmful to (1) the demand response in Muscatine Power and Water's service territory, and (2) the collective interests of Muscatine Power and Water's customers, if Muscatine Power and Water would permit retail customers or any entity other than Muscatine Power and Water (or its authorized designee) to aggregate demand response on behalf of Muscatine Power and Water's retail customers.

Whereas, the Board as the electric retail regulatory authority for Muscatine Power and Water, determined it to be desirable that the aggregation of demand response on behalf of retail customers served by Muscatine Power and Water should be bid directly by Muscatine Power and Water (or its authorized designee) into any organized electric and ancillary services markets administered by an independent system operator or regional transmission organization in which Muscatine Power and Water may become a participant.

The following shall be added to the Board Policy Manual and any applicable customer service rules regarding "Aggregation of Retail Customer Demand Response":

- A. Muscatine Power and Water (or its authorized designee) is the sole entity permitted to bid demand response on behalf of its retail customers directly into any FERC approved independent system operator's or regional transmission organization's organized electric markets in which Muscatine Power and Water may become a participant.
- B. Retail customers served by Muscatine Power and Water wishing to bid their demand response into a FERC approved independent system operator's or regional transmission organization's organized electric markets may do so in the manner permitted by Muscatine Power and Water (or its authorized designee). Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of Muscatine Power and Water.

The following shall be added to the Board Policy Manual and any applicable customer service rules regarding "Ancillary Services Provided by Demand Response Resources":

- A. Muscatine Power and Water or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by Muscatine Power and Water directly into any FERC approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or

its functional equivalent in the FERC approved independent system operator's or regional transmission organization's tariff).

- B. Retail customers served by the Muscatine Power and Water wishing to bid their demand response into a FERC approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the FERC approved independent system operator's or regional transmission organization's tariff) may only do so in the manner permitted by Muscatine Power and Water (or its authorized designee). Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of Muscatine Power and Water.

Section 4. EFFECTIVE DATE. This Resolution shall take effect immediately.

Trustee Ingstad moved, seconded by Trustee Heidbreder, that the said resolution should be passed, approved and adopted on this 31st day of March 2009. Trustee Heidbreder, Ingstad, Axel and Tubandt voted aye. Voting nay, none. Trustee Axel was absent.

Mr. LoBianco reviewed the previously submitted memorandum to all Board members regarding the recommendation to accept the contract as complete for the Horizontal Directional Drilling – 2008 Project. At the February 27, 2007, Board meeting the Board acted upon an award of two public improvement contracts associated with bid documents for Horizontal Directional Drilling. In order to achieve optimal pricing, the bid documents requested a two-year agreement, which included four contract options. Contract 1 was for capital public improvement projects in 2007. The Board awarded this contract to CDB Utility Contractors. The work was performed and Contract 1 was approved for Final Acceptance at the January 22, 2008, Board meeting. Contracts 2 and 4, covered by bid documents, were for annual service work in 2007 and 2008. These contracts did not require Board action and individual purchase orders were issued by Supply Chain Services to cover this work. A second contract, Contract 3, was awarded to CDB Utility Contractors in the amount of \$127,485.50, for public improvement capital projects identified for completion during 2008, subject to final approval by the Board of the 2008 Operating Budget. This award was made based upon estimated quantities and unit adjustment prices for the anticipated 2008 Capital Projects.

Contract 3, Change Order No. 1 was issued on February 13, 2008, for revisions to the capital projects and was approved by the Board at the February 2008 Board meeting. This change resulted in a net increase of \$53,491.00 and revised Contract 3 to a new total of \$180,976.50 and adjusted the 10% threshold where the General Manager can approve change orders by Board policy. Contract 3, Change Order No. 2 included the removal of Project OP080330 from the contract, additional supply material needed to continue the flow of work, the addition of an alley crossing and other combination pricing, and estimated quantities versus final quantities.

Work covered by Contract 3 has been checked out by staff and work completed found to be in accordance with the specifications. Staff recommended that the Board approve the Contract Change Order in the amount of \$9,731.25, accept the contract as completed in the final amount of \$190,707.75, and to release contract retainage in thirty-one days.

After discussion and review the following resolution was submitted.

RESOLUTION 09-06

WHEREAS, the Board of Water, Electric, and Communications Trustees of the City of Muscatine, Iowa, on February 27, 2007, awarded a contract to CDB Utility Contractors in the amount of \$127,485.50 for Horizontal Directional Drilling – 2008 Project; which was revised to the amount of \$180,976.50 on February 13, 2008 by Contract 3, Change order number 1 in the amount of \$53,491.00; and,

WHEREAS, Contract Change Order 2 has been prepared to said contract in the amount of \$9,731.25 and said Contract Change Order 2 was reviewed by the Board and the Board's staff has recommended approval of said Contract Change Order 2; now therefore,

BE IT RESOLVED, by the Board of Water, Electric, and Communications Trustees that the said Contract Change Order 2 in the amount of \$9,731.25 be and the same was hereby approved for a new contract price of \$190,707.75.

Trustee Heidbreder moved, seconded by Trustee Ingstad, that the said resolution should be passed, approved, and adopted on this 31st day of March 2009. Trustee Heidbreder, Ingstad, Carlson and Tubandt voted aye. Voting nay, none. Trustee Axel was absent.

RESOLUTION 09-07

WHEREAS, it appears in a written report from the Board's staff that the contract with CDB Utility Contractors in the amount of \$190,707.75 for Horizontal Directional Drilling – 2008 Project has been substantially completed in accordance with the project specifications and the recommendation has been made that said contract be accepted by the Board of Water, Electric, and Communications Trustees of the City of Muscatine, Iowa; now therefore,

BE IT RESOLVED, by the Board of Water, Electric, and Communications Trustees of the City of Muscatine, Iowa, that Horizontal Directional Drilling – 2008 Project furnished under the above named contract be and the same was hereby accepted and approved by the Board; and,

BE IT FURTHER RESOLVED, that five percent (5%) of the contract price be retained for a period of thirty-one (31) days from and after the date of this acceptance all in accordance with the provisions of the Code of Iowa and subject to receipt of the Operations and Maintenance Manual for the project.

Trustee Ingstad moved, seconded by Trustee Heidbreder, that the said resolution should be passed, approved, and adopted on this 31st day of March 2009. Trustee Heidbreder, Ingstad, Carlson and Tubandt voted aye. Voting nay, none. Trustee Axel was absent.

In the General Managers report, Mr. LoBianco reviewed his previously submitted written report to all Board members. Mr. LoBianco reminded the Board that it was communicated at the November 2008 Board meeting that MP&W was planning on entering the MISO energy market. The Board authorized the General Manager to sign necessary contracts to facilitate Congestion Management, Reliability Coordination, Market Coordination Services and associated documents for the purpose of MP&W's participation in the MISO Energy Market. (Congestion Management and Reliability Coordination were previously provided to MAPP members through an agreement between MAPP and MISO). MP&W was waiting for the Federal Energy Regulatory Commission (FERC) to approve the MISO modified tariff request (for Market Coordination Services), which FERC unfortunately did not approve. This has caused MidAmerican Energy Company (MEC), who was also planning to join the MISO energy market, to delay joining MISO. At this time it is not known what MEC's next steps will be. While MP&W is electrically interconnected with MISO member Alliant West, this one interconnection to the MISO market is not sufficient without MEC also participating in the energy market. This means there is currently no advantage to MP&W joining MISO as a full transmission owning member. However, MP&W will still sign the Seams Agreement by the end of March and the Reliability Coordination Service Agreement before June 1, 2009. The only agreement not being signed at this time will be the Module F Part III for Market Integration Services. MP&W will continue to monitor the situation. For now MP&W will continue to participate in the Mid-Continent Area Power Pool (MAPP), however, this organization is slowly dissolving and will likely require MP&W to take some action in the near future. Mr. Danz gave more explanation on why we are so dependent on MEC and why FERC did not approve the modified tariff request.

Next Mr. LoBianco explained that one of the tasks that Mr. Wieskamp handles for the Utility is to participate in the American Public Power Association's Legislative Rally which was held in Washington D.C. on February 23-25. Enclosed in the Board packet was Mr. Wieskamp's update memo regarding the issues that were discussed. Mr. LoBianco noted that 2009 has been a very busy year and there are numerous bills that staff is closely monitoring for impact to MP&W's operations. Mr. Wieskamp gave an update on a few regulations that could be coming up that would affect MP&W.

The 2009 APPA National Conference & Public Power Expo has been scheduled for Monday, June 15 – Wednesday, June 17 in Salt Lake City and will be attended by Mr. LoBianco. The Board was given a copy of the preliminary program listing and asked to notify Mr. LoBianco if they were interested in attending. At this APPA Conference MP&W will be receiving the American Public Power Association Community Service Award. In December 2008, Trustee Axel and Mr. Wieskamp coordinated on a nomination/application to send to APPA, and on March 3, 2009 MP&W received notification that the Utility was selected as a recipient of this award. The award is given to public power utilities that have achieved or sustained performance showing commitment by the utility and its employees to enhance the quality of life in the community. This commitment is shown through activities that address a community need or improve the community's social, cultural, education, or economic environment; and provide an opportunity for employee involvement. The letter from APPA advising MP&W of the award and the application that was completed was included with the General Manager's report.

Mr. LoBianco told the Board that there may be opportunities to bring stimulus funds into our community under the American Recovery and Reinvestment Act. A team has been formed to investigate and learn about the many opportunities for funds from this Act. Brandy Dulceak, Staff Attorney, and Mark Nelson, Chief Operations Engineer, are co-chairing the team and are responsible for leading the team to identify projects that could

potentially be eligible for funding, and then coordinating the efforts to apply for the funding. The team will also provide project lists to various agencies that may be involved in aggregating and/or administering the projects/funding from this act, such as the City of Muscatine. Mr. LoBianco said this is a very intensive effort that has been put on the fast track as we don't want to miss any opportunities to bring funds into our community or receive funding for projects that will benefit our customer/owners. Ms. Dulceak gave an overview of some projects that there may be dollars available. Trustee Tubandt told the staff that the Board appreciates these efforts.

Next Mr. LoBianco informed the Board that due to a short circuit on February 5, 8B coal crusher motor failed. The 600 hp crusher motors are somewhat of a specialty item because they are constructed to UL standards (explosion proof) for utilization in hazardous locations. Both coal crushers are utilized in normal operation. With only one crusher in operation, filling Unit 8's in-plant coal bunkers requires approximately 18 to 20 hours a day vs. 12 hours when both are in operation. The crushers are critical equipment for unit reliability, therefore the motor was immediately sent to Decatur Electric for evaluation; Decatur estimated repair costs at \$108,990. Since the repair costs were considerable, the cost and availability of a new or used motor was explored. There were no used replacements available and a new motor was quoted at \$184,000 with a 32 week lead time. The decision was made to repair the motor. The motor was returned and installed and for reliability purposes, it is anticipated that a project will be submitted to the Board for approval mid-year for the purchase of a spare motor. Considering the 32 week lead time, the purchase will be incorporated into the 2010 budget.

Mr. LoBianco gave the Board an update on the Unit 9 inspection and maintenance outage. Unit 9 came off line for the scheduled annual maintenance outage on February 28. In addition to normal outage maintenance, this outage included a turbine overhaul and a chemical clean of the boiler. Since the turbine work needed to be completed prior to the start of the chemical clean, the turbine work was scheduled so that it would be completed by March 22. The general overview of the Unit is that both the boiler and turbine were in very good condition following the year long operation. If all goes well, the Unit should return to full operation by Sunday, March 29. Mr. LoBianco introduced Mr. Mike Avesing, Plant Manager, to give a slideshow of highlights from the turbine overhaul during the outage.

The February Financial Operating Statements and Balance Sheets for the Electric, Water, and Communications Utilities were previously submitted to all Board members in written format. Mr. Kerker drew the Boards attention to the February Electric Utility's statements. One of the drivers for variance from the budget for the Electric Utility included a softening of wholesale sales energy market, resulting in reduced revenue of \$1,708,767 compared to budget. Steam Sales exceeded budget by \$622,650, due mostly to a pass through of NOx costs charged to GPC. The key driver of the increase in operating expense compared to budget was additional costs of \$796,622 for NOx emissions allowances that were not budgeted, but which were offset largely by GPC's share from above. Operations and Maintenance both showed positive results compared to budget. Interest income showed \$182,997 less than budget due to a negative mark-to-market adjustment of \$172,514. The Change in Net Assets was \$1,823,940 less than budget for the Electric Utility.

The Water Utility's financials showed that the efforts to reduce maintenance and operating costs were able to off-set the lower gallons of water sold to customers, showing a Change in Net Assets that was \$37,932 more than budget for the Water Utility.

Mr. Kerker stated the Communications Utility financials indicated that the Data/Internet revenue was higher than budget, this along with reduced operations expenses and maintenance costs, resulted in a \$62,960 improvement over budget.

Mr. Kerker also provided the Board with updated copies of the December 2008 year-end financials showing the adjusting journal entries for 2008.

After some discussion, Trustee Heidbreder moved, seconded by Trustee Carlson, to receive and place on file the revised December 2008 year-end financials and the February 2009 Operating Statements and Balance Sheets for Electric, Water, and Communications Utilities. Motion carried. All Trustees present voted aye.

The Competitive Quotes for Public Improvements Report was presented as previously submitted to all Board members in written format. There were no items for approval. The report was received and placed on file.

The departmental reports were presented as previously submitted to all Board members in written form. The Customer Input Report was reviewed. Additional general discussion was conducted on the departmental reports. Trustee Carlson moved, seconded by Trustee Heidbreder, to receive and place on file the February departmental reports. Motion carried. All Trustees present voted aye.

Chairperson Tubandt asked if there were any other items of business. With no other items of business, Trustee Heidbreder moved, seconded by Trustee Carlson, that the meeting be adjourned at 7:30 p.m.

BOARD OF WATER, ELECTRIC,
AND COMMUNICATIONS TRUSTEES
OF THE CITY OF MUSCATINE, IOWA

A handwritten signature in black ink, reading "Donald W. Kerker". The signature is fluid and cursive, with the first name "Donald" being the most prominent part.

Donald W. Kerker
Board Secretary