

Introduction

In May of 1959, the Loudoun County Board of Supervisors created Loudoun County Sanitation Authority as a nonprofit public body, doing business as Loudoun Water, by a resolution, through the Water and Waste Authorities Act, for the sole purpose of owning and/or operating public water and wastewater to serve the residents of the unincorporated areas of Loudoun County. These areas are generally the Suburban and Transition Policy Areas served by Loudoun Water's central system, and several community Systems in the Rural Policy Area. Loudoun Water is a political subdivision of the State, just like a Town or a County. All income is received either as user fees from customers or as availability fees from developers. User fees pay for operating expenses. Availability fees pay for capital improvements. Loudoun Water receives no tax money.

An authority is a combination of a private corporation and a public body and has features familiar to both the public and private sector. Like a private corporation, the authority may adopt bylaws, establish its registered office, and sue and be sued as a separate legal entity. Indeed, an authority may enter into public-private partnerships for the establishment and operation of water and sewage systems, including customer service functions. It receives a certificate of incorporation from the SCC. Unless the governing body of the creating political subdivision appoints its own members to the board of an authority, the authority is managed by a board appointed by the governing body or bodies that created it.

An authority is empowered to fix, charge, and collect rates, fees, and charges for the use of or for the services furnished by any system operated by it (Va. Code § 15.2-5114(10)). Va. Code § 15.2-5125 authorizes the issuance of revenue bonds, and Va. Code § 15.2-5136 authorizes an authority to fix and revise rates, fees and other charges (including a penalty not to exceed 10 percent on delinquent accounts), and interest on the principal, for the services furnished by any system operated by the authority and in connection with which the authority has issued revenue bonds. If bonds are outstanding, Va. Code § 15.2-5136 requires that the rates shall be fixed at a level sufficient to cover the cost of maintenance, repair and operation of the system, including reserves for replacements, depreciation and extensions. Rates must also be sufficient to pay the principal and interest on bonds outstanding, plus a "margin of safety." While prior to 2001 the statute provided that authority's rates, fees and charges were subject to the jurisdiction of the SCC, the Commission, in a 1963 case, ruled it had no jurisdiction to review or revise rates of authorities except, that upon the application of a bondholder, the SCC may require that rates be sufficient to comply with an Authority's statutory requirements to pay bondholders. In 2001, the VA General Assembly adopted HB 1583 that removed the language giving the SCC jurisdiction over authority's rates, fees and charges.

Financial Performance

Loudoun Water's revenue bonds are rated by three ratings' agencies, Fitch Ratings (AAA), Moody's (Aa1), and S&P (AAA). The following excerpt from one of the reports (S&P) provides a rationale for Loudoun Water's ratings. The concepts from this excerpt are consistent throughout all three ratings reports.

- *Affordable rates, autonomous rate-setting ability, and management's demonstrated willingness to adjust rates to maintain strong financial margins;*
- *Strong financial performance, with historically strong debt service coverage (DSC) and high liquidity levels;*
- *Adherence to formally adopted financial policies that define minimum levels we consider strong for DSC and liquidity;*
- *Ample capacity in both the water and wastewater systems;*
- *Well-seasoned, experienced management team with a focus on long-range goals; and*
- *Lowly leveraged system with a manageable capital improvement plan (CIP); and*
- *Service area that supports a rapidly growing, very diverse, and affluent Loudoun County (general obligation [GO] debt rating: AAA/Stable).*

Loudoun Water Response to Government Reform Commission (RC):

Topic: Transparency: The RC received comments during public input session regarding the public's inability to access certain financial information, particularly for costs of operating smaller systems (Community Systems). Transparency in government is essential for credibility with citizens (our customers).

Loudoun Water acknowledges and supports the importance and need for transparency. We also continue to balance that need with the cost to our customers. Planning for improved transparency starts with a baseline of the activities and resources we are currently implementing in our efforts for public transparency:

Legal requirements:

- FOIA compliant advertisement of public meetings including monthly board meetings, committee meetings, and rate workshops.
- Resolution of Intent to modify rates publicly advertised
- Notice of public hearings to receive public input as required by code.

Additional Loudoun Water public engagement efforts:

- Letter to each customer advising of proposed changes in rates, location of additional information (website) and date and time of public hearing.
- Public access to Boarddocs, which is a web-based public resource for all Loudoun Water official documents. Documents include: Board/Committee meeting and workshop agendas, additional agenda materials such as agenda item write-up and presentations and meeting minutes, as well as a depository for additional Loudoun Water documents and studies.



- Significant investment in technology to aid in transparency as it relates to customer information access and self service (Systems Modernization).
- Posting of rates, rate summary documents and studies, and notices of proposed modifications to rates and/or rate structure on Loudoun Water website.

Topic: Composition of Board of Directors: The RC raised the issue as to whether the Board of Supervisors (BOS) should adopt standards or guidelines for the members appointed to the Loudoun Water Board. Applicable standards may include persons with degrees or professional experience in areas of civil engineering, finance and utility construction, or related.

This is a BOS process and the recommendation from the RC would be more appropriately directed to that body, not Loudoun Water. The current Loudoun Water Board is a policy-setting body and is comprised of individuals with wide ranging degrees and professional experiences/expertise.

Topic: Reports to the Board of Supervisors: Loudoun Water does not have any requirements within our governing documents for reports to the BOS. Loudoun County policies determine the scope of Loudoun Water service. The RC has raised the issue to consider more formally keeping the BOS abreast of future rate increases and the overall Loudoun Water financial condition.

As an independent Authority, Loudoun Water produces all required financial disclosure and governance documents, and participates and works closely with Loudoun County on matters related to land use planning and actions, economic development, and other initiatives as requested.

Loudoun Water would be pleased to meet formally with the BOS at the Board’s request.

Topic: Rates for community systems: The RC has raised the issue of consideration for a universal rate for all Loudoun Water customers.

The guiding principles for the current community system rate structure are Loudoun Water’s long standing policy on community systems and Loudoun County’s Comprehensive Plan. Loudoun Water’s policy, which supports the County’s Comprehensive Plan, states:

“Rates associated with Community Systems shall be such as to permit the system to be financially self-sustaining, with all operation, maintenance and replacement costs being paid by the users and/or owners of all properties in the service area served by or capable of being served by the system(s).”

The Loudoun County Comprehensive Plan states:

“Communal water and wastewater systems must be financed by the developer or by those who will be directly served by the system. The financing plan must be designed, organized, and operated to be financially self-sustaining to pay all costs incurred by the LCSA for operation and maintenance and to provide appropriate reserves.”



Loudoun Water has previously provided the RC with a copy of a disclosure statement. Developers are required to have community system customers sign the document at home purchase settlement (**a copy of a signed disclosure statement from a community system customer is attached**). The essence of the disclosure and signed acknowledgement is that community systems provide limited levels of service and are stand-alone, financially self sufficient systems.

Topic: Additional community systems: The RC has raised the issue as to future developments within the rural policy area of Loudoun County, and whether the continued use of community systems as a solution to providing water and wastewater service needs should be continued. Loudoun Water supports and follows the Loudoun County General Plan and land use policies, which delineates permissible development patterns. There is an appropriate use of communal water and wastewater systems in the water and wastewater utility business. The general preference for the most effective and efficient service is the central system to serve the customers. Improved economy of scale to increase operational efficiency and to lower cost of service is a key driver to combine developments served by community systems into one service area.

Loudoun Water recommends that county policy that permits consolidation of service areas by interconnection of community systems with other community systems or the central system, when feasible, is in the best interest of the customers.

Loudoun Water also recommends that county policy allow the establishment of non-conforming parcels for Loudoun Water utility infrastructure in by-right developments, in a manner that does not infringe upon the allowable density of that development. It should not reduce the number of developable lots allowed.

Topic: Rate Hearings: The RC recommends additional Loudoun Water outreach efforts to increase customer participation in rate setting process. Please see “Transparency Topic” response.

Topic: Appeal process: Loudoun Water’s governing documents do not contain an appeal process for the decisions of Loudoun Water. Adopting a formal process would lend more credibility to the fairness and openness of the organization.

As a distinct political subdivision of the state and a nonprofit public body, Loudoun Water has sole responsibility to protect the interests of its customers. Customers may appeal rates, rules, and regulations to Loudoun Water, and the process is as follows:

First, the representatives within the Customer Service group communicate with and respond to customer inquiries, and in some cases coordinate follow-up service, where applicable within our Rates, Rules, and Regulations.

In the event that a customer maintains dissatisfaction with a response to an issue from Customer Service, the matter is taken to Senior Management for consultation and response. Depending on



the circumstance, Senior Management representatives may communicate directly with the customer about the issue.

If the issue remains unresolved at the Senior Management level, the matter is taken to the Board for consideration. The Loudoun Water Board receives appeals and public input via regular mail or a Loudoun Water-issued email account. The board also has an open public comment period during each monthly board meeting.

