Utilities Customer Advisory Group  
Minutes for the Meeting on  
August 11, 2021  
3:00 p.m.  
Utilities Center  
Conference Room 225

Committee Members Present
Paul Royalty, Chairman  
Elizabeth Bardwell, Vice-Chair  
Frank D. Gomez, Committee Member (via phone)  
Robert Snyder, Committee Member  
John McElroy, Committee Member

Others:
Becky Baum, RC Creations, LLC  
Cassie McClure, Public Outreach Consultant  
Gregory Shervanick  
Philip Simpson, Consultant Green Chamber  
Carrie Hamblin, CEO Las Cruces Green Chamber  
Gill Sorg, City Councilor  
William Little, LCU Board Chair  
Don Kurtz

City Staff Present:
Robert Cabello, Sr. Assistant City Attorney  
Tanya Cereceres, Administrative Assistant  
Lucio Garcia, Deputy Director Natural Gas  
Jose Provenzio, Deputy Director Business Services  
Mario Puentes, Gas Business Analyst  
Domonique Rodriguez, Rate and Economic Analysis Manager  
Alma Ruiz, Senior Officer Manager  
Vanesa Terrazas, Administration  
Delilah Walsh, LCU Director  
Adrienne Widmer, Assistant Utilities Director

Chair Royalty called the meeting to order at approximately 3:00 p.m.

1. Conflict of Interest:
Chair Royalty: First I'd like to ask if there's anybody on the board or any of the Utility that have a conflict with being presented with this agenda.

Walsh: Mr. Chairman. Delilah Walsh on behalf of Las Cruces Utilities. There are no conflicts for staff.

Chair Royalty: Okay. Let's go down the board. Mr. McElroy.

McElroy: I have no conflict.

Snyder: I have no conflict.

Chair Royalty: I have no conflict.

Bardwell: This is Beth Bardwell. I have no conflicts. Is Frank Gomez able to speak on the phone?

Chair Royalty: We need to get him on the line. Mr. Gomez, are you there?
Gomez: Yes.

Chair Royalty: All right, this is Paul Royalty. We just called the meeting to order. I've just asked everyone if they had a conflict of interest with matters coming before this board. Do you have any conflicts of interest?

Gomez: No conflicts of interest from Gomez UCAG member.

Chair Royalty: Okay good. All right. We want to move forward then with the agenda. Taking a look at this, the first thing we've got is the acceptance of the minutes.

Ruiz: Excuse me Chair. Sorry for the interruption. Alma Ruiz, Senior Office Manager. Prior to moving on, the board has to vote to allow Mr. Gomez to participate via phone. That should be your first order of business.

Chair Royalty: All right. We'd like to have a motion to allow Mr. Gomez to participate by phone. Do I hear such a motion?

Snyder: I move.

McElroy: Second.

Chair Royalty: All right Bob, and second is Mr. McElroy. Okay, so Mr. Gomez you can participate in the program.

Ruiz: You have to vote.

Snyder: Need to vote.

Gomez: Thank you all. Thank you very much.

Snyder: You need to vote.

Chair Royalty: Okay, I'm sorry. We need to call the vote. Okay. Mr. McElroy.

McElroy: Aye.

Snyder: Aye.

Bardwell: Aye.

Chair Royalty: Aye. Mr. Gomez, do you want to vote?

Gomez: Yes. Thank you.

Chair Royalty: Okay. All right. We're good. We got the Conflict of Interest taken care of. We've got that taken care of.
There were none.

2. **Acceptance of the Agenda:**

Chair Royalty: Next we have the Acceptance of the Agenda. Everyone's got a copy of that agenda in front here. Mr. Gomez, do you have a copy of the agenda?

Gomez: No I don't, but that's all right I think everything is hunky dory. I'm not worried about that.

Chair Royalty: Okay. All right. Can I get a motion to accept the agenda from the previous meeting?

Bardwell: I so moved to accept the agenda.

Chair Royalty: Okay.

Gomez: I second that.

**The Agenda was Accepted Unanimously 5-0.**

3. **Approval of Minutes:**

3.1. **Regular Meeting Minutes of June 23, 2021**

Chair Royalty: Okay. The next thing is the Approval of the Minutes that we've got here in front of us. The approval of the minutes from the previous meeting, and I've got them here someplace. Right here. If I could get a motion to approve the minutes from the last meeting.

Gomez: If I may I would like to approve or make a motion to approve. I was in the last meeting. Thank you.

Chair Royalty: Okay. Do I have a second?

Bardwell: I second.

Chair Royalty: All right. We've got that taken care of.

**The Minutes were Approved Unanimously 5-0.**

4. **Public Participation:**

Chair Royalty: All right. The next thing that we've got on the agenda is Public Participation. I'd like to have those people that would like to provide a statement or public participation, please raise your hand. One, two, three. Okay, we've got three people. Okay, so if I could I'd like to start at the back, then we'll start there, you'll be second, and then Mr. Simpson here will be third. Okay.

Kurtz: Mr. Chair. If you wouldn't mind, I wouldn't mind hearing the presentation first just because I'm interested in what they have to say, it might affect how, my own comments. If that's all right with you.
Chair Royalty: Okay.

Hamblin: (inaudible).

Chair Royalty: Yes, you can come up there and I'm not sure if there's a button there to push to get you to the green or not.

Ruiz: It's automatic.

Chair Royalty: It's automatic.

Hamblin: Rarely have people accused me of needing to microphone.

Chair Royalty: Okay, could you introduce yourself?

Hamblin: Yes sir. Hello, you members of the Utility Customer Advisory Group. My name is Carrie Hamblin, I'm the CEO and president of the Las Cruces Green Chamber of Commerce. I'm also humbled to serve as a state senator for District 38. Thank you for allowing us the opportunity to speak to you today. The Las Cruces Green Chamber of Commerce has been in existence since 2010, serving over 200 locally owned businesses committed to the triple bottom line of people, planet, and profit. The triple bottom line focuses on taking care of your people, that's also your customers and your employees, operating in a manner that is good for the environment, and being responsible with your profits. All three are equal under the triple bottom line. The Las Cruces Green Chamber of Commerce focuses on supporting local businesses, creating sustainable communities, and protecting our air, land, and water.

We are here today to present to you our concerns about the consideration of increasing gas rates for our community, specifically for our small businesses. According to a data set provided to our organization by Las Cruces Utilities, there are 39,443 residential customers, 3,152 small commercial class customers, and then 35 customers that fall into the large commercial industrial irrigation and high-volume custom categories. If you need references where that is in the datasheet, I can certainly give that to you in the Excel spreadsheet, if you if you ask. We are discouraging the increase of gas services, of gas rates. This is a really bad time to raise rates after rates have just doubled due to the emergency storm rider. While businesses are trying to recover from COVID-19 closures, restrictions, and the recession, and the Delta variant which may cause more problems. The line extensions and added personnel that cause most of the rate increase are likely to be drastically changed by the energy transition plan and roadmap that is already under development, and so that should also be put on hold. The line extensions create 20 years of new debt and higher rates, decreasing affordability and creating equity issues when existing customers subsidize new ones like the one in Talavera.
Lastly, the Las Cruces Climate Action Plan says electrifying 6% of buildings by 2030, and 75% of those buildings by 2050 does not create new gas buildings. With more specific details and a report on our suggestions, I would like to introduce Phil Simpson, who is our contracted expert, who has been involved in El Paso Electric cases for four years after retiring from an engineering career with the Air Force and Army. He's testified in several El Paso Electric cases. For example, in the most recent rate case where the New Mexico PRC agreed with him and ruled in June that our electric rates should go down, not up. He's completed a graduate certificate in public utilities regulation and economics at NMSU in May of 2020, which included several projects in rate design. He has degrees in both mechanical and electrical engineering, and is near completion of a master's in economics with a concentration in public utilities from NMSU. He is scheduled for graduation in December of 2021. I would like now to yield the podium over to Mr. Simpson. I thank you for your time.

Simpson: Thank you, Carrie. You make me sound pretty good. I appreciate that introduction. I appreciate, can I get, I talked to somebody this morning, or a few minutes ago who said you had a copy of my presentation. So I, okay. Thank you.

I wanted to thank the UCAG for giving me this opportunity. I know it's not normal to have such a long public comment, but I worked hard on this report, and I know I'm representing a lot of businesses with this report and this presentation that attempts to summarize the report. I think everybody understands the big picture. What we're talking about here is a proposed $2.4 million per year increase in natural gas rates. I understand you guys are commissioned to make a recommendation to the Utilities Board. I'm hoping to influence that recommendation today. As Carrie referred to, Senator Hamblin, I should say, Utilities Board has already approved a large emergency rider due to winter storm Uri that has already more than doubled everyone's rates. If this additional rate hike is approved, we were talking about a 75% rate increase on small commercial businesses.

This just shows the average bill increases, what they look like with the storm rider, and as I mentioned it's a total of 75% increase when you consider the storm rider, the decarbonization rider, and you know predicted fuel costs.

Walsh: Mr. Chair, Mr. Simpson. I'm sorry I really don't want to interrupt public comment, but I just want everyone to understand that the storm rider is part of cost of gas and not cost of service. Just so we're clear on that. That you're looking at cost of service and the rates and not cost of gas.

Simpson: That's correct. I understand that, but what I'm talking about is the, what the small commercial customers see on their bill, and this is what their average bill would look like. Moving on, as Senator Hamblin mentioned, this is a really bad time for rate increases, especially on small businesses. They've been hit hard by COVID-19 closures, restrictions, and recession. We may be about to head into another round of that, hopefully much less severe than what we have
already seen due to the Delta variant causing more restrictions. I already talked about winter storm Uri. As the graphic on the previous slide showed, and I don't think I really talked about too much, but it's the increase on small businesses is much more than it is on the other rate classes. I didn't put the other three rate classes up here because they're such a small part of the picture. There's only 35 total customers in the irrigation, industrial, and high volume customers. Again, the impact on small commercial is very large.

This is sort of the heart of the matter right here. This is the summary of the revenue requirement. This slide is identical to one that's been presented to you and by you to the public. All I've done here is just circled the things that I want to focus on today. Cash operating and maintenance expenses have gone up more than a million dollars. When I say have gone up, what we're talking about is adjustments made to the Fiscal Year (FY) 2020 actual costs. The those are the actual numbers from 2020, and then adjustments have been applied for changes that are expected and anticipated and desired.

The first one there, cash operating maintenance expenses, most of that million dollar-plus increase is for personnel expenses. Some of those I agree with, some of those I do not agree with, and I will talk about that in upcoming slides. Annualized debt service is another huge chunk. It's a little less than a million dollars, but the significant thing here is it's a little less than a million dollars every year for 20 years. I'll talk a lot more about that in upcoming slides. Of course, the bottom line is requested additional funding of $2.4 million.

First, I want to talk a little bit about personnel expenses. Most of that $1 million increase in Operations and Maintenance (O&M) is due to what I feel is an unrealistic and unwise assumption. I've managed organizations about the same size as the Gas Utility department, and it was always a struggle to fill all my vacancies. I could never do it. You know when I heard somebody, somebody else would quit, retire, transfer. It was just impossible to fill all my vacancies and have them all full at the same time. I think that's reflected in the FY 2020 actual expenses. I doubt that in 2020, there was a purposeful attempt to not fill all vacancies. I think you know typically organizations fill the vacancies as much as they can. The other aspect here is that we're talking about the Gas Utility going through a major transition towards a combination of Gas Utility and energy services organization. That transition is underway, it's expected to be a pretty large transition from my understanding. Filling every vacancy while you're in a time of transition risks hiring those who are not well suited to the new organization. Let's talk, so that's all I want to say about personnel.

I want to talk a lot more about annualized debt service. This slide shows only the expenses for gas development. This is separate from rehabilitation and other expenses that are necessary to maintain safe, reliable service. This is just for expansion of the gas system. I want to point you to the 2015 to 2018 expenditures, those averaged less than $92,000.00 for those four years. Then we had a big jump in 2019 and 2020, and then a huge jump in 2021 to 2023.
I mean it's; you can see graphically you know analytically the number's over 4000% increase in system expansion costs. To me that's just, this is a really bad time to expand the system and have our existing customers pay for that.

A few more numbers on annualized debt service. We're talking about for those three years it's $11.6 million just for those three years. The fact that we're borrowing money for 20 years to pay for that adds over $7 million in interest and fees. Of that $2.4 million total revenue increase, 39% of that is due to just this surge in expansion of the Las Cruces gas system. Again, that creates 20 years of higher rates. I believe it also creates equity issues for current gas customers because our current gas customers, some of whom are low income, must pay more to serve new ones. There's also a big risk, a big danger of having this bigger system combined with fewer customers in the future, which is planned under the Climate Action Plan, creates a potential for spiral of costs. As the system grows, costs grow, number of customers shrinks, that increases the costs per customers. The other impact that's sort of an equity issue is that low-income households, they're less able to electrify high efficiency heat pumps, things like that. They're less able to afford solar to lower their energy costs. That's another equity issue.

Economics of new lines. I talk a lot about this in my report, and I would urge you to read my report. It goes into a lot of detail. I tried not to go into too much detail and put some graphics in there and tables to make it more understandable and readable. If anybody doesn't, wants a copy, doesn't have it, I can certainly send one to them. I think I have one extra hard copy with me. Basically, from my analysis, no matter which direction you look at this from it doesn't make economic sense. I go into detail in the report about the example for which I had the most data, which is Talavera. Under optimistic assumptions for how many customers might sign up, very optimistic assumptions, still existing customers pay two-thirds of those costs. Again, my report goes into details and demonstrates how I did this calculation. I think you'll find it interesting, but again it indicates that current customers, existing customers will pay over two-thirds of that very expensive Talavera expansion. I don't have as much data for the other projects that are planned, the other projects within that 2021 to 2023 surge in gas line building. The data I do have indicate that it's a similar problem, that existing customers will pay for the expansion of the gas system rather than the new customers.

Another way of looking at it, okay let's look at it from the point of view of the person who is served by this new gas line. Things have changed in the last several years. My report has references from three or four different studies and reports had that have been done that show electric air source heat pumps have lower total costs than gas when we're talking about new construction. Fortunately, one of those reports made available in an Excel spreadsheet calculator. So in my report, I document how when you apply Las Cruces gas costs and electricity costs, this is true for Las Cruces as well, for new construction, electric air source heat pumps have lower total costs than gas. I'm not sure who we're trying to help with these new lines. For existing homes,
there's a very high cost of converting to gas from electric. I don't see a whole lot of benefit for existing homes either.

I also was able, given the information in the cost of service study that was done related to this whole rate review case, I was able to see you know kind of a snapshot of the health of the Utility. The operating fund balance, I suppose this is at the end of FY 2020 was 3.2 times the minimum operating fund balance, so that you know that there's a standard recommended minimum, over three times that recommended minimum. Also, the capital fund balance is enough to fund almost seven years of gas line rehabilitation. You know there's a separation between gas line rehabilitation and gas line development. Gas line rehabilitation is pretty consistent for the last, you know since 2015 at roughly a million dollars a year. You know there's plenty of room there to afford at least a delay in this rate increase while we consider it more thoroughly.

Moving a little bit from the economic side you know looking at it from what the City Council has decided and directed including City resolution 21-153. Part of what that resolution says is retire national gas debt, maintain reliability, safety, and affordability. New gas lines create new debt, they decrease affordability for existing customers without providing any benefit to new customers and they don't significantly aid reliability.

The Climate Action Plan also adopted by the City Council. It says we're going to electrify 6% of buildings by 2030 and 75% by 2050. Not add new gas buildings, residential or commercial. When we create new gas heated buildings, we create a larger need for more expensive conversion from gas to electric later.

This is my last slide. I am recommending that the rate increase be delayed until two things happen. One, the Gas Utility completes the transition plan so we know what the personnel requirements and what the gas system overall requirements need to look like, and until we recover from the impacts of COVID, from when small businesses that can recover from the COVID impact, and also the winter storm Uri rider that's already doubled their rates. My understanding is that was initially approved for 30 months, but maybe it'll be a little less. We hope it will be less.

Walsh: A lot less.

Simpson: Good. Thank you Ms. Walsh. Again, I think we should pause the gas line extensions and scrutinize them carefully to see which if any of them are truly needed, and at the same time maintain our existing lines for safe and reliable service without increasing cost to our current customers. That's all I have. I'm happy to answer your questions, if that's appropriate.

Chair Royalty: Does anyone have any questions for Mr. Simpson?
Bardwell: I do. Can questions be asked from the board for the speaker? I believe they can. No.

Chair Royalty: Yes.

Walsh: Sure.

Bardwell: Okay. Mr. Simpson, thank you so much for, and Green Chamber of Commerce for the report and the opportunity to review it. I have reviewed the report in detail. I am interested in your conclusion that gas line extensions that would be paid for by incurring new debt are not consistent with the City's existing gas line extension policy. I'd like to turn to page 16 of your report. There you go into great detail about the Talavera project as an example of the gas extension projects that are being proposed and would be paid for under this new debt issuance. Can you explain to members of UCAG your understanding of the process the Utility undertakes to determine whether a project is economically feasible? What steps did they take? Because that is a requirement I believe under the natural gas line extension policy, they have to show the project is economically feasible.

Simpson: Yes. Yes. Thank you. There are a couple of pages in the report, but I think I can talk to it without referring to them too much. You should have in front of you an additional one-page thing that I wrote since I turned the report in, I guess last Monday I think, in the week and half since then I looked a little harder at the gas main line extension policy, and how it seems to have been implemented. I think when I read the policy, I gathered an understanding that the Utility calculates that an average new customer will generate $1,400.00 of revenue over five years. That $1,400.00 of revenue is tied or creates the standard connection allowance. That standard connection allowance is sort of, that's apparently the baseline, that's sort of the measure of whether a gas line extension is viable. If an extension serves customers and the cost of that extension will be less than $1,400.00 per customer, it's economically feasible. However, what seems to have happened is many of the projects do not meet that threshold. For the Talavera example, it's about $6,000.00 per parcel for that Talavera expansion, if you assume every one of the 960 parcels up there connects to gas. That's a very, one that's a very optimistic assumption that everybody is going to connect to gas. Even under that assumption it's $6,000.00 per customer. What that means is the customers that are up there, it's going to cost them, you know the cost is $6,000.00. What they're on the on the hook to pay is the difference between $6,000.00 and that $1,400.00 standard connection allowance. They're looking at $4,600.00, plus appliances, plus I think it's a $387.00 connection fee. I think that's why, so far, only 19 customers up there have connected to gas. That number may have changed since I got that number from Utilities a month or two ago. You know if you use that number, it's over $300,000.00 per Talavera customer that really the rest of the existing customers are subsidizing. You know, again, I don't have the data for the other projects, and I hope it's not anywhere near as egregious as that example. You know I think that serves as a lesson for us to be very
careful about gas extensions, and very careful about how that policy, the gas line policy, extension policy is interpreted and implemented.

Bardwell: Just what is your understanding of the two criteria that have to be met under the natural gas line extension policy for a project to proceed?

Simpson: I know that in the top of the first page of the policy it talks about gas line extensions should be economically feasible and they should not cause an unreasonable incremental cost to existing customers. I don't think either one of those is true. You know I think the $1,400.00, there are some, I think it should be a lower cost and that's sort of a detail we can get into if somebody wanted to offline. Really what's happened is it seems to have been largely ignored and gas line extensions that exceed that $1,400.00 economically feasible point are just approved and gone forward with. The way it feeds into incremental costs for existing customers is that customers don't connect the way that they were predicted. Certainly, you know Talavera's a perfect example. If all those 960 customers connected and had bought lots and lots of gas for five years, then existing customers would not subsidize them very much. They would some in my view because the way things are calculated, but I don't think there's any chance that a very large fraction of that 960 people parcel it up there, some of which are undeveloped, are going to connect to gas. I think when you read the gas extension policy it doesn't jump out as being unreasonable, but I think it leaves a lot of openings for interpretation that have been not well implemented in my estimation.

Bardwell: Thank you for that answer. I have a couple more questions. Can we turn to page 17 of your report, and can you give us a little bit more detail, not a whole lot, but a little bit more, an explanation as to why these gas line extension projects do not in your opinion increase reliability or redundancy.

Simpson: I think a few of these extensions do provide some redundancy benefit. I asked that question and was given a list of which line extensions were primarily intended for redundancy purposes. It was a little less than 10% of that $11.6 million was primarily intended for redundancy purposes. I think there have been some, what I think are misunderstandings about reliability. You know one claim that I have heard is that expanding the gas system increases reliability, because you can pack more gas in it and store gas for a weather event. There's a couple of things wrong with that picture. One is that you'll think of, you'll picture a lawn irrigation system. You have different circuits, you have valves, you have distribution points, you have control mechanisms. When you add a new circuit, a new line and new controls and new valves and distribution points you create the potential problem of additional maintenance, additional leaks, additional maintenance, it's just a less reliable system because it's a bigger, more complex system. You can put more gas in a bigger system, and that's called line packing, that's when you pressurize the system to store gas for the future. That works really well for the next day, it works well on a day to day basis. It does not provide enough storage to get you through a weather event. I've talked to experts at the New Mexico Public
Regulation Commission, gas experts, and they talk about well it's great and everybody does it for day to day operations, but it's not a way to ensure reliability in terms of being able to coast through a weather event, a three day weather event if there's not enough capacity there.

Bardwell: Thank you for that response. I just have one other question. You know as a municipal utility we are justifiably concerned with the impact of increased gas rates on low income families who pay a higher percentage of their income on heating and cooling of their homes and businesses. On page 20 of your report, you discuss the risk to low income families from building new gas infrastructure, especially when the country as a whole and the City as well as transitioning away from fossil fuels like natural gas. Can you explain to us what the potential consequences are?

Simpson: Sure, I mean, I think you know from my point of view the natural gas system is extremely reliable. For example, winter storm Uri this past February, Las Cruces was able to provide continuous service to all their customers, there was no loss of service, and they should be commended for that. I think you know again reliability is not the biggest risk to the system. The biggest risk is cost. You know winter storm Uri didn't affect our reliability, but it sure affected our cost. There's lots of aspects of, lots of costs risks, for example you know there are talks of, at the federal level of potential carbon taxes, that would increase the cost of gas. There are lots of corporate entities who are becoming reluctant to invest in gas, which will decrease production and increase the cost of gas, because corporate entities are becoming more aware of climate change and don't want to be associated with fossil fuels that will increase the cost of gas.

Then we have our own Climate Action Plan where we're planning to convert homes from gas to electricity, reducing the number of paying customers on the system and increasing the costs for everyone else. The lowest income people are the least able to avoid that cost. You know I'm fortunate, I have solar on my home. Eventually, at some point when my gas furnace goes out, I'm going to look really hard at putting in an electric heat pump. People who don't have the capital do that or they rent, you know they can't, it doesn't make sense for them to invest in electric, and they probably don't have that ability if they're renters. The impact on lower incomes is much higher than it is for others.

Bardwell: Thank you very much.

Chair Royalty: Okay. Thank you Mr. Simpson.

Simpson: Thank you for the opportunity.

Chair Royalty: Please identify yourself.

Kurtz: I will. Thank you. Hello everyone. Thank you for this opportunity. My name is Don Kurtz, and I'm a customer of Las Cruces Utilities. I want to talk about
a couple of things. First, I want to talk for a moment about process. Up until 2016 and maybe some of you were on the board at that time, the City had a very robust rate setting process for Las Cruces Utilities. It was a quasi-judicial process modeled after the New Mexico Public Regulation Commission, UCAGs predecessor, which was the Ratepayers Advisory Committee, was able to hire its own attorneys and consultants and allow them to do independent research to challenge utility assumptions and proposals. In 2016, the City converted to the current process, which was thought to be less cumbersome, in which UCAG solicits and reviews public input and then makes recommendations to the Utility Board. I think we all know that oversight and careful review of utility proposals is essential to the regulatory process. That's why we have the Public Regulation Commission to do that. That's because monopolies which have a guaranteed customer base and are not subject to a competitive market, negatively trend towards certain activities, among them overbuilding without the economic justification to do that. The other is that they simply stop considering competing opinions because there are no competing opinions. There is no process, as there was here until 2016, as there is with the Public Regulation Commission, which regulates all the other gas utilities in the state, to have an adversarial process where the utilities assumptions and proposals could be challenged vigorously.

Really, I mean I think we're very fortunate as ratepayers and you as an advisory board to have the Green Chamber commission a study. I got a chance to read it and I think Mr. Simpson just tiptoed across the highlights of it. It's a very, to me a very compelling document. I hope you'll treat it as an important research source because it's exactly the kind of study that would have been done up until five years ago that you no longer have an opportunity to have, but Mr. Simpson and the Green Chamber kind of did it for you and I think it's a report that you should really take advantage of and review very carefully.

The report raises serious questions, as Mr. Simpson touched on a little bit. The timing and appropriateness of the current rate hike including, however, whatever the different purposes for the rate are, it amounts to a 75% higher bill for small commercial. It's hard to imagine that being a prudent decision with any kind of respect for the small business community in our community. Second, the weakness of the economic analyses used to justify line extensions, I really invite you to read the report, it's very powerful. The wisdom of entering into new line extensions and acquiring new debt, when this is in direct conflict with the Climate Action Plan, and the Council resolution on gas service, which were passed within the last year, and gas service one just a few months ago.

You know, I want to just say it wasn't really touched on particularly by the senator or Mr. Simpson, but you know these, the Climate Action Plan and the resolution regarding the gas utility weren't just put in willy-nilly because somebody thought it was a good idea. Then I think all of us here are probably intelligent people, follow the news, and just three nights ago, three days ago, the Intergovernmental Panel on Climate Change released its report, it's been
on all the news stations, all the programs. I just copied down from the nightly news some takeaways that they bulleted on the screen. This is a report compiled by 230 scientists, review of 14,000 documents, it's been endorsed by 195 governments around the world. The report says that global temperatures are the hottest they've been in over 100,000 years. Right. Many effects of climate change are already irreversible. Temperatures are on track to pass the 2015 Paris Agreement targets decades earlier than was anticipated. Only by drastically cutting greenhouse gas emissions can these extremes be lessened. It won't be eliminated obviously, but they will be lessened. This is a very, very serious time in not just the history of our nation, but the history of the planet and our species.

I think this is a good example why your role is so important, because I think any entity not to pick out the current utility, other than they're the ones we're discussing now, but what happens is they develop a narrow single mindedness to pursue the plans that they've set out, their business plans and all those things. That's why there needs to be some kind of voice entering into the process that looks at this more carefully and more globally. We cannot ignore even from our own experience, what's happening in our world. The way it's set up now the only organization or the only group that gets to represent the people of Doña Ana County, the customers, is you and Mr. Gomez on the phone. We just really depend on you to do what you need to do. I don't think you as the sole entity and charged with protecting customer interests can in good conscience say, okay great, we've gathered up all the public input, pass it on to the board and go home. I don't think you can do that.

You know Mr. Simpson I'm sure in his work before the PRC knows about a concept that's called regulatory capture. That's when those who are in charge of regulating in the public interest, whether it's the PRC or its staff, or the Utility Customer Advisory Group, start identifying with the utility and not with the people they represent. It's a common thing in utilities throughout the country. They stop providing oversight, and they start getting into a mode of defending whatever the utility says. They see themselves as this our team. That's not the way this was set up, as much as it's been weakened since 2016, you are still the ones that are independent and are here to represent the customers and people of this county. Ultimately you have a much different role. Democracy and unbiased, disinterested service are sacred things for all of us. I don't know many of you, but as a fellow citizen I trust you'll do your job. With that, thank you.

Chair Royalty: Thanks for your input. Are there any other comments?

5. **Gas Rate Review:**  

**5.1. Public Outreach Update**  
Chair Royalty: All right, moving forward on the agenda, Ms. Rodriguez.
Rodriguez: Good afternoon, Mr. Chair, UCAG members. My name is Domonique Rodriguez. I will provide an update for you today. The UCAG held its initial public outreach meetings from May 5th through May 26th, this included two Zoom meetings. There was discussion and the UCAG decided at the last UCAG meeting to extend the public outreach through the end of July. This included two in person meetings.

Here is a table that shows the updates of these meetings. As a reminder I put the options that were provided by the consultant, which were Option 1 was a full increase among all customer classes, Option 2 was a limited phased in increase for small and large commercial over three years, and then Option 3 was a phased in increase for all customer classes over three years. The table shows the tally of the feedback that was received, including the number of attendees that we had at these public outreach events from the initial and the second go round.

For Option 1, we had feedback of two customers that requested Option 1. Option 2 we received feedback for two customers that gave feedback to move forward with this option. Option 3 there was eight customers who provided feedback. Among all the customer outreach we also did receive 18 responses for no increase, so we included that at this time.

The next steps in this process is for the UCAG to discuss and provide a recommendation to the Utilities Board. That recommendation will be put into a letter that is signed by the UCAG Chair and will be presented to the Utilities Board through a formal resolution. We are looking to do this at the September Utility Board meeting. That is the end of my presentation. If you have any questions for me.

Chair Royalty: I have a question. What's the date of that Utility Las Cruces Board meeting in September?

Rodriguez: September 9th. Thank you.

Chair Royalty: Okay. Because one of the things I wanted to recommend, and I don't know if this is a proper time, but is the fact that we get a response from the Utility for all of the comments that we have received, not only from Mr. Simpson, and the Green Chamber, but also from all the others that we got so that we have a complete understanding and knowledge of what they require.

Rodriguez: Okay.

Chair Royalty: Or what their input is. If we can get that and maybe delay then our recommendation to Las Cruces Utility Board until their next meeting. I don't know how often they meet or that sort of thing.

Rodriguez: They meet once a month, so I would delay it till October.
Chair Royalty: Okay. That's what I would like to do.

Walsh: Domonique. Can I ask, I know in the past, can we, I know before we've had a UCAG meeting the day before the board meeting and then presented the options. Is that possible also or do we have to delay it by a month?

Rodriguez: We would have to delay it due to timing of getting the resolutions in to make the agenda. It would have to go, that's why this one we would be able to make it to the September because we're meeting in August. If we were to come back as you're discussing in September for the UCAG then the recommendation would have to go in October, just of that timeline of getting it onto the agenda.

Walsh: Mr. Chair. I'm sorry again. Is it something where you know we could prepare a response within two weeks and the UCAG meet again within two weeks, or would you like the one month space between meetings?

Chair Royalty: My comment is we could actually have a meeting earlier so that we could present in time for the September meeting.

Walsh: Okay.

Chair Royalty: I don't know that we have enough time, this is the 11th. If you take a look at that, by the time we have another meeting would there be enough time between that meeting and the Utility Board to get all of that done properly?

Walsh: Mr. Chair, Board Members. Do you think we could have, let's say we have a meeting two weeks from now, do you think we could have our full responses ready by then?

Rodriguez: Yes, I believe so.

Walsh: That is an option Mr. Royalty, if you'd like to meet again maybe on the 25th and keep that pattern. That sounds like it gives us enough time to look at all the input and make sure you have responses.

Chair Royalty: Yes, the 25th sounds great to me. Can I get a motion to that effect then from somebody on the board?

Bardwell: Actually, I'd like to move a substitute motion if I may.

Chair Royalty: Okay.

Bardwell: For discussion. I'd like to recommend that the, I would like UCAG to recommend that the LCU board table consideration of new rates until such time as the Utility transition roadmap is complete. That additional information and analysis is provided by the Utility staff to resolve the serious issues raised by
the Green Chamber of Commerce report, and the emergency rider is no longer in effect.

Chair Royalty: All right. Was that a motion?

Bardwell: That's a motion.

Chair Royalty: All right. Do we have a second?

Gomez: I'll second it. Gomez here on the phone.

Chair Royalty: Okay. Then we need to vote on that.

Bardwell: Can we have some discussion?

Chair Royalty: Discussion. Okay first.

Bardwell: I'm happy to speak since I made the motion in support of the motion. I'm troubled. Based on my analysis and the customer comments and the issues raised in the Green Chamber Commerce report, the gas rate increase appears to be unreasonable. More than 60% of utility gas customers who submitted comments oppose any increase for a host of reasons. These are not knee jerk reactions to paying more for the service, but serious questions regarding the need and impact of the proposed rate increase.

Cabello: Chair Royalty, Commission. This issue is not up for a vote. According to the Open Meetings Act, we can't be having a vote on that. According to the Open Meetings Act we have to have this on the agenda first.

Bardwell: On the agenda is a motion to recommend, and so this is a substitute motion on the recommendation.

Cabello: It's for the design options. Again, it's not ...

Bardwell: I'm sorry, it's for what?

Cabello: Design options. Discussion on the rate design option recommendation.

Bardwell: Right, but I think in our last meeting we talked about the ability of the board to move a recommendation not to approve the rate increase. The discussion in the minutes is that that would be allowed. I think it doesn't defeat the purpose of the motion to adopt one of the options. Basically, it says that the motion is to table consideration of those options depending on certain circumstances. I believe it is germane. I do believe it's on the agenda per the Open Meetings Act in compliance.

Walsh: We'll have to seek legal recommendation.
Bardwell: That's fine. I would like to in the event that the legal decision is that I'm not able to make the substitute motion, I do want to discuss my reflection on the information that we have received today. I don't want to lose that opportunity just because you wish to delay for two weeks. You know it's fresh in my mind, I have a lot of information and response that I want to share with my fellow UCAG members. I don't want to just put it to rest and come back in two weeks when all of this information is no longer fresh in our minds.

Cabello: Okay. It's my opinion that the option to table is not on the agenda. The only discussion or options you have is for voting or approving or disapproving the options that are on the agenda. As far as discussion, your comments can be made later on section seven in the agenda.

Bardwell: Can I make a substitute motion to recommend the Las Cruces Utility Board not implement new rates?

Cabello: No.

Bardwell: The sole motion that you're saying I am limited to make is that the UCAG's recommendation would go before the LCU Board or not go before the LCU Board. What is the recommendation? That's what I, that's what my motion goes to. What our recommendation is to go before the board in September 2021. I don't understand why that isn't allowed.

Cabello: You want to go. Two questions. Do you want there to be a vote? Those are the options that are on the table.

Bardwell: Actually, we discussed this in the last UCAG meeting. I think the board minutes reflect based on Joe Provencio's recommendation that, in fact, the UCAG board could vote, that one of the options is not to proceed.

Provencio: Chairman, Commissioners. Jose Provencio, Business Services Deputy Director. The recommendation is, and the discussion was focused on the three options. The feedback would include one of the options received back from the public. That would be the information conveyed to the Board to weigh and consider and discuss, not to say that it is a viable option.

Bardwell: Can you give me an example of what the scope of the recommendation is that is on the agenda? I don't understand. It's a recommendation to proceed with one of the options or it's a recommendation to just share the public comment.

Provencio: My understanding, Chairman, Commissioner Bardwell, is that also communicating the feedback that came back from the customers in light of the options that have been presented and prepared at the request of the board.

Bardwell: I guess what I'm asking, is there any substance to this recommendation we're supposed to be making? Is it a recommendation based on public input to
proceed with one of the three options or is it a recommendation to not proceed with one of the three options?

Walsh: Mr. Chairman. If I may. Essentially, Mr. Royalty has said we've had all this public comment, give the Utility an option to respond.

Bardwell: I know but that motion is not on the table.

Walsh: I know, I'm just trying to explain what I understood to move forward. That is, you all need more information from us in order to address ...

Bardwell: That motion is not on the table at the moment. What we're discussing is the scope of my substitute motion on the table and whether it's allowed. I think there's a real lack of clarity as to why my substitute motion can't proceed.

Walsh: If I'm able to finish, my understanding is that that's what would happen in the next two weeks. That you want a response to the report that was presented. Then rather than making the recommendations today, there would be another meeting in two weeks to give the UCAG's final recommendation.

Bardwell: I understand that is what the Chair has proposed, but that is not the motion on the table. My question goes to the motion that's on the table. The motion on the table is to make a recommendation, which I believe if we go to the last slide. Can we go to the last slide? My substitute motion is to make a recommendation that would go before the LCU Board. And the recommendation is to table consideration of new rates until such time as three events occur. That's my that's my motion.

Royalty: The three events being what? I don't remember.

Bardwell: The Utility transition roadmap is complete, additional information and analysis is provided by Utility staff to resolve the serious issues raised by the Green Chamber of Commerce report, and the emergency rider is no longer in effect.

McElroy: What you're saying is you want to delay this 18 months.

Bardwell: What I'm saying is our recommendation to the Las Cruces Utility Board is to table consideration of new rates until those three events occur.

McElroy: The rider's in effect for 18 months. Correct. That's my understanding.

Bardwell: Right. I think it can be, it may be in effect for 18 months at this point. I don't know if that will continue to be the case, if there's additional agreements reached on what the fees and fines will be, but so for 18 months, yes.

Cabello: Chair, Commission. I would recommend if you're going to table it, table it to a date certain, preferably sooner than later, two weeks.
Chair Royalty: Okay, on advice of counsel, I'd like maybe a, do we do a motion to table is that?

Bardwell: There is a motion on the table. You have to, there is a motion on the table, and we have to either take a vote on that motion or you can move to amend the motion that's currently presented.

Cabello: Chair, Commission. The motion right now is not a permitted motion. I would suggest that you make a motion, on a motion to table within two weeks and then make a decision based on that and then go from there.

Royalty: You're saying that what we should do is table this motion until the next meeting?

Cabello: My suggestion is to make a motion, if you're going to do this, to table in two weeks. Make the motion now.

Royalty: Can you have two motions on the table at the same time? No, I didn't think so.

Cabello: The first one is not permitted the way it's structured. I mean because that decision, to table indefinitely is not on the agenda.

Bardwell: It's a motion to recommend.

Cabello: Chair, Commission. My understanding is it's a motion to essentially table indefinitely because there's no date certain, it's an indefinite.

Bardwell: Well, I can amend the motion that's on the table to table until 18 months from here.

Walsh: Mr. Chair. If I can clarify. Ms. Bardwell are you making that motion as the final recommendation of the UCAG Board to be tabling this issue, or that your input is going to be tabled? The reason I'm clarifying is that you know maybe this is your fourth option that you're wanting to add for discussion. I'm trying to follow that chain of what's recommended because there are a lot of, that Option 4, of not increasing rates, was not presented to the Board as an option. We didn't present what the impact of that is. Whereas you know the impact of Option 1, Option 2, Option 3.

Bardwell: I'm not sure I understand your point. I think if it's allowable to move to table for two weeks, it's unclear to me why I can't make a motion to table, to recommend to the Las Cruces Utility Board to table consideration of rate increase for 18 months. I don't understand the legal distinction. I mean I'm happy to leave it at that, but I would just like to note for the record that I don't understand the legal justification for denial of, or saying this motion is not permissible.
Cabello: Chair, Commission. The issue we have is that there's three options. There's a fourth option that's been brought up that is not on the agenda. There are three options there. Now we have a fourth option, essentially is not to increase the rate. That was not one of the options there. I understand that's what they want to discuss but as far as increase, she can make the motion to go ahead and do for the you know 18 months, if she wants and the Board can make a decision about that, and they don't have to necessarily accept it. We'll go from there.

Bardwell: Okay, for the record I would like to amend the motion that's on the table to delay consideration of the increase in proposed rates for a period of eight months, which is to the termination of the emergency rider that's currently in effect.

Walsh: That's a new motion on the table. Then you would need a second for the amended motion. If you pursue keep going forward.

Chair Royalty: Okay, so what we're looking for then is a second to that motion. Do we have a second?

Snyder: I'll second it.

Chair Royalty: You'll second it. Okay, so Bob Snyder just seconded that motion. Okay. So now we need a vote. All those in favor?

Bardwell: Can we do a roll call?

Chair Royalty: Do a roll call vote? Okay. All those in favor? Mr. McElroy.

McElroy: No.

Snyder: yes.

Chair Royalty: Bob Snyder, yes. Mine is a no.

Bardwell: Yes.

Chair Royalty: All right.

Walsh: Mr. Gomez.

Chair Royalty: Mr. Gomez.

Gomez: Yes.

Chair Royalty: Okay, so it passes. Okay so the next order of business then would be, being that is a ...
Walsh: Option, fourth option.

Chair Royalty: Yes, that was a fourth option. Okay. Then the next order of business then is to go back to the original motion. The original motion was, and you'll have to read that to me I don't...

Bardwell: Now that there is a fourth option available, if I'm understanding the process. My intent in that motion was not to add the fourth option, but to actually delay as you had suggested. I gave a definite time period for 18 months.

Walsh: Eight months.

McElroy: You said eight.

Snyder: You said eight months.

Bardwell: Okay, I meant 18, which is the term of the emergency rider, but fine, if you all heard eight, then let's go with eight. The motion passed.

Chair Royalty: The amendment passed. Now it's for the original motion that we need to get to. The original motion, can you read your original motion there to me?

Bardwell: Are you in agreement with this, Mr. Cabello? Because I think there's some confusion about what's being moved.

Cabello: Chair, Commission. I am confused. Under the Open Meetings Act you only have three options. That's why I said you couldn't vote on anything other than just the fourth option that was created. That's why you would wait for like, two weeks to have the fourth option to vote on that option.

Bardwell: To publish it.

Cabello: Publish it. Because we have to publish those options. Like if I put a fifth option in, right I put another option in and I was on the board as an example, and I said, I want to increase rates you know a 1000% or something, something ridiculous. That would be another option and I have to wait to get it published for the Open Meetings Act so people can see it. Now if...

Bardwell: The agenda, that language that restricts that, is the rate design option, approval of rate design option. Is that what you're saying?

Cabello: I'm talking about the Open Meetings Act.

Bardwell: I know you are but I'm just talking about the language in the agenda that you're saying is insufficiently clear that it would be a violation of the Open Meetings Act to make a motion.

Cabello: Yes, because there's three options on the table.
Bardwell: Right.

Cabello: The two weeks would give you the additional time ...

Bardwell: Can I ...

Cabello: ... to add your option.

Bardwell: What I want to refer back to is the minutes from the last meeting when we had this very discussion about what options were on the table.

Walsh: Mr. Chair. If I may. I think Ms. Bardwell is asking, is it the will of the Board to delay the rate review for eight months. That's what your motion is asking. It's the will of the UCAG to delay the rate review for eight months.

Bardwell: That was apparently the motion that was voted on. Yes.

Walsh: I just want to make sure all the Board Members are clear that's what she's asking in her motion. That it's your will to delay this for eight months. Or that's your recommendation to the Board.

Snyder: So eight not 18. Correct?

Bardwell: Well, my intent was 18, but what was heard apparently was eight. We'll go with eight. Okay. That motion passed. Now, what does that mean? We delay at this point for eight months as was the intent to the motion.

Walsh: If that was the, I just want to make sure that the Board understands that was the intent and their will, the express of their will, because obviously there's confusion and we don't want to take action.

Kurtz: You already voted.

Cabello: Chair, Commission. You already voted. However, you can vote again. The thing is, is I would suggest that the Open Meetings Act does not allow you to vote on things that are not on the agenda, as a fourth option. If the idea is to just add a fourth option later in two weeks, that'd be a different story. I mean, but from an Open Meetings Act perspective, I would say it's not a vote you can do because under the Open Meetings Act if you do something that's not on the agenda, they can actually make you undo it. We don't have money on the table, like say like a settlement or something like that, but they can make you do it over again. That could be a problem.

Chair Royalty: Yes. Okay, let me see if we made a motion, if someone made a motion then for us to actually meet in two weeks and to do a second vote on this, and do a vote, a second vote on, or a vote on where to delay a decision by UCAG for two weeks.
Cabello: Yes.

Chair Royalty: Yes. That's what we're looking for is a motion and then or somebody to say, Okay let's do that and we will re-address Ms. Bardwell's.

Bardwell: I think it's a motion to reconsider the previous vote. Isn't it? I mean there was a vote taken, there was a motion, it was voted on. Now what you're moving to do is reconsider the outcome of that vote.

Chair Royalty: So that we're in compliance with the Open Meetings Act.

Cabello: Okay. To be compliant with the Open Meetings Act, I mean it doesn't really address Robert's Rules of Order, but I would suggest, because the different procedures, it doesn't matter what the procedures are, but I'll say this, I think you can have in two weeks the same vote for 18 months. Because then you can have an option for that'll be published for everybody here.

Chair Royalty: Okay.

Cabello: They can have that on the table to vote for 18 months, whenever the, some rider ...

Chair Royalty: Then it could be on the agenda.

Cabello: It could be on the agenda and go forward from there.

Chair Royalty: Okay.

Cabello: I think the options confused me, but yes.

Chair Royalty: Okay. I will entertain a motion then from the Board to have another meeting in two weeks where we will consider, all right, the fourth option for consideration, and we'll make it for 18 months. Do I have a motion to that effect?

McElroy: You want to make the motion? You just made the motion didn't you.

Walsh: The Chair can't make the motion.

Chair Royalty: I didn't think the Chair can make a motion.

Walsh: He can't.

Chair Royalty: I have to have a motion from somebody.

McElroy: I'll make the motion.
Chair Royalty: Okay.

McElroy: That you just stated.

Chair Royalty: Mr. McElroy makes that motion. Do I have a second?

Bardwell: Can you restate the motion for the record? It's advisable.

Chair Royalty: Okay. The motion is that we convene in two weeks and that we consider a fourth option, which would be 18, was it eight, 18 months, all right for, as a fourth option, in the delay for 18 months as a fourth option for us to recommend to the UCAG Board. Not UCAG, I'm sorry, Las Cruces Utilities Board.

Bardwell: Our recommendation would be to table a recommendation to the Las Cruces Utility Board for 18 months.

Snyder: That would be a fourth.

Bardwell: That would be a fourth option that we could consider.

Chair Royalty: Yes, that would be a fourth option. I have the motion. Do I have a second?

Snyder: I'll second it.

Chair Royalty: Okay. Mr. Snyder seconds that. We need a vote. All those in favor?

Snyder: Aye.

McElroy: Aye.

Chair Royalty: Aye.

Bardwell: Aye.

Gomez: Aye.

Chair Royalty: Good. I'm glad you're on there. Okay. Good.

Gomez: I'm (inaudible 1:41:07)

Chair Royalty: All right. Good. Okay.

Kurtz: What happens to the first motion? It passed, right.

Cabello: Chair, Commission. The first motion could not have been done, because it was not an option on the table. It was an impermissible motion.
Kurtz: It did happen. I saw it.

Ruiz: It was an illegal motion. They don't have the authority to do it based off *(inaudible 1:41:35)*

Cabello: Under the Open Meetings Act that can't be done. It actually is a crime to violate the Open Meetings Act, knowingly. The idea is, is to have the new motion, because it wouldn't be permissible. What happens is if you make a complaint to the Attorney General, they do an investigation, you have to basically do the same thing over again.

Chair Royalty: Okay.

Cabello: Basically make the decision again. If there's cases where there's settlements, they can actually undo the settlement and they have to go through the whole process again, publishing it, and those kinds of things. Like where you would have it you know published, you have a closed door meeting, publish it that you're having a discussion about a particular type of litigation. You just have to follow that sort of rule. It was confusing because I didn't realize, I wasn't aware of those, all the options that were there on the table. Now, I understand, you have three options. We're adding a fourth I think, and there we can move on to two weeks and make a decision on that.

Chair Royalty: Okay.

McElroy: I guess I do have a question. The fourth option was never presented to the public.

Walsh: Correct.

McElroy: Is that an issue for public comment?

Cabello: The Open Meetings Act it doesn't talk about like from the UCAG perspective of people seeing it. It's talking about from the publication process.

McElroy: I understand.

Cabello: The public seeing it, like how many days do you have noticed? Because technically on that day people can come in and they had discussions today, but they can have discussion during that meeting, because it was put on notice that there it is, the day that people can come ready to talk with more presentations, you know whatever it is that they want to bring, other PowerPoints, other people, that nature.

Chair Royalty: Okay. Understand.
Bardwell: I guess for the record I will state that there was a motion made, it was voted on, and there are Robert's Rules of Order required to amend that vote before it is rescinded. UCAG did not follow those Robert Rules of Order.

Chair Royalty: Well, I'm not Robert's Rules of Order expert by any means, but I think we should move forward.

Cabello: Chair, Commission. Because of the nature again of the Open Meetings Act, I think this is an acceptable solution as far as what we've done already, as far as making a new vote, or making a vote for a delay for two weeks on a fourth option so we can publish it.

Chair Royalty: Okay. All right. Thank you. Thanks for your input.

5.2. Discussion and Approval of Rate Design

Chair Royalty: That being said, so we have elected to delay for two weeks then, so the item 5.2 is not appropriate at this time, I guess. All right.

6. Other Items of Interest:

6.1. Discussion of the UCAG Member Functions

Chair Royalty: Next is Robert Cabello, you're up, sir. Do you have a presentation?

Cabello: I do. Chair, Commission. Robert Cabello, Deputy City Attorney. Here to give a presentation about the rate setting process for UCAG. As far as the different distinctions of entities that are involved, and I'll go with this with the City Council first. Under the City charter, on Article II, that has all the different sections that empower City Council to one make actions based on policy. They do that through ordinances. They can create policy and that's one of the chief duties that they have is creating policy with resolutions. As far as they can also adopt technical rules, like for example, we adopted in the Las Cruces Municipal code the fire code, the National Fire code, it's a (inaudible 1:46:53) modify. We also have a couple of design codes, the International design code. We've also adopted some sort of distinctions based on things we're doing with the southwest and flat roofs. This is a couple examples.

As far as the utility board, the Las Cruces Utility Board, and its primary purpose has making strategic policy regarding utilities. Then UCAG, this is what we're here talking about the rate setting process. That's the purpose of the UCAG. Authority for the UCAG. I think there was an earlier discussion about what was earlier before, we had earlier a different process and the UCAG is a different process. On May 16, 2016, City Council passed resolution 16-222, and that established the UCAG. This rate setting process that we're going to go into kind of detail that I think you've already had some sort of familiarity with. That same day there was also another resolution 16-224, that amended the bylaws of the Las Cruces Utility Board to make changes, and so Article III established that there would be now a rate setting process that would be no
longer with the Utility Board be making a final decision on a rate that would essentially go to get appealed by City Council. They would be making a recommendation, and that would be going to City Council, and then that filed determination. Then from there it actually can be appealed into court, a little bit different story.

As far as we talked about the Las Cruces Municipal Code Section 2-18(b)(1) that establishes the Robert's Rules of Order, not just for the UCAG, it's actually for all the other boards, since it doesn't really specify under the municipal code there's no section for UCAG, it's just an ad hoc committee, but that's the kind of rules that we have. Under Section 2-1071 it authorizes the creation of ad hoc committees such as the UCAG. Now the reason why the UCAG is, what makes it ad hoc is that it's established for certain rates, that's going to evaluate certain rates, not all rates. For an attorney essentially once it's done, it has done its job, it ends. This keeps it you know fresh for whenever the appointees, or you know appointments are made, it can be the new people that are elected can make decisions as to who they want on the commission. Certainly you know 10 years from now or five years or whatever, those determinations can be made.

The step one is establishing a need for a rate review. That's set up when the LCU staff, the utility staff makes a request based on an accepted methodology. Now accepted methodology is an example of AWAM1 is the American Water Works Association, they have a standard they created. M1 principles of water charges, rates, and fees. That sets the standards. It's very technical from an engineering perspective, and actually from an accounting perspective as to how they make determinations like decline on revenues, on how fire protection rates on different types of customers for water rates. It's very technical and I'm not really an expert on that, would have to be maybe get (inaudible 1:50:48) an example of what that would mean.

Step two, the selection of a consultant. This is also an important process. The consultant, obviously we have to select and following the City's procurement code under Chapter 24, Las Cruces Municipal code, there's a whole large section, not all of it applies, but essentially how the process begins is a budget is identified based on what's going to be reviewed, what kind of consultants do you need? The RFP process, essentially a request for proposal. Those in general and I don't, essentially how, so as an example, the City wanted to buy a double axel two ton truck. You can do a request for quote, because you know exactly what you want. You know what kind of vehicle you need, you know what you're going to get, so all you need is a quote from different vendors. A request for proposal is something for more like a construction project, or maybe a professional services where you have a need and you're going to get the vendors to give you a response as to how they can fulfill those needs. A consultant work, for example, similar to this process, like when we have a comprehensive plan being made, we usually get a consultant. They also get a consultant; they also do public outreach with the public and the community as far as what kind of City do people want to live in? What are
their concerns as far as being able to move around town, the transportation, issues about getting access to grocery stores, or sidewalk safety, all kinds of things? You know the consultant can identify those needs under the RFP process. Now, following this process, it actually goes to something called like a SAC, which is you know a Selection Advisory Committee, where a group of experts from the City or others, *(inaudible 1:52:40)* outsiders, other experts, who can come and make decisions. In this process, in particular, we would have somebody from the UCAG, LCU staff, be part of that evaluation process. It wouldn't be just them, but it'd be other people even outside of Utilities to make sort of an independent sort of perspective, as far as would this person be the appropriate. Basically, LCU Board selects the consultant. Now there is a separate process that can actually be made an exception if there's concerns with depending on the type of consultant that's needed, where you would want something like maybe NMSU experts looking in, depending on what it is, but that's sort of a rare, sort of a different occasion.

Okay, step three would be performing the rate review study. At this point LCU staff compiles data, financial criteria, and this is essentially, we'll go over that, the different types of financial criteria that are evaluated, and some of this has already been covered in other presentations. From there, based on that data, the consultant creates a draft report. Then that eventually is presented, that draft report is presented to LCU Board and the UCAG for their common input. This is the financial criteria, wages. A couple of things they look at are wages and benefits. Obviously, these are the types of things to look at as far as staff and being able to maintain you know high service requires being able to have payroll taxes, their benefits, everything to keep people working for the City. Operating expenses, of course, includes all the aspects of you know recurring costs and expenses. Operating fund reserves, and that's a little something unique. In New Mexico, the City is required to have a one-twelfth reserve, meaning that if it were to go bankrupt, didn't have any for more revenues, it could still operate its activities for one month. The City itself back I think in 2013 has increased that two-twelvths reserve. That's also a requirement that the Utilities has is a two-twelvths, and that's means that it can operate without additional revenues for two months keeping its activities.

Administrative transfers, now as you may or may not be aware, the City Utilities doesn't do their own IT services, they don't have their own legal services separate from the City, human resources, a number of things. Administrative transfers is a cost that for those things that are transferred for essentially legal, IT, human resources, doing the work that helps them do their job.

Equipment reserve and fund transfers. Now, this is for like rolling stock, essentially. Essentially, for things like equipment and tractors thinks that having a reserve for that keeps protected from the impact of costs of rescheduling, restocking or buying new vehicles that have reached their obsolescence. As far as capital fund transfers and fund balance, now that's for the reoccurring costs that are for rehabilitation. Things like examples are to
deal with the cost of increase in changes in resources like water. As far as
debt service, of course, that is debt, and rate design is to include capturing the
fixed and variable costs. It also is to; the rate design should also include that
concept of having to calculate for any sort of conservation measures or
anything to do with legislative requirements. Of course, a lot of those are now
these days things to do with again also conservation. If there's a new
requirement that we switch to different types of resources of energy, those
types of things would be also captured if there's a new sort of legislation about
based on that.

The other important step is the public input and feedback. The UCAG is
supposed to coordinate and obviously have host customer input means to
gather commentary and feedback. From there they can get from the
consultant. All these results are actually presented to the LCU Board and other
interested parties.

Bardwell: If I have a question, do you mind if I ask you at this point?

Cabello: Go ahead.

Bardwell: This part, I mean I've read the resolution, and I've been pondering it for days.
I'm confused by it, because, so here, wait go back to the previous slide. The
results are presented to LCU Board, and then you have a bullet that says UCAG.
What UCAG results are presented? It's unclear to me what you're talking
about.

Cabello: So it's the comments that are taking input are presented to the Board, UCAG,
and the public and other interested parties, because it's not going to be just
really the public, but other people are essentially in the open meeting.

Bardwell: Basically, UCAG's role is solely to host public meetings and gather public input
and just forward those public comments to the Las Cruces Utility Board.
There's no opportunity for UCAG to make a recommendation as to whether the
Las Cruces Utility Board should proceed. That's my question. What is UCAG's
role? Is it just to host and gather public input and forward that? Or does
UCAG take a vote to recommend whether to proceed with the proposed rate
increases? That's my question to counsel.

Cabello: The UCAG role is essentially to, yes, it is to do public comment and take those
comments and take those comments, come up with the recommendation
based off of that.

Bardwell: The recommendation is what exactly? To either proceed with the rate increase
or to not proceed with the rate increase. What is the scope of UCAG's
recommendation based on public comment and feedback?

Cabello: Well, I mean, as far as rate increase can occur or not. It can be either, you
want to approve the rate increase, or you don't approve the rate or increase.
It's not, it has to be there's a rate increase, the UCAG just says it sends it to the public and then UCAG has to agree. I don't really understand the question?

Walsh: Mr. Royalty. If I may Mr. Chair and Ms. Bardwell. I think I'm understanding and essentially the role of UCAG is to take in the public input, which forms your recommendation. Your recommendation has been through your suggestion today to delay the rate increase. That would be UCAG's, if you as a committee agree, that's the recommendation you want to set forth to the Board, that's what you would set forth. That would be your recommendation to the LCU Board. Now, in addition to that, the Utility will also present our recommendations to the LCU Board, because ultimately ...

Bardwell: Absolutely.

Walsh: ... they'll make that decision. Then, of course, as you know it goes to Council for final ...

Bardwell: Absolutely.

Walsh: ... decision.

Bardwell: I guess my question then is irrelevant to today's great confusion and proceeding about what is allowed is why were we limited to only three options when our role based on your presentation and information today is that we can recommend to proceed with a rate increase or not. I don't understand why I was limited in my motion to those three options that were presented when the purpose of UCAG is to gather, host public input, gather that information, and based on it, make a recommendation whether to proceed or not. Who limited it to three options? That's what I want to know, because no one ever asked UCAG to limit it to three options. That was a decision made by Utility staff. It was not a vote by the board.

Walsh: Mr. Chair. I think I can clarify that. Those were the options that the Utility presented. If we didn't want to rate increase, we wouldn't be here today. If we wanted to wait 18 months, we know that we haven't had a rate increase in 10 years, which is why we started this. Now, the feedback from the Board was we already know this is a significant change for a 10 year period. What could we do in phased in options, so that's what we presented to UCAG. The question to delay it or not have a rate increase or whatnot was not our direction to present that to the UCAG. If you have public feedback that says we want no rate increase, we want delayed increase, there's nobody limiting that option. That's just not something that we were presented with to give you as a committee.

Bardwell: It seems to me that the Las Cruces Utility Board limited the scope of the UCAG decision.

Walsh: No.
Bardwell: Inconsistently with what is set forth by resolution, and that, I don't see the authority for the Las Cruces Utility Board to dictate UCAG's recommendation.

Walsh: Correct.

Bardwell: Based on this resolution. Maybe you can explain where those three options came from and why UCAG was limited to making comment on only three options when our role by resolution is to gather, host and gather public input, and based on that make a recommendation, which you just said could include the scope of not recommending the rate increase proceed.

Walsh: Mr. Chair. I want to clarify; the Board did not dictate your options. The Board ...

Bardwell: Where did those three options come from?

Walsh: ... those came in development of the rate setting process when we were working with the UCAG originally, when we first called the UCAG together, how many months ago a year ago, it's been almost, it's been more than a year that originally, the UCAG was called together and that was our direction to say we want more options from you, Las Cruces Utilities, and that's what we've provided.

Bardwell: UCAG voted to limit our consideration to three options as to whether to increase rates.

Walsh: Those were our directions to provide options. If you as a committee want 10 options, then let us know what those are and we would again come back to your board just like adding this fourth option, we'll come back and give you information of what the impact of no rate increase or delayed rate increase would be.

Bardwell: I mean I think, I mean I guess where I disagree with the approach you're taking is we have plenty of information based on the impact of what the rate increase is going to be. We've looked at the consultant's report. We have received information from customers including the Green Chamber of Commerce. Domonique Rodriguez provided her response to the executive summary of the Green Chamber Commerce report. I don't really understand why we need more information to include a possibility that we recommend the rate increase not be approved. Why would we agree to tie our hands before we even had received any public input? That seems very odd to me, and I guess I'd like to see that vote.

Provenio: Chairman, Commissioner Bardwell. It's a matter of timeline and timing. When the initial indicators present themselves in terms of a need for a rate review, and we've done this with the three previous utilities, you look at the financials, you start your point of view in terms of what's known and measurable changes,
to establish a need for a rate review and a revenue increase. Now that process
starts by the Board’s commissioning their consultant to do the study. As you
progress, and the information is completed and the evaluation is completed,
the usual process is to provide alternatives, in addition to just an upfront rate
increase. This would be a phased increase. Now, at that point, that
information is shared with the UCAG. The UCAG asks questions, what’s the
drivers? What's the main factors in the increase? Once everything is clarified
and discussed, then that is presented to the public via the UCAG. Now I
understand, it's not a matter of that sort of preclusion, however, in the review
of the gas rate increase there has been public feedback that has come back.
The initial study did not envision that having understood that after 10 years
we had to look at the cost to provide utility service in the Gas Utility. Now
we've gone through it rather clumsily, but we have looked at that point as you
raised. We need, not need, we want to discuss the fourth option. As I
understand it, it's an issue of having to provide sufficient notice so that it needs
to be published and then reconvene to discuss that additional option that had
not started off a year ago in terms of reviewing the revenue and revenue
adequacy for the Gas Utility. I don't see the inconsistency because there was
no expectation that there would be zero increase. There isn’t. As you look at
and review costs are constantly changing and increasing. That's why the
consultant works on behalf of the Board, provided the evaluation, shared with
the UCAG, and that's a process that's defined in the resolution to communicate
the outreach to all customers. UCAG listens to residential, commercial, large,
commercial industrial, based on feedback. That's the process that has evolved
since we started with a new process. As you have, and we've come to this
point, a fourth option is proposed for discussion via the proper agenda setting
and notification process. It was not part of the initial study that was done. It
commenced about a year ago. I hope I answered some of the questions, the
ambiguities, but it's a flow of events.

Bardwell: Are you saying that you have to go back to the consultant and ask him to
prepare a whole other level of analysis that looks at the impact to the Utility
by not adopting the increase in proposed rate increase?

Provencio: We would confer with a consultant. We know what, if there is going to be a
change in what the expectation would be in terms of revenue increase, we'd
have to look at the impact of what that would do. Not necessarily restart the
whole process, but you would look at the existing study and find out what the
impact would be.

Bardwell: I think we know that the answer to that question in your table that summarize
the estimated rate revenue and what would be the shortfall and what UCAG I
believe is responsible for is deciding whether based on the evidence the
consultant presented, is that a reasonable rate increase or not? I mean that
is the statutory requirement.

Provencio: That's correct.
Bardwell: I mean the municipality isn't allowed to increase rates when they choose to just because they choose to. You have a statutory obligation to demonstrate that that rate increase is reasonable.

Provencio: Exactly.

Bardwell: That's what the consultant's report did. It went into that level of detail, and I think what we heard today is there is plenty of reason to question whether the evidence that was gathered by the consultant makes clear that those rates are reasonable. I'm not sure why you know we're going back to the consultant at this point to give him another opportunity to provide more information.

Provencio: Chairman, Commissioner. I didn't say that. I did not allude to that. I did not allude to that.

Bardwell: Okay. Anyway, my question remains, I think there is very great deal of lack of clarity as to what UCAG's roll is and who set the parameters for what options we could vote on to recommend moving forward to the Las Cruces Utility Board. Frankly, I'm kind of surprised that the Board would vote to say we can only recommend three things, increase rates at this rate, at rate B, or at rate C, but not leave open the possibility that we might say the evidence was not justified that the rates are reasonable. I don't understand why we would tie our hands like that. So that's my comment.

Provencio: Okay.

Chair Royalty: Let me make a comment here. I don't remember, and I've been on the board for two years, maybe two years. Two years, and I don't remember ever voting on something like that. So anyway.

Bardwell: Where did those options come from?

Chair Royalty: They came from a consultant.

Bardwell: But why wouldn't UCAG say, sure, this is what the consultants recommending, but we may choose not to accept the validity of the numbers that the consultant presented. Of course, we would allow ourselves to do that. That was my motion. Now you're telling me it should have been allowed.

I guess my other comment is you know whoever is preparing the agenda for the meeting presumed that we would not make a recommendation not to proceed. I raised this issue in the June meeting. We talked about this in detail. I mean it's on page six and seven, I raised this very issue that we wanted the opportunity to recommend that we not proceed with the gas rate increase, and everyone just kind of glossed over it, okay Beth, okay. Now, when it comes to making a recommendation, I'm thrown out on a legal technicality. The motion was thrown out on a legal technicality. You know obviously, I'm not happy with the way this meeting progressed. I feel like
they're, you know we were presented information today that we should have been able to respond to. The chair made a motion to kick the ball down the field, and we're going to come back in two weeks, and you're going to present your case again for why you think this rate increase is necessary, even though we have the information before us today and are ready to make the vote.

Chair Royalty: Okay. Mr. Cabello do you want to continue.

Cabello: Sure. Okay. At some point we take the comments and recommendations from public for the LCU Board and the LCU Board makes direction to the consultant. The consultant is supposed to make a final report based on the comments and recommendations. LCU board approves, disapproves, or modifies the report. The LCU board accepts the report, approves the resolution recommending a rate adjustment to City Council and rate decision is by City Council. That is the end of my slide if you have any questions.

McElroy: I guess maybe not a question but a comment. Whatever the UCAG comes up with and recommends to LCU Board. LCU Board can make their own recommendation, decide on their own not to go with the UCAG and provide some other recommendations to the City Council. Correct.

Cabello: Chair, Commissioner. That's correct.

McElroy: Also, when the City Council gets it, they cannot necessarily follow the recommendation of LCU Board. Is that correct? They can come up with their own resolution in the end.

Cabello: That's correct.

Walsh: Mr. Chair, and committee member. If I can clarify. The Council kicks it back down to the LCU Board for consideration. The Council would make their comments saying we do not accept the LCU Board's recommendations, we would rather see A, B, C, D, or maybe we want to cancel it, whatever that decision of the Council is goes back to the LCU Board for their consideration and recommendation, because ultimately, they have a responsibility to ensure we have a safe and reliable system for our customers. They still hold that responsibility making the recommendation. It could be adjustments. You could recommend, like I said, the fourth option can be delay or, and you're right Ms. Bardwell, you can in that discussion for your fourth option even recommend we eliminate maybe a million dollars' worth of the debt, and that's part of your recommendation. You do have those options. With the City Council, as it rises through that approval, it would get kicked back to the LCU Board because ultimately those board members are responsible for the success of the Utility. You know I would say if the Council would like to supplement the Utility with general funds that's their option too if they want to keep rates low. Again, that would be something that would go back to the Board and back up again.
McElroy: The Council can recommend you know we're going to delay this till the end of the year. We're going to delay it six months and try to get this COVID behind us.

Walsh: Correct.

McElroy: Affecting small business or residence or whatever.

Walsh: Correct.

Bardwell: Just a follow up comment on your point, Ms. Walsh. How do we ensure that the agenda that will be published to satisfy the Open Public Meeting Act is not unduly restrictive as to whatever recommendation this Board may come up with next meeting? Because my concern is this, is that I feel like it was arbitrarily limited by staff to three options as to what our recommendation would be. When we meet again in two weeks and hear your case, I want the Board to have the freedom based on the new evidence to make a motion to recommend any variety of options. Now what I hear you saying is that is permissible.

Walsh: It absolutely is. What I want to clarify is you do that through your Chairman, and you say I want A, B, or C to be on this agenda. And you have that discussion. Of course, it's up to Mr. Royalty, as a member of the committee, but we ...

Bardwell: When is that date that I'm required to have that conversation with Mr. Royalty?

Walsh: I don't know when the agenda deadlines are. I apologize for that, because I don't keep the deadlines with me. Okay, so our posting requirements are 72 hours prior to the actual meeting. Obviously, we would hope that you do it at least a week ahead of time. I know for City Council, we have to have our agenda items in two weeks, almost three weeks ahead of time, but I would hope that conversation would happen. When we send it out to the Chair to say is this agenda what you want, you would have that conversation prior to that posting.

Bardwell: Okay. All right. I just want to say Paul, that when you are ready to approve an agenda, I would like to have a conversation as to what is being authorized to go on the agenda. I would like a very broad agenda item as to the scope of the recommendation.

Walsh: Robert, may I ask? Mr. Chair may I asked the question regarding that fourth option, because we didn't present it to the public. Under this framework do we need to do another public outreach or another, you know even just this is something that came out of UCAG, if you have any comment on it, to add to that. I'm not sure how that would work.
Cabello: As far as the UCAG, I'm not sure if it requires more public comment. I just, again my only concern was the Open Meetings Act.

Walsh: Right. Mr. Royalty and committee members. If you'll give me the option, I think we do need to check with the City Clerk to ensure that we're in compliance with the Council's resolutions.

Chair Royalty: Okay.

Walsh: You know, so we'll do that now to check with City Clerk. If we need to do another round.

Chair Royalty: Will you be able to do that by the end of the week?

Walsh: Yes sir.

Chair Royalty: Okay.

Walsh: Alma's working with the City Clerk right now to see if we do have to have.

Ruiz: She said yes.

Walsh: She said yes. We may have to budget in more time for public outreach. I will have to work with staff on that, on what it's going to take and what the requirements are to meet the Council's resolution.

Chair Royalty: Okay.

Walsh: We'll get with the clerk first thing in the morning and give you an answer immediately.

Bardwell: I'm sorry, which Council resolution are you referring to?

Walsh: The one that sets the rate setting process as well as the UCAG itself.

Bardwell: Okay, so when staff discusses and makes a recommendation what alternatives will be proposed to the public for public feedback? I am asking that you bring that back to UCAG for approval.

Walsh: I believe we'd have to because you approve our public outreach, which is why I'd like to sit with the City Clerk and find her determination for our compliance with that resolution.

Bardwell: Okay. Thank you.

Chair Royalty: We approved the outreach agenda and all of that.
Walsh: Even I know we're scheduled for a meeting in two weeks, which is still fine, we can still meet those resolutions, or those options, but we'll definitely get more information to the Board Members offline.

Chair Royalty: Okay.

Walsh: If we need extended public outreach, we will make those recommendations to you offline, without discussion. Just letting what our requirements are.

Bardwell: I guess my question is do we need to meet in two weeks given you're going to go back out for public feedback, is the purpose of the next UCAG's meeting to consider your revised scope for public feedback and comment and to vote that up or down?

Walsh: Mr. Chair and Ms. Bardwell. I would recommend keeping that date and then making a decision that if we do have to do more outreach or bring you an outreach plan for that additional information. It's better to keep the meeting date set, and if we have to cancel there's no harm in that.

Bardwell: Okay. The scope of the meeting is ... are you going to be presenting your case as to why rebuttal to the public comment that's been provided to date?

Walsh: I can't give you that answer until I speak with the clerk tomorrow. Because it could be the scope of the meeting on the 25th is for you to approve a new outreach plan. That's the information I need to gather. I can't give you a definitive answer at this point.

Bardwell: Okay.

Cabello: Okay, any other questions?

Chair Royalty: Any questions for the attorney?

Snyder: No.

McElroy: No.

Chair Royalty: Good shape. Okay.

7. Committee Discussion:
Chair Royalty: Is there any other discussion then that the committee wants to talk about at this point?

8. Next Meeting Date:
   8.1. September 8, 2021
Chair Royalty: Okay. The next meeting date then we've got as on the, what the 24th is that what we said?
Snyder: 25th.

Chair Royalty: 25th. It's going to be August the 25th. It's two weeks from today and go from there.

9. Adjournment:
Chair Royalty: Okay, I'd like a motion from somebody for us to adjourn.

Snyder: I'll move.

Chair Royalty: All right, Bob wants to move. He needs to go to the restroom.

Bardwell: I'll second the motion.

Chair Royalty: Who's going to second? All right. Thank you sir.

Gomez: Can I give a quick comment?

Chair Royalty: Yes, sir.

Gomez: First of all, I thank all of you co-members for allowing me to listen in and to participate in the meeting via this little contraption that I've got on my ear.

Chair Royalty: Okay.

Gomez: Second of all I ultimately think that everything that has gone on there, you guys present, I will substantiate and stand by. I may get in touch with you all by phone some time. We get a breadth of what's that's like, presentation or conversation between people was. I thank you very much again. God bless you. Stay healthy. Wear your masks. I'll see you when I can.

Chair Royalty: All right. Sounds great. Thank you Mr. Gomez.

[Signature]
Chairperson