



CITY OF CHICAGO



COMMITTEE ON ENVIRONMENTAL PROTECTION AND ENERGY  
CITY COUNCIL  
CITY HALL - ROOM 300  
121 NORTH LASALLE STREET  
CHICAGO, ILLINOIS 60602

ALDERMAN GEORGE A. CARDENAS  
CHAIRMAN

PHONE: 312-744-3040

**MONTHLY RULE 45 REPORT  
COMMITTEE ON ENVIRONMENTAL PROTECTION AND ENERGY  
September 2020**

**On September 22, 2020, at 1:00 pm, the Committee on Environmental Protection and Energy held a remote meeting pursuant to applicable law.**

The purpose of this meeting was to hold a subject matter hearing on the Preliminary Municipal Utility Feasibility Study. No vote was taken.

**The following Aldermen were in attendance:**

**Members:** Cardenas (12), Nugent (39), Reilly (42), La Spata (1), Hopkins (2), Dowell (3), Burke (14), Taylor (20), Cardona Jr. (31), Waguespack (32), Rodriguez Sanchez (33), Smith (43), Cappleman (46), Martin (47), Hadden (49),

**Non-Members:** Rodriguez (22), Sigcho Lopez (25), Burnett (27), Vasquez (40)

*Chair Cardenas opened the meeting with a statement regarding the impracticability to meet in person. Chair Cardenas took a roll call to establish a quorum, as reflected above. Chair Cardenas opened the floor for public comment.*

**The following number of speakers signed up to provide public comment: 5**

The Committee addressed the following items:

1. Preliminary Municipal Utility Feasibility Study

*No vote was taken.*

*Chair Cardenas invited Commissioner David Reynolds of the City of Chicago's Department of Assets, Information, and Services (AIS) to explain how NewGen Strategies and Solutions LLC was selected and to summarize the study, which he did. Scott Burnham, NewGen, presented on the methodology for and findings of the Feasibility Study. Additional witnesses were available for questions including, Jack Brofman, City of Chicago Finance Office; and Nancy Hughes, NewGen.*

*Vice Chair Nugent asked NewGen if the City of Chicago could reach its renewable goals without municipalizing. Burnham confirmed that the majority of the City's goals could be achieved without municipalizing ComEd's system.*



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*Vice Chair Nugent applauded that the report accounts for environmental policy goals and plans including the Clean Energy Jobs Act, however, noted the lacking mention of grid-safety and protections. Vice Chair Nugent asked if those costs are included in the severance assessment or if the costs are separate, resulting in an increase in true severance costs. Burnham stated that those costs are not included in the study. It was determined that ComEd has made significant investments to the grid infrastructure to increase reliability as per the City's strict requirements over the last 20 years.*

*Vice Chair Nugent asked the Finance Office if the City has experience bonding a project of this 9-billion-dollar magnitude before. Brofman stated that amount has never been issued in one single issuance, however, the City does have experience with multi-billion-dollar issuances in the past.*

*Ald. La Spata thanked the Chair for hosting a hearing and mentioned a legislative item calling for such a hearing. Ald. La Spata asked NewGen how municipal utilities might catalyze improved energy policies and competitive rates for renewable energies. Burnham believed that it is reasonable for ComEd to use a rate model that makes inflation assumptions.*

*Ald. La Spata asked if the City factors in potential energy savings across city departments, such as the Water Department. Jack Brofman stated that this was not considered.*

*Based on the severance data, Ald. La Spata asked how NewGen determined the severance costs from ComEd. Burnham stated that the numbers came from ComEd, which provided a high-level severance assessment of its system. Upon reviewing that analysis, Burnham additionally stated that NewGen's assessment determined that the City would not have to acquire the transmission systems, and therefore, the severance costs associated with those line items was left out of the assessment. Burnham stated that some line items as part of the severance estimate equated to start-up costs and moved them to the severance cost to differentiate how the City would finance.*

*Ald. La Spata asked Commissioner Reynolds if a Community Advisory Board could be factored into the new Franchise Agreement. Commissioner Reynolds stated that members of this Committee and members of the City Council would be responsible for approving the Franchise Agreement and reassured the involvement of the Chief Sustainability Officer.*

*Ald. Martin asked NewGen if bond rates could be smoothed out for rate consistency or to see rate decreases over time compared to how ComEd may set its rates. Burnham stated that NewGen issued the bonds for a 30-year period and showed the results over a 20-year period. Burnham said in terms of the financing aspect, extending the bond rate period to 40- or 50-years is possible and would have an effect on the rate pressure and other considerations such as municipal issued debt is included in the analysis and underlying assumptions would impact the analysis.*



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*Ald. Martin asked why the City stepped away from the Municipal Aggregation Program. Commissioner Reynolds said that the City had started out with a competitive-price model and price-to-compare model and that the savings decreased over the years that it was live.*

*Ald. Martin pushed back that environmental considerations should be factored in and held in high importance. Commissioner Reynolds responded that AIS is working with the Mayor on an environment and equity agreement in tandem with the Franchise Agreement. Commissioner Reynolds added that Mayor Lightfoot sent a letter to ComEd's CEO, Joe Dominguez prescribing a series of environmental demands that ComEd must meet as part of any contractual agreement.*

*Ald. Hadden asked NewGen about the potential revenue that the City may realize as a result of municipalization. Burnham stated that if a municipal utility is formed, the City would be revenue neutral as it would no longer acquire a franchise fee from ComEd, nor owe a franchise fee. Burnham explained that the way ComEd makes a profit, is through returns in the rates. Burnham stated that municipal utilities do not traditionally realize returns. Burnham also stated that other municipalities that have municipalized in the US can be cash positive if they have margins designed into the rate system.*

*Ald. Hadden stated that ComEd does not seek to breakeven but makes its money as a private entity and asked for NewGen to walk through other models that municipalities have adopted to structure their rates. Burnham explained that how an investor on utility such as ComEd recovers its costs is by return on investments, approximately 8% to 9%. A municipal utility is traditionally on a pure cost basis with an opportunity for a general fund transfer and they are generally less expensive because they do not have a return structure to their rates. Ald. Hadden followed up by asking if there is a precedent of municipalities using a return rate. Burnham responded that municipalities have not but due to a margin built-in to its rate, municipalities tend to be cash positive.*

*Chair Cardenas called on Vice-Chair Nugent to facilitate the hearing, citing connectivity issues.*

*Ald. Rodriguez Sanchez asked about acquisition costs and whether the depreciation of ComEd's assets are factored into the report and if so to walk through the numbers. Burnham stated that depreciation was factored in and deferred to Nancy Hughes to provide specifics on the analysis. Hughes stated that the acquisition cost was analyzed based on data provided by the ComEd annual reports provided to the City of Chicago. Per Section 5 of the Franchise Agreement, the minimum price is (Original Cost, Less Depreciation), and the maximum price is Original Cost. A range was taken based on the minimum price for an average of the two:*

*Acquisition Price = 1.2 x Original Cost, Less Depreciation*



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*The depreciation rates charged by ComEd in the past were not challenged because based on ComEd's rate structure there is no incentive to alter the formula. Generally, the investor on utility is looking for shorter depreciation lives and therefore higher depreciation rates, which would result in a higher acquisition price.*

*Ald. Rodriguez Sanchez asked if NewGen recommends auditing ComEd for any discrepancies on the numbers provided to NewGen for the study. Hughes states that based on the structure of the Franchise Agreement, there is an existing reliance on book data. An appraisal would allow for a wider scope as deemed necessary. Ald. Rodriguez Sanchez requested an explanation of delivery rates and how those are folded into rate payer bills. Burnham states that delivery rates are for ComEd to transmit the power through the delivery system and into buildings. Delivery rates assist with recovery costs for maintaining infrastructure as well as costs associated with customer services. Ald. Rodriguez Sanchez asked NewGen to confirm that ComEd's estimated inflation rate is expected to increase 2% per year. Burnham confirmed. Burnham explained that costs of the rate themselves recover ComEd's costs and since ComEd has invested heavily into its infrastructure, rates increased ahead of the inflation period. NewGen factored this into its analysis, which led to the lower projected number. Ald. Rodriguez Sanchez asked for ComEd's rate increase history over the last 5 years. Burnham stated that NewGen reviewed a period of 4- to 5-years and that it was prudent going forward that a 2% inflation period adjustment be considered.*

*Chair Cardenas transitioned back to facilitate the remainder of the hearing.*

*Ald. Smith asked if ComEd was present to answer questions pertaining to environmental concerns and sustainability. Chair Cardenas stated that the scope of the hearing did not call for ComEd's testimony. Ald. Smith relayed her concern around the potential length of the renewed Franchise Agreement currently under negotiation.*

*Ald. Smith asked NewGen if the severance costs tend to make under what circumstance can any municipality make the case that it would be less costly to operate considering the rate-of-return. Burnham stated that severance is unique to the geographical location of cities, as well as the size of the municipality. Burnham gave an example of a small municipality with only one substation and continued to say that the rate-of-return is certainly factored in as well as depreciation. Burnham states that the estimated severance costs for Chicago are high compared to smaller municipalities that have successfully municipalized due to its size or footprint, and also because ComEd has invested in infrastructure beyond Chicago's boundaries, which would result in a higher cost and more complex severance process.*



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*Ald. Hopkins asked if there are any case studies of municipal utilities being acquired where the municipal boundaries and the infrastructure boundaries were not aligned. Burnham stated that 50 or 60 municipalities have been assessed for municipalization viability, while 17 to 20 of which actually pursued the effort. Ald. Hopkins asked for more information on the municipalities that have pursued municipalizing their utilities. Burnham explained that Boulder, CO explored municipalization for about 20 years before negotiating terms with the utility. Burnham stated that NewGen did not have sufficient information on how municipalities managed the process. Hughes cited the challenges to successfully complete severance for a heavily populated city such as Chicago and said the ease would also depend on the willingness from the existing utility (ComEd) to work with the municipality.*

*Ald. Hopkins asked how the City of Chicago's public water utility could serve as a case study for successfully municipalizing the energy grid. Burnham stated that NewGen is unable to speak to the legality of municipalization.*

*Ald. Taylor asked why ComEd's audit data was trusted for the Feasibility Study. Burnham relayed that NewGen relied on the independent audit information because it is independently assessed and provided to the City of Chicago annually per the terms of the Franchise Agreement as well as reported federally and at the state level. Ald. Taylor asked who the independent auditor is that conducts ComEd's audits. Burnham stated that was information NewGen is unaware of. Ald. Taylor requested that ComEd's Federal and State level audit information be provided through the Chair.*

*Ald. Taylor requested the Chair to hold a technical hearing with ComEd. The Chair responded with willingness to host a follow up hearing, while citing that the Franchise Agreement negotiations are ongoing.*

*Ald. Sigcho Lopez asked why the City of Chicago is unable to benefit from tax exempt bonds on acquisition and what the legal rates are to compensate for that. Burnham stated a prohibition at the Congressional level, passed in response to a previous Chicago attempt to municipalize, particularly a former Chicago Congressman Rostenkowski Amendment that prohibits municipal utilities from issuing tax exempt bonds to acquire the assets of another entity. Instead, tax fill debt is used for the acquisition, while tax free debt is used for the severance, which, NewGen found is not covered by the prohibition as severing the infrastructure is a necessary part of the process. Ald. Sigcho Lopez asked about unique bond programs available to the City of Chicago. Burnham stated that prohibition could be relaxed, however, specific, unique bond programs are outside of the Feasibility Study scope and were not explored. Brofman stated that the City would be unable to use the STSC because it can only be used for revenues collected by the state, and those options were not explored in the study. Brofman added that the interest rate would decrease with the use of STSC.*



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*Ald. Sigcho Lopez asked to expand on why bond debts stopped at the 30-year mark. Brofman supported that 30-years is reasonable for a long-term debt assessment. Ald. Sigcho Lopez asked NewGen about the return on investment included in the study. NewGen stated that the 8% return on investment is inherently included in the study because it is a part of ComEd's portfolio and because there is a savings potential, the rate is inherently higher when municipalizing.*

*Ald. Sigcho Lopez stated he would like to see a Phase II with more independent data to avoid a repeat situation.*

*Chair Cardenas provided closing remarks in favor of testing the limits of the new Franchise Agreement and holding the City and ComEd accountable to meeting the City of Chicago's renewable energy goals by working to diversify the grid (through renewable interconnections) and a focus on electric vehicle policies and infrastructure.*

*Ald. Cardona Jr. motioned to adjourn.*

The Committee having no further business, adjourned at 3:00 pm.

Respectfully Submitted,

George A. Cardenas  
Alderman, 12<sup>th</sup> Ward  
Chairman, Committee on Environmental Protection and Energy