



OLR RESEARCH REPORT

August 29, 2013

2013-R-0313

METROPOLITAN DISTRICT COMMISSION ISSUES

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You asked a number of questions about the Metropolitan District Commission (MDC):

1. What is MDC's governance, organizational structure, and number of employees?
2. Can a town join MDC and if so how?
3. How did part of Farmington end up being served by the MDC?
4. How are MDC costs allocated between customers in member and nonmember town?
5. What options are available to address the perceived inequities of the recent large increase in MDC rates in Farmington?

OLR Report [2013-R-0218](#) addresses related questions. OLR Report [2000-R-0882](#) addresses the delineation of service territories in South Windsor between MDC and the Connecticut Water Company.

SUMMARY

Pursuant to its charter, MDC is governed by a 29-member board, consisting of 17 members appointed by the member municipalities from among their respective electors, eight by the governor, and one each by the House speaker, House minority leader, Senate president pro tempore, and Senate minority leader. Nonmember towns that are not in the district but receive water from it are not represented on the board.

MDC has two major divisions, each with a deputy chief executive officer, one for business services (human resources, information technology, and finance) and one for engineering and operations. The latter includes three units: engineering and planning, facilities, and operations and other services. The facilities unit oversees MDC's water supply, water treatment, and water pollution control (sewage) facilities. The services unit oversees, among other things, environment, health and safety; customer services; maintenance; and laboratory services.

MDC has 513 employees.

Towns that border MDC's territory can join it with the approval of the MDC board. The expansion is subject to the approval of the voters in each of the member towns at referendum.

MDC's water service to part of Farmington stems from the development of the University of Connecticut Health Center in the mid-1960s and the state's desire to have MDC supply its water. In 1966 (1) the Farmington municipal water utility agreed to release its franchise rights for the area in Farmington north of Mountain Road and Fienemann Road and east of Talcott Mountain Ridge, (2) MDC agreed to provide water service to this area, and (3) MDC and the state agreed to construct the infrastructure necessary for the expansion.

MDC water rates consist of four components, two of which (the volumetric water rate and the customer service charge (CSC)) apply to all customers. The volumetric rate covers operating costs such as electricity as well as part of the costs of MDC's infrastructure. The quarterly CSC covers the costs of customer information and billing, among other things. Both are the same for customers in member and nonmember towns. Customers in nonmember towns also pay a quarterly nonmember town (NMT) charge. Finally, customers in some nonmember towns pay an additional surcharge to cover the costs of capital improvements that only benefit their town.

In 2013, MDC shifted recovery of part of the costs of its infrastructure from the volumetric rate to the CSC and NMT. It began recovering, through the NMT charge, the unamortized capital costs associated with \$80 million of infrastructure that serves all customers but historically had only been paid for customers in member towns.

While water rates increased in 2013 for all MDC customers, the increase was particularly sharp in nonmember towns such as Farmington due to the increase in the NMT charge. Some perceive the difference in rates in member and nonmember towns as inequitable because no one from nonmember towns sits on MDC's board, which approved this increase (although New Britain has limited representation).

The options available to address this situation include:

1. requiring that some of the gubernatorial or legislative appointees on the board represent nonmember towns;
2. adding members to the board to represent the non-member towns;
3. changing the process for setting water rates or establishing rate-setting principals to ensure fairness;
4. subjecting MDC to the jurisdiction of the Public Utilities Regulatory Authority (PURA), either generally or under specified circumstances; and
5. establishing a procedure by which nonmember towns could choose to be served by another water utility.

Most of these options would require legislation.

GOVERNANCE, STRUCTURE, AND EMPLOYEES

Governance

The MDC was created by the legislature by Special Act 511 of 1929 to provide potable water and sewerage services on a regional basis. It began operations on July 1, 1930. Currently, the MDC provides water supply, water pollution control, mapping, and household hazardous waste collection to eight member municipalities — Bloomfield, East Hartford, Hartford, Newington, Rocky Hill, West Hartford, Wethersfield, and Windsor. MDC supplies water under special agreements with several nonmember towns including East Granby, Farmington, Glastonbury, and South Windsor.

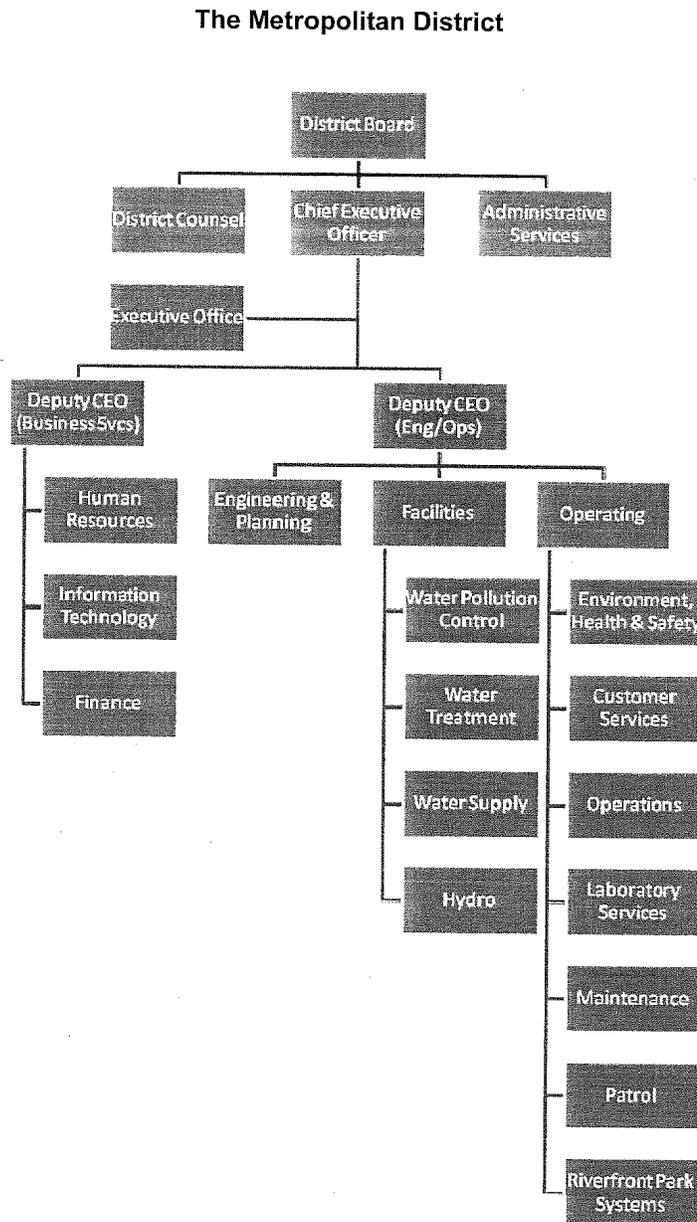
The 1929 special act, with subsequent amendments, serves as MDC's charter. Pursuant to its charter, MDC is governed by a 29-member board, consisting of 17 members appointed by the member municipalities from among their respective electors; eight by the governor; and one each by the House speaker, House minority leader, Senate president pro tempore, and Senate minority leader. The gubernatorial and legislative appointees must be residents of the district. Under § 5-13 of the charter, New Britain's common council must select an elector of the city to sit with the district board. This person serves as an ex-officio member of the district's water bureau and may vote only on matters concerning water.

The board may, among other things, establish ordinances and by-laws, organize committees and bureaus and define their powers and duties, fix salaries and define the duties of MDC officers and employees, and issue revenue bonds.

The district board refers a proposed budget of revenues and expenditures to the Board of Finance annually. The Board of Finance reviews the proposed budget; makes adjustments, if desired; and refers it back to the district board for final enactment. Capital project appropriations to be financed by bonds and other district obligations are subject to approval of the district board upon recommendation of the Board of Finance.

Figure 1 presents MDC's organizational chart. MDC has 513 employees.

Figure 1: MDC Organizational Chart



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JOINING THE MDC

Section 15-5 of the MDC charter provides that any town contiguous to district may become incorporated in it after receiving the district board's formal approval. The expansion is subject to the approval of the voters in each of the member towns at referendum.

The district board is authorized, before approving the incorporation of any contiguous town, to agree with the town as to the terms of the incorporation. These may include terms establishing a temporary service charge to be collected with and in addition to the uniform water rates for a stated period. After the end of this period, the water rates current in the town must be uniform with the rates in the rest of the district.

MDC WATER SERVICE TO FARMINGTON

MDC's provides water to part of Farmington as a result of the development of the University of Connecticut Health Center in the mid-1960s and the state's desire to have MDC supply the center's water. MDC's charter allows it to supply water to any town or city within 20 miles from Hartford, as long as it was not competing with any other water system. Although the health center's location was within 20 miles from Hartford, MDC could not supply its water because the area was already served by the Farmington Water Company (the town's municipal water utility).

In response, the state, the town of Farmington, and MDC reached an agreement in 1966 in which (1) the Farmington Water Company agreed to release its franchise rights for the area north of Mountain Road and Fienemann Road and east of Talcott Mountain Ridge, (2) MDC agreed to provide water service to this area, and (3) MDC and the state agreed to construct the infrastructure necessary for the expansion.

The agreement required MDC to build a pump station and pipe connections at its West Hartford filtration plant. The agreement allowed MDC to recover its expenditures for building the pump station and pipe connections from assessments on lands that specifically benefitted from the construction, although it exempted the health center's 107 acre parcel from this assessment.

The state agreed to build (1) a pipeline from the West Hartford pump station to the health center, (2) additional West Hartford storage tanks, and (3) a pipe line from the storage tanks to the health center. The agreement made MDC the state's agent for the layout, design, contracting, and construction of these facilities and provided that they would be deeded to MDC upon their completion and acceptance. It also provided MDC with \$481,000 from the state and \$84,000 from Farmington to build the new facilities. Under the agreement, the state would make up any additional costs and MDC would return any unused funds to the state.

The agreement deemed the state-built pipelines "Class I distribution mains" and subjected any land abutting them to the MDC's connection charges, although it exempted the health center and any town-owned land from these charges. It also required MDC to sell its water to the new area at its regular rates, plus (1) a charge to cover the extra cost of furnishing high-pressure service and (2) an annual service charge applicable to premises not located within the district.

COST ALLOCATION

All MDC water customers pay a volumetric rate per 100 cubic feet of water used. MDC ordinances do not permit differing volumetric rates and consequently non-member town customers pay the same base water rates as member town customers. Historically, this rate covered operating costs (e.g., electricity) as well as part of the costs of MDC's infrastructure. All MDC water customers also pay a CSC, depending on the size of their meter, which is the same in member and nonmember towns. The revenue from this charge historically paid for such things as customer information, accounting, and billing services.

Customers in nonmember towns pay a nonmember town (NMT) charge. Customers in some nonmember towns also pay a town-specific charge that covers the cost of improvements that only serve their town. On the other hand, only customers in member towns pay for the costs of MDC's sewage operations, including the costs of the Clean Water Project, since MDC does not provide sewage services in nonmember towns.

The MDC bases its water rates on anticipated consumption in order to recover its costs. Many of these are fixed costs that do not change substantially regardless of how much water MDC customers consume. These include the capital costs of the water utility infrastructure and the cost of maintaining this infrastructure. Other costs are variable, such as the cost of electricity used to pump water.

As with many water utilities across the country, water consumption in MDC's service territory has been declining due to water conservation programs and the loss of water-intensive industry. Due to this decline, and upon recommendation of MDC's bond rating agencies, in 2013 MDC shifted the recovery of part of the fixed infrastructure costs from volumetric water rates to the CSC and NMT charges. These charges provide a more stable source of revenue than the water consumption charge and are not subject to the same environmental (e.g., weather) and economic factors that affect consumption.

In calculating the 2013 NMT charge, MDC included the cost of capital used for core water assets that are used to provide water to member and nonmember towns. Approximately \$80 million (net book value) of these assets (which serve all MDC customers) were constructed and paid for exclusively by the member town customers. These assets include the dams, reservoirs, transmission lines and water treatment facilities, which are needed for water production, treatment, and distribution.

MDC allocated the cost of long term borrowing for these assets through the NMT charge. The MDC's cost of long term borrowing at the time of the 2012 budget was approximately 4%, and applying this percentage to the \$80 million of water assets resulted in a cost of \$3.2 million, which was used to calculate the 2013 NMT charge.

Finally, under MDC ordinance § W1f, there is an additional surcharge in towns outside the district where capital improvements or layout and assessment projects are constructed.

By the end of each fiscal year, the district determines the actual cost of each capital improvement constructed for each non-member town and the net cost (cost less assessments) of layout and assessment projects constructed for each town. The costs or net costs, as applicable, are allocated to the towns for which the work was performed and are a surcharge on the water rates of the users located in these towns.

The annual surcharge added to each user's water rate equals the total amount of the costs or net costs, allocated to the town where the user is located with interest at the rate the district would receive from long term investments such as 30-year treasury bills at the time of the expenditure, divided by the number of users based on meter size in the town. The surcharge is billed in quarterly or monthly installments, as applicable, starting with the first bill sent out in the following fiscal year and continuing over the next 20 years.

The district provides non-member towns where capital improvements are built with a compilation of the costs associated with the project as soon as possible after a project or phase of it is completed. If a non-member town agrees to pay all or part of the cost of the project, then the amount paid by the town is deducted from the town customers' share of the total project costs used to calculate the surcharges.

OPTIONS IN LIGHT OF RATE INCREASES

The legislature or MDC could take a number of steps to address the perceived inequity of the recent rate increases in the nonmember towns.

MDC Governance and Structure

Legislation would be required to change how the MDC is governed. Among the options are:

1. requiring that some of the gubernatorial or legislative appointees represent non-member towns or
2. adding members to the board to represent the non-member towns, with or without voting power;

The legislature could also establish an office to advocate for consumers on rates and other issues, or MDC could do this on its own initiative. The Office of Consumer Counsel performs this function for companies regulated by PURA. In addition, as described in OLR Report [99-R-0373](#), the law establishing the South Central Connecticut Regional Water Authority (MDC's counterpart in the New Haven area) requires the establishment of such an office.

Rate-setting

The legislature or MDC could change the process for setting water rates or establish rate-setting principals to ensure fairness similar to CGS § [16-19e](#), which applies to PURA-regulated utilities.

Under current law, PURA has no jurisdiction over the rates charged by MDC and other regional or municipal utilities. The legislature could subject MDC to PURA regulation either generally or if certain conditions apply (e.g., MDC proposes to increase rates more than 10%). Alternatively, the legislature could have PURA serve as an appellate body for MDC decisions. In either case, the legislature would likely need to increase funding for PURA, potentially requiring that MDC and other newly-regulated entities be subject to PURA's assessment on regulated industries (CGS § [16-49](#)).

Allowing Nonmember Towns to Be Served by Other Water Utilities

Neither MDC's charter nor the agreement between the state, the MDC, and Farmington specify how the agreement could be terminated and another water utility chosen to serve the part of Farmington served by MDC. The legislature could amend existing law to provide such a mechanism.

Under CGS § [25-33g](#), a water utility coordinating committee establishes the exclusive service area of the water utilities in its area. Each committee consists of one representative from (1) each public water system with a source of water supply or a service area within the water supply management area and (2) each regional planning agency in the area. A committee, by agreement of its members, can change these boundaries. If the members do not agree, the committee must consult with PURA. If there is no agreement by the committee after the consultation, the Public Health commissioner may change the boundaries after considering any water company rights established by statute, special act or administrative decisions. In considering any change to the boundaries, the commissioner must maintain existing service areas, consider established exclusive service areas, and consider the orderly and efficient development of public water supplies.

If the legislature wanted to authorize another utility to serve the part of Farmington that is currently served by MDC (or similar areas in other nonmember towns), it might want to address a number of economic issues. These could include liability for costs incurred by MDC with regard to the transferred areas, the rights of affected MDC employees, and regulation of rates in the transferred area.

SOURCES

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