

APPROVED 10-12-16

MINUTES  
 City of Tacoma  
 Public Utility Board Meeting  
 September 28, 2016  
 6:30 p.m.

Mr. Patterson called the Public Utility Board meeting to order at 6:30 p.m. at the Public Utilities Administration Building.

**Present:** Mark Patterson, Bryan Flint, Monique Trudnowski; Woodrow Jones, Karen Larkin

The meeting was quorate.

**Minutes of the Previous Meetings**

Ms. Trudnowski moved that the minutes of the previous meetings be adopted; seconded by Mr. Jones. Voice vote was taken and carried. The minutes were declared adopted and made part of the record.

**Recognitions**

There were no recognitions.

**Comments from the Public**

There were no general public comments on items that were not on the agenda.

**Consent Agenda**

There were no items on the consent agenda.

**Regular Agenda**

- D-1 Resolution U-10875 – Award contracts and approve purchases:
1. Increase contract to CLEARresult Consulting, Inc., for implementation of Tacoma Power's retail products conservation program (\$2,932,726, plus sales tax. Cumulative total \$7,886,973, plus sales tax);
  2. Award contract to DeZurik, Inc., for fabrication, shop testing, and delivery of turbine inlet valves, valve actuators, and accessories for the Cushman No. 1 Hydroelectric Project (\$445,932, plus sales tax).

Ms. Trudnowski moved to adopt the resolution; seconded by Mr. Jones.

In response to a Board request for a description of the retail conservation program for item number one, Nancy Oakley, Residential Conservation Manager, stated that this program allows customers to go to stores to purchase LED lights, high efficiency shower heads, and other items at a reduced cost due to the incentive applied by Tacoma Power. This contractor would act as the program administrator and would conduct retailer recruitment, field outreach, and sales reporting. Board Member Flint made positive remarks on the program.

Voice vote was taken and carried. The resolution was declared adopted.

D-2 Resolution U-10876 – Approve power service agreements for renewal of contract power service to Praxair, Inc., and WestRock CP, LLC.

Ms. Trudnowski moved to adopt the resolution; seconded by Mr. Jones.

Rick Applegate, Power Analyst, summarized the resolution. Tacoma Power has been providing power service to its Contract Power (CP) customers under a series of Power Service Agreements since 2001. The existing five year Power Service Agreements expire at the end of the month and the new agreements will renew services for an additional five-year period until September 30, 2021. Consistent with existing agreements, the new agreements provide power services to Praxair and WestRock in accordance with Tacoma Power's current Schedule CP Rates Ordinance.

In response to Board requests for additional explanation, Mr. Applegate explained that the agreement is for an average rate higher than surplus energy sale prices and termination provisions are in the contract. The reasons the average price per megawatt is lower than we sell to residential customers are there are no distribution level assets required as service to large industrial customers receive transmission at full pitch levels; and relative to their transmission assets used, their consumption is higher in which to establish their rate. When you have a fixed quantity cost and are able to recover that at higher volumes, the price per volume goes down. There are provisions to interrupt service under three conditions which are extraordinary weather; insufficient resources due to extraordinary market circumstances; and the existence of a North American Electric Reliability Corporation energy alert.

Voice vote was taken and carried. The resolution was declared adopted.

D-3 Resolution U-10877 – Adopt Tacoma Power's Customer Privacy Policy as required by RCW 19.29A.100.

Ms. Trudnowski moved to adopt the resolution; seconded by Mr. Jones.

John Walkowiak, Conservation Manager, summarized the resolution. In 2015 the state legislature enacted RCW 19.29A.100 establishing a new statewide minimum privacy policy regulating disclosure of customer energy information. The privacy policy affirms Tacoma Power's commitment to protect and secure the personal information of its customers utilizing strong consumer data safeguards. It is Tacoma Power's intent to

implement our commitment by and through this policy and in compliance with applicable state laws and regulations to prevent unauthorized disclosure of personal information.

Voice vote was taken and carried. The resolution was declared adopted.

Board Member Trudnowski moved to suspend the rules to allow for public comment on both resolutions U-10878 and U-10879 concerning Click! Network as they are interrelated; seconded by Board Member Jones.

Voice to suspend the rules taken and carried.

Chair Patterson informed the public that there may be a motion to postpone voting on U-10878 and U-10879, but that public comment will take place out of respect for schedules.

Public comment was taken from 18 individuals. The public comment sign-up sheet is appended as part of the record.

Mark Martinez: Made comments in favor of treating broadband as a public utility.

Tom Cline: Made comments in favor of retaining Click! and not suspending voting on Click! resolutions.

Cheryl Kopec: Made comments against privatization, not delaying a vote, and expressing support to pay more to keep Click!.

Kit Burns: Made comments encouraging more community involvement in an effort to redefine the all-in option.

Chris Karnes: Made comments in support of an upgraded Click! network and bundling services, and TPU funding of Click!.

Mitchell Shook: Made comments in support of a partnership with Click! and the Internet Service Providers and against either resolution moving forward.

Malakay Betor: Made comments expressing support of broadband as a utility.

Peter Jung: Made comments again privatization and a delay in voting.

Patricia Gibbs: Made comments in support of Resolution U-10879.

Celeste Burris: Made comments against privatization and delaying the vote and in support of utilizing TPU funds for Click!.

Bill Baarsma: Made comments supporting the use of TPU funds for Click!, an upgraded gigabit system, and Resolution U-10879.

Jose Chavez: Made comments supporting Resolution U-10879.

Anita Latch: Made comments in support of utilizing TPU funds for Click! and not delaying the vote.

John Boerner: Made comments in support of TPU funding Click! and expanding to gigabit speeds.

Tom McCarthy: Made comments of keeping the status quo for Click! and seeing Click! as a tool for economic development.

Gabriel Johnson: Made comments in support of having broadband as a public utility and not delaying a vote.

Gavin Guss: Made comments against expressing value in a public internet and in support of delaying all votes until a financial audit is conducted and to vet if the resolutions are legal.

Chrissy Cooley: Made comments against delaying a vote.

Board Member Trudnowski moved to postpone Resolution U-10878 to October 26, 2016; seconded by Mr. Jones.

Voice vote was taken:

Board Member Patterson:	Aye
Board Member Trudnowski:	Aye
Board Member Jones:	Nay
Board Member Flint:	Nay
Board Member Larkin:	Nay

The motion to postpone Resolution U-10878 failed.

Board Member Flint moved to suspend the rules to change the order of items on the agenda to hear Resolution U-10879 before U-10878; seconded by Ms. Larkin.

Voice vote was taken:

Board Member Patterson:	Aye
Board Member Trudnowski:	Nay
Board Member Jones:	Aye
Board Member Flint:	Aye
Board Member Larkin:	Aye

The motion to hear Resolution U-10879 before U-10878 passed.

Resolution U-10879 – Approval of a Click! All-In business and Tacoma Power funding plan to provide retail telecommunication services.

Mr. Jones moved to adopt the resolution; seconded by Ms. Larkin.

Board Members then made remarks on Resolution U-10879 and expressed their points of view on the issues as summarized below.

Board Member Larkin expressed appreciation for the public comments. All comments were read, including the letters from the business community speaking against subsidization. Click!'s financials would be different to the positive if Power's implementation of AMI was deployed. The current allocation is unfair as it is a snapshot in time that doesn't take into account past investments and future benefits that may be gained. Society has caused the shrinking of cable and elevated the internet. We need to shift from the current business models and Internet Service Providers (ISPs) to move forward to be an internet utility. Would like to work with the ISPs for a smooth transition to a public internet service.

Board Member Jones expressed appreciation for the public comment and his appreciation to management. Click! is not a big player when it comes to providing internet, there are only twelve major companies internationally. They're the ones who set trends, content, and compensation. We're trying to take a part of that and provide value to ratepayers and tax payers. We're in a different landscape from when we got into the business and the costs have caught up with us and we must decide where to get the funds. There are issues with seeking funds from General Government. TPU management and staff have the intellect to search and find the funds to maintain Click!.

Board Member Trudnowski expressed appreciation for the public comments. There were also written comments from working and low-income ratepayers expressing opposition to making them subsidize Click!. The reason for the motion to postpone the vote was because there could have been more time used to work on a business plan to find a way to have Click! sustain itself. The resolutions do not support economic development in that they're crushing the ISPs. The motion to postpone would have also supported bringing labor into the plan. It is illegal for Tacoma Power to subsidize Click!; a public memo from the City Attorney's office supports that. This is about legality and saving ratepayers from future law suits and legal fees. Would have liked to have had a process in place to talk to businesses and tech companies about opening the network as an open source, not privatization. Would have liked to have had a business plan that maximizes the great infrastructure but doesn't force others who don't want it to pay. Would have liked to have had the conversation about how much more users would be willing to pay. Expressed appreciation for the letter writers who supported keeping Click! without subsidization.

Board Member Flint expressed appreciation for the public comments. Resolution U-10879 emphasizes value to ratepayers by the fiber optic network. Would like to work to get to 30 percent customer penetration and has faith in staff to take this plan and make

an excellent product. The resolution supports an annual reporting from staff to the Board. It also allows Tacoma Power to transfer funds to assist with capital costs. Section three of the resolution is meant to give management flexibility in a world where broadband changes every 18 months. We need to allow managers to change the business plan as the industry evolves. The current system has dark fiber so there is capacity that can be used by a private entity. We are not going to compete with our existing business, but that space could be used by a local company for a local cloud service.

Mr. Flint made a motion to amend Resolution U-10879 related to amending the BE IT RESOLVED Section. 3.; seconded by Ms. Larkin.

On page 7, at line 17 delete the entire sentence starting with the words "Such delegation" and insert the following:

"Such delegation includes approval of contracts allowing third parties to use surplus portions of the network to supply services to their customers so long as such use does not materially interfere with Click!'s operations of the network or Click!'s ability to implement its Business Plan and achieve its goals and objectives."

Chair Patterson called for public comment on Mr. Flint's amendment to U-10879.

Mitchell Shook: Made comments supporting a delay in voting. A business plan that can address the Mayor's goals and fix cost allocations without killing the ISPs doesn't exist. This amendment leaves the opportunity for Rainier Connect to be destroyed. It steals customers and crushes the ISPs. Also, rate increase language needs to be in the amendment.

Gavin Guss: Made comments against the amendment as the language is obscure and doesn't address the fact that dark fiber can be leased to Click!'s competitors removing Click!'s built-in advantages.

Kit Burns: Made comments expressing that this amendment would allow anyone to use Click!'s dark fiber and no one has ever priced the value of the fiber for the Inet services. Expressed that this amendment would allow someone to come in, use the network, and drive Click! out of town.

Mr. Flint stated there would be a contract saying that TPU won't compete with our own business. Rates will be a future decision and rate increases have to come before both the Board and Council.

Voice vote was taken to adopt the amendment to U-10879:

Board Member Patterson:	Aye
Board Member Trudnowski:	Nay
Board Member Jones:	Aye

Board Member Flint: Aye  
 Board Member Larkin: Aye

The motion to amend Resolution U-10879 passed.

Board Member Patterson expressed appreciation for the public comments. The Board cares about Click! and its employees. When the Click! discussions began, the attempt was to resolve the cable TV side of the business. Click!'s internet is run by the ISPs. They've been providing the internet and TPU sold them space on the network at wholesale. After much discussion, the proposal was to create a new expanded broadband telecom business and fold the TV side into that. Both resolutions sought to do that. This requires both capital and operational expenditures and the study revealed the system couldn't pay for itself. This resolution proposes to solve the problem from ratepayer revenue. My job as a Board Member makes this difficult as I represent the ratepayer. The risks and barriers that exist for TPU to spend ratepayer money to operate a new interconnected telecom business are insurmountable. I am unable to support this motion because it is not within the authority of the Board to do it. Resolution U-10878 was modified to make it clear that if resources aren't available for the new telecommunications from Tacoma Power, then General Government should have the opportunity see if there is any possibility they can do it. I understand the general fund has risks and barriers, too. If neither of the bodies can fund the new telecom system, the only other way is to find a partner who can. That is what the lease was all about; to find the money to create a better system that will house the cable TV business and expand to internet. The Council should have had an opportunity to decide if it could work as they have more authority than TPU. Because the barriers to TPU funding Click! are insurmountable, I don't agree the funding source in U-10879 is available.

Voice vote was taken to adopt Resolution U-10879 as amended:

Board Member Patterson: Nay  
 Board Member Trudnowski: Nay  
 Board Member Jones: Aye  
 Board Member Flint: Aye  
 Board Member Larkin: Aye

The amended resolution was declared adopted.

Resolution U-10878. No motion to adopt was received; the resolution expires.

Mayor Strickland approached the podium and expressed her appreciation to each Board Member for their service, diversity of ideas, and hard decisions.

#### H. Reports of the Director

- H-1 July cash projections for Power, Water, Rail
- H-2 July financials for Power, Water, Rail, Fleet, Self-Insurance

- H-3 August cash projections for Power, Water, Rail
- H-4 August financials for Power, Water, Rail, Fleet, Self-Insurance

Director Gaines informed the Board that the TPU United Way campaign has begun and so far the 153 employees have raised \$64,000. Last year's campaign brought in \$175,000. This year's campaign ends on October 12, 2016.

**I. Comments by the Board**

Mr. Jones made comments acknowledging TPU customers who live outside the city limits and the Board's efforts to make sure they're interests are incorporated into the Board's decision making process.

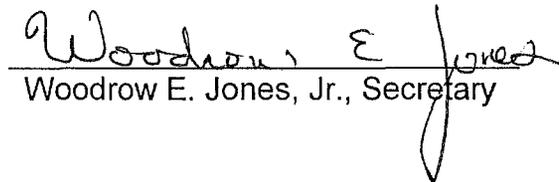
Mr. Flint thanked Chair Patterson for respecting all Board comments and successfully facilitating the public process.

**J. Adjournment**

There being no further business or comments, the Public Utility Board was adjourned at 8:18 p.m. until Wednesday, October 12, 2016, for a study session beginning at 3:00 p.m., followed by the regular meeting at 6:30 p.m.

Approved:

  
Mark Patterson, Chair

  
Woodrow E. Jones, Jr., Secretary