

**LONGMONT CITY COUNCIL  
INTRODUCTION TO PLATTE RIVER POWER AUTHORITY**

**FEBRUARY 9, 2010**

**INTRODUCTION**

Platte River Power Authority (Platte River) provides wholesale power and transmission service to Estes Park, Fort Collins, Longmont, and Loveland (Municipalities). Platte River is a political subdivision of the State of Colorado formed by the Municipalities for the benefit of their inhabitants. Platte River operates with a “triple bottom line” focus, providing reliable and affordable power in an environmentally responsible manner.

**HISTORY**

To understand Platte River Power Authority it is helpful to understand the history behind its formation. Longmont Power & Communications was created in \_\_\_\_\_. Initially it relied upon small hydropower and thermal generation for the power to serve Longmont residents. Beginning in the 1950s, as the City outgrew its power plant capacity, it purchased hydropower from the U.S. Bureau of Reclamation. In the mid-1960s the Bureau of Reclamation informed wholesale customers that future expansions of federal hydropower resources were unlikely. Facing limits on the availability of additional federal hydropower, similarly situated municipal utilities in Northern Colorado began to explore joint action options. One of the motivating factors for pursuing joint action was the thought that through joint action smaller municipal utilities could take advantage of economies of scale in future resource development.

The cities of Estes Park, Fort Collins, Longmont, and Loveland formed Platte River Municipal Power Association in 1965. Platte River Municipal Power Authority, Inc. was re-incorporated in 1971. Later the name of the entity was changed to Platte River Power Authority. Platte River began actual utility operation in 1973, with the stated purpose to generate and transmit power to the four Municipalities. This effectively created a division of labor under which the Municipalities operated retail distribution utilities and Platte River became responsible for the generation and transmission resources and related operations necessary to provide wholesale power sufficient to meet the retail needs of the Municipalities.

Two complications arose.

The first complication involved a provision of the Colorado Constitution dating back to 1876 that prohibited public entities from jointly conducting business with private

entities. Historically, this prohibition was intended to prevent railroad financing schemes that tied favorable rail routing decisions to municipal capital contributions. In the early 1970s Platte River had the opportunity to participate in the Yampa Project, a multi-unit generation facility planned for construction near Craig, Colorado, but this constitutional provision prevented participation. To address this problem Article XI, section 2 of the Colorado Constitution was amended in 1974 to allow public and private joint ventures for certain types of energy development.

The second complication involved capitalization. In late 1974 Platte River was informed by bond counsel that as a non-profit corporation it could not issue tax-exempt bonds to finance capital projects. This presented a significant problem because at that time there was no ready legal mechanism for a joint action entity to issue tax-exempt bonds under Colorado law. The Municipalities worked with local political leaders to amend the Colorado statutes, adding a provision authorizing municipal distribution utilities to create a generation and transmission entity separate from the municipal members. Such an entity could issue tax-exempt bonds that was debt of the power authority and not obligations of the municipal members. Legislation to this effect was adopted in 1975.

Under this legislation, codified as C.R.S. § 29-1-204, municipalities operating electric utilities may contract to form a “power authority” for the purpose of developing generation and transmission resources to benefit the inhabitants of the contracting municipalities. The resulting power authority is a “separate governmental entity” and “a political subdivision and a public corporation of the state.”

On June 17, 1975 Platte River Power Authority was established by contract for the purposes of generating and transmitting electric power and energy to the four Municipalities. The contract creating Platte River is commonly referred to as the Organic Contract. For the most part the Organic Contract incorporates the powers and authorities set forth in C.R.S. § 29-1-204. The Organic Contract initially ran through 2020, but the term was extended in 1998 and now runs through December 31, 2040.

## **GOVERNANCE MODEL**

The power authority bill eventually adopted by the Colorado General Assembly and codified as C.R.S. § 29-1-204 was drafted by the General Counsel of Platte River in early 1975. Given the corporate nature of Platte River, it is not surprising that the form of political subdivision contemplated by the bill contains corporate elements. In fact, the direction from the Board concerning the drafting of this legislation was clear: the separate governmental entity should be created “in a manner which will preserve for Platte River essentially the same powers and functions it now has as a non-profit corporation.” Accordingly, C.R.S. § 29-1-204(4) defines power authorities to be “public corporation[s] of the state” to be governed by a board of directors.

In conformance with this statutory directive the Organic Contract makes provision for a Board of Directors as the governing body of Platte River. The Board is composed of eight Directors, two from each of the Municipalities. The Organic Contract makes provision for a Chairman of the Board and corporate officers, including a Treasurer and Secretary. Officers are elected by the Board at annual meetings. The Board meets nine times during the year. As a political subdivision, Platte River is subject to open meetings and public records statutes, as well as the accounting, auditing and budget laws applicable to municipalities.

During its formative years Platte River and the Municipalities confronted a number of issues concerning governance. A brief description of the most significant of these issues follows:

*A. Authority of the Directors to Exercise Independent Judgment.*

Prior to 1976 Platte River had a four-person Board of Directors, with one representative from each Municipality. The Directors acted on matters before the Board based upon their independent judgment.

In 1974 Longmont adopted Resolution No. 40, Series 1974, which sought incorporation of certain new provisions into the bylaws of Platte River. The provisions desired by Longmont would have limited the authority of the Board members to act absent direction from the councils of the Municipalities. Specifically, under the Longmont proposal: Platte River budgets could not be adopted without prior assent of a majority of the City Councils of the participants; bonded debt could not be issued without the consent of at least three of the municipal councils; and “[e]ach Board member shall have authorization from their respective Councils prior to voting on material matters considered by the Board.”

When the Longmont proposal was placed before the Platte River Board, the Board adopted Resolution No. 37-74. Resolution No. 37-74 instructed each of the Directors to “review this matter with their respective city councils and seek their guidance and direction as to the procedure to be followed by Platte River Power Authority.” The Resolution contained cautionary language, stating that “to impose the requirement of prior authorization upon the exercise of judgment by the Directors, or by any individual Director, would reduce the effectiveness of Platte River as a corporate organization and thereby weaken its ability to respond to changing situations and emergencies, and to require prior authorization on all material matters would leave only routine or trivial matters upon which a Director would be asked to exercise independent judgment.”

The feedback received from the Municipalities varied. Fort Collins and Estes Park continued to favor an independent Board, whereas Longmont and Loveland favored some limits on Board member discretion. The matter was discussed by the Board which adopted Resolution No. 41-74. The Resolution directed that no changes be made to the Platte River by-laws, but “requested and directed” Board members to take steps enumerated in the Resolution to keep their relevant councils informed. This Resolution was adopted unanimously.

Review of subsequent minutes and resolutions of Platte River does not indicate any recurrence of this issue.

*B. Inclusion of Mayors on the Board of Directors.*

The four member Board was carried over from the non-profit corporate form and included in the initial iteration of the Organic Contract. About one year after adoption of the Organic Contract the Board of Directors was enlarged to include the mayors of the Municipalities.

Resolution No. 45-76 explains the rationale for expanding the Board to include the mayors:

WHEREAS, the careful consideration of energy, environmental, and economic aspects, together with public opinion and policies established by local governments is, and will continue to be, an integral part of Platte River’s Board of Directors’ policymaking for meeting its responsibilities; and

WHEREAS, additional input and viewpoints from publicly elected officials would contribute significantly to policymaking and would strengthen Platte River’s relationships with the councils of its constituent municipalities and the governing bodies of other local governments,

The Resolution recommends this modification to the councils of the Municipalities. The Municipalities agreed to this change and the Organic Contract was so modified.

It is possible that the addition of mayors to the Board put to rest any concerns about the need to provide political guidance to Board member representatives, as discussed above.

*C. The Weighted Vote Provision.*

Another governance provision that dates to the period when Platte River was a non-profit corporation is the procedure for a weighted vote. The bylaws initially provided

that actions of the Board shall be taken based upon a majority vote. This reflected a “senatorial” system in which each member’s vote counted equally, irrespective of their relative size. Given the possibility of a tie vote with an even number of Board members (both then and now), the bylaws were amended through Resolution No. 56-74 to include a weighted vote in an instance of a tie vote.

C.R.S. § 29-1-204(2)(b)(IV) addresses voting requirements for the boards of power authorities and requires a majority vote of the directors for action unless the formative contract provides otherwise. The Organic Contract continues inclusion of a provision for a weighted vote, but only if a tie exists in the Board members votes. In the event of a tie, weight is assigned to board members votes on the basis of relative power purchases among the Municipalities.

No instances of a weighted vote have occurred. If one were to be called the weight of the Longmont representatives on the Board would be approximately 27% of the voting strength.

#### *D. Authorization of Legislative Activity*

In the mid-1970s two significant legal impediments prevented Platte River from effectively pursuing its purpose of developing generation and transmission resources for the benefit of the Municipalities. The first was a Colorado Constitutional provision which prevented municipal participation with private entities in business ventures. This prohibition complicated participation in the Yampa Project. The second impediment involved the lack of a vehicle for the issuance of tax-exempt debt.

Platte River was proactive in resolving each of these issues. Platte River was active in crafting the amendatory language for Article XI, section 2 of the Colorado Constitution and as noted above, counsel for Platte River produced the initial draft of the legislation codified at C.R.S. § 29-1-204.

Subsequently the legislative activities of Platte River can be characterized as more reactive. Platte River monitors activities which affect its interests, but has not again assumed any formative role in legislation.

Under the Organic Contract the General Manager is the “principal executive officer of the Authority with full responsibility [to act] pursuant to policies and programs approved by the Board of Directors.” During the tenure of the current General Manager it has been the practice to distribute a legislative and environmental policy statement to the Board on an annual basis. This document identifies, discusses and occasionally presents positions on pending or anticipated issues under consideration in Congress, the General Assembly or before regulatory agencies. This document is discussed by the Board upon distribution. Each meeting of the Board includes an

agenda item which updates the Board on pending legislative and regulatory matters, at which time the Board gives appropriate direction as it deems necessary.

## **POWER SUPPLY AGREEMENTS**

Each of the four Municipalities purchase their power requirements from Platte River. These purchases are made pursuant to the power supply agreements between Platte River and each of the Municipalities. Each of the power supply agreements is functionally identical. Except for the small amounts of generation from grandfathered hydropower facilities, the power supply agreements are “all-requirements” in nature. Like the Organic Contract, the power supply agreements have terms that run through 2040. These agreements are long-term in nature because they provide the security underlying the bonds issued by Platte River; in effect, the power supply agreements provide a revenue stream for bond repayment.

Rates for power are reviewed at least annually by the Board. The power supply agreements require that the rates be set at a level “sufficient, but only sufficient” to meet the obligations of Platte River and to provide reasonable reserves.

## **OPERATIONS AND RELIABILITY [do we want to cover the Longmont projects under this heading?]**

## **FINANCIAL STANDING [SFP and bond rating]**

The key's to Platte River's financial success have been the ability to reduce annual debt service requirements, sustain strong cash flows to meet capital requirements, maintain efficient low cost generating resources, achieve operational efficiency and successful marketing of surplus energy. Discussed below are a few of Platte River's financial strengths:

- Strong credit rating provides access to low cost capital. Between 2000 and 2005, Platte River's access to low cost capital improved as each of the rating agencies increased Platte River's credit rating, which now stand at AA. The AA credit rating is the highest rating currently assigned to joint action agencies similar to Platte River.
- Current annual debt service requirements have been reduced in half from the 1980's. This was accomplished thru a series of debt refunding and retirements. In recent years, significant capital investment has been required to keep up with increasing demands for electricity, however, due to strong cash flows, Platte

River's annual debt service has remained relatively steady.

- Platte River's wholesale rate is very competitive. For a period of 20 years (1983-2003), Platte River's average wholesale rate remained steady. Beginning in 2004, modest rate increases were needed to keep up with increasing costs. While rates have increased, Platte River's member community's rates are among the lowest in the state.
- Platte River's Strategic Financial Plan provides for long-term financial stability, with consistent and solid financial performance. The plan is discussed in more detail below.

### **Strategic Financial Plan**

Platte River's Strategic Financial Plan (SFP) is designed to provide long-term financial stability by generating adequate cash flows, maintaining access to low cost capital, providing stable and competitive wholesale rates and effectively managing financial risk. The SFP has been formally updated through Board Resolution on several occasions, the last update occurring in July 2008 when the Board adopted the revised SFP. Many of the SFP goals establish targets that are used in setting the municipal wholesale rate. The following is a condensed summary of the current financial policies and goals:

- Generate Minimum Debt Service Coverage of 1.50 times.
- Generate Minimum Net Income Equal to \$6 Million.
- Maintain Access to Low Cost Capital and Favorable Credit Ratings.
- Target Debt to Equity Ratio of 50/50.
- Maintain Rate Stabilization Fund of \$20 million.
- Maintain Adequate Operating Cash Reserves and Required Bond Reserves.
- Maintain Adequate Capital and Debt Management Reserves.
- Prudently Manage and Invest Reserves.
- Variable Rate Debt Capped at 35% of Total Debt.
- Provide Stable and Competitive Wholesale Rates.
- Manage Financial Risk.

The above policies and goals are interrelated. By achieving the minimum target for debt service coverage of 1.50 times and the net income target of \$6 million, Platte River should generate adequate cash flows to meet liquidity targets, meet or exceed its debt-to-equity goal, and maintain access to low cost capital.

Maintaining a strong cash position significantly enhances future operating and financing flexibility. The dedicated capital and debt management reserve fund provides financing flexibility in the timing of the new financing, which helps mitigate

the size of future rate increases when the next energy resource is constructed. The rate stabilization reserve ensures minimum debt service coverage goals are met in the event of an unexpected and extended generation outage.

The SFP also establishes a cap on variable rate debt at no more than 35% of total debt outstanding. Platte River's Interest Rate Risk Management Policy requires at least 50% of the outstanding variable rate debt to be hedged with cash and investments or derivatives; derivatives may be used to hedge up to 35% of total debt.

The remaining financial goals focus on providing competitive wholesale rates to the Municipalities, prudently investing capital, and establishing appropriate and cost effective programs to manage Platte River's risks against catastrophic losses.

## **ENVIRONMENTAL RECORD**

An important part of Platte River's vision to improve the quality of life in our owner communities is environmental stewardship. Highlights of Platte River's historical record and current activities in the environmental area are summarized below.

- Platte River is guided by a Board-approved Environmental Policy and set of Environmental Principles that integrate environmental considerations into planning, design, construction and operations;
- Platte River is the only electric power supplier in the state of Colorado to maintain 100% environmental compliance in all operations since inception;
- Over 20% of the energy supply to our owner municipalities is provided by renewable sources (hydropower and wind);
- The Rawhide and Craig coal facilities operate with SO<sub>2</sub> and NO<sub>x</sub> emission rates that are among the lowest in the U.S.;
- Since 1997, Platte River has voluntarily reported greenhouse gas emissions and became the first utility outside of California to join the Climate Action Registry – since then Platte River joined the nation climate registry as a founding member;
- Platte River was the first municipal generator in the state to develop a Climate Action Plan that outlines specific options for reducing CO<sub>2</sub> emission to 20% below the level for 2005 by 2020 – the plan shows that a large portion of the reduction goal could be met with increased energy efficiency and new renewable energy;

- Energy efficiency programs have expanded significantly since 2002, with a current budget of about \$2 million annually for several programs serving homes and businesses in the owner communities;
- Platte River was the first utility in the region to install wind generation at the Medicine Bow site in 1998 and continues expanding its renewable energy sources to meet increasing needs in the owner municipalities – the Silver Sage wind project west of Cheyenne is our most recent addition, commissioned in October 2009;
- To reduce waste from used compact fluorescent lamps, Platte River worked with local retailers to establish a regional recycling program starting in 2008;
- With goals of avoiding disposal costs and saving natural resources, Platte River is working to develop new uses for fly ash, the powdery material that is the main by-product of coal combustion – a portion of fly ash is now sold for beneficial use, including displacement of a portion of the cement in construction materials, which saves money and reduces CO2 emissions;
- An employee-run program for enhancing sustainability in Platte River’s offices has identified many options for reducing greenhouse gases and saving resources, including reduced paper usage, building efficiency improvements, computer energy reduction through the Climate Savers Computing Initiative and increased recycling;
- Platte River’s investments in energy efficiency, recycling, renewable energy and power plant performance enhancements exceed \$60 million in the last 10 years.

Platte River will continue to be proactive in evaluating and implementing improvements in its operations that balance environmental, social and economic perspectives.

## **QUESTIONS AND ANSWERS**