

Cape Coral, LCEC spar over franchise agreement



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(Photo: Andrew West/The News-Press, Andrew West/The News-Press)

Cape Coral's mayor thinks the city is being shortchanged on crucial information in negotiations with local electric provider Lee County Electric Cooperative. The CEO of LCEC counters that the city is asking for irrelevant information and pursuing a bad deal for residents.

In the middle are Cape Coral's almost 170,000 residents and 88,811 electric customers for LCEC, wondering if any new franchise agreement will be possible between two sides that can't agree on what information is relevant to getting its residents the lifeblood of the Information Age.

For most residents, electricity from your outlets is like water out of your tap: it's not so much how it gets there so long as it gets there and at a decent price.

But Cape Coral residents may want to pay attention to the "how," Mayor Marni Sawicki said in an interview.

It's "a much bigger question: where do we see ourselves and what do we want to be as a community," she said.

Sawicki said she has a variety of goals for any new franchise agreement between Cape Coral and LCEC.



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The current franchise agreement between Lee County's largest city and its electric provider is set to expire in little more than a year on Sept. 30, 2016.

While low rates for the electricity are the priority, Sawicki said any new agreement should include fiber optic line laying, increased coordination on capital projects and putting electric lines underground to improve reliability and prevent outages from bad weather and other factors.

But whether any new franchise agreement would contain Sawicki's suggestions, or, in fact, what any new franchise agreement would contain is up in the air. City officials including Sawicki, City Manager John Szerlag, Assistant City Manager Mike Ilczyszyn and Public Information Director Connie Barron all said they've encountered roadblocks to getting information to assess its options.

One of those options is the city forcing a buyout of LCEC assets in the Cape and becoming its own municipal electric utility. That would mean a takeover of assets that serve about 43 percent of the cooperative's entire customer base.

LCEC CEO Dennie Hamilton said he has attempted to meet with individual council members to discuss the franchise agreement and the possible city purchase of LCEC assets, but has been rebuffed.

"They've asked us for a lot of information that I'm not even sure how it's relevant," Hamilton said. "And then they're looking for ways to say you're not giving us everything we asked for. Well, don't go to the press and cry about us not giving information when they don't sit down and talk to us about what's going on."



THE NEWS-PRESS

Cape Coral Mayor, CEO of LCEC spar

(<http://www.news-press.com/story/news/local/cape-coral/2015/09/09/cape-coral-mayor-ceo-lcec-spar/71953762/>)

The city will ultimately make the decision on whether or not to become its own utility, he said.



"I think it would be a really bad deal for the citizens of Cape Coral. Because the cost, the dollars they're going to have to pay to buy the system is going to create a huge debt for the city to pay," Hamilton said. "It's going to take them 30 years to pay that off. I don't believe they can do that without increasing electric rates. And so I don't understand what problem they're trying to solve by being willing to increase electric rates to their citizens."

But the city and Hamilton can't agree on what information is necessary to continue negotiations, let alone what would be the best option for the city and its residents.

The city does not automatically reject Hamilton's assertion that a franchise agreement would be better for residents than the city creating and running its own utility. The common response is "we don't know." But city officials said lack of certainty is to be expected when information from LCEC is not forthcoming.

"We would be a very poor administration if all we did is ink a deal to have business as usual for the next 30 years with LCEC without doing our due diligence," Szerlag said.

Ilczyszyn said the city has asked LCEC for the value of its assets within the city to determine what the cost of purchasing those assets would be if the city decided on a purchasing LCEC's assets in the city.

"Their response was that their system cannot identify the value of the assets of the system in Cape Coral," Ilczyszyn said.

The city wants a more exact price tag, as the ultimate dollar figure will influence whether the city can buy the assets from a financial standpoint and sell it to residents and voters from a political standpoint. A ballpark estimate – according to a phase 1 study by city consultants – puts the physical assets at about \$360 million with other costs bringing the total to about \$425 million.

Hamilton said LCEC's systems are premised on functioning for the cooperative's entire footprint, not individual municipal coverage areas. LCEC's service area includes [Sanibel](#), [Captivea](#), [Pine Island](#) and [Marco Island](#), [North Fort Myers](#), [Immokalee](#), [Everglades City](#) and [Matlacha](#).

"They've asked us what the book value of our assets over there is, we don't know that number, we don't track our accounting systems that way. It would be fairly costly and it would take people away from other work that's tied to what we really do to generate that information," Hamilton said. "It's a relatively costly exercise to go through, it's on the order of \$50,000 to generate that information."

That issue of transparency may seem like fine print in contract negotiations or irrelevant to the end user, but it's critical to the ultimate decision between a new franchise agreement or the city becoming its own utility.

Because the city and its residents cannot purchase electricity from another provider, a study of what rates and operating costs would look like under its own utility is the only way to create a comparison, Sawicki said.

"Whenever you get a quote for your house, you always get two or three to compare it to," she said. "If we don't have anything to compare it to, it's kind of like going into negotiations with them with a knife and us with a wooden spoon. ... But at the end of the day, I need to be able to say yes we're getting a great deal or no we're not and here's where we'd like to see improvements. This opportunity won't come around again in my lifetime of sitting here (as mayor)."

Hamilton said residents are getting a good deal already with rates remaining stable at about \$108 per 1,000 kilowatt-hour. Hamilton said the average home uses about 1,200 kilowatt-hours. Hamilton added that LCEC has not raised its residential rates since 2009.

Starla Beougher, a resident of Cape Coral for 25 years, said she hasn't closely followed the city and LCEC's conflicting points of view on a franchise agreement or the city becoming its utility provider. But she added she has no issues with LCEC's service or rates.

"But then, I don't really have anything to compare it to," Beougher said. "It's always been LCEC in the Cape."

While Beougher said she would, at the moment, oppose the city becoming a municipal electric utility, she thinks it's a good idea for the city to run studies on costs of service for LCEC in Cape Coral.

Beougher's remarks - opposing a city utility but encouraging further studies - appear to track closely with many residents.

Brian Armstrong, a lawyer with Nabors, Giblin and Nickerson and one of the negotiators for the city as its outside counsel, said giving credit to LCEC for not raising rates starts from a faulty premise.

"That doesn't really get to that question of is it too high to begin with," Armstrong said.

Armstrong said he has reviewed hundreds of utility franchise agreement and negotiated about 20 such agreements. And he says he has never encountered as much difficulty in acquiring information as he has with LCEC.

"Not to this degree, no," Armstrong said. "I don't attribute (the lack of transparency) to malice. It's the way they've been allowed to operate for all these years. If this was an MEU or investor-owned utility, all of these types of information would be available and they'd be required to keep the records. I suppose it's because nobody ever asked them."

Armstrong said one of the city's biggest concerns is that because Cape Coral has more people per square mile than LCEC's other service areas – 750 per square mile to approximately 50 per square mile – that LCEC gets a bigger bang for its buck. But Cape Coral residents might not see that same return for theirs.

"Since the same rates are being charged, there's really only one conclusion, and that is that Cape residents and businesses are subsidizing those outside the city," Armstrong said.

The city thus would be able to capitalize on that higher density of customers without the wide swaths of less-populated areas LCEC also services.

All of those factors – including the city's increasingly frosty relationship with LCEC – mean Sawicki is becoming more open to the idea of a city electric utility than she was at the start.

"I'm not, at any point, telling you I'm for (a city utility) right now," Sawicki said. "I will tell you in the beginning for me, this was just about leverage, this was just about let's find out what we've got. The more it's handled the way it's being handled, ... if we find that things are not as they say they should be or as they are, I'm willing to listen."

Sawicki's willingness to listen may have gone up after a Cape Coral Chamber of Commerce luncheon on Thursday. There, Hamilton and Sawicki had a terse exchange that saw Sawicki leave in the middle of the luncheon.

Fortunately for residents, no matter how much LCEC and the city disagree, electric service will not suddenly shut off on Oct. 1, 2016, if the franchise agreement expires without a new agreement or the start of the city purchase of assets. Service would continue as before until a new agreement is made.

Whether that takes the form of a new franchise agreement or a lengthy court battle to hammer out a new city utility is anyone's guess.

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