

HEBER LIGHT & POWER COMPANY
BOARD RESOLUTION NO. 2019-__

RESOLUTION ADOPTING IMPACT FEES AND APPROVING IMPACT FEE CAPITAL FACILITIES PLAN AND IMPACT FEE ANALYSIS

WHEREAS the Heber Light & Power Company (“Company”) is an energy services interlocal entity created by Heber City, Midway City, and Charleston Town to provide electric service to customers within the municipalities and surrounding areas.

WHEREAS the Company has caused to be prepared an Impact Fee Capital Facilities Plan and an Impact Fee Analysis, each of which comply with the Utah Impact Fees Act, Utah Code Ann. § 11-36a-101, et seq (the “Act”).

WHEREAS, on September 11, 2019, the Company caused to be published a notice of the public hearing and of the availability of the Impact Fee Capital Facilities Plan, the Impact Fee Analysis, and the draft impact fee enactment resolution (collectively, “Notice”) in the Wasatch Wave, a newspaper in general circulation in Wasatch County and in the Company’s service area.

WHEREAS, on September 30, 2019, the Company held a public hearing to take public comment on the Company’s Impact Fee Capital Facilities Plan, Impact Fee Analysis, draft impact fee enactment, and proposed impact fees.

WHEREAS, for ten days prior to the public hearing, the Company posted the Notice and made available to the public the Company’s Impact Fee Capital Facilities Plan and summary, Impact Fee Analysis and summary, and draft impact fee enactment as follows: (1) at the Wasatch County Public Library, 465 East 1200 South, Heber City, Utah, (2) at Heber Light & Power Company, 31 South 100 West, Heber City, Utah, (3) on Heber Light & Power Company's website, and (4) on the Utah Public Notice website.

WHEREAS the Company Board has carefully considered the information provided at the public hearing and contained in the Impact Fee Capital Facilities Plan and Impact Fee Analysis.

WHEREAS the Company Board has assessed the Company’s electrical system and need for capital expenditures to safely and reliably provide electric service to new development within the Company’s service territory.

WHEREAS the Company Board has considered and investigated the resources available to fund the Company’s capital needs to provide safe, reliable electric service.

WHEREAS, based on the foregoing as well as other information, the Company Board deems it necessary for the peace, health, safety, convenience, and general welfare of its existing and future customers to approve the Impact Fee Capital Facilities Plan and Impact Fee Analysis and to adopt the impact fees as more fully provided herein below.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF
HEBER LIGHT & POWER COMPANY AS FOLLOWS:

A. Definitions.

The Act's definitions apply to this enactment. Other terms are defined in the text.

B. Company's Impact Fee Capital Facilities Plan and Impact Fee Analysis.

1. As provided in Utah Code Ann. § 11-36a-302, the Company's Impact Fee Capital Facilities Plan reasonably identifies the demands placed upon existing public facilities by new development activity and the proposed means by which the Company will meet those demands at the Company's existing level of service.

2. As required by Utah Code Ann. § 11-36a-304, the Board finds that the Impact Fee Analysis

- a. identifies the impact on system improvements of anticipated development activity;
- b. demonstrates how those impacts on system improvements are reasonably related to the anticipated development activity to maintain the established level of service;
- c. estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and
- d. based upon those factors and the requirements of the Impact Fees Act, identifies how the impact fee was calculated.

The Board therefore finds that the Impact Fee Analysis provides a reasonable basis for the recommended impact fee.

3. In analyzing whether or not the proportionate share of the costs of system improvements are reasonably related to the new development activity and as required by Utah Code Ann. § 11-36a-304(2), the Impact Fee Analysis and the Impact Fee Capital Facilities Plan have properly considered the following factors, to the extent applicable:

- a. the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;
- b. the cost of system improvements of the Company;
- c. other than impact fees, the manner of financing for each system improvement, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;
- d. the relative extent to which development activity will contribute to financing existing system improvements of the Company, by such means as

user charges, special assessments, or payment from the proceeds of general taxes;

- e. the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;
- f. the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements that will offset the demand for system improvements, inside or outside the proposed development;
- g. extraordinary costs, if any, in servicing the newly developed properties; and
- h. the time-price differential inherent in fair comparisons of amounts paid at different times.

4. In adopting the recommended impact fees, the Board has carefully considered the Impact Fee Analysis by Utility Financial Solutions dated September 2019 and the Impact Fee Facilities Plan prepared by the Company, and adopts and approves the Impact Fee Analysis and Impact Fee Facilities Plan.

5. The Impact Fee Study Analysis concludes that impact fees as shown on Exhibit A would permit the Company to recover the projected costs of new system improvements required to serve projected load growth from new development.

C. Computation and Imposition of Impact Fee.

1. The Company's management has recommended that the Board impose the impact fees as shown on Exhibit A.

2. The Board has considered the recommendation of the Company's management, has determined to adopt that recommendation and impose an impact fees on new development as shown on Exhibit A based on management's recommendation, the Impact Fee Analysis, the Impact Fees Facilities Plan, and other information provided in the public hearing and meeting on the impact fee.

3. Subject to the exemptions in Paragraph D, the Company shall charge an impact fee in the amount computed pursuant to the formula set forth in the Impact Fee Analysis.

4. As required by Utah Code Ann. § 11-36a-402(1)(a), the Company establishes one service area within which it shall calculate and impose impact fees as a condition to obtaining electric service.

5. Any person who wishes to obtain new electric service or an upgrade of existing service is hereby required to pay an impact fee in the manner and amount set forth in this resolution.

6. Unless and until the impact fee is paid, the Company will not approve or service any new connection or upgrade of an existing service.

7. As shown by the Impact Fee Analysis and the Board's findings herein, the collection of an impact fee is necessary to achieve an equitable allocation of the system improvement costs borne in the past and borne in the future, in comparison to the benefits already received and yet to be received.

D. Refunds.

1. As provided in Section 11-36a-603 of the Impact Fees Act, the Company shall refund an impact fee, with interest at the annual rate of the impact fee account, only if:

- a. development approval or building permit expires before the commencement of the development activity, and
- b. the Company has not spent or encumbered fees, and
- c. no impact has resulted, and
- d. the person who paid the impact fee timely files a refund application with the Company as provided in Paragraph G.2.

2. The person who paid the impact fee may deliver to the Company offices a refund application within thirty (30) days of the expiration of the development approval or building permit. The application shall show that applicant has fulfilled the refund conditions of Paragraph G. 1. The Company may request that the applicant provide additional information or documents proving the applicant's compliance with the refund conditions, and that the applicant reimburse the Company for its out-of-pocket expenses, if any, in processing or investigating the application.

3. The Company may set-off against any refund amounts past due fees and charges on the property for which the refund is requested.

E. Adjustments to Impact Fee.

1. As required by Utah Code Ann. § 11 -36a-402(1)(c), the Company may adjust the standard impact fee at the time the fee is charged: (a) to respond to unusual circumstances in specific cases or a request for an individualized impact fee review by the state, a school district or a charter school; and (b) to ensure that the impact fees are imposed fairly.

2. As required by Utah Code Ann. § 11 -36a-402(1)(d), the Company may adjust the amount of the impact fee to be imposed on a particular development based upon studies and data submitted by the developer.

3. As required by Utah Code Ann. § 11-36a-402(2), a developer, including a school district or a charter school, may receive a credit against or proportionate reimbursement of an impact fee if the developer:

- a. dedicates land for a system improvement;
- b. builds and dedicates some or all of a system improvement; or
- c. dedicates a public facility that the Company and the developer agree will reduce the need for a system improvement.

4. As required by Utah Code Ann. § 11-36a-402(3), the Company shall grant a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:

- a. are system improvements; or
- b. are dedicated to the public and offset the need for an identified system improvement.

5. The Company shall not grant an impact fee adjustment under this Paragraph H unless the owner or developer applies for the adjustment no later than 30 days prior to submitting the application for development approval or a building permit.

F. Effective Date.

This resolution shall take effect on _____ and shall repeal and replace the current impact fees on that date.