



City of Las Cruces®

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Council Action and Executive Summary

Item # 9Ordinance/Resolution# 16-222

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of May 16, 2016
(Adoption Date)

Please check box that applies to this item:

 QUASI JUDICIAL

 LEGISLATIVE

 ADMINISTRATIVE

TITLE: A RESOLUTION ADOPTING A NEW UTILITY RATE SETTING PROCESS RECOMMENDED FOR APPROVAL BY THE LAS CRUCES UTILITIES BOARD OF COMMISSIONERS.

PURPOSE(S) OF ACTION:

Adopt a new process.

COUNCIL DISTRICT: N/A		
Drafter/Staff Contact: Alma Ruiz	Department/Section: Utilities / Administration	Phone: 528-3636
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Las Cruces Utilities ("LCU") staff researched and developed a streamlined and standardized utility rate setting process based on comments received from former members of the Ratepayers Advisory Committee ("RAC"). On February 11, 2016, LCU staff presented Utilities Resolution 15-16-LCU016, recommending a revised utility rate setting process, to the Las Cruces Utilities Board of Commissioners ("Board") who approved it 6-0.

The rate setting process recommended for approval outlines the following defined steps: (1) establishing the need for a rate review; (2) selecting a consultant through a Request for Proposal process; (3) performing a rate review study; (4) securing public input and feedback from a City created Utility Customer Advisory Group; (5) presenting feedback results to the LCU Board; (6) LCU Board providing direction to the consultant; (7) consultant submitting final report containing rate adjustment recommendations to the LCU Board; and (8) submitting LCU Board's rate adjustment recommendations to the City Council. Process step number (3) listed above provides for LCU staff compiling financial criteria to enable the consultant to prepare a draft report for public review.

The financial criteria information includes: (a) wages and benefits; (b) operating expenses; (c) operating fund reserve; (d) administrative transfers; (e) equipment reserve fund transfers and fund balances; (f) capital fund transfers and funds balances; (g) debt services; and (h) rate design.

The LCU Board By-Laws currently authorize the LCU Board: "To set City utility rates for the Las Cruces Utilities based on an industry accepted methodology recommended by Las Cruces Utilities staff." The above referenced rate setting process will incorporate industry accepted methodologies. As a result, the By-Laws will have to be amended by the City Council to remove the LCU Board authority to set rates and to provide for the City Council approving any new utility rate adjustment recommendations, which was the direction provided by the City Council at the November 24, 2014, Work Session. At the Work Session on March 28, 2016, the LCU Director presented the proposed new utility rate setting process to City Council.

This revised utility rate review will replace the current adversarial, quasi-judicial method modeled after the New Mexico Public Regulation Commission process, in which LCU and the RAC each had their own attorneys and consultants. LCU staff and the Board recommend the simplified administrative rate review process to be adopted by City Council.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Rate Setting Process, with revised date of May 2016.
3. Attachment "A", LCU Board Approved Resolution No. 15-16-LCU016 without Exhibit "A".

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue? N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will adopt the new utility rate setting process.
2. Vote "No"; this will not adopt the new utility rate setting process and will result in the current expensive, adversarial, and quasi-judicial method remaining in place.
3. Vote to "Amend"; this could include recommended changes to the new utility rate setting process.
4. Vote to "Table"; this could result in providing an alternate direction to staff.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A



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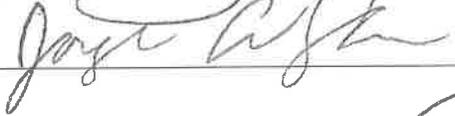
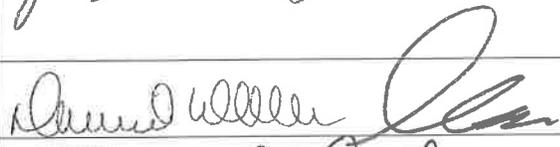
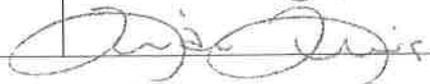
COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of May 16, 2016
(Adoption Date)

TITLE: A RESOLUTION ADOPTING A NEW UTILITY RATE SETTING PROCESS RECOMMENDED FOR APPROVAL BY THE LAS CRUCES UTILITIES BOARD OF COMMISSIONERS.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	 for Alma Ruiz	(575)528-3512	4/13/16
Department Director		528-3512	4/13/16
Other			
Assistant City Manager /CAO Management & Budget Manager		541-2078 541-2107	4-14-2016 4-14-2016
Assistant City Manager/COO			4-20-16
City Attorney		EXT 2128	26 April 2016
City Clerk		x2115	5-6-16

RESOLUTION NO. 16-222**A RESOLUTION ADOPTING A NEW UTILITY RATE SETTING PROCESS RECOMMENDED FOR APPROVAL BY THE LAS CRUCES UTILITIES BOARD OF COMMISSIONERS.**

The City Council is informed that:

WHEREAS, Las Cruces Utilities (“LCU”) staff researched and developed a streamlined and standardized utility rate setting process based on comments received from former members of the Ratepayers Advisory Committee (“RAC”); and

WHEREAS, on February 11, 2016, LCU staff presented Utilities Resolution 15-16-LCU016, recommending a revised utility rate setting process, to the Las Cruces Utilities Board of Commissioners (“Board”) who approved it 6-0; and

WHEREAS, the rate setting process recommended for adoption outlines the following defined steps: (1) establishing the need for a rate review; (2) selecting a consultant through a Request for Proposal process; (3) performing a rate review study; (4) securing public input and feedback from a City created Utility Customer Advisory Group; (5) presenting feedback results to the LCU Board; (6) LCU Board providing direction to the consultant; (7) consultant submitting final report containing rate adjustment recommendations to the LCU Board; and (8) submitting LCU Board’s rate adjustment recommendations to the City Council. Process step number (3) listed above provides for LCU staff compiling financial criteria to enable the consultant to prepare a draft report for public review; and

WHEREAS, the financial criteria information includes: (a) wages and benefits; (b) operating expenses; (c) operating fund reserve; (d) administrative transfers; (e) equipment reserve fund transfers and fund balances; (f) capital fund transfers and funds

balances; (g) debt services; and (h) rate design; and

WHEREAS, the LCU Board By-Laws currently authorize the LCU Board: “To set City utility rates for the Las Cruces Utilities based on an industry accepted methodology recommended by Las Cruces Utilities staff.”; and

WHEREAS, the above referenced rate setting process will incorporate industry accepted methodologies but the By-Laws will have to be amended by the City Council to remove the LCU Board authority to set rates and to provide for the City Council approving any new utility rate adjustment recommendations, which was the direction provided by the City Council at the November 24, 2014, Work Session; and

WHEREAS, at the Work Session on March 28, 2016, the LCU Director presented the proposed new utility rate setting process to City Council; and

WHEREAS, this revised utility rate review will replace the current adversarial quasi-judicial method modeled after the New Mexico Public Regulation Commission process, in which LCU and the RAC each had their own attorneys and consultants; and

WHEREAS, LCU staff and the Board recommend the simplified administrative rate review process to be adopted by City Council.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the new utility rate setting process as shown in Exhibit “A” attached hereto and made part of the Resolution, is hereby adopted.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the

accomplishment of the herein above.

DONE AND APPROVED on this _____ day of _____, 20____.

APPROVED:

Mayor

ATTEST:

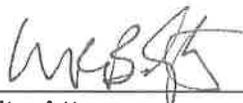
City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

VOTE:

Mayor Miyagishima:	_____
Councillor Gandara:	_____
Councillor Smith:	_____
Councillor Pedroza:	_____
Councillor Eakman:	_____
Councillor Sorg:	_____
Councillor Levatino:	_____



Las Cruces Utilities

Rate Setting Process

May 2016

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Glossary

- **2/12th:** A target minimum balance for a fund's expenditure level for a 2 month period.
- **Adjustment:** Known and measurable changes of the audited Fiscal Year data for the purposes of setting rates in a rate review.
- **Capital Improvement Projects:** Engineering and construction services for major new and/or rehabilitation projects on the utility's system and infrastructure.
- **Comprehensive Annual Financial Report (CAFR):** Governmental financial statements comprising the financial report of the City of Las Cruces that adhere to the Governmental Accounting Standards Board.
- **Equipment Replacement Reserve:** Fund to purchase replacement vehicles, trailers, and major equipment used to maintain and operate each respective utility operation.
- **Fiscal Year:** A 12-month period that begins on July 1 and ends on June 30.
- **Funds:** A group of related accounts that are used to record, administer and control categorization of revenue, expenditures, and resources for specific activities within each utility operation.
- **Rate Revenue:** All revenues collected through approved tariff charges or utility connection charges.
- **Rate Riders:** Las Cruces Utilities (LCU) Board approved mechanisms to recover or refund interim unexpected/unplanned costs or changes in costs.
- **Request for Proposal (RFP):** A proposal made by the City of Las Cruces inviting bids from possible suppliers of products or services, which follow the City's Procurement Code.
- **Test Year:** Audited data for a Fiscal Year as presented in the City's end of Fiscal Year Comprehensive Annual Financial Report.
- **Transfers:** Amounts designated to fund capital improvement projects, equipment replacement reserve, or intergovernmental transfers to the General Fund to fund Department's utilization of City-wide common administrative resources.

Rate Setting Process

1. Establish the requirement for a rate review:
 - a. Request submitted by LCU staff based on industry accepted methodology
 - b. LCU Board concurrence
2. Select Consultant:
 - a. Identify Budget
 - b. RFP, follow established City Procurement Code
 - c. LCU Board selects consultant
3. Perform rate review study:
 - a. LCU staff compiles financial data
 - b. Consultant produces draft report
 - c. Draft report presentation to LCU Board, Utility Customer Advisory Group (UCAG), and public
4. Public input and feedback:
 - a. UCAG coordinates and hosts customer input meetings to gather commentary and feedback
5. Results presented to LCU Board:
 - a. LCU, UCAG, public, and other interested customers
6. Develop comments/recommendations:
 - a. Summary of feedback from all parties is forwarded to LCU Board
 - b. LCU Board provides direction to consultant
7. Final Report:
 - a. Consultant incorporates comments/recommendations based on LCU Board direction
 - b. LCU Board approves, disapproves, or modifies Report
 - c. LCU Board accepts Report and approves Resolution recommending rate adjustments to the City Council
8. Rate decision:
 - a. City Council approves new utility rate adjustment recommendations
 - b. City Council does not approve – remands back to LCU Board with strategic guidance

Financial Criteria

Criteria – Wages and Benefits:

1. **Purpose:** To establish utility rates to recover wages, salaries, benefits, and payroll tax expenses in a test period review year without incurring a deficit.
2. **Justification:** City Council authorizes increases in wages and benefits for all City employees. LCU personnel are on the same pay scale as all other City employees and LCU must cover this increase.
3. **Calculation:** Standardized Human Resources calculation based on hourly wage rates.
4. **Example:** Past years experienced an increase of 1.5% for the union contracts, a merit, and longevity increase for some City personnel. For example, Fiscal Year 2015 had increases in wages that amounted to:

	<u>FY15</u>	<u>FY16</u>	<u>% increase</u>
Gas	\$2,356,211	\$2,565,646	8.88%
Water	\$1,727,877	\$1,779,468	2.98%
Wastewater	\$1,790,252	\$1,875,240	4.75%
Solid Waste	\$1,582,370	\$1,704,854	7.74%

Criteria – Operating Expenses:

1. **Purpose:** To establish utility rates to recover on-going and recurring expenses to ensure a safe, reliable, and regulatory compliant operation of the utility.
2. **Justification:** LCU is an enterprise fund that must recover all operation and maintenance expenses through rates, in addition to equipment and capital funds, and Landfill Closure costs.
3. **Calculation:** Based on the most recent audited CAFR.
4. **Example:** Infrastructure repairs and maintenance expenses, materials, equipment, supplies, training, pumping and treatment expenses, and internal transfers, etc.

Criteria – Operating Fund Reserve:

1. **Purpose:** Achieve the targeted minimum fund balance that reasonably covers expenditures for 2 months out of a year (2/12th) or 16.67%.
2. **Justification:** To ensure fund balance coverage is consistent with City budget requirements, which covers operational emergencies.
3. **Calculation:** Fund ending balance / (total expenditures - transfers - non-cash expenses).
4. **Example:** Water Operating Fund: \$1,321,163 / (\$14,845,122 - \$1,233,999) = 9.71%. The fund balance is below the target minimum balance of 16.67%.

Criteria – Administrative Transfer:

1. **Purpose:** Intergovernmental transfer(s) to the General Fund to fund the Department’s utilization of City-wide common administrative resources.
2. **Justification:** The Utilities Department is a part of the City organization and relies on administrative support from IT, Human Resources, Risk Management, Legal, and Facilities Management.
3. **Calculation:** Executive budgetary action agreed upon by Budget, Finance, Department Directors, and the City Manager.
4. **Example:** Gas FY2015 Administrative Transfer \$641,405 (5.70% of operational expenditures).

Criteria – Equipment Reserve Fund Transfers and Fund Balance:

1. **Purpose:** To fund current year rolling stock expenditures through funding transfers from respective Operating Funds to maintain an adequate reserve to mitigate the impact of expenditures based on LCU Replacement Schedule as approved by the LCU Board. The utility commits to maintain the industry average life of rolling stock.
2. **Justification:** Each operating utility's revenue stream funds the equipment reserve to ensure timely replacement of its equipment and vehicle stock in order to reliably operate and maintain each respective utility's system and service standards.
3. **Calculation:** (Current vehicle depreciation + ½ year of depreciation for new vehicles + cost of new vehicles needed to be purchased in the upcoming year) x current price index factor.
4. **Example:** Wastewater: $(\$101,030 + \$64,056 + \$768,674) \times 1.02 = \$952,435$. For FY2015, the Wastewater Equipment Reserve Fund should have a minimum fund balance of \$952,435.

Solid Waste – Collections Vehicles:

1. **Purpose:** To fund current year collections vehicles and major equipment replacement expenditures through fund transfers from the Solid Waste Operating Fund to maintain an adequate reserve to mitigate the impact of expenditures based on LCU Solid Waste Replacement Schedule. The utility commits to maintain the industry average life of this rolling stock.
2. **Justification:** Solid Waste revenue stream funds the equipment reserve fund to ensure timely replacement of its collections equipment and vehicle stock in order to reliably operate and maintain Solid Waste service standards.
3. **Calculation:** [Current vehicle depreciation + ½ year of depreciation for new vehicles + (actual new vehicles costs / average life)] x current price index factor.
4. **Example:** $[\$707,364 + \$68,333 + (\$1,500,000 / 8.5 \text{ years})] \times 1.02 = \$971,210.94$. For FY2015, the Solid Waste Equipment Reserve Fund would set a minimum fund balance of \$971,210.94.

Solid Waste – Light Duty Vehicles:

1. **Purpose:** Maintain the ability to fund recurring rehabilitation of light duty vehicle expenses and maintain an adequate reserve to fund planned expenditures based on LCU Solid Waste Replacement Schedule as approved by the LCU Board. The utility commits to maintain the industry average life of this rolling stock.
2. **Justification:** The capital fund will be used for the purchase of light duty rolling stock.
3. **Calculation:** (Current vehicle depreciation + ½ year of depreciation for new vehicles + new vehicle cost) x current price index factor.
4. **Example:** $(\$100,000 + \$7,083 + \$85,000) \times 1.02 = \$195,924.66$. For FY2015, the Solid Waste Capital Fund would set a minimum fund balance of \$195,924.66.

Ancillary Components to Rate Setting

1. Consultant Selection:
 - a. Include UCAG and LCU staff in the two evaluator positions within the Procurement process. UCAG will review and have input on the RFP.
 - b. The RFP will address impartiality concerns for consultants used in prior rate reviews. The RFP will address peer review of LCU's rate review request.
 - c. An alternate, peer review could be done by an independent entity, such as the NMSU Center for Public Utilities, at additional expense.
2. Process Sequence:
 - a. The rate review process will have an iterative process for LCU Board to evaluate and recommend documented solutions to Council. LCU Board can repeat outlined steps until satisfied with the Final Report.
 - b. Council makes the decision to approve or remand the Board's recommendation. LCU staff will present the Final Report to Council. LCU Board and UCAG are not allowed to appear before Council to voice their respective positions.
 - c. Submitted and remand loop between Council and LCU Board is a potential reality as is the case with the current process.
3. Ad-Hoc Committee:
 - a. The UCAG can be established so that the appointments are valid for a series of rate reviews.
4. Rate Setting Methodology:
 - a. LCU will utilize industry accepted methodologies, for example the "AWWA M1 Principles Water Rates, Fees, and Charges," guidelines for water utilities.
 - b. Appropriate training regarding different rate setting options can be provided to the LCU Board before the next rate review.
 - c. The training would not affect the rate review process itself.
5. Procurement Process:
 - a. This process is approved by Council Ordinance and is used for all Procurement of Professional Services.
 - b. UCAG can be part of the Procurement process, as there are two evaluator positions.
 - c. Staff recommends this process to be used for the selection of the rate review process consultant.
6. Rate Riders:
 - a. Utility Rate Riders recover or refund interim unexpected/unplanned costs or changes in costs.
 - b. Updates or revisions to the riders will be approved by the LCU Board.
7. Council Voting:
 - a. LCU Board Members who are also Councillors would abstain from participating and voting as Council Members

LAS CRUCES UTILITIES BOARD RESOLUTION NO. 15-16-LCU016**A RESOLUTION RECOMMENDING TO CITY COUNCIL TO ADOPT A NEW UTILITY RATE SETTING PROCESS.**

The Board of Commissioners for the City of Las Cruces Utilities, on behalf of the City of Las Cruces, is informed that:

WHEREAS, Las Cruces Utilities staff has been researching and developing a streamlined and standardized utility rate setting process; and

WHEREAS, the revised rate setting process outlines the following defined steps:

- (1.) establishing the need for a rate review;
- (2.) selecting a consultant through a Request for Proposal process;
- (3.) performing a rate review study;
- (4.) securing public input and feedback from a City created Utility Customer Advisory group ("UCAG");
- (5.) presenting feedback results to the Las Cruces Utilities Board ("LCU Board");
- (6.) LCU Board providing direction to the consultant;
- (7.) consultant submitting final report containing rate adjustment recommendations to the LCU Board; and
- (8.) submitting LCU Board's rate adjustment recommendations to the City Council; and

WHEREAS, process Step No. 3 provides for LCU staff compiling financial criteria to enable the consultant to prepare a draft report for public review; and

WHEREAS, the financial criteria includes information on (a) wages and benefits; (b) operating expenses; (c) operating fund reserve; (d) administrative transfers; (e)

equipment reserve fund transfers and fund balances; (f) capital fund transfers and funds balances; (g) debt service; and (h) rate design; and

WHEREAS, the LCU Board By-Laws currently authorize the LCU Board "to set City utility rates based on an industry accepted methodology by Las Cruces Utilities staff"; and

WHEREAS, the new utility rate setting process will incorporate industry accepted methodologies but the By-Laws will have to be amended by the City Council, to provide for the City Council approving any new utility rate adjustment recommendations, which was the direction provided by the City Council at the November 24, 2014, work session; and

WHEREAS, Las Cruces Utilities staff recommends the simplified administrative rate review process to be adopted by City Council.

NOW, THEREFORE, be it resolved by the Board of Commissioners for the City of Las Cruces Utilities, on behalf of the City of Las Cruces:

(I)

THAT the new utility rate setting process be recommended to City Council for adoption.

(II)

THAT Utilities staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this 11th day of February 2016.

APPROVED:

By Bill M. Sorg
Board Chair

ATTEST:

[Signature]
Secretary

Moved by Johnson

Seconded by Pedroza

APPROVED AS TO FORM:

[Signature]
Sr. Assistant City Attorney

VOTE:

Chair Sorg: Aye

Vice-Chair Little: Aye

Commissioner Baumgarn: Aye

Commissioner Carmichael: Aye

Commissioner Ericson: Absent

Commissioner Johnson: Aye

Commissioner Pedroza: Aye



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Las Cruces Utilities Board of Commissioners Action Form For Meeting of February 11, 2016 (Adoption Date)

TITLE:

A RESOLUTION RECOMMENDING TO CITY COUNCIL TO ADOPT A NEW UTILITY RATE SETTING PROCESS.

BACKGROUND:

Las Cruces Utilities staff has been researching and developing a streamlined and standardized utility rate setting process after receiving comments from former members of the Ratepayers Advisory Committee.

The revised rate setting process outlines the following defined steps: (1) establishing the need for a rate review; (2) selecting a consultant through a Request for Proposal process; (3) performing a rate review study; (4) securing public input and feedback from a City created Utility Customer Advisory Group ("UCAG"); (5) presenting feedback results to the Las Cruces Utilities Board ("LCU Board"); (6) LCU Board providing direction to consultant; (7) consultant submitting final report containing rate adjustment recommendations to the LCU Board; and (8) submitting LCU Board's rate adjustment recommendations to the City Council. Process Step No. 3 provides for LCU staff compiling financial criteria to enable the consultant to prepare a draft report for public review.

The financial criteria includes information on (a) wages and benefits; (b) operating expenses; (c) operating fund reserve; (d) administrative transfers; (e) equipment reserve fund transfers and fund balances; (f) capital fund transfers and funds balances; (g) debt service; and (h) rate design.

The LCU Board By-Laws currently authorize the LCU Board "to set City utility rates based on an industry accepted methodology recommended by Las Cruces Utilities staff". The above

(Continue on additional sheets as required)

Name of Drafter: Jose Provencio <i>JP</i>		Department: Utilities/Admin Services		Phone: 528-3508	
Account Number N/A		Amount of Expenditure N/A		Budget Amount N/A	
Strategic Plan Goal / Objective / Strategy Addressed: N/A					
Performance Budget Goal / Objective Addressed: N/A					
Department	Signature	Phone	Department	Signature	Phone
Utilities	<i>[Signature]</i>	528-3511	Budget	<i>[Signature]</i>	541-2300
Legal	<i>[Signature]</i>	541-2128	Assistant City Manager	<i>[Signature]</i>	541-2271
			City Manager	<i>[Signature]</i>	541-2076

referenced rate setting process will incorporate industry accepted methodologies but the By-Laws will have to be amended by the City Council, to provide for the City Council approving any new utility rate adjustment recommendations, which was the direction provided by the City Council at the November 24, 2014, work session.

This process will replace the current adversarial process modeled after the New Mexico Public Regulation Commission process, in which the Las Cruces Utilities and the Ratepayers Advisory Committee each had their own attorneys and consultants. Las Cruces Utilities staff recommends the simplified administrative rate review process to be adopted by City Council.

SUPPORT INFORMATION:

1. LCU Resolution No. 15-16-LCU016.
2. Exhibit "A" – Las Cruces Utilities Rate Setting Process.

BOARD OPTIONS:

1. **VOTE "YES"** – Will approve the Resolution and recommend to City Council to adopt the new utility rate setting process.
2. **VOTE "NO"** – Will reject the Resolution and not recommend to City Council to adopt the new utility rate setting process.