

**Draft Charter Language – January 17, 2012**  
**Prepared by the Portland City Attorney’s Office**  
**as directed by the IUC Subcommittee**

SUMMARY OF PROPOSED AMENDMENT

Amend Portland City Charter by adding a new Chapter 11, Article 4.

The Charter Commission’s sub-committee on the Independent Utility Commission proposes to amend the City Charter by adding a new Article 4 to Chapter 11. The proposed charter amendment would adopt additional principles controlling water and sewer rates and expenditures. The amendment would create an Independent Utility Commission composed of five volunteers, appointed by the Auditor subject to City Council approval. The Commission members could only be removed by the Auditor for cause. Appointments to the Commission would be based upon a range of professional and academic experience. City employees, and contractors or other persons with a financial interest in the water or sewer bureau, would be barred from serving on the Commission until at least two years after termination of the employment, contract or financial interest. The Commission’s budget for support staff would be limited to one-quarter of one percent of the combined water and sewer operating funds, not including capital budgets. The water and sewer bureaus would each bear one-half of the Commission’s annual budget. The Commission would oversee the development of water and sewer rates and budgets each fiscal year, and would submit the proposed rates and budgets to the City Council. The City Council could only revise the Commission’s proposed rates and budgets by unanimous vote of no less than four Council members.

The proposed charter sections regarding principles for water and sewer rates and revenue expenditures would go into effect immediately upon approval by the voters. The charter amendments creating the Commission would go into effect in the following fiscal year. The charter amendments creating the Commission would sunset on July 1, 2018, unless the voters repealed the sunset.

**SECTION 1:** The Portland City Charter shall be amended by adding the following Chapter 11, Article 4:

Chapter 11

Article 4: Water and Sewer Budgets and Rates

**Section 11-401. General Policy.** Rates for water and sewer service to City residents should be fair and equitable, and should only include costs associated with providing water and sewer services. Rates should be set to generate sufficient revenue to fund annual budgets, and calculated using generally accepted ratemaking practices. Utility principles of least-cost and least-risk should be evaluated in making capital investments decisions in water and sewer system maintenance and upgrades. Water and sewer service budgets and financial plans should promote efficiency and effectiveness, advance long-term City watershed management goals, and be the product of an asset-management approach to operations, maintenance and investments for water and sewer services. Water and sewer services are necessary for human health and welfare, and as such, provision of these services should reflect the interests of water and sewer ratepayers, consumers and the public, and should be affordable to all people regardless of income. To the extent legally permissible and fiscally advisable, water and sewer service rates should provide reductions or discounts for low income residential ratepayers.

**Section 11-402. Limitations on Expenditures.** Expenditures of revenues derived from operation of the water and sewer bureaus shall be limited to programs, operations, maintenance, and capital improvements that are directly associated with providing water and sewer services, consistent with sound utility practices and compliance with legal and regulatory requirements.

**Section 11-403 Administration.** The Independent Utility Commission is established to promote the accountability, efficiency, effectiveness and affordability of the City's water and sewer services. The Commission shall have five members who shall be appointed and may be removed for cause by the Auditor, subject to approval by the Council. The Commission shall hold regular meetings at fixed times. The Commission may adopt procedural rules regarding its operations under this Article.

Initially, two members of the Commission shall be appointed for a one-year term; two for a two-year term; one for a three-year term. Thereafter, appointments shall be made for three year terms. In making appointments to the Commission, the Auditor will seek a range of relevant professional disciplines, academic expertise and volunteer experience, in the following or substantially similar disciplines: public accounting, financial auditing, municipal finance, public administration, utility ratemaking, utility economics, engineering or law.

Commission members shall serve without salary or compensation of any nature. Each Commission member shall be a City resident at the time of appointment. No current City employee shall be appointed to or serve on the Commission, nor shall any individual with a financial interest in the water or sewer bureaus, where such interest is distinct from that of the general public, whether by employment, contract or otherwise, be appointed to or serve on the

Commission. No employee, contractor or other person with such financial interest shall be qualified to serve on the Commission for a period of two years after termination of the employment, contract or other financial interest.

A vacancy shall occur upon the death, resignation, removal, inability to serve, or failure of a member to attend three successive regular meetings without cause. Resignations shall be addressed to and accepted by the Auditor. Successors shall be appointed by the Auditor, subject to Council approval, for the unexpired term of any vacancies.

The Commission and associated staff shall be organizationally located within the Auditor's Office. The City shall appropriate to the Auditor sufficient resources for the work of the Commission, including resources for utility and financial expertise, support services, and associated overhead and indirect costs of the Auditor's office. The Commission's annual budgets shall be developed as part of the budget process under Section 11-404. The total annual budget for the Commission's work shall not exceed 1/4 of 1% of the combined budgets of the Water Fund and the Sewer System Operating Fund, less capital outlays. Funding support for the Commission's annual budget shall be paid equally by the two funds.

#### **Section 11-404. Water and sewer service budgets and rates.**

The Commission shall provide recommendations to the water and sewer service bureaus regarding goals, priorities, policies and budgets, assist in identifying bureau objectives and budget priorities, and increase citizen access to the bureau budget process. The Commission shall monitor and review the development of annual budgets and rates for water and sewer services. The Commission shall monitor and review the City's water and sewer finances, expenditures, and operations for consistency with the requirements of Sections 11-401 and 11-402. The Commission shall monitor and review water and sewer bureau requests for supplemental budgets, and requests to sell bonds or incur other financial obligations relating to water and sewer services. The Commission shall submit reports to the Council at least annually, addressing findings and recommendations regarding water and sewer system financing, management and performance.

The Commission shall develop recommended annual and supplemental budgets and recommended rates on a timeline consistent with the City's obligations under state budget law. The Chair of the Commission shall transmit the Commission's recommended annual budget and rates, and any reports, to the Auditor for filing before the Council. Neither the organizational structure nor the transmission of materials to Council shall constitute an endorsement by the Auditor.

The Commission's recommended annual and supplemental budgets and recommended rates shall be the adopted budgets and rates for water and sewer services, unless revised by the unanimous vote of all members of the Council present, and of not less than four (4) members. If the Commission fails to submit recommended annual or supplemental budgets and rates in accordance with state budget law, the Council shall adopt an annual budget and rates for water and sewer services.

In performing its responsibilities under this Chapter, the Commission shall have access to water and sewer financial records and bureau employees.

**SECTION 2:** If this charter amendment is approved by the voters, Sections 11-401 and 11-402 shall be effective immediately.

**SECTION 3:** If this charter amendment is approved by the voters, Sections 11-403 and 11-404 shall be effective July 1, 2013.

**SECTION 4:** Sections 11-403 through 11-404 shall be repealed on July 1, 2018. The Mayor shall prepare a referral resolution to submit to the Council in time for the November, 2016 general election regarding repeal of this Section.