

OML's Resolution Puts Rural Water District Exclusive Service Territory Back on NLC's Legislative Priorities

In a major development impacting municipal water rights, OML's resolution proposing legislation that would remove the monopoly enjoyed by rural water districts was adopted by the National League of Cities in their meeting held in mid-November in San Antonio. The resolution seeks to amend federal law to enable OML members to compete with rural water districts abutting the municipality.

The past sixty days have been eventful with numerous developments in protecting municipal water rights and supplies. These include league staff filing two Oklahoma Supreme Court briefs over rural water district exclusive service territory, a personal meeting with Secretary of the Environment J.D. Strong regarding concerns over the developing statewide water plan, new proposed OWRB rules including increased fees, the OML annual water summit and much more.

While these developments will be discussed in an upcoming Municipal Policy Review, a major development happened at the National League of Cities Congress of Cities held in San Antonio last week. In a highly unusual move, the League's resolution seeking to break rural water district's stranglehold on municipal utility service growth by-passed the normal process and was adopted as a legislative proposal from the floor. It seeks to amend federal law to enable OML members to compete with rural water districts abutting the municipality.

OML Executive Director Carolyn Stager and Oklahoma City Councilmember and NLC committee member Patrick Ryan urged immediate adoption. They argued that this issue had been part of NLC's lobbying program in the past and therefore was adequately vetted. We were successful when the resolution passed three successive votes of various NLC groups and was adopted by the approximately 3,500 in attendance as part of NLC's legislative program.

Recognizing that current law provides security for the federal government's rural water district loans, we decided to think a bit outside the box and propose legislation that would remove the district's monopoly. OML's resolution is based on two lessons from our experience in past municipal/rural water district territorial disputes. These are:

- In the past, municipalities have attempted to retire existing rural water district's federal loans by buying them from the federal government. However, the federal Department of Agriculture has rebuffed the purchase. As a result, the loan continues, thereby blocking municipal utility service territory growth years past the time the loan could have been paid off by the district. What starts as a helpful low interest loan to build infrastructure grows over time into an offensive weapon wielded by sometimes cash rich districts to stop competition.

- Oklahoma law provides a good model for amendments to federal law because: 1. Only customers identified at the time the loan was made are devoted to providing government loan security; 2. While providing for loan security state law allows competition among service providers for all new customers.

Therefore, the resolution urges the Congress to amend 7 U.S.C. Section 1926(b) to:

A) Authorize municipalities to purchase and retire loans made under the Consolidated and Rural Development Act and, thus, permit the municipality to provide a full range of services to its residents; and

B) Provide that collateral for 7 U.S.C. Section 1926(b) loans be based on customers of the portion of the system that is identified in the loan documents as collateral for the loan and is either (1) in existence at the time of the loan or (2) financed by the loan.