



## PLDW Attorneys Help Tulsa, OK Untangle Its Water Management Authority Through Landmark Study



### Challenge

The Tulsa Metropolitan Utility Authority (TMUA) is responsible for providing water and sewer services to more than one million people in and around Tulsa, the second largest city in the state of Oklahoma. Its primary duties are to manage, construct and maintain Tulsa's waterworks and sewer systems. It also sets rates for the Tulsa metropolitan area, which stretches more than 120 square miles and reaches into seven counties.

systems has become less and less clear. In addition to the TMUA, the Tulsa Utility Board and the City of Tulsa each have a hand in governing the system. Budgetary restraints as well as the size and complexity of the system have clouded the roles and responsibilities of each governing body and the relationship between them.

To address these underlying questions of authority, Pannone Lopes Devereaux & West (PLDW) Municipal Infrastructure attorneys were commissioned for legal services as a member of the Infrastructure Management Group's (IMG) team of professional advisors and consultants. The team set out to conduct a comprehensive assessment of the water and sewer system for the TMUA and untangle a complicated web of legal documents and local and state statutory provisions. The skill and experience of the PLDW attorneys helped the TMUA to dissect and uncover relationship provisions with the Tulsa Utility Board and the municipality, re-define the scope of the TMUA's legal authority, and improve cost efficiencies.



Through careful planning, the water and sewer systems have kept pace with service demands in this region of Northeast Oklahoma even though it has seen its population explode over the last 20 years. The metropolitan area has grown by more than 40 percent since 1990, and more than one million people now call the area home.

Over the years, however, the allocation of management responsibility for the water and wastewater



### Solution

Once tasked, the experienced PLDW Municipal Infrastructure team set out to perform a landmark study including a comprehensive review and assessment of the legal, organizational, and governance structures of the system. The team broke the review down into two primary inquiries:

- 1) To determine the stated purposes and powers under state law of the TMUA (a public trust created pursuant to Chapter 60 of the Oklahoma Statutes).

*Finding:* Through review of the trust formation documents, the team defined the rights and duties of the TMUA and also revealed which surrounding



## MUNICIPAL INFRASTRUCTURE

municipalities had been granted and accepted beneficial relationships in the trust.

2) To assess the governance structures and responsibilities of each of the three agencies regarding system control; determine how they are to interact under the provisions of the trust and state and local law; and determine each agency's role pursuant to all the contracts and agreements entered by the TMUA with the Tulsa Utility Board and the City, all of which were incorporated into the City's Code of Ordinances.

*Finding:* The authority of the Tulsa Metropolitan Utility Authority ("TMUA") is preeminent among the entities involved in the mission of providing water and wastewater services within the City of Tulsa ("the City"). TMUA possesses a dominant role due to the terms of the trust documents which establish TMUA and those of the Lease and Operation and Maintenance Agreements guiding the management the water and the sewer systems.



### Result

The PLDW team quickly identified a critical problem: the TMUA had lost, over time, the resources and staffing it required to fulfill its role as an independent public trust. Instead, it was effectively being subsumed within City government.

To solve this problem, the PLDW team helped prepare recommendations to improve the governance model, restoring the TMUA as an autonomous independent trust. The recommended changes included:

- unifying operations, support services, and capital programming under the auspices of the TMUA;
- hiring a Coordinator for the Utility Board with the sole purpose of consolidating and interpreting performance management information to be provided by the City;
- giving the Utility Board a strengthened role in the selection of top system managers;
- allowing the TMUA to negotiate and create contracts with vendors for services such as Information Technology, Engineering, and Customer Service;

- making good faith agreements on long-term rate frameworks; and
- creating a performance management and reporting system to be shared throughout all three entities.

The development of a framework for the prioritized implementation of these recommendations is now underway.

For many years, the TMUA, the City and the Tulsa Utility Board have successfully delivered water and sewer services to the Tulsa area residents. Tulsa's two water treatment plants produce an average of 114 million gallons of water a day, which peaks at over 180 million gallons a day in the summer. And, through careful planning, the capacity of the system is still greater than demand. In fact, Tulsa has not had to restrict water use since 1981.

But the TMUA realized it needed a better understanding of its role moving forward. The landmark study by PLDW attorneys untangled an array of laws and statutes, helping the TMUA understand its role and legal obligations. Its recommendations helped restore the TMUA's autonomy and position it to become a cutting edge utility for the 21st century.

*For information about Pannone Lopes Devereaux & West LLC or to speak with Teno A. West, Principal and Municipal Infrastructure Team Leader, or Josh J. Meyer, Partner, please call 914-898-2400.*



866 353 3310