

8/22/2017
8/28/2017
9/19/2017

95-O-17

AN ORDINANCE

**Establishing a New Wholesale Water Rate for
the Village of Skokie, Illinois**

**NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EVANSTON, COOK COUNTY, ILLINOIS, THAT:**

SECTION 1: Legislative Statement. The City of Evanston is the owner and operator of a water intake, filtration, treatment and pumping plant located at 555 Lincoln Street, Evanston, Illinois. Evanston draws water from Lake Michigan for Evanston's drinkable water, firefighting and fire protection needs for its community, and for distribution and resale to its wholesale water customers. One of the customers served by Evanston is the Village of Skokie, which in turn supplies this water to Skokie residents. Evanston supplies the pressures for the Skokie water system. This arrangement meets Skokie's expectation that its water system be completely integrated with Evanston's water system. Evanston also maintains a high level of redundancy in the water service utilizing 3 points of connection/service, which benefits Skokie.

The Illinois Supreme Court provides that "[i]f a subject pertains to local government and affairs, and the [Illinois] legislature has not expressly preempted home rule, municipalities may exercise their power." *Palm v. 2800 Lake Shore Drive Condominium Ass'n*, 988 N.E.2d 75, 82-83 (2013), citing *City of Chicago v. StubHub, Inc.*, 979 N.E.2d 844 (2011). The powers of a home rule unit such as Evanston are to be construed liberally pursuant to Article VII, § 6(m) of the Illinois Constitution, and

Evanston's powers as a home rule authority are: "...to be given the broadest powers possible." *Scadron v. City of Des Plaines*, 153 Ill. 2d 164, 174 (1992). Home rule municipalities are constitutionally conferred with tremendous authority and latitude to address local issues and concerns, such as identifying and implementing a reasonable wholesale water rate.

After December 31, 2016, Evanston and Skokie agreed to an interim water rate, such interim rate which expires at 11:59 p.m. September 30, 2017. Under this interim rate, Skokie paid Evanston \$1.0797 per 1,000 gallons. Evanston fairly allocates water rate increases and charges to all customers. In July 2017, Skokie raised the water rate it charged to Skokie residents on the water supplied by Evanston, by 8.48%. Skokie publically proclaimed its water rates: "will still be less than the water rates for Evanston, Wilmette, Glenview, Lincolnwood, Niles, and several other communities", and "...remains the second lowest among area comparable communities." See Skokie Village Ordinance 17-8-C.

The American Water Works Association Manual of Water Supply Practices, colloquially known as the "M-1", sets forth generally accepted industry standards for setting a reasonable wholesale water rate. The 6th edition of the M-1 was relied upon the City and its wholesale water rate valuation experts, in setting the Skokie rate enacted in this Ordinance. The utility basis approach followed by Evanston is analyzed in the M-1, such manual which states in pertinent part:

It is considered an appropriate method for calculating the costs of service applicable to all classes of customers, **but is particularly applicable to those customers located outside the geographical limits of a government-owned utility.** [emphasis added] AWWA M-1, 6th Edition, p.14

The City Council and staff also reviewed wholesale water rates in several surrounding nearby communities in determining the reasonable and appropriate water rate to be charged to Skokie.

These rates are set forth in the following table:

Provider	Customer	Rate per 1,000 gallons	Contract Expires
Evanston	Evanston	\$3.09	N/A
Evanston	Skokie	\$2.06	In controversy
Wilmette	Glenview	\$1.78	2050
Winnetka	Northfield	\$1.69	2033
Highland Park	Deerfield, others	\$2.69	2033
Northbrook	Riverwoods	\$3.06	2036
Waukegan	Park City	\$4.71	2018
Chicago	60+ other municipalities	\$3.88	Varies
Glenview	Golf	\$3.38	2066

Evanston also reviewed and considered applicable Illinois common law, including but not limited to the *Niles II* case, in determining a reasonable rate to charge Skokie. By Skokie's own admissions, and contrasted to relevant data points, its rate paid to Evanston is artificially low, both in a relative and absolute sense.

Based upon all applicable ratemaking principles in the AWWA M-1, the rates charged to dozens of similarly situated comparable communities, applicable Illinois law (specifically including but not limited to the *Niles II* water rate case), and the other evidence by Skokie that its rate is too low, the City Council finds that it is rational and reasonable to revise and set the new wholesale water rate payable by Skokie to Evanston at **\$2.06 per 1,000 gallons**.

The City Council held meetings in compliance with the provisions of the Illinois Open Meetings Act, considered the statements, points and authorities made in the legislative Record, and received additional input from the public.

SECTION 2: The wholesale water rate of \$2.06 per 1,000 gallons is imposed for all wholesale water rates charged by Evanston to Skokie, **effective for all water supplied to Skokie as of 12:00 a.m. October 1, 2017.**

SECTION 3: All ordinances or parts of ordinances in conflict herewith are repealed.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: The Legislative Statement in Section 1 is declared to be prima facie evidence of the law of the City and will be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

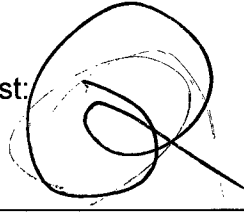
SECTION 6: This Ordinance 95-O-17 is effective immediately.

Introduced: September 25, 2017

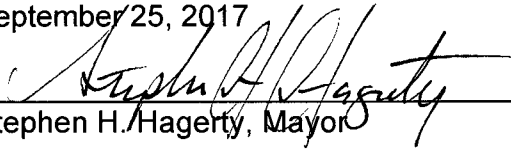
Approved:

Adopted: September 25, 2017

September 25, 2017

Attest: 

Devon Reid, City Clerk



Stephen H. Hagerty, Mayor

Approved as to form:


W. Grant Farrar, Corporation Counsel