



East Grand Forks Water & Light Department

Business Office • PO Box 322
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Your Hometown Utility Since 1909

February 18, 2011

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
RE: File No. S7-45-10

Dear Commissioners,

We hereby respectfully object to provisions of the proposed rule, 34-63576, that suggest that any person appointed to a governing board may be deemed to be a Municipal Advisor and subject individually to registration and regulation. If approved, the proposed rule will have a negative effect on the ability to find qualified, experienced volunteers that are willing to serve on appointed local government boards and commissions.

We request that appointed governing board and commission members of political subdivisions be afforded the same exclusion as elected officials and employees.

Under the charter of the City of East Grand Forks, Minnesota, citizen members of the Water, Light, Power and Building Commission of and for the City of East Grand Forks, Minnesota, a governmental subdivision, are appointed by the elected Mayor with approval of the appointment required to be approved by a majority vote of the elected City Council.

Commissioners serve for staggered three year terms and reappointment is at the pleasure of the Mayor and City Council. Commissioners are subject to the same open meeting laws, public record laws, and code of ethics as entities governed by elected officials.

The East Grand Forks, Minnesota City Charter in Chapter IX, designates the Jurisdiction and Specific Powers for the Water, Light, Power and Building Commission as listed below. However, the Commission does not have the power to issue bonds. That power is reserved to the elected City Council.

"Section 9.04. Commission, Jurisdiction. Said commission presently has jurisdiction over the city water system, the light and power distribution system, and the public buildings owned or leased by the city. The commission shall continue, after the effective date of this charter, to have jurisdiction over the water system and the light and power system; the commission shall, after the effective date of this charter, have jurisdiction over such buildings and facilities as relate to its operation, and such other buildings and facilities owned or leased by the city as the council shall by resolution confer upon them."

**General
Manager**
Dan Boyce
218-773-1163

**Secretary of
Commission**
Lori Maloney
218-773-1163

**Distribution
Superintendent**
Scott Gravseth
218-773-0515

**Water Plant
Superintendent**
Randall Rapacz
218-773-1511

“Section 9.06. Specific Powers.

Subdivision 1. The commission shall have power to extend and to modify or rebuild any public utility it has jurisdiction over, and do anything it deems necessary for its proper and efficient operation; and it may enter into necessary contracts for these purposes. The provisions of this Charter and the Laws of the State of Minnesota relating to advertisement for bids shall apply to contracts of the commission.

Subdivision 2. The commission shall have power to employ all necessary help for the management and operation of the public utility, prescribe duties of officers and employees and fix their compensation.

Subdivision 3. The commission shall have power to buy all fuel and supplies, and it may purchase wholesale electric energy, steam heat, gas or water, as the case may be for municipal distribution.

Subdivision 4. The commission shall have power to fix rates and adopt reasonable rules and regulations for the utility service supplied by the municipally owned public utilities within its jurisdiction.

Such a local government governing board, comprised of appointed members, cannot serve as an advisor to itself. All members serving on a governing board should be exempt from the municipal financial advisor definition, whether appointed, elected, or an employee.

Thank you for consideration of our concerns on this matter.

Sincerely,



Dan Boyce
General Manager
East Grand Forks Water and Light Department
Operating entity of
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