Appendix: A Brief History of DWP

In December 1902, the voters of Los Angeles created a Water Department by amending the city charter. The amendment placed control of the department in the hands of an appointed, five-member commission. The commissioners were to be appointed by the mayor and confirmed by the council. They were to serve staggered, four-year terms and no more than three of them were permitted to be members of the same political party. No one could be appointed a commissioner who had not resided in the city for five years.

Burton Hunter (1933, pp. 105–106) described the governance of the Water Department in a book published in 1933:

This board elected its own president, who served for one year at a salary of $3000 and was the executive officer of the water department. The superintendent of waterworks, the water overseer, the secretary and all employees of the department were appointed by the board, which had the power to determine the number of its employees, fix their hours of work and rates of pay and require bonds from any or all of them.

All moneys received from the sale or use of water were placed in the water revenue fund and such fund was under the complete control of the board, except that the council might apportion by ordinance such amount as was required to meet principal and interest payments on outstanding waterworks bonds. Also while water rates were fixed by the commission, the approval of the council was required.

Three members constituted a quorum; but a vote of three was required on any action involving the making of a contract, auditing a bill, expending money or incurring debt. The city auditor handled demands on the water revenue fund in the same manner as those on the school and library funds, demands re-
quiring the signature of the president, or in his absence two members, and the secretary. Competitive bidding on purchases over $500 with award to the lowest responsible bidder was mandatory. A monthly report and an annual report to the council were required.

The chief engineer of the Water Department began to look for an additional source of water in 1904. In 1905, the city spent $1.5 million to purchase water rights in the distant Owens Valley, looking forward to building an aqueduct to the city. In 1907, the city approved a $23 million bond issue to pay for aqueduct construction. It was not until after the city had approved the 1905 and 1907 bond issues that leaders began to consider the electrical power that would be generated as a by-product of the Owens Valley Aqueduct. In February 1909, the voters passed charter amendments to begin to deal with disposal of the hydroelectric power the city would soon possess. The amendments empowered the city “[t]o provide for supplying the city with . . . electricity . . . or with other means of heat, illumination or power; and to acquire or construct and to lease or operate . . . plants and equipments for the production or transmission of . . . electricity, heat, refrigeration or power, in any of their forms, by pipes, wires or other means; and to incur a bonded indebtedness for any of such purposes.” (Charter of the City of L.A., 1909, Section 7.)

In early fall 1909, the council appropriated $10,000 to finance preliminary work and established a Bureau of L.A. Aqueduct Power. E. F. Scattergood was made the chief electrical engineer, and a board of consulting engineers was appointed. In September 1909, the Board of Public Works recommended to the council a $3.5 million power bond issue. The council set April 10, 1910, as the date for the power bond election, and the voters gave the bond issue the necessary two-thirds approval. On March 6, 1911, the public voted for municipal distribution of electricity, rather than sale of the city’s power to private power companies, by approving a straw ballot measure.

At the same election, the public voted to create a Department of Public Service with both a Water Bureau and a Power Bureau. The Power Bureau had its own chief engineer and general manager, re-
porting directly to the Board of Public Service Commissioners. The Power Bureau had its own divisions for personnel, public relations, building, maintenance, land and right-of-way acquisitions, and library. Each bureau was a “self-contained administrative unit.” (Van Valen, 1964, p. 63.)

The Department of Public Service was headed by a board of commissioners very similar to the Water Commissioners that had preceded it. The only changes were that board members were to be appointed “without regard to their political opinions but with regard to their fitness.” (Hunter, 1933, p. 131.) A “newly created power revenue fund” was added to the charter. “The provisions relative to the water revenue fund remained the same as originally written in 1903. The power revenue fund was created along similar lines, except that portions of it might be used for extending the business pertaining to electric power. . . . [In addition, t]erms were provided under which contracts might be entered into to supply municipalities with water and electric energy, as well as the sale of surplus to consumers outside the city.” (Hunter, 1933, pp. 131–132.)

The 1911 charter amendments essentially provided for treating the city’s electric business in much the same way as its water business. With respect to city-owned utilities, then, the charter remained very similar to the way it had looked in 1903. There was a substantial difference, however, between the operation of the Water and Power Bureaus in practice. The Water Bureau generally had no difficulty in obtaining public approval of the general obligation bond issues it needed to extend the city’s ownership of necessary water resources. However, the Power Bureau faced constant challenges at the hands of the private power companies doing business in the City of Los Angeles. As a matter of fact, the April 1913 bond issue with which the Power Bureau sought to supplement the insufficient bond issue of 1910 was defeated after a vigorous campaign by the private power companies—Los Angeles Gas & Electric and Southern California Edison. The bond issue succeeded when it was resubmitted in May 1914, but only because of support from the Los Angeles Chamber of Commerce. Such support would be a precondition for bond issue passage until 1947, when the
Power Bureau acquired revenue bonding authority from a charter amendment.

However, the structure of the Power Bureau changed in more ways than simply in revenue bonding authority between 1911 and 1947. The most substantial change to the Power Bureau and the Department of Public Service to which the bureau belonged came with the 1925 Charter. The new charter the city enacted in 1925 saw substantial changes in terms of governance of the city’s utility business. The 1925 Charter put a halt to the leadership of the department by the salaried president of the board of commissioners. The new charter made the board more like a board of directors and the general manager more like a CEO. The Public Service Department was renamed and became the Water and Power Department.

The board of water and power commissioners, five appointed citizens with five-year term and fee fixed by charter, succeeded the board of water commissioners and the board of public service commissioners. It holds for the city and controls all water, water rights, electric, the right to develop power, and all lands, buildings and structures in connection therewith. It regulates the use, sale and distribution of water and power, fixing rates subject to ordinance approval; controls all water and power bond funds, the water revenue fund and the power revenue fund; makes its own budget; determines the number of its own employees; fixes salaries; and appoints a general manager, secretary and chief accountant. An annual report is made to the mayor and council.

The board may divide the department into two bureaus, the bureau of waterworks and supply and the bureau of power and light, and appoint a general manager, chief engineer, for each bureau. “In case such division is not made, the general manager of the department shall be the chief engineer of the department and shall have recognized ability and broad experience in hydraulic and electrical engineering and the economics of water and electrical utilities.”

The general manager, chief engineer of waterworks, chief electrical engineer, auditor and cashier are the only positions in the
department exempted from civil service by the charter. The
general manager, or general managers, makes all appoint-
ments, except those mentioned above as made by the
board.

Specific provisions are included in the charter relative to the
sale of water and power to other municipalities, firms or per-
sons outside the city. The board may sue and be sued, and re-
quire the services of the city attorney free of charge.

All revenue of the department is placed in either the water rev-
ue fund or the power revenue fund. Expenditures from such
funds can be made only in connection with the respective—
water or power—purposes for the operation and extension of
works, extension of business, a pension system for employees
and the payment of indebtedness. Any surplus may be re-
funded to the city but only upon approval of the board of
water and power commissioners, which is also empowered to
negotiate with ordinance approval for emergency loans
payable from revenue and not to exceed one-third of the gross
operating revenue for the prior fiscal year. (Hunter, 1933, pp.
227–229.)

Of course, the 1925 Charter has been amended extensively since
1925. Most of the amendments enacted from 1925 until the 1960s
have eased the business of the DWP. For example, charter amendments
in 1935 and 1940 allowed the Board of Water and Power Commiss-
ioners to “make temporary arrangements for the interchange or sale
of electric power for not more than four years,” “make arrangements
for the sale or interchange of electric power in connection with the uti-
lation of power from the Colorado River,” and “enter into contracts
with the national government pursuant to the Boulder Canyon Project
Adjustment Act to permit the delivery of electric energy to the city.”
(Bollens, 1963, p. 119.)

The DWP’s autonomy in financial operations was greatly enhanced
in these amendments. For example, in 1929, “[t]he need for emergen-
cies is deleted and the department is allowed to borrow if it determines
that the demand for service and the financial condition of the works
justify doing so. The procedure, terms, and conditions of borrowing must receive the approval of the council and the mayor.” (Bollens, 1963, p. 121.) Amendments in 1933 and 1935 allowed the board to “borrow from the national or state government or any authorized agency created by either of these governments” and “borrow from the national or state government to acquire the electric system of the Los Angeles Gas and Electric Corporation.” Finally, a 1947 amendment separated the indebtedness of the department “from the general city debt. The department can initiate short-term borrowing whenever it is in the public interest.” (Bollens, 1963, p. 121.)

Other amendments during this period gave the department other kinds of useful authority. For instance, a 1937 amendment allowed the department to “establish and maintain a general system of retirement, disability, and death benefits.” (Bollens, 1963, p. 120.) Subsequent amendments in 1947, 1951, and 1957 served to “change the procedure and amounts of benefits to be received under the retirement system of the department.” (Bollens, 1963, p. 120.) Also, a 1963 amendment allowed DWP “to provide hospital, medical, and surgical benefits to its active and retired employees and their dependents.” (Bollens, 1963, p. 121.) These benefits made working for the DWP the most attractive employment opportunity the city could offer and ensured that the department could draw the best civil servants. Another helpful amendment was the 1937 charter amendment that allowed DWP to “extend and promote the electric business of the department through conducting and holding annual expositions.” (Bollens, 1963, p. 121.)

Only one amendment from 1925 to 1963 had the effect of weakening the autonomy of DWP. In 1941, the voters passed an amendment indicating that “[a]n industrial and administrative survey is to be undertaken at least every ten years or sooner at the discretion of the mayor. This survey ascertains if the department is being operated most efficiently and economically.” (Bollens, 1963, p. 121.) The degree to which the autonomy of the DWP was sought can be indexed by a “wish list” of amendments that the department requested from the city in a September 10, 1940, communication. The DWP sought “[d]ivorce-ment of the Department of Water and Power, to a substantial degree,
from the city government, thereby establishing such Department as virtually an autonomous entity.” (Ingram, forthcoming.)

To achieve the autonomy of this substantial municipal divorce, the department recommended a number of changes. Among these were the removal of “appointing power from mayor and approval power from Council”; instead, the charter would provide “for self-perpetuating board with appointments subject to approval of mayor, and in event of his disapproval, subject to approval by board of appointment.” Other amendments would have replaced the city controller with a department controller, the city treasurer with a department treasurer, the city’s civil service system with a department civil service system, and the city attorney with a general counsel heading a “separate legal division” for the department (Ingram, forthcoming, pp. 2–4).

The amendments suggested that the department, not the council, should control the term and conditions of sale of real and personal property. The council would also lose power to authorize the establishment of the reserve fund, as well as the approval of contracts awarded without advertising for bids. The council would retain its approval of rates, but would approve them by resolution rather than by ordinance to exempt them from the popular referendum. Other city officers would also have lost authority under the department’s ideal charter. For instance, the board would “place surety bonds, rather than city controller,” the mayor would no longer need to consent to the department’s transfer of funds between budget items, the city’s Civil Service Board would relinquish approval of payrolls to the DWP’s own civil service board, and the department’s general counsel (Ingram, forthcoming) would approve contracts instead of the city attorney.

The DWP’s financial authority would have been greatly enhanced by the recommended amendments. First, their changes provided “for interest earned by any funds under the control of the department to be credited to such funds. Under existing sections, interest on revenue funds of department is credited to general fund of city.” Second, the changes authorized “creation of reserve fund for purpose of conserving and accumulating money which may be expended for general purposes of department. Authority now exists for establishment of reserve funds for special purposes only.” Third, the board’s discretion to transfer any
and all surplus to the city would be replaced by a requirement of “transfer of 5 percent of gross operating revenues for each fiscal year to general fund.” (Ingram, forthcoming, p. 5.) Fourth, the department would be authorized to issue 40-year revenue bonds rather than being limited to 12-year ordinary borrowing and 20-year borrowing from the federal government. Finally, the amendments would have allowed the department to create new budget items during the fiscal year and to appropriate in excess of budget amounts when actual revenues exceed estimates. No provision was made for mayor or council involvement in any of these financial powers.

The DWP did not achieve most of these sought-after changes. In fact, the enactment of some of the more routine amendments they wanted in 1940 was also accompanied by a constraint—the requirement for the decennial industrial and administrative survey. In 1938, Mayor Fletcher Bowron was elected through the recall process, and the DWP had supported his recalled predecessor, Frank Shaw. The trend toward amendments freeing the DWP from oversight by elected officials was effectively ended, and the goal of divorcement from municipal control became chimerical. Mayors Norris Poulson, Sam Yorty, and Tom Bradley—Bowron’s three successors in office—would not support DWP’s quest for autonomy as earlier mayors had. Charter amendments from the 1960s onward reduced the DWP’s autonomy, taking away its independent salary-setting authority and giving the council the ability to overturn every commission decision.

The main charter amendments that have reduced the autonomy of DWP from elected officials are as follows: In 1977, an amendment took away salary-setting authority from DWP and gave it to the council (Section 86). In 1991, the DWP’s leasing authority was limited to five years, including option clauses that used to allow for longer cumulative terms (Section 220(6)). Later in 1991, Proposition 5 was passed, allowing the council to review and overturn the decisions of the commissions, including the Board of Water and Power Commissioners (Section 32.3). In 1995, the power to appoint and remove the general manager of DWP was transferred from the board to the mayor and council (Section 79). In 1996, the decennial industrial and administrative survey was changed into an “industrial, economic and admin-
administrative survey” to be performed every five years; it was also made clear that this survey must be paid from DWP’s own funds (Section 220.3 repealed and Section 396 added).

However, it is not only charter amendments that have reduced the DWP’s historic autonomy in recent years. In 1984, Mayor Bradley pronounced an executive order—Executive Directive 39—that empowered the CAO to act on behalf of the mayor in controlling the agenda of the Water and Power Commission. Although some current and former city officials believe that ED39 violates other sections of the charter and is thus unenforceable, it is still in effect and used routinely by the CAO on behalf of the mayor.

The other source of the restriction of the DWP’s autonomy is custom. It has become customary for the members of the city’s commissions, including the Board of Water and Power Commissioners, to resign when a new mayor takes office:

This procedure had its origin in Mayor [John C.] Porter’s demand that all commissioners submit their resignations to him at the time he assumed office.

Elected on a reform platform, Bowron had promised a complete removal of all Shaw appointees, and therefore demanded the resignation of all commissioners. At the time of Poulson’s inauguration the concept of commissioner responsibility had reached the point where most resignations were presented to him without any request on his part.

This practice has weakened the claim that under the existing system of overlapping board appointments a mayor might wait two years before he had a majority of his own appointees on a board to support his policy proposals. Under the conditions described he usually can accomplish this within a few weeks after assuming office.

It should be noted that this custom is completely contrary to the intentions of the framers of the charter. They created the board form to provide a continuity of policy and insure independence from a new mayor’s control for at least two years. In essence the change has moved the pattern of operation closer
to that of a single headed department, and consequently has strengthened the office of mayor. (Abrahams, 1967.)

The days of a strong Board of Water and Power Commissioners, which would press for charter amendments like those on the 1940 DWP “wish list,” are gone. The convergence of these changes—in customs, the implementation of ED39, and charter amendments such as Prop. 5—has subjected the DWP to the control of Los Angeles’s elected officials.