1. **Why has the City Council placed this Charter Amendment on the ballot?**

   In 1958, the voters of Burbank elected to incorporate into the City’s Charter the ability to transfer not more than 7% of Burbank Water and Power’s (BWP) gross electricity sales to the City’s General Fund (Section 610). This practice has continued at the discretion of the City Council during the last 30 years.

   In 2016, Section 610 of the City Charter was challenged in court (Spencer v. City of Burbank) based on a recent proposition adopted by California in 2010 attempting to address in-lieu revenue that the City generates from BWP. A trial court found that the mechanism for funding transfers from the City-owned power utility to the City’s general fund, which maintains services and infrastructure improvements, did not comport with recent propositions.

   To resolve the court case, this Charter Amendment adds a new section that continues the practice of retail electric rate payers funding the transfer to the General Fund. It allows for funding of the transfer of money that helps to pay for essential city services such as fire, police, street improvements, infrastructure, landscaping, libraries and street lights along with parks and recreation facilities. And, it’s an essential part of maintaining our City’s fiscal well-being and long-term financial stability.

   This measure does not raise current utility rates because the cost of the transfers have been part of the retail electric rates for decades.

   A “no” vote and if the City loses the appeal would eliminate the funding for the transfer from Burbank Water and Power’s gross, electricity sales into the General Fund and will impact the City’s ability to provide essential services such as fire, police, street improvements, landscaping, libraries and street lights along with parks and recreation facilities.

   A “yes” vote would not raise the current utility rate. It would reaffirm the City Charter, create compliance with Propositions 26 and 218 and allow not more than 7% of Burbank Water and Power’s gross, electricity sales funded by retail electric rate payers to be transferred to the City’s General Fund under Section 610, at the City Council’s discretion until ended by the voters.

2. **Is this a new charge for electricity?**

   No, retail electric rate payers have been funding the transfer for decades.

3. **How will this affect my electricity charges?**

   The Charter Amendment will not increase your utility bill.
This new format will assist in providing clarity and transparency on customer’s bills by more clearly showing the line-item breakdown of charges.

Below are sample bills that show an average current customer and a Lifeline customer bill along with an example of what the new bill would look like.

<table>
<thead>
<tr>
<th>Line Number</th>
<th>Description</th>
<th>Current Bill</th>
<th>Proposed Bill after Charter Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>BWP Electric Charges¹</td>
<td>$88.02</td>
<td>$85.81</td>
</tr>
<tr>
<td>2</td>
<td>Public Benefit</td>
<td>$2.51</td>
<td>Included above</td>
</tr>
<tr>
<td>3</td>
<td>Street Lighting</td>
<td>$1.32</td>
<td></td>
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<tr>
<td>4</td>
<td>Transfer In-Lieu Fee²</td>
<td></td>
<td>$6.01</td>
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<td>5</td>
<td>Subtotal</td>
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<td>Utility Users Tax</td>
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<td>$6.01</td>
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<td>7</td>
<td>State Surcharge³</td>
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<tr>
<td>8</td>
<td>Total Bill</td>
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<td>$97.99</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Line Number</th>
<th>Description</th>
<th>Current Bill</th>
<th>Proposed Bill after Charter Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>BWP Electric Charges¹</td>
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<td>$44.79</td>
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<tr>
<td>2</td>
<td>Public Benefit</td>
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<td>Street Lighting</td>
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<td>Transfer In-Lieu Fee²</td>
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<tr>
<td>7</td>
<td>Total Bill</td>
<td>$48.11</td>
<td>$48.09</td>
</tr>
</tbody>
</table>

¹Current Bill includes In-Lieu within BWP Charges (Line No. 1). Proposed Bill excludes In-Lieu within BWP Charges but includes Public Benefits (Line No. 2)

²Assumes 7% including Street Lighting

³550kWh@$0.00029/kWh

4. Why is this practice important?

The transfer from the BWP Electric Fund to the City’s General Fund, which equates to approximately $12.5 million annually, is used to pay for essential services such as fire, police, street improvements, infrastructure, landscaping, libraries, and street lights along
with parks and recreation facilities. These funds help to maintain the services that the residents of Burbank currently enjoy.

Without the transfer, the City would need to substantially cut services to city residents, businesses, and visitors.

5. Why does this impact Burbank?

Since Burbank owns the water and power utility, the Charter allows a transfer to the General Fund from the gross sale of electricity in-lieu of taxes/fees that a private utility would pay in other cities, which don’t have a city-owned water and power service provider. The “transferred” funds from the electric utility to the City’s General Fund are reinvested back into our City’s essential services such as fire, police and street improvements, infrastructure, libraries, parks and recreational facilities just like a private utility. It is an essential part of our City’s fiscal well-being.

6. Why is there a transfer between the electric fund and General Fund?

Private utility companies pay the local jurisdiction in which they do business various taxes such as property taxes and business license taxes. They also pay fees such as a franchise fee. These taxes/fees are passed through to their utility customers, whose rates fund these fees. In turn, the local jurisdiction uses these taxes/fees to pay for essential city services.

In the case of Burbank, because our utility is municipally-owned, the Charter allows a transfer to the General Fund from the gross sale of electricity in-lieu of taxes/fees that a private utility would pay. The “transferred” funds from the electric utility to the City’s General Fund are reinvested back into our city essential services such as fire, police and street improvements, infrastructure, libraries, parks and recreational facilities just like a private utility.

7. What does this Charter Amendment do?

The amendment adds a new section (Section 610A) to the Burbank City Charter that allows the continuation of the current practice of transferring not more than 7% of Burbank Water and Power’s gross electricity sales, paid by retail electric rate payers, to the City’s General Fund at the City Council’s discretion until ended by voters. The new Charter section specifically authorizes the cost of the transfers to be funded from retail electric rates.

8. What does this Charter Amendment NOT do?

This Charter Amendment will not increase retail electric rate payers’ bills because current rates already include the cost of the transfers, as they have for decades.
9. Can the voters change this in the future?

Yes, the Charter Amendment explicitly states that the amendment will be in place until changed by voters. If approved, Burbank voters could change the Charter Amendment with another vote.

10. What is the name of the Court case that challenged the fund transfer?

*Spencer v. City of Burbank* (2016). The court’s ruling and judgment are accessible [here](#).

11. What is the City Charter?

The City Charter is the legal document that established the City of Burbank in 1911. It provides the framework for the purpose, governance, and operation of Burbank’s city government. You can find Burbank’s City Charter [here](#).

12. What are Propositions 26 and 218?

Proposition 218 was passed by voters in 1996 and gave taxpayers the right to vote on all local taxes, and requires taxpayer approval of property related fees and assessments. Under Prop 218 a general tax must be approved by a simple majority of those voting. When originally passed, Proposition 218 did not apply to electric rates.

Proposition 26 passed on the November 2010 ballot. It affected local governments by redefining a general tax to potentially include electric rates and provided a grandfather clause. The court in Burbank’s case ruled that the grandfather clause did not apply, and the part of the electric rates that funds the transfers are a tax as defined by Proposition 26. As such, the retail electric rates are subject to a Proposition 218 vote.

This Charter Amendment under Prop 218 must be passed by a simple majority, 50% plus one vote.

13. Do businesses currently pay this fee, or is it just a residential fee?

The fee is included in the rate of all retail electric customers residential and business alike. Residents and businesses will not have their bill increase from the passage of this amendment.

14. What happens if the Charter Amendment doesn’t pass?

If the Charter Amendment is not approved, the City has and will continue to appeal the Court’s ruling in *Spencer v. City of Burbank*. If the City ultimately loses the court case, then the charges in the retail electric rate to fund the transfers cannot be collected and there will be no money to transfer to the General Fund. Thus, the General Fund budget will need to be reduced to reflect the revenue loss of approximately $12.5 million. This will affect the City’s financial ability to maintain the current level of essential city services provided to our residents in terms of fire, police, street improvements, infrastructure, landscaping, parks and recreation along with libraries.
15. What is going on with the court case?

The City is appealing the trial court’s ruling. The fee is still being collected and transferred to the General Fund. The City Council, however, has placed the funds in a holding account. Should the Charter Amendment be approved, the money will be available to pay for essential city services, as has been the past practice since voters approved this revenue exchange in 1958.

16. Didn’t I vote for this before?

Residents voted to originally begin the practice of transferring electric funds to the General Fund in 1958 with a Charter Amendment and then again reaffirmed the practice in 2007; however, a 2016 court case said the previous Charter Amendments were not explicit enough as the fee is considered to be a tax and must comply with State Propositions 218 and 26. This necessitates a clarification within the Burbank City Charter language.

17. What does Section 610 and proposed Section 610A of the City Charter explicitly say?

Here is a link to Section 610 and proposed Section 610A. The implementation language from the Charter Amendment states:

“The purpose of this Section is to explicitly approve the past practice of funding the transfers from retail electric rate payers and to approve such practice on a go forward basis. As such, 1.) BWP is authorized to continue including the cost of the transfers in retail electric rates or as a surcharge to retail electric rates; 2.) the Council is authorized to set retail electric rates including the cost of the transfers in retail electric rates or as a surcharge to retail electric rates on an annual basis; and 3.) at the discretion of the Council to transfer up to 7% of BWP’s gross sales of electricity from retail electric rate payers to the City’s General Fund. This section is intended to apply retroactively to the 2016/2017 fiscal year and will remain in effect until changed by the voters.”

18. How does this affect the future budget deficits?

City staff has presented to the City Council on numerous occasions that the City is facing a structural imbalance in the General Fund and a significant infrastructure maintenance backlog. The City’s financial forecast shows that if the City took no action, the City’s reserves in Fiscal Year 2018-2019 would be reduced by more than $10 million and depleted by Fiscal Year 2020-2021. Should the Charter Amendment be approved by voters, it would restore approximately $12.5 million of revenues needed to help fill the projected annual funding shortage.