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2023-04-30 los alamos - compound to county pt II

Where we left off, Los Alamos had become a county, but the town itself continued to be directly administered by the Atomic Energy Commission (AEC). The Atomic Energy Communities Act (AECA) mandated the AEC to dispose of the towns it owned by transferring the property to private owners or government agencies. This included not just the individual houses (which had all been rented by AEC) but utilities, parks, and other municipal property.

In 1963, shortly after the addition of Los Alamos to the AECA, the AEC started the process of transferring public resources. The schools were a relatively simple case, as a county school board had existed since the creation of the county in 1949, but it still took until 1966 for the AEC to give the school board title to the real estate the schools occupied. A case that seemed more complex, but also moved faster, was the electrical supply.

It's likely that the AEC had their own motivations. Electricity was fairly expensive and limited in Los Alamos, and the lab had an almost perpetual need for more power. Transferring the electrical utility to an outside agency might have benefited the AEC by moving system expansions into state and municipal financing and out of the federal budget. In any case the electrical system was actually reasonably cut-and-dry since New Mexico had a well established system of electrical franchise agreements and there were plenty of utility operators with experience in power distribution. As mandated by the AECA, the AEC put the electrical system out to bid.

One of the bidders was entirely unsurprising: The Public Service Company of New Mexico, today known as PNM [1]. The politics of Los Alamos utilities turn out to be one of the most complex issues surrounding the transition from AEC control, and PNM's attempt to purchase the electrical system is a great example of the debate.

First, it should be understood that electrical service in Los Alamos was expensive to offer due to the remote location and difficult terrain around the town, but Los Alamos residents had been largely insulated from this issue. It was the AEC that really footed the bill for electrical power, and residents were charged a rate that was designed to be similar to other electrical rates in the area---not to recoup the AEC's cost. There was a clear risk that electrical rates in Los Alamos would increase significantly after transfer away from the AEC, and much of the politics of mid-'60s Los Alamos was animated by this concern.

The debate over ownership of utilities played out in a series of delightfully mid-century newspaper ads taken out not just by PNM but also by organizations with names like "People's Committee for Private and Professional Utilities" and "Los Alamos County Citizens for Utilities." The debate was something like this: PNM argued that their large

size and experience in the electrical industry would allow them to sustain low rates in Los Alamos. Some Los Alamos residents favored this argument, taking the view that PNM was an established, experienced organization that would operate the utility based on sound analysis and long-term planning. This kind of thinking seems to have been particularly popular in Los Alamos, where nearly all the residents worked for another huge bureaucracy that considered technical expertise its defining identity. Further, it was thought that if the county owned the utilities, the financial shortfall would likely be made up by increasing county property taxes---effectively increasing electrical cost, even if the rates stayed the same.

On the other hand, advocates of county ownership felt that a public operator, without the motive of returning profit to its shareholders, could ultimately keep costs lower. In their support, consulting engineers hired by both the AEC (to evaluate bids) and the county (to support their bid) concluded that it would be possible to operate the system profitably without exorbitant rates. County ownership was often seen as the more conservative option anyway, since it would allow for the privatization of the utility in the future by franchise agreement. To further assuage concerns about the county's competence to run the utilities, the county board advertised in the newspaper that it intended to directly hire staff from the Zia Company, the private contractor the AEC had used for maintenance and operations of the utilities.

Finally, the county had a rather unusual motivation to assume control of utilities. Because the laboratory was essentially the only industry in Los Alamos and was exempt from property tax due to federal ownership, the county had only a very limited ability to raise revenue. The county felt that the profit it could make from utility operations would become a key revenue source, particularly since the lab itself would be a customer. In the words of state senator Sterling Black, county-owned utilities would become "a club we can wave over the AEC." Considering the AEC's tendency to completely steamroll county decisions when they conflicted with federal policy, this kind of political power was extremely important.

The idea of AEC decision input by referendum was not a new one. Just a bit earlier in 1963, Los Alamos residents had gone to the polls to choose who would receive the Los Alamos Medical Center. Their choice was between the Lutheran Hospitals and Homes Society (an out-of-state concern but known to operate the hospital in Clayton at the time), the Los Alamos Medical Center Inc. (an organization formed by Los Alamos residents expressly to operate the hospital locally), or "neither." This issue had been substantially less contentious as, it turns out, the Lutheran organization had submitted their proposal to the AEC before it knew about the local organization. Once it came to their knowledge they apparently deferred to the local initiative, telling the *Santa Fe New Mexican* that they supported local operation of the hospital and would pursue ownership only if the county invited them to do so.

In the case of the hospital, though, we can already see the formation of the movement against local organizations and towards larger, more experienced organizations that were likely to offer a more predictable and stable---even if less locally driven---operation. The Lutheran organization won the referendum, and controlled the hospital until 2002, when another attempt at establishing a local hospital operator failed.

The story of the Los Alamos Medical Center illustrates some other challenges of the military-to-municipal transition as well. When the AEC built the Los Alamos Medical Center, it included housing for staff as part of the complex. As a result, the hospital had two, 24-unit apartment buildings directly attached to it. This seems to have established a tradition in which another condo building, owned by a group of physicians, was attached to the hospital in 1982. The odd mix of hospital and housing, and the

resulting complex lease agreements, complicate ownership transfers of the hospital to this day.

The hospital referendum provided a clear example for the utility referendum, but the utility question attracted significantly more debate. This is perhaps ironic considering that the utility referendum was also less significant in the actual selection process. Because of the precise wording of the AECA, the AEC had determined that it would follow the outcome of the hospital referendum exactly. In the case of utilities, though, the AECA mandated that the AEC consider a set of technical and economic factors as well. The referendum would not be absolute, it would only be one of the factors in the AEC's decision.

A further complication in the decision was the exact nature of the county's legal authority. New Mexico counties are not normally authorized to operate utilities (although several do today under various provisions, such as Bernalillo County's partnership with the City of Albuquerque to operate the Albuquerque-Bernalillo County Water Utility Authority). In the legislative session at the beginning of 1963, the New Mexico legislature passed a constitutional amendment intended to facilitate the Los Alamos transfer, without further fanning local debates by requiring the City of Los Alamos to incorporate [2].

Although the amendment didn't take effect until 1964 following its approval in a statewide referendum, it was very much on the minds of the county government as they considered utilities. We will revisit this amendment in more detail shortly, but it had an important impact on the utility debate. In the 1960s, counties in New Mexico granted utility franchises under state regulations. This meant that such utilities had their rates reviewed by the state Public Service Commission. Because of the unusual status of Los Alamos county as the only "category 7" county (by the '60s now called an "H-class" county), the situation was somewhat more complex, and Los Alamos County probably had the opportunity to function as a municipal government instead, which allowed for complete home rule of utilities. In other words, it seemed that Los Alamos utilities *could* be regulated by the Public Service Commission, but they didn't have to be, depending on exactly how the county wrote up the paperwork. The upcoming constitutional amendment in fact solidified this situation.

One argument for county ownership was then that it would give the public better control of the utility, since it would not necessarily be subject to state rate regulation. One argument the other way was that a private utility operator could still be state regulated, if so desired. The regulation issue really only served to confuse the debate, as did a number of other events of 1963, including minor scandals of the county withholding documents and accusations of harassment and illegal campaigning by various individuals and political organizations in Los Alamos. Notably, the League of Women Voters, long the most important and highly regarded non-partisan political organization in New Mexico, was widely accused of compromising its impartial, non-partisan values by openly advocating for county control. In some ways this was actually not a very partisan position, as in a rather unusual political turn Los Alamos's Democratic Committee and Republican Committee joined together in endorsement of county ownership. The *Santa Fe New Mexican* quipped that the situation had become David vs. Goliath, except that somehow David was the mighty PNM (and Southern Union Gas, the company that had previously bought out PNM's gas operations) and Goliath was tiny Los Alamos.

A full accounting of the politics around the utility acquisition could quite possibly fill a book, as very nearly every aspect of Los Alamos life was somehow a factor in the debate. It only adds color to the situation that the federal officials involved, being AEC personnel, included well-known scientists like Glenn Seaborg. Just the newspaper

editorials written in support of either position would make for a hefty binder. I will try not to get stuck on this forever and jump to the conclusion: David did not fell Goliath, and Los Alamos voters favored county control of utilities by 71%. Although the full transfer process would take several years to complete, the decision was made and the electrical and gas infrastructure were transferred to Los Alamos County, where they remain today.

There were yet more utilities to consider. Telephone service in Los Alamos had been provided by the AEC, with all service ultimately connected to the exchange at the laboratory. This, too, needed to be transferred, and in 1964 the AEC put out a request for bids. There was little precedent for government operation of telephone systems, and it was viewed as legally difficult, so it was clear that some private operator would step in. Two made an offer: Universal Telephone and Mountain States Telephone and Telegraph.

Universal Telephone was born of Milwaukee, Wisconsin. Wisconsin was known in the middle part of the 20th century for its particularly skeptical stance on telephone monopolization under AT&T. Wisconsin was among the first states to introduce pro-competition telephone regulation, namely the requirement that competitive telephone carriers interconnect so that their customers could call each other. Universal Telephone was thus among the most ambitious of AT&T's competitors, and no doubt saw Los Alamos as an opportunity to capture a brand new telephone market and demonstrate the capabilities of those outside the Bell system.

Mountain States, though, was an AT&T company, and brought with it the full force of AT&T's vast empire. The complex landscape of telephone regulation immediately became the key point of this fight, with AT&T arguing that the state telephone regulation agreements gave Mountain States the exclusive legal authority to operate telephone service in Los Alamos county. Far from a referendum debated in the newspapers, the future of Los Alamos telephony was mostly debated by lawyers behind closed doors. The AEC's lawyers sided with Mountain States, disqualifying Universal Telephone as a bidder. By the end of 1964 the writing was on the wall Mountain States would be the new telephone company (besides, AT&T rarely lost a fight), although legal arguments would continue into the next year. In early 1966, the deal was complete and Mountain States began to staff its Los Alamos operation. They had a lot of work to do.

Even into the '60s the telephone exchange in Los Alamos supported only 5-digit dialing. While 5-digit dialing is not unusual in some large private phone systems (and indeed is still in use by LANL today), the use of 5-digit dialing across a town was exceptional and meant that Los Alamos telephone users could not directly dial outside of the town. In 1968, Mountain States began construction on a new telephone building with a distinctive microwave tower for direct connectivity to the broader AT&T network. The new switch installed there, a 1ESS, offered for the first time touch-tone dialing, direct-dial long distance, and even three-way calling. At the same time, numerous new lines were installed to take advantage of the higher capacity of the new exchange. Telephone service became far easier to order in Los Alamos and on Barranca Mesa (not yet always considered part of the town), although White Rock would have to wait almost another decade for improved service availability.

Electronic telephone switching wasn't the only new idea in Los Alamos. The entire "H-class" county designation of Los Alamos was extremely confusing, and more and more the nature of the county was considered a mistake going back to its start in 1949. State legislators had tried to make Los Alamos a special kind of county that had the authority to do certain things normally withheld to municipal governments, but the piecemeal way they had done this created a lot of problems and required some sort of state legislation to address one problem or another nearly every year from 1949 to 1969. This included two

cases of significantly reworking the county's enabling legislation, which is part of why it went from "7th category" to "class H" even though H isn't the 7th letter. Los Alamos was created as a whole new kind of county in 1949, it was made yet another whole new kind of county in 1955, major changes were made in 1963, and now it was still a mess. Something had to change, and the people of Los Alamos along with the state legislature were increasingly leaning towards the idea of incorporating like a city---but as a county.

In 1963, the state legislature passed Constitutional Amendment #4. In 1964, it was approved by state voters and took effect. This amendment, now article X section 5 of the New Mexico Constitution, created *yet another* brand new kind of county: the incorporated county.

The applicability of X § 5 was intentionally limited to Los Alamos, although the realities of legislation discouraged writing it that way. Instead, it was made applicable to any county with an area under 140 miles and a population greater than 10,000 (this latter rule mostly just to agree with other rules on incorporating municipalities). You can no doubt guess the number of counties under 140 square miles in New Mexico, a state known for its vast counties. Even tiny Bernallillo County, sized for its dense urban population, measures over 1,000 square miles. Despite its ostensibly general criteria, X § 5 applies uniquely to Los Alamos. It's even written such that any *new* counties that small would be excluded, only counties that existed at the time of its passage are eligible.

The amendment allowed Los Alamos county to incorporate, just like a municipality:

An incorporated county may exercise all powers and shall be subject to all limitations granted to municipalities by Article 9, Section 12 of the constitution of New Mexico and all powers granted to municipalities by statute.

In other words, it would resolve the problem of Los Alamos County's confusing city-county nature by making it, well, a real city-county. This concept is not unique nationally and some states, such as Virginia, rely on it extensively with "primary cities." San Francisco is a well known example of a city-county in the West. Los Alamos has much the same status today, but due to the history of the city being closely tied to AEC administration, the city-county title is rarely used. The Los Alamos government today identifies itself only as Los Alamos County (slogan: "Where Discoveries Are Made"), and its nature as a municipal government is relegated to the legal details.

Los Alamos's administrative situation is actually oddly obscure today. Wikipedia refers to Los Alamos proper only as a census-designated place and county seat, making no mention that the county it is seat of is actually a municipality as well. If I could mount one odd political campaign in Los Alamos it would be to restyle the government as The City and County of Los Alamos for aesthetic reasons, but then the strict limitations in X § 5 make it unlikely that the idea will catch on more broadly in New Mexico.

But what about the actual incorporation process? An incorporated municipality, under state law, requires a charter. The constitutional amendment provided that such a charter could be developed by a charter committee and then approved by a majority of the voters. This detail of the incorporation process would become a very tricky one.

The first major charter effort gained momentum in 1966, when a charter committee completed a draft county charter and began the process of gaining electoral support. In doing so, they brought the debate over public utilities back to life.

Incorporation would normalize the county's authority to franchise, operate, and regulate utilities, but changed the legal situation enough that the county would need to rebuild its administrative bureaucracy for utility oversight. The 1963 concern that utilities would become a "political football" (in the words of one county commissioner at least) were back in the spotlight, as the new charter proposed a utility advisory committee but gave it little actual authority and mostly deferred utility matters to the elected county commission.

Utility operations might seem like a small detail of municipal government but, as the original 1963 referendum shows, it was a very big detail in Los Alamos. The problem of the 1966 charter and its utility advisory committee lead to many newspaper articles and opinion columns, and a group calling itself the "Citizens for Representative Government" formed a major opposition to the '66 charter. While their name makes it sound like a broader issue, the representative government they sought was mostly the ability to put utility rates to referendum, denied by the draft charter. Another, less decisive problem was the charter's general increase in the powers of the county manager. Several county positions which were previously elected would be appointed by the manager, mostly positions related to finance and tax administration.

In a cunning political move, the Citizens for Representative Government seem to have made themselves the principal source of information on the draft charter. They mailed a copy of the proposed charter to every Los Alamos resident, including their phone number for questions. A nearly full-page newspaper ad featured the charter represented as arrows shot towards the hapless Los Alamos public, captioned "There's still time - duck now! Vote no February 8th." Major political points made in the papers included limited recall powers, the possible appointment of judges by the county council, and the lack of a requirement for competitive bidding on county contracts... but still focused on utility management and utility rates as the single largest issue.

Whether through good political organizing or the genuine public fear of politicization of town utilities, the '66 charter failed its referendum vote. The general consensus, reflected in the papers, is that the charter was mostly acceptable but there was widespread opposition to a few specific sections. Given the situation, there was not much to do except to start over again, and that they did. At the end of 1967, a new charter committee was formed. As an example, they worked from the new City of Albuquerque charter, one of several which rotated Albuquerque through various forms of city government in the mid century.

The second charter committee had been asked to work quickly, and they delivered on a tight timeline. In early 1968 a draft had been published and was the subject of much debate once again, and as the end of that year approached it had reached the form of a final draft. In many ways, this second charter was more conservative, leaving much of the county government to function the same way it had before. Like the City of Albuquerque at that time, it was based on a manager-commission model without an elected executive.

This time around, proponents of the charter leaned heavily on its amendment mechanism as a selling point. Being such a new municipality, and with an unusual administrative situation, it seemed clear that Los Alamos government would require flexibility. In an effort to address the specific complaints about the '66 charter, this new charter also formed an independent utility board with members appointed by the county council on a staggered basis... and direct authority over utilities, alongside a professional utilities director hired by the commission.

This new charter gained public support much more easily, apparently benefiting greatly

from the lessons learned during the last attempt. In September it was approved by the county commission, and in December a referendum was held for public approval. This time, it passed---with lower turnout than the last effort, suggesting some mix of greater support with, well, less opposition. Still, not making enemies is a kind of success, and at the beginning of 1969 Los Alamos took its identity as New Mexico's only "incorporated county."

It took a lot of attempts for New Mexico to make the transition, perhaps five depending on how you count, but the townsite eventually did convert from AEC property to a municipality. We've even talked about the transition of the school district and electrical, gas, and telephone service. But what of water service? That story is complex enough I could go on about it for a while, and I probably will, in a part III.

[1] This "public service" naming is extremely common in older, central US electrical utilities, but should not be taken as implying public ownership. Nearly all of the "public service companies" are private corporations with no history of public ownership.

[2] It may be important here to understand that New Mexico is one of the states that achieves most major legislation through constitutional amendments. The New Mexico Secretary of State publishes a convenient, pocket-sized copy of the constitution, which is 218 pages long.