Water and Sewer Impact Fees – And New Vended Laundry Development

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Impact fees levied for the privilege of connecting to water and sewer systems are a fact of life in many areas of the country. These fees, which a growing number of municipalities, utilities, and water and sanitary districts assess on builders, developers and businesses for new construction projects, are only expanding their reach, and growing in popularity.

Depending on the specific locality, such fees may or may not exist, and may be high or low in cost. They may be calculated and applied in a variety of different ways from area to area, and may be assessed on water service, sewer service or both.

Although these charges today are generally accepted as another cost of doing business, the fact is that the water and sewer impact fees charged for construction of a typical new house pale beside the fees assessed on a new self-serve laundry. Fees in a growing number of localities have grown so high that they have the effect of keeping some prospective laundry owners out of desirable markets entirely.

More determined parties looking to build laundries, however, have focused on using and developing new and creative ways to deal with these costly obstacles to business development.

The following white paper examines the origins and history of impact fees, explains the primary methods used to calculate them, reviews several ways some owners have successfully reduced or mitigated these charges, examines fees' effect on laundry valuation, explores the decision-making process for deciding whether or not to build in a high-impact area, and explores some of the alternatives to building new laundries in areas where fees are prohibitive.

1. A Basic Primer

What are impact fees, and how did they originate?

History

According to *The Encyclopedia of Housing (2nd Ed.)*, the first impact fees were instituted in 1947 when the Hinsdale, Illinois, Sanitary District imposed a "tap in" fee for new water and wastewater users to help fund the cost of a new water treatment plant. The Illinois Supreme Court upheld the fees on appeal, ruling that they could be used only to fund capital expenses, but not operating expenses.

Throughout the 1950s and 1960s, various local jurisdictions around the United States created similar schemes for collecting impact fees to recoup the cost of adding new users not only to water and wastewater systems, but also to pay for the cost of additional usage of roads, parks, public safety and other facilities.

But the real proliferation of impact fees took place during the rapid growth and construction that took place in the 1970s, especially in Florida and Texas, where many localities implemented the fees to accommodate the stress on public facilities resulting from rapid expansion.

Throughout this period, local authorities designed their assessment methodologies and impact fee structures based on established schemes and processes that had passed the muster of various courts around the country.

But it was not until 1986 that the first statewide impact fee guidelines came into being, when Texas passed enabling legislation that laid out statewide rules under which localities could design and impose impact fees. Other states gradually followed, and by the end of 2016, 27 other states had passed and put into place similar statewide guidelines.

Throughout the remaining states without such rules, localities that collect impact fees continue to do so under home rule authority, using a wide range of methodologies. According to *The Encyclopedia of Housing* cited above, at the time of that volume's publication in December 2016, approximately 60 percent of cities with more than 25,000 residents, and 40 percent of metropolitan counties, had some form of impact fees.

Legal Basis

Several U.S. Supreme Court decisions handed down over the last 30 years laid out several of the key principles most often cited in case law related to impact fees. These include:

Nollan v. California Coastal Commission (1987), in which the U.S. Supreme Court held that a government entity cannot impose a condition when granting a property owner's permit unless that condition has an *essential nexus* linking it to a legitimate interest of the state;

Dolan v. City of Tigard (1994), in which the U.S. Supreme Court ruled that a permit granted to a property owner in exchange for ceding property to a local government must be *roughly proportional* in terms of burdens and benefits; and

Koontz v. St. Johns River Water Management District (2013), which resulted in a U.S. Supreme Court decision clarifying that the *Nollan* and *Dolan* requirements also apply to *monetary* exactions, i.e., impact fees.

State courts and federal circuit courts also have added to case law by handing down various decisions interpreting how the requirements laid out in these key cases should be applied in specific scenarios. Homebuilders and developers accounted for the majority of claimants in these cases.

The principles of essential nexus and proportional benefit are examined further down in this paper.

Prevalence

While the use of impact fees is spreading into more localities around the United States as a convenient source of capital funding, they tend to be *most prevalent* in areas where water resources are at a premium, in areas experiencing rapid growth, and in areas where other sources of funding are insufficient to meet capital investment needs. The more of these conditions that apply to a locality, the more likely impact fees are to have taken hold. High impact fees are widespread in California, for example, as well as along the rest of the West Coast, and in Arizona, Colorado, Texas and Florida. The fees also are prevalent in some eastern locations, such as in northern New Jersey. In other areas of the country, the prevalence of the fees tends to be more localized—confined, for example, to certain metro areas and outlying suburbs, rather than regionally prevalent as they are across the West Coast.

Terminology

In common usage, most up-front water and sewer fees related to new construction typically tend to be lumped under the term "impact fees." However, the charges to which this term is often applied actually can be classified into two distinct groups of fees.

The first group, *impact fees*, strictly speaking, are fees related to developing capacity to meet the extra demand on the system posed by a new customer, or to offset that customer's impact on the larger system. These fees as they relate to water and wastewater service are the primary focus of this paper.

The second group of one-time charges, *tap fees*, are assessed to recover some or all of the cost of connecting a new customer to a water and/or sewer line–including the cost of labor for activities such as excavation, paving and installation, and the cost of materials like the tap itself, the service line and the meter.

To complicate matters, the terms different utilities or jurisdictions use to refer to these two types of charges vary widely. A ***tap fee***, for example, may go by that name in one locality, but in another may be called a *tap-on fee, turn-on fee, connection fee, cut-on fee, installation fee, new service connection fee, new meter connection fee or meter set fee.*

The same holds true for an ***impact fee***, which also may be labeled a *system development fee* (a common designation), *capacity fee, plant investment fee, cost recovery fee* or *new customer fee*. To muddle things further, an impact fee–like a tap fee–may also be referred to in some places as a connection fee. And it may even be called a service fee, which is easily confused with fees for actual water service use.

Because terms are not used consistently, confusion may ensue when working with more than one utility. This is worsened by the fact that even mid-sized states can have hundreds of water utilities and sanitary districts, each using its terminology for these charges.

Water and Sewer Landscape

It is important to note from a commercial-user perspective that a location's water and sewer services may or may not be under the purview of the same entity, which could be a municipality, or a water, sewer or sanitation district, or other authority. A town that operates its own community water system, for example, may also have a wastewater system managed by a regional authority.

According to the 2017 Infrastructure Report Card published by the American Society of Civil Engineers, there are about 155,000 active public drinking water systems across the United States. Of these, 51,356 community water systems are responsible for serving slightly less than 300 million people. And, according to the report, 8,674 of those 51,356 systems serve nearly 92 percent of the total U.S. population.

On the wastewater side, the ASCE report noted that in 2017, 14,748 treatment plants provided about 240 million Americans–around 76 percent of the population–with wastewater sanitation service. By 2032, that number was forecast to rise by 56 million as more people move off septic systems to centralized facilities.

Unfortunately, many of these systems are hindered by aging and failing infrastructure, as well as the need to build more capacity and update technology due to expansion and population growth.

At the same time, a generally tax-averse sentiment across the country, together with rising maintenance costs, declining state and federal financial contributions, and less

support for local infrastructure improvement projects, has constricted funding and put more pressure on ratepayers. This situation has made the levying of impact fees on new construction of all sorts–residential and commercial alike–an attractive option for localities looking to fund infrastructure improvements. Impact fees imposed on new users also produces less political fallout than fund-raising mechanisms such as property tax increases.

2. Methodologies

How are impact fees calculated?

While 100 given localities may charge impact fees for access to water and sewer service, it is unlikely that any two of them assess and calculate those fees in exactly the same way. In fact, impact fee assessment systems are highly localized, and unique to each service area, because they are based on local patterns of use, and on usage assumptions specific to a given area. Calculations may also be adjusted up or down based on the nature of a commercial user's business or location.

Furthermore, one utility may assess an impact fee on the water-service side based on estimated usage. Another may impose a fee on the wastewater side, based on the anticipated amount of water passing into the facility's sewer connection. A third utility may charge new users a fee on both services. And as noted above, the water and sanitary systems serving a particular locality may in fact be under the management of two separate entities.

While a lot of process goes into calculating impact fees, it is not difficult for critics to find weak spots in impact fee methodologies.

A 2012 article published in the *Journal of the American Water Works Association*–"Utility Impact Fees: Practices and Challenges"–acknowledges the somewhat imprecise nature of impact fees. "Impact fee design is not an exact science and involves many considerations and assumptions," the article notes. "Costs represented in the fee calculations are often based on estimates and less-than-perfect historical asset records."

'Rational Nexus'

One of the key conditions that authorities use to validate the imposition of impact fees (stemming from *Nollan* above) is the existence of a "rational nexus," or sometimes an "essential nexus"– a clear connection between a new user and the locality's need for new facilities. In other words, a proposed impact fee must be reasonably and demonstrably related to the additional need or capacity a user creates or requires.

'Proportionate Share'

As also noted earlier, another important principle used to guide the assessment of impact fees, stemming from *Dolan*, is the requirement that the fees must be applied to new users in a "proportionate share" that reflects the user's effect on the facilities in question, and the requirement that the user who pays the fee must gain the benefit paid for by that fee.

EDUs

Impact fees typically are calculated using a common unit of demand and capacity called a *service unit*, which is defined in utility regulations as "a standardized measure of consumption, use, generation or discharge."

In the case of water and sewer service, the most common service or capacity unit is the *Equivalent Dwelling Unit*, or EDU, also referred to as an Equivalent Residential Unit. (Localities may also use other names, such as Equivalent Domestic Consumer Unit or Single Family Equivalent, to refer to this standard.)

Regardless of the nomenclature used, an EDU generally represents the average usage of a typical residential user in a home with basic kitchen, bath and laundry fixtures. A commercial customer, based on its water consumption, may represent several EDUs. Likewise, a single unit that shares water and sewer service in a multifamily dwelling may represent some fraction of an EDU.

A water EDU typically is calculated by dividing a water system's consumption in gallons per day by the total number of EDUs in the system. Using this method, a water utility may determine, for example, that each residential customer in its system has had an average consumption of 145 gallons per day (gpd) over the past five years. Using that data, the utility then can establish 145 gpd as the EDU standard it employs in all of its impact fee calculations. EDUs also typically are recalculated periodically to reflect current usage.

Utilities that assess sewer impact fees typically base wastewater EDUs on water consumption, so a user's water and wastewater EDUs generally are the same.

It's worth noting that when a utility or other authority calculates an EDU, that EDU is allocated for the purpose of planning and system engineering. The EDU represents a share of capacity–whether or not that capacity actually is used by the consumer.

Fee-Setting Factors

The monetary size of the impact fee associated with an EDU in a specific service area depends on a range of local factors, including the availability or scarcity of water, the cost of water and wastewater treatment, system capacity, the availability of other funding sources, demand pressures and planned capital improvements, among others. Based on these characteristics, a utility may charge no impact fee,

a small impact fee–or a very large one. When both water and sewer fees are charged, the water impact fee may be smaller or larger than the sewer impact fee, also depending on these characteristics.

Meters

Impact fees may be assessed based on the size of the meter to be installed at a new site. A residence, or a nonresidential site that requires a modest amount of water, is typically served by a 5/8-inch or 3/4-inch meter, while commercial sites may be served by meters measuring 1, 2, 3 inches or larger. The larger the meter, the higher the impact fee. These fees often include both water and wastewater components that are based on average flows associated with the meter size, which are added together to produce the total fee.

Meter impact fees typically are assessed using an "EDUs-per-meter-size" method. For example, a utility may consider a 5/8-inch meter as representing one EDU (using meter flow factors published by the American Water Works Association), and–based on the utility's own local water and sewer capacity characteristics–charge an impact fee of $10,000 per EDU. Under this regime, a 1-inch meter would represent 2.5 EDUs, and carry an impact fee of $25,000.

Area

Some utilities may also assign a certain number of EDUs to a standard area of floor space. For certain kinds of water-intensive businesses, such as coin laundries, an authority might assign five or six EDUs to each 1,000 square feet of the facility, for example, and generate an impact fee based on the site's total square footage.

3. Startup Implications

How much can an owner expect to pay in impact fees?

Although water and sewer impact fees are fairly widely applied and increasingly common for all types of new construction–whether a new home, retail location or manufacturing facility–these charges tend to have a disproportionately larger affect on the water-intensive self-serve laundry industry.

Because vended laundries are constructed essentially to repackage and resell utilities–with water at the head of the list–the water flowing in and out of any one facility can equate to the usage of dozens of EDUs. The number of EDUs assigned to a washer–and then used to calculate fees–is extrapolated from the gallons of water a machine uses per load, times an estimated number of turns per day.

While EDUs may underlie vended laundry assessment calculations in a given area, utilities often impose fees on a per-washer basis, either through a flat fee assessed for each washer hookup regardless of machine size, or by working with a customer to calculate per-washer fees that conform to the laundry's specific equipment.

Dollar Amounts

As noted earlier, impact fees are designed to conform to each utility's specific needs and requirements. This means that fees can vary dramatically from one service area to another, even when service areas are adjacent to one another.

While there is no "average" fee that a prospective laundry owner can anticipate paying, it is generally true that a person contemplating building one in a town in south-central U.S. states will likely pay less than someone building a laundry almost anywhere on the West Coast. But no matter where one intends to build, it is essential to research possible impact fees.

In terms of dollar amounts, depending on the specific locality in which one seeks to build a laundry, per-washer impact fees can range from a few hundred dollars per washer to many thousands of dollars for each machine.

One locality north of New York City, for example, charges a $2,000 flat fee per washer, which is on the low-to-mid end of such fees. This means that building a modest facility with 25 washers will require an impact fee payment of $50,000 before even acquiring a building permit. A 50-washer facility would require a one-time payment of $100,000, and so on.

Most subject matter experts consulted for this paper indicated that the highest fees they had encountered in their work was in the neighborhood of $5,000 to $6,500 per machine, while a few had seen per-washer rates as high as $9,600–as well as one exceptionally high rate (detailed below).

A higher-end fee of $5,000, of course, means that building a 50-washer laundry would require a $250,000 investment–exclusive of "real" expenses for construction and equipment–before ground for the store is even broken.

The imposition of fees such as these on new laundry projects has significantly increased the cost of market entry, and has had effect of curtailing laundry development in high-impact-fee areas. In areas where fees are highest, these charges amount to a de facto prohibition on new laundry development.

That certainly is true regarding the "exceptionally high" rate alluded to above. That particular case, cited by one expert consulted for this paper, occurred in wine country on the West Coast, in an area where rainfall is about three-quarters of the national average, and water usage is closely tied to the wine industry. In that specific locality, the authority in question set the per-washer impact fee at $20,000–effectively closing the door to construction of any new vended laundry facility.

Payment

One of the most troubling characteristics of impact fees is that they must be paid at the very beginning of a project–before permission to build is granted.

While there are a few water and sewer authorities in areas with very high impact fees that will allow a new business to pay off a fee over several years, or to escrow funds and then base the fee on what the laundry actually uses, those are the exceptions. Nearly all authorities want cash up front.

There also are cases in which a landlord may be convinced to pay a portion of the fee in order to secure the laundry as a tenant, since new laundries tend to want long-term leases of 20 or 25 years because of the high amount of capital that must be invested to prepare and equip a specific site.

The bottom line is that when confronted with a high impact fee in a desirable location, it never hurts to explore the possibility of alternative payment schemes as a part of the negotiating process–either to stretch out the payment, or to convince a landlord to share the cost.

4. Valuation

How do impact fees affect the value of existing laundries?

As a rule, laundries that do business in areas with high impact fees have become more valuable because of those fees. This added value can affect a range of transactions.

Buying or Selling a Laundry

As outlined above, impact fees are one-time charges that are assessed prior to construction of a facility. The fee is grandfathered into the site itself, so if the laundry changes hands, the fee does not have to be paid again.

As a result, when a facility in a high-fee area is put up for sale, educated buyers and sellers are both aware that it would cost much more to build a new laundry *and* pay impact fees to connect to the local water and sewer system than it is to purchase–and perhaps re-equip–an existing one that has already paid those fees.

For this reason, the seller understandably will attempt to recover some portion of that embedded cost by obtaining a premium for the store, and the buyer will be more prone to pay that price to avoid paying the full fee associated with a new facility.

Re-equipping an Older Laundry

In areas with prohibitively high impact fees, even a poorly maintained, run-down laundry with old equipment can have significant value simply because it occupies an improved space with valuable water and sewer connections that would be costly to replicate in a new facility.

As long as a high-impact-fee location has positive demographics, and a buyer can negotiate a favorable lease or an outright purchase of the property, it is often far more cost-effective to gut an old laundry than to start from scratch.

Renewing the Lease

As noted, because an impact fee is strictly tied to a specific location, the fee actually "belongs" to the owner of that location rather than to the tenant, no matter who paid the charge.

Given this reality, the best situation for a laundry in a high-impact-fee market is for the laundry to own the real estate on which the business is built. Because when it comes to leased sites in these markets, the landlord generally has the advantage.

The fact is that more landlords are coming to realize the value of paid impact fees, which can have adverse consequences for the laundry owner. When it comes time for a laundry to pick up a five-year option on a 20-year lease, for example, a savvy landlord might decide to exercise a lease's market rate adjustment provision–and drastically increase the rent based on the landlord's idea of fair market value for the space when factoring in the value of the impact fees.

For this reason, it is increasingly important for lessees entering high-impact-fee areas to ensure that rental agreements include provisions that specify how any market rate adjustments will be calculated.

There also can be significant financial ramifications resulting from these steep adjustments even if a lessee sells the business to a new owner and reassigns the lease. Depending on how the original lease was written, a former lessee who has sold a laundry and reassigned the lease to the new renter might still liable for reassuming the lease years later–at a now much higher rent–if the new owner defaults or the business fails. This is yet another factor to consider when establishing a new lease.

Competition

If there is a positive aspect to high impact fees, it is that they provide existing laundries in areas where those fees are exceptionally high with protection from new competition.

Because impact fees jack up the cost of market entry, investors are far less likely to risk money up front to build a new laundry near an existing facility in a high-fee area, and much more likely to seek another location where there is less competition, or where fees are lower.

On the other hand, if one builds a new, widely successful laundry where there are no fees, and building many sites are available, the chances are much greater that a competitor can easily set up shop next door and vie for laundry business.

The down side of all this for communities is that very high

fees can act as a de facto barrier to any new competition at all, even in areas that could benefit from the addition of more self-serve facilities.

Vend Prices

An established laundry that is protected from competition not enjoys a monopoly over the market, but also–provided the demographics are right–benefits from the ability to raise vend prices to levels not possible when others are vying for patrons.

From a buyer perspective, the prospect of higher vend prices–and a richer revenue stream–might help soften the blow of acquiring an existing laundry at a premium price.

From a seller perspective, the ability to set higher prices means higher net income over time–and the higher the store's net income, the higher its valuation will be.

5. To Build or Not to Build

How does one decide whether to build a laundry in a high-fee area or to find a different location instead?

Self-service laundry industry experts agree that there is no magic number or formula for determining whether or not to build in an area with high impact fees. The fact is that impact fees become just one more critical factor to consider as part of the detailed and thorough research and analysis process that should precede any final laundry site-selection and startup plan. And each site and utility landscape is different.

That said, there are in fact number of key questions to consider in determining whether or not it is worthwhile to pay impact fees to build in a specific location. These include:

How much is too much? While the factors listed below are also in play, a major part of the answer to whether or not to pay impact fees depends on how deep the investor's pockets are. A motivated prospective laundry owner with a large cash reserve who is itching to enter the business might be more prone than a less-moneyed investor to consider the fee simply a necessary cost of doing business. Likewise, an experienced owner of several successful, state-of-the-art laundries in other high-fee areas might be less fazed by paying a high impact fee to enter a desirable market than someone just entering the industry, in part because his or her expertise will inform a more canny assessment of the market's potential.

What are the characteristics of the area? This involves the questions that come with the demographic analysis that should be part of any well-conceived site-selection process. For example, what is the population density? Is it a dense urban location with 5,000 renters within a quarter mile? Do the places where they live have on-site laundry facilities? Is there adequate parking? What is the traffic pattern on the street where it is located and on nearby streets? If answers to these and other questions are positive, an investor might be more flexible as to the amount he or she is willing to pay.

Will the water or sewer authority reduce the fee? The amount of the fee can make or break a prospective laundry project, so it is essential to try to negotiate fees downward. Some utilities may mitigate fees based on individual circumstances, while others will refuse to budge. But it is always worth the effort to try.

Is there a reasonable existing laundry to rehabilitate? As noted earlier in this paper, purchasing and re-equipping an existing laundry can be viable alternative to building a new one in areas where impact fees pose a very high or insurmountable barrier to market entry.

Is there a nearby locality with lower fees? Many areas are a jumble of adjacent and overlapping municipal and regional water and sewer jurisdictions, each with its own system of impact fees. A careful examination of where these jurisdictions begin and end may result in finding a nearby low-fee location just outside the boundary of a high-impact-fee area.

Will the laundry generate the desired return on investment? This, of course, is the key question. Only by performing thorough due diligence–carefully considering all the above questions and many more–and "running the numbers" using established industry methodologies, can one finally determine whether it makes sense to pay high impact fees for the privilege of building a laundry on a particular site. In the end, the bottom line is the key determinant of whether or not to build.

6. Fighting City Hall

What are some of the counter-arguments the vended laundry industry is using to reject the reasoning used to justify impact fees?

When contesting impact fees, it is critical to work with an experienced vended laundry professional–such as a laundry

distributor, consultant, broker or owner–who is familiar with the local impact fee structure, is knowledgeable about the local political climate, understands how to approach and work with the governing authority in question, and knows the best way to structure and present the laundry's case.

With this in mind, there are a variety of counter-arguments that a laundry can take to the appropriate local water and sewer authorities to argue for an impact fee adjustment. The primary ones include:

The utility is using outdated or invalid assumptions do not reflect actual water and sewer usage. One of the most common counter-arguments revolves around the water-usage statistics and usage-frequency assumptions that water and sewer authorities employ to calculate how much system capacity is used per washer–and how many EDUs to assign to each washer.

Counter-arguments in this category fall along two general lines:

Per-turn water-usage statistics are too high, because they are based on outdated numbers for washers manufactured decades ago. According to industry experts, many water and sewer entities continue to base their estimates of a typical washer's water usage on per-turn consumption statistics established by the Environmental Protection Agency decades ago. Moreover, old statistics tend to reflect water usage of top-loaders, which use more water than the front-loaders predominantly used today. For example, older top-loaders typically used 2.6 to 3 gallons of water per pound of clothes, whereas today's most efficient front-loaders use as little as six-tenths or seven-tenths of a gallon of water per pound. The point is that all of today's washers rely on far better technology and use much less water per turn.

Per-day machine usage assumptions are inflated, often many times over actual usage. A laundry may challenge the utility's assumptions on how many turns per day each washer will perform based on other documented industry averages. While a typical day's use may be three or four turns per machine, the impact fee may be based on an arbitrary number many times that high.

Other counter-arguments that have been used with varying degrees of success in efforts to lobby service-providers to lower fees include:

Wastewater output should not be based on water input, because the residual water in wet clothes evaporates during the drying process. A percentage of sewer impact fees, therefore, should be deducted from the fee as an "evaporation allowance."

Vended laundries reduce community water consumption and wastewater production, because the clothes washed in the facility otherwise would have been washed less efficiently at home. The laundry is rendering a public service, and therefore should pay a lower impact fee.

Impact fees harm low-income individuals. Typical self-serve laundry customers are low-income individuals who can least afford to pay the higher vend prices that are passed on to consumers as a result of high impact fees. Fees should be reduced in recognition of this fact.

The fees are stifling new competition, and by doing so, shutting out the deployment of new, efficient, water-saving laundry equipment in the community. This also may have the effect of artificially reinforcing any higher-than-normal vend prices at existing facilities, or perpetuating any sloppily run vended laundry service operating in the area, and thereby preventing residents from having access to better laundry services.

7. Mitigation Strategies

What are some ways to successfully reduce or mitigate local impact fees?

In addition to two of the "build or not to build" options described earlier–re-equipping an existing location, or seeking a nearby site in a lower-fee area–there are several other approaches one can use to trim back or avoid paying impact fees.

Work the Numbers

Setting out to disprove the kind of outdated or invalid water usage statistics alluded to above requires substantial amount of effort on the part of the party contesting those figures–but can produce significant results when successful.

This effort typically entails working with manufacturers, distributors or a vended laundry consultant to assemble empirical water consumption data for the specific washers that will be installed at the location in question in order to demonstrate water consumption and/or wastewater discharge that is less than the amount on which the impact fees are based.

In a best-case scenario–one in which the water/sewer authority is willing to hear out the prospective owner and look at the detailed assembled data–producing such data may result in a reduced impact fee prorated to reflect a more realistic level of usage based on the machines in question, rather than the level of usage indicated by the authority's standard testing data. Factoring in data regarding the average turns per day based on the local laundromat market also may help to bolster that argument. It's important to note that most water/sewer authorities want to set impact fees based on maximum usage, rather than typical or average usage.

Of the arguments outlined in the preceding section, challenging water and sewer usage statistics–and supporting those efforts with detailed empirical data–probably stands the best chance of producing a reduction in fees.

Lobbying for an evaporation allowance tends to be less effective in gaining a reduction, although a laundry may very occasionally obtain a very small reduction in more accommodating localities.

It is important to note that many water and sewer authorities in certain areas where water is at premium–such as California–may have a more "green" perspective on consumption of utilities. Consequently, they may have a more detailed understanding of the ultra-efficient technology being adopted by today's self-serve laundries, support implementation of such technology, and be more open to examining data that may result in a lower impact fee.

Work Around the Fee

As noted earlier, in addition to facing fees assessed on a per-washer basis, a prospective owner may also be faced with a water meter impact fee which rises according to the size of the meter.

In situations where those fees are exceptionally high, some owners have designed water systems that allow them to pay, for example, a $30,000 impact fee for a small, 3/4-inch or 5/8-inch meter, but still operate the laundry as though it were supplied by a 1½-inch meter costing $100,000 in fees.

In these cases, rather than pay a premium for a larger meter, some owners have installed a *tank and pump system*. Water flows through the small meter into a large storage tank–which may range in size from 1,000 to 3,000 gallons, according to the size of the laundry. The water then is pumped from this reservoir for use by the laundry, and replenished as it is drawn out. Depending on its size, this system may cost $10,000 to $30,000–which is still tens of thousands of dollars less than a $100,000 meter.

Of course, the ability to use this work-around solution is totally dependent on who is responsible for which function in the locality. For example, a municipality may sign off on and approve such a design if the water authority and municipality are separate entities. If they are the same, such a scheme likely would be characterized as an effort to skirt the local code and avoid the impact fee, and not permitted.

Work Outside the Box

Occasionally, laundries have avoided paying impact fees due to the unique circumstances surrounding the sites where the businesses were built.

For example, one successful laundry in Los Angeles was built at the behest of city authorities, who wanted to locate the facility in a specific area or town as part of an *economic revitalization* effort. In that case, the city mitigated impact fees and provided other incentives to encourage construction of the laundry.

A prospective laundry owner might use this model to initiate an effort from the business side by exploring possibilities in a targeted revitalizing locale, and then approaching authorities with a proposal that includes an impact fee exemption.

In another, more extreme, example on the East Coast, an owner wanted to build a large laundry in an area with insufficient wastewater capacity. In that case, when the local authority refused to connect the facility's washers to the sewer system, the owner spent several hundred thousand dollars to install a *water filtration system* that collects wash water, and then filters, stores and recirculates it to the store's machines. No wash water enters the sewer system. While the reused water is sufficiently filtered for laundry use, it is not considered potable, so fresh water flows to all the store's other fixtures.

This approach is not considered broadly applicable because of the negative connotations associated with gray water, and the public relations challenges presented by its use. While this facility is required to post the fact that filtered wash water is being reused in the machines, that information in this particular case reportedly has not deterred customers from patronizing the laundry in question.

New Directions

As a side note, while most experts regard the current use of water recycling–if used at all–as being restricted to large industrial laundry operations rather than self-serve laundries, efforts to implement it in the vended sector are nonetheless closely watched by others in the industry. That's because as water filtration technologies become more sophisticated, and systems become more affordable and more able to produce a product acceptable to the public, recycled water has the potential to reshape the laundry industry by slashing or eliminating most fees related to water and sewer utilities.

One gray-water effort currently drawing interest–a grant-funded, nonprofit vended laundry initiative still in the research and development stage in water-strapped northern New Mexico–is working to develop a Laundromat that will recycle gray water through its machines, as well

as use that filtered water to irrigate a nearby community garden. Impact fees would be waived for the completed facility. In this water- and eco-conscious region of the country, the proposed facility enjoys strong public support.

A major part of current efforts associated with this particular initiative focus on developing an efficient, cost-effective, and replicable water-recycling system designed specifically to meet the needs of vended laundries. Affordable technology is a prerequisite also to avoid creating offsetting price increases that inordinately affect low-income customers who make up a majority of laundry clientele. A major research lab is providing technical assistance in creating the system.

While the pilot facility will be used primarily as a testing, R&D and demonstration site, the project's long-term plan is to use the facility to promote the resulting technology and educate the public, and then eventually to help to roll out the technology regionally and nationally. Should this approach someday gain public acceptance and flourish, it would have a resounding effect on impact fees as they pertain to self-serve laundries.

8. Other Utility-Related Issues

What other potential utility access costs should prospective laundry owners be alert for when considering a new location?

Although this paper focuses on water and sewer impact fees, subject matter experts also point to a number of other potential complications that may arise in acquiring other utility services such as gas and electricity that could result in similar–and often unanticipated–financial consequences when building a new facility.

While access to water and wastewater services is a key concern, those looking to build a new facility must not assume that access to gas and electricity is assured. It is in fact critical to investigate and verify the availability and cost of obtaining all the utilities a facility will need–water, sewer, gas and electric alike–prior to expending any funds on upfront utility impact fees.

Here are few examples of the kind of unexpected utility-related expenses a venture could encounter:

Electric

- A prospective laundry owner discovers a chosen location has good demographics but no on-site access to the 600-amp service the laundry will need to run its gas dryers with electric controls. In response to a service inquiry, the electric utility generates a quote of $40,000 to install the appropriate pole-mounted transformer and line to serve the facility.
- Although new dryer models do not require three-phase power, a laundry plans to access three-phase service to ensure the efficient operation of its HVAC rooftop air-handler. The electric utility informs the prospective laundry operator that in order to provide the service, the utility will have to charge the owner tens of thousands of dollars to dig up the street and connect to an underground electrical vault a block away.

Gas

- A laundry already under construction on a street with natural gas service requests 5 million BTU service from the natural gas utility, only to be informed by the company that–while a gas main indeed runs down the street in front the site, that line will have to be improved in order to deliver that level of service to the site, at a cost of about $100,000. With substantial funds already invested in the construction of the laundry, the owner decides to avoid the additional $100,000 expense by taking a less-expensive option, and installs underground LP gas storage tanks to serve the site rather than use natural gas.

Utility Taxes

- A new laundry owner does not realize that in his locality the cost of sewer service is collected as an annual tax based on water usage, and is not collected as part of the monthly water bill. A year into the venture, the landlord presents the new owner with a $10,000 sewer tax bill, due immediately. (Although utility taxes are assessed and collected in a variety of ways according to the specific locality, it is critical to research if and how they are imposed in order to avoid unwelcome surprises.)

9. Looking Ahead

What can laundries expect to see regarding impact fees in coming years?

Experts consulted for this paper were unanimous in their view that impact fees are a growing concern affecting the establishment of new self-serve laundries. Among their observations:

Existing impact fees are not going away. Impact fees provide an established, codified source of revenue for capital improvements. Few municipalities or authorities are likely to surrender that revenue stream once it is in place.

More municipalities, utilities and other entities will adopt impact fees. When the need for capital improvements arises, utilities that currently do not have impact fees cannot fail to observe the successful implementation of such fees in other localities, and will seek to add this new source of revenue.

Impact fees will increase. The cost of maintaining, updating, expanding and building water and wastewater facilities will only rise. Current users will have to assume higher costs through rate hikes, while new users will have to pay higher impact fees for the additional burden they place on a system that costs more to provide.

Impact fees represent a growing barrier to market entry. As fees rise, prospective owners will need to invest larger amounts of money just for the privilege of entering the market, independent of any construction or equipment expense. This will further restrict new launches in high-fee areas, and even close off market entry to new competitors in some localities.

The same experts pointed to infrastructure needs as one of the major drivers of the fees.

As noted earlier, the failure of aging infrastructure is a serious and growing problem in communities across the United States. In the *2017 Infrastructure Report Card* cited at the beginning of this paper, the American Society of Civil Engineers gave U.S. drinking water and wastewater systems, grades of D and D+, respectively. According to the report, old drinking-water pipes–many of them put in place in the first half of the 20th Century–suffer almost a quarter million water main breaks every year, losing more than 2 trillion gallons of treated water.

The report cites estimates from the American Water Works Association that $1 trillion will need to be spent to expand and maintain water infrastructure over the next 25 years–as well as EPA estimates that the nation will need to spend $271 billion for wastewater infrastructure over the same period. Given these projections, impact fees are likely to be firmly entrenched for years to come as a method of financing new capacity.

10. Summary

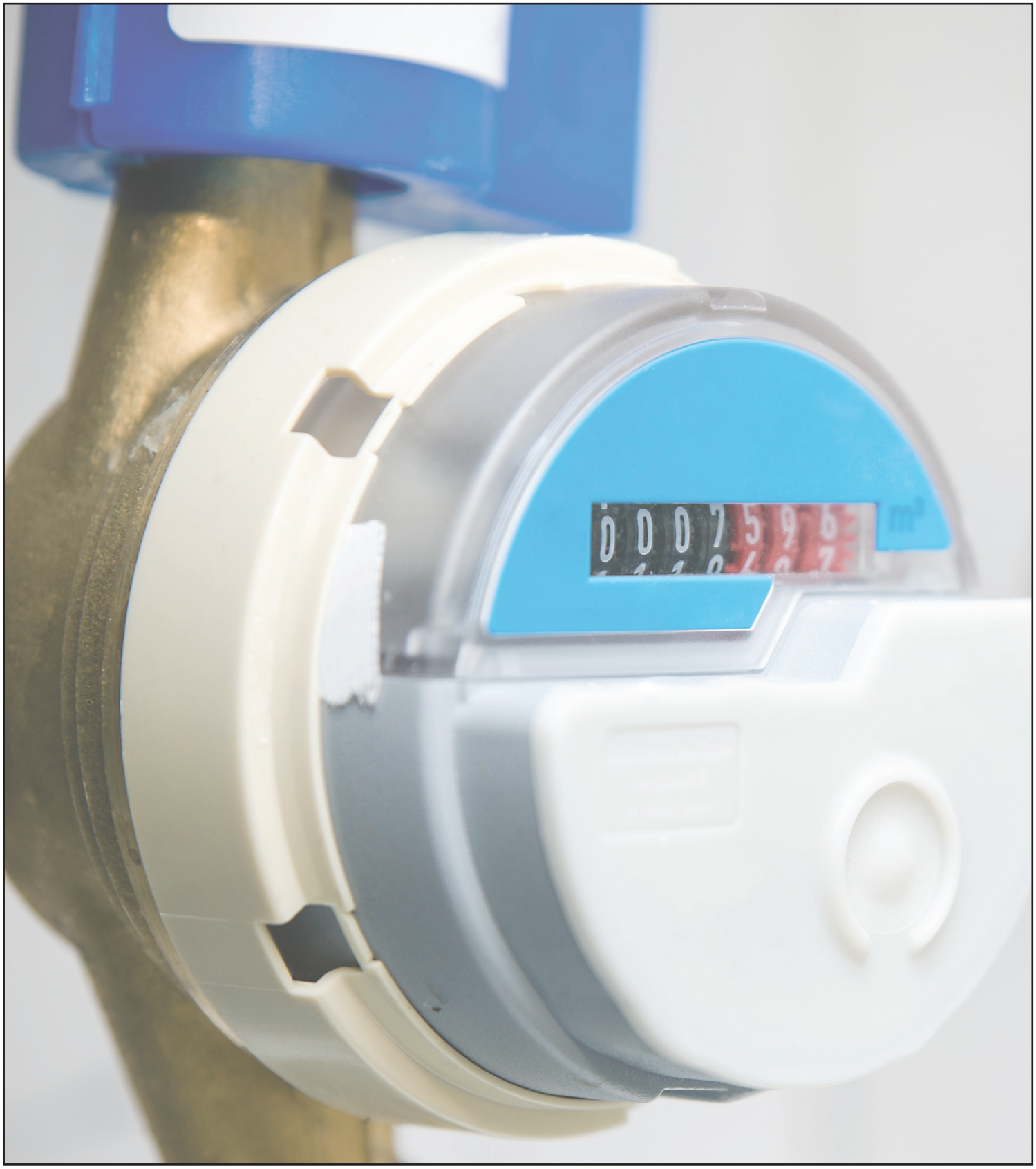
The subject matter experts consulted for this report consistently emphasized a number of key points in dealing with impact fees.

Do the research. Performing thorough, advance research on how local regulations will affect the construction and operation of a proposed laundry is every bit as important as conducting demographic analysis and site-selection studies, and designing the best lease. It is critical to examine every utility-related aspect of a prospective laundry site before making a financial commitment of any kind. This means doing detailed homework on all permits, impact fees and tap fees. It means verifying access to utilities–but also establishing that service providers have the proper infrastructure in place to deliver sufficient capacity to meet the needs of the laundry, and seeking any available information on long-term water and sewer fee escalation.

Obtain expert counsel. Mistakes can be costly, especially for laundry novices. Work with an industry expert who has a record of success in launching laundries in the same area being considered for the new facility. This person may be a veteran laundry equipment distributor, a business broker who specializes in laundries, a consultant who focuses on the vended laundry industry, or an experienced owner of self-serve laundries. Such a person may even have experience in several of these fields. Impact fees and rising utility costs are significantly increasing the cost of market entry, leaving little room for error. An onboard expert understands the local marketplace and local political environment, has experience overcoming variety of common issues, and knows the proper way to approach and work with municipalities and water and sewer entities to reduce the financial sting of impact fees when possible.

Always attempt to negotiate. While some water and sewer entities will stand firm on impact fees no matter what, nothing is lost in trying to negotiate a lower charge. The expert cited above will know where and how to initiate that effort–whether it is by approaching the utility, attending public meetings, or though some other formal or informal process. Because each impact fee environment–as well as each prospective laundry site–is unique, sometimes unique solutions can be negotiated.

Be open to other options. As described in several places throughout this paper, impact fees sometimes force those seeking to build new laundries to abandon or significantly alter their original plans in order to enter the business. The main point is to generate a good bottom line. Those who are willing to reset in the face of adversity and take a different approach are more likely to achieve that objective.



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