CUPE | Canadian Union of Public Employees
Local 500
positively Public the Winnipeg Way!

Submission on

City of Winnipeg
Changes to the
Delivery of Water/Waste Services

Solutions looking for a Problem!

To

Executive Policy Committee
City of Winnipeg

July 2009

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Positively Public BRIEF to EPC/City Council
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Executive Summary

In November last year, Winnipeg City Council approved a very significant motion that dealt with the delivery of city utilities and particularly the upgrade of our waste water treatment facilities.

- One part of the motion instructed city officials to explore setting up "a new arm's length business model to operate city owned utilities". The Municipal Corporate Utility (MCU) could eventually take responsibility for the water system, sewage treatment, garbage collection, recycling and other utilities.

- A second part gave the same officials the go ahead to seek a 'strategic partner' to be part of the "design, construction, financing and possibly the operations" of the waste water control centres.

- The Province of Manitoba was also to be requested make the necessary legislative changes to ensure oversight of water and sewer rates by the Public Utilities Board.

- And City officials were allocated about $4 million to implement this motion.

The November motion was rushed through the decision making process of City Hall without public consultation and time for professional or public input. The matter of creating the Utility or having companies operate the water treatment facilities was only on the City agenda for a couple of weeks and it got very little attention. As well, it appeared to us that the normal Council committee mechanisms were not used - such as the Alternative Service Delivery

Committee or the Public Works Committee of Council - for reviewing new proposals and developments.

The motion before Executive Policy Committee this month is also being presented without sufficient preparation, and in our view, without adequate professional or public input. In particular we know that regulations needed to establish and regulate the MCU and ensure that the MCU will operate in the public interest, do not yet exist. Internal mechanisms to get union input on the MCU proposal have been insufficient. And there has been only token effort to inform Winnipeggers about the MCU and to solicit serious commentary.

We believe that the City of Winnipeg is opening the door to the devolution of authority and accountability over the delivery of water and waste services, to privately owned companies. By approving a greater role for private companies in the management, operations or financing of City water and waste services, we anticipate increased control of these services shifting to these companies, as they need ownership or contractual assurances to secure credit for large infrastructure developments or to cover new operational risks.

We believe, that devolution of control will likely lead to increased cost for water and waste services, and that an MCU could put the accessibility and safety of water and waste services at risk for all Winnipeggers in the long term.

While not up for Council approval now, we believe the inclusion of ‘strategic partners’ in the MCU overall plan for the waste water treatment upgrades (and later for other subsidiary services and companies) is the door that is opening to this devolution. For all intent and purpose, these arrangements are public-private partnerships (P3s) that CUPE has consistently viewed with extreme concern. City Council and officials are well aware of our opposition to P3s on the basis of their tendency to raise costs for consumers, to lower quality of service and to obscure accountability for the delivery of our public services. The change in policy towards P3s in Quebec is only one example of how P3s are losing their attractiveness as alternative methods of meeting municipal infrastructure needs.

The creation of a public utility may be a positive development for the City of Winnipeg. However, it must be built on a solid foundation of analysis, research, legislation and policy, public consultation, professional input and a commitment to public service. Throughout the last six months we hope it has been clear to City officials, that the leadership and members of CUPE Local 500 have tried to work with the City on this initiative - we have provided with information and our opinions, and we have shown a continued willingness to cooperate with Council on any effort to improve services to the public. We believe a foundation may exist for a public utility, but that this foundation does not exist for a corporate utility.

To raise comfort levels with the proposed Municipal Corporate Utility and Strategic Partnership, we therefore would like to see certain assurances;

- that the cost of water and waste water services to Winnipeggers will not increase substantially and that operational and capital cost savings will be passed on to consumers. To ensure cost-saving projections are accurate, we also recommend a third party evaluation of the MCU Business Plan before the MCU is approved,

- that all the regulatory protections will be put in place to protect the public, before the MCU is operational. This possibly could be done through completing the regulations that the Province of Manitoba will provide as part of their obligation under the Winnipeg Charter, or by a Public Utilities Board mandate for the MCU, and

- that public assets and resources will be protected in a new Utility. The City should demonstrate how it will assure it will remain ultimately responsible for delivering water and waste services and accountable to the public for these services. In particular, taxpayers should be certain no assets will be sold or given to any private entity.

Municipal Corporate Utility

In the original motion from Executive Policy Committee (November 12, 2008), the Municipal Corporate Utility (MCU) was defined as a “new arm’s length business model to operate city owned utilities". In some discussions, officials have said it would be like Manitoba Hydro and the MCU would be 100% owned by the city. However, there are vast differences between the two. Manitoba Hydro was born of a situation where private providers of electric power were taken over by regulatory legislation that gives priority to public benefit over profit.

Manitoba Hydro is a Crown corporation closely regulated by the Provincial government. This status arose because of the history of electrification in the Province, where early private commercial developers required a large initial return on investment owing to the high risks of the projects. This limited the economic benefits that electrification would bring. And as a Provincial Crown Corporation, investment decisions by Manitoba Hydro are heavily influenced by political and economic goals of the provincial government.

Since Manitoba Hydro is a Crown Corporation paying no dividends and not obligated to provide a return on investment to shareholders, energy costs to industrial and residential consumers are lower than they would otherwise be. These lower costs help offset some of the higher costs of doing business in a region far from large markets. Manitoba Hydro has the ability to contract with private firms, sell power outside of Manitoba and maintain business practices, all without being corporatized.

While there may there is merit to public or ‘crown’ corporations that provide services and utilities, the MCU is not intended to be a crown corporation. As it is now defined, the MCU is intended to be a ‘business-like corporation’, providing services to the city under contract, and doing so through partnerships with private companies (an asset management agreement). Therefore, unlike Manitoba Hydro, it focuses on revenue generation for the City over preferential rates for Winnipeg consumers.

Public information and consultation

In the last three months, information on the MCU has been produced and shared with the public. While this information should have clearly defined the MCU, with some examination of its strengths and weaknesses, it was more of a promotional effort to sell the MCU. For example, the "Proposal for a New City-Owned Utility" promotes certain benefits;

- In the section called, **Why Change Now?,** here is no description of why the present Water and Waste Department cannot do what officials are claiming a new Utility is needed to do. City officials and companies that have worked with the Water and Waste Department say how competent and able our City staff is, so what is the problem that a new Utility is going to fix? Also, note the justification of a new Utility is tied to the upgrades of the two water treatment plants. There is a link between them, but because there is little substance to justify the creation of a new Utility, the MCU description includes the plant upgrades, which are clearly needed. In fact, Council has already approved a motion enabling the City to provide services outside the City boundary.

- In the section called **A New Model,** there is no description of what the new model is. There is a list of so-called improvements but what is the model being presented to the public? The expansion of the water treatment plants is thrown in again. City officials say there is no truth to claims that this new model and the Utility is a step toward privatizing our drinking water. We have consistently said that the way the city is approaching a new Utility could be the first step in privatizing water, but that we need to see the details before we can be assured that privatization is not on the horizon.

- Concerning **Cleaner Rivers and** Lakes, again, it is not clear why the City cannot implement appropriate environmental policies and practices now. Why is a new corporate structure needed? Again the justification for a Utility is tied to the water treatment plant expansion.

- In the section on **More Public Accountability**, the designers of the MCU seem to believe that more accountability can be achieved with less involvement and contact. The reliance on the Public Utilities Board is insufficient, as it is only for rates - not how the corporation will be run or what it will do. Second, the new Utility is expected to avoid "a political rate setting process" and assure that Council cannot determine how revenue or expenditures are managed, and this is "more public accountability".

- **Greater Protection of Taxpayers** - Again, the justification for the Utility is based on the completion of the water treatment plant expansions. There is nothing said about how taxpayers will get greater protection from a new Utility organization, other than the protection from the probing eyes of elected officials and the public. The point that "water and sewer rates will be reviewed and approved by the Public Utilities Board ensuring greater public accountability and rate stability" is only one small part of what the public needs to know and be assured about.

- **Growth Opportunities** - Here we start to see a little of what the Utility will be - it will be "generating new revenue streams" and "new lines of business". Finally we get to see what the model is - a business. If there is new revenue to be earned it will be solely coming from utility users! Also there will apparently be "new career opportunities for current and future employees" in this new Utility, but what, when and how is not defined.

Experience in other Cities

For comparison, other cities have confronted similar situations where new Utilities were established to meet water and waste needs. Generally speaking most municipalities in Canada deliver water and waste service as a public function, not though corporatized agencies.

Halifax[1]

A municipal water utility, Halifax Water, was created in Halifax on August 1, 2008. It brings together water, wastewater and storm water services under an arms-length department of the municipality. The Halifax water board includes the Mayor of Halifax Regional Municipality (HRM), three members of the Regional Council appointed by Council, three residents of HRM who are appointed by Council and the Chief Administrative Officer of HRM or an HRM employee appointed by the CAO. Halifax Water is an autonomous utility, financed wholly from user fees, providing drinking water and fire protection services to about 325,000 residents.

Halifax Water employs about 200 workers in two large water treatment plants (90 million litre and 225 million litre per-day capacity), 7 small water treatment plants, 16 storage reservoirs, 1,254 km of transmission and distribution main, 7,320 fire hydrants, and 76,559 customer connections. It remains publicly owned and operated and is the workplace of members of CUPE locals 227 and 1431. Transition agreements were negotiated and the members are in bargaining currently. In general there are no complaints about the new arrangement.

Kingston

Utilities Kingston operates four utilities: water and sewer, natural gas, electricity and telecommunications. It is City-owned and accountable to Kingston City Council and residents. Ontario's 1998 *Energy Competition Act* required electrical utilities to adopt corporate structures for their distribution systems; a requirement that was supposed to create a level playing field between privately owned utilities, and those that were retained by their municipalities.[2] Because Utilities Kingston was a municipal department operating five utility systems, the new structure applied to all five utilities under its umbrella.

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[1] http://www.halifax.ca/hrwc/
official provincial legislation which created it:
http://www.halifax.ca/hrwc/documents/HalifaxWaterAct1-RoyalAssentDec13-07.pdf

[2] In 1998, the Ontario Government introduced the Energy Competition Act. The Bill broke up Ontario Hydro into a generating company (later called Ontario Power Generation, a wires and retail company (Hydro One) and the Independent Electricity Market Operator (IMO). The Ontario Energy Board was given greater regulatory powers and more than 250 municipal electrical utilities were told to form themselves into business corporations.

Utilities Kingston's sole shareholder is the City of Kingston and its residents. The municipality owns the water and sewer assets throughout the City of Kingston and the gas and electric assets in City Central. Decisions regarding rates, capital and operating expenditures and policies continue to be decided by Kingston City Council.

Utilities Kingston is funded by user fees. Utilities Kingston's profits are reinvested in the community. The municipality is the sole shareholder and it appears there is no independent board. It is the City Council provides this role.

Some of the arm's length corporate municipal utilities created as a result of Ontario's Energy Competition act are more 'corporate' in how they operate than others. In Ontario they all have a corporate legal model under legislation, designed to diminish the public interest.

Edmonton

EPCOR Utilities Inc. is a for-profit company, publicly traded on the Toronto Stock Exchange with majority ownership in the hands of Edmonton City Council. EPCOR's business includes water and energy services and infrastructure and has subsidiaries in various cities in North America.

EPCOR's Board is not directly accountable to the public. The Board is appointed by the City of Edmonton (the City), who is the sole owner of the company (shareholder). The Board operates independently of the municipality and has full authority on business decisions. There are no elected representatives of the City on the Board. In fact this would be considered a conflict of interest. Board members are business leaders from across Canada.[3]

[3] http://www.epcor.ca/SiteCollectionDocuments/Corporate/pdfs/corporate%20reports/EPCOR%202008%20AR%20Front.pdf

A recent decision by EPCOR to sell off some the City of Edmonton's municipally owned assets shows that the corporate utility model creates openings for all out privatization. A key concern about the model is lack of transparency and accountability to the public EPCOR's decision was taken. This was enabled by the "arm's length" relationship of the council from the board. Shareholders, notably the public, were only informed of the decision after the fact. This represents significant privatization in Edmonton - an outcome that CUPE has been predicting since the adoption of the corporate utility model there. Dennis Mol, President of CUPE Alberta was quoted recently saying: "Corporatizing our utilities was the Trojan horse," said Mol. "Now we are losing assets and losing the ability to control a key lever of our economy."

The for-profit EPCOR model that has subsidiaries and is designed to privatize services in other jurisdictions. Given that the original proposal included expanding the proposed utility's services to other jurisdictions, as well as to the energy sector in the future, are all indicators that the road Winnipeg is likely heading down is more like the EPCOR road than Ontario's or Halifax's municipal utility model.

Whereas in Halifax and Kingston, the Boards consist of municipally elected officials and employ City staff, EPCOR's board is made up of member's of Canada's business community. They are neither local nor, public representatives.

MCU Business Plan

The Municipal Corporate Utility Business Plan lays out a significant description of what the proposed utility will do and how it will operate. While this document provides a great deal of information, it fails to address significant aspects of how the City would operationalize the numerous functions of a new utility. Some of the general areas where there is a need for elaboration and clarification are;

- Benchmarking is noted as a means of measuring the potential of strategic partners, but one general paragraph is insufficient. It is now generally accepted that 'Public Sector Comparators' are necessary to adequately measuring the value-for-dollar merits of P3s, but the Business Plan does not provide this level of comparative analysis. In fact, there has not been a formal assessment of the Water and Waste Department to determine its inability to address new requirements and what could be done to improve WWD within the current public administrative structure.

- The projections of cost savings (8% and 12% - section 7.4.6) are based on a very narrow set of examples of existing P3s as assessed by P3 proponents. For example, on page 61, the authors propose project lifecycle operating cost savings of 12% per year, but do not explain the basis for that...other than "synergies". On page 39, examples of capital cost savings from other P3 or semiprivate models arte noted, but most of these are EPCOR projects and the source of the information is the Canadian Council for Public/Private Partnerships, an advocacy organization for P3s. Similarly, Partnerships B.C. at page 40 is cited.

- There is virtually no reference to current criticisms of major P3s (e.g. Auditor General of Ontario) in Canada, and the debate surrounding their application to the Canadian context, particularly of meeting the infrastructure deficit.

- The proposed governance structure for the MCU does not include public or consumer representatives, only professionals in the field of water management are included.

- There is insufficient costing of existing public service supports needed for a MCU. While there is some reference to these corollary services, the Business Plan defers full attention to these until the transitional phase of implementation. In addition, there is no costing of the efficiencies that would be reduced or lost by creating another independent agency.

- There is no costing of the 'transactional costs' for setting up the Utility and the Strategic Partnerships involved. This is the direct and indirect costs of what City will put into setting up the MCU and what it will cost for next 30 years to adequately monitory the MCU. Estimates for this aspect of the administration's costs vary but could be in the millions of dollars above what the City has already approved and spent. Note that the Auditor General of Ontario estimated the transactional costs for the Brampton Hospital (costing about the same as the P3 for the water treatment upgrades) was $28 million.

Therefore, the Business Plan does not provide the assurances that the public interest will be advanced and protected. We recommend that an independent third party review the Business Plan to assure its and veracity, in particular for decision makers not experienced in creating new agencies or in monitoring P3s.

Potential Privatization

Our concern is that City politicians and officials are laying the groundwork to privatize water and waste services in the City of Winnipeg, or at least corporatize these services. Though there have been verbal assurances that this will not happen, we see the possibility of privatization as a very real threat.

We see the MCU concept as potentially opening door to privatization as defined and recommended by the Deloitte and Touche Report, *A New Model for City of Winnipeg's Utility Services* (October 15, 2008). In this report, the authors recommend a two-stream transformation to create a new utility.

- Stream 1 would "focus on providing water and wastewater services to its customer base which may include communities outside City Boundaries. All other WWD services such as land drainage and flood control and solid waste would also be considered to move to the Corporation".
- Stream 2 "involves entering into a long-term agreement with a Strategic Partner that will provide wholesale wastewater treatment service at performance levels specified by the

> Corporation. Essentially, the operations and upgrade of the treatment plants (NEWPCC and SEWPCC) will become the responsibility of the Strategic Partner for a 20 to 30 year period". (page 16)

A detailed description of the Utility and its governing regulations could assure the public that no privatization is possible for what is being conceived by Council. However, the Provincial legislative and regulatory changes required under the Winnipeg Charter, to enable the City to create a Utility, have not been provided. A recent legal opinion written for CUPE Local 500 by Garth Smorang of Myers Weinberg LLP, states that;

> The City of Winnipeg Charter was designed to give the City more powers and more autonomy. However, it is our opinion that the City does not have the power to incorporate a corporation unless the City has been granted the power and the autonomy to do so.
>
> If the City wishes to incorporate a municipal public utility corporation, the City must ask the Province of Manitoba to pass enabling regulations under s.212, sufficient to grant the City the power to do so. The Provincial Legislature has no legal obligation act upon any of the City's requests.
>
> Further, the City may need to ask the provincial government to pass statutory amendments to the City of Winnipeg Charter, depending on the structure, powers and functions it intends to assign to the corporation. The City must at all times act within the confines of its enabling statute and therefore it must be ensured that the type of corporation it adopts is in conformity with each and every provision of the Act. If statutory amendments are required, the amendments will have to be done by way of a Bill and will be subject to the procedures that must always be followed in the law-making process.

While the MCU Business Plan claims the MCU will make water and waste services "more accountable and transparent" (page 6), we have yet to see how this will happen. We do not think the analysis of costs of operations and potential saving through strategic partnerships is sufficiently though to assure "the cost of providing these services is expected to decrease" (page 8).

Public Utilities Board (PUB) oversight is not enough. While the PUB is providing a valuable and credible public services for other utilities, its mandate for the City of Winnipeg is narrowed to only dealing with rates. The PUB mandate could be expanded so that it would oversee and ensure that water remains affordable for all members of the public, including low income consumers (as it does for Manitoba Hydro).

If there are assurances that the Utility would operate as a crown corporation and not as a private company with strong public-private partnership tendencies, there would likely be broader support. A publicly owned and operated Utility can achieve the efficiencies of operation that government departments may not be able to do, while retaining public accountability. So far, we do not see these assurances.

Strategic Partnerships

The Request for Expressions of Interest (No.100-2009-A) states that the City of Winnipeg is seeking "a Strategic Partner to participate in the long-term planning, design, construction, project management and possibly financing of upgrades to and expansion of the City of Winnipeg's sewage treatment facilities and, potentially, subsequent operation of the facilities".

Further, the Request for Expressions of Interest states;

> 2.6. The Strategic Partnership is expected to provide the following business opportunities to a successful proponent:
>
> .1 a long term role in the design, project management, construction and possibly the financing of Winnipeg's wastewater treatment facilities;
>
> .2 an opportunity to share in gains made on scheduling and targeted construction costs for specific Project components; and
>
> .3 potentially, an opportunity to share in the profits of the wastewater facility division of any utility corporation established to be responsible for the administration of water and wastewater services to the City and others.

We understand the need to contract with construction firms that have an expertise and experience in waste water treatment to design and build infrastructure. The nature of the upgrades of the waste water treatment facilities, at all three in Winnipeg, require high levels of technical knowledge to implement. In addition the City does not have the experience, construction equipment or capacity to build the expansions.

However, we are very concerned that the City continues to propose a public-private partnership for the upgrade. Since November we have been assured at different times, that the finance and operation aspects would not be part of the partnership, and therefore what the City was proposing was a novel structure, but one that was not a 'traditional P3'. However, as the official documents being used to secure a private sector partner indicate, financing and operations are clearly on the agenda for the strategic partnership.

Across Canada, the performance of P3 has been poor. There have been numerous examples of where costs have risen despite assurances that the P3s would keep costs on track, or where standards set for infrastructure projects have not been met by the private sector partners. In addition to the higher costs of financing, additional costs involved in setting up and overseeing P3s get transferred back to the taxpayer as well. US watchdog group **Public Citizen** estimates that prior to the privatization of Atlanta, Georgia's water and wastewater system, the minimum cost of feasibility studies, evaluating bids, negotiating contracts, and severance pay to U.S. municipal workers was about $4.9 million between 2000 and the start of the contract in 2003.

Big water companies like Ondeo (formerly Suez), Veolia, RWE Thames and OMI/CH2M Hill are happy to make the upfront investment, eager to benefit from guaranteed revenue through regular payments coming straight from the public purse. But polls show that a considerable majority of Canadians say they trust their municipal government more for the delivery of a range of public services and utilities. A recent Nanos survey found that 76% of the public respondents trusted public delivery more than private for drinking water and sewage treatment (May 2008).

In the 2008 Annual Report of the Office of the Auditor General of Ontario, that evaluated the cost of the Brampton Hospital, it is reported that a "cost comparison clearly indicated that the P3 approach would

cost much less than the traditional approach. However, if the above (transaction costs, non-clinical services) adjustments are made to reflect what we believe is a more representative cost estimate-it can be seen that the traditional procurement approach may well have cost less". (page 114)
According to Blair, Mackay, Mynett Valuations Inc, (Evaluation of Public Private Partnerships, Costing and Evaluation Methodology, January 2009),

"2.0 KEY FINDINGS

Based on our review of four P3 projects (Abbotsford Hospital, Sea-to-Sky, Diamond Centre and Canada Line), we had the following key findings:

- The difference in the cost (in nominal dollars) between a publicly delivered project and a P3 project can be substantial. For example, the Diamond Centre will cost $203 million over the life of the contract as compared to a cost of $89 million had the project been publicly delivered – a difference of nearly 130 percent.

- While it is appropriate to discount nominal dollar costs, we conclude, based on available evidence and the application of more appropriate discount rates, the cost of P3s exceeds traditional procurement methodology for the projects referred to above.

- We conclude that the methodology used by Partnerships BC to compare the P3 projects to the public sector comparator is biased in favour of the P3 projects.

- We cannot determine whether the citizens of British Columbia are at risk of losing opportunities and money because of private equity refinancing arrangements that may occur following completion of the construction stage of the project; however, the private partners are most certainly in business to make a profit while the government is not. The profit made by the private partners, by definition of the term “private”, would not be shared by the public.

- We found that critical information and documentation in support of the Value for Money reports was for the most part denied in response to Freedom of Information requests. In our view this suggests a general lack of transparency and public accountability."

The City of Edmonton Auditor (P3 Benefits and Risks, June 2008) offers a sober advice to other municipalities;

> “P3s should not be promoted as the answer to public infrastructure and service delivery challenges. P3s are simply a service delivery option that can be appropriate to explore under pre-established conditions. The exploration requires due diligence and rigorous analysis to determine whether or not the P3 business case demonstrates best value for money and, as such, is the Optimal Service Delivery model to provide that service. This analysis should also consider additional criteria such as environmental, social, quality and safety considerations.” (page 26)

The authors of a report on P3s and Municipalities: Beyond Principles, A Brief Overview of Practices by Groupe de recherché sur l’innovation munipale, 2007, say, “P3s are not a cure-all or miracle treatment for all situations. They do not offer municipalities a magic solution to the real problem of financing infrastructure, the primary and often only real challenge facing local governments".

And in Public Private Partnerships in Canada, Theory and Evidence, Aiden R. Vining and Anthony E. Boardman (U.B.C. P3 Project. Working Paper 2006-04, December 5, 2006, Sauder School of Business, University of British Columbia) note;

> “The case studies indicate that the potential benefits of P3s are often outweighed by high contracting costs and opportunism. These costs are often particularly high when construction or operating complexity is high, revenue uncertainty (use risk) is high, both of these risks have been transferred to the private sector partner and contract management effectiveness is poor. In infrastructure projects it rarely makes sense to try to transfer large amounts of use risk to the private sector.”

Financing

In section 3.2. Private Sector Partner Functions, section b), of the Request for Qualifications (100 - 2009 – B, June 26, 2009) by the City of Winnipeg:

> b) Financing
> The City anticipates equity contributions or performance commitments to the Strategic Partnership by both itself and by its Private Sector Partner which contribution amounts shall establish each partner's respective entitlement to benefit under a compensation model appropriate to the Strategic Partnership project development work. The City will contribute the controlling 51-60% share of the equity/ partner investments in the Strategic Partnership.
>
> Specific capital projects designed and delivered by or under the management of the Strategic Partnership are expected to be variously financed by the City, by the Private Sector Partner and/or by private debt financing facilitated by the Private Sector Partner.

When private financing is involved in these large infrastructure projects, ownership or control shifts to the companies, or in this case, the Strategic Partner. Companies will have to have collateral or assurances that they will be paid for their work, to secure financing. This is often done by owning the infrastructure, for example the Charleswood Bridge is owned by DBF Construction and Huntingdon Real Estate Investment Trust owns the east side police station built for the City in 2008. Another option is to give companies long term leases - in this case, the City is prepared to enter a 30 year agreement with the private sector partner.

When private companies are put in this position, inevitably profit becomes the determining factor in how the utility is run and how utilities are delivered to the public. Though the City says water rates will be protected by the Public Utilities Board, this does not guarantee that affordability and accessibility will be assured for the public. In fact, the only way to ensure this is to enshrine the commitment in legislation. In many similar situations around the world, companies have found ways to justify increases in rates or to reduce services to parts of the public.

In “P3s and Municipalities: Beyond Principles, A Brief Overview of Practices (by Groupe de recherché sur l’innovation munipale, 2007) the authors note that;

> “The problem of financing municipal infrastructure is not related to the availability of the needed funding, access to financial markets, debt ratings, or the cost of loans taken by municipalities. To make infrastructure investments, municipal governments can easily borrow almost all the funds they need at very favourable rates. Indeed this fact is so clear, it is rarely challenged. To leave the responsibility of financing to the private partner is a poor solution to a non-existent problem, when traditional municipal financing is simple, relatively easy and, above all, much less costly than the private-sector equivalent. Nevertheless, the truth is that some people have an interest in making us think that there is a problem … because they have solutions to sell."

And Dr. Pierre J. Hamel, for the Federation of Canadian Municipalities in Public-Private Partnerships and Municipalities: Beyond Principles, a Brief Overview of Practices (August 31, 2007) notes that;

- “There is no evidence to suggest that P3s consistently cost less or provide better services than traditional public projects
- P3s do not offer municipalities a magic solution to the problem of securing additional funds for infrastructure
- P3s give the responsibility for financing infrastructure to the private sector, even though traditional municipal financing is simple, relatively easy, and less costly than private sector financing
- Long-term P3 arrangements, which often keep proprietary information out of the public domain and put the day-to-day management of public services in private hands for periods of 20 to 30 years, can reduce flexibility, transparency, and accountability for local governments.”

Operations

The MCU Business Plan notes, that “The Department (Water and Waste) today has a skilled, knowledgeable, experienced workforce”. (page 19). City officials have acknowledged that the current work force is very capable of operating water and wastewater facilities. And the Business Plan often implies that operations will continue to rely on current employees. However, there is no clear statement that operations of the wastewater treatment plants will remain a City responsibility.

On the other hand, it often appears that there will be a confused mix of public and private operations as different professional and support staff work for their respective employers but are seconded to different strategic partnerships to deliver the specific services. The Request for Qualifications is particularly confused on whether or not current staff will be employed by the City or the MCU. According to the *Labour Relations Act* and the current collective agreement that CUPE has with the City, current employees are assured of their jobs and union representation. But the Business Plan does not define the lines of authority and responsibility for personnel.

At a practical level, it is important to maintain the operations of the Utility as a public function, to assure smooth performance of the system. Because of the complexities of the wastewater treatment process for example, it takes skilled, knowledgeable and experienced personnel to operate. The appropriate maintenance of equipment has a security and cost benefit. Public employees will also bring experience and a familiarity of working with other City Departments which will be an advantage.

While the ongoing input of private sector expertise is important, particularly in assuring appropriate installation and construction of new components of the system, it cannot replace the permanent staff who need to have a comprehensive capacity to run the system.

Concerns and Conclusions

The motion before Council is being presented without sufficient preparation and appropriate professional or public input. The Provincial regulations needed to establish and regulate the

MCU, that could ensure that the MCU will operate in the public interest, have not been written. Internal mechanisms to get union input on the MCU proposal have been inadequate and insensitive to union concerns. And there has been inadequate effort to inform Winnipeggers and solicit serious public commentary.

It seems Winnipeg City Council is opening the door to the devolution of authority and accountability over the delivery of water and waste services, to private owned companies. By approving a greater role for private companies in the management, operations or financing of City water and waste services, we anticipate increased control of these services shifting to these companies, as they need to own infrastructure or have a long term contractual assurances (private companies, through P3s, generally need security or collateral to secure credit for large infrastructure developments or to cover new operational risks).

We believe that devolution of control could lead to increased cost for water and waste services, and that an MCU could put at risk the accessibility and safety of water and waste services for all Winnipeggers in the long term.

We believe that Council's prior inclusion of 'strategic partners' in the MCU overall plan for the wastewater treatment upgrades (and later for other subsidiary services and companies) is the door that is opening to this devolution. For all intent and purpose, these arrangements are public-private partnerships (P3s) that CUPE has consistently viewed with extreme concern. City Council and officials are well aware of our opposition to P3s on the basis of their tendency to raise costs for consumers, to lower quality of service and to obscure accountability for the delivery of our public services.

The creation of a Public Utility may be a positive development for the City of Winnipeg. However, it must be built on a solid foundation of analysis, research, legislation and policy, public consultation and professional input. We do not believe this foundation exists yet.

To raise our comfort level with the proposed Municipal Corporate Utility and Strategic Partnership, we therefore would like to see specific assurances.

- **Cost.** We need to see mechanisms to assure that the cost of water and waste water services to Winnipeggers will not increase. Similarly, if there are going to be major capital and operational costs savings, these should be passed on to consumers. To assure cost-saving projections are accurate, we also recommend a third party evaluation of the MCU Business Plan before the MCU is approved.

- **Compliance**. There are layers of regulatory provisions and legal authority that must be established to ensure compliance before the MCU can operate. This aspect of putting the MCU into action could possibly be done through the regulations that the Province of Manitoba will provide as part of their obligation under the Winnipeg Charter. A clarification of the Public Utilities Board authority over monitoring and assuring appropriate water and sewage rates should also be provided. Similarly there should be clarification on how the MCU will honour the collective agreements for the employees now working in the Water and Waste Department (and potentially other City units affected by these changes).

- **Control**. It will be important that the public interest will be protected in a new Utility. The City should demonstrate how it will assure it will remain ultimately responsible for delivering water and waste services and accountable to the public for these services. While the Business Plan says the MCU will be 100% city owned, it is important to clarify how this commitment can be balanced by expecting equity contributions from the private sector partners. Similarly, while the Business Plan makes a commitment to never selling off City assets, there should be legal assurances this cannot happen.

CUPE Local 500 is campaigning to retain public control of public assets. Our *Positively Public* campaign is intended to keep the public informed about the risks inherent in contracting out and privatization efforts in the City government.

Throughout the last six months we hope it has been clear to City officials that the leadership and members of CUPE Local 500 have tried to work with the City on this initiative - we have provided information and our views, and we have shown a continued willingness to cooperate with Council on any effort to improve services to the public.

Ultimately, when there is a common commitment to building public services for the good of the whole community, then there is the basis for City, union and community collaboration. If there is a genuine commitment from all parties to create and maintain safe, reliable and affordable public services, then innovation and change is possible.

Attachments

- BAD BEFORE, WORSE NOW, The Financial Crisis and the Skyrocketing Costs of Public Private Partnerships (P3s) by Hugh Mackenzie (June 2009)
- Evaluation of Public Private Partnerships - Costing and Evaluation Methodology, prepared for the Canadian Union of Public Employees, Blair Mackay Mynett Valuations Inc (January 5, 2009)
- Economic and Financial Crisis Exposes Risks of P3s - a CUPE Backgrounder (November 2008)
- EPCOR A Study of Ownership, Accountability and the Public Interest - Parkland Institute (September 2005)
- Motion - Executive Policy Committee, City of Winnipeg - November 12, 2008
- P3 Benefits and Risks, the City of Edmonton Auditor (June 2008)

On-line Background Documentation

A broad coalition of community, environmental, student and church groups opposed the motion
http://www.winnipegcitizenscoalition.com/GetInvolved/HaveYourSay/tabid/76/Default.aspx

Deloitte also advised that the City's Disraeli bridge should be upgraded as a P3
http://www.winnipeg.ca/publicworks/MajorProjects/DisraeliBridges/DisraeliFreewayProjectReportCouncil-May1408.pdf

The consulting firm is a sponsor of the country's main privatization lobby group.
http://www.pppcouncil.ca/sponsors/membership_dir_sponsors_deloitte.asp

Council vote ignores concerns and warnings - U of W professor Christopher Leo
http://blog.uwinnipeg.ca/ChristopherLeo/archives/2008/11/what_happened_w.html#more

Council proposal for selling water services to neighbouring communities.
http://www.winnipegfreepress.com/editorial/story/4247405p-4890538c.html

Leo points to the results of Detroit's attempts to market its water regionally.
http://blog.uwinnipeg.ca/ChristopherLeo/archives/2008/11/a_regional_wate.html#more

Privatization Watch - June 2009

CUPE

Québec City P3 hospital renos now at $900 million

The bill for the P3 project to expand and upgrade North America's oldest hospital now stands at $935 million.

P3s even more expensive since financial crisis: report - McGuinty government clinging to P3 model despite even higher costs

The cost penalty paid by governments for financing hospitals and other public infrastructure projects through public private partnerships (P3s) has jumped substantially since the onset of the financial crisis, says a report released today by the Ontario Council of Hospital Unions (OCHU/CUPE).

Report highlights downsides of P3s

A new report on privatization finds that P3s can have significant downsides for the public interest.

Garbage and recycling back in-house in Port Moody BC

Garbage and recycling collection was a publicly-delivered service June 29, in Port Moody BC, for the first time in ten years.

Trade high on agenda for FCM day one

As municipal politicians gather to discuss infrastructure, trade and the economy, CUPE is there to make sure workers' expertise and ideas are part of the conversation.

Privatizing ambulances – what's next? Fire and police? "Community safety not for sale": CUPE

Privatizing emergency medical services (EMS) in West Nipissing will divert already scarce resources into private profits and undermine community safety, said the union representing West Nipissing paramedics, the Canadian Union of Public Employees (CUPE) 1101, at an emergency rally today.

Minutes - Executive Policy Committee - November 12, 2008
REPORTS
Minute No. 10 Alternate Service Model - City of Winnipeg Utility Corporation
eFile GL-5.6.1

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service, as amended, and recommends to Council:

1. That the concept of a City owned Municipal Corporate Utility be explored as a new arm's length business model to operate city owned utilities, and the Winnipeg Public Service be directed to conduct a due diligence process and identify legislative authorities required to establish and operate the Municipal Corporate Utility and report back to Council for a decision.

2. That the Winnipeg Public Service be authorized to begin the procurement of a Strategic Partner that could bring private sector experience to the design, construction, finance and potentially the operation of the North and South End Water Pollution Control Centers as well as potential operation of the West End Water Pollution Control Center, and that the Chief Administrative Officer be authorized to approve and issue the Request for Expressions of Interest followed by a Request for Qualifications and the Request for Proposals.

3. That the Province of Manitoba be requested make the necessary legislative changes to ensure that future water and sewer rates proposed by the Municipal Corporate Utility be reviewed and approved by the Public Utilities Board.

4. That the following new 2009 capital projects be approved:

   A. Municipal Corporate Utility Business Plan in the amount of $1,250,000 ($625,000 in the Waterworks Fund and $625,000 in the Sewage Disposal Fund).

   B. Strategic Partner Development, in the amount of $3,000,000 (Sewage Disposal Fund).

5. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.