WHO BENEFITS - CORPORATIONS OR COMMUNITIES?
THE CLEAR CHOICE ABOUT WATER

This article outlines key challenges and opportunities facing governments in water management. Policies that address water, essential to life, must address the question: '*who benefits?*' Choices made by past governments have led to the current state of Canada's water infrastructure. We share the experiences of a number of American cities and take a closer look at the experience of privatization as it played out in the city of Hamilton, Ontario through a public private partnership (P3). A range of public financing alternatives is offered.

Canada's water and wastewater systems are publicly delivered to meet basic human needs and to protect public health. Municipal water systems were one of the first major services to be publicly delivered in Canada - essential to our public health system. Water infrastructure is public precisely because the private sector could not be relied upon to deliver a quality service at a price that all residents could afford. But a belief that we can count on the private sector to manage our public water resources is gaining ground in government and policy circles.

Now it is 2005 and private interests increasingly view water as a source of profit. A May 2000 edition of Fortune Magazine foretold that water would be to the precious and lucrative commodity of the 21st century that oil was to the 20th century.

Commercialization of water is creeping up in private treatment and delivery of drinking water; bulk water exports to the United States, and bottling of municipally treated water for resale by private companies.

Meanwhile, estimates of Canada's public water infrastructure deficit across Canada vary, but are as high as $50 billion. Regardless of the price tag, there is consensus that investment is required and difficult choices have to be made by all orders of government as they decide how best to manage Canada's fresh water resources. Privatization is presented to municipal governments in a pretty package, their proponents eager to capitalize on the difficult budget binds municipal councils often find themselves in.

Private financing schemes, called public private partnerships (P3s), are coming under increasing scrutiny for their higher costs, compromised quality, secrecy, lack of public control and accountability, and other problems. Proposals are made in groupings of companies, without clear lines of accountability and usually with at least one international player. A consortium of financing, construction, and service companies, purports to give local officials *choice* and *flexibility*. P3s are appealing because they allow governments to show balanced budgets, but only by hiding debt and passing higher costs on to future generations.

Governments have a responsibility to ensure access to and protection of clean water as a basic human right and touchstone of environmental stewardship. Their choices have implications for this critical question: *who benefits?* From CUPE's point of view, the choice is as clear as public water itself – public investment must benefit people, communities and ecosystems, not international for-profit water companies.

UNDER-INVESTMENT: IS PRIVATIZATION A SOLUTION?

Much of Canada's municipal water infrastructure was built in the first half of the 20th century and is at the end of its life cycle. Most agree that growth and maintenance of public infrastructure has lagged in recent years, significant investment is required in the short term and we need a plan for the long term.

Appropriate funding has not accompanied the downloading of provincial responsibilities to municipalities for a range of essential health and social services, and public capital investment has not kept pace with economic growth or population increase. Grants and loans from other levels of government for water infrastructure have fallen short. Meanwhile, a rejection of all forms of public debt has taken hold in "common sense" budget policy.

A Statistics Canada study highlights the relative decline of provincial and federal government shares, and the concomitant increase in the municipal share of responsibility for infrastructure across the country. In 2002, local government spending accounted for more than 50% of total public infrastructure, compared to 40.8% for the provincial government and a mere 6.8% for the federal government. The overall share of GDP invested in public infrastructure declined over that same period. Municipalities face a significant challenge finding the means to finance new infrastructure and to maintain and upgrade the existing stock.

Despite this, the federal government is putting corporate interests before communities. Through a host of infrastructure programs, and through federal initiatives like the New Deal for Cities and Communities, the federal government is actively promoting P3s and a private sector role in ownership and operation of water and other types of infrastructure. John Godfrey, Federal Minister responsible for Infrastructure and Communities, made the following statement in a speech delivered at a February 2005 conference:

> *"Three provinces have already signalled their intention to use P3s, so we're, in fact, already involved in some projects that include some form of private sector participation. And since Ontario, Quebec, and BC are all on the record in favour of P3s, I expect we will see more …So I want you to know that we are open for business*

> *on P3s. We think private sector partnerships can offer a pragmatic approach to meeting some of the country's infrastructure needs, especially for large-scale projects."*

We often hear that governments cannot afford to make necessary investments, whereas the private sector will happily "help out" by investing in public infrastructure. This obscures the reality that ***all public infrastructure financing will be paid by the public purse*** regardless of who does the borrowing. Since municipalities have access to the lowest rates of interest, the higher cost of private sector borrowing rates translates into higher cost loan repayments, and in turn higher costs to taxpayers.

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 (84%) agree with the statement "Canada's public services should be delivered by public sector workers accountable to elected representatives and the public, not by corporations accountable to shareholders."

As corporate entities, municipalities are far more stable than private corporations whose focus is keeping share prices high. Where corporations have managed to obtain contracts to run water services in the US, Canada and elsewhere, rates have often gone up, accountability gone down, communities have mobilized for return to public control and local governments have opted to bring water services back "in-house."

THE STATE OF CANADA'S WATER POLICY

A federal government document obtained by CUPE Research through Access to Information takes a broad look at Canada's water policy and has some important lessons for policy makers in all orders of government. The document was part of a briefing package presented to then new Federal Environment Minister, Stephane Dion, summarizing the state of water affairs in Canada. The patchwork nature of policies, guidelines, standards and procedures among the three orders of government is critiqued, and national coherence amongst water-related issues, from quality, source protection, and treatment methods, to research and development needs is called for.

The federal Environment Canada document states that poor water management can affect Canada's international reputation, while responsible management "protects the moral ground Canada uses to pursue its foreign policy interests". It is pointed out that "significant market opportunities" are to be had in the global water market, which "generates annual worldwide sales of $400B, equivalent to 40% of the size of the oil and gas sector…[and] one-third larger than global pharmaceutical sales". The document goes on to note that “global water markets are expected to increase by 9% per year over the next decade” and that “Canada is well positioned with world leading niche technologies” to capitalize in these markets.

A strong case is made for more federal leadership on water issues, but not in order to achieve democratic control and public accountability, rather to become more competitive in the global market. Negotiating the complex intra- and intergovernmental landscape is an unenviable task, but it is clear that much-needed federal leadership is being organized around maximizing “market opportunities”.

With 7% of the planet’s freshwater, Canada could choose to position itself to profit through the privatization and commercialization of water resources. A sure way to ensure that the system remains a poorly regulated patchwork is to introduce and expand the role of private, for-profit players. Selling off our water utilities is the wrong approach to water management if we are serious about local control and accountability, quality and sustainability, as is clearly illustrated by the city of Hamilton, Ontario’s P3 water experience.

WATER P3 TRIED AND ABANDONED: A CASE STUDY FROM HAMILTON, ONTARIO

Hamilton has become Canada’s infamous example of the disastrous consequences of privatization of water and wastewater treatment. Philip Utilities Management Corporation (PUMC) was awarded an untendered bid in 1994 in return for promises of local economic development, new jobs and cost savings. What the community got instead was a workforce slashed in half within 18 months, a spill of 180 million litres of raw sewage into the harbour and flooding of almost 200 homes.

The company refused to accept any liability for the damage, forcing the municipality to pick up the tab. Legal proceedings and settlements between the private operator and the municipality have been kept secret. In nine years, four different companies held contracts to manage Hamilton’s water – all foreign, two now bankrupt, one of them an Enron subsidiary. When the contract came up for renewal in 2004, neither city council nor the public was given complete financial accounting of the costs and profits shared by the municipality and corporation over the course of the contract. Not a single performance report was made to council in the four years prior to the contract’s end.

Hamilton’s eventual decision to bring water and wastewater treatment back into the hands of the municipality is instructive. Council was presented with a staff report in January 2004 that compared two possible courses of action – tendering another 10-year contract (with a 5 year extension) or bringing the service back in house. Council chose to pursue the private option and instructed staff to issue an RFP and to draft a new contract that would overcome some of the public problems of the previous agreement.

The three issues that had come under closest public scrutiny were liability in the case of another spill, liability insurance carried by the operator, and the private operator’s requirement to pay for system maintenance and upkeep. The private operators and the city agreed that the municipality would take back responsibility for the $11 million annual cost of electricity and sewage sludge disposal. Both issues represented potential problems for the private operator. Electricity costs are expected to rise as privatization of generation progresses over the next 10 years. Sewage sludge is likely to become a problem because of the environmental implications for water source protection.

Given their experience with the contract and having developed a public sector comparator, the city anticipated bids between $13 and $16 million annually. American Water, the only proponent to submit a final bid, presented a bid for $39 million – three times the expected operating costs. They explained that they could deliver the service for $13 million, including paying for electricity and sludge disposal, if the city would take over all liability and maintenance expenses. Newspaper reports at the time indicated that an American Water vice-president saw the extra $26 million as largely a premium for added risk the city wanted private operators to assume in the proposed new contract.

The private contractor was prepared to charge at least 200% over and above operating costs in order to assume additional risk. Yet, information about allocation of risks (who has what liability) and the amount the private proponent was charging, as a "premium" for their portion of the risk was, of course, not made available to the public.

A city councilor in Hamilton who asked for an accounting of maintenance expenses during the life of the contract was told that he would have to submit a request under the Freedom of Information Act, and pay $2,800 for the privilege.

Secrecy is built into P3 arrangements on the grounds of commercial confidentiality. P3 proponents often point to the transfer of "risk" to the private sector as a key reason to pursue these arrangements and as the justification for higher costs with P3 contracts compared to public operation. The Hamilton experience shines light on the lack of accountability and myth of risk transfer that characterize P3s.

The city of Hamilton turned down American Water's high bid, disqualified the lower one and resumed direct municipal service. The biggest RFP for private water/wastewater services on the continent last year ended up back in the public hands.

MUNICIPAL GOVERNMENTS REJECT P3S IN WATER

Several other municipalities in Canada have rejected privatization, choosing to put community ahead of corporate interests. Among them are the cities of Winnipeg, Saint John, Toronto, Vancouver, Kamloops and others.

The city of Halifax, Nova Scotia awarded a contract for harbour cleanup and sewage treatment to Suez in the fall of 2002, but backed out of the contract in 2003 when the French multinational refused to take responsibility for meeting environmental standards. The mayor admitted that ***cancelling the P3 deal would save millions*** of dollars on the project.

Canadian municipalities can also look to their US counterparts for lessons. As the following examples show, when private operators move in, rates go up, quality deteriorates and accountability suffers.

WATER RATES INCREASE: An American Water Works subsidiary more than doubled water rates over a five-year period in the communities of Hingham and Hull, near Boston, Massachusetts. Another subsidiary of American Water Works acquired Pekin, Illinois's water system from a local private owner and from 1982 to 2000, increased rates by 204% even though the company failed to keep infrastructure up-to-date. In Fenton, California, privatized rates are 36% higher then in neighbouring publicly owned and operated facilities and are expected to double over the next couple of years. In Buffalo, New York, the city brought the system back in house because of expected rate increases.

QUALITY SUFFERS: Inadequate customer service is one more concern for US municipalities that has led to cancelled P3 contracts. From corner-cutting by United Water Resources Inc. that resulted in sewage spills in Milwaukee, to a 50% cut in staff and gutting of training programs when the same company privatized Atlanta, Georgia's water services, and boil water alerts that it took Veolia staff 12 hours to get to residents of New Orleans from the time that problems were detected, American cities have seen quality decrease with privatization. Atlanta and New Orleans have both brought their water and wastewater treatment facilities in house.

CRIME AND ACCOUNTABILITY: CH2M Hill was found guilty of bribery in its water treatment operations in Cleveland, Ohio. Kickbacks and embezzlement are among what communities of Rockland, Maine and Angleton, Texas got from their privatization schemes with Veolia Water. Veolia was also exposed for environmental violations, bribery and fraud convictions, uncovered by the City of New Orleans in the process of considering a bid from the company to run their water facility.

The above examples demonstrate that privatization is far from the best municipal option. As information about health and environmental issues, technological developments and newer water treatment options become available, retaining public control allows governments to make appropriate investments for better water quality to protect people in their communities for the long term. Privatization, on the other hand, ties the hands of well-intended municipal governments and is unadvisable.

SOLUTIONS FOR SUSTAINABLE PUBLIC FINANCING

Both Canadian and American municipalities have concluded that public ownership and operation is the preferred route for building strong, efficient and sustainable community services. But how can they finance municipal infrastructure?

Despite debt hysteria, the ratio of debt to GDP is low and falling at both federal and provincial levels. Provincial and municipal governments have the ability and the "room" for significantly more borrowing to finance infrastructure. Debt charges for municipalities in Ontario, for example, were at 3.5% of revenues in 2001, well-below provincial guidelines. Meanwhile, grants from other orders of government to municipalities have declined over the past 10 years. Municipal debt charges have also declined.

While there is no one-size-fits-all solution for Canadian communities, there are a host of cost-effective alternatives to P3s that protect the public interest. Along with investment from revenue and reserves, infrastructure construction and refurbishment could be funded through debt financing. Municipalities have an opportunity to arrange debt financing that maximizes benefits and services to the public while minimizing costs, thanks to having access to the lowest available borrowing rates.

Along with tried-and-true government borrowing, municipalities can pursue low interest loans; public bonds (infrastructure bonds, tax-exempt bonds); pooling municipal debt and establishing municipal financing authorities; subsidies to municipalities from other orders of government; establishing Crown corporations to channel public investments in infrastructure; and public interest companies.

Municipalities can also create efficiencies and cost-savings by entering into *public-public partnerships* with other municipalities. These will enjoy the advantages of public financing, maintain clear public accountability, and have public service objectives as their primary motivation, and can also overcome many of the financial problems faced by smaller municipalities (or even large ones) undertaking the upgrading and management of water systems on their own.

Pension funds have been, could be and should be a major source of capital for publicly owned and controlled infrastructure. Unfortunately, both the Ontario Municipal Employees Retirement System (OMERS) and the Canada Pension Plan Investment Board are actively investing in P3 infrastructure. Public investment vehicles are appropriate and reliable channels for pensions fund investment in infrastructure.

Private sector financing, through long-term leasebacks or other arrangements, is costly given the higher cost of borrowing to start with, and of course, the need to generate a profit. Large global water corporations are among the richest in the world with revenue in the realm of $25 billion (Veolia) and $40 billion (Suez/Ondeo) annually.

Keeping it public not only reduces direct and indirect costs, it improves quality and strengthens communities, it is the only way to protect government's ability to regulate in the public interest and make sovereign policy choices. Public ownership acts as a bulwark against the danger of growing legal claims to investor "rights" by trans-national corporations under international trade agreements. It was concerns about the powerful "investor-state" provisions, and other provisions of the North American Free Trade Agreement (NAFTA), which led Vancouver's city council to decide against pursuing the P3 option for its Seymour water filtration water plant in 2001.

Only a few of the tools that have been used successfully to leverage public financing for infrastructure in the past are discussed here. They remain viable options for financing and maintaining municipal control over operations at a reasonable cost. We don't need to give away control over precious resources and threaten public health in order to fund water and wastewater infrastructure. There are prudent, rational public solutions to these challenges.

Public investment forms the backbone of CUPE's plan for keeping water infrastructure and services in community hands. Other key features of our plan include national standards, source protection and removing water and water services entirely from trade agreements. The country desperately needs an overall national strategy for source protection and water conservation, including pan-Canadian standards for drinking water and water operator education and training, controlling water “takings” by water bottling companies and other industries, banning outright large-scale water exports, reducing and eliminating industrial and landfill contamination of lakes, streams, rivers and water tables, and preserving wetlands.

Making Choices in the Public Interest

Municipalities have many tools at their disposal and more flexibility than P3s could ever provide, yet they are being led down the garden path of privatization. Municipalities, the order of government closest to people and communities, hold a powerful position from which to pressure federal and provincial governments to make the right choice and promote public management of Canada’s water resources. Guided by the principle of building strong communities, as opposed to strengthening corporate control, public ownership is the only way to ensure that services benefit people and our environment.

True innovation will come when municipalities exercise their financial and political strength. A myriad of options are available to governments who wish to retain ownership and control over the cost and quality of public infrastructure. Municipal councils are well positioned to make bold choices in the public interest. They need not enter into dubious “partnerships” that cost more and return less than public investment will, no matter how deceptive the packaging.

Every day, municipalities make choices they hope will benefit their communities. Few choices are as important as who benefits from the water we all depend on.

(Written by Paul Moist, President of the Canadian Union of Public Employees, in collaboration with CUPE’s Research and Communications staff. CUPE represents over 550,000 public sector workers in communities across Canada.)

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