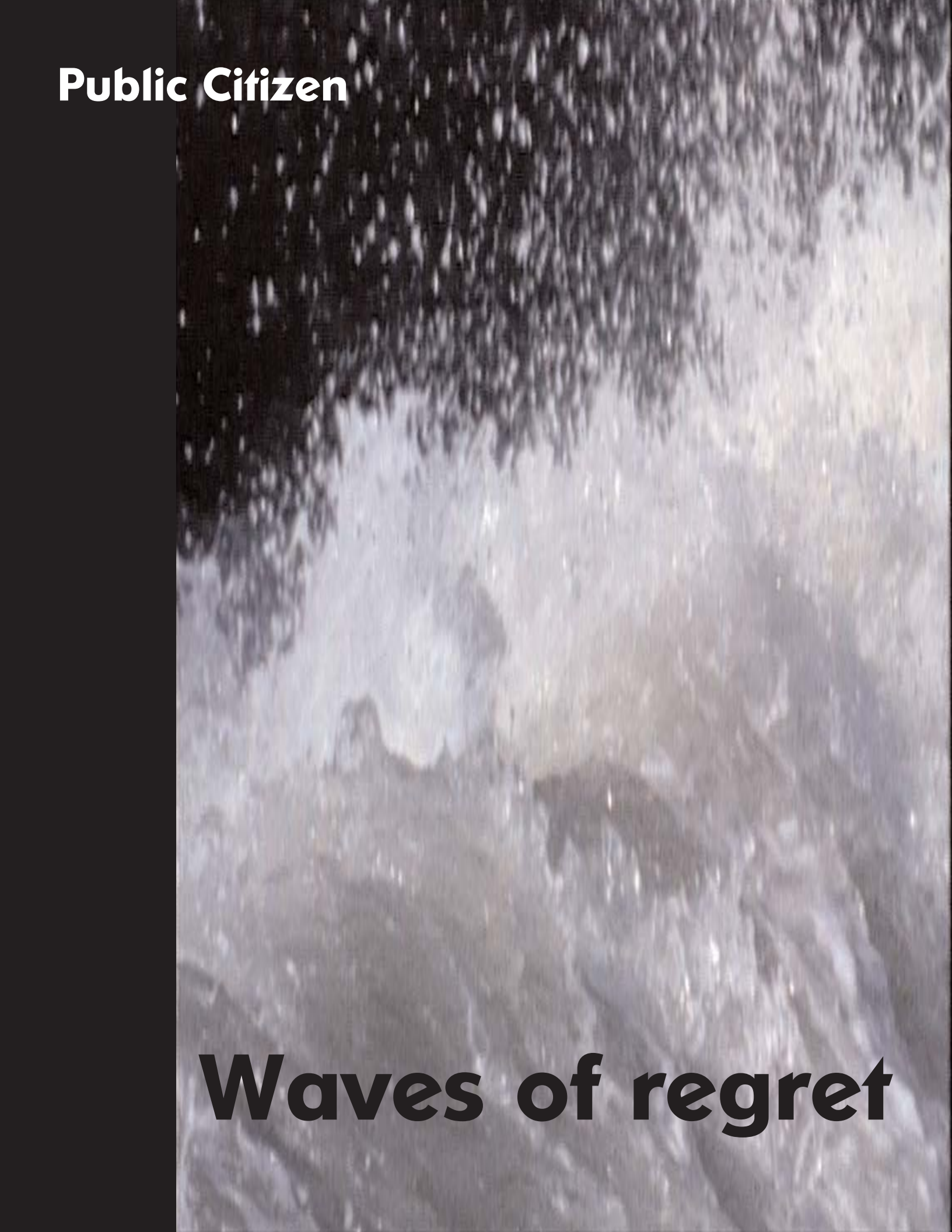




Public Citizen

Waves of regret

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- What some cities have learned and other cities should know about water privatization fiascos in the United States

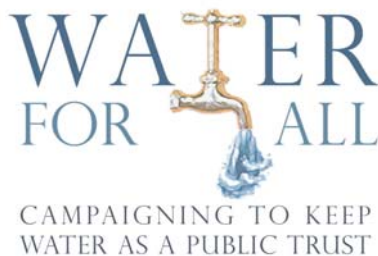


Wave photo by Don Briggs from the documentary film 'Thirst'

A special report by Public Citizen's
Water for All program

June 2005

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Waves of regret

What some cities have learned and other cities should know about water privatization fiascos in the United States

Part I: Thirsty? Let the market decide

About 85 percent of all the water that comes out of a tap in the United States is delivered by a publicly owned and publicly operated system.¹

In the 1990s, several corporations, led by European private water giants but including long-time U.S. water firms with big appetites, and even Enron, looked at all that water being delivered publicly and saw an attractive business opportunity. If the water could be wrested from public control and owned, or at least controlled through long-term monopoly contracts, by private firms, the profits would be glorious.

The U.S. seemed a particularly attractive “market” for the private firms, especially the French companies Suez and Veolia (then Vivendi) and the German conglomerate RWE. Attempting to expand beyond their markets in Europe, the firms were pushing to privatize water in developing nations in Asia, Africa and South America. But in many instances, those attempts didn’t pan out as planned, it being difficult to gouge governments and customers that don’t have a lot of money. The U.S., by contrast, presented the promise of a steady, reliable revenue stream from customers willing and able to pay water bills.

The U.S. political climate also seemed ripe for privatization. Thanks in part to politically correct conservatism and its attendant disdain and demonization of the public sector, elected officials from coast to coast attained office by preaching the practical and moral superiority of the private sector and promising voters to run government like a business.

The water companies’ response: We *are* a business, and we’ll be happy to run part of your government.

So with high hopes and big budgets, the international corporations arrived in the U.S., chiefly by purchasing companies that had already established some presence owning or delivering that 15 percent of the water coming from the tap that wasn’t under public control. Vivendi bought U.S. Filter, ultimately changing the name of both companies to Veolia. Suez bought United Water. And RWE bought American Water Works, the nation’s largest private water utility.

Unpopular, failing and wrong

The invasion, however, hit a snag. The corporate aspirations to replace public control of water in the U.S. with private control of water for profit, either through ownership or long-term operation and management contracts, contained a fundamental, and thus far largely insurmountable, problem; a problem that the companies and their apologists in the political class failed to fully comprehend and anticipate: It turns out people don’t want their water privatized.

The public embraces the notion of publicly owned water and wastewater services. For instance, results of a 2005 poll conducted by the Luntz Research Companies for the Association of Metropolitan Sewerage Agencies found overwhelming support—86 percent—for legislation to create a trust fund for safe and clean water infrastructure.²

Not surprisingly, then, when people hear that their mayor or city council or other public officials are toying with the idea of privatizing water, it strikes people

as, at the least, strange, and not atypically, just wrong. “What’ll they privatize next? Air?” is a pretty common response.

As is stiff community opposition—the corporations who have been trying to privatize water and wastewater services in the U.S. over the last several years have run into buzzsaws of angry citizenry armed with tough questions and backed by popular support.

The corporations are fond of blaming national public interest and environmental organizations for the cool reception they’ve received in the U.S. The corporations either think people in local communities are unable to reach their own conclusions or, more likely, corporate executives want to pretend that there wouldn’t be any local opposition if community activists weren’t getting “stirred up” by nosy outsiders.

The truth, of course, is that people don’t need anyone from outside their community telling them that corporate control of water is wrong, and that water should be managed in the long-term public interest, not for quarter-to-quarter returns. The people who have fought the companies hardest and most successfully in communities across the country are the people who live and work and raise families in those communities. Corporations just don’t want to admit it.

And there’s another reason that the companies have had such a tough time achieving significant gains in the push to privatize water in the U.S., yet another reason the companies don’t care to admit: In those towns where they’ve managed to get their foot in the door, they’ve failed to deliver as promised. Often, they end up asking communities for more money than originally bargained for in a contract, or seek big rate increases in violation of promises to keep rates stable. The companies shield citizens, and public officials, from their activities, and are slow and sometimes simply refuse to comply with monitoring

and reporting requirements. Cost-cutting, particularly in personnel, have compromised service and resulted in countless problems ranging from inadequate pressure at fire hydrants to raw sewage spilled into open waterways to a customer’s inability to get a straight answer about a bill. The companies have been run out of some communities, their contracts terminated early. Other cities and towns continue to struggle with the companies, in controversial and sometimes bitter, expensive fights to bring water systems back under public ownership and control. In other communities, the companies have failed to convince citizens and public officials to take a chance on privatization it the first place.

Communities that are wooed by the large corporate water companies will invariably be told that by privatizing their water systems, they will be on the cutting edge of a new paradigm for water delivery service. In fact, the big corporations, especially the European-owned conglomerates, represent a failed business model that hasn’t delivered, and the companies’ once-grandiose plans for ownership and control of water in the U.S. have been dramatically scaled back, as noted in March 2005 by Debra Coy, arguably the leading market analyst tracking water industry stocks. Writing in *Public Works Financing*, Coy explained that the profitable investments in the water industry are in the areas of technology and equipment sales rather than ownership of the resource or management of water systems. In the United States, “the bubbles seem to have gone flat for the global utility firms Veolia, Suez, RWE, and Kelda, who had appeared poised to dominate the U.S. water business a few years ago,” Coy wrote. “We would not be surprised to see some European utility owners and operators start pulling out of the U.S. in 2005, as politics and poor profits continue to depress their interest in this market.”³

Coy’s assessment suggests that communities which are being courted by large water corporations are not an integral component of an exciting new business

model that is soon to sweep the nation, but perhaps the target of scheming mid-level executives hoping to make a sale, any sale, in the face of uncertain professional futures.

Still, there are communities that continue to be approached by the water companies. And there is some evidence that the companies are hoping that financial pressures on cities, combined with political and regulatory favors at the national level, may ultimately soften the market for a reinvigorated charge to privatize U.S. water systems.

Whining private sector runs to Congress

In the belief that desperate financial predicaments will make cities more receptive to wild-eyed ideas like privatization, the water companies hope to choke off federal funding for municipal water and wastewater systems. The companies have lobbied Congress to curtail federal assistance, which the companies view as an unfair advantage that keeps cities from turning to privatization. As the executive director of the companies' lobbying arm, the National Association of Water Companies, puts it: "We do not see why drinking water and the wastewater utility services should be substantially subsidized by the federal government."⁴

And make no mistake, cities need funding. The EPA has estimated there will be an enormous gap, perhaps as much as \$500 billion or more, between what is expected to be spent on infrastructure maintenance and what must be spent over the next two decades.⁵

Policies promoted by the Bush administration are playing into the water companies' hands. The administration has consistently tried to cut funding of existing federal water infrastructure programs.⁶ In four of the last five fiscal years, the administration has proposed cutting the budget for the Clean Water State Revolving Loan Fund to pay for wastewater system upgrades from \$1.35 billion annually to \$850 million, while resisting calls to raise the Safe Drinking

Water Revolving Loan Fund, which provides assistance for water system upgrades.⁷ Administration officials have even testified that the president is opposed to increasing federal funding for infrastructure.⁸

Also, the administration has backed language in legislation to reauthorize existing federal water funding assistance programs that would require cities to consider water privatization before they could receive federal funding.⁹ And in lockstep with private industry's goals, the EPA is increasingly playing down the role of federal financial assistance while actively encouraging communities to pay for system upgrades by raising rates to consumers¹⁰—exactly the strategy the industry hopes will drive cash-strapped and embattled local politicians to opt for the false promise of privatization.

The companies have also curried favor with the U.S. Conference of Mayors (USCM), and particularly that organization's water "task force," the Urban Water Council. The Conference of Mayors has long enjoyed support of large water companies, and Veolia Water even sponsors a "Meet the Mayors" feature on the conference's website, www.usmayors.org, which includes a link to Veolia Water—the only hyperlink to a corporation on the USCM homepage. Within the Urban Water Council, meanwhile, there is a Water Development Advisory Board to help the Council "pursue policy designed to advance the goals and objectives of the nation's cities." The advisory board is comprised exclusively of private companies. U.S. arms of the world's largest global firms, American Water (RWE), United Water (Suez) and Veolia Water Operating Services, as well as U.S.-headquartered OMI, Inc. are "full members" of the advisory board, while financial, legal, engineering and other firms working within the water privatization support industry are "associate members."

Not surprisingly, the policies advocated by the Urban Water Council dovetail with the goals of private com-

panies. Testifying before a congressional committee in April, 2004, the Urban Water Council's co-chair, Sugarland, Texas Mayor David Wallace spoke in favor of federal grants or expanding the existing mechanism for federal assistance to cities for water and wastewater infrastructure, the State Revolving Fund. But the emphasis in Wallace's testimony—and the only specific legislative proposal supported in the testimony—was the idea of expanding the use of private activity bonds, thus allowing cities to issue tax-free bonds to finance private firms working in the water and wastewater business. "Critics argue that this is a form of privatization, and cities will lose control of water resources in their communities," Wallace noted, rightly. But the mayor dismissed those concerns, claiming that over the years, and in large part thanks to the U.S. Conference of Mayors, cities have learned how to structure contracts to protect the public in a "public-private partnership."¹¹

As many of the examples from communities listed in this report demonstrate, cities have in fact found themselves in very harsh disputes over company compliance and obligations as structured in contracts with private operators.

Fortunately, there are long-term solutions for communities facing needed upgrades of their water and wastewater systems, solutions that don't expose communities and the public to the risks of privatization. Coalitions of public interest organizations, environmental groups, municipal officials and professional associations are calling for the establishment of federal trust funds that would renew the national commitment to safe and clean drinking water that did so much to build the country's water systems in the first place.¹²

Additionally, several cities have addressed water and wastewater system problems undertaking internal reforms that have saved money and improved service. Such internal reforms keep the financial savings in the community while retaining public control and accountability of the systems.¹³

Meantime, numerous failed experiments in the U.S. underscore the threat water privatization poses to consumers and the importance of protecting water systems from private control.

Part II: U.S. case studies

ATLANTA, GA — Any discussion of water privatization in the U.S. must begin in Atlanta, Georgia, a city that was to be, in the words of a key water company executive, "a testament to the benefits that public-private partnerships can provide to municipalities across the nation."¹⁴

In 1998, the city of Atlanta signed a 20-year, \$400 million contract with United Water, a subsidiary of the French corporate conglomerate Suez, to operate Atlanta's water system. It was the biggest privatization contract in the United States, and its signing was celebrated by victory-declaring water corporations. Atlanta signaled the future, gushed privatization promoters and apologists.¹⁵ Privatization would lift management of water and wastewater systems out from under the smothering ineptitude of bloated bureaucracies. Taxpayers and customers would save money and systems would be improved, as privatization proved itself the win-win situation for the 21st century. Atlanta was going to show the way.

Or so the story went.

But even before United Water took over the system in 1999, there were suspicions that the company had vastly overstated the amount of money it could save, and vastly underestimated—at least publicly—the amount of work that would be required to operate the system. As the company's operation of the system began, those suspicions were borne out.

- United Water more than halved the number of employees, from more than 700 to just over 300. The company also slashed the amount of training provided to remaining employees to levels far below training requirements called for in the contract.¹⁶

- A backlog of work orders and maintenance grew for virtually every portion of the system under United Water's management, from main breaks and facility maintenance to meter installation, hydrant repairs and fleet maintenance. Not only was the company failing to address the growing backlog of work orders, it couldn't even keep competent records of the backlog. A broken water line could take as much as two months to fix; maintenance projects hovered at a 50 percent completion rate.¹⁷

- Almost immediately, United Water started hitting up the city for more money, putting in a claim for \$80 million above and beyond the contract. Atlanta's Water Commissioner refused to approve the expenditures, but in a bizarre twist, letters authorizing the payments showed up with the signature of former Mayor Bill Campbell. Campbell in turn denied he had ever signed the documents. The city attorney ruled the authorizations invalid, and United Water eventually backed away from pressing the claim.¹⁸

- United Water billed the city an extra \$37.6 million for additional service authorizations and capital repair and maintenance costs, and the city paid nearly \$16 million of those costs. Pay was withheld for the rest—\$21.7 million—however, because the work either wasn't complete or hadn't even been started. United Water was billing the city for work it didn't do.¹⁹

- The city found that United Water was improperly billing the city. For instance, routine maintenance was billed to the city as "capital repairs." And the city discovered that United Water personnel, on Atlanta's dime, were working on United Water projects outside of Atlanta, including efforts by the company to land contracts in other cities.²⁰

- Trust badly eroded. Both during the contract and after it was cancelled, United Water repeatedly challenged the competence and veracity of the city's professional staff who had worked on the water

system or were monitoring the privatization contract. Under attack, the city was forced to spend \$1 million on independent inspectors that could verify United Water's reports without coming under further assault from the company.²¹

- Even after slashing the workforce to dangerously low levels, failing to fulfill maintenance and repair duties called for in the contract and successfully billing the city for millions more than the annual contract fee, the much-vaunted savings from privatization didn't materialize, and the promise to avert wastewater rate hikes through savings turned out to be empty. Sewer rates went up every year United Water had the contract (17 percent in 1999; 11 percent in 2000; 3 percent in 2001; and 15 percent in 2002). The combined monthly water and sewer bills for average residential customers in Atlanta rose from \$46.34 when United Water took over the system to \$56.47 by 2002.²²

The promoters of privatization were absolutely right when they claimed the Atlanta contract would be a model for the privatization of water services. In that model, as so powerfully illustrated in Atlanta, the company makes promises it knows it can't keep, with the expectation that the city can simply be billed for additional charges later. While the extra charges are designed to boost the revenue side of the equation, the company attempts to dramatically cut its own costs by reducing the workforce to inadequate levels and failing to perform maintenance and repairs. The company is emboldened to pursue such an anti-consumer strategy because it has secured a long-term contract designed to hold consumers captive to the company's monopoly for decades.

Atlanta managed to get out—though the contract dissolution agreement attempts to muzzle Atlanta officials from criticizing Suez and its performance.²³ The city now faces the daunting task of taking back its water system and performing needed upgrades that were neglected during United Water's tenure.

Supporters of privatization, meanwhile, in a desperate if audacious stab at spin control, blame the city of Atlanta for all of the company's bungling. Although corporations out to privatize water services routinely boast about superior technical expertise backed by hard-headed business acumen, United Water whined that the realities of operating Atlanta's system were much larger than anticipated, and the city should have told United Water what the company was getting into.²⁴ Apparently, when United Water showed up in Atlanta, it left all its vaunted expertise and acumen stashed away somewhere in Suez' Paris headquarters.

Privatization's apologists shamelessly claim that the Atlanta lesson is still a model for other communities considering privatization.

"Just do everything completely the opposite of what Atlanta did," suggested one of privatization's promoters from the think tank ranks.²⁵

He's absolutely right. Whereas Atlanta signed its public water system over to a private company, other cities should do completely the opposite, and keep public resources under public control.

NEW ORLEANS, LA — In arguably as big a setback for the water corporations as the Atlanta experience, New Orleans ended its long nightmarish flirtation with privatizing a combined water/wastewater operation in April, 2004. The ill-fated consideration ran up a price tag of roughly \$5 million over more than five years and a pair of mayors. And what has New Orleans to show for all that time and money?

Bid proposals from United Water and Veolia Water—the two biggest, and presumably most experienced, water/wastewater system operation and management contractors on the planet—that were so laden with uncertainties, inadequacies, omissions and other problems that New Orleans officials could not credibly compare one bid against the other.²⁶

Paralysis in the publicly operated water system, where uncertainty about future management stalled decision-making, stymied implementation of cost-saving innovations identified by public system managers and employees, and hammered public employee morale.²⁷

Complacency and lack of commitment on the part of Veolia Water North America, the private contractor currently operating the wastewater system—even as the company was trying to convince New Orleans to grant it a water services contract. In 2002, the Black & Veatch consulting and engineering firm was asked to conduct an independent audit of wastewater system operations. In the course of cataloguing numerous environmental violations (29 discharge violations in 2001 alone), mechanical failures, clogged pipes and other problems, the audit noted the uncertainty and indecision of future system management while privatization was being considered. "Observation of these plants' activities, as well as the serious problems reported above, indicate a reduced concern for operations and maintenance by the contractor," Black and Veatch concluded.²⁸

New Orleans had seen corruption and bribery convictions in connection with their privately operated wastewater system, so there was already pronounced skepticism about the water privatization scheme. Professional Services Group (PSG), purchased by Vivendi subsidiary USFilter in the mid-1990s, signed the contract to operate New Orleans sewer service in 1992. A PSG executive and a member of the New Orleans Sewerage and Water Board were convicted in connection with bribery charges as PSG was seeking an extension to that contract.²⁹ Aqua Alliance, PSG's parent company, pled guilty to the charge of bribery and was levied a \$3 million fine.³⁰

The New Orleans Sewerage and Water Board rejected privatization bids in October, 2002, after hearing from a coalition of over 90 faith, labor, community and environmental groups dedicated to protecting the public interest. Yet the mayor was determined to

start the process anew. Subsequently, the Louisiana Legislature became concerned that some New Orleans officials were planning to circumvent a requirement earlier approved by referendum mandating that any privatization contract would, in turn, have to be approved by voters. To be on the safe side, the legislature reaffirmed the requirement.³¹

United Water reacted to the legislature by putting the private water industry's fear of public scrutiny on public display; citing the voter approval requirement, the company pulled out of the renewed privatization process.³²

Even before the New Orleans water privatization scheme was officially sunk, water corporation observers were ringing the death knell of so-called "showcase" long-term contracts in major metro areas—not so long ago the main strategy of the corporate water titans.³³ The New Orleans plan, once hailed by corporate officials as yet another example of privatization's big trend in big cities, wound up as the dying gasp of a failed business model.

INDIANAPOLIS, IN — Veolia typically points to Indianapolis as a privatization success story. Communities, and the public employees that communities trust to deliver safe and clean water, don't need a success like Indianapolis.

Since Veolia landed the city's water system contract in 2002, non-union employees have seen their benefits slashed, and the company made an aggressive move to reduce personnel costs—and personnel—through buying out veteran employees.³⁴ Lawsuits have been filed complaining not only about the treatment of workers but also about the legality of the contract itself, and a coalition of Indianapolis citizens is aiming to nullify the contract and bring the system under public management.³⁵ The National Labor Relations Board has issued 16 complaints against the company, and workers this spring were on the verge of a strike. That was averted when the employees

essentially agreed to a two-tier benefits plan under which existing employees would get a pension plan, and new employees wouldn't. Veolia has also been rapped by officials for allowing hydrants to freeze (perhaps in Veolia's French homeland there are no fires in winter), and the company's service has been marked by numerous billing errors and customer dissatisfaction.³⁶

Disenchantment with Veolia's operation of the Indianapolis water system rose to new heights in January when more than a million people in the Indianapolis were put on a boil-water alert, schools were closed and hospitals and restaurants had to use bottled water.³⁷ The company later blamed an employee for entering the wrong value into a computer at the system's largest water treatment plant, with the result that the mix of chemicals used to treat water was incorrect. It took Veolia 12 hours from the time of noticing the problem before alerting the public, because, a company spokesperson explained, Veolia was trying to get a handle on the problem.³⁸ The incorrectly treated water was diverted into a river before it made its way to people's taps, and no illnesses were reported. That may have been truly fortuitous—Mayor Bart Peterson complained that there was no system in place to catch the error.³⁹

As a result of the boiled-water order and other ongoing concerns about Veolia's operation of the system, a citizens' group stepped up their complaints that the company needs more public oversight, and taxpayers are calling for independent investigations of the company's performance.⁴⁰

LAREDO, TX — The city of Laredo and United Water reached an agreement in March 2005 to part ways half way through a five-year water system contract.⁴¹ United Water won the contract to operate the city's water system in 2002. In September 2004, the company began singing a familiar song—the cost of running the system was higher than the \$9.8 million annually the company had agreed to in its con-

tract. United Water asked Laredo officials to fork over another \$5 million to recoup unexpected expenses, along with an additional \$3 million each year. City officials scoffed, pointing out, rightly, that United Water knew—or should have known—what it was getting in to when it signed the contract.⁴²

City officials also scoffed at United Water's first offer of \$500,000 as settlement to end the contract. After months of negotiation, the company agreed to pay the city \$3 million in exit fees, and the city was scheduled to put the system back under public control May 6, 2005.

Meantime, despite the millions the city has paid United Water since 2002, the Laredo water system is still in need of repairs and maintenance. City officials warn that ratepayers in Laredo will most assuredly be hit with higher water bills.⁴³

FELTON, CA — Felton ratepayers have complained of increasing water rates, deteriorating service, and poor management of their water utility under private control, particularly since the German conglomerate RWE acquired American Water Works and its U.S. subsidiaries, including California-American (Cal-Am) in 2003. Customers complain that they have been given little notice about maintenance jobs, service calls are answered remotely in Illinois and many have taken weeks to months to receive a response from local personnel.⁴⁴

On average, customers of Cal-Am pay water rates that are 36 percent higher than five out of six nearby public water agencies in northern and central Santa Cruz County.⁴⁵ And this disparity is set to increase even further. The current rate application filed by Cal-Am would double rates over a three-year period.⁴⁶

The company mergers, proposed rate increases and poor service by Cal-Am moved the County of Santa Cruz and the residents of Felton into action. Since its inception in 2002, members of the grassroots

group Felton FLOW—Friends of Locally Owned Water—have been instrumental in this effort by organizing town meetings and fundraising events, testifying in front of the California Public Utilities Commission (CPUC) on behalf of their community, and working with Santa Cruz County to set up a Community Facilities District—a special tax district that is necessary to raise a bond for purchasing the Felton water system from Cal-Am.

Santa Cruz County supervisors voted unanimously on April 27, 2005, to let Felton residents vote on whether they want to borrow \$11 million to buy their waterworks from Cal-Am.⁴⁷ More than 200 people turned up for a public hearing where the county supervisors heard comments about the proposed acquisition. With the approval of the supervisors, FLOW is now leading a campaign to get Felton residents to vote in favor of the bond; a 67 percent “YES” vote is required to pass the bond.

The ultimate goal is to put the water system back in local control by annexing on to the neighboring San Lorenzo Valley Water District (SLVWD). The SLVWD is a public agency that has been providing water to San Lorenzo Valley residents since 1941. Cal-Am, however, is unwilling to sell the utility and is trying to undermine the community's efforts while pushing to raise rates. They have spent millions of dollars on legal fees and mailings with misleading and inaccurate information. It is believed that they had a hand in an unsuccessful legislative attempt to hamper efforts communities like Felton to take back control of their local water resources.⁴⁸

JERSEY CITY, NJ — United Water has had an \$8 million a year contract to operate the Jersey City, N.J. water system since 1996. In May 2004, a forensic audit of United Water's performance found that between 2000 and 2003 United Water diverted \$1.2 million worth of water without paying the Jersey City Municipal Utilities Authority. Acting Mayor L. Harvey Smith said the audit's results were “so shock-

ing” that he turned the audit over to county prosecutors and announced the city is looking into options to terminate the contract.⁴⁹

In addition to finding that United Water underpaid the city by more than \$1.2 million for water piped from municipal reservoirs and shipped to other communities which are also customers of the system, the audit reported that United Water undercharged other municipalities by roughly \$200,000 without compensating Jersey City. United Water has a second contract with the city that allows it to sell bulk “excess” water to neighboring towns.⁵⁰

The audit came on the heels of Jersey City taking United Water to task earlier in 2004 for overstating the availability of water supply in reservoirs. Even prior to the audit’s release in May, the Jersey City Municipal Utilities Authority had declared United Water’s performance “unsatisfactory.”

Typically, United Water blames the city, and says the city owed the company \$7.5 million. Coincidentally, no doubt, United Water also reports that revenue from the system has fallen \$8 million below company projections—even after rates were raised by 9 percent.

In preparing the audit, RGL Forensics Accountants and Consultants, a San-Francisco-based firm, said “It is chilling to think that the neighboring system capabilities of United Water resources turns out to be a scheme where JCMUA resources are employed or deployed (elsewhere) while the cost resides in the books of JCMUA and with the retail water customer of Jersey City.”⁵¹

United Water is employing the fuzzy math defense, and claiming the audit should have looked at the bulk water sales over the life of the contract, and then it would have been found that year-over-year it all evens out, and the company contends that the audit contains accounting errors. The Hudson County Prosecutor Edward DeFazio, meanwhile, said

his office was “going to have to look for input from people who have more familiarity in this field.”⁵² All of which may give United Water a breather. But that statement, like the entire set of disputes Jersey City has with the company, underscores how difficult it can be for cities to effectively monitor private contracts with water companies and hold the companies accountable.

BUFFALO, NY—Two years after a five-year contract was signed between the city and RWE subsidiary American Water Services, the shamelessly pro-privatization U.S. Conference of Mayors bestowed one of their shiny Outstanding Achievement awards to the “innovative...partnership.”⁵³ When the contract was up for renewal, RWE thought they’d up the ante, and go for a ten-year contract. Alas, RWE also brought estimated double-digit rate increases, so the city said thanks but no thanks, and the council voted unanimously to bring the system under public control. City officials determined that by putting the troubled water system under public control, rate hikes could be held to 4 percent, instead of the 12 percent hike RWE proposed.⁵⁴ The city ultimately began negotiations with the Erie County Water Authority to assume control of the system.⁵⁵

LEXINGTON, KY — As of March 2005, citizen groups in Lexington, Ky., were well on their way to gathering enough signatures to force a November election on whether the RWE-owned water system should be brought under public control.⁵⁶

Sparked in part by RWE’s acquisition of American Water Works and its Kentucky subsidiary, Lexington citizens have long been concerned about local control, accountability, rate hikes and other issues. Organized as Bluegrass Flow, citizens convinced the Lexington-Fayette Urban County Council in 2003 to vote to seek control of the water company through eminent domain.

Studies, audits, appraisals, regulatory approvals, appeals, lawsuits and an expensive company public relations campaign ensued. As did, unfortunately, an effort by the company to support candidates for the Urban County Council who would oppose condemnation—the water company’s candidates outspent their opponents by more than 60 percent, and pro-company candidates won a majority in the council in the November 2004 elections.⁵⁷ The council promptly voted to settle outstanding issues between the company and the city and cancel the condemnation proceedings. Mayor Teresa Isaacs vetoed the action, but her veto was overridden earlier this year.

Meantime, some of the concerns about the impact of RWE’s purchase of the water company appear to be coming to fruition; the company is seeking a rate increase that is twice the size of average water rate increases in the city over the last 30 years, and both the customer service center and the billing center have been removed from the city.⁵⁸

The ongoing struggle in Lexington serves as a stark lesson for any community that is considering handing its water over to a private company: The company will dig deep into its pockets and fight and tooth and nail to hold on to the revenue stream represented by water bills. Privatization can be very, very hard to reverse.

SANTA PAULA, CA — OMI pulled out of a contract to operate Santa Paula’s wastewater system in February, 2004. The falling out came on the heels of several problems Santa Paula officials had identified with OMI’s performance, including failing to comply with water quality permit requirements and the company’s lack of openness with the community.⁵⁹

Despite the city’s concerns about the company’s performance—concerns which prompted a substantial overhaul of the contract in 2003⁶⁰—the city was still trying to work with the company. However, the company “apparently lost confidence in their own solu-

tions and instead of working with the city further, decided to terminate a contract that was never executed,” City Manager Wally Bobkiewicz told the *Santa Paula Times*, adding “OMI’s actions here should serve as a cautionary tale for other public agencies around the country working with OMI.”⁶¹

The OMI treatment plant in Santa Paula among wastewater plants operated by the company that were raided by Environmental Protection Agency investigators as part of a criminal probe in 2002—others were in Norwalk and New Haven, Conn. No charges were ever filed as a result of the investigations, and the EPA has disclosed the nature of the investigation. The agency said as recently as October 2004, however, that the investigations had not been closed.⁶²

EAST CLEVELAND, OH — In March 2004, it was announced that city of East Cleveland and OMI/CH2M Hill were canceling a contract to operate and manage the city’s water and wastewater systems and services. OMI/CH2MHill, in keeping with industry custom, blamed the city, specifically charging that East Cleveland failed to pay for services. The city shot back that OMI had failed to generate enough revenue for the city to pay its \$300,000 per month operating fee.⁶³

The falling out between the company and the city followed a report by the Ohio State Auditor in 2002 that found OMI had promised more than it delivered in the first place, and specifically that the company had overestimated how much revenue it could get from operating the system.⁶⁴

Meanwhile, a federal indictment unsealed in January 2005 charged that a consultant working on behalf of CH2M Hill, OMI’s corporate parent, bribed then-East Cleveland mayor Emmanuel Onunwor in order to retain OMI’s contract with the city.⁶⁵

BRIDGEPORT, CN — Between 1996 and 1999, PSG (since purchased by Veolia) gave \$700,000 to two close associates of Joseph P. Ganim, the mayor of Bridgeport, Conn., in order to obtain a contract to operate the city's wastewater treatment plant. Ganim was subsequently convicted in U.S. District Court on 16 counts, including counts of extortion and bribery in connection with taking kickbacks for steering the city contract to PSG. The associates and eight other defendants also pleaded guilty to charges in connection with the case.⁶⁶

ROCKLAND, MA — The city terminated Veolia's contract to run the town's sewer plant in February, 2004, amid embezzlement charges involving a sewer department official and a local company executive. The men were charged with embezzling more than \$300,000 from the Rockland Sewer Department.⁶⁷ The termination came on the heels of a forensic audit that suggested the bidding process by which Veolia was selected to run the plant was rigged, as well as an investigation by the Massachusetts Office of the Inspector General into whether the original bidding process was rigged in Veolia's favor.⁶⁸

ANGLETON, TX — The town terminated a contract with Veolia for non-performance, and took the company to court, charging it breached its contract by failing to maintain adequate staffing levels, not submitting capital project reports and charging improper expenses to the maintenance and repair tab picked up by the city.⁶⁹

LYNN, MA — The city ended a wastewater overflow plant contract with Veolia because the company failed to stay adequately bonded for the project.⁷⁰ While company officials lauded the continuing contracts with water and wastewater treatment plants in the community, the town recently rapped the company for cutting costs by refusing to properly treat wastewater with chemicals. As a result, the town was blanketed in a stench.⁷¹

Fortunately, communities are becoming increasingly aware of the corporate track record, and are getting wise to the risks of privatization.

MILWAUKEE, WI — United Water was hired in 1998 to operate the Milwaukee Metropolitan Sewerage District's system of tunnels and treatment plants, with the customary promises of million of dollars saved and full compliance with environmental and regulatory standards. What United Water didn't promise was to cut corners, save money and let raw sewage into area waterways, but that's what happened.

The tunnel system was expected to entirely eliminate discharge of untreated sewer, but has failed to do so for a number of reasons, according to an audit of the system's performance conducted by the Wisconsin Legislative Audit Bureau. Insufficient capacity, sediment deposits in the tunnels and other unanticipated problems have hindered the system's performance, and the MMSD attributes the discharges to other unavoidable problems such as severe storms.⁷²

But the audit also laid blame squarely on the shoulders of United Water's quest to cut costs:

"We estimate that 107 million gallons of untreated wastewater was discharged into waterways from June 1999 through June 2001 because United Water Services had temporarily turned off Deep Tunnel pumps while switching to a lower-cost source of electricity. The contractor saved approximately \$515,000 by switching power sources during that period."⁷³

Continuing problems, including a string of additional sewer spills, prompted the city to reopen United Water's contract to include stiffer penalties for mistakes.⁷⁴ Meantime, it was reported in December 2004 that United Water's insurer quietly paid more than a half-million dollars to residents to compensate for damage after sewage backed up into their homes.⁷⁵

LEE, MA — Town representatives of Lee voted overwhelmingly in September 2004 to reject a proposal from Veolia to take control of the public water and wastewater system.

The more people in Lee learned about privatization, the less they liked it. Serious concerns were raised about Veolia's track record in other communities; the company's effort to push the scheme through establishing financial ties with powerful community leaders; doubts that Veolia's promised savings, even if achieved, warranted the risks of privatization, and the reliability of the company's promise that current system employees would be retained and treated fairly. At bottom, Lee citizens became increasingly wary of turning over their community's public water system to an enormous private company headquartered on another continent.⁷⁶

The proposed contract offered by Veolia offered little assurances. Made public to Lee citizens only days before the town representatives were scheduled to vote up or down on the deal, the contract was riddled with holes and omissions. The city would have been saddled with any number of costs, ranging from excavation to testing to administrative tasks. The company reserved for itself the right to set rates for treatment of "trucked-in waste from outside of town," reflecting a scheme to turn Lee's wastewater treatment facilities into a regional waste plant/Veolia profit stream. The contract allowed the town only "limited" access to documents relating to system operations. And the entire proposal lacked a credible cost estimate against which savings promised by Veolia could be measured, calling rather for an "audit and asset valuation" only after the contract had been signed.⁷⁷

Veolia's effort to privatize water in Lee had been quietly churning along mostly under the radar for nearly four years, and as late as spring 2004 it appeared as if the contract was in fact a done deal. But as the community became more engaged, Veolia's scheme couldn't withstand scrutiny, and Lee town representatives ultimately voted down the project 41 to 10.⁷⁸

STOCKTON, CA — Stockton's privatization scheme was foisted on a reluctant public by politicians who refused to listen to the voices of their constituents and circumvented a referendum requirement through legal and administrative slight of hand. In December 2004, the Concerned Citizens Coalition of Stockton released to the public the first Annual Service Contract Compliance Review covering the first phase of OMI-Thames 20-year, \$600 million water privatization contract. The Review details changes to the contract that benefit OMI-Thames: water rates for Stockton residents have risen two years in a row due to the contract; customer service requirements have been unfulfilled; a number of staffing positions are filled with temporary or interim employees; unaccounted for water has risen from around 3.5% under municipal operation to nearly 7.5% under private operation; maintenance tasks are backlogged and finally, OMI made an unauthorized dump of chlorinated water into an irrigation canal that resulted in a \$125,000 fine from the State Water Resources Control Board. Perhaps this is why the champion of this privatization, former mayor of Stockton Gary Podesta, failed in his bid to win a state Senate seat. A Concerned Citizens' lawsuit challenging the privatization deal is still pending before the state appeals court. California Attorney General Bill Loykear recently filed an amicus brief in support of the Citizens claims that the City of Stockton violated the California Environmental Quality Act by not conducting the environmental review required by state law.⁷⁹

PUERTO RICO — Between 1995 and 2001, a subsidiary of Vivendi (now Veolia) ran the Autoridad de Acueductos y Alcantarillados de Puerto Rico (AAA) with disastrous results. The AAA has been the subject of two highly critical reports by the Puerto Rico Office of the Comptroller. According to Comptroller Manuel Diaz-Saldaña, the privatization "has been a bad business deal for the people of Puerto Rico. We cannot keep administering the Authority (AAA) the way it has been done until now," he said.⁸⁰

The Comptroller's first report lists numerous faults, including deficiencies in the maintenance, repair, administration and operation of aqueducts and sewers, and required financial reports that were either late or not submitted at all. An Interpress account of the comptroller's report went on to say, "Citizens asking for help get no answers, and some customers say that they do not receive water, but always receive their bills on time, charging them for water they never get."⁸¹ The report also showed that under private administration, the Puerto Rico Aqueduct and Sewer Authority's (PRASA) operational deficit kept increasing and reached \$241 million. As a result, the Government Development Bank (Banco Gubernamental de Fomento) had to step in several times to provide emergency funding.⁸²

The second report found 3,181 deficiencies in management, operation and maintenance of the infrastructure and said the leakage rate was around 50 percent. AAA had reportedly been fined a total of \$6.2 million for various violations of environmental laws.⁸³ According to a local journalist, whole communities on the island have had no water supply for weeks and even months at a time. A local coalition of waterless communities has documented the effect of the water crisis on the local population, including cases of skin allergies, irritability, anxiety, gastroenteritis, conjunctivitis, muscular spasms, depression and anxiety.⁸⁴ In 2001 the government finally decided to end the contract and Vivendi left, leaving behind a debt of \$695 million.

From the frying pan into the fire, PRASA then signed a 10-year, \$4 billion contract with Suez subsidiary Ondeo de Puerto Rico, the largest operation and management contract in the world. Twenty months into the deal, however, in January 2004, Suez and PRASA terminated the contract. Suez, claiming that the government had not been forthcoming about the condition of the water and wastewater systems, was demanding that the world's largest contract needed to be larger still, and asked that the company

be awarded an annual fee increase of \$27 million in addition to an additional one-time payment of \$93 million. Not surprisingly, PRASA refused. The authority did get stuck paying Suez \$38.4 million as part of the resolution ending the deal. PRASA ultimately took control of managing the system in June, 2004.⁸⁵

GUAM — Guam's Consolidated Commission on Utilities (CCU) has already spent over a year and more than \$1 million studying the efficacy of privatizing the island's waterworks, currently operated by the Guam Waterworks Authority (GWA). The results of the million-dollar expenditure might be called inconclusive at best; since deciding to move ahead with putting the island's water and wastewater systems up for bidding by private operators, the Commission has since changed membership, and privatization is now at an impasse.⁸⁶

The Guam water and wastewater systems have long been troubled, and the GWA has been under an Environmental Protection Agency order to make millions of dollars in system enhancements to comply with regulatory standards. Yet in the past two years, under new leadership, the GWA has in fact made substantial improvements, as documented by a peer review conducted in May 2005 by the American Water Works Association and the Water Environment Federation. According to that review, the GWA has improved efficiency by reducing 100 positions from the workforce, removed the influence of "connections" in hiring and contracting decisions, basing those decisions instead on merit and qualifications, reduced "external political interference" in the operations of the GWA and made several other improvements, most notably bringing the island's drinking water into compliance with Safe Drinking Water Act requirements.⁸⁷

The GWA's challenges are still daunting, and the authority may have to consider "selective" outsourcing in the future, the peer review found. At the same

time, if the GWA continues on its current path of improvement, not only might it stave off privatization of the systems, “GWA may have the opportunity to manage the Navy water/wastewater facilities which should further reduce costs and achieve greater levels of efficiencies.”

And the peer review offered a cautionary note that could have been delivered to any community in the U.S., not just to the citizens of Guam: “The peer reviewers have seen mixed results from public/private partnerships on the mainland. In order for there to be any success with privatization, extremely well written contract provisions must be developed and enforced. If not, privatizers will quote low initial prices and raise the rates significantly in later years of a long-term contract; after all, the primary motive of private enterprise is to deliver returns (profits) to its stakeholders. This is why historically in the United States, the public has demanded their water and wastewater service, so critical to life and preservation of the environment, be entrusted to public management and operation.”⁸⁸

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