



TROUBLED WATERS:

Misleading industry PR and the case for public water

BY EMANUELE LOBINA | PUBLIC SERVICES
INTERNATIONAL RESEARCH UNIT (PSIRU)

WITH



**CORPORATE
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(PSIRU) investigates the impact of privatization and liberalization on public services, with a specific focus on water, energy, waste management, health, and social care sectors (www.psiru.org). Through its global database on water service reform, PSIRU has gathered and analyzed empirical evidence from the last 40 years on the international experience with water privatization and public-private partnerships (PPPs). This data relates to the economic, social, and environmental impacts of water privatization and PPPs on the interests of local governments and communities in high-, middle-, and low-income countries. Other research topics include the function and structure of public services, the strategies of multinational companies, and the influence of international financial institutions on public services. PSIRU is based in the Business Faculty, University of Greenwich, London, U.K..

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TABLE OF CONTENTS

2	EXECUTIVE SUMMARY, BY KELLE LOUAILLIER, EXECUTIVE DIRECTOR, CORPORATE ACCOUNTABILITY INTERNATIONAL
6	INTRODUCTION
8	PUBLIC WATER: TOO IMPORTANT TO DELEGATE
9	PUBLIC-PRIVATE PARTNERSHIPS AS A EUPHEMISM FOR PRIVATIZATION
10	FALSE PROMISES OF THE PRIVATE WATER INDUSTRY
10	Private water industry is not more efficient than the public sector
12	Private water industry does not share or reduce risk
14	Private water industry prioritizes profit above all considerations in the U.S.
15	Private water industry prioritizes profit above all considerations internationally
16	Private water industry does not invest significantly in public water systems
17	Water remunicipalization as a growing U.S. and global trend
17	Water remunicipalization in the U.S., 2003 – 2014
19	U.S. terminations in the pipeline, 2013 – 2014
19	Water remunicipalization as a global trend
22	POLITICAL INTERFERENCE
22	Political interference at the federal level
24	Political interference at the state level
26	Political interference at the city level
28	Case study: St. Louis
31	Private water industry corruption
31	Private water industry corruption: international evidence
31	Fiscal inducements and distorted decisions
34	Private water corporations' promises and problematic contract renegotiation
35	The private water industry's lack of transparency: international evidence
36	PUBLIC ALTERNATIVES
36	Examples of public water services
38	Public-public partnerships and inter-municipal cooperation
39	Policies supporting the strengthening of public water systems
41	CONCLUSION: VEOLIA AND SUEZ—WHEN THE “SOLUTION” IS THE PROBLEM
45	REFERENCES
58	ACKNOWLEDGMENTS

EXECUTIVE SUMMARY

BY KELLE LOUAILLIER, EXECUTIVE DIRECTOR
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When it comes to the nation's most essential public service, mayors and municipal officials face a momentous challenge.

Local governments are investing in public water systems at all-time highs, but in the absence of adequate federal support, many systems still face serious infrastructure reinvestment gaps. Over the next 20 years, U.S. water systems will likely require a staggering \$2.8 to \$4.8 trillion investment.

In response, private water corporations are waging a national campaign to present privatization, in its many forms, as a cure-all that will reduce costs and increase efficiency.

Even where public water systems are thriving, the private water industry is pressuring public officials to pursue private water contracts repackaged in terms deemed less offensive to a skeptical public.

But are public-private partnerships (PPPs), and other euphemisms used to describe water privatization, a way forward?

The key findings of this report indicate no. All too often, promised cost savings fail to materialize or come at the expense of deferred infrastructure maintenance, skyrocketing water rates, and risks to public health.

The current trend toward remunicipalization (return of previously privatized systems to local, public control) of water systems is a primary indicator that privatization and PPPs are not the answer. Since 2003, 33 U.S. municipalities have remunicipalized their water systems. Five have done so in 2014 alone. And an additional 10 have set the wheels in motion to do so this year through legal and/or administrative action. This closely mirrors the accelerating global remunicipalization trend. Paris, where the two

largest global private water corporations (Veolia and Suez) originated and are headquartered, has notably led the charge to remunicipalize, saving tens of millions of dollars since returning its water system to public control.

As this report finds, private water contracts can pose substantial economic, legal, and political risk to local officials and the communities they serve. The findings come through review and analysis of lobbying reports, Congressional records, city case studies, and empirical evidence drawn from research by the Public Services International Research Unit (PSIRU). They show the private water industry depends on political interference, misleading marketing, and lack of public oversight to secure its contracts. This report exposes the private water industry's tactics and makes the case for democratically governed and sustainably managed public water systems, providing public officials with a set of examples and recommendations to bolster public water.

Water privatization in practice, but not in name

Private water corporations have sought to distance themselves from the troubled term "privatization," given its deep-seated unpopularity in the U.S and across the globe. The most popular and, invariably, most heavily focus-grouped euphemism used by the private water industry is PPP, or public-private partnership. Yet leading academic and research institutions, including the National Research Council, consider water PPPs a synonym for privatization, as do the overwhelming majority of academics and experts focused on water systems.

It is under the promise of the more palatable and innovative-sounding PPP that water giants are entering into contracts with cities. Yet what's innovative is the marketing—not the model. For example, Suez and Veolia are promoting contract models that offer large, upfront payments financed by private equity firms. In exchange, the city leases its water system to Suez, Veolia, and/or a private equity firm for the long term. In France, where Veolia and Suez are based, this type of contract model was outlawed two decades ago by



PHOTO: A water main break in Chicago. Water systems across the country are in serious need of infrastructure reinvestment. But findings show that private water contracts including PPPs, rather than being a solution to this crisis, in fact pose substantial economic, legal, and political risk to local officials and the communities they serve.

anti-corruption legislation because upfront payments distorted the decision-making process. Yet, Suez's 2012 contract in Bayonne, New Jersey and Veolia's contract with Rialto, California in the same year have become the corporations' flagships for marketing this model in the United States.

But in both cities, residents have paid a heavy price. As detailed in this report, United Water's contract with Bayonne involved an initial 8.5 percent rate hike followed by a two year rate freeze and a nearly 4 percent hike annually over the life of the contract. In Rialto, the water privatization contract is already costing the local community millions more each year than under public operation and is set to more than double rates by 2016.

As part of the repackaging trend, Veolia has also developed new foot-in-the-door strategies for major cities, including "Peer Performance Solutions (PPS)," marketed as efficiency or operations consulting. Yet, Veolia's own operation of major city water systems, from Indianapolis to Paris, has been ridden with controversy, as documented in this report.

Policy interference the precursor to and facilitator of privatization

The tactics used by private water corporations to gain long-term contracts include corruption, political spending, lobbying, marketing of illusory fiscal gains, and

legal and extra-legal disputes. The most controversial tactics used by private water corporations to maximize profits during the life of a contract and to increase their market share rely on lack of transparency.

At the federal level, the private water industry and its front groups have lobbied to amend the tax code in its favor. It has also lobbied for legislation that would open the doors for private water corporations to funnel public finance, essential for public water systems, to private water projects. The implementation of such changes could further destabilize the long-term financial viability of public water systems.

At the state level, private water corporations have used their political influence to limit democratic oversight and accountability of private water projects. Nowhere is this clearer than in New Jersey, where Suez's United Water is headquartered. From 2012 to 2013 alone, the corporation lobbied members of the legislature to oppose four state-level bills that, had they been enacted, would have safeguarded cities and public health.

At the local level, Veolia, Suez's United Water, and other water corporations have a long track record of attempting to secure private water contracts with minimal public discourse. At national forums where public officials gather, private water corporations promote their favored privatization deals (marketed as solutions for the challenges faced by mayors, public officials, and their communities) away from the scrutiny of media and the public.

The political machinations of private water corporations are an attempt to create a resurgence of water privatization despite its track record of failure and inherent flaws.

Growing proof of the false promise of privatization

There is a reason why only 8 percent of U.S. water systems are operated by private water corporations and why 90 percent of the largest cities around the globe are under public control. Water systems are by nature local monopolies, and they are vital to

public health and safety. To this end, delegating control, operation, and decision-making to private entities undermines the democratic governance and sustainable management of public water systems. No matter how the private sector frames its intentions, its priority is market development over community development, profit maximization over the public interest. Private water corporations have a fiduciary obligation to maximize returns to shareholders.

To meet this obligation, they focus on a) weakening their greatest competitor, the public water sector, b) opening up the water market and creating business opportunities for themselves, and c) removing as many obstacles as possible to the profitability of their operations.

And as this report draws forward, empirical evidence demonstrates that the arguments most often made to justify private water contracts are deeply flawed, including the argument that private water corporations are more efficient than the public sector. The reality is private contracts and commercial law shield private water corporations from nearly all risks, meaning they have no incentive to behave efficiently. Recent studies have confirmed this reality. Studies have also found that private water corporations have a track record of raising rates and failing to invest adequately in water systems. The private sector's profit-maximization imperative systematically results in precious financial resources being diverted to shareholders in the form of dividends.

What's more, private water corporations perform no better on technical and economic issues, charging higher prices than public water utilities. In France, the price of private water has proved 16 percent higher than public-sector-provisioned water. And in the United Kingdom, the great experiment in water privatization of the last two decades has resulted in price increases of 50 percent, even as operating costs have remained unchanged.

In spite of industry promises to contribute to the long-term sustainability of water infrastructure, private water corporations contribute negligible

amounts of private finance toward this. Instead they seek opportunities to use public-investment finance—a source cities don't need private industry to access. Even Veolia Environnement's CEO Antoine Frérot validates as much, having publicly stated that the role of a contractor is to manage infrastructure, not to finance it.

Cities in private water contracts can also face considerable financial and legal risks, including contract renegotiation and termination. The private water industry's strategy around the globe has been to lowball contract bids with the aim of renegotiating contracts for more favorable terms, even in the first few years. One World Bank study for example found that two-thirds of private water contracts reviewed in Latin America were renegotiated within the first two years.

Not surprisingly, the experiences of cities from Atlanta to Indianapolis and Stockton to Camden have been mirrored in countries from Italy to China and Germany to Canada. Around the globe privatization has resulted in the rate hikes, environmental damage, a reduced quality of service, and deep costs to the cities saddled with contracts. This is to say, public officials should be wary of importing private water "solutions" that have failed cities across high-income countries, not to speak of the even more dire failings across cities in low-income countries, such as in Nagpur, India—one of the few large cities to privatize water since 2006.

Solutions for bolstering public water

Public officials across the U.S. have found viable, public water solutions that strengthen public water systems.

As Cornell University Professor Mildred Warner documents, far more municipalities are improving and maintaining drinking water and sewage systems through inter-municipal cooperation than PPPs. As the report details, this cooperation ranges from pooled purchases to save money, as in the case of small Maryland communities; to shared infrastructure projects, as in the case of a Massachusetts water treatment facility. Information sharing among public water systems is also an important way for water



Photo credit: iStock/Terry J Alcorn

PHOTO: A public utility technician makes note of water pressure. Public officials around the country are implementing public solutions to strengthen water systems in their communities, including through public-public partnerships.

systems to thrive and face today's challenges. Conversely, given the proprietary nature of privatization contracts, collaborative approaches and information sharing threaten the commercial interests of private water corporations.

Cities from Fort Worth, Texas to Redding, California have put water privatization proposals under careful scrutiny. In doing so, they have found that they should continue public operation and at times, partner with the public systems to continue improving operations.

At the same time, communities from Gloucester, Massachusetts to Stockton, California to Lazio, Italy are passing policies to strengthen public involvement in water management. As the report details, these policy options range from ordinances requiring a public vote on privatization contracts to citizen water boards, which participate in public water system governance.

In light of the evidence provided, this report recommends that public officials—the stewards of our public water systems—increase public participation and accountability in decision-making on water services. It also equips all city decision-makers with documented outcomes and empirical evidence regarding water privatization and PPPs. Finally, it recommends that officials follow the lead of cities around the globe that have strengthened public water through remunicipalization, public sector collaboration, in-house restructuring, and pro-public water policies. Local governments and city officials recognize that water is our most essential resource and are already investing in public water systems at all-time highs. They should continue to recognize the importance of public water by ensuring all decisions on water management and operation are made transparently, democratically, and with comprehensive information and investigation.

INTRODUCTION

Water services—water supply, sewage, and wastewater treatment—are the most essential public services. Public water systems are the backbone of communities both today and historically, since they are critical for building local economies, for strengthening public health, and for sustaining and improving the health of the environment.

Public officials, especially mayors, are prioritizing investment and reinvestment in democratically governed public water systems to ensure that public water systems continue to successfully provide U.S. communities with safe and affordable drinking water.¹ However, mayors and other public officials face mounting pressure from the private water industry to privatize public water systems, and the industry is increasingly interfering in the democratic governance of water at the local, state, and federal level. At the same time, evidence of the problems with water privatization and the risks posed by private water corporations to the well-being of communities is growing. These problems and risks threaten the sustainability of U.S. urban and rural communities and warrant public attention and a vigorous public debate.

In the wake of the 2008 financial crisis in the U.S., the private water industry has increasingly focused on expanding its market in the U.S. by targeting U.S. cities,² even as cities around the globe are remunicipalizing (returning previously privatized systems to local, public control) at an accelerating rate. Despite the fanfare from the private water industry, Suez Environnement, whose wholly owned U.S. subsidiary United Water is among the top five largest private operators in the U.S. by revenue,³ acknowledged that only about 8 percent of U.S. water systems are currently operated by private

operators,⁴ down from about 11 percent in 2008.⁵ In an attempt to expand its market in the U.S., the private water industry is pitching public-private partnership (PPP) models to mayors and other public officials at forums across the country. These PPP models are neither new nor innovative. Private water corporations like Veolia and Suez project the image of trustworthy partners willing and able to help U.S. public officials address the complex challenges of delivering high-quality water services with limited financial resources. The industry devotes significant resources to this marketing narrative, which is full of appealing promises but is deafeningly silent on the private water industry's failures to maintain these promises. Because private water corporations have demonstrated an interest in long-term contracts and have the ability to profit from these contracts at the expense of local governments and communities, the private water industry's political interference threatens the democratic governance and sustainable management of public water systems.

“Water supplies and infrastructure are, fundamentally, a public service that requires strong accountability, transparency, and public trust. As such, it is critical that decisions regarding water resources and infrastructure be conducted in the public sector. Privatizing public water systems carries substantial risk to the management and sustainability of water resources and infrastructure.”

MAYOR RALPH BECKER | SALT LAKE CITY, UTAH

This report exposes examples of the political interference and deceptive marketing of the private water industry in the U.S., and makes the case for democratically governed and sustainably managed public water

Photo credit: iStock/Jennifer Sharp



PHOTO: Public water systems are a backbone to a healthy and economically prosperous society.

systems. The report does so by building on New Jersey state lobbying reports, Congressional records, documents gathered through Missouri's Sunshine Law, case studies, and other materials, as well as the expertise of the Public Services International Research Unit (PSIRU). It reviews the track record of public water, explaining why it is too important to delegate; discusses water PPPs as a euphemism for privatization; exposes the false promises of the private water industry and reveals its true costs to cities and communities; examines cases of political interference, ranging from corruption to lobbying to misleading marketing at every level of government; offers alternatives to privatization; and recommends steps public officials can take to strengthen the democratic governance and sustainability of public water systems.

Regardless of the private water industry's stated objectives, the industry seeks to weaken its greatest competitor, the public water sector; expand demand

for water privatization; and remove as many obstacles as possible to the profitability of its operations. These three goals are prioritized over other considerations, including the sustainability of the national water sector and the quality and accountability of local water systems. Conversely, public officials, especially mayors, are the stewards of public water systems. They are uniquely positioned to prioritize public water for local communities instead of the profit interests of the private water industry, first and foremost, by maintaining and developing democratic governance and long-term sustainable management of public water systems. This report finds that, despite its track record of performance failure, the private water industry has refined its marketing tactics in an attempt to expand its market in the U.S. The industry's ability to do so relies on its ability to interfere with water policy and decision-making at every level of government.

PUBLIC WATER: TOO IMPORTANT TO DELEGATE

Public water services are too important to delegate to private water corporations because these corporations prioritize market development over community development, and profit maximization over the public interest.

Water supply and sanitation satisfy basic human needs and prevent public health hazards,⁶ and access to high-quality water services has a positive impact on economic and social development.⁷ Historically, public officials and communities across the globe have recognized that public control of water services is of strategic importance for cities and the welfare of communities. That's why the funding, planning, ownership, management, and governance of water systems by publicly accountable institutions is the global norm.⁸

The recognition by local governments that water services are too important to delegate to the private sector has shaped the history of water since the introduction of centralized piped systems. In the U.S., urban water systems began developing in the 18th century as a limited service to affluent customers and as a public assistance for fire control. As cities grew in the 19th and 20th centuries, the demand for water consumption grew, and public health issues became more acute. While the initial systems were usually started by private operators, during the 19th century the utilities were fairly soon taken over by municipalities. By 1897, 82 percent of the largest cities were served by municipal operations, and the proportion continued to grow.⁹ The public health and economic improvements in the U.S. were vast, including an estimated three-quarter decline in infant mortality in the early 20th century and an estimated return on investment of 23 to 1 in the 100 years following the early 1900s.¹⁰

Historically, private water corporations, market forces, and competition have contributed very little to service universalization in developed countries.¹¹ There was a common set of reasons for this, ranging from the limited capacity of private water corporations to extend public water services to the urban population to the need to avoid the excessively high costs of private water industry provision. In addition, municipal governments gained the right to borrow money to invest cost effectively in the development of their own systems. The extension of water systems in U.S. and European cities thus almost entirely took place under public operators and thanks to public finance. The fundamental role of the public sector in developing water and sanitation services can also be observed in other high-income countries such as Japan.¹² Even in France and the U.K., where today water operations are mostly run by private water corporations, universal coverage was achieved through the predominant role of public operators and public finance.¹³

As a result, the public sector operates the overwhelming majority of water services in cities in nearly all countries. As of 2006 water services were owned and run by the public sector in about 90 percent of the largest 400 cities in the world (those with populations over 1 million). The proportion run by the private sector was about 14 percent in high-income countries—including the European Union (EU) and Japan—and similar in developing countries. Since then, the proportion of privatized water systems has fallen further due to remunicipalizations in major cities such as: Paris (France), Berlin (Germany), Budapest (Hungary), Buenos Aires (Argentina), La Paz (Bolivia), Maputo (Mozambique), Accra (Ghana), and Rosario (Argentina). By contrast, there have been few cases of privatization in the world's large cities since 2006: examples include Nagpur (India), which has been the subject of great opposition and criticism,¹⁴ and Jeddah (Saudi Arabia).¹⁵

PUBLIC-PRIVATE PARTNERSHIPS AS A EUPHEMISM FOR PRIVATIZATION

There is a growing body of evidence documenting the economic, social, political, and financial risk that contracting with the private water industry poses to cities.

Public officials and people around the globe have experienced these failures of water privatization first hand. As a result, privatization in all of its forms is deeply unpopular across the globe and in the U.S., and the trend toward remunicipalization of private water systems is rapidly intensifying (see pages 18-21). In response, private water corporations, industry groups, and private equity firms are waging a public relations campaign in the U.S. to repackage water privatization in more palatable terms such as PPPs, finance deals, management deals, and consulting contracts.

Public-private partnerships (PPPs) are a euphemism for privatization used by the private water industry in its attempt to expand its market in the U.S. by changing the way public officials and communities think about how water should be provided and governed. PPPs in a variety of contractual forms are widely considered a form of privatization by academics, key development institutions like the World Bank, and leading research institutions such as the National Research Council.¹⁶

Globally, water privatization takes various contractual forms in view of the managerial and financial responsibilities transferred to private water corporations: lease or operating contracts, concessions, management contracts, outright divestiture, build-operate-transfer contracts—all these contractual forms constitute water privatization. As indicated

by the definition of privatization used by the World Bank, concession or lease contracts include the essential elements of privatization—that is, the transfer of rights to streams of income to private water corporations.¹⁷ Concessions are therefore considered forms of privatization by the overwhelming majority of people and experts concerned with the subject. They are the typical form of privatization of water services throughout the world: only the U.K. has privatized water services through the sale of assets.¹⁸ In the U.S., “privatization” is also normally used to refer to any such outsourcing, including concession or lease contracts for water services.¹⁹

Since the privatization of water services is deeply unpopular among voters and community members throughout the world, private water corporations have insisted that the word privatization is restricted to the sale of assets, such as corporate shares or physical networks, claiming that therefore concession, lease, and various PPP contracts should not be called privatization. In St. Louis, Missouri, where Veolia sought a contract with the city, executives insisted that the corporation’s proposed contract “is not privatization, nor does it set the stage for privatization down the line.”²⁰ Public officials and concerned community members were not convinced, and the corporation was eventually forced to withdraw its proposed contract after residents, local media, and city officials exposed both its backdoor dealings with the city as well as the corporation’s track record of failure (see Case Study: St. Louis, pages 28-30). In St. Louis and elsewhere, the language of PPPs is distanced from the controversial idea and track record of privatization in order to neutralize political opposition to privatization among key constituencies and public officials. Yet in the water sector the two terms—PPPs and privatization—refer to the very same contractual arrangements. The term PPP distorts the reality of these water sector contracts, the actual track record of the industry, and the political consequences for public officials who delegate water service operations to the private sector.

FALSE PROMISES OF THE PRIVATE WATER INDUSTRY

To implement these public-private partnerships, private water corporations such as Veolia and Suez (and its U.S. subsidiary United Water) rely on misleading marketing tactics to mask their track record at local, state, and federal levels.

Corporations like United Water claim that water privatization benefits public water systems by allowing water utilities to access the innovation of the private sector, increase the efficiency of operations, share risks, and access private capital.²¹ Globally, the false promises of water privatization also include greater private sector efficiency, advanced and innovative technological solutions, high quality services, and private finance for infrastructure development.²² The private water industry and its supporters promise that all this will help U.S. mayors and other public officials pursue the public interest and strengthen the financial health of their cities.²³ However, both in the U.S. and internationally, the reality of privatized water operations is starkly different from the myths of water privatization.



PHOTO: Veolia disseminated PR materials like this newsletter to the St. Louis community and city officials. It was part of the corporation's unsuccessful attempt to undermine public concerns and persuade public officials to move its contract forward. Read more about St. Louis on pages 28-30.

In fact, more and more communities are mobilizing to oppose water privatization and to reverse privatization contracts,²⁴ and an increasing number of local governments are terminating unsatisfactory water privatization contracts in the U.S. and globally.²⁵ The unpopularity of water privatization therefore represents a political risk for public officials who accept privatization as a way of delivering water services. In order to understand the political risk these public officials face, it is necessary to understand how the practice systematically and dramatically differs from the theory and promises of water privatization. In theory, private water corporations are expected to be efficient and effective in delivering and investing in water services because of their ability to manage commercial risks. In practice, private water corporations behave like typical monopolists to extract rent from their long-term contracts at the expense of local communities. The fact that private contracts and commercial law shield private water corporations from nearly all risks means that they have no incentive to behave efficiently. And the long-term costs of water privatization for municipal governments and local communities include: soaring tariffs, cuts on investments, poor service quality, and the failure of private water corporations to contribute investment finance.²⁶

Private water industry is not more efficient than the public sector

Supporters of privatization claim that private corporations are more efficient than the public sector, but the empirical evidence shows this is not true. There have been many studies comparing the efficiency of the public sector with private water corporations in various countries including the U.S., and a comprehensive review by academics in 2008 concluded that “most studies found no significant differences in costs or efficiency between public and private.”²⁷ The World Bank and the International Monetary Fund (IMF) have found this, too. An IMF policy paper in 2004 said that “the empirical evidence is mixed” on the relative efficiency of the private sector.²⁸ A global review of empirical evidence of water and energy utilities by the World Bank in 2005 concluded that there was

“no statistically significant difference in efficiency scores between public and private providers.”²⁹

Private corporations perform no better on technical grounds either. Leakage is often used as an indicator of overall efficiency. Reducing leakage implies saving on electricity costs, and so the lower the leakage level the higher the efficiency of the utility. When it comes to leakage, the most efficient water operators in the world are found in the public sector. In the Netherlands, where all water supply operators are publicly owned, average leakage is around 4 percent.³⁰ In Japan, where virtually all water supply operators are public, the average leakage level is 7.5 percent.³¹ In Germany, where public water operators serve nearly 80 percent of the national population, average leakage is around seven percent.³² These low levels of leakage are highly unusual under privatization. One of the reasons is that, as in the case of England, the private sector has no commercial incentive to exceed the “economic level of leakage,”

or the level at which it would cost more to make further reductions in leakage than to produce the water from another source.³³ And the economic level of leakage is usually higher than 7 percent. As of 2004 – 2005, leakage among English water companies varied between 13 percent for Sembcorp Bournemouth (formerly Bournemouth & West Hampshire) and 33 percent for Thames Water.³⁴

Private corporations also perform no better on economic grounds, charging higher prices than public water utilities, as found in the cases of Germany and Spain among other European countries.³⁵ In France, the home country of Veolia and Suez, the price of private water has proved 16 percent higher than public-sector-provisioned water.³⁶ And in the U.K., the great experiment in water privatization of the last two decades has resulted in price increases of 50 percent, even as operating costs have remained unchanged.³⁷

SUEZ AND VEOLIA’S MARKETING DOESN’T TELL THE FULL STORY

After a series of notable failures (including Atlanta and Indianapolis), and faced with growing public resistance to water privatization, both Suez and Veolia have touted supposedly innovative contract models designed to help public officials effectively manage and invest in public water systems: Suez’s “Solution” and Veolia’s “Peer Performance Solutions” (PPS) models.

However, Suez’s Solution model recycles the old French system of upfront payments used as economic incentives to convince cash-strapped municipal governments to sign long-term contracts. The practice of upfront payments is now generally illegal in France, as it was outlawed by anti-corruption legislation adopted in 1993 (see page 31).³⁸ The private water corporations systematically recovered the upfront payments by overcharging communities, and so this was a form of hidden taxation which distorted public decisions on the award of contracts.

Veolia has sought ways to neutralize public opposition to its involvement in public water systems and make its profiteering more acceptable for mayors and other public officials. While Veolia describes the PPS model as a consulting contract, PPS involves multiple phases that increase the corporation’s involvement in the management of public water utilities over time. The term Peer Performance Solutions masks the use of hyped technological expertise to gradually but increasingly take control of public water systems. In St. Louis the corporation faced immense public pressure from public officials, the media, and community members who were concerned that Veolia’s PPS contract could escalate into a concession contract. Local legal experts determined if the city proceeded with the contract, “The public Water Division [would], in effect, no longer be public.”³⁹

All over the world municipal governments have a constant challenge to stop private water corporations from claiming too much money. In Tallinn, Estonia, the city council, the national government, the ombudsman, and the competition authority have all condemned the excessive prices being charged by the private water corporation which bought control of the water services in 2000. In Australia, the city of Adelaide reclaimed \$14 million of excessive charges by its private water corporation in the last decade. In Chile, a private water corporation owned by a Canadian pension fund was fined \$2 million for overcharging.⁴⁰



Photo credit: iStock/Andrey Gataash

PHOTO: Shortly after New Jersey was hit by Hurricane Sandy, United Water aggressively pursued rate increases across the state—blithely ignoring the economic impact of the hurricane's aftermath on the state's residents.⁴¹

Another recent paper from the World Bank found that for all the added efficiencies promised by the private water sector, from layoffs of utility workers to increased bill collection, there is no evidence of higher private investment in water systems or prices being lowered for ratepayers.⁴² The upshot is, despite the fanfare of the private water industry's marketing, the evidence of superior private sector efficiency is simply not there.

Private water industry does not share or reduce risk

Distorted risk allocation in water privatization and PPPs creates win-win opportunities for private water corporations, and lose-lose situations for municipal

“Public private-partnerships in the water sector are bad deals for cities and consumers. Rather than being true partnerships, they are actually wolves in sheep’s clothing.”

DENNIS HOULIHAN | POLICY ANALYST, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES

governments and their communities. According to the mainstream theory of water privatization, private water corporations are to assume commercial risks (i.e. the risks of not making a profit as a result of entrepreneurial decisions on operating the service and implementing investment programs), because they are better positioned to mitigate these risks. In reality, municipal governments and communities end up bearing all the risks and liabilities, while private water corporations enjoy guaranteed profits whatever their performance. This can be the result of specific contractual provisions setting a minimum rate of return on investment or a fixed percentage of the corporations' gross income as remuneration for management. These contractual terms remove any element of financial risk from these corporations, which therefore have no incentive to operate efficiently.⁴³

Distorted risk allocation provides an incentive for profit-maximizing shareholders to resort to transfer pricing. This practice consists of inflating operating subsidiaries' payments to the parent corporation as a way of increasing profits, because the subsidiaries' deficits are then compensated by rate increases or public subsidies and so such deficits constitute a net gain for shareholders. And if local governments decide to terminate the contract due to poor performance, they are liable to compensate the private operator—often millions of dollars—for foregone profits.⁴⁴

The following are examples of distorted risk allocation:

Rockland County, N.Y.: In April 2014, Suez's United Water requested a rate increase of over 8 percent to compensate for \$56.8 million it claimed to have spent on developing a desalination project proposal that had not been approved yet due to popular resistance and regulatory scrutiny. United Water's request, which would levy a roughly \$179 surcharge on each Rockland resident, is an example of how, under water privatization, political and regulatory risk is borne by the public sector and communities, as private corporations expect the public sector and communities to absorb costs that result from regulatory and democratic processes. It is also an example of how private water corporations use disputes around risk allocation to maximize their profit by overestimating their costs. New York's Public Service Commission (PSC) found that, even if United Water's request for compensation was to be accepted, it would have to be reduced by \$12.6 million.⁴⁵ In another recent rate increase request, the PSC expressed concern with United Water's near-decade-long track record of rate increases. PSC determined that United Water may require a "basic reorientation of management and corporate culture"⁴⁶ and ordered United Water to "conduct a comprehensive examination of its management practices."⁴⁷

Indianapolis, Ind.: The city of Indianapolis paid a termination fee of \$29 million in order to end its unsatisfactory contract with Veolia (see page 14).⁴⁸ In high-income countries as well as in developing countries, transnational water corporations systematically threaten local governments with the payment of multi-million dollar termination fees. They do so to distort public decision-making to their commercial advantage, for example by avoiding the termination of contracts despite poor performance.⁴⁹

Paris, France: In 1984, two 25-year lease contracts for the water supply in Paris were awarded respectively to Veolia and Suez. In 2000 the contracts were criticized by the regional audit body for lack of financial transparency, and in 2002 an audit commissioned by the city of Paris found that the prices charged by the lease operators were between 25 and 30 percent higher than the correct amount. In 2003 the national audit body found that, year after year, the private operators under-used the financial reserves set aside for maintenance works, which were paid for by consumers. This tactic had the effect of inflating prices. In addition, the two parent corporations received payment of know-how fees—guaranteed fees for transfer of "know how" from the parent corporation to the subsidiary, the cost of which is transferred to communities through higher charges. The two lease operators also subcontracted works and maintenance to subsidiaries of the same groups, and paid the subcontracted subsidiaries so that the parent corporations could realize additional profits.⁵⁰

England and Wales, U.K.: In England and Wales, the 1989 countrywide privatization of water and sewage services took place in the form of outright divestiture. Despite its considerable human resources,⁵¹ the water services regulator Ofwat has been unable to deal with the corporations' opportunistic behavior. The corporations' tactics include overestimating the value of projected investments so that the tariffs allowed by Ofwat are higher than they should be. From 1995 to 2006, this tactic has resulted in over £4.3 billion (over \$7 billion) of extra dividends paid to shareholders across the industry, equal to 9.6 percent of the total value of projected investments. The deliberate misrepresentation of data has also been the object of investigations and charges brought by the Serious Fraud Office.⁵²

Private water industry prioritizes profit above all considerations in the U.S.

Private water corporations rely on rate increases and cost cutting to maximize profit. Veolia's track record of rate increases was a key concern cited by community members in St. Louis who recently successfully challenged Veolia's proposed contract with the city,⁵³ and United Water's aggressive rate increases across New Jersey in the wake of Hurricane Sandy have raised the ire of a number of public officials.⁵⁴

Additionally, because private water corporations have a fiduciary obligation to prioritize shareholder interests, they have a poor track record in promoting the interests of local communities. Just six months after taking office, Atlanta's former Mayor Shirley Franklin (2002 – 2010) terminated United Water's 20-year concession contract with the city of Atlanta sixteen years early.⁵⁵ Mayor Franklin's office had presented United Water with a

report detailing numerous complaints with United Water's management of the water system and the corporation's performance.⁵⁶ In the four years United Water operated Atlanta's water system (1999 – 2003), the corporation halved the workforce, leading to water quality declines; however, rates continued to increase each year.⁵⁷ City residents were forced to boil their water after insufficient treatment by United Water led to orange and brown water spewing from residential taps. Eventually, the city had to hire its own inspectors to audit United Water's work, costing the city an additional \$1 million.⁵⁸

In 2012 Gladewater, Texas, a city near Longview, spent \$77,000 to end its contract with Veolia Water North America. The town privatized its water and sewer systems in 1996, but the city was plagued by Veolia's poor performance for over a decade. Veolia had violated federal water quality standards numerous times since

CLASS ACTION LAWSUIT IN INDIANAPOLIS

Although Veolia continues to boast about its performance in Indianapolis,⁵⁹ Veolia's public relations materials don't tell the full story.



During its tenure with the city, non-union employees had their benefits cut, and by 2005 a federal grand jury was investigating Veolia's allegedly falsified water quality reports.⁶⁰ Several years into the contract, Veolia renegotiated its contract to include an additional \$5 million in compensation—outside of the public eye and outside of the view of the Indiana Utility Regulatory Commission.⁶¹ In a class-action lawsuit on behalf of 250,000 local residents, Veolia was accused of overbilling residents by over-estimating water usage and neglecting to read meters, resulting in inflated water bills. The case was ultimately dismissed without the merits of the case being explored, following a ruling that the court where the lawsuit was filed “did not have subject matter jurisdiction over this case.”⁶² Peter Kovacs, an Illinois

lawyer who brought the suit, explains, “The day after I filed the lawsuit, I had over 200 voicemails on my machine from residents telling me they had experienced the same abuses of Veolia, some of whom told me stories about being on a fixed income and deciding whether to pay their \$300 water bill in the midst of winter or to buy their food for the month. One of my clients had a water bill credit for \$1500 that Veolia refused to cut him a check for, arguing it would pay out over time. For months, this was a major local and state news story that local government ultimately had to answer to.”

2004 and failed to make the necessary investments in the city's infrastructure, reportedly leading to three complaints a day from community members of brown and/or foul water. Some residents reported only being able to use bottled water for drinking.⁶³

In 1999 Camden, New Jersey privatized its water services under a 20-year contract with United Water. In 2009 the state of New Jersey conducted a special audit of the water contract in part to investigate whether United Water was fulfilling its end of the bargain. The state's findings, reported in December 2009, included: potential for contamination in the water system, poor asset maintenance, non-revenue water levels of 45 percent due to leakage (which cost the city \$1.7 million in lost revenue), inaccurate metering, poor billing (inaccurate metering alone forced the city to write off \$1 million in water charges in 2008 to public entities like the Camden County Jail and the Riverfront State Prison), and serious problems with payment collection and customer records. In addition the state found that the city paid nearly \$10 million, either under contractual amendments that were never legally approved by elected officials, or in the form of payments made without proper authorization; that the corporation charged the city "administrative fees" of 9 to 12.5 percent, even though the work was subcontracted to other corporations, and even though the fees were not specified in the contract; and that United Water failed to refund \$550,000 owed to city customers.⁶⁴

Private water industry prioritizes profit above all considerations internationally

International evidence shows that the private water industry's profit-maximization imperative leads to underperformance and under-investment in many other countries. This demonstrates that the problems with PPPs and other forms of water privatization are systemic and not caused by local oddities. It also shows the risks and costs that local governments assume when privatizing their water services, including: transaction costs of structuring the privatization deal (i.e. lawyers and consultants), long-term costs in inflated tariffs and/or underperformance, and/or under-investment and termination fees paid to the private operator in case of unilateral termination.⁶⁵

Cases in which the private water industry has prioritized profit above other considerations include:

Paris, France: The two 25-year lease contracts for water supply in Paris awarded to Veolia and Suez in 1984 have been repeatedly criticized by public auditors for a number of irregularities. These irregularities meant that Parisians were not receiving value for their money. Because this situation persisted despite the renegotiation of the contracts in 2003, the city of Paris decided not to renew the two contracts with Veolia and Suez, and remunicipalized the water supply in 2010.⁶⁶ The remunicipalization led to an 8 percent reduction in rates in 2011, starkly different from the 260 percent increase in rates from 1985 – 2008.⁶⁷

Berlin, Germany: In 1999 a water and sanitation concession was awarded to a consortium including RWE and Veolia. The contract guaranteed that the return on equity for the private concessionaires would be 8 percent. The contract was highly controversial as it led to severe under-investment and the explosion of prices,⁶⁸ and it triggered a popular referendum in 2011 for the publication of the secret contract. The contract was terminated and water and sanitation services remunicipalized in September 2013.⁶⁹

Brussels, Belgium: Aquiris, a subsidiary of Veolia charged with treating wastewater in Brussels, home of the European Commission, stopped doing so in 2009. For ten days the untreated water of 1.1 million citizens polluted the river Zenne. Research by Corporate Europe Observatory (CEO) revealed that the corporation could not fulfill its contract and had overestimated its technology in its response to the request for bids. Moreover, according to CEO, the corporation was seeking more money from public authorities in the course of a dispute.⁷⁰ The Veolia subsidiary suspended wastewater treatment operations in Brussels as an extralegal way of pressuring the local government into putting the corporation's commercial interests above the economic, social, and environmental interests of the local community.⁷¹

Private water industry does not invest significantly in public water systems

Resorting to the private sector to finance infrastructure investment can only increase financing costs, irrespective of the sources of finance tapped by the private sector. According to mainstream theory and the private water industry, private water corporations are expected to contribute new sources of finance, taking advantage of their supposed superior efficiency

United Water “avoids paying for expensive underground pipes” in many of its contracts with cities throughout New Jersey.

NBC NEW YORK INVESTIGATIVE REPORT | 2013

(see pages 10-12).⁷² The expectations that the private sector can contribute to the cost-effectiveness of financing infrastructure investment appear unrealistic in consideration of the facts that: a) governments usually enjoy lower costs of raising finance compared to the private sector (this explains why the private sector prefers for the public sector to finance investments, or is keen to access public finance such as governmental loans and bonds); and b) all finance is ultimately paid for by ratepayers through charges or taxpayers through subsidies.⁷³

Private water corporations have never invested much in public water systems. In all countries in Europe and North America, including the U.S., the public sector has paid for the networks. Even in France, where the private corporations lasted from the 19th century, they did not invest in extending the systems—the municipalities had to make all the investments themselves.⁷⁴ In 2013 in New Jersey, an NBC New York investigative report found that United Water “avoids paying for expensive underground pipes” in many of its contracts throughout the state.⁷⁵

Examples of private water corporations’ failure to invest in infrastructure globally include:

Arezzo, Italy: In 1999 a water supply and sanitation concession was awarded to a Suez-led consortium. The concession agreement provided for the operator to tap private finance, something that Suez failed to do. It also provided for the payment of a guaranteed management fee to the private operator. By 2002 the regulator was sanctioning the private operator for its inefficiency and requested the reduction of the amount of the management fees. This resulted in a tense confrontation between Suez and local authorities until—after threatening to demand millions in compensation in front of an arbitration tribunal, and suspending payments to local authorities for the use of the infrastructure—Suez obtained the postponement and reduction of projected investments.⁷⁶

China: The urban sewage connection rate in China rose from 48 percent in 1990 to 74 percent in 2010.⁷⁷ Public spending on infrastructure has not only kept pace with the growth of the Chinese economy, it has increased twice as fast: “Since 1995, China’s GDP has almost tripled while overall annual municipal infrastructure spending, including roads, has increased six-fold.”⁷⁸ The total length of urban sewage networks increased by nearly 225 percent between 1991 and 1998. However, a World Bank report found that less than 4 percent of all the investment in water and sanitation was financed through the private sector.⁷⁹



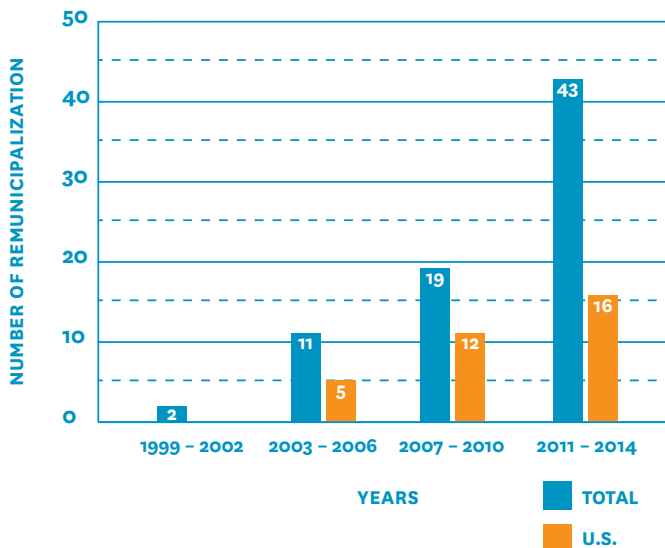
PHOTO: A 12-inch water main break in the water system of Secaucus, N.J., managed by Suez’s United Water. Private water corporations have historically shied away from investing in water infrastructure, and many currently privatized systems face significant need for infrastructure repair that continues to go unmet.

It should also be noted that today in Europe nearly all countries rely on public sector funding for investment in water services. In France in 2009 an authoritative report stated that “funding for water services is still overwhelmingly public, and private funding accounts for only 12 percent of the investment.”⁸⁰ In Hungary, for example, even in cities where water is privatized, the investments are paid for by the central government. When private corporations invest, they expect to be guaranteed a huge profit. In England, the private corporation Thames Water was to build an expensive new central sewer for London, but it expected to make a profit of over £100 million (\$162 million) per year above what it cost the corporation.⁸¹

Water remunicipalization as a growing U.S. and global trend

Because of the failure of private water corporations to live up to their promises, the trend toward remunicipalization of private water systems is rapidly intensifying. The tables one through four (pages 18-21) list the cases of remunicipalization which occurred in the last 15 years in the U.S., other high income countries, and low- and high-income countries respectively.⁸² These remunicipalizations occurred mainly for four reasons: the widespread problems affecting water privatization irrespective

Water remunicipalization in U.S., Canadian, and European cities (2003 – 2014)



of country and contractual regime, the equal or greater efficiency of public water services, the lower prices resulting from elimination of excessive profits, and the comparative advantage of the public sector in enhancing sustainable water development and realizing the human right to water and sanitation.⁸³ These four reasons have led major cities in the U.S. (e.g. Atlanta and Indianapolis) and Europe (e.g. Paris, Berlin, and Budapest) to remunicipalize their water services. The case of Paris is symbolically powerful as Paris hosts the headquarters of Suez and Veolia, and because these two transnationals held the private contracts that were remunicipalized in 2010.⁸⁴

“Whenever I visited a prospect around the world, and it must be the same for our peer (Suez), they would ask me why they would do business with me if even the French capital has no confidence in the French water firms.”

ANTOINE FRÉROT | VEOLIA ENVIRONNEMENT, CEO

Also, Paris and Berlin (which decided to remunicipalize in September 2013)⁸⁵ are the capital cities of the two countries (France and Germany) that are regarded as leading the European Union project.⁸⁶ Veolia’s CEO Antoine Frérot recently made the impact of the remunicipalization in Paris clear in an interview with Reuters: “Whenever I visited a prospect around the world, and it must be the same for our peer (Suez), they would ask me why they would do business with me if even the French capital has no confidence in the French water firms.”⁸⁷

Water remunicipalization in the U.S., 2003 – 2014

The table below lists the cases of remunicipalization that occurred between 2003 and 2014 in the U.S. Of the 33 cases, 19 occurred since 2010, which indicates that the remunicipalization trend in the U.S. is rapidly accelerating. It is likely that this remunicipalization trend will continue, as 10 local governments are currently taking action to remunicipalize water services.

Table 1. Remunicipalization in the U.S. (2003 – 2014)

TE: Terminated at expiration, remunicipalized
T: Terminated and remunicipalized

TD: Termination decided and not yet implemented
TDP: Termination decided with effect postponed

E: Contract expired and not renewed
S: Sold by private operator
W: Private operator withdrawn

STATE	CITY/UTILITY/ENTITY	DATE	CORPORATION	STATUS
GA	Atlanta ⁸⁸	2003	Suez	T
CA	Montara ⁸⁹	2003	American Water	T
TX	Angleton ⁹⁰	2004	Veolia	T
TX	Laredo ⁹¹	2005	United Water (Suez)	T
NY	Coxsackie ⁹²	2005	Veolia	T
CA	Petaluma (wastewater treatment) ⁹³	2007	Veolia	TE
TX	Houston (water treatment) ⁹⁴	2007	United Water (Suez)	T
NH	Winchester ⁹⁵	2008	United Water	T
CA	Stockton ⁹⁶	2008	OMI-Thames Water	T
CA	Fairfield-Suisun (wastewater treatment) ⁹⁷	2008	United Water (Suez)	T
CA	Felton ⁹⁸	2008	American Water	T
ID	Hayden Area Regional Sewer Board ⁹⁹	2009	Veolia	T
NC	Durham County ¹⁰⁰	2009	United Water	T
ID	Burley (wastewater treatment) ¹⁰¹	2009	Veolia	T
MA	North Adams ¹⁰²	2010	United Water	T
TX	Overton ¹⁰³	2010	Veolia	T
IN	Indianapolis ¹⁰⁴	2010	Veolia	T
KY	Whitesburg (water and sewer) ¹⁰⁵	2011	Veolia	T
GA	Brunswick-Glynn County Joint Water Sewer Commission ¹⁰⁶	2011	United Water	T
IA	Tama ¹⁰⁷	2011	Veolia	T
NY	Schenectady (wastewater treatment) ¹⁰⁸	2011	Veolia	T
NC	Plymouth (water and wastewater) ¹⁰⁹	2011	Veolia	TE
NC	Currituck County ¹¹⁰	2011	Utilities Inc.	T
IN	New Albany (wastewater treatment) ¹¹¹	2012	American Water	TE
TX	Gladewater ¹¹²	2012	Veolia	T
VA	Coeburn ¹¹³	2013	Veolia	T
TX	Weslaco ¹¹⁴	2013	CH2M HILL	T
TX	Cameron ¹¹⁵	2013	Severn Trent	T
IA	Storm Lake ¹¹⁶	2014	Veolia	T
IN	Mooresville ¹¹⁷	2014	American Water	TD
SC	Tega Cay ¹¹⁸	2014	Utilities Inc.	T
NC	Reidsville ¹¹⁹	2014	United Water	T
MI	Oakland County Water Resources Commissioner's Office ¹²⁰	2014	United Water	TD

U.S. terminations in the pipeline, 2013 – 2014

All the cases in the table below relate to local governments and communities that, since the beginning of 2013 up to the date of this publication, have taken legal and/or administrative action to remunicipalize their water services.

Table 2. Contract terminations in pipeline (U.S., 2013 – 2014)

STATE	CITY/UTILITY/ ENTITY	CORPORATION
MT	Missoula ¹²¹	The Carlyle Group
MA	Oxford ¹²²	Aquarion Water Company
MI	Walloon Lake ¹²³	Privately owned by Dennis Hass
TX	Kyle ¹²⁴	SouthWest Water Company
CA	Monterey Peninsula Water Management District ¹²⁵	American Water
CA	Claremont ¹²⁶	Golden State Water Company
CA	Ojai ¹²⁷	Golden State Water Company
IL	Bolingbrook ¹²⁸	American Water
MA	Hingham ¹²⁹	Aquarion Water Company
AL	Prichard ¹³⁰	Severn Trent

Water remunicipalization as a global trend

The table below lists the cases of remunicipalization that occurred in the last 20 years in high-income countries (except the U.S.).¹³¹ As of April 2014, the cases of remunicipalization around the world amount to 112—79 of which occurred outside the U.S. Only a handful of cases took place before 2000. Of the 79 remunicipalizations outside the U.S., 44 are in high-income countries and 35 in middle- and low-income countries. The cases in high-income countries show a marked acceleration: 30 out of 44 have taken place since 2010, while 7 occurred between 2004 and 2008, and 4 between 1999 and 2003. This acceleration is due to the example of Paris which produced an even stronger acceleration in France. Of the 22 remunicipalizations that took place in France, 15 have occurred since 2010 (the year after Paris decided to remunicipalize), while 7 occurred in the 12 years between 1997 and 2009. It is also significant that such a high number of cases are concentrated in France, where the experience with water privatization is more extensive and goes back decades. In middle- and low-income countries, remunicipalization takes a slightly different pattern. However, even here there are a large number of remunicipalizations with high-profile cases including: Buenos Aires, Kuala Lumpur, La Paz, Dar es Salaam, Ghana, Maputo, and Rabat.¹³² Also, since 2006 more cities with over 1 million inhabitants have remunicipalized than have privatized; this is to say the net trend in major cities is in favor of public water.¹³³ Overall, there is a strong remunicipalization trend both in the Global North and South.

Table 3. Remunicipalization in high-income countries (excluding the U.S.)

COUNTRY	CITY/UTILITY/ENTITY	DATE	CORPORATION	STATUS
GERMANY	Bergkamen	1995	Gelsenwasser	T
FRANCE	Durance-Luberon	1997	Suez	TE
FRANCE	Grenoble	2000	Suez	T
FRANCE	Varages	2002	Suez	TE
FRANCE	Castres	2003	Suez	T
SPAIN	Medina-Sidonia	2003	Aqualia (FCC)	T
BELGIUM	[regional]	2004	Aquafin (partly-owned by Severn Trent)	TS
CANADA	Hamilton	2004	American Water	TE
FRANCE	Cherbourg	2005	Veolia	TE
GERMANY	Krefeld	2005	RWE	T
FRANCE	Châtelleraut	2007	Veolia	TE
HUNGARY	Kaposvár	2007	Suez	E
SPAIN	Aguas del Huesna	2007	ACS	T
FRANCE	Paris	2009	Suez, Veolia	TE
FRANCE	Est Ensemble (Greater Paris)	2010	Veolia	TE
GERMANY	Stuttgart	2010	EnBW	TE
SPAIN	Figaró-Montmany	2010	CASSA Group	T
FRANCE	Eaux Barousse Comminges Save	2011	SEM Pyrénées	TE
FRANCE	Bordeaux	2011	Suez	TP
FRANCE	Évry Centre Essonne (Greater Paris)	2011	Veolia	TE
FRANCE	Nantes	2011	Gradual	TE
FRANCE	Rouen	2011	Gradual	TE
FRANCE	Montbéliard	2011	Veolia	T
HUNGARY	Pécs	2011	Suez	T
SPAIN	Arenys de Munt	2011	SOREA (AGBAR)	T
FRANCE	Brest	2012	Veolia	E
FRANCE	Saint-Malo	2012	Veolia	T
GERMANY	Solingen	2012	MVV Energie AG	T
GERMANY	Bielefeld	2012	Stadtwerke Bremen/ Essent	T
GERMANY	Oranienburg	2012	Gelsenwasser	T
HUNGARY	Budapest	2012	Suez	T
ITALY	Reggio Emilia	2012	IREN	TE
ITALY	Varese	2012	a2a	T
FRANCE	Aubagne (Eau des collines)	2013	Veolia	T
FRANCE	Vernon	2013	Veolia	TE
FRANCE	Rennes	2013	Veolia	TE
FRANCE	Nice	2013	Veolia	TE
GERMANY	Berlin	2013	Veolia/RWE	T
SPAIN	Arteixo	2013	Aqualia (FCC)	T
SPAIN	La Línea de la Concepción	2013	Aqualia (FCC)	T
FRANCE	Montpellier	2014	Veolia	TDP
FRANCE	Troyes	2014	Veolia	TDP

Table 3. (continued)

COUNTRY	CITY/UTILITY/ENTITY	DATE	CORPORATION	STATUS
GERMANY	Burg (Sachsen-Anhalt)	2014	Veolia	TE
GERMANY	Rostock	2014	Remondis	TDP

Source: PSIRU

Table 4. Remunicipalization in middle- and low-income countries

COUNTRY	CITY/UTILITY/ENTITY	DATE	CORPORATION	STATUS
GAMBIA	countrywide	1995	Veolia	T
ARGENTINA	Tucumán Province	1998	Veolia	T
BOLIVIA	Cochabamba	2000	Bechtel	T
CENTRAL AFRICAN REPUBLIC	Bangui	2001	SAUR	T
MALAYSIA	Indah Water Konsortium (sanitation)	2001	Prime Utilities	S
VENEZUELA	Monagas	2001	FCC	TE
ARGENTINA	Buenos Aires Province 1	2002	Enron	T
CHINA	Shenyang	2002	Suez	T
SOUTH AFRICA	Nkonkobe (Fort Beaufort)	2002	Suez	T
TURKEY	Antalya	2002	Suez	T
VENEZUELA	countrywide	2002	Aguas de Valencia	T
KAZAKHSTAN	Almaty	2003	Veolia	T
VIETNAM	Thu Duc (Ho Chi Minh City)	2003	Suez	T
CHINA	Dachang (Shanghai)	2004	Thames Water	W
COLOMBIA	Bogotá (treatment plant)	2004	Suez	T
MALI	Bamako	2005	SAUR	T
SOUTH AFRICA	Amahlathi (Stutterheim)	2005	Suez	T
TANZANIA	Dar es Salaam	2005	Biwater	T
ARGENTINA	Buenos Aires	2006	Suez	T
ARGENTINA	Buenos Aires Province 2	2006	Impregilo	T
ARGENTINA	Santa Fe	2006	Suez	T
URUGUAY	Aguas de la Costa	2006	Suez	T
URUGUAY	URAGUA	2006	Urbaser	T
BOLIVIA	La Paz/El Alto	2007	Suez	T
KAZAKHSTAN	Ust-Kamenogorsk	2007	IR-Group	T
UZBEKISTAN	Bukhara	2007	Veolia	T
UZBEKISTAN	Samarkand	2007	Veolia	T
UKRAINE	Kirovohrad	2008	Water Services, LLC	T
COLOMBIA	Bogotá 1 (water supply)	2010	Gas Capital	T
MOZAMBIQUE	Maputo	2010	Águas de Portugal	T
GHANA	countrywide	2011	Vitens, Rand Water	TE
UKRAINE	Lugansk	2012	Rosvodokanal	T
INDONESIA	Badung (Bali)	2013	Mahasara Buana, Intan Dyandra Mulya, Dewata Artha Kharisma	TE
MALAYSIA	Kuala Lumpur (Selangor)	2014	Puncak Niaga	TDP
MOROCCO	Rabat	2014	Veolia	T

Source: PSIRU

POLITICAL INTERFERENCE

Private water corporations like Suez and Veolia rely on political interference and misleading marketing at every level of government to expand their market in the U.S.

Contrary to claims by these private water corporations that public officials should see them as reliable partners in the pursuit of public interest objectives,¹³⁴ this section demonstrates that private water corporations systematically put their shareholders' interests before those of the communities where they operate through political interference at the local, state, and federal levels of government. The tactics of political interference used by private water corporations to gain contracts and influence water governance include: corruption, political spending, lobbying, marketing of illusory fiscal gains, and legal and extralegal disputes.

The most controversial tactics used by private water corporations to maximize profits during the life of a contract and to increase their market share rely on lack of transparency. Because of this, ensuring that decisions are made in a transparent and accountable manner and without political interference from the private water industry is of paramount importance. Building on the U.S. and international evidence discussed in previous sections, this section discusses political interference and the policies favored by private water corporations in the U.S. and how these are detrimental to the interests of city administrations, communities, and public water systems.

Political interference at the federal level

Federal funding for public water systems has played a critical role in supporting their development and the continued delivery of public water to communities throughout the U.S. Yet in the last 40 years municipal service providers have been subject to increasingly restrictive federal fiscal policies that have reduced their ability to finance public investments—first with the replacement of federal grants with State Revolving Funds and then with the reduction in the amounts of loans disbursed by the State Revolving Funds. In turn,

federal fiscal policies have contributed to widening the gap between investment requirements determined by aging infrastructure and inadequate amounts of public finance. Even though the ability of State Revolving Funds to leverage municipal investments has diminished with time, local governments are investing in water systems at all-time highs.¹³⁵ However, some local governments cannot compensate for state funds by increasing tariffs as this would be socially unsustainable.¹³⁶ By restricting public financial support for public water systems, federal fiscal policies have caused a vicious cycle that is widening the gap between investment requirements and public investment funding.¹³⁷ To make matters worse, the private water industry has lobbied to direct scarce federal resources to private water corporations and PPPs. Far from its claim to be partnering with local municipal governments,¹³⁸ the industry's lobbying at the federal level could undermine the financial sustainability of public water systems by further restricting the access of municipal water operators to badly needed federal funding.

Suez's subsidiary United Water and a number of private water industry bodies lobbied in favor of the Water Infrastructure Finance and Innovation Act of 2013 (WIFIA), which was adapted and codified into law as a part of the Water Resources Reform and Development Act of 2014. WIFIA will be administered by the Environmental Protection Agency and Army Corps of Engineers and could access up to \$350 million in long-term, low-interest Treasury bonds to support water, wastewater, flood control, and related investments over five years.¹³⁹ Treasury bonds bear a lower interest rate than state bonds and WIFIA was designed to offer loans, loan guarantees, and other credit support at a lower cost compared to state and municipal bonds, but WIFIA's financial support will also be made available to corporations and PPPs,¹⁴⁰ reducing borrowing costs for the private sector. United Water and the National Association of Water Companies, the self-proclaimed "voice of the private water industry,"¹⁴¹ lobbied for and hailed WIFIA as a cost-effective approach to increasing investment in water infrastructure,¹⁴² even though WIFIA could achieve the exact opposite. In fact, restricted access to federal finance is the primary cause of the difficulties faced by local governments when it comes

PRIVATE WATER INDUSTRY FRONT GROUP AND TRADE ASSOCIATION LOBBY CONGRESS

The industry attempts to weaken the public sector in order to create new market opportunities.

Both United Water and Veolia executives recently testified before the Public-Private Partnerships Panel, housed within the House Transportation and Infrastructure Committee.¹⁴³

The President-Elect of the National Council for Public-Private Partnerships, who is also Veolia's Vice President of Government & Industry Relations for North America, testified that public-private partnerships are "a unique, innovative way to maintain public ownership and public control of public services."¹⁴⁴ The assertion that PPPs strengthen the public control of public services is disingenuous. In fact, the established practice of PPPs and other forms of water privatization is that the private water corporation obtains exclusive control of management so that it can better pursue profit maximization.¹⁴⁵ Even the few contractual arrangements that provide for the public sector to retain formal control over operations can in practice severely restrict the public control of water services. An example is Veolia's Peer Performance Solutions contract proposed in St. Louis, which regulated intellectual property rights in favor of the private corporation. The private water industry attempts to mislead the highest levels of U.S. government regarding its commercial objectives and the long-term consequences of privatization.

The board of the National Association of Water Companies (NAWC) is comprised of executives from several major private water corporations that operate in the U.S. including: United Water, American Water, Severn Trent, and Aqua America.¹⁴⁶ NAWC, the self-proclaimed "voice of the private water industry,"¹⁴⁷ recently lobbied the Internal Revenue Service (IRS) and Treasury Department to adjust U.S. tax law in an attempt to expand the market for private water in the U.S.¹⁴⁸ The transfer of management from public to private hands is often costly for municipalities as federal tax code can require defeasement of utility debt to ensure that private corporations are not enjoying the same level of tax-exempt public financing as public water systems. NAWC recently asked the Treasury Department and IRS to "reduce hindrances to public-private partnerships"¹⁴⁹ by changing this and other requirements. The private water industry has a clear interest in lobbying to amend U.S. tax law that has so far helped maintain public control of U.S. water systems. The industry does not hesitate to do so because weakening the public sector creates new market opportunities.

to investing in public water systems. Allowing private water corporations to access cheap federal finance via WIFIA could undermine the financial sustainability of the U.S. public water sector, because it could contribute to destabilizing the long-term financial viability of the municipal water operators that serve around 90 percent of major cities in the U.S.¹⁵⁰ by further restricting their access to federal finance. This risk is effectively acknowledged by a number of state environmental agencies and other organizations which, according to the Congressional Research Service, are concerned that, "Funding for a WIFIA program likely would have

a detrimental effect on federal support for established and successful State Revolving Fund (SRF) programs that provide the largest source of water infrastructure assistance today."¹⁵¹

In addition to its lobbying activities around WIFIA, United Water has persistently lobbied key public officials at the federal level to remove Private Activity Bond (PAB) volume caps for water and sewage projects.¹⁵² United Water is a prominent sponsor of the Sustainable Water Infrastructure Coalition, an umbrella of corporate interests that promotes legislation for eliminating

the volume cap on the issuance of PABs, claiming that this would “open the door for up to \$5 billion annually in private investment in water and wastewater infrastructure projects.”¹⁵³ PABs are state and local government bonds that primarily benefit or are used by private undertakings, and their interest is tax exempt when they are issued to finance water and sewage facilities. The tax-exempt status of PABs means that their interest rate is lower than it would be for a taxable bond, which makes PABs attractive for the public entity that has to pay this interest. However, through the state volume cap, the federal government limits the amount of PABs that states and local governments can issue.¹⁵⁴

Private water corporations and private water industry groups have clear interests in lobbying for the removal of PAB caps, as this would lower the costs of financing PPPs and make water privatization more attractive for municipal governments. However, neither removing PAB volume caps nor allowing corporations to access cheap federal finance through WIFIA would be a cost-effective way of increasing infrastructure investment. This is because using the private sector to deliver publicly funded investment is not a cost-effective use of public finance, whether this is funded by tariffs or taxation, and the same is true internationally. Examples from France help demonstrate why involvement of the private sector in public sector finance should be avoided. Under the most prevalent form of water privatization in France, private water corporations are responsible for financing operations and maintenance. However, Veolia and Suez have taken advantage of this system in various ways, including passing fictitious debt servicing onto the community in Grenoble and withholding interest due to the local government.¹⁵⁵ In 2002 Nice’s city council renegotiated a water supply and sanitation concession with Veolia and agreed to an average 15 percent reduction in a typical annual water bill. The price cut was possible because a local councilor realized that the company had continued to charge a supplement, introduced in 1987 to finance the refurbishing of a channel, long after the work had been paid for.¹⁵⁶ Nice has since remunicipalized.¹⁵⁷

The private water industry and its lobbyists claim that the adoption of the industry’s proposals would: a) enable municipalities to access funding that they could not otherwise tap and b) represent a cost-effective way of increasing infrastructure investment. These claims are flawed. In fact, municipalities do not need the involvement of the private sector to access low-interest federal bonds or any other form of federal and state financial assistance. Like any form of infrastructure investment in water, all bonds—whether issued by the federal, state, or local governments—are ultimately secured by the bills paid by communities, complemented by taxation if need be. This does not change when municipal governments decide to enter into PPPs, as the shareholders of private water corporations are reluctant to offer their assets as security for debt. The federal government could decide to issue low-interest bonds exclusively to finance municipal water operations, without conditioning it on the unnecessary and costly involvement of the private sector in delivering the service.

The private water industry has lobbied for fiscal policies that could put public water operators under considerable pressure as the competition for increasingly scarce public financial resources continues, and this would pave the way for new water privatizations. The upshot is that the implementation of WIFIA and the removal of PAB volume caps could open up the market for private water operators and their private equity partners. What these policies would not do is deliver better quality and cheaper water services.

Political interference at the state level

While the private water industry insists that it is “partnering” with municipalities across the U.S. to operate and manage public water systems,¹⁵⁸ the industry’s lobbying activities undermine municipal oversight over private water operations. This is particularly apparent in the state of New Jersey, where United Water is headquartered and operates widely across the state. The corporation has a track record of lobbying to undermine proposed legislation that would increase its transparency and accountability to the communities in which it operates. In 2012 – 2013

alone, United Water lobbied legislators to oppose bills that, had they been enacted, would have put in place key protections for residents, public health, and cities:

A3038: would have required the corporation to alert ratepayers of rate increase requests.¹⁵⁹

A357: would have required the corporation to submit quarterly and annual reports to local governments to “ensure that these governing bodies are provided with adequate and accurate reports regarding the developed water supply available for local water users.”¹⁶⁰

S462/A1205: would have required more alerts from the corporation to its ratepayers when it issued boil-water notices.¹⁶¹

In the same time period, United Water lobbied against another bill¹⁶² that would have “establish[ed] procedures and standards regarding public service privatization contracts”¹⁶³ and oversight to protect municipal governments from being misled. Even though it passed the legislature, Gov. Christie vetoed the bill in the summer of 2013.¹⁶⁴ A senior partner at Public Strategies Impact, which is one of United Water’s key lobbying firms in the state, is on record lobbying the

governor’s counsel regarding “strategic planning” on behalf of United Water during this same time period.¹⁶⁵

United Water has a clear interest in limiting people’s access to information on its operations and shielding itself from transparency and accountability. Its attempt to limit public awareness about potential problems with service quality by lobbying against requirements to issue boil-water notices disregards the potential consequences in terms of human health impact. Limited public awareness could make it more difficult for public officials and communities to have an accurate perception of the quality of the service they receive. United Water’s attempt to limit public awareness about proposed rate increases undermines community participation in decision-making on water pricing and investments. In fact, silence on proposed price changes would limit local officials’ and civil society’s ability to mobilize against unjustified rate increases. Democratic participation and oversight of our water systems are absolutely critical for the long-term sustainable management of these systems, but for United Water, they are potential risks to profit.

FAST-TRACKED PRIVATIZATION IN ILLINOIS

Private water interests push through legislation favorable to private water corporations.

Rep. Brandon W. Phelps, who has received campaign contributions from Aqua Illinois¹⁶⁶ and Illinois American Water¹⁶⁷ since 2010, filed HB 1379, a bill to amend Illinois’ Public Utility Act and remove protections against fast-tracked water privatization.

The Citizens Utility Board, which was created in 1984 by the Illinois State legislature to “represent the interests of residential and small-business utility customers,”¹⁶⁸ asked Illinois communities to voice their opposition and argued the proposed bill would “fast-track takeovers of municipal water systems and automatically charge current customers higher rates to fund those conquests.”¹⁶⁹ According to the Citizen’s Utility Board, the legislation allows private operators to begin rate increases much sooner than the state traditionally allowed, and the Board was concerned that the legislation would allow private operators to privatize water systems with “minimal public notice.”¹⁷⁰

Global Water Intelligence, a private water industry trade publication, reported that the Illinois subsidiaries of Aqua America and American Water were pleased with the language of the bill since “the law is specifically designed to help IOUs [investor-owned utilities] take over small systems.”¹⁷¹ The legislation was signed into law by Illinois Governor Pat Quinn in 2013.¹⁷²

Political interference at the city level

At the city level, Veolia, Suez's United Water, and other water corporations have a long track record of attempting to secure private water contracts behind closed doors or with minimal public discourse. Private water operators often promote their favored business deals (marketed as solutions for the challenges faced by mayors, public officials, and their communities) away from public scrutiny. This allows private water corporations to project a one-sided image of their ability and willingness to contribute to local sustainable water development, develop personal relationships with key allies, and rely on a few key decision-makers to propel privatization contracts through the political process often without public debate. Water contracts often proceed through standard city contracting processes where decisions are made by elected and/or appointed officials. However, water contracts that impact the way in which water resources are managed or governed merit public input and debate, especially if those contracts involve corporations that are in the business of privatizing water systems. When cities allow private water corporations to bypass democratic scrutiny and control, they risk putting the commercial interests of the private water industry before those of local governments and communities.

There have been many instances of private water corporations circumventing the democratic process by pursuing controversial privatization contracts

Photo credit: The U.S. Conference of Mayors/Wendy Wilkerson



PHOTO: Executive Vice President of Veolia Water North America David Gadis presents at the Water Council at the U.S. Conference of Mayors. Private water corporations like Veolia consistently use such gatherings as marketing platforms for water privatization including PPPs.

despite strong opposition from the local community. For example, when OMI-Thames sought a private water contract in Stockton, California in 2002, community members organized a ballot initiative that would require a public vote before the city could privatize its water system. However, Stockton's City Council signed a 20-year contract with OMI-Thames just two weeks before the vote took place. The initiative eventually passed by a 60 percent margin, despite OMI-Thames spending \$10,000 to defeat it.¹⁷³ Community members had to enter lengthy legal proceedings to eventually reclaim public control. The water service was remunicipalized in 2008.¹⁷⁴

Private water corporations also utilize organizations like the U.S. Conference of Mayors (USCM) and National League of Cities (NLC) as marketing platforms for water privatization. These organizations establish forums that provide a space for public officials to share best practices and come together to advocate for shared federal policy based on cities' experiences and needs, yet many private water corporations pay dues or sponsor events that afford the industry a high level of lobbying access and visibility outside of media and public scrutiny.¹⁷⁵ The creation of the USCM's Water Council, a body in which mayors discuss pressing water issues including operation and management of water systems, was even predicated on the promotion of PPPs.¹⁷⁶ Veolia, Suez's United Water, American Water, and CH2M HILL are all full members of the Council's advisory board as of its most recent roster.¹⁷⁷ As a result, these corporations are positioned to influence the recommendations passed through the conference's resolution process and directly market their favored business models during the council's sessions. For example, at the USCM's Water Council meeting in January 2014, Veolia presented on its contract in Rialto, California in which the city was offered a large upfront payment in exchange for a concession contract. These types of contracts have proved so problematic in France that they have been outlawed,¹⁷⁸ yet Veolia was presenting on this

INDUSTRY PR AT THE U.S. CONFERENCE OF MAYORS

Mayors are not hearing the full story on water PPPs.

Schenectady, N.Y.: In 2011, the USCM gave Veolia a 2011 Outstanding Achievement Award in PPPs for its partnership with the city of Schenectady, New York.¹⁷⁹ Veolia operated and managed Schenectady's wastewater treatment plant and composting program beginning in 1991. The same year that the USCM granted this award to Veolia, the city reclaimed public control of the system. A local paper reported that Mayor Gary McCarthy estimated the city would save \$1 million a year under public operation.¹⁸⁰

Atlanta, Ga.: In 2000, United Water was recognized by the USCM for "best practices" in its privatization of Atlanta's water services.¹⁸¹ While United Water enjoyed the benefit of the USCM's brand, Atlanta's public officials and community dealt with the serious consequences of the corporation's dramatic failure to live up to its promises. Just six months after taking office, Atlanta's former Mayor Shirley Franklin (2002 – 2010) terminated the 20-year contract with United Water sixteen years early.¹⁸²

"success" in the first few years of the contract—hardly enough time for problems to surface or for the true cost for ratepayers to be realized.¹⁸³

The promotion of new contracts as "proofs of concept," as in the case of Rialto, is a misleading marketing tactic that private water corporations use within forums where public officials gather like the USCM, NLC, and around the globe. Suez's subsidiary United Water is a corporate sponsor of NLC¹⁸⁴ and recently gave a presentation at the NLC's March 2013 Congressional City Conference in Washington, D.C.. United Water's presentation focused on how "public-private partnerships, such as the one in the city of Bayonne, N.J. ... generate revenue to improve infrastructure and create sustainable water and wastewater systems for decades to come."¹⁸⁵ United Water gave a similar presentation to the International City/County Management Association's 99th annual conference in Boston, Massachusetts in 2013.¹⁸⁶ Yet United Water's own public relations materials indicate that Bayonne, New Jersey is the first city to actually put United Water's Solution concession model into practice. United Water is marketing its privatization model as a success to public officials before the long-term consequences of the privatization contract are felt by ratepayers and public officials.¹⁸⁷

In addition to misleading marketing, Veolia in particular is attempting to make inroads into public water systems through its Peer Performance Solutions (PPS) model, which can involve multiple phases that increase the corporation's involvement in the management of public water utilities over time. The St. Louis community organized a grassroots campaign to challenge Veolia's proposed contract in their city because of concerns that Veolia's PPS contract would open doors to further privatization and to the loss of public control over the local water system. U.S. and international evidence suggests there is strong cause for concern. Veolia already secured a PPS contract with the city of Pittsburgh, Pennsylvania in 2012. Following its pattern from other cities that have entered into PPS agreements with Veolia, the corporation was intricately involved in setting the measures by which the corporation's success would be evaluated.¹⁸⁸ Veolia also received over \$1.8 million in payments for its contract year, a \$150,000 bonus for each performance indicator it achieved and will receive a 50 percent cut of the money saved by the city for four years following the end of its contract.¹⁸⁹ Under the contract, Veolia also has the right to audit Pittsburgh Water and Sewer Authority's (PWSA) facilities, books, and records for a period up to four years after the agreement is

terminated in order to “substantiate” savings from the agreement.¹⁹⁰ In 2013, Veolia’s contract was extended for 18 months through December 2014.¹⁹¹ This means that Veolia is being paid three times (a fixed sum, a bonus on targets, and half of all savings made) for performing the same consulting services. Its access to PWSA’s accounts offers Veolia access to privileged information in the event PWSA is to be privatized. And its consulting role offers Veolia the opportunity to influence not only managerial but also policy decisions, including on the possible future privatization of PWSA.

The design of Veolia’s proposed PPS contract in St. Louis and the current PPS contract in Pittsburgh mirrors the private water industry’s global practice of escalating private sector involvement in pursuit

of more lucrative PPPs or full concessions. This escalation can lead to the loss of democratic control over water service management. In 2000, the mayor of Milan, Italy decided to avoid holding a competitive bidding procedure to select a private concessionaire for the city’s water supply service. Through a series of anti-competitive agreements, Suez and Veolia had come to dominate the local market for wastewater contracts in which the corporations would build and operate treatment plants before transferring ownership to the governing body. Amid controversy, including a corruption scandal involving a Veolia executive and a local politician, and the use of administrative law to strip the lowest bidder of an awarded contract, Milan’s mayor decided to go in-house. He explained that the decision was designed to avoid losing control of the water supply as a result of the tactics used by Suez and Veolia.¹⁹²

💧 CASE STUDY: ST. LOUIS

Community, public official concerns halt contract with Veolia.

In 2007, St. Louis Mayor Slay accepted the first place award and a check for \$15,000 from Veolia, for a “Best Tasting City Water in America” award.¹⁹³ Three years later, in September 2010, representatives from Veolia toured the St. Louis Water Division facility, leading to an article in one of the city’s largest newspapers and prompting St. Louis city officials to deny rumors that the city’s water system might be privatized.



PHOTO: Scores of St. Louis residents pack a Board of Estimate and Apportionment meeting to express their outrage at a proposed Veolia contract. Public outcry stalled the vote necessary to move the contract forward.

city’s selection committee chose to award the contract to Veolia and its Peer Performance Solutions contract model, but the contract first needed to be approved by the Board of Estimate and Apportionment (E&A Board).¹⁹⁶ When community members and local organizations learned of the proposed contract, they formed the Dump Veolia Coalition and organized a grassroots campaign to force deeper scrutiny of Veolia’s proposed contract from the E&A Board, and eventually, the St. Louis Board of Aldermen (the city’s legislative body).

However, Mayor Slay’s chief of staff indicated that the city was considering a consulting contract.¹⁹⁴ Three months after its tour, Veolia sent a letter to the city of St. Louis proposing a \$250,000 contract which would involve Veolia in the management of the water system in a supposed effort to cut costs. The proposal reportedly lacked the necessary support of the Water Division and failed to gain traction, but Veolia had identified critical political allies through which to pursue a contract with the city.¹⁹⁵

Two years later in 2012, the city of St. Louis issued a request for proposals for a consultant to conduct an efficiency study of the city’s water utility. The



Photo credit: Suhaad Khatib

PHOTO: When Veolia attempted to contract with the city of St. Louis for an “efficiency study” of the city’s water utility, a large and diverse coalition of St. Louis residents mobilized in opposition. Residents were concerned about implications of the contract, namely, that it could effectively privatize the city’s water division.

Great Rivers Environmental Law Center, an environmental law firm which provides “public interest legal services,”¹⁹⁷ analyzed Veolia’s proposed contract with the city and found many reasons for concern. The Law Center concluded that the “contract will have the effect of privatizing the city’s Water Division, and will make city residents captive to Veolia.”¹⁹⁸ The initial contract was for a consulting agreement between Veolia and the city which could have set the

“The public must have power in decisions regarding our public water system. I would be wary of contracting with any corporation that relies on circumventing the public voice with backroom dealings to expand its business, especially when it comes to our most vital public service.”

CHRISTINE INGRASSIA | ST. LOUIS ALDERWOMAN

stage for an implementation phase and even the eventual privatization of the water system. The contract language ceded intellectual property created through the consulting contract “by Veolia alone, with the city or jointly with others”¹⁹⁹ solely to Veolia. The Law Center found this contractual provision troubling because it turned Veolia into the private owner of all ideas for improving the St. Louis City Water Division, and meant that the city may have found it impossible to implement any proposed changes identified in the consulting phase of the contract without hiring Veolia and could even lose control of its water service. This would have meant the city would pay Veolia as a consultant to identify cost-saving measures to which Veolia would have the sole right—the reversal of a typical consulting arrangement. The Law Center was also concerned that Veolia’s entrenchment in the public water system would undermine Missouri’s Sunshine Law, which allows community members to request information

💧 CASE STUDY: ST. LOUIS, *continued*

about their public officials and public entities. Under the terms of the contract, Veolia would have broad ability to claim almost anything discussed or produced as “proprietary,” undermining the spirit of the law.²⁰⁰

In spite of these concerns, the mayor’s office and Veolia continued to push forward. The Dump Veolia Coalition grew, and for months, scores of concerned residents turned out to E&A Board meetings to oppose the contract, successfully stalling the vote. By the summer of 2013, the public outcry attracted the attention of the city’s Board of Aldermen, many of whom were unconvinced by Veolia’s public relations campaign. Due to public outcry, the Board of Aldermen’s Public Utilities Committee called a public hearing on Veolia’s proposed contract. Hundreds of community members attended to voice their opposition. Veolia executives flew in for the occasion, including

“In St. Louis, public opinion on the proposed Veolia contract was loud and clear. I stood against it because I believed the contract would have given Veolia a foothold to push through future contracts, deepening its power over and ability to profit from our water system. Veolia’s tactic is to work out sweetheart deals with influential players in cities like ours, but Veolia doesn’t have the whole city in its back pocket. Our experience shows that vigilance and strong public commitment can prevent private water from circumventing democracy.”

LEWIS REED | ST. LOUIS BOARD OF ALDERMEN PRESIDENT

Veolia’s executive vice president.²⁰¹ During the hearing, an alderman asked who in the room was present to speak in favor of the Veolia contract who was not a Veolia employee or contractor. There was silence. Another alderman then asked who in the room was associated with Veolia—about ten hands raised.²⁰² Veolia, facing increased pressure from the community and scrutiny from public officials, created an entire website and issued virtual newsletters in an attempt to undermine the concerned community members and organizations challenging its contract.²⁰³

In the summer of 2013, Corporate Accountability International issued a request for records under the Missouri Sunshine Law to the mayor’s office in order to investigate the extent of Veolia’s political interference in the city. Corporate Accountability International uncovered a coordinated damage-control campaign involving the mayor’s staff and Veolia’s lobbyists, staff, and PR representatives.²⁰⁴ Not only did Veolia lobbyists meet regularly with the mayor’s staff during the contentious contract process, but Veolia actually participated in the development of talking points to neutralize the concerns of the community.²⁰⁵

After a year of the mayor failing to secure the votes he needed on the E&A Board to push the contract through, the city’s attorney sent a letter to the city Comptroller, the key swing vote on the E&A Board. The letter argued that the Board of Aldermen had in fact approved Veolia’s contract as a budget line item in its budget approval process, and that the Comptroller had a duty to approve the contract.²⁰⁶ This raised the ire of many aldermen, who were already concerned about Veolia’s track record and persistence in spite of public opposition to its proposed contract. Aldermen responded by presenting a bill to remove the budget line item in question from the city’s budget and the Board of Aldermen’s Ways and Means Committee voted to do just that. During this process, Veolia withdrew its contract bid with the city rather than face legislative action from the full Board of Aldermen that could have further damaged its reputation.²⁰⁷

Private water industry corruption

When private water corporations practice corruption, they not only avoid competition and gain market entry but also obtain more favorable contract terms and laxer regulation and monitoring. The local community thus has to bear additional costs to the amount of the bribe, when this is passed on to communities in the form of higher tariffs. These additional costs of corruption include the distorted terms of contracts and regulations resulting in further unjustified tariff increases, reduced service quality, and foregone investments.²⁰⁸ A number of cases show that private sector corruption in the U.S. water sector is a cause for concern and that this is not confined to the U.S. but extends internationally.

In 2001, three former Professional Services Group (PSG) employees (two executives and a lawyer) and a former member of the New Orleans Sewerage and Water Board were indicted with respectively paying and receiving a \$70,000 bribe in exchange for the recommendation that the city renew its wastewater treatment contract with PSG.²⁰⁹ The corporation's parent company Aqua Alliance was sentenced to pay \$3 million in fines.²¹⁰

In East Cleveland, Ohio, a consultant bribed the former mayor's office in order to secure a no-bid contract for CH2M HILL to run the city's water system. The contract eventually paid out \$3.9 million to the corporation for services that the city had been providing for less than half of that amount. The former mayor and the consultant have been convicted of racketeering, and the city sued the corporation for \$14 million for breach of contract.²¹¹

Private water industry corruption: international evidence

International evidence shows that both Suez and Veolia have benefited from corruption, as corporate executives bribed politicians to secure contracts. In 1993 France adopted the so-called Loi Sapin, an anti-corruption law, to introduce greater transparency in the system.²¹² A 1997 report by the French national

audit body denounced the bribery and corruption that emerged from the French system of water privatization: "The lack of supervision and control of delegated public services, aggravated by the lack of transparency of this form of management, has led to abuses."²¹³ A clear example of the implications on local communities arising from the economics of corruption is provided by Grenoble, France, where a tribunal found that the corrupt award of a 25-year water concession to a Suez subsidiary had damaged the local community. The court found that the water service had been privatized in exchange for contributions to the former mayor's electoral campaign, among other gifts, totaling over FF 19 million (\$3.8 million). In November 1995, the court convicted former Grenoble mayor Alain Carignon and an executive of Suez's Lyonnaise des Eaux of corruption. Also in 1995, the regional auditor found that over the life cycle of the contract the costs born in excess by the local community and taxpayers would exceed FF 1 billion (\$200 million).²¹⁴

However, convictions for bribery and corruption have not been confined to France alone. In July 2001, Milan court magistrates convicted Alain Maetz, a senior manager in Veolia's water division, and former president of Milan city council Massimo De Carolis, for bribery in connection with the award of the tender for the construction and operation of a wastewater treatment plant in South Milan. The case first erupted in March 2000 when daily La Repubblica exposed that Mr. Maetz planned to bribe politicians in both the majority and opposition parties on Milan's city council in order to win the contract. Mr. Maetz planned to pay a total of €2 million (\$2.5 million) in bribes to secure a contract worth over €100 million (\$129 million).²¹⁵

Fiscal inducements and distorted decisions

After losing contracts in high-profile cities like Atlanta and Indianapolis and suffering reputational damage from a track record of poor performance,²¹⁶ United Water and Veolia have sought new approaches to securing privatization contracts in the U.S. that

take advantage of municipal governments facing budgetary shortfalls. Partnering with private equity firms like Table Rock Capital and Kohlberg Kravis Roberts (KKR) has proven a useful tactic for opening the door to expanding the privatization of U.S. public water systems. Private equity firms are responsible for returning profit to their investors and see profit opportunities in distressed municipal governments.²¹⁷ Private water corporations and private equity firms are betting that huge, private-equity-financed upfront payments will make privatization contracts palatable to municipal governments and neutralize political opposition.

According to Global Water Intelligence, Table Rock Capital is actively seeking municipalities with an adequate population and income to support full return on investment, local laws conducive to privatization, and infrastructure that will not be costly to repair and maintain. Table Rock has had at least 27 face-to-face meetings since mid-2013 with cities to pitch private-equity-financed concession deals, including one with Upland, California, which lies 20 miles west of Rialto, where the firm already secured a concession contract with Veolia as operating partner. Table Rock's lobbying tour is designed to open the market for water privatization through meetings outside of the public eye. As Table Rock's Managing Partner put it, if the firm is able to structure deals in four major regions of the U.S., "people would recognize it as an acceptable method ... It would start to legitimize the choice, and then you should start to see more traction for the concept."²¹⁸ Cities like Bayonne and Rialto serve this same "proof of concept" purpose for Suez and Veolia respectively.

In 2012 the city of Rialto entered into a water privatization deal with a consortium led by Table Rock, with Veolia as the operator, in exchange for a private-equity-financed upfront payment of over \$30 million. Critical analysis of the deal revealed that the city's privatization increased the total liabilities of Rialto's water utility in addition to costing the local ratepayers millions more each year. Under the deal,

the city will more than double its rates by 2016, and ultimately, the community will pay back the entire \$170 million capital investment required for the deal plus the added cost of investment returns.²¹⁹ In the same year, Bayonne entered into a 40-year privatization contract with KKR and United Water involving a \$150 million upfront payment used mostly to pay off city utility debt. The start of the contract involved an initial 8.5 percent rate increase followed by a 2-year rate freeze and a nearly 4 percent increase annually over the life of the contract.²²⁰ Like in Rialto, the community in Bayonne will pay back the cost of United Water and KKR's upfront payment to the city plus the added cost of investment returns. This, plus the fact that private water corporations do not invest significantly in public water systems (see page 16), may explain why one of United Water's early investments is new metering technology—which should increase United Water's revenue.²²¹

International evidence also shows that Suez, Veolia, and other private water operators have used upfront payments to local governments as economic inducements to win concessions and operating contracts. However, this practice has proved highly problematic in different countries. In fact, it distorts the correct assessment of tenders submitted in bidding procedures and in general distorts the economics of privatized contracts. Accepting upfront payments from private water operators and financiers constitutes hidden taxation because private water corporations systematically pass these costs on to communities by marking up the price of water. Communities are penalized because they pay a hidden tax to the local government and also pay for private profits on the upfront payment. It is a highly cost-ineffective, unethical, and regressive way to raise local taxes. Also, international evidence shows that the fiscal gains of privatizing water often prove to be illusory. And it is an inducement for public officials to enter into contracts that, for short-lived fiscal relief, damage communities' interests in the long term.

As seen in the following international examples, economic incentives don't pay off:

Grenoble, France: In addition to corruption, fiscal considerations distorted the decision to award a lease contract to Suez subsidiary COGESE in 1989, and distorted the economics of the contract by inflating tariffs. In order to secure the right to access the network, COGESE agreed to pay the municipality of Grenoble “entry fees” amounting to FF 262.45 million (\$52 million) and FF 128.51 million (\$25.7 million) respectively for water supply and sewage. This economic inducement to privatization was subsequently paid for by communities, through higher tariffs; the “entry fee” thus became an indirect form of taxation. The financial inducement represented by the “entry fees” resulted in the distortion of the economics of the contracts. In 1995, a report by the regional audit body showed that the contract inflated water supply and sewage tariffs and led to its abnormal length (25 years), an excessive duration considering that under lease contracts municipalities finance new investments and private operators face limited operating risks.²²²

This practice is now generally illegal in France, as it was outlawed by anti-corruption legislation adopted in 1993.²²³ French law now requires water operators to charge community members only for the service provided.²²⁴

Berlin, Germany: In 1999 the city of Berlin privatized its water service to help pay off some of its debts, and a water and sanitation concession was awarded to a consortium including Veolia and RWE. The contract guaranteed that the return on equity for the private concessionaires would be 8 percent. By 2011 prices had risen by over a third above inflation. In January 2012 the German competition office said that the contract broke German competition law, and the corporation must cut prices by 19 percent.²²⁵ The contract was terminated and water and sanitation services remunicipalized in September 2013.²²⁶ Despite the fiscal motivation for entering the PPP, the city of Berlin still has huge debts.²²⁷

In the U.S. and internationally, the private water industry uses upfront payments to distort the decision-making process and attract municipalities to signing long-term privatization contracts. The private water industry typically structures contracts so that rate increases extend over many years. The industry, including Veolia and Suez, then markets these PPPs as “successes” to other cities and changes the way some public officials think about how water should be governed before the real costs and outcomes of the PPPs come to fruition.



PHOTO: At the U.S. Conference of Mayor's Water Council meeting in January 2014, Veolia highlighted its contract in Rialto, California. City officials received a large upfront payment in exchange for privatizing the water system, which has ended up costing local ratepayers millions of dollars each year. Such upfront payments used to secure contracts have proved so problematic in France that they have been outlawed.

PRIVATE WATER CORPORATIONS' PROMISES AND PROBLEMATIC CONTRACT RENEGOTIATION

Reducing deliverables, raising profits.

Evidence shows that private water corporations' commercial priority is to first win long-term contracts by promising high-level and cost-effective performance. Once the contract is signed, priorities change and the emphasis moves to renegotiating the contract to reduce the corporation's commitments and enhance profitability. In fact, one World Bank study that reviewed a number of concession contract renegotiations in Latin America found that over two-thirds of private water contracts reviewed were renegotiated within the first two years.²²⁸ This pattern can be observed irrespective of whether private water corporations have won contracts by promising technology, expertise, efficiency, or finance. This pattern can also be observed irrespective of contractual technicalities used by private water corporations to trigger renegotiation and demand rate increases, cuts, or delays in the implementation of investment programs and dilution of service standards. These tactics might include overestimating demand projections, over-optimistic investment projections, errors in the calculation of water rates, or the use of transfer pricing to artificially create losses in the private water corporations' accounts. This pattern can be observed across countries and relates to different forms of PPPs and water privatization. It is a systemic feature of PPPs, so mayors and other public officials entering PPPs should expect to receive pressure to renegotiate the contract in favor of the private operator soon after its entry into force.²²⁹

Private water corporations renegotiate contracts to increase profits:

Indianapolis, Ind. : In 2002 Veolia secured a \$1.5 billion, 20-year contract to operate and manage Indianapolis' water system. When the Indiana Utility Regulatory Commission investigated an emergency rate increase request by the water department in 2009, the Commission discovered that Veolia and the water department had renegotiated their management contract without the Commission's required approval. Between 2002 and 2006 Veolia and the water department renegotiated their contract to pay an additional \$5 million dollars to compensate the corporation for "past unexpected expenses."²³⁰ The Commission was alarmed by this payment since it was not approved by the Commission as required under the contract agreement. Additionally, the Commission argued that the renegotiated contract and its added fees amounted to unacceptable "retroactive ratemaking."²³¹ Veolia's performance-based compensation also came under fire throughout the proceedings. Veolia's agreement with the city allowed the corporation to earn "incentive" payments in the aggregate of up to 25 percent of the fixed fees for that billing year, depending on whether Veolia successfully [met] any or all of a total of approximately 37 factors or performance-based criteria."²³² The Commission found that in

the three years prior to its examination, Veolia had claimed over 90 percent of its possible incentive payments, 60 percent of which were paid to the corporation in quarterly payments "before it [was] technically determined that those payments ha[d] in fact been earned."²³³ The Commission took the corporation and water department to task, explaining how the structure of these payments seemed to be neither performance-based nor incentivized. The Commission remarked, "If the intent of the agreement is simply to expand Veolia's compensation by an amount little short of 25 percent, on top of the fixed fee amount, then the Commission suggests that the agreement should have simply said so."²³⁴

Brussels, Belgium: In the course of a dispute with local authorities on the renegotiation of the concession agreement and the revision of rates, a subsidiary of Veolia suspended the operations of a wastewater treatment plant in 2009, causing significant environmental damage. Research by Corporate Europe Observatory revealed that the corporation was seeking more money from public authorities, could not fulfill its contract, and had overestimated its technology in its response to the request for bids.²³⁵

Photo credit: Mario Carlini/guana Press



PHOTO: Proponents of public water pack a city council meeting in Bologna, Italy in 2012.

The private water industry's lack of transparency: international evidence

International evidence shows that Suez, Veolia, and other private water corporations take advantage of lack of transparency, weak monitoring, and limited community participation to enhance the profitability of their operations at the expense of communities. This pattern can be observed in different countries under different regulatory regimes, and in relation to different forms of PPPs and water privatization. It should therefore be regarded as a systemic feature of PPPs and other forms of water privatization.²³⁶

International lack of transparency by private water corporations:

Berlin, Germany: The controversy around the privatization of Berlin's water and wastewater is not confined to guaranteed profits, the "explosion of prices," and under-investment. It extends to lack of transparency. The contract with Veolia and RWE was kept a secret from the people of Berlin. By 2011 prices had risen by over a third above inflation, and concerned residents and groups forced a referendum in which a huge majority demanded that the contract be made public.²³⁷ The contract was terminated and water and sanitation services remunicipalized in September 2013.²³⁸

England and Wales, U.K.: Scandals concerning Severn Trent and other private water corporations show regulatory agency Ofwat's difficulty in identifying and countering illegal behavior, despite its considerable resources. The agency, which employed more than 200 people in 2013, is reputed to be one of the most powerful water regulators in the world.²³⁹ The scandal emerged as a result of whistleblowing, and not as part of Ofwat's regulatory scrutiny. A manager said

in 2004 that he had been instructed by his bosses to exaggerate figures of debts owed by non-paying customers in order to inflate tariffs: Severn Trent denied this, and denied that customers had been overcharged.²⁴⁰ A year and a half later, however, Ofwat produced a report on the allegations, finding that Severn Trent had provided regulatory data that was either deliberately miscalculated or poorly supported. This led to price limits being set for the water corporation that were higher than necessary, which would have resulted in customers paying £42 million (\$68 million) more by 2009 – 2010.²⁴¹ The allegations prompted further confessions and discoveries of errors, involving private operators Southern Water,²⁴² Thames Water,²⁴³ Severn Trent,²⁴⁴ and Tendring Hundred.²⁴⁵ In November 2007 the Serious Fraud Office also decided to bring three charges against Severn Trent for providing false information to Ofwat. In April 2008 Severn Trent decided to plead guilty to two offenses relating to leakage data supplied to Ofwat in 2001 and 2002.²⁴⁶

PUBLIC ALTERNATIVES

International evidence shows that there are good reasons to invest political and public financial resources in the development of municipally owned and democratically controlled water operations.

Unlike the private sector, public water operators are not subject to the profit-maximization imperative and can therefore reinvest all available resources for the development of local water systems. Because of their public mandate, public water operators also tend to accept advanced forms of public participation in decision-making and to engage in more transparent forms of democratic scrutiny and control. These features are part of the reason why the most efficient and effective water operators are found in the public sector. Freedom from profit maximization also means that public water operators can collaborate, exchange experiences, and mutually develop capacity without having to put a price tag on knowledge and best practices. Considering knowledge as a public good, not a private good, allows public water operators to take part in inter-municipal collaboration and other forms of public-public partnerships (PUPs) that put community development first.²⁴⁷ In order to better serve local communities, both public water operators and PUPs need more than the commitment of public officials and civic organizations. They also need legislation and policy that support the fulfillment of the public sector mission and promote the democratic governance and sustainable management of water systems.

Examples of public water services

There are many examples of effective and efficient public sector water and sanitation services in high-, middle-, and low-income countries. These cases can be observed across the globe, not only in affluent countries, and show that public operations enjoy a comparative advantage over the private sector in relation to promoting sustainable development of

public water systems and realizing the human right to water and sanitation. This advantage ultimately lies in the fact that, unlike the private sector, the public sector is not subject to the profit-maximization imperative. This gives public sector management the flexibility to maximize the reinvestment of resources into the water system for the achievement of social objectives such as the expansion of service coverage, the affordability of service provision, and the stewardship of the environment. It also allows public operators to strengthen transparency and accountability through the adoption of advanced forms of public control and public participation. This level of responsiveness to communities and civil society is never found under private operations, because private water corporations seek to exert absolute managerial control over operations in order to maximize profits and maximize shareholder remuneration.²⁴⁸

“We must stop taking for granted our most fundamental public service—our water systems. As public officials, we need to maintain strong, democratically controlled water systems in order to protect this essential common good.”

MAYOR MARK KLEINSCHMIDT | CHAPEL HILL, N.C.

The following examples show how, through a combination of remunicipalization, in-house restructuring (public sector reengineering under full public ownership and public control), labor-management partnerships (not-for-profit partnerships between labor unions and utility management aimed at optimizing reengineering), and democratization (public participation and responsive and accountable decision-making), the comparative advantage of the public sector enhances sustainable water development and the realization of the human right to water and sanitation in the U.S. and other high-income countries.

Public water system successes:

Phoenix, Ariz.: In 1995 the municipally owned Phoenix Water Services Department (PWSD) established a labor-management partnership to initiate an ambitious reengineering plan. The partnership aimed to develop self-directed teams, ensure that no PWSD employee would involuntarily lose his or her job, maintain or improve service quality, and become one of the best utilities in the U.S. PWSD achieved these goals by moving from a reactive to a planned maintenance strategy, merging separate operations and management functions into an integrated program, and emphasizing on-the-job training and cross-training. On-the-job training and cross-training enabled staff to develop their skills through practice at work and to transfer their skills to colleagues so that all employees were encouraged to develop multiple skills across the public utility. This approach led to more than \$5 million in savings in the first phase of reengineering.²⁴⁹ Since then, the results of the labor-management partnership have been even more impressive: from 1999 to 2003 the achieved savings amounted to \$77 million.²⁵⁰ In addition, a 2014 report found that PWSD employees identified a way to comply with an Environmental Protection Agency rule while saving nearly \$340 million compared to a solution proposed by consultants. The labor-management partnership has substantially reduced costs, keeping PWSD's water and sewer rates among the lowest of large cities in the U.S., and maintained or enhanced operational effectiveness.²⁵¹

Union City, Calif.: In 1996, Union City's Union Sanitary District (USD) entered a labor-management partnership aimed at implementing a reengineering program. As a result, USD saved \$2 million, equivalent to 15 percent of its yearly operating budget, and secured no rate increases for three years.²⁵² Other U.S. public utilities that have successfully adopted reengineering and/or labor-management partnerships include: the Miami-Dade County Water and Sewer Department (Fla.), the City of San Diego Metropolitan Wastewater Department, the King County Wastewater Treatment Division (Wash.), the Kansas City Water Services Department,²⁵³ and the East Bay Municipal Utility District (Calif.).²⁵⁴

Paris, France: In Paris, remunicipalization took place in January 2010 after the expiration of two private contracts held by Suez and Veolia. The private contracts were not renewed in consideration of the lack of financial transparency and accountability, which had been repeatedly criticized by the public audit bodies. In the first year of operations, the new municipal operator Eau de Paris realized efficiency savings of €35 million (\$46 million), which allowed for an 8 percent reduction in tariffs, contrasted with a 260 percent increase under private operation from 1985 – 2008.²⁵⁵ It has also increased its financial contribution to poor households to the tune of over €3 million (\$2.4 million) per year, launched a water-saving campaign resulting in social houses saving €50 (\$40) per year on average, and refrained from cutting off water supply in squats. Deputy Mayor and Eau de Paris President Anne Le Strat described the benefit: “Previously, profits were partially used to cover other activities of the private groups and strengthen their profit margins. This money is now totally reinvested in the water services.”²⁵⁶ As regards public participation in decision-making, 11 members of the Board of Directors of Eau de Paris are city councilors, two members are workers' representatives, and five are civil society representatives. Transparency and accountability are further strengthened by the fact that two civic organizations sit as observers on the Board of Directors.²⁵⁷

Remunicipalization is an investment public officials make for the long-term sustainability of cities. As Nashua, N.H. Mayor Donnalee Lozeau explains, “The 2012 acquisition of Pennichuck Corporation by the City of Nashua was an investment to secure and protect our water supply and watershed resources for the long-term benefit of our citizens. Nashua and our surrounding communities have realized both monetary and environmental benefits. I am confident future generations will continue to prosper from owning their own water supply.”

U.S. CITY STUDIES CALL FOR PUBLIC OPERATION

Cities such as Fort Worth, Texas and Redding, California have conducted independent studies to assess any potential financial benefits of contracting with private water corporations versus continuing public operation. In 2013 Fort Worth established a water utility task force to study the feasibility of privatizing the city's water utility. After receiving and studying proposals from a number of private corporations, the task force found that the city should continue public operation. The task force identified several reasons to maintain public control of the water utility, but key among them was the fact that by entering a private contract, the city would be forced to defease city debt early at an estimated cost of \$771 million.²⁵⁸ Additionally, the task force found that "large scale privatization would limit [City] Council's flexibility in directing [Fort Worth's] growth and economic development."²⁵⁹ In 2011 Redding officials hired three separate consulting firms to determine if privatizing the water system would save the city money. All three consultant reports confirmed that "privatization would not save Redding much money and could wind up costing more in the long run."²⁶⁰ In the 1990s, the comparative evaluation of public and private business proposals led municipal governments in Debrecen, Hungary and Łódź, Poland to reject privatization and choose to remain in-house.²⁶¹

Public-public partnerships and inter-municipal cooperation

Because the public sector is not subject to the profit-maximization imperative which characterizes the private water industry, it has the advantage of using public-public partnerships (PUPs) as a powerful developmental tool. These are emerging as a preferable alternative to privatization for developing capacity in the water sector.²⁶² PUPs are the collaboration between two or more public authorities or organizations, based on solidarity, to improve the capacity and effectiveness of one partner in providing public water supply and/or sanitation services. PUPs are peer relationships forged around common values and objectives, which exclude profit-seeking. The absence of commercial considerations allows public partners to reinvest all available resources into the development of local capacity, to build mutual trust which translates in long-term capacity gains, and to incur low transaction costs. By contrast, the private sector's imperative to achieve profit maximization is incompatible with the need to build capacity in low-income countries and smaller municipal operations. Knowledge transfer from private corporations to local managers, local authorities, and civil society would in fact impede long-term business prospects and undermine the very *raison d'être* of privatization.²⁶³

In general, the objectives of PUPs are to improve the capacity of the assisted partner. In practice, there are a range of specific objectives involved in PUPs, which depend on local priorities. These include: training and developing human resources, technical support, improving efficiency, building institutional capacity, and financing water services.²⁶⁴ PUPs can therefore be about capacity development as well as joint operations. For example, they can take the form of service sharing,²⁶⁵ pooled purchasing, and joint infrastructure projects. PUPs that take the form of joint operations enhance the ability of rural and small utilities to achieve savings in operational and capital expenditure.²⁶⁶ Other public partnerships include inter-municipal cooperation, or joint contracting between public utilities and other public agencies.²⁶⁷

Photo credit: Eau de Paris/Olivia Blaizac



PHOTO: The remunicipalization of Paris' water system has saved the city millions, lowered rates, and even made sparkling tap water available on the streets.

Public-public partnerships work:

Pooled purchasing in Maryland: Through the Baltimore Regional Cooperative Purchasing Committee, Maryland communities in the Baltimore area were able to save \$1.5 million in 2010 by pooling purchases with the city.²⁶⁸

Joint infrastructure projects in Massachusetts: Four towns in Massachusetts (Fairhaven, Marion, Rochester, and Mattapoisett) were able to save \$4.9 million in costs, or 23 percent, by building and sharing a water treatment facility which was completed in 2008.²⁶⁹

Inter-municipal cooperation in the U.S.: In 2011 Professor Mildred Warner at Cornell University analyzed a survey of more than 1400 U.S. city managers to determine how common and effective water privatization and PPPs are. Professor Warner found that in 2007 pure public delivery was the predominant form of service delivery. Also, inter-municipal cooperation was far more common than water privatization and PPPs. In 2007 16 percent of surveyed managers used inter-municipal cooperation in water supply, 24 percent in water treatment, and 27 percent in sewage collection and treatment. By contrast, 6 percent of surveyed managers used PPPs in water supply and water treatment, and 7 percent did the same in sewage collection and treatment. Professor Warner concluded that water service is a poor candidate for privatization, and that direct public provision and inter-municipal cooperation are better alternatives.²⁷⁰

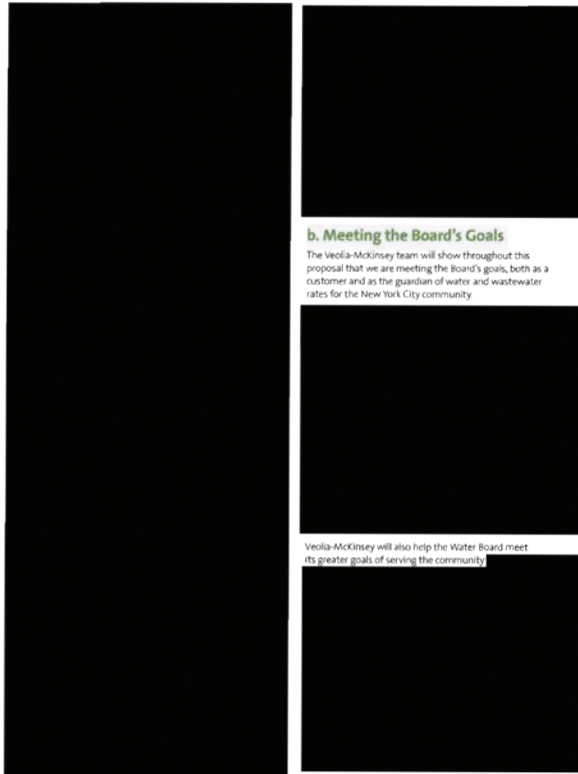
Policies supporting the strengthening of public water systems

Cities and water utilities in the U.S. are taking proactive steps to promote the democratic governance and sustainable management of water systems. In 2009 the former mayor of Gloucester, Massachusetts was approached by a representative of Suez who hoped to secure a contract with the city. Alarmed by the potential for privatization, community members worked with state legislators to take legislative action.²⁷⁴ In 2011 the Massachusetts state legislature passed a bill to amend Gloucester's city charter to require a referendum from the community before the city could sale or lease the city's water system.²⁷⁵ In 2008 employees of the

PUPs in the Japanese sewage sector: Japan expanded sewage coverage from 8 percent in 1965 to 76 percent in 2010²⁷¹ using public finance, public operations, and domestic PUPs, mainly in the form of technical and financial assistance provided by a central governmental agency to local authorities.²⁷²

PUPs in Nordic countries: In the second half of the 1990s, PUPs were used to clean up the Baltic Sea within the framework created by the Helsinki Commission (HELCOM) and in the context of prospective European Union (EU) enlargement. The municipal water operator of Stockholm, Sweden entered into two PUPs with the municipal water operators of Kaunas, Lithuania and Riga, Latvia. Both PUPs successfully implemented investment programs in excess of \$100 million and built wastewater treatment plants on time and within budget, restructured the local municipal operators and turned them into autonomous and self-financing utilities, and transferred long-term capacity, allowing the two local utilities to access international financing on a non-sovereign basis after the completion of the two PUPs.²⁷³

sewer system in Akron, Ohio, represented by Akron American Federation of State, County & Municipal Employees (AFSCME) Union Council 8, along with allies from the local community,²⁷⁶ defeated an attempt to privatize the city's sewer system.²⁷⁷ The community members then passed an ordinance that requires a citywide majority vote before the city can lease, sell, or transfer any part of a city-owned utility.²⁷⁸ In Carbondale, Illinois, the Jackson County League of Women Voters is currently calling on the City Council to pass an ordinance ensuring that their water and sewer systems remain publicly controlled and requiring a supermajority vote from the City Council in order to enter into any kind of privatization contract.²⁷⁹



18

Company Confidential - Trade Secret and Proprietary Information



Company Confidential - Trade Secret and Proprietary Information

19

PHOTO: Private water corporations see transparency and accountability as undermining their commercial objectives. For example, when Corporate Accountability International requested Veolia's proposal for its ongoing contract with New York City, Veolia responded with this and nearly 400 more redacted pages. Public-public partnerships, on the other hand, increase information sharing and transparency.

The European experience also points in this direction. In March 2014 the regional government of Lazio, Italy (the Italian region which includes Rome, and counts a total 5.7 million inhabitants) unanimously approved a regional law that: declares water as a common good and recognizes the human right to water, declares that water is a service of public interest, provides for water to be managed on a not-for-profit basis, provides for municipal governments to introduce community participation in decision-making on water management, provides for the establishment of a regional fund to help municipal governments remunicipalize their water services, and provides for the establishment of a regional fund to support PUPs and other not-for-profit partnerships on a solidarity basis to extend access to water in developing countries.²⁸⁰ The regional law constitutes a case of popular legislation, as the initial text was promoted by a popular petition signed by 37,000 citizens and 40 communes.²⁸¹ The movement that promoted the adoption of the regional law took inspiration from Italy's 2011 national referendum in

which 96 percent of Italian voters (27.6 million citizens) voted against water privatization, liberalization, and PPPs.²⁸²

Additionally, in 2013 nearly 1.9 million European citizens across 28 European Union Member States signed to support the European Citizens' Initiative, "Water and sanitation are a human right! Water is a public good, not a commodity!" The European Citizens' Initiative invited the European Commission to propose legislation implementing the human right to water and sanitation as recognized by the United Nations, promoting the provision of water and sanitation as essential public services for all, promoting community participation, promoting PUPs, and promoting universal access to water and sanitation.²⁸³ In March 2014 the European Commission published its response to the European Citizens' Initiative. In its response, the European Commission pledged to support PUPs through its water programs and to seek to identify new partnership opportunities.²⁸⁴

CONCLUSION: VEOLIA AND SUEZ— WHEN THE “SOLUTION” IS THE PROBLEM

Public water services are the most essential public services. They are too important to delegate to private water corporations, whose profit-maximization objectives conflict with the economic, social, and environmental interests of local communities.

In the water sector, PPPs and privatization are one and the same thing, and are equally problematic. This report has shown that, in the U.S. and globally, the problems with water privatization and PPPs are systemic and not due to occasional circumstances and local peculiarities. The false promises of the private water industry include greater private sector efficiency and improved risk management, advanced and innovative technological solutions, high-quality services, and private finance for infrastructure development. The reason behind the private water industry's failure to deliver on its promises is the fact that it prioritizes profits over the democratic governance and sustainable development of public water systems. Private water corporations behave like typical monopolists to extract rent from their long-term contracts at the expense of local communities. And the long-term costs of water privatization for municipal governments and local communities include: soaring tariffs, cuts on investments, poor service quality, and private water corporations' failure to contribute investment finance. In the U.S. and globally, there is a growing remunicipalization trend fueled by public officials' and local communities' realization of the marked difference between the theory and practice of privatization, and of the comparative advantage of the public sector.

In an attempt to make privatization more politically palatable and advance its commercial agenda, the private water industry is misleading public officials and communities by repackaging privatization as public-private partnerships. To implement these repackaged privatization models, transnational water corporations such as Veolia and Suez (and its U.S. subsidiary, United Water) rely not only on misleading marketing materials, but also on their ability to interfere with the governance of public water systems at the local, state, and federal level. This political interference is the precursor to privatization and seeks to: weaken the private sector's greatest competitor, the public water sector; open up the water market and create business opportunities for private water corporations; and remove as many obstacles as possible to the profitability of private water corporations. In order to achieve these goals, the private water industry has interfered at the federal and state level of government in legislation that affects public water systems and the democratic governance of water. It has done so by promoting federal legislation that could put public water operators under pressure as it increases the competition for increasingly scarce public financial resources and pave the way for new water privatizations. The private water industry has interfered at the state level of government by lobbying to defeat proposed legislation that would increase the transparency and accountability of private water corporations.

The private water industry also uses forums where public officials gather to advance its commercial agenda outside the scrutiny of experts, voters, and the media. Forums such as the U.S. Conference of Mayors and National League of Cities are used by the private water industry to access mayors and key public officials and push for favorable private water contracts. Private water corporations also interfere directly with the democratic process at the city level. Examples in this sense are the case of Thames Water-OMI in Stockton, California and Veolia's failed attempt to secure a contract in St. Louis, Missouri.

Other tactics to interfere in local governments' decisions on the award and regulation of private water contracts include: the use of corruption and bribery, as demonstrated by cases where corporate executives and politicians have been convicted; the use of upfront payments to induce cash-strapped local governments to sign long-term contracts in exchange for short-term fiscal gains; the systematic attempt to renegotiate contracts awarded on the basis of overoptimistic promises of private technology, expertise, efficiency, or finance; and the use of commercial confidentiality and asymmetry of information to undermine the transparency and accountability of private operations. The private water corporations' poor track record of keeping their promises is the reason why considerable private sector resources are invested in lobbying public officials to ensure that public debate is skewed in favor of the corporations' preferred version of reality (i.e. contracting private corporations represents the solutions to mayors' challenges) and away from discussing the problems with the corporations' profit-seeking practices. Controlling the public debate, misrepresenting reality, and distorting the decision making-process are priorities to advance the commercial interests of private water corporations like Veolia and Suez.

The empirical evidence on the performance and conduct of private water corporations like Veolia and Suez in the U.S. and globally shows that water privatization and PPPs are not the solution—they are a problem. The misleading PR campaign of the private water industry threatens the democratic governance and sustainable management of public water systems. This state of affairs warrants a reconsideration of the appropriate forums and methods for the adoption of public policy regarding our public water systems, as well as a reappraisal of the merits of both the private and the public sectors. It also demands that public officials ensure that public water systems are developed in the public interest, not the interest of private water corporations. In order to achieve sustainable development objectives that are strategically important



PHOTO: Hundreds of people gather at a rally in front of Baltimore's City Hall. Community organizations, labor unions, and racial justice groups were among those challenging a potential contract between Veolia and the city of Baltimore.

Photo credit: United Workers Media Team

for the welfare of local communities, U.S. public officials should avail themselves of the comparative advantage of the public sector. This comparative advantage is evident in relation to direct public provision and reengineering, and in relation to various public partnerships: public-public partnerships, labor-management partnerships, and inter-municipal cooperation. For the public sector to enhance the sustainable management of public water services, the political prioritization of public water systems and long-term public investment in public alternatives are vital.

In light of the findings of this report, we offer the following recommendations to U.S. public officials at federal, state, and local government levels.

- 1. Enhance democratic accountability, transparency, and public participation in decision-making on reforming, managing, and financing water supply and sanitation services.** Lack of accountability, transparency, and participation are typical problems with water privatization.²⁸⁵ Asymmetry of information is an obstacle to good decision-making.²⁸⁶
- 2. Ensure that all decision-makers and the public are equipped with real-world information on the problems with privatization, including problems with public-private partnerships (PPPs).** An increasing amount of evidence points to the social, economic, and environmental costs of water privatization including PPPs, both in the U.S. and globally. These costs undermine the interests of the communities served by municipal governments. This is why a public discussion is necessary and should be based on real-world evidence, not on public relations materials.
- 3. Involve community members and community organizations in key decisions on reforming and managing public water services.** Social actors—civic organizations, social movements, labor unions, workers, and community members—have an interest in strengthening public water services and can make invaluable contributions to the strengthening of public water systems by sharing their expertise, knowledge, and ingenuity. Their involvement should be prioritized over involving actors with commercial interests in weakening the public sector.
- 4. Make upfront payments for private water concessions and other PPPs illegal to prevent the distortion of public decisions on water reforms.** Upfront payments for private water concessions distort collective decisions by putting the short-term fiscal interest of local governments and the commercial interest of private water corporations before the long-term interest of local communities. This is why they have been outlawed in France by anti-corruption legislation adopted in 1993.²⁸⁷
- 5. Strengthen public water operations and adopt best practices for in-house restructuring and reengineering. International experience shows that the most efficient and effective water operators are found in the public sector.** As the public sector is not subject to the profit-maximization imperative, it offers the possibility of reinvesting all available resources for the welfare of local communities.²⁸⁸ Labor-management partnerships are inclusive and effective ways to successfully implement reengineering.
- 6. Develop the capacity of public water managers and municipal governments through public-public partnerships (PUPs) and labor-management partnerships. PUPs treat knowledge as a public good to share for the solution of common water-related challenges.** Private contracts treat knowledge as a private good, whose access is restricted by commercial confidentiality. This is an obstacle to capacity-building for public operators on how to solve water-related problems and an obstacle for the effective democratic governance of public water systems.
- 7. Consider alternative project plans developed by public utilities. Often in-house restructuring, reengineering, labor-management partnerships, and PUPs have been adopted in reaction to proposed PPPs and other forms of water privatization.** In such cases, in-house restructuring, reengineering, labor-management partnerships, and PUPs have proved to be more effective and efficient than the proposed PPPs, both in the U.S. and internationally.²⁸⁹

8. Prioritize public investment in public water infrastructure at every level of government. Public finance is the least expensive way to invest in water systems.²⁹⁰ Public water operators enjoy the advantage of managerial flexibility and democratic control.²⁹¹ Using public operations and public finance is the most cost-effective way to deliver sustainable water development objectives.²⁹²

9. In light of the growing trend of remunicipalization across the globe, U.S. cities currently engaged in PPPs and other types of privatization contracts should take steps to remunicipalize their water utilities.

Examples of support for decision-making on remunicipalization include legislation adopted by Lazio's regional government in Italy, which provides for funding to assist cities with remunicipalizing water services,²⁹³ and the French association of public water operators "France Eau Publique," which disseminates good practices on remunicipalization.²⁹⁴

10. Adopt legislation and policies that support democratic governance, community participation, in-house restructuring and reengineering, labor-management partnerships, and PUPs. While mayors and other public officials often act spontaneously to strengthen public water services,²⁹⁵ legislation and policies aimed at strengthening public water systems define a framework for the systematic enhancement of democratic governance and sustainable management.

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