



Water Privatization in Stockton, California: Background

Fortune magazine recently called water "the oil of the 21st century." Private companies are presenting themselves to government officials as knights in shining armor coming to the rescue by taking over the day to day operation of costly public water and sewage systems. Riding into Stockton is a corporation that, based on its checkered history, has local citizens girding for a fierce battle to protect its public water utilities. As more unseemly information about this company comes to light, residents of Stockton are starting to wonder who, if anybody is looking out for their interests. The answer might be one they don't want to hear: Nobody.

In 1999, Mayor Gary Podesto convinced the city council to consider contracting out -- or privatizing -- the operation and maintenance of Stockton's water utilities. He suggested that hiring a private company to run the city's water system would save money and keep rates down, while transferring the responsibility of complying with environmental and public health regulations. A number of local officials have been persuaded by slick marketing presentations made by proponents of privatization at annual conventions of the U.S. Conference of Mayors. These glossy services packages are seductive to cash-strapped municipalities. But, as Public Citizen has documented (see *Privatization: A Broken Promise* report), privatization often creates a lot more problems down the road including increased accidents and costs, poor service and loss of local control.

In December, 2000 a Boston-based, pro-privatization consultant called Alternative Resources, Inc., hired by the City, laid out the scope of the privatization proposal: the contract would last for 20 years and include operating and maintaining the wastewater, storm water and drinking water utilities, billing, customer service, and designing and carrying out capital improvements. Within the next few years, an approximately \$50 million upgrade and expansion of the wastewater treatment plant is needed to meet new discharge requirements.

The three companies that expressed interest in the contract either were owned by or involved in a partnership with the world's largest corporate water conglomerates: RWE of Germany and Suez Lyonnaise and Vivendi of France. In 2002, the city narrowed its selection to OMI-Thames, a joint venture between Denver-based OMI, Inc. and Thames Water, Great Britain's largest water company which is in turn owned by RWE.

In October, 2002, a group of local residents including the League of Women Voters of San Joaquin County and the Mother Lode Chapter of the Sierra Club, organized into the Concerned Citizens Coalition of Stockton, along with Public Citizen, succeeded in placing an initiative on the city ballot that would allow the public to decide if their water utility should be privatized. If passed, the initiative would require voter approval for any city contract of more than \$5 million relating to the operations of the city's public water utilities. Over the summer of 2002, the coalition gathered 18,000 signatures from Stockton residents to qualify a vote on the initiative, which has been scheduled for a special election on March 4.

In the fall of 2002, in a slap in the face to voters, the Stockton City Council began negotiating a 20-year, \$600 million contract with OMI-Thames and will likely vote on the contract before the public votes on the ballot initiative—probably in February, 2003. Mayor Podesto and a majority of the city council members seem intent on pushing through a privatization deal whether the public

wants it or not—and despite the overall good performance of Stockton Municipal Utility Department (MUD). Since 1998, Stockton's MUD has been able to stabilize rates by increasing efficiency and lowering costs. The agency has estimated that the savings would yield enough money to bankroll infrastructure repairs and expansion over the next 10 years.

Mayor Podesto's plan could easily backfire. Private companies not only have to turn a profit and pay taxes, shareholder dividends and high executive salaries, they are also ineligible for low-interest public financing, thus raising the cost of capital improvements. Any expense that the corporation encountered, such as debt reduction or spending for upgrades, would likely be borne by consumers in the form of higher bills. RWE/Thames Water is under a good deal of pressure to pay off its debt from purchasing American Water Works for \$7.6 billion in September of 2001. Revenues from Stockton ratepayers will likely be used to pay off this debt and finance RWE/Thames Water's business expansion efforts. While RWE/Thames Water's other utilities in California (recently acquired during RWE's buyout of American Water Works and their California-American subsidiaries) are regulated by the Public Utilities Commission, Stockton residents must rely on their pro-privatization city council to protect their rates against profiteering and abuse. A number of cities have found they lack the power to hold these global companies in check and have seen promised savings drained by costly legal battles.

Additionally, the European company poised to win this contract – Thames Water – may be able to use international trade agreements to protect its interests and force other cities to privatize water services. International trade and investment rules, such as the World Trade Organization's (WTO) General Agreement on Trade and Services, are being used to pry open the domestic water services market. These global trade pacts are designed to limit government's ability to regulate foreign corporations. Companies could use these international commercial rules to sidestep environmental quality protections, effectively preventing cities from backing out contracts, or override restrictions on water exports or transfers. Disputes over local regulatory controls could be decided in the WTO's secretive tribunals based in Geneva, not in domestic courts.

Furthermore, citizens are concerned about the prospect of handing their water supply over to the control of a giant multinational corporation with a dismal environmental record. Thames Water ranked as the worst polluter in England and Wales for two of the three past years and likely will rank as the worst again in 2002, according to the Environment Agency in England. A Public Citizen profile of Thames' recent environmental performance found that dating back to 1999, Thames has been convicted of environmental and public health violations 24 times and fined approximately \$700,000. In case after case, regulators found that the company was aware of conditions that led to raw sewage discharges and could have prevented the pollution. It appears, however, that Thames' corporate strategy is based on the notion that paying fines is less expensive than paying to maintain and operate water and sewer systems cleanly and safely. This does not bode well for the City of Stockton which will be held liable by the Regional Water Quality Control Board for any water discharge permit violations.

OMI-Thames is using this contract to get a foot in the door to California's lucrative water services market and potentially control water supplies in the future. Much is at stake with this unprecedented privatization. Stockton citizens have asked the City Council hard questions about the wisdom of privatization, especially in light of California's recent debacle in electricity deregulation, simply another form of privatizing a critical public service. Meanwhile, the known quantity, the Stockton MUD, has performed very satisfactorily and appears to be well prepared for the future.

The motto of the coalition opposed to privatization is compelling: "If it ain't broke, don't fix it."