

**Testing the limits of market-based solutions
to the delivery of essential services:
the Nelspruit Water Concession**

Dr Laïla Smith, Shauna Mottiar and Fiona White

Acknowledgements to Malachia Mathoho for his valuable
research contribution

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the Nelspruit Water Concession**

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1. THE CHANGING WATER SERVICE DELIVERY LANDSCAPE

1.1 Overview

In 1999, the Nelspruit Local Authority contracted the British-based multinational BiWater to provide its water services for the next 30 years. This arrangement, known as the Nelspruit Water Concession, is the first contract of its kind in the South African water sector. This report provides a comprehensive assessment of the concession as an advanced form of privatisation.

In Part 1, we provide a brief background to the decentralisation of service provision across the Global South, and why alternatives to public service delivery, particularly public-private partnerships, have come to the fore during the 1990's. We also briefly describe the current service delivery context in South Africa, including recent legislation aimed at democratising and decentralising service delivery processes.

The case study follows in Part 2. We begin by providing a background to the Nelspruit Water Concession in order to illustrate the dire need for large-scale funding to extend services to townships that, under apartheid, formed part of the 'homeland' of KaNgane. In doing so, we pay particular attention to the differing perspectives of the actors involved in the water concession.

Part 3 examines the complexity of the power dynamics between these actors. On the surface, BiWater appears to be in a strong position by using its financial might to extract compliance from labour, a weak local authority, and an impoverished township population. A closer examination, however, reveals a high level of interdependence between the different actors required to make the concession work. The local authority, vulnerable to repaying high levels of debt should BiWater pull out, has been very cooperative in working with the concessionaire. It cannot, however, offer the concessionaire insights on how to deliver services to the poor and recover its costs, as it historically only catered to white and affluent residents. It is the township communities that perhaps wield the most power through their ability to make or break the concession through (non)payment levels. The community resistance to BiWater, be it through vandalism to infrastructure, the intimidation of workers, or payment boycotts, is threatening to bring the concession to a close. Part 4 discusses what some of the stumbling blocks in this pilot project, and how they have been overcome. It concludes by providing some of the lessons learnt in order to offer insights on how to overcome some of the challenges in providing water services to low-income households.

1.1.1 Introduction

Over the past three decades, the 'Washington consensus' policy mantras of deregulation, liberalisation, and marketisation have established a new way of thinking about service delivery, which has made itself felt in South Africa over the past decade. This 'roll-back-the-state' form of neoliberalism, when applied to the realm of service delivery, has signalled a shift away from

the supply of services based on need towards supply according to the ability to pay. This form of state restructuring has had distinctive effects at the local government level. From the mid-1970s onwards local authorities have faced the challenge of meeting growing demands for the delivery of cheap, good quality and widely accessible services while having to cope with simultaneous cuts in fiscal transfers from national governments.

The failure of past state-driven approaches to water supply in both the North and South have spurred a number of independent shifts in the philosophy of provision. These shifts in thinking have resulted in a trend towards increased private sector participation through partnerships, more decentralised management, an emphasis on demand-based provision, and a greater degree of cost-recovery.¹ New private sector partnerships have offered alternate sources of financing through which to achieve these new service delivery objectives. Local authorities have embarked on these partnerships by initiating a wave of privatisation initiatives, a step that has introduced market relationships into the production of public services.² The intention has been to let the public sector be governed by the same competitive forces as the private sector. The guiding principle behind this form of restructuring has been to lower the cost of operations, with the promised outcome that this can leverage the resources to extend services more widely.³

The primary reason for the ascendance of privatisation has been the perceived failure of the public sector in the Global South.⁴ The failures of parastatals and the post-colonial state's capacity to deliver public services are rooted in their managerial and administrative shortcomings. Regarding management and administration, common perceptions among state officials, the private sector, and the general public is that the state is too unwieldy to deliver services in an affordable, reliable, and efficient manner. Expansion of the service network has not kept up with demand; those households that have been connected have faced unreliability in service provision due to inadequate maintenance; cost-recovery has been insufficient; and the large financial transfers required from government treasuries have not been forthcoming, leaving local authorities unable to make the necessary investments to provide adequate levels of service provision.⁵

Local authorities certainly had and continue to have a choice in whether to reform the public sector or to privatise. Local governments across the Global South have chosen

1 Johnstone N, Wood L. *Private firms and public water*. Northampton: Edward Elgar, 2001: 7.

2 Sclar E. *You don't always get what you pay for*. Ithaca: Cornell University Press, 2000.

3 Moran S. *Fluid categories: water system management in post-communist Poland, graduate geography department*. Worcester: Clark University, 2000: 1-120; McDonald D, Smith L. *Privatising Cape Town*. (Occasional paper no 7.) Municipal Services Project, 2002:1-60.

4 Berg E. (ed). *Policy reform and equity - extending the benefits of development*. San Francisco: ICS Press, 1988; Brohman J. *Popular development*. Boston: Blackwell, 1997; Johnstone, Wood. *Private firms and public water*.

5 Tangri R. *The politics of patronage in Africa*. Oxford: James Currey, Fountain Publishers and Africa World Press, 1999.

privatisation because it offers an institutional model of economic development that promises greater efficiencies in operations and lower costs of delivering public services --a combination of objectives that local authorities have struggled for decades to achieve. Local authorities' self-acknowledged weaknesses in achieving these objectives have made them open to private sector involvement in the most critical areas of collectively consumed goods. At the same time, the private sector has successfully marketed its capacity as a superior provider to the public sector.

1.1.2 *The South African context*

The experience of South African local authorities certainly mirrors some of the above mentioned service delivery challenges as well as motivations for partnering with the private sector. South Africa's 60-year history of apartheid has, however, left a legacy of high levels of inequality in the delivery of public services that is unique to this country. Briefly, separate, racially based local authorities were designed to reflect and reinforce residential and economic separation. Black urbanisation was strictly regulated, and peripheral townships were denied industrial, commercial, and retail development. With regard to the built form, the townships lacked essential services, and had poorly maintained infrastructure. Constraints on land availability and housing infrastructure caused severe overcrowding. During the 1980s overloaded black local authorities could not cope with growing service demands and were discredited by mismanagement and corruption. Meanwhile, the white municipalities had smaller populations to serve and could rely on the taxable resources of large concentrations of economic activity and wealth. White local authority (WLA) areas had well-developed transport infrastructure, high quality educational facilities, efficient public services, good housing conditions, and high levels of access to substantial employment, commercial, and recreational facilities.⁶

The massive state bureaucracy implementing this inequitable approach to service delivery was highly inefficient and difficult to maintain due to growing civic unrest, prompting a decline in revenues from state-owned enterprises.⁷ Township residents responded to deteriorating quality of public services with mass boycotts of rent and service charges. This municipal service and housing crisis sparked the negotiations that led to the transition to a democracy in the 1990s.

The mid-1990s can be characterized as a difficult period of transition in which the state was restructured politically, administratively and jurisdictionally. A primary goal of the African

6 Turok I. *Persistent polarisation post-apartheid? Progress towards urban integration in Cape Town (Discussion Paper no 1) Urban change and Policy Research Group*, 2000: 4.

7 Parnell S, Mabin A. *Rethinking urban South Africa*. Journal of Southern African Studies, 21 (1), 995: 39-61; Tomlinson R. *Development planning*. London: Oxford University Press, 1994.

National Congress (ANC), when it came to power in 1994, was to redress the impacts of apartheid by integrating historically marginalised areas through a more equitable distribution of public services. Central to the mandate of extending services was involving people in the discussions about how services should be delivered. The popular struggles that led to the first national democratic elections in 1994 demanded that the welfare provision that had been allocated to a small, mostly white minority be extended to the vast black majority.

Local authorities in particular underwent a long and protracted process of restructuring in order to extend services more efficiently and equitably to historically disenfranchised communities. Numerous pieces of legislation were adopted throughout the 1990s with the mandate of democratising local government. The Reconstruction and Development Programme (RDP) elaborated a people-centred, grass-roots vision of development that was premised on growth through redistribution. One of the central tenets of this model of development was the building of citizenship through public participation in the decision-making of service delivery. This model of development was accompanied by a wide set of legislative pieces that sought to develop the supply side of service delivery through more democratic means such as the Integrated Development Plans.

The Growth, Employment and Redistribution programme (GEAR) was put in place in 1996 as a macroeconomic framework directed at stemming the excesses of the state bureaucracy at the national, provincial and local government level, but with a platform that prioritised fiscal austerity rather than redistribution. Frustrated by the excessive and archaic methods of the post-apartheid state, as well as by decreasing municipal budgets, local authorities across the country have sought alternative service delivery models for meeting their new constitutional responsibilities in delivering basic needs to all citizens. These alternative models have increasingly involved private sector participation. The rise of defaulting local authorities due to the inefficiencies of the apartheid bureaucracy, combined with the GEAR-inspired state retrenchment and budget cuts for delivering services, catalysed a trend of water privatisation initiatives across the country throughout the 1990s. This trend of developing private sector alternatives was initiated at a time when the state was still weak in its capacity to implement redistributive policies that could mitigate the inequalities exacerbated by the new PPPs.

After a decade of experience with public-private partnerships, South African local authorities have mixed feelings about the privatisation of essential services. Wealthier local authorities, such as those of metropolitan areas such as Johannesburg or Cape Town, are weary of long-term contracts for tradable services, such as water and electricity, to foreign companies because they remove a vital source of revenue to local government. These local authorities have realised that well managed tariff-based (otherwise called tradable) services are critical for sustaining state revenues. In smaller, less-resourced areas, local authorities are desperate to form partnerships with the private sector because of the latter's capacity to leverage capital and provide technical expertise. Despite these differing perspectives, local authorities are united in their growing awareness that they do not yet have the capacity to regulate or monitor private sector activities. Without this capacity, South Africa local authorities moving into PPPs are vulnerable to meeting their constitutional obligations

regarding basic service delivery.⁸ These legislative demands are complex, and have changed the service delivery landscape dramatically over the past few years.

1.2 The regulatory framework for alternative forms of service delivery

The goal of developing service delivery alternatives is to build the state's capacity to deliver services through a decentralised form. Over the course of the 1990's, in the South African context, this has meant a growing division of powers between regulating and providing essential services. In putting the theory of service delivery alternatives into practice, the role of local authorities has been reduced to that of a service authority with the responsibility of provision being devolved to an external entity. There have been many variations in the contracts used to define the roles and responsibilities of external providers, ranging from co-production, corporatisation to full-blown privatisation through long-term concessions. The development of these service delivery alternatives has occurred, however, at a time when South African local authorities are still struggling to develop the capacity to adequately regulate. This regulatory capacity is critical in enabling local authorities to fulfil their constitutional obligations to extend services to all, let alone monitor external providers.

Since 1996 numerous acts have been adopted which outline national standards for service provision and provide local authorities with a framework for setting up alternate service arrangements. The three most influential acts that guide local authorities are:

- The Bill of Rights in the Constitution (1996), which provides access to water as a basic right for all (section 27, chapter 2). The RDP (Reconstruction and Development Programme) defines 'basic provision' as 25 litres per person a day, available within 200 metres. The focus for this delivery objective is on cooperative governance, where municipalities can charge for services provided, but the power to impose such charges (and limit the price of these charges) may be regulated by national legislation. This introduces the notion of user fees for essential services.
- The Water Services Act of 1997, which gives national government the legislative and executive authority to oversee the effective performance of municipalities in their functions as a water service authority. This act distinguishes between the Water Services Authority and the operational responsibilities of the water services provider. Section 19(2)

⁸ This situation is leading to a growing number of court cases where local authorities have been tried as guilty for failing to meet their constitutional obligations. These court cases are reflective of growing public resistance to divestitures, Build Operate Train and Transfer Schemes (BOTTS) and concessions, precisely because of the duration of these contracts, and the inability of local authorities to intervene when contracts are not honoured in meeting the needs of the poor.

in particular encourages water service authorities to seek economies of regional scale through public sector provision before turning to alternate service providers. Amendments to the Water Services Act have eroded an important clause that indicated preference for the public sector option. As a result of successful private sector lobbying, current legislation renders the public sector and private sector equal competitors in the provision of public services.

- The Municipal Systems Act 68 of 2000, section 1, which protects the poor by controlling the price of essential services such as water. It sets out to ensure that poor households have access to basic services through: 1) tariffs that cover only operating costs; 2) lifeline tariffs for basic levels of service; and 3) any other direct or indirect method of subsidisation of tariffs for poor households. The act identifies the sequence of events local authorities must follow in setting up service delivery alternatives. This portion of the act strongly emphasises public consultation with labour and communities *prior to* contracting an external provider.
- The White Paper (2001) on revisions to the Water Services Act, which introduced a free water policy whereby every household is guaranteed access to six kiloliters a month. Local authorities were given two years to implement this policy. Provisional financing for this policy came from national government through the equitable share grant, and as of 2003 the national treasury, to help local authorities to finance this water policy, has provided additional resources (R 822 million).

These regulations are meant to guide local authorities on how to form partnerships with the private sector while still retaining government obligations to the public. The Palmer Development Group report on corporatisation,⁹ however, identifies a number of difficulties facing local authorities in setting up such service delivery alternatives. These difficulties are largely due to the administrative residues of an apartheid bureaucracy, and the post-apartheid restructuring process.

First, shifting national legislation makes it exceptionally difficult for local authorities to comprehend the legal framework within which to set up alternative service delivery arrangements. Second, complex economic and governance issues relating to the price and quality of water services are difficult for local authorities to devise, implement, and uphold. Third, current municipal accounting systems are a major hindrance to providing sufficient information on which to base decisions.¹⁰

Despite these obstacles, local authorities are eager to embark in partnerships with the

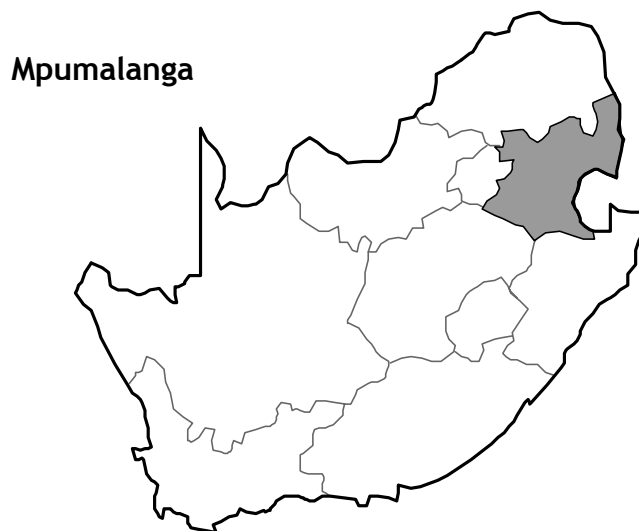
9 Palmer Development Group (PDG), School of Governance, University of the Western Cape. *Corporatisation of municipal water service providers research report*. Cape Town: Water Research Commission, 2001.

10 Water Research Commission 45.

public and private sector. The Nelspruit Water Concession has been selected as a case study because it was the first and largest privatisation initiative in the country. The case study illustrates many of the challenges facing local authorities in partnering with the private sector while trying to uphold their service delivery obligations to low-income households.

2. THE NELSPRUIT WATER CONCESSION

Figure 1: Location of Mpumalanga Province In South Africa



2.1 A profile and background of the concession area

Nelspruit is the capital of the province of Mpumalanga in South Africa. After the democratic reorganisation of local government in 1994, this historically white and affluent little town became a new Municipality, forming the Nelspruit Transitional Local Council. Overnight, Nelspruit authorities inherited the former homeland of KaNgwane and the massive service responsibilities associated with this area. During the period under apartheid, the homeland authority had been given large cash infusions by the previous dispensation and with this money installed high levels of infrastructure such as waterborne sewerage and yard taps within the homeland area. Over the years, however, this level of infrastructure was severely neglected to the point where most communities relied on communal standpipes at best.

The 1994 demarcation of Nelspruit increased the population from 24 000 to 230 000 and significantly changed the profile of the communities to be serviced by local government.¹¹ Many

11 Kotze R, Ferguson A, Leigland J. 'Nelspruit & Dolphin Coast: lessons from the first concession contracts.' *Development Southern Africa*. 1999; 16(4).

of the newly incorporated areas had never received water and sanitation services, and the council's official system of infrastructure service provision was suddenly inadequate. For example, the number of residents per length of water pipe increased from 110 to 601, and the number of residents per length of sewer pipe from 96 to 830. It was apparent that the council would have difficulties in overcoming this shortfall with existing tariff revenues coming from the town of Nelspruit alone. It was also obvious that the new residents in adjoining township areas would be unable to help cover the costs for the required investment. Although the population grew by 10 times, the total income of the new Municipality has only grown by 38%.¹²

The demarcation widened the Nelspruit jurisdiction to include several townships and traditional areas, including KaNyamazane, Matsulu, Tkwane, Msogwaba, and Mpakeni. These newly incorporated areas are more than 20 kilometres from the town centre, and have left the Municipality with what Maralack termed 'the national malady know as a dual town'.¹³ The core town clearly has an unequal relationship to the surrounding poorly serviced dormitory townships.¹⁴ Furthermore, poverty and unemployment in the Municipality are dire. Research using 1996 census data shows that around 60% of households had an income of R 12 000 a year or less. Almost 40% of households in the concession area had incomes of R 6 000 a year or less, which is below what the standard poverty line was at the time, of R 800 a month per household. As with poverty, the township areas have significantly higher unemployment rates than those in the town of Nelspruit. Table 1 illustrates the breakdown of unemployment by locality.¹⁵ Infrastructure backlogs in the Municipality were estimated to be in excess of R 400 million, which was far greater than the capital budget available to the town council.¹⁶

In order to extend services to these areas, the Development Bank of South Africa (DBSA) estimated that it would cost local authorities about R 250 million to service the greater Nelspruit area. At this time, roughly one third (about R 8.5 million) of the council budget was allocated to water and sanitation which, taking into account high population growth rates, was woefully inadequate to meet service needs. The council faced a situation where none of the usual sources of finance would be sufficient to offer meaningful assistance on meeting capital investment needs for water and sanitation. A new innovative approach was needed to make universal service coverage a reality.¹⁷

The transitional Nelspruit authorities first turned to national and provincial government for financial assistance, but were turned down. The DBSA stepped in to help the local authority

12 Ibid.

13 Maralack D. 'A profile of Nelspruit, its people and its economy.' In: *The provision of water and sanitation services in Nelspruit*. <http://www.local.gov.za/DCD/ledsummary/nelspruit/nel03.html>.

14 Ibid.

15 Gillet A. *The impact of water and sanitation service privatisation on the poor*. Research report submitted to the Faculty of Management, University of the Witwatersrand. 2002.

16 Maralack.

17 Kotze et al.

prepare the tender documents to invite private sector investment through a long-term concession. Despite Nelspruit authorities facing significant community, labour, and political opposition over a four year negotiation process, the contract for a 30 year concession with a British Multinational, BiWater, was signed in November 1999. The Greater Nelspruit Utility Company was formed to service the entire newly named Greater Nelspruit Area.

Table 1: Unemployment rates by locality

Locality	Unemployment rate
KaNyamazane	30.86%
Matsulu	36.31%
Daantjie	33.15%
Luphisi	31.78%
Mpakeni	31.23%
Msogwaba	34.48%
Zwelisha	32.02%
Nelspruit	3.41%
Nelspruit NU	8.13%
Average concession area	25.33%

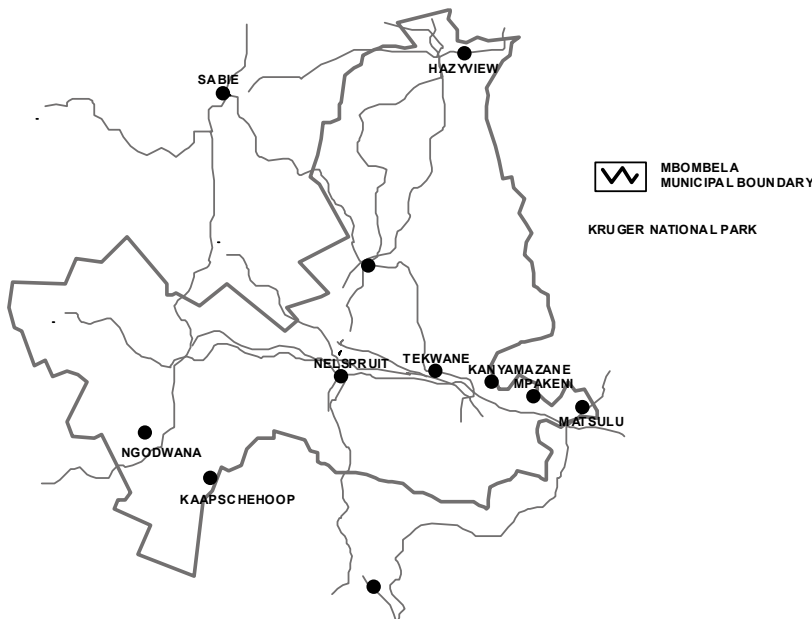
Source: Gillet A. *The impact of water and sanitation service privatisation on the poor*. Research report submitted to the faculty of management, University of the Witwatersrand.2002.

During the demarcation process following the local elections in 2000 the Nelspruit area was once again renamed and consolidated into the Mbombela Municipality. The redemarcation dramatically increased the size of what was the Greater Nelspruit Area to 3 451 km² - all of which is predominately relying on the tax base of the town of Nelspruit.

Although the Mbombela Municipality suffers from serious service provision challenges and development problems, the outlook for the area is not all bad. According to some analysts, the economy of Nelspruit is on the verge of a sustained period of economic growth. In fact, Nelspruit's economy is the fastest growing in the country, with a growth rate of approximately 7%,¹⁸ compared to the national rate of 3%.¹⁹ Yet, even with the expectation that these growth

rates will continue in forthcoming years, the Municipality cannot supply and sustain water services from its capital budget. Despite this growth, the redistribution problem remains as the percentage of people living under the poverty line (earning less than R 1 500 per month) within Mbombela is 52% of the total population.²⁰ The local authority indigence policy has been barely made a dent in what is required to uplift this vast sector of the population.

Figure 2: Map of the Mbombela Municipality



Source: Public relations office of the Mbombela Municipality.

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18 Personal communication with the office of the Deputy Manager for Mbombela; 17 April 2003.

19 *Fast Facts*. South African Institute of Race Relations; April 2003.

20 DBSA 2001.

21 Personal communication with the office of the Deputy Manager for Mbombela; 17 April 2003.

22 *Fast Facts*. South African Institute of Race Relations; April 2003.

services from its capital budget. Despite this growth, the redistribution problem remains as the percentage of people living under the poverty line (earning less than R 1 500 per month) within Mbombela is 52% of the total population.²³ The local authority indigence policy has been barely made a dent in what is required to uplift this vast sector of the population.

3. THE ACTORS INVOLVED IN THE WATER CONCESSION

The strengths and weaknesses of the water concession are discussed from the varied viewpoints of different municipal stakeholders. The next section raises issues confronting the local authority, the concessionaire, labour, politicians and township residents.

3.1 The Mbombela Local Authority

Within several months of signing the contract, the concession suddenly only encompassed 50% of the territory in the newly created Mbombela. It is precisely because of the magnitude of the service delivery challenges in this enlarged area, much of which is rural and poor, that local authorities in Mbombela have become increasingly desperate to see the concession succeed in order to be relieved of the responsibilities for delivering water and sanitation. The creation of the Mbombela Municipality also created a shift in the organisational structure and political landscape of the Municipality, thus bringing in a new regime of authority that was less familiar with the concession agreement and therefore less involved. As is the case in many cash-strapped municipalities across the world, the local authority wants to wash its hands of the responsibility of water services in order to focus its attention on other areas of service delivery that are worse off than water, such as roads and refuse collection.

Inadequate regulation has been one of the significant weaknesses of the way in which the concession agreement has been implemented. As part of the service delivery agreement, the concessionaire has been paying local authorities R 2.5 million a year to regulate and monitor the contract. The local authority, perhaps due to changes in the administration and other service delivery challenges in extending services beyond the concessionaire area, has not made the regulation of the water contract a priority. The Compliance Monitoring Unit (CMU) was set up in 1999 to regulate the concession, with an initial focus on the technical side, such as operations and maintenance. Over time, however, the CMU lacked the personnel needed to provide financial oversight and to examine the social side of the contract, namely customer care and the growing problems related to the non-payment of services.

One dedicated official took on the responsibility of monitoring the contract, but this

23 DBSA 2001.

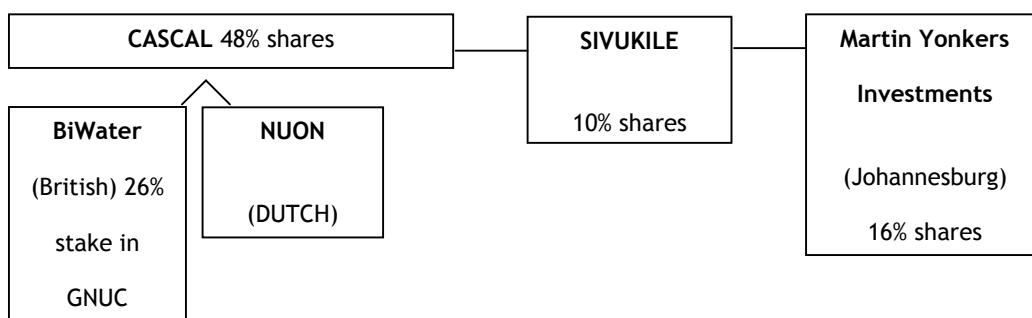
was in addition to the exceedingly demanding responsibilities of being chief engineer for the entire municipality. Despite the experience and technical expertise of the official involved, one person cannot monitor or regulate a concession of this size. After grinding to a halt, the CMU is in the process of being resuscitated. Its new composition will include a project manager, a consultant from KPMG for financial advice, a GNUC representatives, two city councillors and a representative of the city council.

3.2 The concessionaire - GNUC

The concessionaire is a joint venture between NUON, a Dutch utility company, and BiWater, a British multinational water company, forming Cascal. Cascal holds 48% of shares of the Greater Nelspruit Water Company (GNUC). Despite the promise of private sector investment, the main rationale behind bringing in a concession, the primary source of financing for this concession has come from the Development Bank of South Africa through a R 150 million loan promised over a seven year period. To date, the concessionaire has drawn R 56 million of the loan, primarily for capital investments.

At the time of the contract, the South African national government as well as the DBSA and the Municipal Infrastructure Investment Unit (MIU) encouraged the idea of a black empowerment group forming part of the concession. Sivukile won the tender to use an equity grant provided by BiWater in order to purchase 10% of the company's shares. As a shareholder to the concession, GNUC delegated the service provider responsibilities and contract fees to Sivukile, with a focus on marketing and communications, and to BiWater, to focus on operations and maintenance. GNUC has expressed deep dissatisfaction with the poor or rather non-performance of Sivukile, an area of involvement that is critical to making the concession work.

The most significant service delivery challenge facing BiWater is the non-payment for services. As mentioned earlier, the concessionaire area includes township areas with high levels of poverty and unemployment, and historically poor payment levels. BiWater has enforced strict credit control measures to improve payment levels, which include water cut-offs, removing meters and portions of pipes to prevent illegal reconnections, and reducing the 24-hour supply to intermittent hours throughout the day and night. These measures have had the negative consequences of increasing the level of illegal reconnections and accentuating community intimidation of BiWater workers. BiWater has itself acknowledged its failure in getting this aspect of the concession right. The company realised it had to take a softer approach to the non-payment problem and tried to increase payment levels through a combination of innovative debt management schemes and customer care policies. The customer care policies included talk show presentations, radio announcements, flyers, kombis driving through the townships with loudspeakers, community 'consultations', and so forth. These helped to improve payment levels but this progress was short-lived with the manner in which the free water policy was announced as will be discussed below.

Figure 3: Private sector shares of the GNUC

Another challenge that has confronted BiWater is the nationally announced mandate to local authorities in 2001 to provide a basic lifeline of free water. As this policy was not part of the concessionaire agreement, the local authorities used about 30% of its Equitable Share grant, a national transfer to local authorities earmarked for service delivery, and gave BiWater R 2.2 million a year to finance the free water initiative. The problem underlying the free water policy relates to how the policy was announced to the community by politicians as part of their election campaign. Politicians failed to mention that it was only the first 6 kilolitres of water that would be free. Communities were not adequately informed, or perhaps, chose not to hear, that anything consumed over the first 6 kilolitres would be charged according to a three-step tariff. This translated to an increased cost to households consuming more than 20 kilolitres a month in order to subsidise the free provision of water. The effect of this poor communication gave impressions to communities that water was free, and that they did not have to pay their service bills. This miscommunication eroded what little progress BiWater had made in improving payment levels through customer relations, which was not helped by BiWater's neglect to inform residents what they were consuming over and above the first 6 kilolitres of water. Dispelling the myth of unlimited free water proved to be a formidable task for BiWater, which has admitted that its strengths are in operations and maintenance rather than in customer relations.

The effect of these low payment rates has nearly brought the concession to a premature close only four years into a 30-year contract. As of last year, GNUC put a moratorium on capital expenditure to extend services to new households within the concession area. GNUC has narrowed its focus to operations and maintenance of existing infrastructure, but even these activities are being hampered by high levels of community intimidation of BiWater workers. For instance, workers are impeded from opening and closing valves in order to distribute water more evenly throughout Matsulu, and are also unable to regularly read meters. The impact of this community resistance both in terms of non-payment and the intimidation of workers are having severe financial implications for the ability of GNUC to recover its costs, let alone operate water services properly. The primary shareholder of GNUC, CASCAL, has said that it will not provide more capital investments to BiWater to resume new infrastructure spending until payment levels in the townships have reached 50%. Current payment rates for Matsulu and

KaNyamanzane are 8% and 35% respectively.²⁴ This may well take Herculean efforts, considering the myriad of community concerns with their water services and their relationship with GNUC.

A critical issue affecting the concession is the difficulty in distinguishing between those who can afford to pay and those who cannot. GNUC has made progress on this front in targeting those who can afford to pay. Approximately R 1.3 million is owed to GNUC from civil servants,²⁵ who obviously can afford to pay but have chosen to prioritise other expenditures such as their cell phone or cable TV accounts. In an effort to force these civil servants to pay their utility accounts, GNUC has made arrangements with the Municipality to debit the accounts of municipal workers. It is currently under negotiation with both DPLG and the Treasury Department to do the same for civil servants working at provincial and national levels of government.²⁶ This issue highlights the low priority employed township households put to paying for their municipal bills.

3.3 Politicians

The success of the Nelspruit Water Concession is based on two criteria. First, acceptance of the project by the people it would serve and second, reasonable levels of payment.²⁷ Local politicians have an active role to play in achieving these criteria, particularly in areas that were previously disadvantaged and where the makings of democracy remains a fragile exercise. Unfortunately, the politicians representing the townships with high non-payment levels have a simplistic view of the problem and have not been actively involved in trying to bridge the communication gap between their constituencies and GNUC.

The ANC councillors in the area originally promoted the concession, and generally believe that the contract has been valuable in increasing the financial capacity to provide water services to the newly integrated areas. They have seen a noticeable improvement in that most townships now get a 24-hour supply of water that is of better quality than before.²⁸ In theory, ANC councillors felt that the contract gave them sufficient control over the concession by retaining responsibility for setting tariffs. Since the signing of the contract, council has increased the water tariffs by 10% to offset the losses due to non-payment and is slated to increase the tariffs by another 10% in the next financial year.²⁹ Council was also supposed to

24 Personal communication with Credit Control Officer for BiWater; 25 February 2003.

25 Interview with: Harold Moeng, Senior Commercial Manager for GNUC; 25 February 2003.

26 Personal communication with Nantes Krueger, Director of Finance, Mbombela Municipality; 28 February 2003.

27 Interview with: Councillor Bheka Mazibuko, Nelspruit Town Council; 25 February 2003.

28 This achievement has been undermined by GNUC's credit control measures by using periodic reduction of water supply in certain township areas as a punishment for non-payment.

29 Personal communication with Brian Simms, CEO of BiWater; 26 February 2003.

the regulatory process through the creation and participation in the Compliance Monitoring Unit in order to oversee BiWater activities, but this critical area of involvement has been severely neglected.

The politicians admit that they have not been able to increase the community buy-in nor have they been able to raise payment problems. Councillors may have had difficulty in addressing these issues because they have been minimally involved in working with communities to better understand the complexity behind the non-payment problem. The council has not initiated any specific programmes to inform/educate members of the public about the changing nature of their services and the need for regular payment. The problems around water services have simply come under general social programmes such as the Masakane programme.³⁰ Non-payment has been a problem for most council run services in the township areas that makes a combined campaign to improve payment levels a logical step. The water sector, however, is now governed by a private entity and therefore raises very different problems regarding communication with communities and councillor involvement in the process of delivery.

The issue of political representation has been in crisis since the outset of the concession as the local authority passed on the responsibility of governance to a private sector entity and have been little involved in trying to address service delivery problems in this sector. It is now widely perceived by different stakeholders in the concession that greater political involvement is an important element to resolving the communication problem with township residents and by extension, the issue of non-payment. In order to address this issue, very recently, BiWater, the local authority and ward councillors have come together to set up a water forum in both Matsulu and KaNyamazane. Each of these forums consists of community members, councillors from each ward within each township, and BiWater personnel.³¹ This is the most institutionalised vehicle to date for dealing with the communication problem between service users and the service provider. It will hopefully provide a space where service users can hold their political representatives accountable for problems that arise with their service provider.

3.4 Labour

Labour is a critical consideration when instituting an alternative form of service delivery. In light of the new democratic dispensation, there has been a well-founded assumption that government should protect the needs of workers. There is wide evidence of international

30 Information from Councillor Bheka Mazibuko, Nelspruit Town Council; 25 February 2003. Mayor Khoza contends that the council has actively been campaigning within communities and over the radio for people to conserve water, consume less and therefore remain within the free water allowance. Interview with Mayor Khoza, Nelspruit Town Council; 26 February 2003.

31 Interview with: Nantes Kruger, Director of Finance for the Mbombela Municipality; 27 February 2003.

experiences where public sector rights for labour have been contravened by private sector contracts.³² Considering the South African labour context of worker's rights being hard fought for, the signing of a 30-year contract raised serious contestation from labour unions. Nevertheless, the city council transferred approximately 141 workers to BiWater as part of the concession agreement in 1999. Contrary to popular belief, no workers were retrenched in the transition, but the additional workers that have been hired by the company have been on a contractual basis.

The labour issue regarding the Nelspruit concession is complicated by the historical differences between two very different public sector unions in South Africa. Historically, **IMATU** has represented white workers and has tended to have a larger membership of managers, and markets itself as an independent trade union. The South African Municipal Workers Union (SAMWU) has historically represented black labourers and is affiliated to COSATU, which is a member of the tripartite alliance with the ANC.

When the concession was first proposed, both COSATU and SAMWU were strongly opposed to it on the basis that water is a basic need, and feared that a private sector operator would try to make a profit out of water with negative consequences for workers and poor communities. Their campaigns helped to encourage community opposition to the concession. By contrast, IMATU supported the concession on the basis that it could benefit the community and was not detrimental to employees.

SAMWU in particular, has raised numerous concerns about the labour implications of the concession.³³ First, SAMWU workers feel they were not adequately considered during wage negotiations and that the councils promise to involve them in wage negotiations with BiWater for the first five years after the signing of the concession contract has not been kept. Second, workers have complained that financial benefits have been unevenly distributed, such as housing subsidies being predominantly made available to white workers in management. They have also been aggrieved that BiWater, unlike city council, did not make loans available to its employees. Third, workers have complained that BiWater has not kept to its contractual agreement in providing a skills transfer to BiWater workers through training.

These concerns raise several points for discussion. The first regards the circumstances under which workers are encouraged to voice their complaints. Although BiWater has an IMATU and a SAMWU consultant on its permanent staff, it has set up a 'labour forum' as a vehicle where workers can take their grievances before, or rather, than approaching the labour unions.³⁴ Both unions perceive this initiative as BiWater discouraging strong union

32 Davidson J. *Privatization and Employment Relations - The Case of the Water Industry*. Mansell: London.1993.

33 Interview with Enos Meele, SAMWU Consultant Biwater.
Interview with Jacob Phala, SAMWU; 27 February 2003.

34 Interview with Enos Meele, SAMWU Biwater Consultant; 27 February 2003.

membership,³⁵ and serves to create an environment where workers are reluctant to voice their concerns publicly. For instance, no BiWater workers joined the July 2002 nationwide strike arranged by COSATU despite the fact that many of them had grievances about wage negotiations. A second issue relates to the local authority neglect in overseeing the regulation of the contract to ensure that labour conditions are upheld. Workers have expressed concerns at the council being uninformed of the labour situation at BiWater and as such has put in place few mechanisms to protect its former employees. Furthermore, the Compliance Monitoring Unit, the regulatory body that oversees the concession has failed to monitor the skills transfer that was promised as part of the negotiations.

3.5 Township Residents

A vital aspect of any service delivery arrangement is the service user. Many township residents that had historically been excluded from accessing water services received a 24-hour supply for the first time due to the infrastructure investments made by the Nelspruit Water Concession. These residents enjoyed the newfound dignity of accessing services and receiving bills, but without sufficient understanding of how the service delivery process works, such as what their rights and responsibilities as service users are.

Household interviews in the two townships with the highest levels of non-payment, Matsulu and KaNyamazane, revealed the consequences of the concessionaire's assumption that service user understanding was ingrained within the township communities. The reasons for non-payment are complex. A large number of households linked non-payment to grievances with the quality of service they received from GNUC. These grievances included: water bills that were perceived as excessively high and non-reflective of what households felt they consumed; complicated water bills that did not indicate what they consumed over and above the 6 kilolitres free; failure to inform households of installation of water meters; and harsh treatment of township residents by BiWater personnel.

Grievances alone do not explain this level of non-payment and must also be attributed to economic, political and social reasons. Regarding the economic situation of these two townships, both Matsulu and KaNyamazane have an indigence rate of 62% with unemployment rates of 36% and 30% respectively. Considering the socio-economic situation of these townships, in many instances people are simply too poor to pay. Even though service users can access the first 6 kilolitres of water free, many household water bills are still very high, at times reaching R 300 to R 500 a month. Numerous pensioners interviewed for this research explained that they took great efforts to use water wisely and did not understand why their bills were so high. They

35 Interview with Dave Edge, IMATU; 24 February 2003.

Interview with Jacob Phala, SAMWU; 26 February 2003.

expressed a willingness to pay “if their bills were reasonable”. Politically, many residents oppose the presence of BiWater because of the draconian credit control measures being used against their communities for non-payment, such as water cut-offs and the removal of water meters from people’s property to prevent illegal reconnections. These respondents claimed they did not want to pay as a form of civil protest. Others that fall within this category simply believed that water should be free.³⁶ Regarding social reasons, people who are gainfully employed in the area as civil servants have chosen to prioritise their household expenditure patterns in such a way that their utility bills were put at the bottom of the list. It is unfortunate that this attitude, which may represent a minority of residents in the area, has been used by the service provider to label township areas as passive actors in a ‘culture of non-payment’. The problem of non-payment has been rendered more difficult to resolve by virtue of this cultural stereotype being extended to entire areas, when in fact, a vast majority is too poor to pay.

The overwhelming impression by the household interviews was that there was a desire to pay for services if their bills were ‘reasonable’. The inability to pay, the lack of understanding of why household bills are so high and the difficulties in knowing who and where to go to in order to resolve these issues, highlight the importance of township residents being educated as to what their rights and responsibilities are in this regard. All South African citizens have a right to water. They also have a responsibility to pay for this right over and above the free 6 kilolitres, if they can afford to. There have been numerous educational efforts by GNUC as well as local authorities to simplify and popularize how service delivery works. Perhaps the lesson learnt from this hurdle is that when communities have been structurally excluded for decades from access to quality services, it may take more than a generation to ingrain the social attitudes of acting responsibly and being aware of one’s consumer and citizen rights. Developing this level of awareness is unfortunately, a much more difficult and slow task for the service provider than putting in place the infrastructure to open and close a water tap.

It would be false, however, to paint the township residents as victims in this concession. While they are vulnerable to the ravages of poverty and unemployment, these households have the ability to bring the concession to a close should they decide to mobilise a boycott. Unless the communication problem with township residents improves, the current situation may become far more volatile.

36 Non-payers are given legitimacy by certain politicians who oppose the concession on ideological grounds and discourage payment for water services. The Pan African Congress (PAC) has been known to perpetuate the notion that services would be free if provided by the government and require payment only when provided by profit-driven private companies. (Interview with Councillor Siwela of the PAC. 27 February 2003.) Confusion as to whether basic services should be provided by the government free of charge is certainly a factor in non-payment in the townships.

4 DISCUSSION

4.1 Breakthroughs

Before moving into a discussion of some of the difficulties raised by the Nelspruit Water Concession, the breakthroughs that have been achieved through the country's first water concession must be highlighted.

4.2 Access issues

First, access issues have improved, namely through the overall level and quality of service delivery to the townships incorporated into the concession area. The engineering achievements have been central to the extension and upgrading of services. GNUC has laid 91 kilometres of water mains in the township areas and 8 kilometres in rural areas. It has also laid 18 kilometres of sewer mains and 17 kilometres in rural areas. As a result, most residents in the township areas have gained 24-hour access to water supply and higher levels of infrastructure, namely waterborne sanitation and yard taps. Since 1999, the KaNyamanzane township has had 6 000 connections installed out of a total of 8 500 erfs (70% of the township population) 4 000 of which are metered. In Matsulu, 4 500 households are connected to the network out of 9 000 erfs (50% of the population), 2 250 of which are metered. In both townships, households that are not metered are supplied through the standpipe system and network fed Jojo tanks.³⁷

Second, improvements have been made with respect to the governance of water distribution. Despite the difficulties with BiWater communication strategies with township communities, the quality and frequency of communication is better than had previously existed under the Nelspruit local authority. Furthermore, the local authority, in its desperation not to see this contract fail, has cooperated with BiWater in working through the difficulties of managing the concession.³⁸ One of the positive outcomes of this level of cooperation has been the recent development of water forums in Matsulu and KaNyamanzane, involving BiWater, the local authority, ward councillors and township residents. This is the most institutionalised vehicle to date for dealing with the communication problem between service users and the service provider. It will hopefully provide a space where service users can hold their political representatives accountable for problems that arise with their service provider.

Third, with respect to cost-recovery efforts, BiWater has undergone many trials and tribulations in testing out different credit control measures. In some instances, BiWater has been innovative in its application of credit control strategies, such as putting a freeze on

³⁷ Data provided by GNUC; 16 June 2003.

³⁸ Interview with: Nantes Kruger, Director of Finance, Mbombela Municipality; 27 February 2003.

arrears to avoid accrual of interest and removing the arrears from water bills so that households feel less overwhelmed by the amount owed. The intention of this strategy is to encourage households to develop the ability and habit of paying their current accounts with the understanding that resolving these issues is a precondition to dealing with the more difficult issues of household debt.

4.3 Stumbling blocks

Despite these gains, there have also been numerous stumbling blocks in the implementation of the concession. For the sake of clarity, we have divided these into political, financial, technical, and communication issues.

With regard to the political issues, the biggest obstacle to the smooth management of the concession was ignoring the outcomes of consultations with the township communities prior to the decision to select this service delivery model.³⁹ Overlooking the concerns raised in these consultations has led to fierce resistance and a lack of ownership in the process of delivering water, a service essential to life. The consequence of this neglect has plagued the concession through the form of community non-payment for services. This problem has been compounded by the insufficient involvement of political councillors, vital intermediaries between the service provider and service user. BiWater has imposed severe credit control measures to force people to pay for the water they consume, such as using water cut-offs, and more recently, installing water tricklers (to ensure the free 6 kilolitres is provided). In KaNyamanzane, approximately 1 100 households have had tricklers installed out of 4 500 metered connections (27.5%). In Matsulu, about 800 of the 2 250 metered connections have had tricklers installed (35%).⁴⁰ This level of credit control has had the repercussion of high levels of illegal reconnections and removal of tricklers, both of which have eroded the newly upgraded infrastructure in these areas. The result has led to high levels of unaccounted for water (UAW) and impaired the ability of BiWater to control the distribution of water to certain township areas. For instance, the UAW in Nelspruit has been reduced from 25% to 19%. By contrast, the UAW rate in KaNyamanzane has deteriorated from 59% to 76% and in Matsulu from 68% to 88%. The amount of water wasted and unmeasured in these soaring UAF rates makes water delivery to these areas unsustainable for the service provider. BiWater has responded to this situation by reducing water supply in certain areas like Matsulu as a form of credit control, thus jeopardising its contractual obligations to provide 24-hour supply.

A second political issue is the difficulty of embarking on a long-term contract when the state is in a process of transition. There have been two significant national-level policies since

39 Records from the Nelspruit Town Council show that a series of 15 meetings were held between the Council and Labour Unions during the period 4 October 1996 and 19 October 1999.

40 Data provided by Harold Moeng, Senior Commercial Manager for GNUC; 19 June 2003.

the signing of the concession that have significantly affected the terms of agreement - leaving both the local authority and concessionaire in a difficult position. First, the redemarcation process has dramatically altered the landscape of delivery. Local authorities initially brought the concessionaire into partnership to take over its responsibilities for delivering water. City council is now left in a situation where this contractual agreement only covers 50% of the jurisdictional obligations and has created a disparity in service delivery standards between areas serviced by the concessionaire and areas that now fall within Mbombela that are not part of the concession. The impact of this redemarcation is that local authority finances and human resource capacities in resolving the non-payment problem with BiWater are limited in light of the even greater service delivery constraints facing the Municipality in the non-concession areas. Local authority difficulties in extending services to these non-concession rural and semi-rural areas create a problem for the concessionaire. Illegal settlements have sprung up alongside areas that are serviced by the concessionaire, and often tap into these water resources, as the local authority is not meeting their service needs. Second, the introduction of the 6 kilolitres of water free has placed unnegotiated financial demands on the concessionaire thus giving it the right to withdraw from the contract. This would leave the local authority liable for the R 50 million debt incurred by BiWater through DBSA loans. The point is that a 30-year contract assumes the legislative environment of the state will remain static. This is a ludicrous assumption considering South Africa has undergone such an enormous degree of transition, much of which has occurred at the local level.

Regarding the financial stumbling blocks, the levels of non-payment of bills is threatening to bring the concession to a close. The consequence of the non-payment problem has led to a loss of investor confidence resulting in a moratorium on investment in the capital expenditures for extending new services within the concessionaire area. GNUC has narrowed its focus to operations and maintenance of existing infrastructure, but even these activities are being hampered by community intimidation of BiWater workers. For instance, workers are impeded from opening and closing valves in order to distribute water more evenly throughout Matsulu, and are also unable to regularly read meters. The impact of this community resistance both in terms of non-payment and the intimidation of workers are having severe financial implications for the ability of GNUC to recover its costs, let alone operate water services properly.

As of January 2002, GNUC is R 17 million in debt. The primary shareholder of GNUC, CASCAL, has said that it will not provide more capital investments to BiWater to resume new infrastructure spending until payment levels in the two payment problem townships have reached 50%. As mentioned earlier, current payment rates for Matsulu and KaNyamanzane are 8% and 35% respectively.⁴¹ Achieving significantly higher payment rates may well take Herculean efforts, considering the myriad of community concerns with their water services and their relationship with GNUC.

41 Personal communication with Credit Control Officer for BiWater; 25 February 2003.

A brief glance at the price changes over a four-year period may indicate why it has been so difficult to increase payment levels in areas that are indigent. Although BiWater officials claim that water prices have only increased by 10% to take inflation into account, the overall effect on the household user has been a more dramatic rise in the cost of water.

Note that in the second band, the price range that is most relevant to township users has had the greatest price increase. A pamphlet produced by BiWater for the public regarding the cost of consuming different quantities of water indicates that at the top end of this price block the average household cost for consuming 30 kilolitres is R 158. When adding the basic monthly cost of R 8.51 and R 5.06 for being in the second bandwidth of water consumption, the total monthly cost of water is R 171.57.⁴² It is common knowledge that indigent households cannot pay more than 10% of their monthly income on basic services.⁴³ If the average monthly cost of sanitation, electricity and refuse collection were factored in, it would not be surprising that indigent households have difficulty in being able to afford paying for such essential services.

Table 2: 1999 Tariffs

Bands	Monthly consumption	Charge/ kilolitres
1	<6 kilolitres	R 1.26
2	6 kilolitres<30 kilolitres	R 1.82
3	30 kilolitres<100 kilolitres	R 2.03
4	100 kilolitres<	R 2.20

These financial constraints have certainly contributed to several technical stumbling blocks. BiWater's strategy of using water cut-offs as a credit control measure has led to high levels of illegal reconnections and has seriously eroded the newly upgraded infrastructure in these areas. The result has led to high levels of unaccounted for water and impaired the ability of BiWater to control the distribution of water to certain township areas. BiWater's credit control measures have ignited community anger to the point where there is widespread intimidation of

42 This is over and above the basic connection charges of R 30.25 for new users. For any household that wants to get connected to the network for the first time, the deposit fee is R 438.90. The deposits are refunded, only after the deduction of outstanding amounts has taken place, ie: when the consumer leaves the concession area or terminates supply. (Appendix A, Tariff Schedule, 2002: 5.)

43 Tomlinson R, Sinnet P, Rajarathnam B, Fourie W. *Service Delivery Equity and Efficiency in Greater Johannesburg*. Greater Johannesburg Metropolitan Council (Commissioned by the World Bank and Financed by the French Institute): Johannesburg, 11 August 2000.

BiWater workers when trying to maintain infrastructure. The simple daily operational task of opening and closing valves to ensure water is adequately spread throughout the valley of Matsulu, has become a serious obstacle.

Table 3: 2002 Tariffs

Bands	Monthly consumption	Charge/ kilolitres	% Increase
1=R 8.51	<6 kilolitres	0	0
2=R 5.06	6 kilolitres<30 kilolitres	R 3.09	69%
3	30 kilolitres<100 kilolitres	R 3.21	58%
4	100 kilolitres<	R 3.41	55%

The political, financial and technical problems with the Nelspruit Water Concession are rooted in poor communication between GNUC and the township communities within the concessionaire area. BiWater brought to GNUC impressive international experience in technical matters and has respected its obligations in upholding this part of the contract. BiWater, however, has little experience in dealing with customer care to township communities that have faced such severe historical exclusion in access to basic services. It is learning in the process of experimentation but at enormous cost to households, the company and the demise of the water infrastructure, for which GNUC has borrowed money to upgrade. The local authority in Nelspruit has no prior experience in serving township residents that became part of its service delivery jurisdiction through the amalgamation process in 1994/5. These officials were used to dealing with wealthy white residents with high payment rates in the town of Nelspruit and had never developed the ability to deal with the complexity of demand to poor communities. It is not surprising that the local authority has not been able to guide, advise or monitor BiWater's customer care approach to improve on how the service provider is dealing with the non-payment problem. It is ironic that it is actually the local authority that is learning from BiWater's trials and tribulations in this regard.

4.4 Consequences of stumbling blocks

The concession was fundamentally a political project in terms of introducing a massive change in service delivery to poor areas. Yet the problems associated with household ability to maintain access to water were handled as a technical issue with the expectations of a quick fix to payment problems that are rooted in decades of structural inequality of service delivery.

The inability to address the political problem of poverty as a reason for non-payment has limited the developmental and technical merits of the project. Three consequences of these stumbling blocks stand out, each of which affect a different municipal stakeholder.

The consequence of these stumbling blocks for the township communities is related to the moratorium on capital expenditures. As the townships grow demographically, no new services are going into these areas, thus leading to an overuse of existing infrastructure and inconvenience to the service user in terms of longer queues for people using community standpipes. Furthermore, these credit control measure has led to enormous inefficiencies in the use of water by residents leaving taps on all day for fear that they will not be home when the taps start running. When the taps do start running, without anyone present to turn them off, much water is wasted. This situation also creates severe anxieties for households that remain unsure whether they will get a daily water supply from their household.

The growth of illegal reconnections is a direct result of the non-payment issue and is the cause of the moratorium on new capital expenditures. GNUC's response to the illegal reconnection issue has been to control water supply by reducing the hours that people can access water, thus reneging on the contractual promise of providing a 24-hour supply. This highlights an instance where the contractor is not upholding its contractual obligations to supply 24-hour access and where the regulator has been absent in raising this as an issue within the monthly monitoring meetings. The instance illustrates the double standards that favour concessions in a weak regulatory environment: the concessionaire can terminate a contract without facing any financial liability if the external environment (6 kilolitres free) has constrained its opportunities to recover costs, let alone make a profit, but is not held accountable when it fails to meet its service delivery agreement.

The consequence of these stumbling blocks for the service provider is that GNUC has begun outsourcing revenue collection to consulting teams. Their claim is that these teams will focus on customer care to improve payments as well as to improve existing databases on household expenditure patterns. This is a sound initiative, but the knowledge acquired and the relationships built through this process should be with the local authority rather than with consultants whose presence in those communities is only temporary. Getting people to pay is about building a relationship of trust between the service provider and service user and cannot be done vicariously through consultants.

The consequence of these stumbling blocks for the local authority has contributed to a crisis in governance. The local authority has already devolved its responsibilities as a service provider to GNUC, and had the remaining responsibility of being a water service authority. The local authority has performed poorly in the task of being a water service authority and has failed to take its regulatory role seriously. Its inability to regulate the concession has meant that the authority is no more capable than BiWater in dealing with the non-payment problem. Interviews with senior officials revealed that city council has decided that should the concessionaire fail, it will simply hand it over to another service provider. They are not interested in taking back the water sector because of the financial costs of reintegrating the existing labour component of GNUC. Furthermore, the city council claims that it cannot carry

out the same level of attention to credit control issues that BiWater has done because they do not have the time, people or money to do so. The Mbombela Municipality is too preoccupied with trying to get other services working, let alone extended to their newly acquired peri-urban and rural communities. Water services, now that it has been ring fenced, run like a business and devolved to a separate entity, is the least of their concerns. Finally, the attitude of abandoning the water sector expressed by the local authority during this research, threatens to undermine its democratic accountability as communities have far less recourse to resolve the political problems associated with non-payment when dealing with a contracted service provider with little understanding of the area.

4.5 Overcoming the stumbling blocks

The challenges in resolving the service delivery problems in the Nelspruit Water Concession are not minor. Four suggestions come to mind. First, to focus on increasing communication among the local authority, the concessionaire and the township residents by involving service users in the process of service delivery. This point is to promote procedural equity hand in hand with distributive equity. GNUC approached the service delivery problem by attempting to achieve distributive equity, ie: raising the standards of service delivery in areas that had previously been marginalized. In doing so, GNUC neglected the importance of widening the decision-making processes that determine just distribution. To get households to better understand how service delivery works and to encourage them to pay, GNUC should democratise the decision-making process regarding water delivery. One example could be to mobilise community-driven surveys on how much people are billed and whether this coincides or conflicts with household affordability levels. This would then equip and empower township areas with the knowledge to dialogue with the GNUC, Water Forum meetings, city council meetings on how water should be priced and where council subsidies should be targeted over and above the 6 kilolitres. The outcome of such processes can assist the service provider in structuring supply based on an understanding of demand in poor communities.

Second, as the cultural realms of the service provider and township communities are worlds apart, GNUC must find an effective way of sharing information with the township communities in question. One way would be to begin working with existing community structures such as the ANC Youth League, women's groups, church federations, SANCO and so forth. As these community groups are vital conduits for information sharing along many other realms, it is critical that these community channels not be co-opted into enforcing credit control mechanisms. Doing so could lead to a household perception that these community structures are working only in the credit control interests of the service provider and would undermine the many other social functions that such structures provide. Another simple way to improve communication with these areas would be for GNUC to make its water bills clearer so that they meet the informational needs of low income service users, ie: indicating how much is consumed and charged over and above the 6 kilolitres of water, so that low-income households can better manage their water consumption.

Third, the service authority, in this case the local authority, must address the issue of poverty by differentiating between those who have the ability to pay and those who do not. It must then conduct more micro-level research to better understand the household expenditure patterns of poor households in order to determine the required level of subsidies to ensure that indigent families can maintain their access to water and sanitation. As of the 2003 budget announcement, the national treasury has announced R 822 million in transfers to local authorities to finance the provision of free water.⁴⁴ This leaves greater room for the Equitable Share Grant to be used by local authorities to target subsidies to households who cannot afford to pay for basic services. South Africa has come a long way in moving from a narrow focus on fiscal discipline to an expansionary budget. The state has the financial resources to ensure these basic needs are available to all. The challenge remains in the implementation.

Fourth, the key lesson to be learnt from this experience is how to structure partnerships. The state will not be able to properly manage partnerships if it does not have sufficient understanding of the context and dynamics surrounding the service delivery model. This understanding creates the ability for the local authority, as a service authority, to monitor and regulate service providers. If the state wants to decentralise service delivery to an external service provider, the exercise must be perceived as a state-building process rather than as an opportunity to rid itself of a difficult area of service delivery. Unfortunately, most local authorities approach partnerships with the latter attitude and it is no surprise that the vital lessons emerging from the complexities of service delivery to the poor are not reintegrated back into the state. Building the corporate memory of the state in the detail of service delivery to the poor is critical to enabling the state to deal with the issues of redistribution and poverty alleviation.

4.6 Conclusion

Poor regulatory capacity has certainly contributed to a crisis in the governance regime of the concession. The problems facing the concession, however, are rooted in the myths of what market oriented service delivery solutions purport to offer. First, local authorities are drawn to the conceptual idea of concessions because of the promise that the private sector will take the commercial risk through its financial investment. In practice, however, the local authority is not immune from bearing the financial burden of these commercial risks should the conditions of the service delivery agreement no longer be favourable to the concessionaire.

The introduction of a concession in a fledgling democracy undermines the building of an already weak local authority. This issue raises the conceptual flaw of a concession as a service delivery alternative as it erodes the issue of local authority to take back and manage a difficult

44 Interview with Nantes Kruger, Director of Finance, Mbombela Municipality; 27 February 2003.

sector. One reason is because of the diminishing human resource capacity and knowledge within city council through the course of the concession period. There are few international examples of local authorities that have successfully reintegrated water sectors after failed concessions.

The lessons learnt in this process to date have taught both the concessionaire and the local authority that technical solutions do not solve the political problems of poverty. The payment for services is not simply a technical matter of getting clear bills out to service users and establishing kiosks for customer care within township areas. The payment for services is a political issue when it comes to poor people's ability to pay. The history of apartheid and the historically abysmal context of service delivery to townships matter in shaping an understanding of how to resolve the non-payment problem. A starting point is to involve communities more widely in the service delivery process so that they can better understand how service delivery works, what it means to be a responsible 'customer' and how to hold their provider accountable. These steps are part of democratising service delivery and must be steered more conscientiously by the local authority and its political representatives.

A concession claims to be a useful service delivery alternative in offering much needed financial services and technical expertise but not if it is at the cost of eroding the governance of the local authority and undermining the ability of low income communities to access water. Here is where the concession presents a paradox as a service delivery model. As a service delivery model set out to meet the needs of the poor, the logic of profit and efficiency that drive the management of concessions does not lend itself to the patience and flexibility required to deliver services to poor people. Furthermore, the management style of concessions is to concentrate power and the decision making processes of water distribution into a ring fenced business unit - a trend that moves counter to the democratisation processes that are vital if services are to be delivered in a socially just manner. In appraising whether the concession was the appropriate service delivery model for Nelspruit, the evidence suggests that this model is not suitable for the delivery of an essential service like water in areas with high levels of poverty.