

**NEBRASKA TAXPAYERS FOR FREEDOM ISSUE PAPER:  
PRIVATIZE PUBLIC UTILITIES IN NEBRASKA.**

**BACKGROUND.** Nebraskans pay higher and higher utility bills in a state that boasts the reasonable rates supposedly provided by our 162 public utilities. Almost annual escalating bills cause sticker shock. Increasingly, ratepayers in other states pay lower rates for gas, electricity, and water usage provided by private utilities. Current Nebraska law, because of intense lobbying by public utility lobbyists, prohibits private utilities from entering the market to compete with our public utilities. NE consumers cannot contract with out of state power companies to provide electricity, natural gas, or water service. Thus, we must continue to pay higher bills to public companies that pay inflated wages to both executives and union labor with its excess employees. Nebraska is the only U.S. state that completely relies on public utility companies rather than for-profit corporations for electricity.

**WATER PRIVATIZATION BENEFITS.** Indianapolis in 2010 privatized its water system and saved millions while holding down rates. Water is dangerous to drink if no prevention for contamination that would place our health at risk. Private firms often operate in many different jurisdictions, which means they have more experience and more ability to



institute best practices based on their accumulated knowledge. Water privatization would guarantee better safeguards because of profitability concerns and fear of monetary loss for health damages. Because private companies bear liability for the safety and quality of the water, they have motivation to ensure safety. A private firm will feel pressure from shareholders to perform very efficiently or face a takeover risk. Privatization always brings efficiency in order to maximize profitability. Competition with other private or public utilities will greatly spur efficiencies here.<sup>1</sup>

Private water companies still must comply with local and federal regs on water safety. In a report for the Hudson Institute, Edwin S. Rubenstein asserts that privately- operated water treatment plants use “the best available technology,” something public plants not required to do. A company has an incentive to provide the specified water quality in order to maintain its business with a jurisdiction and to avoid lawsuits for breach of contract. Local government officials easily can monitor a firm, as they need to focus only on water quality and availability. If either the local government or the firm fail to abide by service requirements, the other entity can alert customers. Private companies often better situated to maintain the infrastructure than public ownership. Private businesses bring more specialized employees and knowledge to water operations than public operators .<sup>2</sup> In British privatization, water improved in quality, pressure, and service responsiveness while interruptions and leakage reduced. Private companies have money to invest in the updated water systems we need and deserve. Studies have demonstrated that private utilities are generally more efficient than public utilities. In 2000, economist B. Delworth Gardner of Brigham Young University determined that private water utilities in Utah charged lower rates for water than comparable public utilities, even after accounting for the large advantages in taxation and regulation given public companies. The assets of new, private utilities here would become taxable, expanding local tax bases.<sup>3</sup> Selling MUD would help pay for the enormous costs of the Omaha area sewer separation project that has skyrocketed area water bills. Private ownership of water utilities has grown exponentially for years. The Reason Foundation provides insightful survey data. The size of the water outsourcing market was \$2.2 billion in 2015, up 5% from 2014. Almost all of the municipalities currently using a private water company appear satisfied with the service they are receiving. From 2006 to 2015, 2,529 contract renewals came due; 90% renewed, as shown in the table below.

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	TOTAL (2006-15)
Number of Contested Contracts	833	788	117	127	151	147	103	86	98	79	<b>2,529</b>
Contracts Renewed	91.6%	96.8%	94.9%	85.0%	76.8%	64.6%	89.3%	86.0%	93.9%	89.9%	<b>90.4%</b>
Back to City Operations	1.8%	1.9%	5.1%	7.9%	7.9%	18.4%	5.8%	4.7%	6.1%	7.6%	<b>4.2%</b>
Other	6.6%	0.3%	0.0%	7.1%	15.2%	17.0%	4.9%	2.3%	0.0%	2.5%	<b>4.9%</b>

Source: 2016 Reason Annual Privatization report and Public Works Financing, March, 2016 report.

<sup>1</sup> Gary Wolff, *Journal of Water Resources and Planning and Management*, 2004.

<sup>2</sup> *The Untapped Potential of Water Privatization*, Ernest Rubenstein.

<sup>3</sup> David Stokes, From the Show Me Institute.

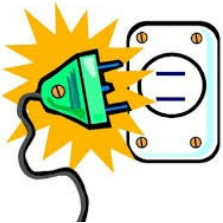
**GAS PRIVATIZATION BENEFITS.** Economists Daniel Hollas and Stanley Stansell stated in a 1994 study that private gas utilities appeared more economically efficient than public gas utilities.

**ARMY EXPERIENCE.** The Army utility privatization program has produced outstanding financial benefits and improved reliability. Of the 152 utility systems privatized, the service estimates the net value of savings so far at \$3.4 billion. The Army on average has seen a 29% cost savings for each utility system privatized. Other benefits included increased reliability, a 16% reduction in water use, and a 35% reduction in natural gas consumption. The Army has privatized 43% of its U.S. installations, including electric, gas, water, and wastewater systems.<sup>4</sup>

**AIR FORCE EXPERIENCE.** Congress enacted Title 10 U.S. Code §2688 to provide statutory authority for the service secretaries to solicit and transfer ownership of Defense Department (DOD) utility system infrastructure. It allowed the Air Force to transfer ownership of existing utility distribution systems to private utility companies or other entities, if transfer demonstrates long-term economic benefits. Subsequently, DOD issued directives to the service secretaries to privatize utility systems. These directives based on 2 premises: Utility system ownership and its associated operation and maintenance is not a DOD core responsibility, and utility systems on DOD installations must become restored to, and reliably maintained at, industry standards. Using the various policies and guidance, the Air Force has privatized 68 installations. This utilities privatization program has offered significant savings for the government. Recent project accomplishments include saving \$19.3 million in natural gas costs per year at a \$1.1 million transaction cost, reducing water consumption by 28%, and reducing electric system outages by almost 40%. The program has saved the Air Force an estimated \$520 million over the 50-year life cycle of projects compared to continued government ownership. The Air Force has recognized that maintenance, operations, and upgrades of the 4 main utility systems, electric, natural gas, sewer, and water should become privatized. The competitive acquisition process can consume time before a decision. Because many of these 50-year contracts are worth over \$200 million, the DOD treads cautiously through the entire process to ensure best value for the taxpayer.<sup>5</sup>

**ELECTRIC PRIVATIZATION.** Electric privatization likely would mean better rates for the general public, because many companies conduct this business. Advances in generation, transmission, and computerized switching technologies see the power industry gravitating toward market-defined structures and behaviors, supplanting numerous aspects of

#### **ELECTRICITY**



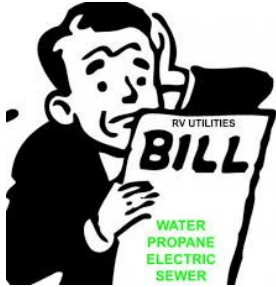
public utility provision. Private utilities pay property taxes, enticing local governments to vote them in. Public power originally created to electrify each farmstead, and in private business, little sense to run a line that long to serve isolated customers. Three bills in 2017 introduced in the Nebraska Legislature challenged our long-standing 100% public electric system. These bills targeted the public power business model by allowing for-profit, private electric suppliers to operate in Nebraska. The Natural Resources Committee held a hearing on 2 of the bills, the public power utilities testifying in opposition as part of the Nebraska Power Association. **LB 660**, the Nebraska Retail Electricity Choice Act,, introduced by Sen. Justin Wayne, sought to

open the state to private electric suppliers through retail choice. **LB 657**, the Retail Electricity Transparency Act , also introduced by Sen. Wayne, would have required public electric suppliers in Nebraska to unbundle retail electric rates by July 1, 2018, transparently itemizing charges for energy generation, transmission, and distribution of electricity. This bill also required the Public Service Commission to adopt and promulgate rules and regulations to carry out the law. **LB 547** required the removal of public power utility ability to use eminent domain against privately developed and operated electric generation and transmission facilities in Nebraska, which would allow private interests to gain a foothold in the state. Massive lobbying by NE public utilities killed these bills. Public power utilities supposedly provide customers a voice in decisions made by these entities, owned by and accountable to the customers they serve. However, when ratepayers address public utility boards like MUD and OPPD, their concerns and complaints go nowhere. Public power utilities lie subject to open meetings and public records laws, but recalcitrant boards remain deaf to ratepayer complaints. The argument that Nebraskans pay lower electric rates than in most other states rings hollow now, because our rates no longer are competitive compared to ratepayers in states with private providers. Revenue from public power utility rates maintain and reinvest back into the local electric system. However, private companies have incentive to do likewise more rapidly and efficiently to satisfy shareholders. Nebraska public power utilities supposedly return excess revenues, beyond

<sup>4</sup> Dan Cohen, Utility Privatization Supports Army Effort to Improve Installation Resilience.

<sup>5</sup> Al Krachman is a senior partner at Blank Rome LLP, whose practice includes utility privatization transactions and litigation. Richard Weston is the Air National Guard liaison to the Air Force Civil Engineer Center at Tyndall Air Force Base, Florida. His office evaluates all of the Air Force utility systems for privatization.

expenses, to customers in the form of lower rates, invest into the utility for system improvements, contribute to reserve accounts for future needs, emergency funds or for a transfer to local government as payments in lieu of taxes. However, in reality, excess revenues pay for skyrocketing salaries, benefits, and perks to executives and union labor. Our electricity rates are somewhat lower only because of our reliance on the abundance of coal, shipped here from Wyoming. Now, OPPD plans to gravitate towards unreliable wind power to service customers, ignoring the lower cost and efficiency of fossil fuel. Private energy suppliers thrive on clean coal-fired plants. Note that public utilities are not eligible for federal renewable electricity production tax credits. OPPD moved to a flat rate charge and increased its distribution



charge, creating an enormous ratepayer backlash, besides raising its previous rates in 2015 and 2016. It has raised rates on customers over 50% since 2004. Shocking that OPPD spent upwards of \$9.5 billion and NPPD spent at least \$1.4 billion on antiquated electrical generation systems that will force ratepayers to pay for such waste for 30 years, while electric generation technology used by private firms modernizes at breathless speed. The billions in debt accrued by these entities will hit ratepayers relentlessly. Consider the river flooding of the Ft. Calhoun nuclear plant, which OPPD belatedly decided to decommission, costing additional millions. NPPD raised rates on its customers by 70% since 2007. One rural electric association bought power outside of NE 13% cheaper than from NPPD. Nebraska will fail to attract new businesses as our electric rates continue to spike. Americans for Electricity Choice believes that

Nebraskans overpay for electricity by \$250 million annually. Free choice for consumers would permit us to decide which utility could provide our electricity based on personal preferences, such as lowest rate, best service, green energy, etc.

**TAKE ACTION NOW.** If monopolistic public utilities are so reasonable, 49 other states would promote them. Contact your state senator NOW to introduce or support a bill in the 2020 Legislature to allow private companies to compete with public utilities here in Nebraska. Ratepayers will benefit from lower rates and enjoy better and more efficient service stemming from resulting competition. Use the information above to lobby your state senator. Email [netaxpayers@gmail.com](mailto:netaxpayers@gmail.com) for state senator contact information and to join the NTF *Utility Watch Project*.

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