

Defects in the City's 2005 Cost-Plus MoPEP Contract

Statement by Tracey Watson
To the Rolla City Council
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The Mayor's July 2nd censorship rules were unnecessary because I didn't plan to reply to Mr. Stoffer's personal attacks on me and others. I only want to speak to the council about some provisions of the 2005 MoPEP contract amendment that I'm fairly certain the council is not aware of and which will impact Rolla's development plans.

The MOPEP contract is not a normal commodity supply contract it's an "open-ended cost-plus" contract just like the disastrous Halliburton contract. That's why in barely two years our total utility bills have nearly doubled. It isn't because of gas prices, it isn't because all energy prices went up and it isn't because RMU is a "cost-of-service business," or any of the other excuses they've given us, it's because we're trapped in a contract that is not like any standard power industry contract. We were promised by RMU that this contract and spending \$6 million to become one of MoPEP's diesel generator farms would give us would give us cheaper power but we have proof every month there's nothing cheap about MoPEP's power and the \$6 million generators are only "generating" MoPEP IOU's.

This contract is designed for one purpose, to build an UNREGULATED POWER CARTEL operated by a non-profit corporation in Columbia. Their plan is for us to pay to build them a portfolio of power investments for 30-40 years or longer under the guise of routine power contracts. While we're paying 9.3¢ per kWh for MoPEP power, towns around us are enjoying non-MoPEP pricing of around per 6¢ kWh because their wholesale power contracts are standard industry commodity contracts not MoPEP "cost-plus" contracts. RMU keeps excusing the rate difference by saying

those towns with 6¢ kWh power “will catch up with us someday.” They ARE NEVER going to “catch up with us” and this is why:

1. MoPEP has a FIRST LIEN on all RMU electric revenues because the city and RMU agreed to let (MJMEUC) MoPEP pledge our electric payments as collateral for, what we have learned from Marshall Mo., is approximately HALF a BILLION DOLLARS* they have issued in revenue bonds to buy shares in 7 or more coal-fired plants - plants that won't be on-line for years and which might never be opened.

Even if some of the plants never open we still have to pay off the Half Billion bond debt! (*Marshall Democrat-News 7/14/07) It wasn't the price of gas that caused our electric rates to shoot up over the last couple of years, it was the price of MoPEP's investments that went up by HALF a BILLION DOLLARS. We are making MoPEP's excessive bond payments in our rates the contract says so very clearly!

On January 18, 2005, when Mayor Jenks, as a RMU board member, urged the council to pass the Revised and Amended MOPEP contract, he admitted to the council that the only way MoPEP's investments would be “paid is through [our] utility rates”.* Unfortunately at that time, no one but the RMU board understood what form those investments would take or that they would total a HALF BILLION DOLLARS and counting! Did the council know that the MoPEP contract allows MoPEP to continue to indulge in UNLIMITED high-risk investing? Is this what you thought you were voting on two years ago? (*city council minutes 1/18/05)

Dan Watkins, RMU's representative at these MoPEP meetings, has voted for all these investing schemes but neither Watkins nor the RMU board has ever reported on his MoPEP votes to the Rolla City Council. Why? They did not report to the council that they were actively and secretly collaborating with MoPEP to incur

approximately \$500,000,000 (that's a Half Billion)* in high-risk revenue bond investments to buy shares in coal-fired plants. Why didn't they tell you or tell us? Because the contract gives MoPEP a FIRST LIEN on RMU's electric revenues, the city and RMU cannot pledge those electric revenues for any debt, lease/purchase, bond payments or anything else the city or RMU may need because this contract gave MoPEP a "SUPERIOR" position. What bank or finance company will loan money to RMU on a second lien? (8.10)

As long as Watkins, RMU and these people in Columbia keep making secret investments our rates will continue to automatically go up to pay for them and because of MoPEP's FIRST LIEN on RMU's electric revenues, MoPEP can cancel or suspend the city's 5% utility tax if they need more money to make more bond payments on more investments. Even if these plants are never finished we must still pay off all their debts. These bond debts run for 30 and 40 years and they all have provisions for what are called "step-up payments." That requires us to provide up to 200% replacement payments if anyone is lucky enough to escape the MoPEP system. These harsh financial commitments that we are now bound to are contained in separate bond investment contracts which Watkins and RMU knew about but the council and Rolla voters were never told about.

Unless this contract is broken the council is powerless to keep MoPEP and RMU from making more of these investments. How many more investments are MoPEP, RMU and Watkins planning and how much more of MoPEP's debts can we expect to have loaded into our electric rates in another year or two or three? What is Rolla's current share of MoPEP's HALF BILLION bond debt and how will it affect the city's credit and debt limits? Why hasn't any of this been revealed in the many hours of "explanations" RMU personnel have given to the council?

State law says the RMU board is appointed by the council simply to operate the utility department, it does not say RMU has the authority to

drag us into open-ended, half billion dollar bond debts and investment schemes disguised as supply contracts and lock us into an UNREGULATED POWER CARTEL masquerading as a non profit association. The people of Rolla did not agree to become part of this high-stakes investment scheme. RMU did this behind our backs and then they have the nerve to tell us we're paying their outrageous prices only because the price of natural gas went up!

2. MJMEUC/MoPEP can AMEND this contract WITHOUT CONSENT of the Rolla Council.

There is another unacceptable provision that allows MoPEP members to amend the contract with the consent of only 85% of the members. In other words, if Rolla doesn't like the contract changes they can force them on us without the council's consent. A supply contract between two parties isn't a democratic forum and it can't be changed by majority rule. Name one contract the city has or one you have ever heard of which can be changed without the consent of both contract parties? Why would RMU board member Jenks (now Mayor Jenks) urge you to sign a contract that allows the other party to amend the contract without council agreement?

Has the contract been amended since 2005? If it has been changed, why hasn't RMU's MoPEP representative, Dan Watkins or RMU President Jim Stoffer reported this to the council?

3. The MoPEP "cost-plus" contract has no termination or renewal date, it states no price for the product as do all other commodity supply contracts and it specifies that we will pay all their "Direct Costs" which are all their debts of every kind and all their overhead.

Before asking you to vote on the contract your city attorneys and the RMU board should have at least caught the fact that this contract is PERPETUAL, it has NO TERMINATION date and quotes NO PRICE for the power they're selling you! It's unheard of for any government to enter into perpetual and permanent contracts for any reason. Who on earth would sign a contract to buy a commodity when there is no price for the commodity mentioned anywhere in the contract?

On July 9th at RMU's exclusive presentation to the council, Mr. Wood from the PSC said, and I quote, "Rates in contracts typically include an escalation clause because of an expectation that wholesale market prices are going to continue to climb and there is some fuel risk." Wood added, "As a seller of power I'm not likely to come back and offer a contract based on current fuel prices without some sort of means for me to get out of that contract if fuel prices change dramatically."

The MoPEP contract also has no "means for us to get out of that contract." What Mr. Wood says is prudent for the seller is also prudent for the buyer - Rolla. The MoPEP contract has none of what Mr. Wood and the PSC consider "normal" provisions for "typical" power contracts. Mr. Wood obviously had not seen the MoPEP contract and did not know it was NOT the standard industry contract he assumed it was. Mr. Woods would probably be as shocked as I was to see that the MoPEP contract has no price quoted for the commodity they're selling us; instead, MoPEP demands they be allowed to pass on to us ALL their costs of power - whatever those may be - ALL their costs of doing business, ALL their multicorporate overhead, ALL their unlimited investments and ALL other debts of every kind without limitation.

With this "cost-plus" contract MoPEP has absolutely no incentive to provide the lowest power prices or manage their four affiliate corporate bureaucracies to keep their overhead down and our prices competitive with other towns.

In saying he would always leave himself a "means [to] get out of the contract" Wood shows he was ignorant of the fact that getting out of a MoPEP

contract takes five years of servitude.

Mr. Wood should have taken a careful look at MoPEP's contract, their business methods, the reasons for MoPEP's extreme pricing and RMU's extreme rates before he came here to give everyone the impression that he and the PSC were endorsing RMU's prices and MoPEP's town-killing schemes. And if all that isn't bad enough here is one of the worst parts of this contract....

4. MoPEP pays for RMU's diesel-generated power with "funny money" or MoPEP "credits."

Every year since they bought the generators RMU has accumulated so-called "MoPEP credits." Their financial statements show that to date they are carrying over \$700,741 "MoPEP credits." RMU apparently 'earns' these credits as MoPEP 'buys' the power RMU generates from their 18 diesel generators. (Sec. 4.1 and 4.1 b.) Why is the RMU board hoarding \$700,741 worth of 'sterile' MoPEP credits? They're 'sterile' credits because they can't be used to pay bills, buy supplies or pay employees and they can't be put in the bank to earn interest - they aren't real money. Storing \$700,741 worth of MoPEP IOU's is very bad business management. Here is the strange thing about MoPEP's diesel "generator farm" credits scheme that RMU bought into hook, line and sinker six years ago. We, or RMU, are paying off \$6 million in revenue bonds to pay for the diesel generators – that's payment in cash.

We, or RMU, pay cash for insurance, maintenance, labor and other costs to generate the diesel electric power that MoPEP buys from RMU with "credits" that can only be spent in the MoPEP company store! We pay cash to generate this expensive diesel power at their command but we get paid with lousy MoPEP IOU's? Could we sell this power to someone who'll pay us in real money? NO. The MoPEP contract forbids us to sell power to anyone but MoPEP and

like a black market money changer, MoPEP also decides what a MoPEP “credit” is worth.

When we pay cash for the “power plus bond debt” package MoPEP sells us every month The power + debt package we’re buying from them includes some of the power we generated and “sold” to them for MoPEP “credits” so.....they really haven’t paid us for our generator power at all have they? WE PAID TO MAKE IT AND THEN WE PAID TO BUY IT BACK! When you unravel the money, IOU’s and kilowatts you find out the RMU board has been triple-suckered by MoPEP and we’re paying the price for it.

Why didn’t Beger and Bushie advise the council not to enter into a perpetual cost-plus contract for a commodity that had no price, that could be changed without your consent, which put a lien on RMU revenues and which would take a 5-year notice to escape? How do we get out of it?

The only way we can get out of this contract is to give MoPEP a 5-year notice but we will have to continue to pay these prices for the full five years. That’s not a commodity contract that’s indentured servitude.

The council MUST give MoPEP the five-year notice immediately. The worst case is we’ll be out of the MoPEP trap in at least five years, so the sooner you give notice the better.

The council must hire good lawyers to sue MoPEP if necessary. While we’re waiting out the five-year penalty phase skilled attorneys may be able to get us out of the contract faster.

Every year that Rolla citizens are spared these rates means thousands of dollars in savings for every family in Rolla and every business. Some will protest that a hiring a good law firm would be very expensive and a lawsuit even more

expensive. That's true, but we say the council can easily afford to pay whatever a lawsuit would cost because you're getting over \$1 million of OUR MONEY from the council's 5% utility tax you take straight off the top of our electric and water bill payments every year. There is no reason why you can't spend every dime of it to get your constituents out of the MoPEP trap and get our rates back down to what they were two years ago.