

No Standing News

Since we have no standing, we stand with those left standing

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Milking the Electric Cow

July 16, 2005 was a pivotal council meeting. Issues were raised that will determine Rolla's future. Rolla's politicians have never understood that just because a law (like TIF) allows them to do something, it isn't necessarily wise to grab the pointy end of the stick. This is one of those times. The council is about to choke to death on their own pork.

RMU President Jim Stoffer called the council's bluff on their plan to increase RMU's so-called "in-lieu-of-franchise fee" from **5%** to **6%**. The city council had finally gotten up the nerve to slightly revise RMU's 60 year-old Public Works Board ordinances. The revision was supposed give the council more control over RMU (their own city department), not much control, just a teeny-weeny bit more than they have exercised for the last six decades which is none at all. But finally making RMU accountable to the public wasn't really the point. The city needs cash and wanted to raise the 5% RMU "franchise" fee to 6%. Instead of about \$600,000 a year the city will get about **\$829,982 to \$1.3 million**. Because RMU raised water and electric rates a total of **22.5%** two days before the council meeting, the city's 1% tax increase will result in a 72% - **110%** cash increase from their RMU kickback.

In past years the RMU hypocrites didn't have a problem funneling large amounts of their customer's rate money to the city for the city to pass to RCDC because two members of the RMU board were *on the RCDC board*. The city obediently laundered most of this pork through the city treasury to buy land and buildings which they secretly slipped out the back door to RCDC. For 38 years, everyone involved in the multi-jurisdictional larceny was satisfied with the scheme as long as the citizens paying this back-door economic development tax didn't find out what they were doing with the money and have all of them arrested. While the whole thing is deplorable and illegal, you have to be a little bit impressed. This money laundering scheme was set up by these old boys four decades ago when Columbian drug lords were still in diapers.

"Unbundling" the utility bills. What was even more appalling to the RMU board is that these little council twerps were going to impose a tiny bit of accountability on *THEM* with this new ordinance. Outrageous! So the old boys struck back. In his Power Point Presentation Stoffer had a sample of the new utility bills which they will roll out in October. Each bill will have a separate line where they will show utility rate payers exactly what they are paying into the city's Milk and Cookie Fund. The 'average' bill will show you are paying about a \$15 monthly *tax* to the city that has nothing to do with your utilities and which you didn't get to vote on.

The council was stunned that RMU was going to nark on them. They ignored the threats to their constituents of runaway rate increases. To hell with the people's utility rates, to hell with RMU accountability, what will happen when people see how much we're soaking them on their monthly bills? They ignored all the ominous warnings in Stoffer's presentation about how RMU's energy cost situation is so dire that they may have to raise rates 6% every year, or every month maybe... or maybe every week. They even ignored the negative impact higher rates will have on economic development in Rolla, something you'd think they *would* be concerned about.

That was when Butz sold them his theory that the "in-lieu-of-franchise payment" wasn't a tax increase that needed a Hancock vote because it was a "fee wrapped in a tax." He said that it was okay because RMU had historically just added "whatever they felt appropriate" to the \$1000 per month "in-lieu-of-franchise payment" to be used by the city "for various things." Butz made it sound like RMU was just leaving the city after dinner tips. In the last dozen years RMU has "felt it appropriate" to give away over \$10 million of their customer's money in "tips" for "various things" the city and RCDC wanted. This begs the question of how much of their rates were really needed to run the utility and how much were just candy for City Hall.

No incentive to protect constituents from RMU "rate shock"

Council foxes guard the utility hen-house. In their very, very slight revision of the RMU ordinances, (i.e. the Rolla Board of Public Works section), the council added one thing to **Section 35-152**. This section and state law allow the RMU board to "assess and collect" rates "*subject to this Code and other ordinances of the City.*" That means that at any time in

the last 60 years the council could have passed an ordinance requiring RMU to bring all proposed rate increases to a public rate hearing before the council *to be either denied or approved by their vote* but they didn't have either the nerve or the incentive to do so. Being a municipally-owned utility RMU is *not* subject to any oversight or discipline by the

Missouri Public Service Commission to keep RMU from unreasonably jacking-up water and electric rates. The council can provide the same oversight and control as the PSC if they hauled their Royal Monopoly Board appointees in to an advertised public hearing and made them explain why they are increasing rates. That was what this new provision should have required - but it didn't.

With no oversight or control, as they have been for 60 years, RMU simply makes their rate announcements to the local paper, as they did in 2003 with their 10% rate increase or, as they did at the July 18th council meeting announce that they voted in private *four days before* to increase electric rates **12.5%** and water rates **10%**. This **22.5%** total increase was done in private by four men who are afraid to face the public. The council could have vetoed their decision but they have no reason to do so, partly for political reasons (the RCDC connection) and partly because the city's annual kickback from RMU is based upon *gross not net* electric revenue.

The more RMU charges the more City Hall skims off the top. The annual pay-off usually keeps the council safely in their box and out of RMU's private fiefdom – but not this time.

The phony 'rate hearing' provision. After years of occasionally dipping a toe into the idea of exercising more control over RMU (a bluff to get more money out of RMU; such ploys were always backed off with a snarling response from RCDC/RMU) the council got more aggressive this year and changed the ordinance, first and foremost to add an extra 1% to their annual back-door utility tax in violation of the Hancock Amendment. They also included this sentence to Sec. 35-152: *"Not less than sixty days prior to the implementation of a change in rates for any service not otherwise submitted in the annual budget per Section 35-165, the (RMU) board shall present the rate adjustment to the City Council for comment."* This sounds as if the council intends to make RMU come and explain rate increases – at least those that are not timed to be part of the annual budget - by having what appears to be some sort of rate increase hearing before the council, but it really isn't.

Notice the wording; RMU doesn't have to *be present* to answer questions; just 'present' the rate increase. That might either be done by a written notice or by sending some employee to 'present' it. As John Butz hastened to assure Stoffer and the council (in case they might fear this provision really had teeth) this was just so RMU would "do them the courtesy" of telling them about a rate increase before it goes into effect. He added that the RMU board said they were willing to "extend the council this courtesy." (There was much murmuring agreement from council members that it was a good thing to have such a courtesy from RMU. At this point the false goodwill oozing around the room was thick enough to spoon up)

How do we know this is a phony rate hearing provision? Because the very next sentence says: *"No action is required by the City Council for implementation."* So the RMU board "presents the rate adjustment to the city council (only) for comment" the city council may comment (hopefully without revealing their delight at getting a bigger

cut of the new rate) or they may not comment at all. "No action is required" by the council, such as a veto of an excessive 22.5% rate increase by their utility department. That's a pretense of accountability.

The 'Power Cost Adjustment' loophole. However, even that token was too much. Stoffer informed the council that it wouldn't always be possible to give the council 60-day prior notice because they may find it necessary to hike rates suddenly for (mumble, mumble) reasons. He said they will be back later for an ordinance giving RMU the authority to impose PCA's (Power Cost Adjustments) without notice so they can act on an 'emergency' basis to increase rates at a moments notice to keep ahead of, what he kept saying, were "out of control" price increases they *might* experience. Oh yes, yes certainly, they agreed, that would of course be something you must be able to do...we quite understand...only reasonable that you need emergency powers...OH GAG! The council meets 24 times a year. If RMU needs to raise rates more often than every two months and can't wait two weeks to give the council notice, its evidence of grossly incompetent management.

This alleged need for emergency rate authority is simply a loophole to shield RMU from any possible opposition. With PCA powers they can call every rate hike an "emergency" and avoid confrontations with angry rate payers who might demand answers to questions they don't want to answer. They needn't worry. The council, even if they mustered the nerve to force RMU to have a real face-the-angry-public rate hearing, has absolutely no incentive to ever veto or restrain any RMU rate increase because *the more RMU jacks up utility rates the more cash City Hall gets to spend* and they have no interest in curbing their appetite for spending.

The rate-payers of Rolla are totally shut-out of a closed bureaucratic loop the council and RMU have created, but then they always have been. Customers have no choice but to buy from the city monopoly. The council gives unrestrained rate-setting power - like royal powers - to their four appointees who are not required to hold public hearings or in any way justify their decision to raise rates except by crying that "costs are out of control!" When they do give the council a 60-day 'notice' (whatever that really means) even if the council knew the increases were unreasonable, unnecessary or due to incompetent management they still have no incentive to do anything about it because their "in-lieu-of-franchise" bribe gets fatter each time they let the rates go up. The Rolla/RMU system is a perfect example of what **Missouri Supreme Court Justice Holstein** called, "an ill disguised display of bureaucratic avarice."

Cassandra's Report. During Stoffer's presentation he kept announcing that RMU was a "Cost of Service Business." Well, who knew? They've always knowingly charged a lot more than the cost of their service and poured the excess into the RMU/RCDC/City money laundering scheme. Now they claim they're barely scraping by as a "cost of service" business. Well, if the Chamber of Decorators can spend \$1.8 million, tell us they have been successful at the tourism

business for 12 years and then reveal that they're just now trying to discover the meaning of the word "tourism," we suppose it's possible for RMU to reinvent themselves as a struggling "cost of service" operation. A real "cost of service" utility would have no excess for City Hall pay-offs.

Stoffer had slides to convince the council that the 12.5% electric increase was justified: **1. Our costs are increasing!** One graph showed their expenses with a spike like Mt. Everest. This was to demonstrate how sudden increases in expenses can throw their costs out of line and make their exorbitant rate increases necessary. **Fact:** This alarmingly huge spike in their expenses occurred *over three years ago* and was almost entirely due to the \$6 million revenue bond debt the council approved for RMU to buy MoPEP's diesel generators.

2. Our profit margin is shrinking! Another slide showed how their profit margin had shrunk but expenses are rising. **Fact:** The alleged shrinking margin between their costs and revenues started after 2000 when their lawsuit against Ameren UE forced them to find another power supplier – MoPEP. This was years before all energy costs were "out of control." MoPEP is a little consortium of Rolla and 25 other small towns who buy power from SWPA (federal hydroelectric) and patch together enough on a daily basis to keep their juice flowing – more or less. MoPEP has converted their members into a network of diesel generator farms. A diesel generator uses diesel fuel to make electricity that costs more than other electricity. Their chart seems to show their profit margin is shrinking as a direct result of their decision to join MoPEP.

But RMU's own budget report shows their profits (before city kick-backs) in **2004** was **\$593,000**, but this year (**2005**), *before* the new rate increase kicks in it is **\$2,678,000!** Next year, *after* the new 22.5% increase in both electric and water rates they expect the NET profit from both water and electric to be **\$3,219,000**. Is that what they call a *shrinking* profit margin – their excuse for a 22.5% rate increase? These facts were right in front of the council but they never questioned Stoffer's "*shrinking margin*" excuse.

3. We're Cheaper! (or we were before our 12.5% increase) The third slide showed they were charging slightly less than Intercounty Co-op. Stoffer repeatedly said that the cost of energy was "out of control" and they would have to raise rates...oh maybe...as much as 6% a year...or maybe even more...and more often maybe...on an "emergency" basis even. Gloryosky Sandy, whatever will we do? **Fact:** Intercounty co-op members get cash rebates or credits. Stoffer did not adjust for the credit. Intercounty also has a much higher cost of operation because their paying customers are many miles apart and their service area is huge. Thus, their operation is much more efficient, more reliable and more profitable.

Stoffer's other argument against paying another 1% to the city for their "not-really-in-lieu-of-franchise-tax" and their excessive rate increase was that they have to spend \$15 million to move the Ameren bulk station 6 to 8 miles closer to Rolla. No one asked *why* they need to move Ameren's bulk station, *why* we should pay to move Ameren's property and whether it needs to be 6 miles closer for Rolla's benefit or for

MoPEP's? Could they be short of cash for this because they've spent millions on their dead-end generator technology?

Stoffer actually said the city had "forced the Southside annexation on them" – and said it played havoc with their budget. Oh P-I-e-a-s-e! Does he really think no one remembers the years of Southside protests and RMU's litigation with Intercounty over Southside territorial rights that the mule-headed RMU board members provoked because they were trying to get Intercounty's infrastructure on the cheap? RMU didn't just wake up one morning and discover the Southside had been annexed.

MoPEP Monopoly Money. When RMU and **Dan Watkins** pitched the Great Generator Project to the council five years ago they not only claimed it would provide emergency power (Stoffer again described them as "back-up supply generators") they also promised they could make big profits from selling excess power. On March 20, 2000, **Dan Watkins** told the council: "I assure you, we will be selling that power for much more than what we are paying for our own supplies." But the big profits came in the form of something called "MoPEP Credits" - not cash. MoPEP Credits are like Monopoly Money, you can only spend them if you're playing the MoPEP game. Maybe RMU should make the city's in-lieu-of-tax payments with MoPEP Credits in-lieu-of real money.

MoPEP's home page spins their operation this way (translation provided): "**New power supply resources for the pool include contracts for a total of 155 MW. Existing member contracts with Sikeston, SWPA (Southwestern Power Administration), and the cities' own resources** (the noisy, smelly carcinogenic diesel generators) **round out the supplies with another 290 MW or so of generating capacity.** (Notice the MoPEP 'generator farms' are supplying more power than the hydroelectric power company) **This results in a diverse supply mix** (patchwork of power) **anchored by the dependability and flexibility of the members' locally owned and operated units.** ("Anchored" is right. Now that they've invested millions in 17 or more generators we're stuck with MoPEP) **This excellent set of resources will be optimized by the sale of surpluses** (for "MoPEP Credits?") **and purchases** (spot market) **to lower the cost of supply.** ("Lower the cost of supply?" Not according to Stoffer's charts.) **New opportunities are continuously being developed to meet the changing needs of the pool members."**

Think about those numbers a minute. MoPEP is getting only **155 MW** from a wholesale source and **290 MW** from inefficient diesel powered generators! The MoPEP "generator farms" supply **53.5% of the total megawatts they sell back to the members that produced it** which explains why RMU's cost of power has gone up since 2000-2003 when they joined MoPEP and went into debt to MoPEP for \$6 million for 17+/- generators. Over half of Rolla's power is derived from inefficient WWII generator technology! No wonder Stoffer claims the cost of power is "going out of sight." If this is such a great idea why aren't all the commercial companies doing it? Because, Bevis, they have to

be competitive and real power wholesalers know diesel is a highly-processed fuel manufactured for retail. It isn't cost effective to make electricity with something you get out of a pump at a filling station. At this writing, oil costs over \$65 a barrel. Does it make any sense to get 53.5% of Rolla's power from the most expensive, most politically priced fuel on earth? Only a consortium of bureaucrats running government monopolies can afford to be so wasteful and inefficient.

If you think the four guys on the RMU board are in control of Rolla's power, you're wrong. The city is now dependent on diesel generators that MoPEP - not RMU - turn on and off as they please. This is what MoPEP says about SCADA, the computerized system RMU installed a few years ago: **"The SCADA system is a major asset in improving reliability and maintaining low cost supply options for the pool. In addition, it can be configured to start and stop some of the members' generating units."** It can be and it is. MoPEP starts and stops Rolla's diesel generators at their convenience. The fact that RMU turned over all control to MoPEP is clearly stated in the 2000 MoPEP contract and the latest MoPEP amendment that the council approved February 22, 2005 - a contract the council didn't bother to read or question. That's why on August 14, 2003, when the UE substation burned we didn't get the "back-up" power RMU said the \$6 million diesel generators would provide. MoPEP wouldn't release Rolla's generators for Rolla's use for two days. Losing the juice from Rolla's generators would have had a domino effect on the other 25 customers hooked into MoPEP's fragile system. MoPEP's choice was either let Rolla meltdown or cause a rolling brown-out for 25 other paying customers. They chose to let people in Rolla sit in the dark and listen to their freezers drip.

The Council's dilemma. The council has found that milking electric cows can be a shocking business. What will they do now that even RMU is exposing the pork game they've both

been playing all these years? They all agree it isn't really a "franchise fee" or a payment-in-lieu-of one; that it's really "back-door taxation" but they still dodge the fact that it's a Hancock violation. Because the council has ignored what RMU was doing as long as they were getting their annual kickback they do not comprehend the economic blast zone the RMU board has put the city into with MoPEP and the Great Diesel Experiment. They'd better start learning about the MoPEP issue. When an industrial prospect finds out 53% of our power costs are dependent upon the same fuel they put in their trucks, they'll laugh and go somewhere else.

Update: Beger and Bushie are now beavering away trying to find a rebuttal to our August 9, 2005, NSN issue, *"Is the RMU fee wrapped in a tax" a tax or a ruse?* Beger and Butz didn't tell the council at their Monday August 15th meeting but they did tell the RDN on Tuesday, that they were struggling with the *Pace v. Hannibal* decision to see if they could use it to justify the city's attempt to increase their cut of RMU's action. They can't. In *Pace* the Supreme Court said *"So far as the record shows, the payments are voluntary on the part of the board, and the board could reduce or eliminate them if so disposed."* Where the city gets in trouble is when they try to make it a mandated payment. As a payment by law, RMU can add it *on top of the utility rates* not just skim the 6% out of gross revenues. If they do, that it's a Hancock tax. The Justices said as long as the utility company can choose to "voluntarily" give the city money or can choose to give them nothing at all it's a voluntary payment not a Hancock violation. This is not the answer the fee-hikers want. Considering the whopping 32.5% water/electric raises RMU has smacked people with in the last two years plus the \$192 meter fees they added last year RMU should stick with their story and give the city nothing and reduce their horrid rate increase by the 5%. If they give the city anything at all it's proof that their, "we're-desperately-hard-up-and-have-no-choice" story is a phony.

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