

No Standing News

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

Volume I

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THE GEESE THAT LAID 18 MILLION GOLDEN EGGS

A Tale of Political Incest and Interlocking Directorships

By Phil

If you've read three previous NSN articles (NSN # 14, #17 and #18), you are beginning to understand where you fit in the grand scheme. We are rate captives of **RMU**, our local power and water monopoly. False utility billings have been designed to generate millions of dollars, which are then used secretly and illegally for purposes we probably would never approve. If you've been reading the Intercounty ads in the paper listing the benefits received by Intercounty Electric customers it's obvious **RMU** compares very poorly in service, benefits and attitude. How did we become the exploited serfs of a system that we ourselves own? This is how it happened.

IT STARTED in 1945, when the city bought the utility company from Missouri General Utilities Corporation, a private business. Because they were a private, for-profit company MGUC paid property taxes and a franchise fee to the city - as all private businesses do that use public property or a public right-of-way to provide a for-profit service. The purchase price was \$415,226. Rolla residents paid off this amount years ago by means of special assessments added to their utility bills. Now we owned our water and power company. <see URL #1footnote>

THE COUNCIL then passed ordinance #35-161, which provided for a minimum payment of \$1,000 per month to the city from the new **RMU**. The key word here is "minimum." The ordinance claimed that the payment was to "take the place of the franchise tax and general property tax heretofore paid by Missouri General Utilities to the city." The ordinance is still on the books, presumably because someone thinks that it lends an air of legitimacy to a practice which has no legal basis. <URL #2> Why has no one challenged the legality of this thin pretense at the time it was enacted or since? Perhaps because the city has always hired their own private firms to produce 'clean' city audits and what little financial information got out was carefully sanitized and hard to understand.

THE STATE AUDIT, in 1998, unmasked the **RMU** billing practice and reprimanded the city and the utilities for this scam. The city tried to wiggle out with the excuse that the ordinance had been "revised" in 1987. If true, it doesn't show up in the on-line city ordinances. But it doesn't really matter because this ordinance and its alleged revision isn't worth the paper it's written on. Public property, by its very nature, is not subject to taxation no matter what fancy term is used to disguise the tax. Any ordinance which pretends to levy a so-called "franchise payment," "payment in lieu of property taxes," or "gross receipts

tax" (a new term they're using) upon property owned by the public is unconstitutional. Do we charge franchise payments, "substitute property taxes" or "gross receipts tax" to the county courthouse, our schools, or any other public property? Of course not. For 51 years, the city council and utility board have simply been committing a very lucrative fraud. By sneaking the money out of our pockets disguised as a series of utility rate hikes they have actually been taxing us without the bother of putting it on the ballot. Does "Taxation without representation" sound familiar? <URL #3>

WHY DOESN'T THE STATE DO SOMETHING? Because it's not their responsibility, it's ours. When the water and power company became public property in 1945, the Missouri Public Service Commission lost regulatory control over the utility and could not require rate hearings or any other type of accountability. The new Rolla Municipal Utilities was now subject to a different set of statutes in Chapter 91, which set out the limited powers and duties of the four person utility board and the council. None of those limited powers say that the utility board may lie about the real purpose for our utility rates so they can be bagmen for city hall. The state left it up to the city council to describe the method and means of utility board accountability, "as set out by ordinance" or "under such restrictions and regulations as may be provided by ordinance," or "subject to the ordinances of such city. These can be found in RSMo. 91.540. The state, erroneously in Rolla's case, counted on a spirit of fairness, honesty and the application of good public policy to supply the details of how this utility board would be accountable to us - it's owners. Rolla chose to do nothing.

Since 1945, city councils have come and gone but not one council has passed any ordinance curbing the power of the utility board they appoint and can control. Why?

THE ANSWER is the \$18,000,000 'golden eggs' we have been laying for them. That is, at minimum, how much **RMU** has overcharged us for power and water from 1945 to 1997. Add the amount they themselves admit to on the **RMU** home page (\$17 million by 1995) to the additional amounts that **RMU** bragged about in their audit response (another \$1,362,112 from '96-'97) and you have a total of \$18,362,112, give or take a few hundred thousand. Every year they have passed this fat moneybag on to our elected officials who have used it to cover-up their inability to balance the city budget or used it to finance other pet 'development' projects.

The state audit has now officially exposed this \$18 million dollar cheat and explains that we are being double taxed for all of this so-called 'community development.' First, through our city taxes and again through our utility bills. This is one of the reasons the mayor and council have tried so hard to convince everyone that the state audit findings are insignificant. The state auditor also points out that the more utility 'profits' or proceeds, of this habitual over-billing that are sucked out of the utility infrastructure, the more rate hikes the board will need to make up their own budget shortage. We should all be alarmed that the appetite for this utility subsidy has been increasing at a rapidly accelerating rate. Look at the following figures:

- a. In the first 47 of its 52 years, by their own admission, **RMU** overcharged ratepayers \$13,868,000. That's an average of \$295,063 per year.
- b. In the last 6 years, as they boast in the audit response, **RMU** has overcharged ratepayers \$4,494,112. An average of \$749,018 per year, which is more than two and a half times the previous annual average.

c. Notice that 1995 was a big spending year. That year the Great Secret Briggs & Stratton Deal raised the annual ante to a record \$1,304,000. In that period, other bailouts such as the new police station and some cash giveaways took place. For the exact details see page 16-19, of the state audit report at the NSN home page link. <URL #3> When the Briggs & Stratton move was announced, everyone was happy Rolla finally had some new jobs. But then, we weren't told how big the bribe to B&S was or that the pay-off came straight out of our pockets.

Year	RMU Operating Rev.	Amount Skimmed Off
1992	\$ 10,522,000	508,000
1993	12,507,000	713,000
1994	12,595,000	607,000
1995	12,806,000	1,304,000
1996	14,121,000	561,600
1997	14,393,000	800,512
Total	\$ 76,944,000	4,494,112

Why are the illegal "donations" to the city increasing at a much faster rate than utility revenues? Greed is out-running rate hikes, for one thing. Until recently there has been a practical limit to how rapidly **RMU** can raise our rates without attracting unwelcome attention. There doesn't, however, seem to be any limit on how much the **RMU** board will hand over to the city. Since 1992, they have been on a spending binge. Has this really been a utility rate "surplus" or have essential items such as routine repair, maintenance, back-up generators, wages or personnel training been cut back or postponed? Was the citywide, 10-hour blackout a symptom of this? We may not find out just how much long-term damage has been done until midnight on December 31, 1999.

CONCLUSIONS: There are two legitimate conclusions that can be drawn from this over-billing practice. First, we have been defrauded of over \$18 million through artificial rate charges. Second, at least eighteen million hard-earned dollars has been dropped down a lot of political rat holes to cover bad management and to support dubious economic development projects. Certain private purposes have been served and select businesses have benefited instead of building a more secure utility system, giving better wages and training to utility employees, and rebating excess profits to the utility owners - us.

WHO IS DOING THIS or arranging to have it done? It is obvious city government is first on the list. Their sworn oath is to uphold the constitution and laws of the state - not violate them. They are supposed to be the gatekeepers who protect us from such schemes, but no one has ever accused our dysfunctional committee of twelve of overdoing this constitutional role. Who really helped design this swindle? The answer probably won't surprise you. Below is the list for just the last five or six years. Some of these appointments actually go back many years. Most of the names below have been part of this game in one capacity or another for over a decade. Notice how many groups we have using "Economic Development" as a cover and watch for the repeating names in all caps. As you read this, the term "conflict of interest" should come to mind frequently.

1. ROLLA CITY COUNCIL: Check the City of Rolla home page for the complete council list. You will find **ED OWSLEY** is councilman from Ward 2. He is mayor pro-tem and has been mayor pro-tem more or less constantly since Floyd Ferrell was mayor. Our votes (or failure to vote) put the mayor and council in office. The mayor nominates and the council appoints, or rubber-stamps the appointment of the

following people to city boards and commissions. From that point on, our elected officials pretend not to understand what is happening and tell themselves that the others "must know what they are doing."

2. **ROLLA MUNICIPAL UTILITIES (RMU):** The board members are: **DAIN WARD**, Maurice Alfermann, James Stoffer and **BILL JENKS, III**. They alone decide what our utility rates are and how much money from that revenue will be turned over to the city. In 1998-1999 the budget shows that the city is counting on RMU to skim at least \$575,000 from our utility bills for them. <URL #4> That's not necessarily all they will get, however. In the pursuit of B&S at any price, The city and **RMU** each paid \$768,000, a total of \$1,536,000 of our taxes and utility payments toward the purchase of the Schwitzer building. On June 30, 1995, Merle Strouse, City Administrator, sent a memo to **RMU** saying Dain Ward had "informed" the city that their "respective costs would be \$775,000 each" and the city and RMU had to ante up an additional \$7,000 apiece. <URL #5>

Dain Ward was recently re-appointed by the council to another 4-year term on the **RMU** board. City ordinance 35-151 says that any utility board member who accepts "a nomination or appointment for any other office during his official (utility board) term, shall be deemed thereby to have resigned as a member of the board and his membership shall thereby be, ipso facto, vacated." Start counting the offices and appointments Dain Ward has. This is number one.

3. **ROLLA ECONOMIC DEVELOPMENT COMMITTEE (REDC):** An industrial development committee of the city having some vague development purpose. No one knows what **RECD** does or if they even meet. The members are: **DAIN WARD**, (that's two and his utility board appointment is now "ipso facto, vacated") Dr. Dean Keith and Terry Brewer. Two **RECD** seats are vacant but it probably doesn't matter.

4. **ANOTHER NEW ROLLA ECONOMIC DEVELOPER** (Another one in a long and expensive series of E.D. 'experts.'): In December, **Mayor Morgan** recommended a budget of \$20,000 for an office, staff, equipment and expenses for - whom else but **DAIN WARD**. What a surprise! What a coincidence that it came right after the mayor's proclamation of "**DAIN WARD DAY.**" Since Ward was instrumental in providing the city with over \$4 million utility dollars in the last six years, we must be grateful Morgan didn't name city hall after him. Dain modestly declined a salary (for the first year) to go with the job description he wrote for himself. As he sees it we have developed a sudden \$20,000 need for someone to "give Rolla a presence with state legislators and other decision makers involved in economic development." Don't we already pay a State Representative and a State Senator to give us a presence at the state capital? With or without a salary, an appointment is still an appointment and that's number three and Mr. Ward's utility board seat is "ipso facto vacated" for the second time.

5. **INDUSTRIAL DEVELOPMENT AUTHORITY (IDA):** The members are; **DON CASTLEMAN, BILL JENKS III, ED LOUGHRIDGE, STEVE BOWLES,** and **JOHN Z. WILLIAMS**. This is the only legal, city industrial development authority. But they're supposed to be developing the industrial park WE own and that is not Hy-Point Industrial Park! Does this group ever meet or do anything? If they do, how can their decisions or actions be distinguished from those of this next group?

6. **ROLLA COMMUNITY DEVELOPMENT CORPORATION (RCDC):** President is **DAIN WARD**. (This isn't public appointment number four for **D. WARD** because **RCDC** isn't a public board, it's

a private, nonprofit corporation.) **ED OWSLEY** is the registered agent and the Secretary and the Treasurer. **JOHN Z. WILLIAMS** (these three were credited with being the architects of the B&S deal), **ED LOUGHRIDGE**, Ray Rucker, Bob Stoltz, **BILL JENKS, III**, Bob Tucker, and **STEVE BOWLES** are on the board. **DON CASTLEMAN** (The PCB Chairman with the new free parking lot.) and Bob Thompson (Mercantile Bank President) are the bankers on the board. It's of some interest that Mayor Morgan is member of the Mercantile Bank board.

That wasn't a misprint. Those last two groups are nearly identical. The only difference is that whatever the city **IDA** does, if anything, seems to wind up benefiting only the **RCDC** property at Hy-Point industrial park. Or vice-versa. In the history of conflict of interest in this state, these last two lists have to rank right up there with the most arrogant and obvious conflicts ever arranged. There's nothing subtle or hard to understand about this one. It can only happen in a town where the electorate quits voting and asking questions for fear they might be labeled "negative".

7. AND MORE ECONOMIC DEVELOPMENT: The same **RCDC** group, now wearing their Chamber of Tourism hats, were also behind the special state tourism law which made it possible for Rolla to have a tourist sales tax. The Chamber was then the sole bidder of an exclusive contract with the city to spend millions in city taxes on more 'economic development,' - handing out tickets to Branson. You get the picture - same names, same faces, same purpose. We have 15 city appointments and decisions about millions in public funds which can be controlled or influenced by only seven men. One private meeting, a few phone calls and the decisions for several key public bodies have been made and millions are spent. With the single exception of Dain Ward, the city **IDA** and the private **RCDC** are identical in members. Coincidence? No, None of this is an accident. It's in-your-face conflict of interest, it's shockingly bad public policy, and it may be a few other things which are subject to prosecution, but it's not coincidence. The things they do, or influence or pressure others to do with their incestuous system of interlocking official and unofficial positions, are violations of at least one city ordinance, certain state laws and several provisions of the Missouri Constitution, but it's not just coincidence. <URL #6>

WHY DO THEY DO IT? If you want to know why there are people in every little pond who crave power and control and the personal benefits that derive from both, get a psychology book. If you asked this 'Development Gang' they'll tell you that they're just very public-spirited and want to help the community and well, what if they did break a few laws? Don't the ends justify the means? If they're only public-spirited why was this all done with such secrecy? Why doesn't the council just say that the real purpose of these appointments are to make sure the money keeps flowing to all the right places? Why don't they disclose the mysterious Briggs & Stratton contract? "Well," they will say, "that's because you wouldn't understand." What that really means is, "We're afraid you will understand. If you understand you might stop us from getting what we want." If these few community 'leaders' personally benefit from this backroom collaboration - "Well," they rationalize, "don't we deserve a little something for our efforts?" The fact that their achievements come at the expense of the law and they couldn't have done it at all without misappropriating public funds, is something they don't want to discuss.

You're probably thinking of some people you know who have been, or are now on the council or one of those boards and wondering if they too were part of this? That's a good question. Why don't you ask them? It's possible that some elected and appointed officials have come and gone and never caught on to how the system works. Some may be deliberately kept in the dark. With most, unfortunately, it didn't take that much effort. It helps if the city council members, and most of the officials they appoint, don't read

anything, don't learn what their duties are and never ask tough questions or demand proof. Others probably have suspected what was going on but knew better than to ask questions they didn't want answered. Many knew but were afraid to speak up. These see-no-evil officials, past and present, like to think their hands aren't dirty but they can't complain if the tar sticks to them. There's truth in the old saying - "When you lie down with dogs, you get up with fleas."

So now you know how private parking lots get paved and how factories get bribed to bring in a few guaranteed non-union jobs to quiet public criticism. Now you know how the city council pretends they can balance budgets and why 60 acres of public property (and at least 40 more before that) was tamely handed over to **RCDC** by the council. You know why we have the most expensive police station for any town our size, why the Chamber of Tourism is so well off and why the Chamber merchants, who used to fight any tax increase, are now curiously silent about our climbing sales tax rate. Now you know why the utility rates and city sales tax (your local cost of living), keep going up and up and up. The question is what can you do about it?

NEXT in "GOLDEN EGGS" part 2: "WHEN GOVERNMENT FAILS IN ITS CHIEF DESIGN."

Meanwhile, it's about time again for us to lay our monthly golden egg for RMU. Remember, the city is counting on getting \$575,000 from us this year. Try not to quack when you pay your bill.

Links

<URL #1> RMU history page:

<http://www.rollanet.org/~kwhh20?general.html#history>

<URL #2> Ordinance no. 35-161:

<http://www.rollanet.org/~muncourt/Ordinances/c35s161.html>

<URL #3> State audit re: RMU, pages 16 - 19:

<http://www.rollanet.org/~rwnash/documents.html>

(Down load may be slow. For free copy of state audit e-mail:

moaudit@mail.auditor.state.mo.us give your snail mail address and ask for audit # 98-19.)

<URL #4> Rolla city budget, see categories below: <http://www.rollanet.org/~rwnash/documents.html>

a. Economic Development Expenditures, item 01-80-002, notice that \$6,000 was earmarked for Dain Ward's new appointment long before the position was announced.

b. REVENUE INCOME

1. Item #0141100 In Lieu of Franchise Tax - RMU-\$575,000

2. Item #0146405 RMU Contrib. To E.D.- \$57,000 to B&S/MoSci/Util. Rebate/Buehler

<URL #5> June 30, 1995 memo: www.rollanet.org/~rwnash/bs_purchase.html

<URL #6> Mo. Const., Art. VI, Sections (23):

<http://www.moga.state.mo.us/const/A06023.HTM>

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