

No Standing News

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

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The Politics of Power – part 2

How the City/RMU “Graft Ordinance” works

No Knight, No White Horse. Before we answer that question, we want to crush some expectations that are circulating around office coffee pots and whatever passes for the back fence these days. **1.** All those waiting for RMU to hold a rate hearing can give up - now. RMU isn't required to have rate hearings and they aren't going to do it because they're public spirited. They have the power (no pun intended) to stick it to you whenever they choose because the city council doesn't *choose* to rein them in. **2.** For all those who rely on big government, the **Missouri Public Service Commission**, to ride to your rescue and squash their 10% rate hike— you can forget that too. In all but rare cases, the PSC doesn't regulate city-owned municipal utilities. **3.** Judging from what has been said and written lately, there seems to be a certain amount of blithering ignorance among the citizenry about how their local government works. Anyone waiting “to elect new RMU board members” can forget that too because, as anyone knows who actually votes, RMU board members aren't elected, they're appointed by the mayor and the council. RMU board members, **Dain Ward, Maurice Alfermann, Jim Stoffer** and **Bill Jenks** are reappointed and reappointed. The council pretends they have no control over the board after they appoint them *because they choose to have no control over them*. They could, the law says they can, but they don't wanna go there.

Rolla's Graft Ordinance: the phony franchise fee. Ordinance #35-161 is the lynchpin in the RMU/City Hall graft system. Rolla City Ordinance #35-161 says that RMU shall monthly give the city “a minimum of \$1,000”... “to be used for any and all general purposes.” It explains: “The purpose of this transfer monthly, is to **take the place of the franchise tax and general property tax heretofore paid by the Missouri General Utilities to the city.**” (MGU was the private utility company the city bought in 1945, MGU could legitimately be charged a franchise fee.) A franchise fee is a payment certain kinds of *private businesses* make to government for the right to do business. But RMU is not a private business it's a department of the city just like the Park Board we don't have anymore or the Street or Trash departments. Because they can't legally collect a franchise fee from their own city department, they invented this fee that's a not-really-franchise-fee. They refer to it as the “in-lieu-of-franchise fee.” Does the Trash Department pay the city an “in-lieu-of-franchise fee”? Of course not, you pay taxes to receive all city services and in some cases additional fees for

services like trash collection, water or electric. Those are supposed to be set to cover part of the cost of the service; any surplus goes for replacing or upgrading equipment and salaries to provide better service. If there's still more surplus left after that, rates should either be reduced or money refunded to you. The “minimum” of \$12,000 for the franchise fee that's- not-really-a-franchise-fee, evolved into more or less 5% of RMU's \$17+ million annual gross revenue and sometimes much more. The phony “in-lieu-of-franchise” payment is not something state law permits them to do but they do it anyway. This “contribution” to the city is actually a pay-off to keep city government from interfering with them and (dreadful thought) perhaps forcing them to be accountable for what they do or fail to do – like keep the power on. Such payments are usually called “kickbacks,” “bribes” or “graft.” In Rolla it's called the “in-lieu-of-franchise” transfer or fee.

How much graft has there been? In the last 11 years RMU has given away a total of over **\$8,164,242** in kickbacks to the city and RCDC that could have either been used to upgrade and provide redundancies to prevent their chronic power failures or it should have been given back to you in reduced rates, or both. In the six years from 1992 to 1997, RMU's gross revenue was **\$77,007,000**. They gave away **\$4,494,112** of that to the city and RCDC for ‘economic development’ in just 6 years. (In 1995, the kickback was \$1,304,000 in just one year!) Part of the \$4.4 million graft, \$100,000 of it, was used to purchase the present police station then owned by ex-mayor Floyd Ferrell, \$775,000 was used to buy and remodel the Briggs & Stratton building. Some was used give Briggs & Stratton and other residents of the RCDC Industrial park big cash rebates on their electric bills, \$200,000 to build the recycling station. The rest, \$3.4 million the city spent on....well, whatever they spent it on.

“No agency can continue operating a deficit forever,” said RMU board member **Dain Ward** in their rate hike announcement. Have they been “operating a deficit?” Not at all, in the last five years from 1998 to 2003 annual electric revenue totaled **\$98,130,823**, their operating expenses were only \$90,717,799; a profit of \$7,413,024 in just 5 years! Their revenues and their profits have been going **UP every year**. Even after they gave away **\$3,771,130** out of that five-year net profit, they still had a net-net profit of **\$6,610,673** left over!! In 1998, RMU “donated” \$200,000 to the Rolla

School District for RTI. There is simply no common sense in giving a cut of *our electric bills* to a school district that has an annual budget of over \$34 million dollars that they get from *our federal, state and local taxes*. You can see a summary of their financial management at: http://rollanet.org/~rwnash/RMU_Ops_total_budget.pdf

“We have eaten the [gas] increases for the past two years,” Dan Watkins said. Oh really? Well these burdensome increases in natural gas prices don’t seem to have affected RMU’s increasing revenues and profits in the last two years. DOE statistics show natural gas prices increased in 2000 and 2001 but started coming down in 2002 to near 1999 levels. What has had a big impact on their finances is described in the preface to their 2001 budget. It explains that they joined the MoPEP power pool and Watkins said, *“While power supply cost savings are anticipated as a result of Rolla joining MoPEP, no financial benefit is projected in this budget.”* Well, if you have “supply cost savings” you are likely to trip over a benefit in the form of increased profits unless it’s eaten by the new \$6 million debt and the cost of running the diesel generators monthly just to keep them from seizing up. In 2001, they made a tidy net profit of \$1,135,434, nothing to whine about. The problem in 2001 was that they started spending for their diesel generator turkeys that year and lost \$799,103 on them the first year. The statement in the 2001 budget message, that the generators will *“be available...for essential city services in the event of a power outage,”* we now know means, keep the ‘essential’ city taxes from Wal-Mart flowing, to hell with the rest of the business community and people on life support. The hospital was not considered *“an essential service”* but RMU gave the factories their very own diesel generator. If you are overcome with heat stroke or a heart attack, remember to go directly to Hy-Point. Brewer Science and Briggs & Stratton can dip you in flat screen coating and hook you up to a lawnmower engine.

In 2002, the second of those “past two years” RMU claim they were “eating” gas price increases, their \$16.9 million in revenues of the year before were projected to decrease by only \$178,816 - hardly worth mentioning. The hush money to the city in this trying year when they were “eating” natural gas increases was estimated to be \$558,665, only \$5,438 less than the year before.

In his budget message for 2003, Watkins said, *“In keeping with its stated goals, RMU continues to deliver great value to its customers. For the tenth year in a row, retail electric rates will remain unchanged. While the margin for this department has narrowed due to climatic experience and slight volatility related to power supply cost, (MoPEP and the generators) the current rates are considered adequate for the coming budget year.”* If it was “adequate” last September, what happened in just 11 months to make a 10% increase necessary?

RMU’s “Water Meter Service Fee” Bonanza. The same 2003 budget message said that projected water department *“revenues are insufficient by \$71,405 before operating transfers to the City of Rolla.”* They fixed that problem by raising your water rates and inventing a new water meter ‘service’ fee. *“To correct this condition, the Rolla Board of*

Public Works (RMU) adopted new service rates for the water department. A “per active meter” service fee of \$6.00 per month in addition to changing the cost for each 1000 gallons of water from \$1.75 to \$2.00.” This, they crowed raised the budgeted water department income for 2003 to **\$673,773** in just one year without a dime of expense! Your new 25¢ ‘change’ for each 1000 gal of water will generate an additional **\$215,565** a year. Your new \$6.00 monthly meter ‘service fee,’ they estimate will generate another **\$458,208** a year. Not bad for ‘servicing’ a meter that may never need to be serviced. In ten years you will have paid \$720 for them to ‘service’ your water meter even if no one ever comes near it. No wonder they were so pleased with themselves. These fees also had no public hearing because there is no ordinance to make them explain why they are going to rake in \$700,000 in higher water rates to correct an anticipated \$71,000 shortfall that may not even happen.

“The [10%] increase will prevent the need to draw down reserves by an estimated \$1 million in 2004” said RMU board member **James Stoffer**. In 2000 their reserve account had **\$8,417,201** in it. By 2003 the reserve fund still had **\$6,980,901**. With the 10% increase, board member **Maurice Alfermann** said wistfully, RMU may be able to ‘endure’ most future [natural gas] increases without the need for another price increase. Well, we certainly hope so, we hate to think what they’ll be ‘forced’ to do to us if the cost of paper clips goes up. It might be too much for us to ‘endure.’

What can be done? The city could live on it’s own tax revenues and tell the utility board to either invest the surplus from their bloated electric rates in the improvements they obviously need, or give you a rebate or lower their rates. That will happen when pigs fly or when voters start voting and throwing out of office any mayor or council representative who doesn’t have the guts to do it. Because city hall is addicted to milking their Electric Cow for \$500,000 to \$1 million extra don’t expect them to have the self-discipline to give up their annual utility graft or even impose any rules about how RMU deals with the public. Don’t expect them to remove this board and appoint – oh say, a couple of the civil or electrical engineers (we have plenty here) and a couple of smart Rolla citizens who might actually know how to do a better job of operating, planning and management of the power department. The council could do all that you know, RSMo 91.490, 91.540 and Rolla Ordinance # 35-152 says they can, by ordinance impose a number of restrictions and controls on them including mandatory rate hearings, but most of our council members are afraid to read about it much less do it.

Even if RMU can arbitrarily raise rates, the council could pass an ordinance requiring RMU to hold rate hearings. Why should they do that? Well, having to face irate taxpayers instead of a reporter with a pencil provides a powerful incentive to look for other answers first. The council could require RMU to set up a complaint system for reporting their service problems, *but they haven’t*. The council could order them to quit reporting RMU “take home pay” instead of their real pay, *but they don’t*. The council could require them to use

Intercounty or some other supplier as an emergency source of electric, *but they haven't*. They could make them bring in every RMU contract for council vote, *but they don't*. The law already says RMU *must* do that, but the council doesn't make them do it so RMU has been illegally signing their own contracts for decades. The council could have refused to authorize the revenue bonds for the \$6 million generator scheme, generators that weren't really purchased to supply the town with power, *but they didn't*. Any of those actions would bring even this arrogant RMU board to heel. But it's not going to happen as long as we have lame leadership in city hall.

Council oversight and control of RMU - the plane that never lands. Many years ago, to facilitate their misappropriation of utility funds without annoying protests and questions from the public, the Power Cartel started the propaganda that the RMU board was untouchable, a law unto themselves. Past mayors and some council members have tried to break RMU's invincibility myth but pitted against the interlocked Chamber, RCDC and RMU interests and defended with scurrilous personal attacks by Pravda, all rebels came to a bad end. The falsehood about their sovereignty is now so engrained in the public mind that even those who went to 'government school' and who should know better believe the fiction. Example: On August 6, 2003, we requested from Carol Daniels, City Clerk and Sunshine Law Compliance officer for the City of Rolla (we thought "City of Rolla" meant all of Rolla but were about to learn otherwise) the water study mentioned at their rate hike meeting. Carol, as she always does with Sunshine requests, promptly relayed the request to RMU. Dan Watkins didn't respond within the three days allowed by law or even within 6 days, we inquired again. In the ensuing exchange via Carol and John Butz we learned from Butz that, "*RMU does not rely on e-mail for information dissemination and he (Watkins) only periodically checks his own e-mail so he asked when we have such a request we do it by hard copy.*" Apparently not only the public but also City of Rolla officials must communicate with Watkins by formal written letters. We had the temerity to point out that RMU, for all its pretension and attitude, was just another city department. They should comply with any request for production of documents from the one city official that does know the Sunshine Law - City Clerk Carol Daniels. We received this protest from Butz:

"For what it is worth I disagree w/ the assertion that RMU is just like any other City Department. The Board of Public Works is a statutorily authorized "governing body" once so established by ordinance and given many of the same responsibilities/rules governing other political subdivisions. The Board of Public Works has apparently appointed Dan as the custodian of their records and as such the requests for information could arguably be required to go through Dan. As I understand your last e-mail Dan is not unwilling to produce the

record. RMU may have different procedures and could arguably charge different fees for copying so Dan is looking for a direct request for records. There is nothing in RSMo 610 that requires one governing body to track down the records of another governmental body. That being said if Bob is not willing to make the request directly to Dan and if Dan is not willing to forward us a copy for distribution to Bob, we (the City) always have the option of making a formal request to RMU for the water study (RMU would have 3 days to comply) and once in our possession we could then provide Bob with a copy. I will discuss w/ Dan, but he is not likely to back off his initial position."

How sad that the City Administrator doesn't understand the difference between an "operating board" with specifically limited authority and a "governing body" such as the one that employs him to oversee this "operating board." He 'thinks' that "apparently" the RMU board appointed Watkins to be custodian of their records, but isn't sure. He 'thinks' RMU "may have different procedures" than the ones everyone else uses and "arguably" (but who dares to argue) Watkins can make up his own fees, but he isn't sure. If every city fiefdom can make up their own rules, if they are not answerable to city administration, that's not city management that's chaos. It has now been established that Watkins has his own 'rules' for how the City of Rolla or other mortals must approach His Person. Butz offered to make the "formal request" in a manner acceptable to Watkins and then provide us with a copy of the documents but the idea of asking Carol to produce a "hard copy" of the e-mail request and walk it around the corner to pander to Dan Watkins ego is just too absurd. Butz offers to talk to Watkins, perhaps to advise him that a rate increase followed by a two-day power failure is no time to be a jerk, but Butz warns us that, "he [Watkins] is not likely to back off his initial position." Sounds like he's had dealings with Watkins before. Have we mentioned that RMU has an attitude problem?

Post blackout; council springs into action. Except for token thanks to the workers (who coped well despite lack of leadership), not a word was said about the 30-hour blackout and economic damage to business and people in two communities at the council meeting two weeks after the August 18th blackout. They even managed to ignore the embarrassing fact that the power failed again that afternoon just before the council meeting started! Yessiree, we've got the best little government RMU money can buy.

The New York example. Comparisons were unavoidable while watching the Big Apple blackout barely a week after our own power failure. Mayor Bloomberg's first words gave the public specific instructions on health and safety procedures, even what to do with frozen food. The hospitals and police, both considered priority public services in New

York and everywhere else but Rolla, were already equipped with generators. People at home on life support machines were assisted. Even before power was restored, the utility company and the city were gathering information for the inevitable official investigation to find out what happened and what must be done to increase system redundancies and close the gaps that were revealed in their emergency response systems.

In contrast, Mayor Joe Morgan told us to go to the country where they have electricity! We were advised to drink water and turn on *electric* fans. The street department couldn't find enough temporary stop signs. RMU decided Wal-Mart was a public health and safety priority so their power was restored; Wal-Mart's profits and their sales taxes were safe. The hospital wasn't considered important enough to have one of RMU's generators when the industrial park got theirs in 2001, so they had to rent one to supplement their antique generators. Even then, only patient care areas had electric *but no air conditioning for two days*. What about the city's investigation and report of this fiasco, the identification of improvements before the next crisis? Ours consisted of

silence from the Mayor and Council as if nothing at all had happened. Watkins said the blackout was UE's fault; they're all satisfied with that story – even if it isn't true.

The Generator Class. If you are one of those lucky few who could afford to solve your power problem by purchasing an expensive generator instead of the alternative - taking an active interest in better government – congratulations, you're all set for the next power failure. But we're curious, are you also planning to bury your garbage in the back yard, build your own outhouse, hire your own cops, pave your own road, haul your own water from the river and put out your own house fire when all those public systems break down because our little dysfunctional government doesn't work? The apathy of Rolla citizens and voters can't be discounted as a major contributing factor to past and future power failures and whatever the next municipal service failure will be. There's a saying that we get the government we deserve. We prefer to put it this way, *we get the government only some of us deserve.*

THOSE WHO DO NOT READ AND LEARN, HAVE NO ADVANTAGE OVER THOSE WHO CANNOT READ

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DOES RMU REALLY NEED A 10% INCREASE...

or do they just need to end the kickbacks to city hall?

<i>RMU Operations:</i>	<i>UE</i>	<i>UE</i>	<i>UE</i>	<i>MoPEP</i>	<i>MoPEP</i>	<i>MoPEP</i>	<i>Wholesale power suppliers</i>
<i>Power & Water Depts. combined</i>	1998	1999	2000	2001	2002*	2003*	<i>2001 Bought diesel generators from MPUA</i>
1. Revenue	15,103,784	\$15,584,031	\$15,832,841	\$16,817,932	\$16,996,748	\$17,795,487	17.8% increase in rev. '98-'03
2. Expenses*	14,045,453	13,779,327	14,285,132	15,703,107	16,207,352	16,697,428	18.8% increase in exp. '98-'03
*(Diesel Generator losses)				(-\$799,103)	(-178,672)	(-80,657)	Loss from new "Power Production Department"
3. Net Revenue	1,058,331	1,804,704	1,547,709	1,114,825	789,396	1,098,059	Total of 1 minus 2.
4. Other revenue	507,269	419,992	689,503	584,712	351,574	315,729	Interest and "other" income
5. Net Revenue before "transfers"	1,565,600	2,224,697	2,237,212	1,699,537	1,140,970	1,413,788	Total of 3 and 4.
6. "Transfer" to City	-\$760,000	-616,772	-607,338	-564,103	-558,665	-564,252	Annual "in-lieu-of-franchise fee" paid to city by RMU.
"Transfer" to RTI	-200,000						Total profits given away in 1998= \$960,000
7. Net-net* Revenue	805,600	1,607,924	1,629,874	1,135,434	582,305	849,536	**"Net-net," i.e. after all giveaways or "transfers"
8. Cash Reserves	?	?	\$7,532,321	8,417,201	7,502,985	6,980,901	Reserve fund for all operations:
<i>RMU Water Dept: New Income</i>	1998	1999	2000	2001	2002	2003*	<i>*Estimated collections the first year.</i>
1. New Water Meter "Service Fee"						\$458,208	\$6 per mo. "service fee" for water meters (not for meter reading)
2. New 25¢ Increase in water rate						\$215,565	\$1.75 per 1000 gallon increased to \$2.00 - a 12.5% increase.
3. new water income						\$673,773	Est. new revenues

- *Estimated budgeted amounts, all others actual. Source: RMU annual reports

RMU's sudden drain on profits started in '2001 with their new MoPEP supplier contract, the diesel generator folly and the 'need' to continue the giveaways or "transfers" to city hall. Their previous wholesale power contract with UE, and their high retail rates since 1988, comfortably accommodated wholesale market fluctuations and still left millions in excess cash to give away. Since they joined the *Missouri Public Utility Alliance (MPUA)*, a corporate consortium of small municipal utilities and now buy power from MoPEP (MPUA's purchasing arm) they have raised electric rates 10% and water rates 12.5%. **Total kickback to the city from profits in the last 11 years - \$8,164,242;** money that should have been refunded to ratepayers, used to reduce rates, used to upgrade the system to prevent chronic power failures, or all three.