

SOCIAL RESISTANCE IN EL ALTO - BOLIVIA

AGUAS DEL ILLIMANI, A CONCESSION TARGETING THE POOR¹

by Julián Pérez

On 24 July 1997, a contract for the concession of potable water and sewer services was signed between Aguas del Illimani (AISA) and the Bolivian government, through the agency responsible for water (*Superintendencia de Servicios Básicos*, SISAB), to expand potable water and sanitary sewer services in El Alto and La Paz. Seven years after the company began providing services, and after six months of negotiation and exhausting all possibilities for resolving the conflict, the Federation of Neighbourhood Boards (*Federación de Juntas Vecinales*, FEJUVE) of the city of El Alto² called an indefinite strike on 10 January 2005, demanding that the concession contract be rescinded. On 12 January 2005, the Bolivian government issued a supreme decree beginning "actions for the termination of the concession contract with AISA," a subsidiary of the transnational Suez corporation.

The AISA concession process was not transparent, and it ran counter to Bolivian regulations and the country's legal framework. Stakeholders interested in the issue were excluded from the bidding process and from strategic decision making, which was exclusively centralised in the Bolivian government. During the bidding process, it was said that the privatisation would attract private capital to expand services.³ When the contract was signed, however, many of the terms of the bidding were changed to conform to those of AISA's offer. A few years after the privatisation, the government, international cooperation agencies and the private sector gave the La Paz – El Alto concession high marks for what they called its pro-poor approach.

But consumers and grassroots organisations, especially in the city of El Alto, had a different view. In February 2003, demonstrators torched AISA's offices in El Alto. The protest stemmed from discontent with the company among consumers and grassroots organisations, which had repeatedly asked that AISA withdraw from Bolivia.

RESISTANCE TO AGUAS DEL ILLIMANI - SUEZ

One fundamental factor in the process that occurred in El Alto was FEJUVE's ability to organise, using a pyramidal structure of districts that were decentralised but closely connected to the main organisation. This facilitated decision making and the planning and coordination of collective actions like those of the "Gas War" (2003), when a strike staged by residents of the districts brought El Alto to a standstill. FEJUVE has also gained extensive legitimacy as a representative organisation in El Alto, mainly because of its independence from political parties and the patronage system favoured by the dominant powers in El Alto. The role it played in October 2003 was key to the fall of President Gonzalo Sánchez de

¹ An allusion to propaganda by Suez and multilateral cooperation bodies.

² FEJUVE consists of more than 600 neighbourhood boards in the city of El Alto, which has a population of 800,000 inhabitants.

³ Carlos Yeregui, a spokesman for Suez-Environment, told reporters on 27 June 1997 that the company was going to "invest US\$80 million over the next five years and US\$350 million over the 30 years of the concession."

Lozada, as it had gained the respect not only of the residents of El Alto, but also of the country's grassroots movements. FEJUVE El Alto's leadership in the Second Water War was reflected in the support it received from other grassroots organisations, which joined in with their own actions and backed the movement, reinforcing its capacity for action.

WHAT IS AGUAS DEL ILLIMANI – SUEZ?

The majority shareholder of Aguas del Illimani is the French company Suez (55.46 percent). The rest of the shares are held by Bolivian companies BICSA (22.32 percent), the Banco Mercantil's financial group and CONNAL (7.50 percent); Argentina's Inversora en Servicios S.A. (4.57 percent); the company's employees (1.05 percent); and IFC, the World Bank's financial group (9.10 percent).⁴

But let's analyse specific aspects of the concession contract and its results:

- a. Double payment at the end of the contract. On the one hand, the contract established that rate calculations would take into consideration operating and maintenance costs, depreciation, investment and profits; the same contract, however, states that at the end of the contract, the company must again be paid an amount equal to the value of its net fixed assets.
- b. The contract guarantees a fixed 13 percent return (capital cost rate).
- c. The contract stipulated 71,752 potable water hook-ups for the city of El Alto, but the company installed only 51,168.
- d. Investment is in the form of soft loans. According to AISA, approximately US\$52 million was invested during the first five years — US\$30 million less than the amount it had publicly stated before obtaining the concession. Nevertheless, most of this investment involved money from soft loans⁵ of US\$40 million.⁶ In other words, the privatisation did not bring in new money from the private sector as had been touted; rather, international cooperation agencies contributed to the investment.
- e. Raising hook-up fees. Aguas del Illimani asked for a consumer rate hike of 25 percent. After a process that lacked transparency the company agreed with the Superintendence the value of a consumer rate increase of 12.5 percent would be recognised, payable through other mechanisms, such as an increase in hook-up fees. As a result, water and sewer hook-up fees rose from US\$335 to US\$445.

AISA'S ACTIONS WERE BACKED BY THE GOVERNMENT REGULATORY AGENCY

During negotiations between the Bolivian government and FEJUVE, it was revealed that AISA's actions were backed by the Superintendence, the government agency responsible for regulating the sector. According to the terms of the contract, in December 2001, after the first five years of the concession, new conditions were to be set for the five-year period from 2002-

⁴ AISA's audited 2004 financial statements, 29 April 2005.

⁵ Low-interest loans granted by international cooperation agencies to assist poor countries through private enterprise.

⁶ AISA's audited 2004 financial statements, 29 April 2005.

2006. The Superintendence and AISA began the review process. One agreement was that 15,000 new water and sewer hook-ups were to be provided in La Paz and El Alto outside the “area served” (the geographic area where SAMAPA provided service before the privatisation). Those 15,000 connections were to provide service to new customers. On 25 June 2003, an agreement was signed decreasing the number of connections from 15,000 to 8,000 over the next five years. On 2 March 2004, further modifications were made in a “Five-Year Review Closure Statement,” reducing the number of connections from 8,000 to zero for the second five-year period. This move by SISAB and AISA left more than 208,000 people in the city of El Alto with no possibility of access to potable water.

FEJUVE EL ALTO’S PUBLIC – SOCIAL MODEL

The great challenge for FEJUVE El Alto today is the implementation of new institutional architecture for potable water, sewer and storm sewer services, not only in El Alto but for the entire city of La Paz. The current “management model” has widespread public support in El Alto and inspired a “new enterprise model” after a long process of consultation in the city’s many districts and neighbourhoods.

The design of the New Enterprise is based on a significant event. After the supreme decree was issued on 12 January 2005, the Bolivian government issued a second decree⁷ establishing a multi-sector commission to design a model for management, operation and financing of the new enterprise [...] based on the following basic conditions:

- a) All new investment [...], carried out by the New Enterprise will constitute municipal public capital [...].
- b) The system for providing services will be based on criteria of solidarity, with the goal being access to water and sewer services for all [...].
- c) Management of the New Enterprise and the service must ensure the greatest possible transparency and participation by civil society, guaranteeing effective public oversight [...].

This decree has the following implications:

- All future investment in the New Enterprise will become public-municipal (state) capital. Regardless of the management model (public, mixed or private), this ensures that “ownership” of the investment will remain in public hands.
- The New Enterprise must introduce criteria related to the public good, such as solidarity, in an effort to make services universal. This includes participation by civil society in oversight within the company.

The objectives proposed for the New Enterprise are:

- To guarantee the efficient, sustainable provision of potable water and sewer service.
- To expand coverage of potable water and sewer service to areas currently lacking such services (one priority of the public enterprise must be the universal provision of services, regardless of the consumer’s economic situation).

⁷ Supreme Decree N. 28101, issued on 22 April 2005.

PRINCIPLES OF THE NEW ENTERPRISE

The proposed model for a new Enterprise is based on four basic principles structured as follows:

i. Principle of Participation and Public Oversight

- The New Enterprise must foster public participation in policies, decisions and oversight. Grassroots organisations should be the ones to define the course to be followed by the company and provide oversight to ensure that it carries out its mandate.
- Any representative or official of the “New Enterprise” can be dismissed at any time if there is evidence of incompetence or corruption in the performance of their functions or if they violate one of the principles.

ii. Principle of Transparency in Management

- The company’s management must be transparent and open to public scrutiny.
- All public acts by officials or representatives of the “New Enterprise” must be published immediately and made accessible through all available media without requiring those interested to file a request for information. Unrestricted access to all legal, financial, administrative, cartographic, statistical, technical, communications or other information must be guaranteed.

iii. Principle of Efficiency and Sustainability

- The New Enterprise must be managed efficiently, seeking the best use of economic, human and natural resources, as well as long-term sustainability.

iv. Principle of Equity

- The New Enterprise must ensure that its internal policies and practices guarantee equal treatment of consumers so that everyone has access to basic services.

GENERAL ASSEMBLY: BINDING OR CONSULTATIVE?

Significant progress has been made in recent years in civil society participation in state-run enterprises providing public services. One clear example of public participation in decision making is the *participatory budget* model developed in Brazil. Bolivia’s experience shows that people are demanding greater participation in decision-making structures in the New Enterprise, and one debate that has arisen in this area concerns whether this public participation should be binding or consultative.

Binding, in the case of the New Enterprise for La Paz and El Alto, means that civil society would participate in the definition of strategic policies; in other words, the General Assembly would be the highest decision-making body in the New Enterprise. International cooperation agencies do not look favourably on this possibility, as they have not yet been able to “digest” the idea of public control or participation, and they consider it dangerous to accept public participation in state-run enterprises, especially if it is binding.

Consultative, in this case, would mean listening to public opinion on strategic issues, but placing the decisions in the hands of a board of directors or the company’s management. International cooperation agencies advocate this model. It is clear that this type of

consultation would be inadequate for the people of El Alto, who are demanding greater and more effective participation in decision making, in which their opinion would be binding.

The powers granted to the Assembly are based on the four principles mentioned above; these powers include approving statutes and regulations for the New Public Enterprise; setting priorities and defining — within budget ceilings — works related to expansion and replacement of the system in each district (El Alto) or macro district (La Paz); reviewing rate-related issues and proposing adjustments, maintaining the company's financial health and sustainability; reviewing financial statements and the results of external audits and requesting audits when necessary; and requesting and obtaining information about the company's financial, technical and operational situation.

The Assembly will consist of representatives of grassroots organisations (neighbourhood boards) in the cities of La Paz and El Alto, who will constitute an absolute majority, as well as representatives of the municipal governments of the two cities, who will constitute a minority. By making the grassroots representatives the majority, the goal is to ensure the full power and binding nature of the Assembly's decisions.

The Assembly will meet once a year to address strategic issues related to the New Enterprise. Public participation will also be ensured through bimonthly meetings in the districts or macro districts, in which company executives (directors and managers) will provide information about the company's situation and public works.

Representatives of grassroots organisations will serve on an *ad honorem* basis, with no financial remuneration.

BOARD OF DIRECTORS

The Board of Directors has executive power to design and plan strategies for the New Enterprise in accordance with the decisions made by the General Assembly. The board consists of five members elected on the basis of merit through a national public application process. Approximately 50 percent of its members, chosen by lot, will be replaced two years after their selection. A Selection Commission⁸ made up of representatives of the municipal governments of La Paz and El Alto, the FEJUVE of both cities and the Ministry of Water will be responsible for selecting the members of the board.

Ordinary meetings will be held bimonthly and extraordinary meetings will be held as needed, up to a maximum of three meetings per month. No member can hold a public office while serving on the board; the members' meeting expenses will be covered,⁹ but they will receive no other benefits.

Their powers will consist of appointing the general manager (and reviewing the appointments of the administrative, commercial and technical managers); approving the annual economic and operating plans; approving loans, contracts, agreements and bidding processes; and approving the company's financial statements.

⁸ Two representatives of the Municipal Government of La Paz (elected by two-thirds of its Municipal Council); two representatives of the Municipal Government of El Alto (elected by two-thirds of its Municipal Council); one representative of the Ministry of Water; two representatives of FEJUVE El Alto, and two representatives of FEJUVE La Paz.

⁹ A set amount of money will be paid for participation in the meetings.

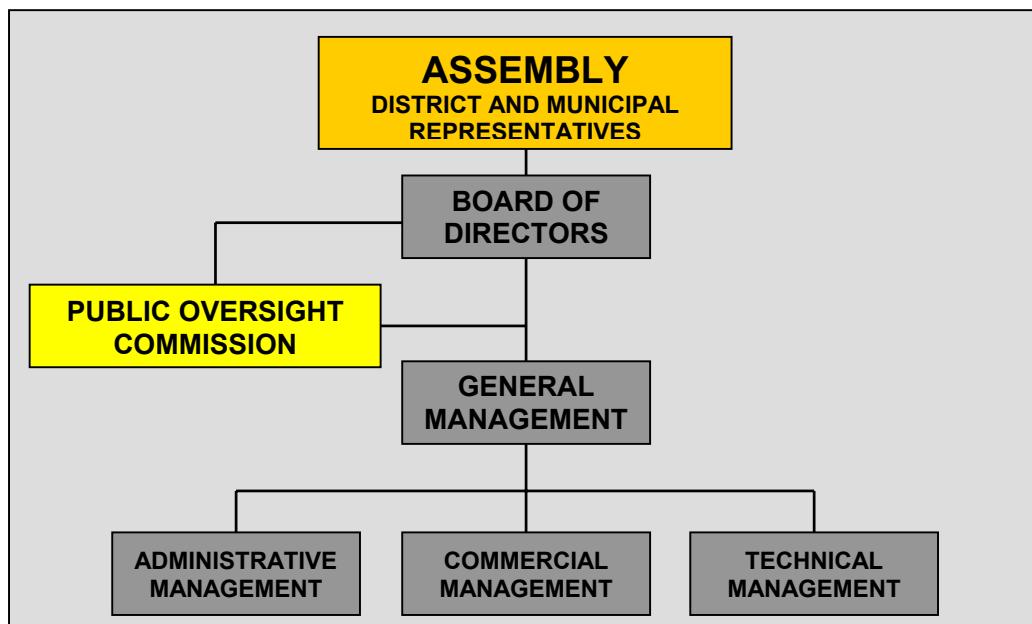
PUBLIC OVERSIGHT COMMISSION

This is an oversight body independent of the structure of the New Enterprise, in which representative institutions such as the Ombudsman's Office, the church, human rights groups and other organisations independent of the company participate. Its responsibility is to provide oversight and monitoring of areas in which there is a risk of corruption.

GENERAL MANAGEMENT

This is the executive and technical body of the New Enterprise. It is chosen by the Board of Directors through a national public application process. Management's responsibilities are executive and include managing the company; preparing the budget, investment plans and rate studies; acting as the company's legal representative; and preparing bimonthly reports for the districts and macro districts. Managers will serve four-year terms.

PROPOSED STRUCTURE OF THE "NEW ENTERPRISE"



CROSS-MONITORING (TECHNICAL – GRASSROOTS REPRESENTATIVES)

This refers to the monitoring of the parties involved in managing the New Enterprise: technical personnel and officials on the one hand and grassroots representatives on the other. This is in addition to the oversight of grassroots representatives that should be done, and which can only occur when their performance is monitored by the organisations that elected them; their actions can be monitored, with enforcement of the principles of transparency, where applicable, through regular reports on the work they are doing.

OUTSOURCING IN THE NEW PUBLIC-SOCIAL ENTERPRISE

The outsourcing¹⁰ of certain services in the new public enterprise can be of great assistance in maintaining levels of efficiency. One argument against the public model that is raised by international cooperation agencies is that this model perpetuates bureaucracy — in other words, one of the hazards of or obstacles to good performance by public enterprises is that they have a large number of people on the payroll.

The outsourcing of certain services does not mean jeopardising ownership and management of the service in the new enterprise. Ownership remains in the hands of the state, management or administration of the service is not delegated, and earnings remain in public hands and can be reinvested. According to these principles, the new model offers the possibility of outsourcing commercial and technical services and even such areas as accounting, which can help ensure the transparency of financial reporting.

CONDITIONING OF COOPERATION

After the events of January 2005, the municipal governments of La Paz and El Alto and even the Bolivian government considered the possibility of returning to a public service. This was frustrated, however, by pressure from international cooperation agencies, which conditioned the granting of new loans on the establishment of a mixed “public-private” company, as indicated in a 3 March 2005 press release from the German embassy, which noted that the continuity of German cooperation depended on: 1) an “amicable solution to the conflict with Aguas del Illimani that avoids the payment of indemnities” and 2) the establishment of a mixed company. This communiqué specifically noted that: Without these conditions, it would be impossible for German cooperation to provide financial support for the solution of the water and sanitation service problem in El Alto. This position was also reflected in the stance taken by the World Bank¹¹ and IDB. The former offered Bolivia funds to finance feasibility studies of a mixed company for the cities of La Paz and El Alto, while the latter conditioned a US\$34 million loan for urban improvements in La Paz on the establishment of a mixed company for the two cities. Such conditioning of cooperation makes it difficult for public services to take root as successful models.

Without a doubt, one of the lessons of the water war in the city of El Alto is that it is possible to develop a management model with widespread public participation in its conception and that this model can respond to the expectations of the population.

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¹⁰ Outsourcing is understood as contracting with a third party, either an individual or a corporation that is not directly related to the enterprise's structure, to perform a certain service in exchange for payment.

¹¹ Oscar Salinas, adviser to President Eduardo Rodríguez, at a meeting on 6 October 2005.

Note by the editorial team: This chapter was written before the December 2005 elections, which brought to power the progressive government led by Evo Morales. This political change has improved the political support for the type public water reforms outlined in this chapter, but numerous hurdles remain.

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