Managing Public Utilities:

Lessons from Florida

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Nuno Ferreira da Cruz[1]

CEG-IST

Technical University of Lisbon

Avenida Rovisco Pais, 1049-001 Lisbon, Portugal

Email: nunocruz@ist.utl.pt

Phone: +351218417729

Fax: +351218417979

Sanford V. Berg

PURC

University of Florida

Gainesville, Florida 32611-7140, USA

Email: sanford.berg@warrington.ufl.edu

Phone: 352.392.6148

Fax: 352.392.7796

Rui Cunha Marques

CEG-IST

Technical University of Lisbon

Avenida Rovisco Pais, 1049-001 Lisbon, Portugal

Email: rui.marques@ist.utl.pt

Phone: +351218417729

Fax: +351218417979

[1] Corresponding author

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Abstract:

This paper considers the institutional and regulatory framework of local infrastructure services in Florida and examines how decision-makers perceive the governance structures of publicly-owned utilities in this state. It should be of interest to a broad audience, particularly to European practitioners that are unfamiliar with the rules and practices that frame municipal utilities in the U.S. Many countries pursued reforms that were mainly rooted in the New Public Management ideas where setting targets, measuring performance and applying rewards or sanctions are standard procedures. However, as our paper suggests, it seems that there are other ways of protecting the public interest and promoting efficiency and accountability. After reviewing the theory, the study describes the current system in terms of rate setting, investments, consumer protection and quality of service. A state-wide survey was developed to identify potential sources of tension between managers and politicians. The responses were supplemented by interviews with managers, enabling the authors to identify good practices of local governance, including the de-politicization of the decision-making and the managerial attention to sustainable approaches to funding infrastructure.

Keywords: Florida; local governance; public ownership; public utilities.

1. Introduction

The concept of 'services of general interest' [COM(2004)374], usually employed within the European Union to refer to essential services subject to specific public-service obligations, also finds its counterpart in the United States (Defeuilley, 1999). In particular, the availability of affordable utility services (services of general economic interest, such as electricity, drinking water, wastewater collection and treatment, urban waste collection and treatment and urban transport) with an acceptable quality is a legal requirement in both jurisdictions (Clifton et al., 2005).

In Europe, the transference of general-interest services to local governments, driven by the subsidiarity principle, has been broadly documented (Baker et al., 2011). In the U.S., in addition to providing drinking water, wastewater, urban transport and waste services, cities are also responsible for many other types of services. Even the smallest U.S. cities may provide services that are unfamiliar to most municipalities in other countries (e.g. electricity, communications and police services). The broad range of competencies required for delivering these services and the growing budget restrictions facing local governments pose an important challenge to local decision-makers everywhere: 'how to curb costs while meeting public-service obligations?' Utility services are particularly problematic since they involve large investment outlays in specialized infrastructure and, quite often, local governments struggle with the economic sustainability of the systems (Pendovska & Veljanovski, 2009). Furthermore, pressures towards resource conservation and environmental awareness represent new challenges to utility managers around the globe. We know that organizations matter (Menard, 1996) and that governance structures 'must arise for some reason' (Arrow, 1999: vii). Hence, to cope with these requirements it is important that local political leaders make thoughtful choices regarding the utilities' governance models.

The aim of this paper is twofold. The first goal is to identify patterns and discuss the regulatory and institutional framework of utility governance in Florida. The second goal is to analyse how the utility managers see and respond to this framework (i.e. the performance incentives, oversight processes, funds transfers, and operations of the utilities). Using survey information, this paper sheds light on the sources of tension between utility managers and elected city officials and on the instruments/mechanisms (i.e. the rules) in place to separate managerial decision-making from political interference. We address these issues and study the approaches used in Florida to the provision of fair and efficient services. Being the fourth state both in terms of population

(18,830,632) and GDP ($729,500,000,000 in 2009), Florida is important within the U.S. context and also capable of presenting relevant insights for practitioners, policy makers and academics of other international jurisdictions.

This study is organized as follows. Section two briefly reviews the theory on infrastructure services and governance models. Section three describes the framework of local administration in Florida, including the regulatory environment of municipal utilities. Afterwards, section four summarizes the analysis of the data gathered from 31 Florida municipal utilities. Finally, section five concludes the paper.

2. Delivering Utility Services

According to the principles of EU legislation, utility services are regarded as essential (i.e. crucial for the socio-economic cohesion of the population) and should be subject to certain public service obligations. These services would not be produced (or would be produced under different conditions) if there was no intervention by the competent public authorities (even if it only takes the form of a written contract or it is achieved through dedicated legislation). In theory, there are eight main principles that these services should respect, namely (Marques, 2010): accessibility, adaptability, conflict resolution, continuity, equality, participation, transparency, and universality.

Utility services can be provided directly by the municipality (in-house production), or indirectly through delegation to other structures. If a municipality chooses to deliver the services itself, it can establish a municipal department or create a structure with some degree of financial and administrative autonomy. If, on the other hand, a municipality chooses to deliver the services through an autonomous entity, the array of options deepens. Figure 1 displays the various 'ideal-typical' alternatives of local governments. The two most common models of indirect provision of local infrastructure services are the public (municipal) company and the private (concessionary) company. In the former, the municipality is the owner of the company while the latter is an investor-owned enterprise. Recently, another 'hybrid' mode of provision arose in Europe (Cruz & Marques, 2012) and in several countries in South America (Marin, 2009): mixed (municipal) companies are institutionalized public-private partnerships (PPPs) where the public and private partners are equity owners. Table 1 summarizes the major features of each ideal-typical governance model.

[Figure 1]

[Table 1]

The process of moving from direct provision to public indirect provision is usually labelled as 'corporatization'. Moving from public provision (direct or indirect) to indirect private provision is called privatization. While the benefits and drawbacks of privatization continue to be debated, the empirical evidence on the effects of corporatization is also mixed. Despite some reports stating that the corporatization of services might result in higher cost-efficiency and increase output, revenues, and employee productivity (Bilodeau et al., 2007), there is also evidence that moving from municipal services with autonomy to municipal companies may result in lower overall productivity (Cruz & Marques, 2011).

In theory, the higher the degree of corporatization (moving from left to right in figure 1), the lower the involvement of governments in the management of the utilities. The entrepreneurial approach towards utility management (higher efficiency, flexibility and accountability) requires a different relationship with elected officials (a notion of a freer market, with more rules). This process is frequently associated with several tools that emerged from the (now unfashionable) New Public Management ideas, including performance-based contracts, binding the utilities (and/or utility managers) and the municipalities (Osborne, 2006).

3. Local government in Florida

To appreciate the reasoning of municipal authorities in aligning incentives and creating governance structures that fit their needs, one has to understand the rules of the game (i.e. the political economy of local government, Dollery & Wallis, 2001). The detailed description of the institutional and regulatory framework of public utilities in the U.S. may be relevant for policy-makers and scholars from other international jurisdictions. In this section we discuss the local administration framework and the features of utility governance.

3.1 Administrative bodies and regulatory agencies

Although there is no reference to local governments in the U.S. Constitution, in practice, there are three levels of government: national, state and local. At the local level, beyond counties and cities (here we use this term to refer to general-purpose municipal governments) one can also find special-purpose governments. These special-purpose governments are responsible for a variety of services (e.g. airport, education and also utility services–the

so-called Utility Authorities, see governance structure Type III in the following subsection). According to ICMA (2011), about 48.7% of municipalities in the U.S. are of the council-manager type while the mayor-council form of government accounts for around 43.8% (a residual amount of municipalities have other forms: the Commission–10.9%, Town Meeting–4.7% and representative Town Meeting–0.86%). In Florida (411 municipal governments) there are approximately 100 municipalities with the weak mayor-council form of government, 30 cities with the strong mayor-council form and 270 cities with the council-manager form.

City mayors, city or county commissioners or council members are selected via non-partisan elections. Candidates run for each position individually and in different time frames (usually elected local officials serve terms that range from two to four years with term limits). Hence, the elected team of officials responsible for regulating the activities of utilities might suffer considerable changes over time. Furthermore, since the Council-Manager form of government is widespread, elected officials make policy decisions while the city staff, led by the City Manager, is responsible for implementing those decisions.

States encompass a number of cities and counties. Each state has one regulatory agency for utilities (Littlechild, 2009). In Florida this entity is the Public Service Commission (PSC). These commissions have the mission to ensure that every customer has access to safe, reliable and affordable services while allowing the utilities to earn a fair return on investment, promoting the overall public interest. Commissions oversee regulated utilities through certification, regulation of rates and services, dispute resolution, and consumer protection services. They carry out quasi-legislative and quasi-judicial functions when performing the duties assigned to them by statute. However, the PSC's regulatory authority is limited: it only has fully rate base/economic regulation power over investor-owned utilities. Regarding publicly-owned utilities, the PSC's activity mainly encompasses the monitoring of safety and reliability issues. Municipal utilities are not fully regulated because they have a statutory right to be exempted.

3.2 Patterns in the utility industry

In the U.S., the governance models of publicly-owned utilities (traditionally called municipal utilities) are not categorized as easily as in figure 1. The utilities observed in Florida often present variations of those 'pure models'. We identified three different types of utility governance (see figure 2). In Type I schemes, utility services are provided by a department under the City Manager (in a council-manager form of government) or a

division under a department head. The utility still has a designated top-manager (e.g. an Assistant City Manager or Director/Supervisor) and it retains some degree of autonomy (being similar to the pure model of 'municipal services with autonomy'). Type II utilities are separate entities that answer directly to the city council or mayor. In this model, elected officials define policies and utility managers implement them. Typically there is no difference between utility employees and city employees. These utilities have a governance structure standing between the 'municipal services with autonomy' and the 'municipal company' pure models. Finally, Type III utilities are the ones that better resemble the 'municipal company' model. The utility top-manager (CEO or General Manager) does not interact directly with city officials but rather with an independent commission (Utility Authority) composed of specialists or citizens with broad public experience. Usually, the city mayor chairs this commission although he/she is not allowed to vote.

[Figure 2]

Vertical integration is widespread in Florida utilities. However, small municipalities may purchase electricity from investor-owned wholesale companies and some cities occasionally purchase water from other cities during periods of drought. The multi-utility strategy is also prevalent. Publicly-owned utilities in Florida often provide an impressive range of services. As the next section indicates, contrasting with electricity and natural gas, other services are not significantly subject to the monitoring of the PSC. Given the differences in the regulatory environment, it is interesting to observe how the utilities manage to jointly deliver the services.

3.3 The rules of the game

Rates

If an investor-owned utility seeks to raise its prices, it must first obtain approval from the PSC. Upon an extensive investigation, rates are tested for fairness (enabling a reasonable return to equity investors while being affordable for customers). At the end of the process, the PSC approves the new rates. The Florida PSC does not have this kind of regulatory power over municipal utilities (Pfaffenberger & Sioshansi, 2009). Publicly-owned utilities have absolute discretion regarding rate levels. Thus, in Florida, two customers with similar consumption patterns can have quite different utility bills. However, PSC has authority over the territorial boundaries of gas and electric utilities and the rate structure of electricity services (avoiding rate discrimination over different territories served by the same utility) regardless of the governance model.

In governance structures Type II the utilities' top managers propose the rates of the services to the city council/mayor and present the technical justifications for the amounts and structures considered, seeking for their approval. In Type I utilities, the policies first need to be submitted to the City Administrative Officer who may have some requests and/or recommendations. He/she will then present the case to the city council or city mayor. In Type III utilities the approval body may not be elected by citizens/customers.

It is common to have city-owned utilities operating outside the cities' limits. Gas and electricity boundaries are defined by the PSC. Concerning water and wastewater services, the utilities operate in unincorporated areas upon negotiation with the counties. It is understandable that counties wish to hand over these services to cities. Network services are known for having substantial economies of scale. Those citizens in less dense parts of a county might seek cross-subsidization from citizens whose cost of service is lower. This jurisdictional arrangement often creates complex systems where the territorial boundaries of a utility depend on the service in question. Since the PSC has no control over the rates of these services, the utilities often charge higher rates outside city limits (FLC, 2011). These customers do not have the same rights of the ones living within city limits: they do not have the power of 'voice' (there are no political repercussions for differential pricing), nor can they choose another provider. Occasionally, the city may hold *referendums* in areas adjacent to the city limits to determine whether the citizens wish to be part of the city (annexations). Recent (1990-2005) municipal annexations included over one million people and about 4.6 million acres (Edwards, 2011).

Municipal utilities make payments *in lieu* of taxes to local governments (Beecher, 2009). This is beneficial for local elected officials because the funds are not dispersed throughout different levels of government (state, county, school board, etc.) as would happen with taxes paid by a private utility. Instead, publicly-owned utilities make transfers directly to the city general fund. In Florida, an investor-owned utility pays the city a franchise fee of 6% of the sales, while a municipal utility does not have a fixed threshold. Furthermore, a municipal utility may have other advantages for local governments, such as providing free or discounted service to the cities, leverage for annexation initiatives, and assistance in other city projects.

Investments

The decisions on what and when specific investments on infrastructure should be undertaken go through a process similar to what was described for rate approvals. The major difference between publicly-owned U.S. utilities and the ones elsewhere resides in the financing method. In the U.S., utilities raise capital in a project-by-project basis using the bond market. Traditionally, European utilities use the same general-purpose bank loans of local governments (and, lately, the project finance schemes provided by PPPs). Hence, to be able to sell bonds with low interest rates, U.S. utilities need to be financially healthy and they are frequently scrutinized by credit rating agencies (Allen & Dudney, 2008). This source of finance requires operating cash flows that ensure the economic sustainability of the long-term investments. Budget deficits that affect many utilities worldwide are unacceptable for Florida municipal utilities. Financial covenants detail the obligations the utility has towards the buyers of the bonds. These requirements force the utilities to raise tariffs if they fall under the required debt-to-equity indicators or interest coverage ratios. For investor-owned utilities, raising tariffs is not so straightforward. They are required to justify all of their operating expenses; an expense that the PSC determines to be unnecessary is not allowed to be taken into account in the rate calculation.

Note that the framework gives a bias towards public ownership of utilities, as capital costs are lower for municipal utilities (whose interest payments to bond-owners are tax exempt for income tax purposes, Cebula, 2004). Unlike what happens with private investors, the federal government cannot tax cities' revenue. Thus, tax laws affect the mix of private and public activity in local infrastructure.

Quality of service and consumer protection

As was pointed out, the PSC regulates the quality of service of utility services. However, municipal utilities are not required to inform the PSC regarding consumer complaints. During the 1970s and 1980s in the U.S., consumer advocates were appointed on behalf of utility consumers (Holburn & Bergh, 2006). In Florida, the Office of Public Counsel (OPC) was established in 1974. Among other activities, the main purpose of this entity is to represent the consumers' interests in rate cases. Hence, the scope of action of the OPC coincides with the PSC jurisdiction, which obviously exempts municipal utilities. On the bright side, Florida's 'Sunshine Law' promotes transparency and access to all documents and meetings, protecting the public interest.

Municipal utilities' customers may bear the negative risks of price fluctuations of raw materials; however, monthly fuel adjustment surcharges are also allowed for private utilities (Littlechild, 2009). On the other hand, the customers of municipal utilities are more exposed to other sources of risk, e.g. bad managerial decisions regarding strategies to overcome drought or low availability of particular capacity investments. Investor-owned utilities are unlikely to obtain approval of a rate increase request to be compensated for 'poor' decisions. So prices would not go up. The comparable residual (equity) owners of a municipal utility are the customers themselves, so the consequence of a poor decision would be higher prices if otherwise interest payments could not be met.

4. Sources of Tension: Survey Results

Given the context described above, we sought information from municipal utility decision-makers regarding their perceptions on institutions, processes, and monitoring instruments. To gather data we developed a survey that was distributed to a sample of utility top-managers in Florida.[1] Managers were asked to strongly 'disagree', 'disagree', 'agree' and 'strongly agree' with the statements. We received input from 31 utilities: 18 of these entities provide electricity services, 21 water, 20 wastewater, five gas and three telecommunications services; occasionally, the utilities provided other services (such as chilled water or outdoor lightning). These data were complemented with face-to-face structured interviews with utility managers from Gainesville (GRU), Ocala (OUS) and Orlando (OUC), where their assessment of the framework and follow-up questions were sought. Each of these utilities corresponded to one of the basic schemes identified in figure 2 (type II, I and III, respectively).

In the following subsections we analyse the results. Our narrative is based on the relative frequencies of each question and on the several comments written by the respondents on the open-ended section of the questionnaire (quoted in the paper). The analysis of the survey was complemented with several Mann–Whitney U tests on the following groups of respondents: corporatized (Type II or Type III) and non-corporatized utilities (Type I), and bigger (serving more than 60,000 inhabitants, corresponding to 16 utilities in our sample) and smaller utilities. We organized the results of this analysis in the Appendix for all statistically significant differences (at the 5% level) between the medians of the groups.

4.1 Organizational features

In the beginning of the survey, utility managers were asked to rank the priorities of the utilities and they replied as follows:

1. Improve quality standards;
2. Reduce operations and maintenance costs;
3. Reduce the rates for final users;
4. Exceed legal environmental standards.

This prioritization was not surprising. The regulatory framework for municipal utilities in Florida emphasizes quality issues (reliability, safety and public health) and this is categorically the main objective of utility management. For the remaining objectives, there is no unanimity. It is interesting to note that public ownership is not necessarily a synonym of lower prices for customers.

Utility managers tend to agree that they should have effective power over policy objectives (61% of respondents) and the ability to carry out investments to meet them (68% of respondents). However, this is not a strong statement (less than 30% strongly agree with this) and, in fact, one manager stated: 'Long-term objectives are the prerogative of the community through elected officials'; another manager wrote that 'as a department of the city, the utility should recommend policy objectives and the governing body should set long-term policy objectives and investments'. As shown in Appendix, we were able to determine some statistically significant differences between the answers of corporatized (Type II and Type III) and non-corporatized utilities (Type I). Apparently the most autonomous structures seek even more independence. Moreover, while bigger utilities (more than 60,000 customers) do believe that autonomy to decide is important, smaller utilities disagree.

Most managers (90%) agree that the multi-utility strategy is beneficial for the community. However, as it was possible to discern in the follow-up interviews, they recognize that the current mix of services is due to historical or political decisions. There is no technical evidence that any economies of scope are being achieved.

Another interesting finding is that most managers (55%) strongly agree that, irrespective of the governance model (no statistical differences were found), utilities have freedom regarding the selection of their workforce. One respondent states that 'most of our personnel are contractor employees that are dismissed as appropriate'. Nevertheless, the evidence on whether or not utility employees should have the same status of city employees is

mixed (38% disagree or strongly disagree). According to the results in Appendix, respondents from corporatized structures feel that utility employees should not have the same status as city employees whereas managers from Type I structures think the opposite. In practice, there is no distinction between employees, but some managers have the opinion that 'general fund tight budgets and salary reductions/layoffs should not apply to enterprise fund personnel' and that 'compensation should reflect failures and successes' although this usually does not happen in practice. However, respondents clearly disagree (79%) that managers and directors should be financially responsible for bad management decisions. Despite the fact that this is a current practice (the wholesale firms in the electricity sector) managers are cautious about whether or not they should be able to participate in the share capital of other firms for strategic reasons (39% of the respondents disagree).

4.2 Governance features

Respondents disagree that the head of the utility should be appointed by elected city officials (75%): 'The hiring process for the top manager should be by a selection committee with approval by elected officials'. This could mean that they fear political patronage could become a driver of service provision and employee hiring and retention. However, managers take a strong stand against the idea that political affiliation has been playing a role in the tensions between the city and the utility (no respondent agrees and 77% strongly disagree). They also disagree (77%) that the city exercises excessive monitoring power. As the Mann-Whitney test shows (Appendix), the need for approval by the City is more evident for Type I utilities (this was expected due to the lack of autonomy of these models). When specifically asked whether political interference harms utility overall performance, the managers might have responded that (hypothetically) it would harm performance, but in their specific cases, it did not. Political patronage is a common concern of utility managers (Cruz & Marques, 2011); however, this does not seem to be a major problem of utility governance in Florida.

Concerning corporatization (moving to Type II or even Type III structures), respondents tend to agree that it is beneficial (60% of the managers agree and 33% do it 'strongly'). The results presented in the Appendix prove that corporatized utilities strongly agree with this while non-corporatized utilities simply agree. The majority think that 'public utilities should be separate authorities from the cities and counties reporting to an elected board or a board appointed by their enacting city or county government' and that 'a utilities oversight committee with members sitting a minimum of four years would be preferable to the current oversight by the City Manager' mainly because 'being a city department results in a one-size-fits-all policy from city government irrespective of

the fact that the electric service is not a governmental function and must compete with other utilities for personnel, customers, etc.' On the other hand, some managers have the opinion that 'a municipally-owned utility does not have to be governed by a board *but* (emphasis in original) should not be held to the same restrictions, requirements and/or policies of general fund departments.' All things considered, the following statement illustrates a reasonable stance towards governance:

> *This writer has worked under both governance organizations and both have the same potential for success and failure. The key is the level of understanding and trust. Generally, I have found Authority Boards more knowledgeable, if appointed for their expertise, but that can also lead to more 'tinkering'. Mutual trust, a shared vision, and shared long-term objectives can be achieved via either governance structure.*

We know that organizations matter and, as the respondent pointed out, each structure has its strengths and weaknesses. Decisions on investments, rates, etc. should largely be decided based on technical and economic reasoning (while social concerns should be clearly defined either by law or by long-term policies). In relation to Type I utilities, the Type II governance structure acknowledges that managing utilities is different from managing other kinds of public services (for instance, concerning human resource management). For the four Type III utilities analysed in our study commissioners or board members serve without compensation. Thus, the incentives to perpetuate their jobs should be different from other political positions. The view of the respondent quoted above along with the theory of good practices of local decision-making regarding infrastructure projects puts 'mutual trust' at the core of good governance.

Despite the fact that the majority of the utilities do not make transfers corresponding to more than 10% of gross revenues and that amount usually does not exceed 30% of the total city budget, a significant number of utilities (one third of them) agreed that these figures apply to their organizations. Furthermore, in some utilities where these transfers are not made explicitly, they do occur: for instance utilities buy land for the city, waive utility services or provide other 'lateral' services. While some managers indicated that the city has a formula to stipulate the amounts, others expressed concerns regarding the variability of these transfers: 'payment *in lieu* of taxes or other revenue sharing back to the enacting city or county should be capped as a specific percentage of the net operating revenue'.

All surveyed utility managers agree that having a publicly-owned utility has clear advantages over the investor-owned model. However, investor-owned electric utilities present lower rates for final users than municipal utilities (on average and in $/1,000kWh), and this includes the 6% franchise fee that electric utilities have to pay to the cities (FMEA 2010). Utilities have to present their 'rate case' to the city commission or utility authority. Generally they try to 'recommend tariffs that meet the balanced long-term objectives of the utility and the governing body without undue risk placed on either the utility or the customer'. Elected or appointed city officials have the ultimate power to approve the rates. The bottom line, however, is that rates must be 'steered' according to the commitments made when issuing bonds.

Finally, utility top-managers tend to strongly disagree (45%) that economic regulation enforced by the PSC or any similar entity would not have any positive impact over the utilities (only 17% agree or strongly agree). This figure is in line with our predictions. Decision-makers do not want to get caught between bond resolutions and an external regulator.

4.3 Financial features

The surveyed managers confirmed that bond rating agencies influence the overall behaviour of the utilities (81% agreed). More important than the rating agencies are the bond resolutions which guide the financial management of the utilities. These documents work as strict regulatory contracts that define the allowed debt-to-equity ratios for the utilities. To keep the cost of capital low, the utilities must maintain a high level of financial health. Hence, there is no need for additional legal or regulatory limits to debt levels, as 'rating agencies and bond resolutions effectively already set limits'. However, this conclusion is not the same if we consider the size of the utilities (see the Appendix). Unlike other respondents, managers from smaller utilities (serving a population of less than 60,000) believe that a debt ceiling should exist. Perhaps the discipline imposed by the capital markets is not so felt in smaller municipalities.

4.4 Operational features

It is noteworthy that utility managers agree (79%), but not strongly, that setting performance-based management contracts binding the utility and the city can be useful to improve performance. Nevertheless, according to the results shown in the Appendix, bigger utilities seem to perceive to a greater extent the usefulness of contractual

instruments. Contracting the services is usually seen as a crucial tool for the management of publicly-owned entities in other jurisdictions (Vincent-Jones, 2006). Having a document stipulating the rights and duties of the parties, the compensation for specific public service obligations as well as the objectives of the utility could help to prevent political patronage and provide the utility with the proper incentives for efficiency. In the last two decades this practice has been increasingly adopted in Europe much due to the New Public Management paradigm (although some voices have been contesting the effectiveness of these practices, Osborne, 2006). The municipal bond system in Florida has been refuting the usefulness of devising these complex mechanisms.

Utilities in Florida do not outsource a large amount of services (according to 67% of the respondents and the follow up interviews), especially those that relate more to their core business. Although it is important to assess subjective performance through citizen surveys (Van de Walle, 2006), one third of the managers stated that decisions are not founded on substantial input from customers. In this regard, corporatized entities seem to conduct customer surveys more regularly than Type I utilities (see the Appendix). One manager commented as follows: 'we currently rely on the level of complaints and thank you communications, but we will conduct surveys at some point in the future'. Respondents plainly agree that the utilities impose minimum quality standards more demanding than they are legally required (only 9% disagree).

Practitioners do not have strong feelings on whether or not utility managers should have long-term contracts (39% of the respondents agree whereas the same percentage disagrees). They seem comfortable with being accountable for their performance at all times and prone to be out of job on a weekly basis (whenever the oversight commission holds a meeting). This practice also lessens the need of having specific performance thresholds in their contracts (decreasing the relevance of the 'new public contracting' ideas in this context), even though most of the respondents (77%) agree that this is a good practice.

5. Concluding Remarks

The business of utilities goes far beyond the 'ideal transaction in law and economics' (Williamson, 2002: 183). This complex setting includes customer and voters' concerns, the environment, public treasury, universality, affordability and sustainability. The range of stakeholders and their conflicting objectives raises governance difficulties. Incentives to promote stability and safeguards to specific investments are not easy to devise in infrastructure services. Policy analysts could devote more attention to the strengths and limitations of different

governance mechanisms put in place by decision-makers around the world. Currently, the framework in Florida seems to push cities towards public production of many utility services; given the rules of the game (related to taxes, local politics, jurisdictional rivalries, and legal constraints), it seems very reasonable to adopt municipal ownership as a dominant model for water and other infrastructure services. In the authors' opinion, what truly make utility governance in Florida different from other international patterns are both the financing mechanisms (which have implications for other dimensions such as incentives for efficiency, accountable management, etc.) and the macro institutional framework that somehow insulates utility management from politics.

5.1 Lessons learned from Florida utilities

Capital markets can be powerful 'regulators' in their own right. The economic 'private' regulation exerted by bond stipulations and rating agencies' reports impose demanding debt-to-equity ratios and force utilities to maintain good levels of financial health. In this regard, private utilities are different in two ways: first, they cannot issue tax-exempt bonds; second, what prevents municipal utilities from raising prices are the elected officials while private utilities have to prove to the PSC that the cost increase had an 'external origin' or was due to unpredictable events.

In Florida, local infrastructure investments generally adopt a whole life-cycle approach. The investment outlays (and the associated debt) are handled with a project-by-project focus, always safeguarding their economic sustainability (with the bond market being a very transparent form of financing). In Europe, the municipal bond market has not been consistently considered for funding local infrastructure. Even though Europe should not be seen as a homogenized whole, the EU legislation has been emphasizing liberalisation, the single market and the removal of barriers to entry (e.g. see Repas, 2010) to the detriment of the definition of instruments for good governance irrespectively of the actual ownership structure. This fact, coupled with the harsh debt limits imposed on all levels of government, diverted the attention to the crafting of new complex PPP arrangements more than to the improvement of existing public entities.

The Florida institutional framework promotes the separation of day-to-day management from politics. Regardless of the actual governance structure in charge of delivery, the current framework succeeds in shielding utility management from political patronage and the professional non-partisan nature of the employment/retention process prevents there being a bias towards people of the same political affiliation.

Decision-makers did not need to undertake corporatization processes or performance-based contracting to prevent political patronage and promote accountable management. Local politicians in Florida have disincentives to interfere with management because the services are providing net benefits to the city. Utility top-managers do not have their positions firmly secured with long-term contracts and they can be replaced if the majority of the city commissioners (or the utility authority, or the mayor) is unhappy with the outcomes. Typically there is only one top manager responsible for performance rather than a board with fuzzy lines of authority. Unlike in other countries, retaining profitable public infrastructure (essential) services is conceivable. Publicly-owned enterprises are allowed (and even encouraged) to create a surplus and not just break-even. The transfers to the city general fund allow the subsidization of other socially relevant activities and ratepayers have a better notion than taxpayers of where their money is going.

The great flexibility that municipal utilities in Florida offer local decision-makers is overwhelming when compared with some European models. For instance, in continental Europe publicly-owned utilities are not allowed to operate outside the municipal limits (Cruz and Marques, 2011). In addition, in most EU countries, municipal services have strong restrictions regarding human resource management (all employees are civil servants). Finally, the exceptional framework provided by Florida laws facilitates public awareness, scrutiny, and participation both by having public hearings and allowing unlimited access to virtually every document. These are indispensable tools for achieving a better governance of public services.

5.2 Recommendations to Florida utilities

The regulatory structures devised to oversee investor-owned utilities could also serve as platforms for the continuous improvement of municipal utilities and correction of asymmetries. These regulators could have effective power over the rate structure of all the services and not just electricity. This may prevent potential abuses of monopoly power such as higher prices for residents of unincorporated areas served by the same utility of city residents. If there is no technical justification for charging higher prices, then the rates should be the same–naturally, this is valid only if one accepts that utility services should be subjected to certain public service obligations (where, in this case, accessibility, equality and universality are paramount). Monitoring rate design could help municipal utilities develop pro-conservation rate structures (e.g. inclining blocks and seasonal rates). In addition, the commissions could use sunshine regulation and name-and-shame techniques (benchmarking all

utilities in every sector, regardless of their governance model) with practically no added cost, providing another instrument for enhancing performance (and therefore protecting the public interest).

Practitioners should review the historical/political assumptions made in the past. Issues such as vertical integration and the multi-utility approach should be reassessed as well as all aspects in current utility management (such as the willingness of the customers to subsidize other social investments) that find their justification in ‘tradition’ rather than current conditions. Critical research on the relevance of these assumptions for today’s situation would be very useful for regulators, operators, and ultimately, ratepayers.

Appendix

Hypothesis/Survey questions	Exact Sig. (1-tailed)
Organizational features	
H_1: $\mu_{corporatized} > \mu_{non\text{-}corporatized}$	
The utility should have complete autonomy in setting long-term policy objectives.	0.003
The utility managers should have full power to decide about proper investments to meet the strategic objectives.	0.034
H_1: $\mu_{corporatized} < \mu_{non\text{-}corporatized}$	
Utility employees should have the same status as City employees in terms of compensation, treatment and performance evaluation.	0.006
H_1: $\mu_{bigger\ cities} > \mu_{smaller\ cities}$	
The utility should have complete autonomy in setting long-term policy objectives.	0.007
The utility managers should have full power to decide about proper investments to meet the strategic objectives.	0.030
Governance features	
H_1: $\mu_{corporatized} < \mu_{non\text{-}corporatized}$	
The financial reports of the utility are closely reviewed and need to be approved by the City.	0.043
H_1: $\mu_{corporatized} > \mu_{non\text{-}corporatized}$	
It is good to have the utilities separate from a City department; such separation could involve a utility authority.	0.015
Financial features	
H_1: $\mu_{bigger\ cities} < \mu_{smaller\ cities}$	
There should be a debt ceiling for the utility.	0.015
Operational features	
H_1: $\mu_{corporatized} > \mu_{non\text{-}corporatized}$	
The utility regularly conducts customer surveys.	0.022
H_1: $\mu_{bigger\ cities} > \mu_{smaller\ cities}$	
Settling (performance-based) management contracts binding the utility and the City can promote improved utility performance.	0.035
The utility regularly conducts customer surveys.	0.008

Notes

[1] The full survey is available upon request to the corresponding author.

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Table 1. Main theoretical features of the ideal-typical governance models

	Municipal department	**Municipal service (with autonomy)**	**Public company**	**Mixed company**	**Private concessionary**
Corporate entity	No	No	Yes	Yes	Yes
Administrative and financial autonomy	No	Yes	Yes	Yes	Yes
Rule of law	Public	Public	Public or private	Private	Private
Power to define roles and tasks	Elected officials	Elected officials	Municipal parliament/statutes	Shareholders' agreements	Contract
Monitoring of the quality of service	Elected officials	Elected officials	Municipal parliament	Shareholders' agreements	Contract or regulator
Investments and balance sheet treatment	Public sector	Public sector	Public sector	Shared	Private sector
Assumption of risks	Public sector	Public sector	Public sector	Shared	Shared

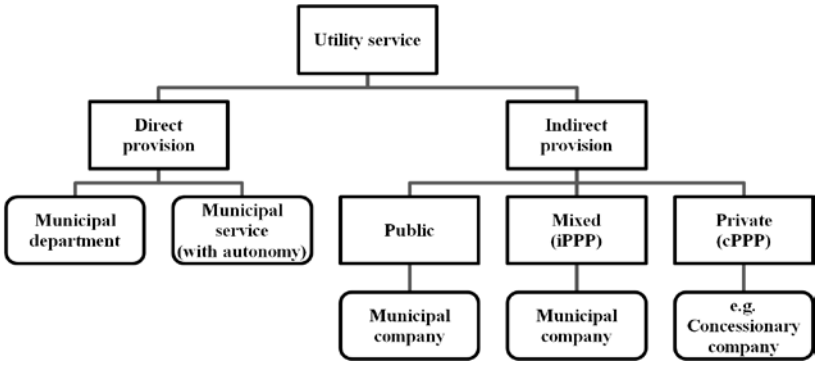
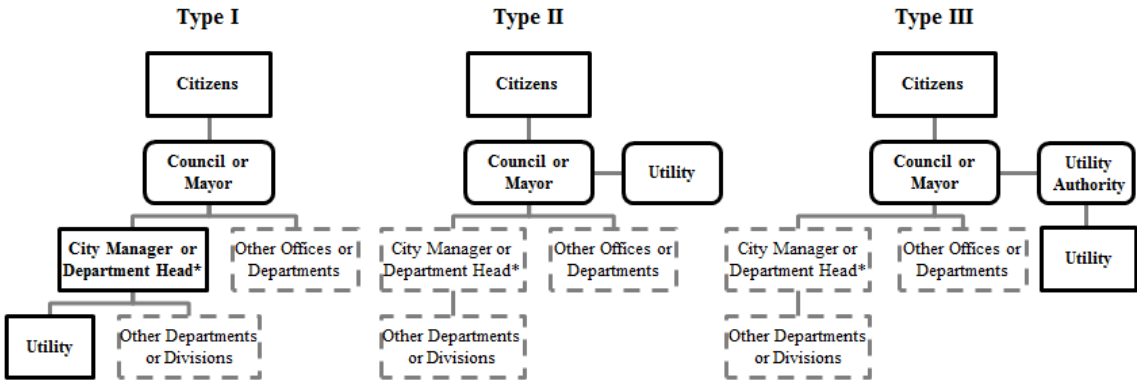


Figure 1. Ideal-typical menu of governance models



*Some large cities with the strong mayor-council form have established the position of chief administrative officer under the mayor to handle the day-to-day operations; occasionally, in municipalities with a weak mayor-council form, the municipal clerk functions as a de facto chief administrator.

Figure 2. Governance structures of publicly-owned utilities in Florida