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Argentina Renationalizes Water Service

by LADB Staff

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Argentine President Nestor Kirchner has announced that the government has rescinded its contract with Aguas Argentinas (AA), the private company in charge of providing water service to the greater Buenos Aires metropolitan area. This is the fourth major deprivatization or renationalization of a private company that Kirchner's government has conducted under a policy of retaking government control of utilities that had been sold to private interests during the 1990s. The companies that made up AA are seeking financial remuneration in international tribunals and French-Argentine relations have become somewhat strained, since French companies Suez Lyonnaise des Eaux and Veolia Environnement previously known as Vivendi were the main losers in the decision to end the contract.

Kirchner: inadequate service, contamination, high rates

The government's rationale for ending its dealings with AA was primarily that the company had not provided service to enough Argentines and that the water it was delivering in many areas was excessively contaminated with nitrates. Users and the government complained about prior rate hikes, and a 2002 freeze on water rates become an intractable source of fury for water-company executives.

The government announced that the company was guilty of multiple instances of "contractual incompliance" and that there were "extremely elevated levels of nitrate in the water" that it was supplying to the southern region of Greater Buenos Aires. To replace Aguas Argentinas, the government has established Aguas y Saneamiento Argentinos (AySA) to supply the megacity of Buenos Aires and its surrounding area. Supplying Greater Buenos Aires means AySA will have to service nearly a third of the country's entire population in the city proper and its 17 surrounding districts. The government will hold 90% of the company's stock.

The government announced a 400 million peso (US\$130 million) investment plan to overcome the problems of the previous system. US\$13 million will be aimed at projects to expand service through the oversight of neighborhood cooperatives and organizations that, for the most part, answer to Undersecretary of Lands Luis D'Elia, a former piquetero (jobless people) movement leader. US\$47 million will set up a series of projects to replace wells contaminated with nitrates and to increase the production of water treatment plants. Other projects include constructing adequate sewerage. Planning Ministry officials expect to set up a business plan for AySA after the Easter holiday, along with a program of state funding for the next five years.

They say they will invest no less than US\$70 million in the company in 2007. Planning Minister Julio De Vido said there would be no increase in water rates for consumers. The company rejected government arguments that it had failed in its obligations, sending out a release saying it had done "exemplary work" and had invested US\$1.7 billion.

Wave of renationalization in Argentina

The Kirchner administration has now renationalized four service utilities that had been privatized under the neoliberal economic reforms of the 1990s under President Carlos Saul Menem (1989-1999). The government first brought the national postal service back under government control, rescinding a deal with the Macri Group, owned by businessman, congressman with the Propuesta Republicana (PRO), and top Kirchner opponent Mauricio Macri.

In early 2004, the government retook control of broadcast frequencies from the French business Thales Spectrum, and in mid-2004 it renationalized the San Martin railroad, previously in the hands of Argentine company Metropolitano. Public opinion strongly backed the decision to renationalize the water system.

Polling firm Opinion Publica, Servicios y Mercados (OPSM) asked 800 people in and around Buenos Aires what they thought of the end of the Suez-AA contract, and 83.4% of those interviewed said they "agreed" or "agreed very much" with the decision to separate from the French consortium, while 14.2% disagreed. A smaller percentage, 71.6%, approved the nationalization of water service, while 25% opposed it. The survey had a margin of error of 2% and was published in the daily newspaper Pagina 12. Many political and nongovernmental sectors also backed the decision.

Governor of the province of Buenos Aires Felipe Sola of the Alternativa para una Republica de Iguales (ARI) said the decision was "a historic measure." He added, "The production of water and sewerage cannot be in private hands." ARI Deputy Maria America Gonzalez said she was in "absolute agreement" with canceling the contract and called on the concessionaire companies not "to go without paying the debts that they have with the Argentine people."

Consumer advocate Pedro Buseti of Defensa de Usuarios y Consumidores (DEUCO) said his group had been advocating the move for eight years because of "works projects that have not been completed, the pardoning of fines, and the debts the company has." The decision to set up AySA was not entirely uncontroversial, however.

Opposition members in Congress questioned whether the president had the unilateral authority to annul the contract and to set up the new company. ARI leader Deputy Elisa Carrio said, "Here there was not a renationalization, but rather there was a reprivatization, because a private corporation (sociedad anonima) was set up that has no controls."

Official party head Agustin Rossi shot back, saying, "The position of Carrio is suspiciously coincidental with the neoliberal interests." Neoliberal ideology endorses privatization of utilities to gain more cost-effective, efficient service. The Kirchner government seeks congressional approval as a strategy for defending itself against indemnification claims from AA stockholders.

After launching a project to begin works projects for US\$180 million, "a works plan of immediate action," Kirchner said on March 31 that "water is a social good and all inhabitants have the right to

get that essential service." Public works secretary Jose Francisco Lopez also spoke of a "coverage deficit inherited from Aguas Argentinas [that] is almost 2 million users without potable water and about 4 million without sewer drains."

Are multinationals backing out of water service regionally?

Argentina's decision to nationalize water service again reflects something of a regional trend, with resistance movements in Bolivia previously forcing a private water company to leave the country (see NotiSur, 2000-10-20), while in Uruguay, a popular referendum that prohibited the private ownership of water-supply services won by a large majority (see NotiSur, 2004-09-24 and 2004-11-12). The debate over water privatization was a central issue at the March 16-22 World Water Forum (WWF) in Mexico City and at protests against the forum, where opponents accused it of being too heavily in favor of wealthy nations and corporations (see SourceMex, 2006-03-22).

The latest UN World Water Development Report said that demands by governments and social movements, the impossibility of charging for water services in some countries, and the implementation of legislation that prevents their participation in the water sector, as in Uruguay, have discouraged transnationals from expanding their role in the water-supply business. They are withdrawing from the region, or narrowing the scope of their services, because of what they see as high political and financial risks, says the UN report, presented before the WWF.

In the 1990s, the water transnationals invested about US\$25 billion in developing countries in water-management projects, especially in Latin America and Asia, says the report, but investment has been on the decline in recent years. It has been difficult for private water companies to make money when consumers cannot pay for the service, says Gordon Young, coordinator of the World Water Assessment Program, which produced the report.

"I don't think they'll be back," said Sara Grusky, researcher with the Washington-based nongovernmental group Food and Water Watch. "They're in the middle of a corporate reorganization and shifting their resources to the much more lucrative energy sector." Some social-movement activists, however, maintain that corporate entities still have their eye on water resources in the region and will continue to make efforts to gain control of them.

Suez sues for US\$1.7 billion

Suez and the other companies claim that the Argentine government owes them a return on their US\$1.7 billion. The company has taken its case to the International Center for Settlement of Investment Disputes (ICSID), an international tribunal established by the World Bank. In 2005, Spanish company Aguas de Barcelona and French company Suez, holding 25% and 40% ownership respectively, pulled out of AA (see NotiSur, 2005-09-23). The companies had been charged with providing water to 11 million people, but pulled out of the consortium, complaining that the government was delaying contract renegotiations. The companies behind AA blame governmental intransigence for the failure of the company to provide better services and argue that they were not fired they tried to quit last September.

A press release from AA stockholders, led by Suez, said, "Facing the impossibility of recomposing the economic-financial equilibrium of the concession, the company was not in the condition to assume the risks and responsibilities linked to the provision of services. Since that date, and at the invitation of the Argentine government, negotiations had been begun with several investors for the cession of the company, without success." The release continued, "We do not consent to the arguments put forward by the Licensor [the Argentine government] as to the cause of the [contract's] rescission." The release pointed to the US\$1.7 billion dollar investment figure and called for indemnification.

Kirchner denounced the foreign companies, saying in March that, "during 15 years, hundreds of millions in profits were taken, and we Argentines have to beg for them to give us a drop of water." The AA contract began in 1993, establishing that, during the first decade of operations, it would invest US\$1.7 billion in utility operations. But Notimex news service reports that it only completed 71% of those investment projects even though the company was showing high profit rates. Even if the companies succeed in the ICSID or in Argentine courts, getting the tight-fisted government of Kirchner to pay would likely be difficult.

In 2005, foreign bondholders had to accept a 75% "haircut" on the debts the Argentine government ostensibly owed them after it negotiated a serious reduction in its national debt (see NotiSur, 2005-03-11). There are some diplomatic consequences to the shutdown of AA in the field of French-Argentine governmental relations. Kirchner had previously petitioned the government of French President Jacques Chirac to intercede with Suez and Vivendi, while Chirac did the opposite on behalf of his nation's corporations.

Chirac has omitted Argentina from a planned trip through South America set for late May. Chirac will travel to Brazil, Uruguay, and Chile, but he will not be visiting Kirchner at the Casa Rosada in Buenos Aires. The French president had planned to come to the region earlier but had to postpone the trip after suffering a minor stroke.

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