Electric Utility Municipalization

KEY STATISTICS AND RISK CONSIDERATIONS

PREPARED BY

Toby Bishop, Ann Bulkley, and Chris Wall

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KEY TAKEAWAYS

The vast majority of municipalization efforts in the U.S. over the past 25 years (*i.e.*, the condemnation of existing utility assets) have been abandoned or rejected by voters because of the high costs and risks.

While owning and operating a municipal utility can provide certain benefits, there are many potential risks of municipalization that voters of a municipality must evaluate, including:

- **The extensive time and unknown cost associated with the process to municipalize;**
- **The unknown nature of the future cost of municipal electric service, including the upfront acquisition and ongoing operating costs, and thus whether municipalization will ultimately produce a community's desired benefits, such as lower rates for customers; and**
- **The municipality's capability to operate the electric system safely and efficiently and its ability to respond to the rapid changes in the industry, including ongoing capital investment to meet increasing demand, attracting large load customers and investment, addressing state and federal policy objectives, and maintaining security amid increasing cyber security threats.**

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Recent Municipalization History

In the U.S., most municipal electric utilities were formed in the early 1900s as the country's original electric systems were developed. However, in more recent decades, municipal utilities have been formed through the process of municipalization. Municipalization refers to the acquisition or condemnation of the assets and operations of an existing investor-owned utility by a municipality, resulting in municipal ownership and operation of an existing electric utility system.[1]

Communities across the country have explored forming new municipal electric utilities through condemnation of an existing utility's assets for a number of reasons, including the potential to: (1) achieve lower future electric rates; (2) gain local control of operations and governance; (3) achieve renewable energy goals more quickly; and (4) improve customer service and reliability. As discussed in more detail herein, the number of instances where municipalization eventually achieved some of the intended outcomes is limited, while in other instances, certain of these objectives were achieved by working with the existing utilities.

While there have been numerous such initiatives in the past quarter century exploring the condemnation of an existing utility's assets, the vast majority of these efforts have been abandoned or rejected by voters due to high costs and risks of uncertain or adverse outcomes. Key statistics to consider regarding these municipalization initiatives include:

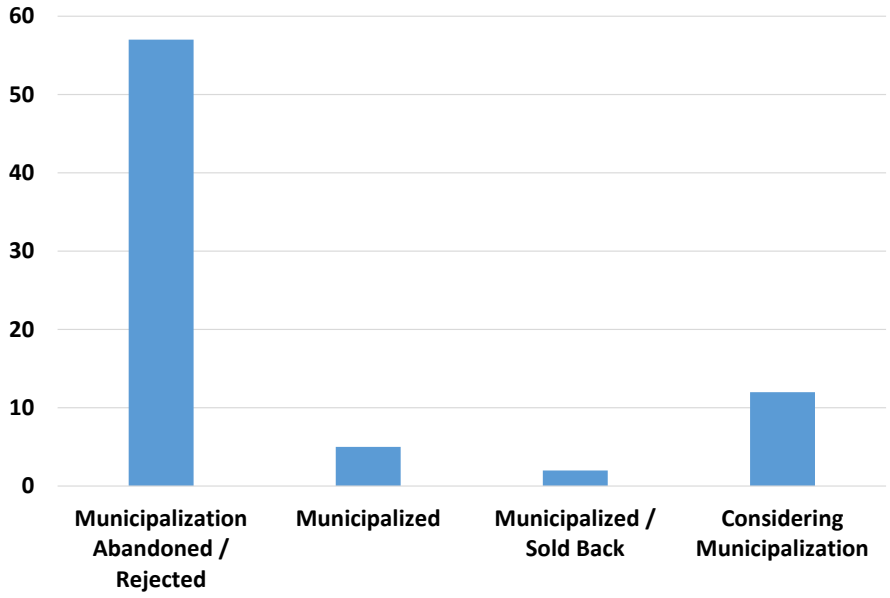
- The most recent municipalization in the U.S. occurred more than a decade ago, in 2013, when Jeferson County Public Utility District ("JPUD") in Washington acquired

[1] For purposes of this whitepaper, municipalization is defined as the condemnation or sale of an existing utility's electric assets to form a municipal utility. The authors acknowledge, however, that the formation of a municipal utility can take alternative paths and not include condemnation, such as providing electric service to greenfield areas where no utility service currently is provided, the redevelopment of brownfield sites (e.g., former military bases), providing only alternative electric supply to customers, or the development of duplicative distribution and/or transmission infrastructure within a municipality to serve certain loads of an existing electric utility.

the electric assets of Puget Sound Energy ("PSE") after PSE agreed to sell its electric infrastructure – which is not typically the case with municipalization initiatives.

- Since the last completed municipalization, 21 municipalization efforts have been initiated and subsequently abandoned or rejected by voters.
- Approximately 64 municipalization initiatives have been initiated and subsequently resolved in the past 25 years:
    - Only seven have resulted in the formation of a municipal utility – *however, two of those were subsequently sold back to the original investor-owned utility*
    - Thus, only five of the 64 (approximately 8%) municipal initiatives seeking acquire or condemn an existing utility's assets have been completed and remain in service – which means 92% of the initiatives either were rejected, abandoned, or sold back to the original utility.
- Of the five municipalizations completed since 2000, the systems acquired were generally small:
    - One served 4,900 customers;
    - Two served extremely small communities in Alaska with less than 75 customers each;
    - The other two served approximately 14,000 and 18,000 customers, respectively.
- As of January 2025, municipalization is currently being considered in approximately 12 communities across the U.S., and such initiatives range from very early preliminary discussions to conducting feasibility studies and evaluating alternatives

Figure 1: Summary of Municipalization Initiatives Since 2000



Potential Risks of Municipalization That Must Be Considered

There are many critical factors a community should consider before it decides to condemn or acquire electric utility assets, including, policy, financial, legal, governance, and operational issues, among others. It is important that a community understand the potential risks that these factors pose, a few of which are highlighted below.

Municipalization Can Be Lengthy, Litigious, and Costly

Recent experience with municipalization initiatives demonstrates that the process from initiation to acquisition can take as long as a decade and may not result in a municipal utility. During this period, the electrical system is still owned and operated by the incumbent utility, which must continue to make additional investments to meet its obligation to serve. As a result, the timeline and cost associated with any potential acquisition – before a municipal utility even commences service – is undefined and can often be significant. These costs include legal, engineering, consulting, and other expenses related to, among other things, identifying the assets to be condemned, evaluating the physical connection of the new municipality and the reconnection of the incumbent utility's system, and identifying the incumbent utility's investments that are no longer used or useful post-municipalization but which are allocable to the acquiring municipality.

Further, due to the duration of the municipalization process and the increasing complexity and pace of change for the electric grid, there is the potential for significant changes in market conditions, technology, system investments, and other circumstances that subsequently can affect or alter a community's initial decision-making regarding benefits of condemnation. Thus, voters need to carefully consider whether municipal resources – including time and tax dollars – that are most effective in pursuing the condemnation of utility property and establishing a new municipal utility versus other important community initiatives, especially in situations where municipal budgets are constrained.

For example, the taxpayers of Boulder, Colorado spent approximately $30 million over ten years before abandoning its municipalization effort and renegotiating a new franchise agreement with the existing utility. Likewise, Chicago, Illinois considered and abandoned its municipalization effort, driven largely by the high cost of separating and acquiring the system.

The Cost of Future Municipal Utility Service Is Unknown

While the future cost to condemn an existing utility's electric assets and subsequently establish and operate a municipal utility can be estimated, there is significant uncertainty regarding those ultimate costs since (1) the cost to acquire the existing utility's electric assets is not determined until the municipalization is finalized after a lengthy process; and (2) the future cost of

establishing and operating a municipal utility is not known until the commencement of municipal utility operations. In other words, community members need to consider that the decision to pursue municipalization must be made sometimes years in advance, and without knowing whether municipalizing the utility is financially feasible.

There are many cost components of acquiring an incumbent utility's assets and subsequently establishing and operating a municipal utility, and legislative requirements and/or case law require that the departing municipality bear the entirety of the costs of a municipalization. These costs, however, can remain undefined for years, and the totality of these costs influence the ultimate rates to be paid by municipal electric customers. These costs may include:

- The costs to acquire the existing utility's assets, including land and private easements, operations equipment, and intangible assets
- Severance costs, including:
    - Stranded costs, which is compensation required to be paid by a community to the existing utility for electric assets not acquired but are no longer used or fully used to serve the existing utility's remaining customers post-municipalization
    - Separation and reintegration costs incurred to isolate the municipal system from the remainder of the existing utility's electric system
    - Any damages to the value of the existing utilities' "going concern" business value, which – based on prior municipalization efforts – can be a material incremental cost
- The start-up costs associated with establishing a new municipal utility (*e.g.*, infrastructure, labor, systems, and other related costs)
- The costs associated with executing a transaction (*e.g.*, financing costs; future reserves)
- The costs to operate and maintain the existing utility's assets that are condemned, including:
    - Debt service on the acquisition-related costs
    - Future power supply costs
    - Operation and maintenance costs; and
    - Customer programs (*e.g.*, low-income assistance)

Another factor that should also be considered in terms of future operating costs is whether a municipal utility will be able to achieve economies of scale similar to those of a larger utility, which can reduce operating costs.

Capability to Execute / Provide Electric Utility Service

Electric service is critical for the welfare and livelihood of the members of a municipality. As such, voters must consider whether their municipality has or has planned for the expertise to operate the electric system safely and efficiently if municipalization is pursued. This includes ensuring that the municipality is planning for and successfully implementing required future system investments and services, fortifying the electric system against natural disasters (such as from wildfires or hurricanes), planning for and managing potentially enormous liabilities, and effectively managing outage and storm responses, among other factors. A municipality's capability to operate an electric system is particularly important to consider in the wake of rapid utility industry and technological changes, including grid modernization, distributed generation (*e.g.*, rooftop solar), and increasing weather-related and cyber security threats.

No Sharing of Risks / Cost Recovery

An investor-owned utility is subject to the regulatory oversight of a public utility commission, and the risks associated with owning and operating an electric utility under this model are shared between electric customers and the utility's shareholders. Utility rate regulation in the United States specifies that investor-owned utilities must be provided a reasonable opportunity to recover their prudently-incurred costs of providing utility service to their customers, but that there is no guarantee of cost recovery. Therefore, the shareholders of investor-owned utilities bear the risk that the costs incurred by the utility to provide electric service to customers will not be fully recovered. In contrast, under municipal ownership, there is no third-party review of operations and there are no outside shareholders who assume financial risk; instead, all benefits and risks of municipal electric operations, including full cost recovery, are directly assigned to the electric customers of the municipality.

Intergenerational Equity

The costs incurred to achieve municipal ownership and operation may be disproportionately borne by current customers to achieve benefits for future customers. In that sense, the decision to municipalize can result in intergenerational inequities that should be reviewed and considered by municipalities. Specifically, pursuing municipalization can result in existing community members bearing significant costs associated with the lengthy municipalization process and having electric bills that are higher for many years than they would otherwise be by staying with the existing electric utility, while any potential, albeit unknown, future benefits of municipalization would only accrue to future electric customers.

Utility Governance / Oversight

As noted, the state public utility commission reviews the costs and operations of an investor-owned utility and authorizes the costs that the utility can recover from customers. This third-party review of the costs and operational decisions of the utility provides benefits to customers that are not contemplated in most municipal ownership structures. Since a municipal utility generally would not be subject to public utility commission oversight, community residents should consider the differences between the governance of a municipal utility versus the existing federal and state regulatory structure under which investor-owned utilities operate. While local governance of utility operations can be considered a benefit, it is important to consider the value of this third-party review of operations and costs, and any potential risks related to possible organizational or political influence over the municipal utility operations.

Municipalization Case Studies

There are numerous municipal utilities throughout the U.S.; however, it is important to understand that the majority of these were established 100 years or more ago at a time when there were fewer barriers to creating municipal utilities. As a result, the current financial feasibility of forming a new electric utility differs substantially from a century ago due to the development of the complex physical infrastructure that exists today to serve customers. While circumstances exist where acquisition or condemnation can provide benefits, many communities have concluded that doing so is uneconomic.[2]

Therefore, the most recent cases where municipalities acquired or condemned investor-owned utility assets provide insight into the experiences of forming a new municipal electric utility and can help identify potential issues of which stakeholders should be aware when considering the possible acquisition of an existing utility's infrastructure, particularly if the existing utility is an unwilling seller. Below are examples of municipalizations that have been completed in the past

[2] *See, e.g.*, Ysabelle Kempe, "A Michigan city's 'sustainable energy utility' got the green light from voters. What now?" Utility Dive, January 2, 2025 (an Associate Professor of electric engineering and computer science at the University of Michigan assisting the city of Ann Arbor noted that "staging a municipal takeover" of the existing electric utility's infrastructure was not realistic and that alternative paths were the city's best bet for quickly ramping up clean energy generation."); John Engel, "Another big city considers building its own utility. What would it cost?," Power Grid International, July 26, 2024 (The executive director of the mayor of Louisville, Kentucky's sustainability office indicated that "municipalization was a pathway the city had to consider given the city's sustainability demands," but noted that the cost of municipalization was likely "out of reach for Louisville.")

two decades (Jefferson County, Washington and Winter Park Florida) and recent examples of abandoned municipalization efforts (Boulder, Colorado, Chicago, Illinois, and the State of Maine).

Completed Municipalization Initiatives

Jefferson County, Washington

In 2008, voters in Jefferson County, Washington initiated a process for the county to acquire the electric distribution assets of PSE. The effort was primarily driven by the desire for local control over its electric service. The initial estimate for JPUD to acquire PSE's electric facilities was approximately $47 million, and was approximately $66 million including separation, start-up, and legal costs, working capital, and financing expenses.[3] JPUD reached a settlement with PSE to acquire the system after a negotiation that lasted approximately two years. Pursuant to a negotiated sales process, JPUD agreed to pay PSE approximately $109 million, or approximately 1.65 times the county's initial cost projection and 2.34 times the net book value of the assets acquired.[4]

The JPUD transaction was unique due to the size and location of the service area, which represented a relatively small number of customers at the end of PSE's existing distribution system and provided the opportunity to sever a comparatively high-cost area from PSE's existing electrical system with minor impacts to the remainder of the system. In addition, after JPUD took ownership, PSE agreed to continue to operate the assets for the first three years. Thus, approximately five years after initiating the municipalization process, JPUD began operation of the electric distribution assets it acquired in April 2013.

The benefits of JPUD's municipalization were subsequently questioned in a report evaluating the outcome of the initiative. The report indicated that advocates for municipalization expected that the county's rates would remain low and could decrease, but that approximately three years after commencing municipal utility operations, JPUD customers were paying more than if they had remained with PSE. In addition, the report also identified other challenges that had arisen, including billing problems, nearly eliminating a program for low-income assistance customers,

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[3] D. Hittle & Associates, Inc., "Final Report, Preliminary Feasibility Study, Public Utility District No. 1 of Jefferson County Electric System Acquisition," October 24, 2008, at 21.

[4] Washington Utilities and Transportation Commission, Docket UE-132027, Order 04, September 11, 2014, at 1. JPUD's initial loan was $115 million, thus indicating that approximately an additional $6 million was incurred by JPUD related to the municipalization.

low customer satisfaction based on the results from JPUD's own survey, and significant issues with the utility's financial management as identified by the Washington State Auditor.[5]

Rate comparisons inherently require assumptions to establish comparability across the number of variables and decisions that affect customer rates and the timing of rate increases. While that is the case, more than ten years after JPUD began operations, the cost to an average residential customer of JPUD – as of the rates posted for January 2025 – is higher than the cost charged for residential electric service by PSE. However, PSE recently settled a rate proceeding and pursuant to that settlement, its rates are scheduled to increase at the end of January 2025, which would result in the cost to an average residential customer of JPUD being slightly lower than the cost charged for residential electric service by PSE.

Consistent with many other utilities across the U.S., JPUD projects an increase in power usage as a result of electrification, thus requiring additional investment over the next ten years. Since JPUD has noted that its number of customers has not increased at the same rate,[6] the incremental investment could place future upward pressure on rates.

Winter Park, Florida

Winter Park commenced operations of its municipal utility in June 2005 after acquiring the electric distribution assets of Progress Energy (now Duke Energy Florida) within the city. While the acquisition was decided through an arbitration process rather than litigation, the process lasted approximately five years. The original estimated acquisition cost was approximately $16 million (exclusive of stranded costs and going concern value), and the final acquisition price determined through arbitration was approximately $42 million (including $10.7 million for stranded costs and $12 million for going concern value). The going concern value represented approximately 65% of the value of the equipment, land and easements, and books and maps that were acquired.[7]

While the municipally-owned electric utility has achieved local control, enhanced reliability, and competitive rates, the city acknowledged that it faced significant challenges in its initial ownership and operation of the electric distribution system.[8] For example, after a few years into

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[5] Todd Myers, "The failed promises and politics of Jefferson Public Power: How creation of a public electric utility led to higher rates and lower customer service," Washington Policy Center, December 2016.

[6] Elijah Sussman, "Jefferson PUD leadership presents vision for next 10 years," Peninsula Daily News, August 3, 2024.

[7] *See, e.g.*, Florida Public Service Commission, Rebuttal Testimony of Javier Portuondo, Docket No. 050078-EI, August 5, 2005, at 18; City of Winter Park, "Our Municipalization Story," 2011, at 19.

[8] City of Winter Park, "Our Municipalization Story," 2011, at 19.

taking over ownership and operation of the electric operations, the city was placed on credit watch negative by Fitch Ratings due to declining liquidity and a debt service coverage ratio well below 1.0, the city's rates were higher than those of the former utility, and the municipal electric utility experienced significant revenue deficiencies requiring the need to draw down the city's cash position.[9] After approximately 20 years of municipal operation, improvements have been made regarding reliability and rate competitiveness, with the cost to an average residential customer in Winter Park now being less than the current cost for a residential customer taking service from the former investor-owned utility. In addition, the city's municipal electric utility has also achieved financial stability, as the debt service ratio has well exceeded its minimum benchmark for the past decade.[10]

Recent Abandoned / Rejected Municipalization Initiatives

Boulder, Colorado

In 2005, Boulder, Colorado began a municipalization initiative with a preliminary feasibility study to acquire the electric distribution system serving the city that was owned by Xcel Energy Inc. ("Xcel"). Boulder's motivation to form a municipal electric was largely driven by a desire for greater renewable energy generation relative to Xcel's generating portfolio at that time. In 2010, the Boulder City Council voted to end its franchise agreement with Xcel, and in 2011 voters approved funding to start the municipalization effort.[11] Over the course of the next decade, Boulder and Xcel engaged in significant litigation regarding the acquisition until, in November 2020, voters approved a ballot measure allowing the city to enter a 20-year franchise agreement with Xcel, thereby ending the lengthy municipalization initiative.[12]

During the decade-long municipalization effort, both the estimated costs to acquire Xcel's electric system and the costs incurred by the city to finance the ongoing municipalization effort increased considerably. For example:

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[9] City of Winter Park, "Winter Park Electric Rate Study," Presentation to the Utility Advisory Board, April 22, 2009, at 2-5.

[10] City of Winter Park, Annual Comprehensive Financial Report, March 29, 2024, at 148.

[11] Michael Elizabeth Sakas, "Boulder Ends Decade Long Pursuit Of City-Owned Power Utility," CPR News, November 20, 2020.

[12] Allen Best, "As costs rack up in Boulder's push to split with Xcel, voter to have the final say," Energy News Network, October 27, 2020; Sakas, Michael Elizabeth, "Boulder Ends Decade Long Pursuit of City-Owned Power Utility," Colorado Public Radio, November 20, 2020.

- The acquisition cost was initially estimated at less than $140 million, yet increased substantially throughout the process, and ultimately far exceeding the $213 million cap that voters established in 2013 as the amount of debt that could be issued for the acquisition.[13] Furthermore, when the franchise agreement with Xcel was reinstated, Boulder city staff acknowledged that the ultimate acquisition cost was unknown and that a final estimate was at least two years away.[14]
- By the time that voters approved reinstating the franchise agreement with Xcel, Boulder taxpayers spent nearly$29 million pursuing municipalization.[15] As noted by the city, the initiative required significant time from city personnel, with seven staff members devoting more than 50% of their time to the initiative and dozens more spending between 1% and 20% of the their time on the initiative.[16]

Boulder's settlement with Xcel included Xcel achieving an 80% carbon emissions reduction target by 2030 relative to 2005 levels, pilot programs for other clean energy initiatives, working jointly with the city on local grid planning, and funds over the franchise agreement specifically to increase reliability, among other efforts.[17] In addition, the settlement preserved Boulder's right to opt out of the franchise agreement to pursue municipalization at specific points during the agreement while also allowing the city to terminate the agreement at specific points if Xcel fails to meet its carbon emissions reduction benchmarks.[18]

Chicago, Illinois

In 2019, Chicago initiated a process to evaluate the feasibility of acquiring the distribution assets within the city limits owned and operated by the investor-owned utility, Commonwealth Edison Company ("ComEd"). In August 2020, a preliminary feasibility analysis conducted on behalf of Chicago concluded that rates would be more than 40% higher in the first year of service under

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[13] *See, e.g.*, Richard Williamson, "Boulder voters call off quest for municipal electric utility," The Bond Buyer, December 8, 2020; Alex Burness, "Boulder says municipalization ruling adds $23M to city's costs," September 23, 2017.

[14] "Boulder ends 10-year municipalization effort as votes OK historic deal with Xcel," Boulder Beat, November 4, 2020.

[15] *Id*.

[16] *Id*.

[17] *See, e.g.*, Emma Penrod, "Budget pressures, COVID-19 drive Boulder to settlement talks with Xcel Energy," Utility Dive, August 11, 2020; "Boulder ends 10-year municipalization effort as votes OK historic deal with Xcel," Boulder Beat, November 4, 2020; "Boulder 101: The Muni," Boulder Beat, September 10,2020.

[18] Emma Penrod, "Budget pressures, COVID-19 drive Boulder to settlement talks with Xcel Energy," Utility Dive, August 11, 2020.

municipal operation as compared with the rates projected under continued operation by ComEd,[19] and were projected to be higher for customers over the entire 20-year study period.[20] In addition, the study concluded that, while Chicago had established several strategic goals and objectives related to electric utility operations, alternatives to municipalization could also be consistent with those strategies and public policy objectives.[21]

As a result of the study's findings, the city abandoned its consideration of establishing a municipal utility, determining that doing so would not be financially feasible. Instead, the city indicated that it would focus on negotiating with ComEd on the mayor's policy objectives of rate affordability, energy and sustainability, equitable economic development, and transparency.[22]

State of Maine

In April 2019, a bill was introduced in the Maine legislature with the intention of condemning the investor-owned electric utilities in the state and establishing the Maine Power Delivery Authority ("MPDA"). The MPDA was to operate as a public power agency and provide electric service to the customers that had been served by the state's two investor-owned utilities, Central Maine Power ("CMP") and Versant Power ("Versant"). The scope of the proposed action was unprecedented, as, together, CMP and Versant distribute power to approximately 97% of electric customers in Maine. The bill was introduced based on objectives of local control of the utilities, as well as improvements in other factors, including system reliability, customer service, and rates.

The Maine Public Utilities Commission commissioned a study on the formation of public power in the state, which was issued in February 2020. The report did not make a specific recommendation as to whether the state should proceed with the condemnation of the utilities' assets. However, it addressed a number of factors for consideration and found that, based on a variety of assumptions, under a base case scenario, customers would be worse off with the MPDA for the first nine years before savings started; meanwhile, under a scenario where the cost to condemn and acquire the assets was higher, customers would be worse off for the first 18 years.[23]

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[19] Mayor's Press Office, "City of Chicago Releases Findings of Preliminary Municipal Utility Feasibility Study; Study finds that municipalization of electric utility is not financially viable," Press Release, August 28, 2020.

[20] "Preliminary Municipal Utility Feasibility Study," NewGen Strategies & Solutions, August 2020, at Report Summary.

[21] *Id*.

[22] *Id*.

[23] "Evaluation of the Ownership of Maine's Power Delivery System," London Economics International LLC, February 15, 2020, at 8.

While the Governor of Maine vetoed the original bill, the initiative became a referendum question posed to voters during the 2023 state election, with a new quasi-governmental, non-profit entity called Pine Tree Power taking the place of the MPDA, with the same intention to condemn the assets and take-over the operations of CMP and Versant. In November 2023, the voters of Maine overwhelmingly rejected the referendum for the State to create a public power utility with 70% of the vote.[24]

Conclusion

While many municipalization efforts have been initiated and subsequently resolved in the past 25 years, less than 10% of these efforts have resulted in a new municipal electric utility being established that remains in service today. The most recent municipalization occurred more than a decade ago, and that sale was achieved through a settlement as opposed to extensive litigation with the incumbent utility, which is contrary to the way in which municipalization initiatives have typically unfolded. In addition, following an acquisition, municipal electric utilities have experienced challenges often associated with new businesses, including several years of financial uncertainty, before the original objectives of the communities behind municipalization have been achieved. With this background in mind, it is important for communities considering municipalization to evaluate the time, costs, and risks – which include financial, operational, and governance issues – associated with taking over an existing utility's assets and operations.

[24] Kate Cough, "Pine Tree Power proposal decisively voted down," The Maine Monitor, November 8, 2023.