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SENATE
P.S. Res. No. 53

RECEIVED BY: 

Introduced by Senator Grace Poe

RESOLUTION

URGING THE SENATE COMMITTEE ON PUBLIC SERVICES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED RECURRING AND PROLONGED WATER SERVICE INTERRUPTION EXPERIENCED BY CUSTOMERS OF MAYNILAD WATER SERVICES INC., IN LIGHT OF THE PROVISIONS OF THEIR FRANCHISE UNDER REPUBLIC ACT NO. 11600 AND THEIR REVISED CONCESSION AGREEMENT

1 WHEREAS, the United Nations International Covenant on Economic,
2 Social and Cultural Rights stressed that "*everyone has the right to water*". Water
3 must be available, accessible, sustainable and acceptable for human
4 consumption¹;

5 WHEREAS, the Covenant further states that "*...the right to water is*
6 *essential for a dignified life and is vital for the realization of many other rights,*
7 *such as the rights to health, life, and an adequate standard of living*"²;

8 WHEREAS, the World Health Organization (WHO) estimates that "*a*
9 *person needs between 50 and 100 liters of continuous water supply daily to*
10 *ensure that his/her basic personal and health needs are met*"³;

¹ The Right to Water. <https://www.escr-net.org/rights/water#:~:text=What%20is%20the%20Right%20to,an%20adequate%20standard%20of%20living.>

² Ibid.

³ Philippine Daily Inquirer. (2019 June 25). *The human right to water.* <https://opinion.inquirer.net/122179/the-human-right-to-water>

1 WHEREAS, their notices of interruption especially those provided in their
2 social media page⁶ are usually posted a day before or even on the day of
3 interruption itself, giving insufficient time for the customers to prepare
4 accordingly;

5 WHEREAS, Maynilad has deployed its water service tanks to mitigate the
6 effect of the continuing service interruptions, but often are not enough to
7 service the needs of the public. Instead, long-suffering customers have to wait
8 in line for hours and often late into the night just to receive their water rations,
9 if any;⁷

10 WHEREAS, aside from household consumption, many businesses—
11 especially small and medium enterprises—have been gravely affected by the
12 continuing water service interruptions, with some forced to service less clients⁸
13 or to resort to other measures, often at their own expense, in order to continue
14 their operations despite the limited water supply⁹;

15 WHEREAS, moreover, customers have complained that the water service
16 available after the service interruption is intermittent and is often less than the
17 serviceable pressure, making it difficult to fill their containers for the next
18 scheduled water interruption.¹⁰ They also noted that the water quality is at
19 times dirty or unclear— which cannot be used for washing dishes or clothes,
20 much less for drinking and cooking¹¹;

21 WHEREAS, Maynilad often attributes the service interruptions to raw
22 water supply issues from Laguna Lake, including its apparent turbidity since

⁶ As seen from Maynilad's Twitter account, which can be accessed from:
<https://twitter.com/maynilad/media>

⁷ GMA News. (2022 July 04). *Water Service Interruption ng Maynilad sa Parañaque, Pasakit sa mga Residente*. <https://www.youtube.com/watch?v=NeDgnBNfpzY>

⁸ ABS-CBN News. (2022 March 14). *Water Interruptions Possible pang Humaba: Maynilad*. https://www.youtube.com/watch?v=uorVpaA_OUY

⁹ ABS-CBN News. (10 June 2022). *Walang Ligo, Walang Tubig: 10 Barangay sa Bacoor Apektado ng Water Interruption*. <https://www.youtube.com/watch?v=T5lfBoWThm4>

¹⁰ ABS-CBN News. (2022 January 25). *Maynilad Posibleng Maparusahan sa Mahabang Water Interruption: MWSS*. <https://www.youtube.com/watch?v=m7fOMNsQtOQ>; ABS-CBN News.

¹¹ CNN Philippines. *Thousands Struggle Due to Maynilad Water Interruptions Until End-July*. <https://www.youtube.com/watch?v=Y1XuAM0jEmk>

1 December 2021¹² and the current algal bloom¹³, which affect water production
2 particularly at its Putatan Treatment Facility;¹⁴

3 WHEREAS, the MWSS Regulatory Office (MWSS-RO) previously noted
4 that the Corporation should have prepared for the recurring turbidity issues of
5 Laguna Lake¹⁵ and eventually fined Maynilad for the water service interruptions
6 from December 2021 to February 2022, which became rebates to affected
7 customers¹⁶;

8 WHEREAS, in a press release, MWSS-RO has recently warned Maynilad
9 for the surge in customer complaints over its services, and that it will not
10 hesitate to impose the appropriate sanctions and penalties if the Corporation is
11 found wanting in its contractual obligations¹⁷;

12 WHEREAS, despite this warning from MWSS-RO, and Maynilad's
13 consequent promise to resume full water production¹⁸, Maynilad still fails to
14 provide the necessary water supply and quality of service required of the
15 Corporation under the RCA as well as its legislative franchise;

16 WHEREAS, under Republic Act No. 11600, the Corporation is required
17 "*...to ensure an uninterrupted and adequate supply and distribution of potable*
18 *water...*" (Section 1 on Nature and Scope); "*...to conform to the ethics of honest*
19 *enterprise and shall provide water supply and sewerage services to its service*

¹² Maynilad Water Services, Inc. (2022 January 21). Notice to their customers posted on their Twitter Account dated 21 January 2022. <https://twitter.com/maynilad/status/1484431773081948161>

¹³ Hicap, J. (2022 June 08). *Maynilad Blames Algal Bloom in Laguna Lake for Water Service Interruptions in Muntinlupa*. <https://mb.com.ph/2022/06/08/maynilad-blames-algal-bloom-in-laguna-lake-for-water-service-interruptions-in-muntinlupa/>

¹⁴ Jocson, L. (2022 June 14). *Maynilad Clarifies Water Issue, Starts Solar Farm*. <https://www.bworldonline.com/corporate/2022/06/14/454763/maynilad-clarifies-water-issue-starts-solar-farm/>

¹⁵ ABS-CBN News. (2022 January 35). *Maynilad Posibleng Maparusahan sa Mahabang Water Interruption: MWSS*. <https://www.youtube.com/watch?v=m7fOMNsQtOQ>

¹⁶ ABS-CBN News. (2022 January 35). *Maynilad Posibleng Maparusahan sa Mahabang Water Interruption: MWSS*. <https://www.youtube.com/watch?v=m7fOMNsQtOQ>

¹⁷ Metropolitan Waterworks and Sewerage System Regulatory Office. (2022 June 10). *MWSS RO Probes Maunilad Over Surge in Customer Complaints on Water Supply and Quality Issues*. <https://twitter.com/mwssro/status/1535108971123871744/photo/1>

¹⁸ Yang, A. (10 June 2022). *Maynilad Promises to Fully Resume Water Production in West Zone by June 15*. <https://www.philstar.com/headlines/2022/06/10/2187478/maynilad-promises-fully-resume-water-production-west-zone-june-15>

1 *area in a prudent, efficient, and satisfactory manner...*" (Section 7 on the
2 Responsibility to the Public); and to "...ensure that service interruptions shall be
3 *minimal and shall observe the standards imposed by the Regulatory Office...*"
4 (Section 9 on Protection of Consumer Interest);

5 WHEREAS, furthermore, under Article 5.1.2 of the RCA, Maynilad is
6 obliged to ensure the availability of an uninterrupted 24-hour supply of water
7 to all connected customers within their franchise area;

8 WHEREAS, under Article 5.4, Maynilad is required to provide notices to
9 customers at least 48 hours in advance for any planned interruptions in water
10 supply; respond promptly to customer inquiries and complaints; effect urgent
11 restoration, within 6 hours from notice of interruption and subject to granted
12 extensions by MWSS RO, of water supply for unplanned interruptions; and
13 provide alternative water supplies for planned interruptions to specific
14 consumers. Likewise, under Article 5.1.4, the water quality must meet the
15 current Philippine National Drinking Water standards;

16 WHEREAS, the core principle of the franchise law and the RCA is for the
17 concessionaire to provide uninterrupted and adequate potable water supply to
18 the public. The continuing water service interruptions by Maynilad are hardly a
19 reflection of these obligations;

20 WHEREAS, while Article 11.4 of the RCA provides for financial penalties
21 against the concessionaire and rebates to customers in the event Maynilad fails
22 to meet any of its service obligations for more than 15 days (or 3 days in cases
23 where the failure could adversely affect public health or welfare), as a corporate
24 entity, it is possible that paying off their penalties is more financially beneficial
25 to them than improving their facilities and services or tapping new water
26 sources;

27 WHEREAS, there is a need to stress that Maynilad's operation as a water
28 service provider is a privilege granted by the State. Article XII, Section 11 of
29 the 1987 Constitution states that a franchise for the operation of a public utility

1 is subject to amendment, alteration or repeal by Congress when the common
2 good so requires. Hence, the franchise granted to Maynilad may likewise be
3 taken away when its services are determined to be lacking and ultimately
4 detrimental to the constituents;

5 WHEREAS, none other than Maynilad's own franchise and its RCA outlines
6 this conditional privilege;

7 WHEREAS, Section 13 of Republic Act No. 11600 states that, "This
8 franchise shall be for a term of twenty-five (25) years from the effectivity of
9 this Act, unless sooner cancelled or revoked by Congress when the public
10 interest so requires or when the grantee fails to reasonably comply with
11 regulatory standards...";

12 WHEREAS, on the other hand, Article 11.2 of the RCA states that if
13 Maynilad fails to provide a 24-hour water supply at the required pressure for a
14 continuous period of 15 days, the same will be considered as a "Concessionaire
15 Event of Default", which is a possible ground for termination of the same
16 agreement. Even without the foregoing option, MWSS RO is empowered under
17 Article 11.3.1(a) of the RCA to terminate the Agreement when the common
18 good so requires and upon written notice to the Concessionaire;

19 WHEREAS, the United Nations stressed that right to water is "a legal
20 entitlement, rather than a commodity or service provided on a charitable
21 basis"¹⁹, and the government must ensure that accessible, clean, safe, and
22 affordable water is provided for all;

23 WHEREAS, considering the negative repercussions of a recurring and
24 prolonged water interruption to the health, livelihood and everyday living of the
25 affected consumers, especially during a global health crisis, there is a need to
26 look into the possible inefficiencies and shortcoming of Maynilad as a water
27 service provider, and come up with stronger deterrents to discourage the same
28 from happening again in the future;

¹⁹ United Nations. The Human Right to Water and Sanitation.
https://www.un.org/waterforlifedecade/pdf/human_right_to_water_and_sanitation_media_brief.pdf

1 WHEREAS, there is also a need to look into long term solutions to these
2 water interruptions within the backdrop of the prevailing water crisis in the
3 Philippines;

4 NOW THEREFORE BE IT RESOLVED, as it is hereby resolved by the
5 Senate of the Philippines, to conduct an inquiry, in aid of legislation, on the
6 reported recurring and prolonged water service interruption experienced by
7 customers of Maynilad Water Services Inc., in light of the provisions of their
8 franchise under Republic Act No. 11600 and their revised concession
9 agreement.

Adopted,


GRACE POE
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