



SENATE
Office of the Secretary

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

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SENATE

P. S. Res. No. 4

RECEIVED BY: *[Signature]*

Introduced by Senator Ralph G. Recto

A RESOLUTION

DIRECTING THE SENATE COMMITTEE ON PUBLIC SERVICES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE PASS-ON CHARGES OF MAYNILAD WATER AND MANILA WATER, WHICH INCLUDE THEIR INCOME TAX PAYMENTS, WITH THE END IN VIEW OF REVISITING THE REGULATORY POWERS OF THE METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM (MWSS), AND ENSURING THAT CONSUMER RIGHTS AND WELFARE ARE PROTECTED

WHEREAS, the Constitution provides that the State shall protect consumers from trade malpractices and from substandard or hazardous substances;

WHEREAS, the Consumer Act of the Philippines, or RA 7394, is a law which implements a declared State policy to protect the interests of the consumer, promote his general welfare and establish standards of conduct for business and industry;

WHEREAS, pursuant to the 1997 privatization of the state water delivery system for Metro Manila, Maynilad Water Services Inc. won the concession for the West zone while Manila Water Company Inc. won the bid to supply potable water for the East Zone;

WHEREAS, the two companies have invested billions of pesos to improve water service in their respective concession areas since the privatization of water supply in 1997;

WHEREAS, consumer advocacy group Water for the People Network (WPN) has bared that Maynilad and Manila Water are passing on their income taxes to water consumers, which had reached P15.5 billion during the period 2008 to 2012 or P3.1 billion a year;

WHEREAS, the income taxes are tucked in as part of their operations expense (Opex) and tariff rate that are passed on to water consumers through their monthly billings;

WHEREAS, regulator Metropolitan Waterworks and Sewerage System (MWSS) has admitted that the two concessionaires' income taxes and other duties form part of what all consumers pay monthly;

WHEREAS, the two private companies are again petitioning MWSS to include again these taxes as pass-on charges to all consumers from 2013 to 2037;

WHEREAS, the inclusion of the taxes as pass-on charges was approved by the previous MWSS administration;

WHEREAS, the two companies want to implement a "rate rebasing" that would result to consumers shouldering the Opex of the water concessionaires;

WHEREAS, in 2008 the MWSS-Regulatory Office (MWSS-RO) allowed the private concessionaires to include in their Opex the cost of corporate income taxes that would be

recovered from consumers through monthly water bills;

WHEREAS, based on their approved business plans in the previous rate rebasing as well as the extension of their Concession Agreements (CAs) with the MWSS, the total cost of the corporate income taxes that Manila Water consumers will shoulder could reach P64.1 billion and for Maynilad, P68.7 billion, covering the period 2008 to 2037, the expiration year of the CAs;

WHEREAS, under the rate rebasing model, the concessionaires are permitted to project all their expenses until the end of their CAs and charge them to consumers;

WHEREAS, corporate income taxes comprise 31 percent of the projected Opex of Manila Water and 26 percent of Maynilad's during the period in question;

WHEREAS, Manila Water is seeking a P5.83/cubic-meter increase in its basic charge and Maynilad, P8.58/cubic-meter for this year up to 2018;

WHEREAS, WPN claimed that a guaranteed rate of return, called appropriate discount rate (ADR), is also applied on the pass-on income taxes as part of the Opex, which means that Manila Water and Maynilad, apart from not paying their tax obligations, would even profit from it;

WHEREAS, it was revealed that in the last rate-rebasing period from 2008 to 2012, Manila Water and Maynilad were given an ADR or discount of 9.3 percent;

WHEREAS, Maynilad enjoys an income-tax holiday, but still included corporate income taxes in its Opex;

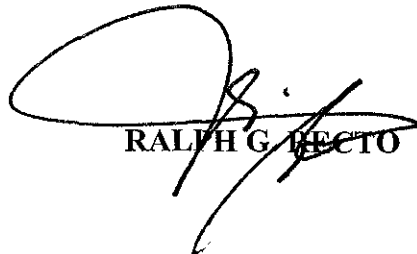
WHEREAS, the CAs, a form of public-private partnership (PPP) or privatization, came into force in 1997 and were originally set at 25 years but were extended for another 15 years during the Arroyo administration.

WHEREAS, the MWSS said it is reviewing its CAs with Maynilad Water and Manila Water so the firms can no longer pass on their taxes to consumers; and,

WHEREAS, an inquiry must be conducted to correct the onerous provisions in the CAs of the two water concessionaires, review and strengthen the regulatory powers of MWSS and protect the welfare of the consumers;

NOW THEREFORE, BE IT RESOLVED, by the Philippine Senate, to direct the Senate Committee on Public Services to conduct an inquiry, in aid of legislation, on the pass-on charges of Maynilad Water and Manila Water, which include their income tax payments, with the end in view of revisiting the regulatory powers of the Metropolitan Waterworks And Sewerage System (MWSS), and ensuring that consumer rights and welfare are protected.

Adopted,


RALPH G. RECTO