

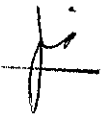


SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

13 JUL -8 P7:01

SENATE

SENATE RESOLUTION NO. 33

RECEIVED BY: 

Introduced by Senator Antonio "Sonny" F. Trillanes IV

RESOLUTION

DIRECTING THE SENATE COMMITTEE ON GOVERNMENT CORPORATIONS AND PUBLIC ENTERPRISES AND OTHER APPROPRIATE COMMITTEES OF THE SENATE TO INVESTIGATE, INQUIRE AND LOOK INTO, IN AID OF LEGISLATION, THE ALLEGED OVERCHARGING BY THE TWO (2) WATER CONCESSIONAIRES PRIMARILY OPERATING IN METRO MANILA, BY PASSING MORE THAN P 15 BILLION PESOS OF CORPORATE TAXES AND OTHER EXPENSES ON TO CONSUMERS BETWEEN 2008 TO 2012 WITH THE APPROVAL OF THE METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM, WITH THE END IN VIEW OF DETERMINING COMPLIANCE WITH EXISTING LAWS AND ENACTING REMEDIAL LEGISLATION TO PROTECT THE INTEREST OF CONSUMERS.

WHEREAS, Republic Act 7394, otherwise known as the Consumer Act of the Philippines, declares that it is the policy of the State to protect the interests of consumers, promote their general welfare and to establish standards of conduct for business and industry;

WHEREAS, the intent and spirit of the aforesaid public policy appears to have been directly contravened and diametrically opposed by the Metropolitan Waterworks and Sewerage System (MWSS) Regulatory Office when it issued Resolution No. 04-006-CA in July 2004, allowing the Manila Water Company, Inc. ("*Manila Water*") and Maynilad Water Service, Inc. ("*Maynilad*") to recover corporate income tax expenses, among other expenses, by passing these on to their consumers;

WHEREAS, MWSS Administrator Gerardo Esquivel confirmed the reports of the consumer advocacy group – Water for People Network (WPN) – which claims that consequently, from 2008 to 2012, consumers have been shouldering about P 1.5 Billion and P1.6 Billion in taxes for Manila Water and Maynilad, respectively, annually over the past five (5) years or some **15.3 Billion Pesos** in total;

WHEREAS, apart from their corporate income tax, Manila Water and Maynilad have purportedly passed on other charges to consumers, including their travel and entertainment expenses, advertisements, donations, training expenses¹ and even expenses for flowers;

WHEREAS, furthermore, MWSS Administrator Esquivel admitted that both Manila-based concessionaires were granted an income tax holiday in 2009 while persistently making consumers pay for their supposed corporate taxes²;

¹ *Water companies passed on additional charges to consumers - report*. Information retrieved from <http://www.gmanetwork.com/news/story/315655/news/metromanila/water-companies-passed-on-additional-charges-to-consumers-report> on 7/5/2013.

WHEREAS, amidst the aforesaid controversies, the MWSS rescinded the said nine-year old resolution and issued a new resolution superseding the former, which is currently pending approval and confirmation of the MWSS Board of Trustees;

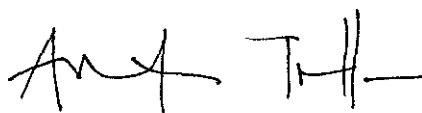
WHEREAS, such practice of privatized utilities corporations passing on tax burden to consumers was ruled as *illegal* by the Supreme Court when it demanded income tax reimbursement from Meralco of around P20 Billion in 2004 and expressly declared that "*income tax should not be included in the computation of operating expenses of a public utility*";

WHEREAS, in the same decision, the High Tribunal opined that allowing the indiscriminate inclusion of income tax payments as operating expenses may create an undesirable precedent and serve as a blanket authority for public utilities to charge their income tax payments to operating expenses and unjustly shift the tax burden to the customer.³

WHEREAS, in view of all the foregoing, it appears that the previous action of the MWSS effectively runs directly in contravention of and diametrically opposed to the Supreme Court's landmark decision that the burden of paying corporate income taxes should not be unjustly borne by consumers but by the party maintaining the facility; thus, there is an urgent and imperative need to conduct an investigation into this very important matter affecting millions of Filipino consumers;

NOW, THEREFORE, BE IT RESOLVED as it is hereby resolved, by the Philippine Senate to direct the Senate Committee on Government Corporations and Public Enterprises and other appropriate Senate Committee(s), to investigate, inquire and look into, in aid of legislation, the alleged overcharging by Manila Water and Maynilad of their consumers, by passing more than P 15 Billion corporate taxes and other expenses on to consumers between 2008 to 2012 with the prior approval of the Metropolitan Waterworks And Sewerage System, with the end in view of determining compliance with existing laws and enacting remedial legislation to strengthen existing measures in order to protect the welfare of Filipino consumers.

Adopted,



ANTONIO "SONNY" F. TRILLANES IV

² MWSS admits consumers paying Maynilad, Manila Water taxes. Information retrieved from <http://www.philstar.com/headlines/2013/06/26/958448/mwss-admits-consumers-paying-maynilad-manila-water-taxes> on 7/5/2013.

³ REPUBLIC OF THE PHILIPPINES, REPRESENTED BY ENERGY REGULATORY BOARD vs. MANILA ELECTRIC COMPANY. G.R. No. 141314. November 15, 2002.