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SENATE

S. No. 933

RECEIVED

BY: 

Introduced by Senator Ralph G. Recto

**AN ACT
RATIONALIZING THE ECONOMIC REGULATION OF WATER UTILITIES,
CREATING THE WATER REGULATORY COMMISSION, AND FOR OTHER
PURPOSES**

Explanatory Note

The lack of access to safe water supply and sanitation has an adverse impact on health, environment, economic productivity and development. There are more than 26 million Filipinos without access to sanitary toilet facilities, and only 5 million have proper wastewater facilities resulting in approximately 90 percent of effluence going directly to our water bodies without any form of treatment.¹

Due to high connection costs, 8 million Filipinos cannot connect to water systems and rely on unsafe sources of water that are highly susceptible to waterborne diseases such as acute watery diarrhea - ranked as third highest cause of morbidity in the country². Of the families with access to safe water supply, less than 45% have piped connection and the rest rely on unsustainable communal faucets and point sources.³

The water and sanitation sector is characterized by the absence of a lead agency for the sector, the lack of a cohesive policy framework, insufficient public financing, inadequate sector data that can provide informed policy and investment decisions, and a severely fragmented and poorly enforced regulatory regime.

There are currently several economic regulatory agencies for water: The Local Water Utilities Administration (LWUA) for water districts and rural waterworks and sanitation associations, the National Water Resources Board (NWRB) for private utilities, the Metropolitan Waterworks and Sewerage System (MWSS) for Metro Manila, other agencies covering various economic and industrial zones, and Local Government Units that essentially self-regulate. These agencies have other mandates particularly, proprietary roles on the part of the MWSS, LGUs, the economic and industrial zones; financing on the part of LWUA, and resource regulation on the part of NWRB; that inherently pose conflicts of interest on their economic regulatory functions.

Compounding this issue is the low coverage of the economic regulatory mantle. There are an estimated 4,600 water utilities in the country, of which 2,200 are small utilities with less than 1,500 connections, and with different ownership structures and governance systems—from public and private corporate entities, LGU-ran systems and loosely formed community-based associations. Only 27% of the total utilities (mostly

¹ Water.org website. <http://water.org/country/philippines/>

² Water.org website. <http://water.org/country/philippines/>

³ a well or borehole, that serves one or a group of households, depending on the source's ownership, as well as its regeneration capacity

water districts and private utilities) are subject to economic regulation, leaving 73% without any standard guidelines for tariff setting or oversight on performance. Weak or benign exercise of regulatory functions has led to under investments and sub-optimal performance of water utilities.

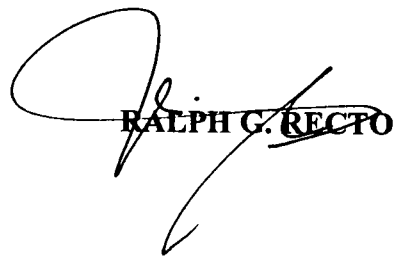
The objective of this bill is to rationalize the economic regulation of water supply and sanitation services with the creation of the Water Regulatory Commission; an independent, quasi-judicial body consolidating the economic regulatory powers of the various water agencies into one national body.

The proposed measure seeks to achieve the following objectives:

- Achieve universal access to improved water and sanitation services for the entire country through an effective economic regulatory system that can compel expansion of service coverage, efficiency in operations and quality of service;
- Encourage private sector participation in the development and expansion of water and sanitation services;
- Protect the interest of consumers; and
- Address the conflicts of interest inherent in the current water regulatory agencies.

In view of the foregoing, the approval of this bill is hereby requested.

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RALPH C. RECTO

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AN ACT
RATIONALIZING THE ECONOMIC REGULATION OF WATER UTILITIES,
CREATING THE WATER REGULATORY COMMISSION AND FOR OTHER
PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

TITLE AND DECLARATION OF POLICY

SECTION 1. Short Title. This Act shall be known as the "Water Regulatory Commission Act."

SEC. 2. Declaration of Policy. It is hereby declared the policy of the State to pursue and foster, in an orderly, rational, efficient, and dynamic manner, the attainment of nationwide water supply and sanitation services at reasonable rates and, encourage the participation and investment of the private sector, both domestic and foreign, in the provision of piped-water supply and sanitation services. For this purpose, there is a need to establish a single agency of government to be invested with ample powers for the rational and effective economic regulation of all water supply and sanitation systems.

SEC. 3. Objectives. The Commission shall have the following objectives:

- (a) To promote the expansion, improvement and efficient provision of Water Supply and Sanitation Services throughout the Philippines.
- (b) To provide an environment conducive to the adequate financing of Water Supply and Sanitation Services provided by public and private sector Licensees in order to facilitate financially viable water Supply and Sanitation Services.
- (c) To protect the legal and valid interests of consumers of Water Supply and/or Sanitation Services.
- (d) To promote efficient competition in the supply of Water and Sanitation Services in order to benefit the consumers.
- (e) To develop and maintain a national water utility database using the geographic information system (GIS).

1 **SEC. 4. Definition of Terms.** The following terms used in this Act shall have the
2 meanings stated below:

- 3 (a) **“Certificate of Public Convenience (CPC) or Certificate of Public**
4 **Necessity (CPN)”** shall mean a formal written authority to sell water
5 issued to an applicant for the operation of a public service wherein a
6 franchise is required by law.
- 7 (b) **“Commission”** shall mean the Water Regulatory Commission.
- 8 (c) **“Commissioner”** shall mean persons appointed in accordance with the
9 provisions of this Act.
- 10 (d) **“Existing Licensee”** shall mean any water service and/or sanitation
11 service provider granted by existing regulatory institutions such as the
12 NWRB, LWUA, MWSS, PEZA, issued to persons and entities that are
13 qualified to provide water supply and sanitation services for a particular
14 service area or areas.
- 15 (e) **“Integrated Innovation”** shall mean the coordinated application of
16 scientific or technological, social and business innovation to develop
17 solutions to complex challenges.
- 18 (f) **“Level I (point source)”** shall mean a protected well or a developed
19 spring with an outlet but without a distribution system as it is generally
20 adaptable for rural areas where the houses are thinly scattered.
- 21 (g) **“Level II (communal faucet system or stand post)”** shall mean a piped
22 system with communal or public faucets usually serving 4 to 6
23 households.
- 24 (h) **“Level III (waterworks system)”** shall mean a full reticulated system
25 with individual house connections based on a daily water demand of more
26 than 100 liters per person.
- 27 (i) **“Licensee”** shall mean the Water Supply and/or Sanitation Services
28 operating licenses issued by the Commission and are qualified to provide
29 Water Supply and/or Sanitation Services for a particular Service Area or
30 Areas.
- 31 (j) **“LWUA”** shall mean the Local Water Utilities Administration created
32 under PD No. 198 as amended.
- 33 (k) **“NWRB”** shall mean the National Water Resources Board created by
34 Presidential Decree No. 424, as amended by Executive Order No. 124-A.
- 35 (l) **“MWSS”** shall mean the Metropolitan Waterworks and Sewerage System,
36 created by Republic Act No. 6234.
- 37 (m) **“PEZA”** shall mean the Philippine Economic Zone Authority, created by
38 Republic Act No. 7916.

- 1 (n) **“Regulatory Units”** shall mean the regulatory offices established under
2 Section 5 of this Act to issue licenses authorizing the operation of Water
3 Supply and Sanitation Services in accordance with its powers provided in
4 this Act.
- 5 (o) **“Sanitation Service”** shall mean a service involving the collection of
6 effluent and sludge from human waste and greywater from residences and
7 establishments utilizing a sanitation system through pipes and structures.
- 8 (p) **“Sanitation System”** shall mean an infrastructure system that collects,
9 treats, and disposes or reuses effluents and sludge, and may include but is
10 not limited to other systems such as sewerage, septage or combined
11 drainage interceptor systems.
- 12 (q) **“Service Area”** shall mean the territory or area of operations granted by
13 the Commission to a Licensee to provide Water Supply and/or Sanitation
14 Services.
- 15 (r) **“Sewerage Service”** shall mean the sewerage services provided by a
16 Licensee in a particular Service Area involving the collection of human
17 waste and sullage from residences and establishments through pipes and
18 structures.
- 19 (s) **“TIEZA”** shall mean the Tourism Infrastructure Zone Authority, created
20 by Republic Act No. 9593.
- 21 (t) **“Tariffs”** shall mean such amounts which may be charged by Licensees
22 of Water Supply and/or Sanitation Services for their services based on
23 principles, standards, and guidelines established by the Commission.
- 24 (u) **“Water District”** shall mean a government-owned and controlled
25 corporation organized under Presidential Decree No. 198, as amended,
26 created primarily to acquire, install, operate, maintain and improve water
27 supply and distribution systems for domestic, industrial and municipal
28 uses of residents and to provide, maintain, and operate waste water
29 collection, treatment and disposal facilities within the boundaries of the
30 district.
- 31 (v) **“Water Supply Service”** shall refer to the provision of water supply
32 through the use of piped water distribution systems.

33 CHAPTER 2

34 ORGANIZATION

35 **SEC. 5.** *The Water Regulatory Commission.* There is hereby created and
36 established an independent, quasi-judicial body to be known as the Water Regulatory
37 Commission, hereafter referred to as the Commission and organized within one hundred

1 twenty (120) days after the effectivity of this Act. The Commission shall exercise the
2 power and functions provided in this Act.

3 The Commission shall be an attached agency of the Department of Public Works
4 and Highways (DPWH). For purposes of this Section, the relationship between the
5 Commission as an attached agency of the DPWH shall be limited only to coordination
6 and/or consultation by the Commission with the DPWH on the latter's general policy
7 framework for Water Supply and Sanitation Services.

8 **SEC. 6. Powers and Functions of the Commission.** The powers and functions of
9 the Commission are as follows:

- 10 (a) To formulate rules and regulations, strategies and targets to facilitate and
11 rationalize the expansion, improvement, and efficient provision of Supply
12 and Sewerage Services throughout the country.
- 13 (b) To formulate tariffs for Water Supply and/or Sanitation Services, taking into
14 account among others, the following:
- 15 1) capital and recurrent cost of providing the service including a reasonable
16 rate of return on capital;
 - 17 2) efficiency of the service;
 - 18 3) incentives for enhancement of efficiency, including demand side
19 management;
 - 20 4) consumers' willingness to pay;
 - 21 5) equity considerations; and
 - 22 6) administrative simplicity.
- 23 (c) To approve and regulate the tariffs to be charged by Licensees of Water
24 Supply and/or Sanitation Services, including local government units.
- 25 (d) To regulate persons or entities, whether from the public or private sector,
26 that provide Water Supply and/or Sanitation Services.
- 27 (e) To grant, issue, modify, monitor, enforce, suspend and/or cancel licensees
28 for Water Supply and Sanitation Services imposed penalties for
29 administrative violations thereof. Such penalties may be decided by the
30 Commission and may include the suspension or revocation of a license.
31 Where necessary, the Commission may delegate the management of the
32 licensee through a receivership mode.
- 33 (f) To require the monitoring and submission of utility data, statistics and other
34 information from all licensees as may be necessary for the effective and
35 efficient exercise of its duties, functions, powers, and responsibilities.
- 36 (g) To disseminate and publish comparative information on process and service
37 performance of Licensees of Water Supply and/or Sanitation Services.

- 1 (h) In the exercise of its powers and functions under this Act, to take into
2 account Licensee's service targets and performance with respect to
3 consumer service standards regarding water pressure, minimum flow rates,
4 connections and billing and metering requirements and procedures, among
5 others.
- 6 (i) To provide a system for complaints and appeals including, but not limited
7 to:
8 1) Tariffs imposed for Water Supply and/or Sanitation Services;
9 2) The quality of services provided by said Licensees; and
10 3) The inadequate or inequitable distribution and reliability of Water
11 Supply and/or Sanitation Services.
- 12 (j) Investigate, motu proprio or upon complaint in writing, any matter
13 concerning the service and require the Licensee to submit in writing any
14 undertaking for immediate remedial measures.
- 15 (k) To impose and collect an annual levy on all Licensees determined by the
16 Commission as a percentage of the revenue accruing in relation to the
17 licensed activities; and reasonable fees, surcharges, and fines from
18 Licensees of Water Supply and/or Sanitation Services.
- 19 (l) To advise, apprise and coordinate with other relevant agencies of the
20 national or local government on any matter relating to Water Supply and/or
21 Sanitation Services.
- 22 (m) To deputize agents whether from public or private sector, to assist in the
23 performance of any powers and functions of the Commission.
- 24 (n) To appoint, hire and maintain as necessary, adequate staff and personnel,
25 advisers, and/or consultants, with suitable qualifications and experience.
- 26 (o) To conduct inquiries on matters relating to water supply or sanitation
27 disposal.
- 28 (p) To provide a system for the settlement of disputes between or among the
29 Licensees.
- 30 (q) To issue and promulgate rules and regulations necessary to implement,
31 perform and effect its aforementioned powers and functions.
- 32 (r) Such other incidental powers and functions as may be necessary to attain the
33 objectives of this Act.

34 **SEC. 7. *The Regulatory Units.*** The Regulatory Units of the Commission shall be
35 composed of the Regional Regulatory Units and the Central Regulatory Unit. The
36 Regional Regulatory Units shall be established by the Commission in accordance with
37 such rules, regulations, guidelines and standards provided hereunder as the Commission
38 shall issue.

1 Moreover, the pertinent regulatory units of the MWSS, NWRB and LWUA are
2 hereby transferred to the Commission, and they shall collectively comprise its Central
3 Regulatory Unit for water supply and sanitation services that are owned, operated and/or
4 maintained by public and private sector Licensees (including those for the special
5 economic zones, and Metro Manila concessionaires), and for other institutions
6 appropriate for the Central Regulatory Unit.

7 **SEC. 8. Powers and Functions of the Regulatory Units.** The Regulatory Units of
8 the Commission shall have the following powers and functions:

- 9 (a) Subject to review and approval of the Commission, issue and promulgate
10 rules, regulations, and guidelines as may be necessary to implement and
11 enforce its powers and functions under this Section.
- 12 (b) Issue licenses authorizing the operation of Water Supply and/or Sanitation
13 Services in specified area.
- 14 (c) Impose fines, charges, and other penalties upon any water service provider
15 and/or officers and stockholders who shall fail or refuse to register and/or
16 obtain a License prior to operation or commencement of business, as
17 provided hereunder.
- 18 (d) Consistent with rules, guidelines, procedures and methodologies, which the
19 Commission shall provide, review, determine, fix and approve proposed
20 water and sewerage tariffs, rates and charges that Licensees may impose
21 upon their customers.
- 22 (e) Appraise and value property equipment used by Licensees in providing
23 water supply and sanitation services.
- 24 (f) Enforce the financial, technical, and other performance standards set by the
25 Commission for licensees and utilities.
- 26 (g) Respond to customer complaints and ensure adequate protection of customer
27 interests.
- 28 (h) Investigate accidents directly or indirectly arising from or connected with
29 the maintenance or operation of the service, and make such order or
30 recommendation as the public interest may warrant.
- 31 (j) Require the submission of reports, plans, and other documents that set out
32 the performance targets and accomplishment of licensees and utilities.
- 33 (k) Impose and collect annual levies determined as a percentage of gross
34 revenue accruing in relation to the licensed activities, and reasonable fees
35 and surcharges as may be necessary for achieving the purposes, powers, and
36 functions of the regulator.

- 1 (l) Conduct benchmarking and monitor the performance of licensees and
2 utilities under their jurisdiction, and publish reports detailing the results
3 thereof, as may be necessary or required by the Commission.
- 4 (m) Amend, modify, suspend or revoke any License issued by them, after due
5 notice and hearing, on any of the following grounds:
- 6 1) When the facts and circumstance on which the license was issued have
7 been misinterpreted or has materially changed.
- 8 2) When the Licensee has failed to meet or comply with terms, conditions
9 and performance targets – including but not limited to service expansion
10 – that may have been set in the license.
- 11 3) Where the Licensee is found to be manifestly incompetent in the
12 operation of or provision of Water Supply and Sanitation Services in its
13 area; or
- 14 4) When the holder thereof has violated or willfully refused to comply with
15 any order, rule or regulation of the Commission or any provision of this
16 Act.
- 17 (n) Appoint an interim management committee to ensure continuity of service
18 in case a Licensee fails to meet conditions of the license.
- 19 (o) Submit performance plans and reports as required by the Commission.

20 **SEC. 9. Composition.** The Commission shall be a collegial body composed of
21 five (5) full-time members composed of a Chairperson and four (4) members, who shall
22 be appointed by the President of the Philippines. All members of the Commission must
23 be citizens and residents of the Philippines, at least thirty five (35) years of age, and of
24 good moral character, recognized integrity and competency in the field of law, business,
25 commerce, finance, accounting or public administration, water or utility economics,
26 management, physical or engineering services, hydrology and other related services, with
27 at least three (3) years actual and distinguished experience in their respective fields of
28 expertise: *Provided*, That out of the four (4) members of the Commission at least one (1)
29 shall be a member of the Philippine Bar with at least ten (10) years experience in the
30 active practice of law, and one (1) shall be a certified public accountant with at least ten
31 (10) years experience in active practice.

32 Within three (3) months from the creation of the Commission, the Chairman shall
33 submit for approval of the President of the Philippines the new organizational structure
34 and plantilla positions necessary to carry out the powers and functions of the Commission
35 and its Regulatory Units.

36 The term of office of each member of the Commission shall be five (5) years:
37 *Provided*, however, that among members of the Commission first appointed by the
38 President; a) the Chairman shall serve for a period of five (5) years, b) three Associate

1 Commissioners (Legal and Strategic Relations, Policy and Planning, and Economic
2 Regulation) shall serve three (3) years, and c) one other Associate Commissioner for
3 Administration and Finance shall serve for two (2) years, as fixed in their respective
4 appointments.

5 *Provided*, further, that upon the expiration of the term, each member of the
6 Commission shall serve until his successor shall have been appointed and qualified:
7 *Provided*, moreover, that any appointment to fill a vacancy in the Commission that arises
8 prior to the expiration of the term of a member of the Commission shall only be for the
9 unexpired portion of such term: *Provided*, finally, that no member of the Commission
10 shall be appointed for more than two (2) consecutive or partial terms.

11 The Chairman and members of the Commission or any of their relatives within
12 the fourth civil degree of consanguinity or affinity, legitimate or common law, shall be
13 prohibited from holding any interest whatsoever, either as investor, stockholder, officer
14 or director, in any company or entity engaged in the business of water supply and/or
15 sanitation services and must, therefore, divest through sale or legal disposition of any and
16 all interests in the water and sanitation sector upon assumption to office.

17 The Commission shall meet as often as may be necessary on such day or days as
18 the Chairman may fix. The presence of at least three (3) members of the Commission
19 shall constitute a quorum and the majority vote of two (2) members in a meeting where a
20 quorum is present shall be necessary for the transaction of any business: *Provided*, That
21 in fixing tariffs, rates and other charges, and the adoption of any rule, ruling, order,
22 resolution, decision or other act of the Commission in the exercise of its quasi-judicial
23 functions, an affirmative vote of three (3) members shall be required.

24 The Chairman shall exercise general executive control, direction and supervision
25 of the work, business, and operation of the Commission and its member, staff and
26 personnel, agents and representatives.

27 The staff and personnel positions in the Commission herein created shall be filled
28 by regular appointments in accordance with a staffing plan prepared by the Chairman of
29 the Commission.

30 **SEC. 10. Executive Director.** The Commission shall appoint an Executive
31 Director who shall provide an official record and report of the proceedings of the
32 Commission and have the authority to administer oaths in all matters falling within the
33 jurisdiction of the Commission. The Executive Director shall be responsible for the
34 effective implementation of the policies, rules and directives promulgated by the
35 Commission; coordinate and supervise activities of the different operating units that may
36 be created by the Commission; and perform such functions as may be assigned to the
37 Executive Director by the Chairman and/or members of the Commission.

1 **SEC. 15. Conditions of License.** (a) License(s) issued by the Commission shall be
2 subject to the following conditions:

- 3 1) Provide and operate Water Supply and/or Services in a specified
4 Service Area or Areas.
- 5 2) Impose tariffs, rates and charges for water and sanitation services as
6 determined and approved by the Commission.
- 7 3) The term or duration of the License as determined by the
8 Commission.
- 9 4) Restrictions on or conditions for the transferability or assignment
10 shall be subject to the prior approval of the Commission.
- 11 5) Restrictions on or conditions for the sale or disposition of the
12 business which is the subject of a License, or the transfer of a
13 controlling interest in such a business, which sale, disposition, or
14 transfer shall require the prior approval of the Commission.
- 15 6) Grounds for the modification of any of the provisions of, or the
16 suspension or cancellation of the license and procedure.
- 17 7) The nature of services to be provided, the minimum standards for
18 service efficiency such as standards on: (1) water pressure; (2)
19 minimum flow rates; (3) connections; and (4) sewerage discharge,
20 billing and metering requirements, and sanctions for failure to
21 comply with the standards set.
- 22 8) Expansion targets and continual service level improvement.
- 23 9) Reportorial requirements and obligations of the Licensee.

24 (b) The Commission shall approve a tariff which is fair and reasonable and
25 which allows for economic viability of the operations and businesses of the Licensee,
26 including reasonable return on their investments considering the prevailing cost of capital
27 in the domestic and international markets.

28 (c) The Commission shall promulgate the rules, guidelines and standards to be
29 applied in determining who, among two (2) or more competing applicants, should be
30 awarded the License for a specific Service Area, based on technical, financial, economic
31 and organizational considerations, managerial capacity, and past record and experience in
32 the provision of Water Supply and/or Sanitation Services.

33 (d) All holders of a license shall be subject to an annual performance audit by
34 the Commissioner or its designated agent/s.

35 (e) The Commission shall specify the requirements and procedures for
36 existing holders of Certificates of Public Convenience or Certificates of Public
37 Convenience and Necessity issued by NWRB, and other Certificates issued by LWUA to
38 convert their existing certificates into Licenses issued by the Commission. Henceforth, no

1 further Certificates of Public Convenience or Certificate of Public Convenience and
2 Necessity or LWUA Certificates shall be issued by the NWRB and LWUA, respectively.

3 (f) All existing providers of Water Supply and/or Sanitation Services without
4 a valid and legal Certificate of Public Convenience or Certificate of Public Convenience
5 and Necessity or Certificate of Conformance including all LGU-run utilities shall have
6 twelve (12) months from the effectivity of this Act to apply for the appropriate License
7 from the Commission.

8 **SEC. 16. Procedure for Granting of Licenses.** (a) The Commission shall ensure
9 that the granting of a License under this Act is carried out fairly, transparently, and
10 without undue discrimination.

11 (b) The Commission shall prescribe in appropriate regulations the procedure
12 and requirements to be followed with respect to the granting of a License,
13 such regulations shall include:

- 14 1) The qualifications required of applicants for a License.
- 15 2) The application procedure to be followed by all applicants, including
16 arrangements for the publication of details of all applications received
17 by the Commission.
- 18 3) The procedure by which the Commission will consider applications,
19 including the consideration of all comments and objections lodged with
20 respect to applications.
- 21 4) The procedure by which the Commission shall reach a determination
22 with respect to all such applications.

23 **SEC. 17. Rights and Duties of Licensees.** (a) Any person granted a License under
24 this Act shall have the duty to ensure that its licensed activities are conducted so as to
25 further the public interest, and in particular, that they:

- 26 1) Foster the maintenance and development of efficient, coordinated and
27 viable operation of their licensed activities.
- 28 2) Ensure that their Water Supply and/or Sanitation Services are provided
29 in accordance with applicable laws and standards and practices set by
30 the Commission and generally accepted in the Philippine and
31 international water supply and/or sanitation industry.
- 32 3) Comply with drinking water quality requirements.
- 33 4) Pay appropriate compensation in accordance with procedures laid
34 down in any relevant statute or in regulations promulgated or issued by
35 the Commission if, in laying or repairing a water and/or sewerage
36 main or relevant facility, a Licensee should injure any person and/or
37 damage any property.

1 (b) Any person granted a License under this Act shall, to the extent allowed
2 by law and specified in the License, have the right to acquire or lease land and lay or
3 repair water and sanitation mains and other relevant facilities in public roads.

4 (c) Subject to any condition or any limitation laid down in the License, a
5 Licensee may disconnect the supply of Water Supply and/or Sanitation Services to a
6 customer who defaults in the payment of amount/s due to that Licensee with respect to
7 water supplied or sanitation services, or for acts of pilferage pursuant to Sections 8, 9, 10,
8 and 11 of Republic Act No. 8041 otherwise known as the "Water Crisis Act of 1995".

9 (d) Any License issued under this Act shall contain provisions designed to
10 ensure that Licensees:

- 11 1) Publish tariff and other charges approved by the Commission, and
12 other terms and conditions imposed by the Commission for the
13 provision of Water Supply and/or Sanitation Services.
- 14 2) Prepare within three (3) months from the issuance of a Water Supply
15 and/or Sanitation License, in consultation with the customers, codes of
16 practice specifying the manner and procedure for: (1) metering,
17 billing, and collection of the Licensee's approved tariff and other
18 charges, (2) disconnection or suspension of service in case of non-
19 payment of tariffs and other charges, or acts of pilferage, and (3)
20 recommendation and recovery of areas in tariffs and other charges.
- 21 3) A Licensee shall be bound by a performance contract which will lay
22 down all key performance targets agreed by both the Licensee and the
23 Commission.
- 24 4) Maintain financial accounts in accordance with the manner and
25 procedure specified in the License and as may be amended from time
26 to time by the Commission.

27 **SEC. 18. Principles of Efficient Tariff.** Regulatory Units shall establish tariff, rates
28 and other charges which are fair and reasonable and which provide for the economic
29 viability of the service and a fair return on their investments considering the prevailing
30 cost of capital in the domestic and international markets. Such tariffs, rates, and charges
31 shall be based on and consistent with a rate-setting methodology that the Commission
32 shall, after due consultation, define and publish, taking into account the following, among
33 others:

- 34 (a) Reasonable and prudent capital and recurrent costs of providing the service
35 including a reasonable rate of return of the capital.
- 36 (b) Efficiency of the service.
- 37 (c) Incentives for enhancement of efficiency.
- 38 (d) Willingness to pay of consumers.

- 1 (e) Equity considerations.
- 2 (f) Administrative simplicity.

3 **SEC. 19.** *Promotion of Integrated Innovations for Sustainable and Efficient*
4 *Water and Sanitation Services.* The Commission shall promote the consolidation of
5 Piped-Water Supply and/or Sewerage Services in the same Service Area when it would
6 improve the cooperation among service providers to develop and implement integrated
7 innovations to achieve efficient and affordable delivery of services. The Commission
8 shall issue and implement rules and regulations as may be necessary to:

- 9 a) Create incentive programs as a stimulus for sustainable safe water and
10 sanitation services;
- 11 b) Establish performance standards and indicators for service providers; and
- 12 c) Impose fines and penalties on service providers for failure to meet
13 performance standards and indicators.

14 **CHAPTER 5**

15 **QUASI-JUDICIAL FUNCTIONS OF THE COMMISSION**

16 **SEC. 20.** *Proceedings Before the Commission.* The Commission shall, for the
17 purpose of any inquiry or proceeding under this Act, exercise quasi-judicial powers:

- 18 (a) To investigate and decide administrative matters involving officers and
19 employees under the jurisdiction of the Commission;
- 20 (b) Issue *subpoena duces tecum* and summon witnesses to appear in any
21 proceedings of the Commission and in appropriate cases, order the
22 examination, search and seizure of any document or other material object of
23 any entity or person under investigation as may be necessary for the proper
24 disposition of the cases before it, subject to the provisions of existing laws;
- 25 (c) To cite in contempt an erring party or person who disobeys any order of the
26 Committee or refuses to be sworn or to testify or to answer a proper
27 question by the Committee or any of its members, or testifying, testifies
28 falsely or evasively, or who unduly refuses to appear or bring before the
29 Committee certain documents and/or object evidence required by the
30 Committee; and
- 31 (d) To initiate an investigation, upon complaint under oath by an aggrieved
32 party, of any industry participant for violations of any law, rule or
33 regulation.

34 **SEC. 21.** *Order and Decisions of the Commission.* Every order or decision
35 rendered by the Commission shall be in writing and shall state clearly and distinctly the
36 facts and law on which it is based. The Commission shall decide each case or application
37 within thirty (30) days following its formal submission for resolution. The Commission

1 shall publish and make available for public inspection all decisions and final orders in the
2 adjudication of contested cases or applications.

3 **SEC. 22. Appeals Procedure and Prohibition Against Injunction.** (a) The orders,
4 rulings, and decisions of the Commission are final and executory unless appealed to the
5 Court of Appeals within fifteen (15) days from the receipt of notice of such order, ruling
6 or decision. All orders, rulings and decisions, of the Commission approving tariffs shall
7 be immediately executory and enforcement thereof may be suspended only upon appeal
8 and filing of a bond, in an amount to be fixed by the Commission, to answer for damages
9 occasioned by the suspension or stay of execution of such orders, rulings and decisions.

10 (b) No injunction may be issued by any court or administrative agency to
11 restrain any proceeding before, or the implementation or execution of any order, ruling or
12 decision of the Commission, except on the basis of a question of law brought before the
13 Supreme Court certiorari.

14 (c) Subject to Sec. 7, paragraph 3 of this Act, an act or decision of the
15 Commission shall not be invalid merely because of the defect or irregularity in, or in
16 connection with, the appointment or vacancy in the Office of the Chairperson or any
17 other member of the Commission.

18 **SEC. 23. Power to Arbitrate Interconnection Disputes.** When there is a dispute
19 between two or more Licensees regarding the terms and conditions, including price rates,
20 for interconnection between them of Piped-Water Supply and/or Sewerage Systems, then
21 upon elevation of the dispute to the Commission by two or more Licensees, the
22 Commission may make a binding arbitration of the terms and conditions on
23 interconnection that are in dispute.

24 CHAPTER 6

25 TRANSITORY PROVISIONS

26 **SEC. 24. Interface with Other Sector Regulators.** (a) The Department of
27 Environment and Natural Resources (DENR) shall continue to have the primary authority
28 and responsibility for protecting the environment and water resources from waste and
29 pollution and shall promulgate rules, regulations, and standards in this regard. The
30 Commission shall coordinate with the DENR regarding this matter.

31 (b) The Department of Health (DOH) and LGUs shall have the primary
32 authority and responsibility for determining and enforcing drinking water quality and
33 sanitation standards.

34 (c) The Commission shall coordinate with the NWRB for water allocation and
35 data collection, the LGUs under administrative supervision from the Department of the
36 Interior and Local Government for developing projects related to water supply and
37 sanitation, and the Department of Public Works and Highways for flood control and the
38 harnessing and impounding of water.

1 **SEC. 25. *Advisory Council.*** (a) Within six (6) months from its organization, the
2 Commission shall cause the formation of an Advisory Council which shall include, but
3 shall not be limited to, representatives from the following sectors: women, academe,
4 business and industry, local government units, peoples organizations, non-government
5 associations, professional organizations, consumer groups and indigenous peoples.

6 (b) The Advisory Council shall have the following functions, among others:

7 1) To help disseminate information to the public relating to the
8 Commission's objectives, powers and functions.

9 2) To serve as a permanent advisory body to the Commission on issues of
10 interest to consumers.

11 (c) The Commission shall promulgate rules and regulations defining the
12 nature, composition, and other functions of the Advisory Council.

13 **SEC. 26. *Transfer of Duties, Powers, Functions, and Assets.*** The functions,
14 powers, and assets of the Water Utilities Division of the National Water Resource Board
15 (NWRB), as set forth in Presidential Decree No. 1206, and other applicable laws are
16 hereby transferred to the Commission. In the same manner, the pertinent economic
17 regulation powers of LWUA as set forth under Presidential Decree No. 198, as amended;
18 MWSS under RA No. 6234; PEZA under RA No. 7916; SBMA and under RA No. 7227;
19 CDC under RA No. 7227 and Executive Order No. 80; and TIEZA under RA No. 9593
20 are likewise hereby transferred to the Commission.

21 **SEC. 27. *Transfer of Rights and Obligations.*** The Commission shall, by virtue of
22 this Act, be subrogated to all the rights, and assume all the obligations, of the Water
23 Utilities Division of the NWRB, and all other government agencies and units whose
24 powers and functions are hereby transferred to and assumed by the Commission and shall
25 be acted upon in accordance with the rules and regulations of the Commission on Audit
26 and other pertinent laws, rules, and regulations.

27 **SEC. 28. *Separation from Service.*** Employees separated from government service
28 as a result of this Act shall be entitled to the benefits which they may receive under
29 existing laws, rules, and regulations.

30 **SEC. 29. *Penalties for Violations.*** Subject to Sec. 17, paragraph (c), of this Act,
31 any person, natural or juridical, found violating the provisions of this Act and its
32 implementing rules and regulations shall be imprisoned from six (6) months to six (6)
33 years, or be liable to pay a fine not exceeding Five Hundred Thousand Pesos
34 (P500,000.00), or both. When the offender is a corporation, association, or partnership,
35 the penalty shall be imposed on the president, directors, or managing partners, as the case
36 may be, and the persons charged with the administration thereof. The corporation shall be
37 subsidiarily liable for the pecuniary liability of its aforementioned officers, president,
38 directors, managing partners of persons charged with administration thereof: *Provided,*

1 That, the Commission may state other penalties and charges, upon the recommendation
2 of the Commission and approval by the President.

3 **SEC. 30. Appropriations.** The sum of Three Hundred Million Philippine Pesos
4 (P300,000,000.00) shall be charged against the current year's appropriation of the
5 Contingent Fund, and is hereby appropriated and authorized to be released, for the
6 organization of the Commission, and in establishing the regional regulatory units and its
7 initial operations. Thereafter, funds sufficient to fully carry out the objectives, powers,
8 and functions of the Commission shall be appropriated every fiscal year in the General
9 Appropriations Act.

10 **CHAPTER 7**
11 **FINAL PROVISIONS**

12 **SEC. 31. Implementing Rules and Regulations.** Within sixty (60) days from the
13 effectivity of this Act, the Chairman of the Commission shall, upon consultation with the
14 stakeholders, provide the necessary rules and regulations for the effective implementation
15 of this Act.

16 **SEC. 32. Separability Clause.** In the event that any provision of this Act is
17 declared unconstitutional, invalid, or illegal, the constitutionality, validity, or legality of
18 the remainder of the provisions of this Act shall not be affected thereby.

19 **SEC. 33. Repealing Clause.** All laws, decrees, rules and regulations, and
20 executive orders contrary to or inconsistent with this Act, including but not limited to
21 Section 2 of Presidential Decree (P.D.) No. 1206, are hereby repealed or modified
22 accordingly. The power of LGUs under Section 154 of the Implementing Rules and
23 Regulations of Republic Act No. 7160 to fix the rates in connection with the operation of
24 water utilities owned, operated and maintained by them within their jurisdiction is hereby
25 repealed.

26 Further, the provision with respect to fixing of water rates and sanitation service
27 fees of Section 3 (h) and Section 12, and regulation of waterworks and deep wells of
28 Section 3 (n), regulation of waterworks and sanitation of systems in privately owned
29 subdivisions of Section 3 (p) of Republic Act No. 6234, as amended is hereby repealed or
30 modified, accordingly.

31 Section 13 (b) on the regulation of enterprises in ecozone of Republic Act No.
32 7916, as amended, also known as the Special Economic Zone Act of 1995, is hereby
33 repealed or modified, accordingly.

34 Provisions under Section 69 of Republic Act No. 9593 or the Tourism Act of
35 2009 and its Implementing Rules and Regulations which mandates the Tourism
36 Infrastructure Enterprise Zone Authority to grant franchises, supervise the operation of
37 public utilities, and register, monitor and regulate enterprises within Tourism Enterprise
38 Zones, are hereby repealed or modified, accordingly.

1 Commonwealth Act No. 146, as amended otherwise known as the "Public Service
2 Act," and all laws, decrees, rules and regulations, or portion thereof, inconsistent with
3 this Act are hereby repealed or modified, accordingly.

4 **SEC. 34. *Effectivity Clause.*** This Act shall take effect fifteen (15) days following
5 the completion of its publication in a national newspaper or general circulation.

Approved,