

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
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Senate
Office of the Secretary

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SENATE
P.S. Resolution No. 259

RECEIVED BY: _____

Introduced by **SENATOR IMEE R. MARCOS**

RESOLUTION
URGING THE APPROPRIATE SENATE COMMITTEE TO INQUIRE, IN AID OF
LEGISLATION, INTO THE WATER CONCESSION AGREEMENTS OF
MAYNILAD AND MANILA WATER WITH THE METROPOLITAN
WATERWORKS AND SEWERAGE SYSTEM (MWSS), TO DETERMINE
WHETHER SUCH ARE ONEROUS AND DISADVANTAGEOUS TO THE
GOVERNMENT, AND TO SAFEGUARD PHILIPPINE NATIONAL INTERESTS
AND THE RIGHTS OF ALL PEOPLE

WHEREAS, Article II of the 1987 Constitution provides that the State shall promote the general welfare of the people for the enjoyment of all;

WHEREAS, the UN's Committee on Economic, Social, and Cultural Rights adopted Comment No. 15 which provided that: *"the right to water as the right of everyone to sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses."* Moreover, the UN through Resolution 64/292, on 28 July 2010, explicitly recognized the human right to water and sanitation and acknowledged that clean drinking water and sanitation are essential to the realization of all human rights;

WHEREAS, in Metro Manila, water supply is provided by private concessionaires, Maynilad Water Services Inc. (Maynilad) and Manila Water Company Inc. (Manila Water), under the regulation of the Metropolitan Waterworks and Sewerage System (MWSS);

WHEREAS, in November 2018, the Permanent Court of Arbitration (PCA) in Singapore ordered the Philippine government to pay Manila Water P7.39 billion for the

company's losses from 01 June 2015 to 22 November 2019, and the amounts paid to the PCA and 85% of other claimed costs after "*the government failed to honor its claim amounting to P79 billion from 2015 to 2017 since the government did not allow the company to raise tariffs*";

WHEREAS, in another suit on 24 July 2017, a tribunal of the International Chamber of Commerce (ICC) in Singapore unanimously found that the Philippine government had breached its Letter of Undertaking and ordered the government to indemnify Maynilad P3.24 billion in actual losses it had suffered from 11 March 2015 to 31 August 2016;

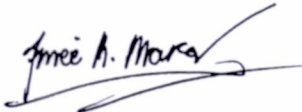
WHEREAS, as early as June 2018, the Senate Committee on Environment and Natural Resources conducted an investigation in 2018 on the inadequacy of the sewerage system in Metro Manila, eliciting an admission from the concessionaires, Maynilad and Manila Water, that a mere 14% of waste water for contaminants while most of the wastewater was dumped untreated in the rivers and bays, a clear violation of the "*right of the people to a balanced and healthful ecology*";

WHEREAS, according to Department of Justice (DOJ), regardless of poor service or supply, the extended 1997 water concession agreements of both concessionaires were contrary to public interest and onerous or disadvantageous to the government and its consumers. Among the onerous provisions are the following: (1) prohibition against government interference in setting rates, (2) indemnity for possible losses in the event of government interference, and (3) irregular extension to 2037, considering that the extension was granted 12-13 years before the original expiration of the 25-year concession agreements in 2022, among others;

WHEREAS, on 04 December 2019, President Rodrigo Duterte directed the DOJ, together with the Office of the Solicitor General, to draft new water concessionaire agreements to address the patent inequities in the previous contracts, and resolve concrete issues that have arisen from 1977 to the present;

NOW, THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, to urge the appropriate Senate Committee to inquire, in aid of legislation, into the water concession agreements of Maynilad and Manila Water with the Metropolitan Waterworks and Sewerage System (MWSS), to determine whether such are onerous and disadvantageous to the government, and to safeguard Philippine national interests and the rights of all people.

Adopted,


IMEE R. MARCOS