

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

7 JUL -2 P5:26

SENATE
Senate Bill No. 518

RECEIVED BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

In the water sector, the most urgent need is probably the upgrading of the water utilities outside Metro Manila. While people in the provinces now have more and better roads, electricity, telephones, cable TV, etc., very few have piped drinking water and sewerage systems.

The main responsibility for this task lies with the Local Water Utilities Administration (LWUA). The reality, however, is that the capital requirements of the water sector are so large that the LWUA is unable to fulfill its mandate. LWUA depends on government funds, which are limited, as well as ODA funds which are likewise limited.

An alternative source of financing for water utilities is the private sector. In the case of the MWSS, the government was able to pass on all the financing burden to the private sector, together with huge responsibilities for expanding and improving the system, while lowering tariffs and significantly increasing government tax revenues through VAT and income tax.

Unfortunately, the case of the MWSS is unique because its charter is unique. Water utilities outside MWSS are governed by different rules, some of which appear to conflict with each other. Therefore, the success of the MWSS privatization has not been repeated up to now. This is in spite of the fact that water companies world-wide have taken a huge interest in the Philippines after the MWSS privatization. The largest water companies in the world have set up permanent offices here and are making large investments. Yet these investments so far have mainly been in private economic zones or central business districts.

The main difficulty in privatizing water utilities in a similar way as the case of MWSS (i.e., through a concession) is the question of financial regulation. The rules are presently vague as to whether jurisdiction lies with the LWUA, NWRB or even LGUs. Also, it requires a different set of skills to properly regulate privatized water systems and we need to develop this in order to entice foreign investment. The main objective of the proposed bill for the creation of a Water Regulatory Commission is to rationalize the financial regulation of water utilities (including MWSS), thereby paving the way for more private sector investment.

Early approval of this proposed measure is earnestly sought.

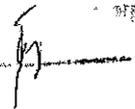

JINGGOY EJERCITO ESTRADA
Senator

FOURTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

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SENATE

RECEIVED BY:



Senate Bill No. 518

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
RATIONALIZING THE FINANCIAL 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:

SECTION 1. Short Title. This Act shall be known as the "**Water Regulatory Commission Act of 2007.**"

SEC. 2. Declaration of Policy. – It is hereby declared policy of the State to pursue and foster, in an orderly, rational, efficient, and vigorous manner, the attainment of complete coverage over the entire country of piped-water supply and sewerage services at reasonable rates and, in this connection, encourage the participation and investment of the private sector, both domestic and foreign, in the provision of piped-water supply and sewerage 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 piped-water supply and sewerage systems.

SEC. 3. Definition of Terms. – As used under this Act, the following words or terms shall have the following meanings, unless a different meaning clearly appears from the context:

- a. "Commission" shall mean the Water Regulatory Commission
- b. "Commissioner" shall mean persons appointed in accordance with Section of this Act.
- c. "License" shall mean the Piped-Water Supply and/or Sewerage Services operating license that the Commission is authorized to grant and issue to persons or entities that are qualified to provide Piped-Water Supply and/or Sewerage Services for a particular Service Area or Areas.
- d. "LWUA" shall mean the Local Water Utilities Administration created under Presidential Decree No. 198, as amended.
- e. "NWRB" shall mean the National Water Resources Board created by Presidential Decree No. 424, as amended by Executive Order No. 124-A.

- f. "Licensee" shall mean the qualified person or entity to whom a License is granted or issued by the Commission, authorizing such License to provide Piped-Water Supply and/or Sewerage Services to a particular Area or Areas.
- g. "Piped- Water Supply Service" shall refer to water supply services which make use of piped-water distribution system with individual connections for domestic and/or industrial use provided by a License in a particular Service Area or Areas.
- h. "Service Area" shall refer to the territory or area of operations with respect or which a License from the Commission to provide Piped-Water Supply and/or Sewerage Services is applied for or granted.
- i. "Sewerage Service" shall refer to sewerage services provided by a Licensee in a particular Service Area involving the collection of human waste and sullage from residences and establishments through pipes and structures.
- j. "Tariffs" shall refer to such amounts which may be charged by Licensees of Piped-Water Supply and/or Sewerage Services for their services based on principles, standards, and guidelines established by the Commission.
- k. "Water District" shall refer to quasi-public corporations organized under Presidential Decree No. 198, as amended, created primarily to acquire, install, operate, maintain and improve water supply and distribution systems for domestic, industrial and municipal uses of residents within the boundaries of the district.

SEC. 4. *The Water Regulatory Commission.* – (1) For purposes of carrying out and effecting the declared policy provided for in Section 2 above, there is hereby created and established an independent Water Regulatory Commission, hereinafter referred to as the Commission, which shall be organized within one hundred twenty (120) days after the effectivity of this Act. The Commission shall execute the powers and functions herein vested and conferred upon it in such a manner as will, in its judgment, aid to the fullest possible extent in carrying out its objectives as set forth below.

(2) The Commission shall be an attached agency of the Office of the President. For purposes of this section, the relationship between the Commission as an attached agency and the Office of the President shall be limited only to coordination and/or consultation by the Commission with the Office of the President on the latter's general policy framework for Piped-Water Supply Service and Sewerage Service. The Commission shall however endeavor to make its policies and plans conform as closely as possible with the applicable and relevant policies and plans of the Office of the President.

SEC. 5. *Objectives of the Commission.* – The Commission shall have the following objectives:

- a. to promote the expansion, improvement and efficient provision of Piped-Water Supply and Sewerage Services throughout the Philippines;
- b. to provide an environment conducive to the adequate financing of Piped-Water Supply and Sewerage Services provided by public and private sector Licensees in order to facilitate financially viable Piped-Water Supply and Sewerage Services;

- c. to protect the legal and valid interests of customers/consumers of Piped-Water Supply and/or Sewerage Services;
- d. to promote efficient competition in the supply of Piped-Water and Sewerage Services in order to benefit customers/consumers;
- e. to promote the interest of customers/consumers with respect to prices for Piped Water Supply and Sewerage Services and the safety, reliability and quality of Piped-Water Supply and Sewerage Services; and
- f. To prevent misuse of monopoly or market power.

SEC. 6. Powers and functions of the Commission. – The Commission shall have the following powers and functions:

- a. to formulate rules and regulations to facilitate and rationalize the expansion, improvement, and efficient provision of Piped-Water Supply and Sewerage Services throughout the country;
- b. to formulate for approving Tariffs for Piped-Water Supply and/or Sewerage Services taking into account, among others, the following: (1) capital and recurrent cost of providing the service including a reasonable rate of return on capital; (2) efficiency of the service; (3) incentives for enhancement of efficiency, including demand-side; (3) incentives for enhancement of efficiency, including demand-side management; (4) willingness to pay of the customers/consumers; (5) equity considerations; and (6) administrative simplicity
- c. to approve and regulate the Tariffs to be charged by Licensee of Piped-Water Supply and/or Sewerage Services;
- d. to regulate persons or entities, whether from the public or private sector, that provide Piped-Water Supply and/or Sewerage Services;
- e. to issue, grant, modify, monitor, enforce, suspend and/or cancel Licensees for Piped-Water Supply and/or Sewerage Services, penalties for impose administrative violations thereof, and make decisions and determinations in connection therewith;
- f. to disseminate and publish comparative information on prices and service performance of Licensees of Piped-Water and/or Sewerage Services;
- g. in the exercise of its powers and functions under this Act, to take into account Licensee's service targets and performance against such targets in respect of consumer service standards regarding water pressure, minimum flow rates, connections and billing and metering requirements and procedures, among others;
- h. to provide a system for complaints and appeals relating, but not limited, to: (1) Tariffs set or collected for Piped-Water Supply and/or Sewerage Services; (2) the quality of services provided by said Licensees; and (3) the adequate and/or equitable distribution and reliability of Piped-Water Supply and/or Sewerage Services;
- i. to impose and collect an annual levy on all Licensees determined as a percentage of the revenue accruing in relations to the licensed activities to be determined by the Commission, and reasonable fees, surcharges, and fines from Licensees of Piped-Water Supply and/or Sewerage Services to the extent necessary for achieving the purposes, powers and functions of the Commission;

- j. to advise, apprise and coordinate with other relevant agencies of the national or local government on any matter relating to Piped-Water Supply and/or Sewerage Services;
- k. to deputize agents, whether from the public or private sector, to assist in the performance of any of the powers and functions of the Commission;
- l. to appoint, hire and maintain adequate staff and personnel, advisers, and/or consultants, with suitable qualifications and experience, as necessary;
- m. to conduct inquiries on matters relating to water supply and distribution or sewerage disposal;
- n. to provide a system for the settlement of disputes between or among Licensees;
- o. to issue and promulgate rules and regulations necessary to implement, perform and effect its aforementioned powers and functions. To the extent practicable [(as the Commission shall determine)], the Commission shall conduct public hearings or consultations with customers/consumers, licensees, and other affected stakeholders before issuing new rules and regulations or modifying or amending existing rules and regulations. All rules and regulations of the Commission shall take effect fifteen (15) days from the publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

SEC. 7. Composition. – (1) The Commission shall be a collegial body composed of three (3) members: a Chairman and two (2) Associate Commissioners, all of whom shall be appointed by the President.

- (2) The term of office of each member of the Commission shall be five (5) years; *Provided, however*, that among members of the Commission first appointed by the President; a) the Chairman shall serve for a period of five (5) years, b) one Associate Commissioner shall serve three (3) years, and c) the other Associate Commissioner shall serve for one (1) year, as fixed in their respective appointments; *Provided, further*, that upon the expiration of his term,, each member of the Commission shall serve as such until his successor shall have been appointed and qualified; *Provided, moreover*, that any appointment to fill a vacancy in the Commission which arises prior to the expiration of the term of a member of the Commission which arises prior to the expiration of the term of a member of the Commission shall only be for the unexpired portion of such term, *and Provided, finally*, that no member of the Commission shall be appointed for more than two (2) consecutive full or partial terms.
- (3) The Commission shall meet as often as may be necessary on such day or days as the Chairman may fix. The presence of at least two (2) members of the Commission shall constitute a quorum, which shall be necessary for the transaction of any business. The affirmative vote of at least two (2) members of the Commission shall be necessary for the approval of any resolution, decision or order.
- (4) The Chairman shall exercise general executive control, direction and supervision of the work, business, and operation of the Commission and its members, staff and personnel, agents and representatives.

- (5) The Chairman and two (2) Associate Commissioners shall have the rank of a Secretary and undersecretary, respectively, of an executive department of the national government. The salary of the Chairman and the Associate Commissioners shall be fixed by the President of the Philippines commensurate to the importance and responsibility attached to such positions and shall be subject to periodic review no more than every (2) years. The Chairman and Associate Commissioners shall be exempt from existing laws, rules and regulations on compensation, position classification, and qualification standards. The President shall endeavor to make the salaries of the Commissioners conform as closely as possible with the principles under Republic Act No. 6758 entitled "An Act Prescribing a Revised Compensation and Position Classification System in the Government and for Other Purposes", as the same way may be suspended from time to time.
- (6) Subject to the immediately preceding paragraph, the pertinent civil service laws, and rules and regulations of the Philippines shall be applicable to the Chairman, Associate Commissioners, and other personnel of the Commission.

SEC. 8. Qualifications. – All members of the Commission must be citizens and residents of the Philippines. In addition, the members shall be of good moral character, at least thirty five (35) years of age, and of recognized competence in the field of business, commerce, finance, accounting or public administration, water or utility economics industry, management, physical or engineering services, hydrology and other related services, or law.

SEC. 9. Executive Director. – (1) The Commission shall appoint an Executive Director who shall provide an official record and report of the proceedings of the Commission and have the authority to administer oaths in all matters falling within the jurisdiction of the Commission. The Executive Director will be responsible for the effective implementation of the policies, rules and directives promulgated by the Commission; coordinate and supervise activities of the different operating units that may be created by the Commission; and perform such functions as may be assigned to the Executive Director by the Chairman and/or other members of the Commission.

(2) The Commission shall appoint a technical staff, including an administrative or support staff, as maybe necessary to assist the Commission in fulfilling its objectives and in exercising its powers and functions under this Act. In this connection, the Commission shall employ persons with legal, economic, customer service, financial, accounting and technical expertise.

SEC. 10. Proceedings Before the Commission. – The Commission shall, for the purpose of any inquiry or proceeding under this Act, exercise quasi-judicial powers and, in this connection, shall have the requisite power for:

- (a) the summoning and enforcing of attendance of any witness and examination on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
- (c) the reception of evidence on affidavits;
- (d) the requisition of any public record from any court or office;

- (e) the issuance of a commission for examination of witnesses;
- (f) the grant of adjournment at hearings; and
- (g) compelling of the appearance of parties and the imposition of penalties as a consequence of non-appearance.

SEC. 11. *Power to Obtain Information and Documents.* – (1) The Commission may require that a Licensee or any other person shall provide the Commission with any information that may be reasonably necessary for it to attain its objectives and/or to carry out its powers and functions under this Act. For purposes of this Section, the information required by the Commission may include any document, plan, electronic file, record and other material.

- (2) Any requirement for information must be made in a written notice that identifies the information or document and that specifies;
 - (a) when requirement must be complied with; and
 - (b) in what form the information or a copy of the document is to be given to the Commission

(3) Any person who, without lawful excuse, fails to comply with any requirement for information contained in a notice issued to him under this Section shall be subject to administrative sanction by the Commission. It is a lawful excuse for purposes of this Section that compliance may tend to incriminate the person liable to a penalty for any other offense.

(4) A person must not, in purported compliance with any requirement or order of the Commission, knowingly give to the Commission information that is false or misleading.

(5) A person shall not be liable in any way for any loss, damage or injury suffered by another person because of giving, in good faith, of a document or information to the Commission under this Section.

SEC. 12. *Application for licenses for Piped-Water Supply and/or Sewerage Services.* – (1) All persons and public or private entities intending to engage in the provision of Piped Water Supply and/or Sewerage Services, including but not limited to operators of privately owned water supply systems, local water districts, and local government units (“LGUs”) operating water supply systems shall be required to apply for and obtain a License from the Commission prior to their operation of the relevant Piped-Water Supply and/or Sewerage Services.

(2) An applicant on for a License for Piped-Water Supply and/or Sewerage Services shall, in addition to such information as may be prescribed by the Commission, contain details of:

- (a) the service for which the License is being sought and
- (b) the Service Area, including location maps, within which the service(s) will be provided.

SEC. 13. *Licenses do not Grant Exclusively.* Except for Service Areas respect to which exclusive rights to provide Piped-Water Supply and/or Sewerage Services are granted under existing laws, Licensees do not have the exclusive right to provide Piped-Water Supply and/or Sewerage Services within a Service Areas and, consequently, the Commission may issue one, two, or more Licensees for operators within any existing or proposed Service Area(s).

SEC. 14. Licensees for Piped-Water Supply and/or Sewerage Services. – (1) License(s) issued by the Commission shall include provisions, among others, on:

- (a) the right to provide and operate Piped-Water and/or Sewerage Services in a specified Service Area or Areas;
 - (b) the term or duration of the License, as determined by the Commission;
 - (c) restriction on or conditions for the transferability or assignment shall be subject to the prior approval of the Commission;
 - (d) restrictions on or conditions for the sale or disposition of the business which is the subject of the License, or the transfer of a controlling interest in such a business, which sale, disposition, or transfer shall require the prior approval of the Commission;
 - (e) the grounds for the modification of any of the provisions of, or the suspension or cancellation of, the License and the procedure therefore;
 - (f) the nature of the services to be provided, the minimum standards for service efficiency (such as standards on: (1) water pressure, (2) minimum flow rates, (3) connections, and (4) sewerage discharge), billing and metering requirements, and sanctions for failure to comply with the standards set;
 - (g) the Tariffs to be charged by the Licensee and the basis for the variance of the tariffs; and
 - (h) the reporting requirements of Licensees.
- (2) The Commission shall approve Tariffs which are fair and reasonable and which allows for the economic viability of the operations and business of the Licensee, including reasonable return on their investments considering the prevailing costs of capital in the domestic and international markets.
- (3) The Commission shall promulgate the rules, guidelines, and standards to be applied in determining who, among two (2) or more competing applicants, should be awarded the License for a specific Service Area, based on technical, financial, economic, and organizational considerations, managerial capacity, and past record and experience in the provision of Piped-Water Supply and/or Sewerage Services, including the following guidelines and procedures.
- (4) All holders of a License shall be subject to an annual performance audit by the Commission or its designated agent(s).
- (5) The Commission shall specify the requirements and procedure for existing holders Certificate of Public Convenience/Certificates of Public Convenience and Necessity issued by NWRB, and/or Conformance issued by the LWUA, to convert their existing certificates into Licenses issued by the Commission. Henceforth, no further Certificates of Public Convenience or Certificates of Public Convenience and Necessity and Certificate of Conformance shall be issued by the NWRB and LWUA, respectively.
- (6) All existing providers of Piped-Water Supply and/or Sewerage Services without a legal and valid Certificate of Public Convenience/Certificate of Public Convenience and Necessity or Certificate of Conformance shall have twelve (12) months from the effectivity of this Act to apply for the appropriate License from the Commission.

SEC. 15. Procedure for Granting Licenses. – (1) The Commission shall ensure that the granting of a License under this Act is carried out fairly, transparently, and without undue discrimination.

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

- (a) the qualifications required of applicants for a License;
- (b) the application procedure to be followed by all applicants, including arrangements for the publication of details of all applications made;
- (c) the procedure by which the Commission will consider applications, including the consideration of all comments and objections lodged with respect to applications and
- (d) the procedure by which the Commission shall reach a determination with respect to all such applications.

SEC. 16. Rights and Duties of Licensees. – (1) Any person granted a License under this Act shall have the duty to ensure that its licensed activities are conducted so as to further the public interest and, in particular, that they:

- (a) foster the maintenance and development of efficient, coordinated, and economic cooperation of their licensed activities;
- (b) ensure that their Piped Water Supply and/or Sewerage Services are provided in a diligent, conscientious and workmanlike manner, in accordance with applicable laws and the standards and practices generally accepted in the Philippine and international water supply and/or sewerage industry;
- (c) comply with drinking water quality requirements; and
- (d) pay appropriate compensation in accordance with procedures laid down in any relevant statute-or in regulations promulgated or issued by the Commission if, in laying or repairing a water and/or sewerage main or relevant facility, a Licensee should injure any person and/or damage any property.

(2) Any person granted a License under this Act shall, to the extent allowed by law and specified in the License, have the right to acquire or lease land and lay or repair water or sewerage mains and other relevant facilities in public ways, when required to fulfill their obligations.

(3) Subject to a any condition or limitation laid down in the License, a Licensee may disconnect the supply of piped water services and/or sewerage services to a customer is such customer defaults in the payment of amount(s) due to that Licensee in respect of water supplied or sewerage services provided, or for acts of pilferage pursuant to Sections 8, 9, 10, and 11 of Republic Act No. 8041, otherwise known as the “National Water Crisis Act of 1995.”

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

- (a) Publish the Tariff and other charges approved by the Commission, and other terms and conditions imposed by the

Commission for the provision of Piped-Water Supply and/or Sewerage Services.

- (b) Prepare, within three (3) months from the issuance of a Piped-Water Supply and/or Sewerage Service License, and make available for public inspection, codes of practice specifying the manner and procedure for: (a) metering, billing, and collection of the License's approved Tariff and other charges, (b) disconnection or suspension of service in case of non-payment of Tariffs and/or other charges, or acts of pilferage, and (c) recommendation and recovery of arrears in Tariffs and other charges; and
- (c) Maintain financial accounts in accordance with the manner and procedure specified in the License as may be amended from time to time by the Commission.

SEC. 17. Principles for Efficient Tariffs. – When proposing Tariffs for specific customers or groups of customers, providers of Piped-Water Supply and/or Sewerage Services should consider that Tariffs should cover: (a) at least the cost that would be avoided if the customers subject of such Tariffs were not services and (b) at most the cost of providing the service those customers on a stand-alone basis.

SEC. 18. Consolidation of Service Operations and Areas of Piped-Water Supply and/or Sewerage Systems. – The Commission shall promote the consolidation of Piped-Water Supply and/or Sewerage Services in the same Service Area where this improves the efficiency and lowers the cost of the provision of such services in the area.

SEC. 19. Orders and Decisions of the Commission. – Every order or decision rendered by the Commission shall be in writing and shall state clearly and distinctly the facts and law on which it is based. The Commission shall decide each case or application within thirty (30) days following its formal submission for resolution. The Commission shall publish and make available for public inspection all decisions and final order in the adjudication of contested cases or applications.

SEC. 20. Appeals Procedure and Prohibition Against Injunction. – (1) Orders, rulings, and decisions of the Commission are final and executory unless appealed to the Court of Appeals within fifteen (15) days from receipt of notice of such order, ruling or decision. All orders, rulings, and decisions of the Commission approving Tariffs shall be immediately executory and enforcement thereof may be suspended only upon the filing of a bond, in an amount fixed by the Commission, to answer for damages occasioned by the suspension or stay of execution of such orders, rulings, and decisions.

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

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

SEC. 21. Commission has Power to Arbitrate in Interconnection Disputes. – Where there is a dispute between two or more Licensees regarding the terms and conditions, including price rates, for interconnection between them of Piped Water Supply and/or Sewerage Services, then upon notification of the dispute to the Commission by one or more of the Licensees, the Commission may make a binding arbitration of the terms and conditions on interconnection that are in dispute.

SEC. 22. Interface with Other Sector Regulators. – (1) The Department of Environment and Natural Resources (“DENR”) shall continue to have the primary authority and responsibility for protecting the environment and water sources from waste and pollution and shall promulgate rules, regulations, and standards in this regard. The Commission shall coordinate with the DENR on this matter.

(2) The Department of Health (“DOH”) and LGUs shall continue to have primary authority and responsibility for determining and enforcing drinking water quality standards. The Commission shall coordinate with the DOH and the LGUs in this regard.

(3) The Commission shall coordinate with the National Water Resources Board (the “NWRB”) for water data collection, the LGUs under administrative supervision and with technical assistance from the Department of Interior and Local Government for development projects relating to water supply and sanitation, and the Department of Public Works and Highways for flood control and the harnessing and impounding of water.

SEC. 23. Advisory Council. – (1) Within six (6) months from its organization, the Commission shall cause the formation of an Advisory Council which shall include, but shall not be limited to, representatives from the following sectors: women, academe, business and industry, local government units, people’s organizations, non-government organizations, professional associations, consumer groups, and indigenous peoples.

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

- a. To help disseminate information to the public relating to the Commission’s objectives, powers, and functions;
- b. To serve as a permanent advisory body to the Commission on issues of interest to customers/consumers; and
- c. To perform such other functions as may be delegated to it by the Commission.

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

SEC. 24. Transfer of Duties, Powers, Functions, and Assets. – The powers, functions, and assets of the Water Utilities Division of the National Water Resources Board (“NWRB”), as set forth under Presidential Decree Nos. 424 as amended by Executive Order 124 and other applicable laws are hereby transferred to the Commission. In the same manner, the economic regulation powers of the LWUA as set forth under Presidential Decree No. 198, as amended, are likewise hereby transferred to the Commission.

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

SEC. 26. *Staffing.* – The staff and personnel positions in the Commission herein created shall be filled by regular appointments in accordance with a staffing plan prepared by the Chairman of the Commission. The personnel of the Water Utilities Division of the NWRB shall be given preference in the positions herein created; *Provided, however,* that such personnel shall comply with the qualification standards set by the Commission for the positions for which they apply.

SEC. 27. *Separation from Service.* – Employees separated from government service as a result of this Act shall be entitled to the benefits which they may receive under existing laws, rules and regulations. There shall be an early retirement incentive for employees who shall be separated from service.

SEC. 28. *Penalties for Violations.* – Subject to Sec. 15, paragraph (c), of this Act, any person, natural or juridical, found violating the provisions of this Act and its implementing rules and regulations shall be imprisoned from six (6) months to six (6) years, or be liable to pay a fine not exceeding Five Hundred Thousand (P 500,000.00) Pesos, or both. When the offender is a corporation, association or partnership, the penalty shall be imposed on the president, directors, or managing partner, as the case may be, and the persons charged with the administration thereof. The corporation shall be subsidiarily liable for the pecuniary liability of its aforementioned officers, president, directors, managing partners or persons charged with the administration thereof.

SEC. 29. *Appropriations.* – (1) The sum of One Hundred Million (P 100,000,000.00) Pesos shall be set aside from any available funds of the National Treasury, and is hereby appropriated and authorized to be released, for the organization of the Commission and its initial operations. Thereafter, funds sufficient to fully carry out the objectives, powers, and functions of the Commission shall be appropriated every fiscal year in the General Appropriations Act.

SEC. 30. *Separability Clause.* – In the event that any provision of this Act is declared unconstitutional, invalid, or illegal, the constitutionality, validity, or legality of the remainder of the provisions of this Act shall not be affected thereby.

SEC. 31. *Repealing Clause.* – All laws, decrees, rules and regulations, and executive orders contrary to or inconsistent with this Act, including but not limited to Section 2 of Presidential Decree (P.D.) No. 424, as amended by Executive Order 124-1479, are hereby repealed or modified accordingly. The power of LGUs under Section 154 of the Implementing Rules and Regulations of Republic Act No. 7160 to fix the rates in connection with the operation of water

utilities owned, operated and maintained by them within their jurisdiction is hereby repealed.

SEC. 32. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following the completion of its publication in a national newspaper of general circulation.

Approved,