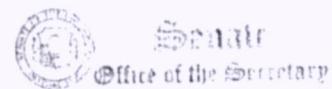


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILPPINES)
First Regular Session)



SENATE
S. No. 123

19 JUL -2 A 8:57

Introduced by Senator Grace Poe

RECEIVED JULY 19 2018 SF

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

Explanatory Note

The Philippines is a water rich country. The Philippines has total annual renewable water resources of 479 billion cubic meters (m³). This is equivalent to an annual per capita availability of 6,100 m³, which is twice that of the rest of Asia and 6 times the global scarcity threshold of 1,000 m³.

However, many Filipinos experience deprivation from affordable, safe drinking water and a working sanitation system despite our abundant sources of freshwater. An article from the Department of Environment and Natural Resources states that the government "...still scrambles to avert a water crisis during the summer season or when the country experiences the El Niño phenomenon." This was most recently seen in the water crisis of March 2018, which caused shortages throughout the east zone of Metro Manila.

The Philippines also lacks a strong liquid in-liquid out system. This means that even if households are serviced with clean drinking water, a minute number receive adequate sanitation and sewerage services. This leads to severe cases of leptospirosis, dengue, typhoid, and related tropical and water-borne illnesses. 31% of illnesses in the country are water-related due to lack of clean drinking water supply and efficient sanitary facilities.

This perennial problem has seriously affected the lives of our citizens in terms of health, sanitation, food security, and livelihood, in addition to negatively impacting the environment. This particularly impacts the poor, who not only have the worst access to water but are also usually compelled to pay more for water.

The lack of sufficient, safe, acceptable, accessible, affordable drinking water and sanitation is not unique to the Philippines. However, as the World Water Council has repeatedly stated, it is incumbent on each country to push for strong standards

within its government and to contribute to global governance on the issues of water and sanitation.

There are many water-related laws in the Philippines. However, enforcement is weak and the water sector is beset with problems such as, poor database and weak cooperation among water agencies, regulatory bodies and LGUs. Currently, there are four (4) major economic regulatory agencies for water: the National Water Resources Board (NWRB), Local Water Utilities Administration (LWUA), Local Government Units (LGUs), and National Agencies which include Industrial Zones and the Metropolitan Waterworks and Sewerage System (MWSS).

The regulatory framework for water has many overlaps, and economic regulations are provided under a number of different arrangements thereby resulting to an unstable and fragmented regulatory framework. This fragmentation has had significant implications in the effective and adequate delivery of water and sanitation services in the country. Because there is no lead agency in the water resource sector, the different coordination systems, functions and jurisdictions of the various agencies have made it impossibly hard for water and sanitation to be collectively managed. Thus, the establishment of a unified agency that would focus on water, sewerage and sanitation is certainly very important.

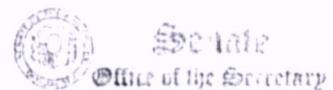
This bill seeks to rationalize the economic as well as administrative regulation of water utilities through an independent, quasi-judicial body called the Water Regulatory Commission. Among its functions are to set the policy for water supply, sewerage and septic management; issue and licenses; set, review and approve rates; review and suspend contracts; initiate investigations on erring officials through its quasi-judicial nature; review and revoke issuances, memoranda and the like that are not in accordance with the spirit of the Commission and ensure that the welfare of consumers are prioritized. To streamline organizational functions and responsibilities, the pertinent regulatory units of the MWSS, NWRB and LWUA will also be transferred to the commission.

To live in a community that is clean, free from human waste, and abundant with safe and affordable drinking water is an utmost human right, so much so that the United Nations General Assembly explicitly recognized the Right to Water and Sanitation through UN Resolution 64/292 in 2010. To ensure Filipinos the benefit of this most fundamental human right, the urgent approval of this bill is earnestly sought.



GRACE POE

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



SENATE
S. No. 123

19 JUL -2 A8:57

Introduced by Senator Grace Poe

RECEIVED BY:

A handwritten signature in black ink, appearing to read "G. Poe".

**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 the Congress assembled:

**ARTICLE I
GENERAL PROVISIONS**

1 Section 1. *Short Title.* – This Act shall be known as the "Water Regulatory
2 Act of 2019".

3 Sec. 2. *Declaration of National Policy.* – It is hereby declared the policy of the
4 State to recognize, protect, realize and enhance the right of all Filipinos to safe and
5 clean drinking water and sanitation as essential to the full enjoyment of life and all
6 human rights. In the pursuit of this Policy, this Act shall have the following
7 objectives:

- 8 a) To prioritize and seek the immediate attainment of universal access to
9 safe, adequate, affordable and sustainable water supply and sanitation
10 services for all Filipinos, and adopt all necessary measures directed
11 towards the realization of the human right to water;
- 12 b) To accelerate the expansion, improvement and, ultimately, efficient
13 provision of Level III water supply systems and sanitation services for
14 the entire country, in a manner consistent with the protection,

- 1 preservation and revival of the quality of the country's water
2 resources;
- 3 c) To encourage and enable private sector leadership in the continued
4 growth and development of water supply and septage management
5 and sewerage facilities and services;
- 6 d) To create a business and regulatory environment that is level,
7 transparent and conducive for public and private domestic and foreign
8 investment in water supply and sanitation services;
- 9 e) To provide incentives and/or support to encourage investments, and/or
10 take all steps necessary for the provision of affordable access to water
11 supply and sanitation services in unserved and underserved areas;
- 12 f) To ensure that water resources allocated to water service providers are
13 used efficiently to meet public demand;
- 14 g) To ensure fair, just and reasonable tariffs, rates and charges for water
15 supply and sanitation services;
- 16 h) To protect the legal and other interests of consumers of water supply
17 and sanitation services rendered by public and private sector licensees;
- 18 i) To establish an administrative process for economic regulation that is
19 stable, transparent and fair, giving due emphasis to technical, legal,
20 environmental, economic and financial considerations and with due
21 regard to the observance of due process at all times; *and*
- 22 j) To establish a strong and independent economic regulatory body to
23 ensure consumer protection, promote good business practice and
24 competition among Service Providers and full public accountability to
25 achieve greater operational and economic efficiency.

26 Sec. 3. *Definition of Terms.* – As used under this Act, the following words
27 or terms shall have the following meaning:

- 28 a) *Bulk water suppliers* – shall refer to any entity, natural or juridical,
29 whether public or private, supplying or intending to supply large
30 quantities of raw or treated water to buyers who will use it for own
31 consumption, such as industrial companies, or for retail distribution to

1 consumers, such as Water Districts or subdivisions managing their own
2 distribution network.

3 b) *Commission* – shall mean the Water Regulatory Commission established
4 by this Act;

5 c) *Levels of water supply service* – shall refer to the following:

6 1. Level I (*Point Source*) – a protected well or a developed spring with
7 an outlet but without a distribution system, generally adaptable for
8 rural areas where the houses are thinly scattered. A Level I facility
9 normally serves an average of 15 households;

10 2. Level II (*communal faucet system or standposts*) – a system
11 composed of a source, a reservoir, a piped distribution network, and
12 communal faucets. Usually, one faucet serves 4 to 6 households.
13 Generally suitable for rural and urban fringe areas where houses are
14 clustered densely to justify a simple piped system: *and*

15 3. Level III (*waterworks system or individual house connections*) – a
16 system with a source, a reservoir, a piped distribution network and
17 household taps. It is generally suited for densely populated urban
18 areas.

19 d) *License* – shall mean the Water Supply and/or Sanitation Services
20 Operating License that the Commission is authorized to grant and issue
21 to Service Providers.

22 e) *Licensee* – shall mean the Service Provider to whom a License is granted
23 or issued by the Commission.

24 f) *LWUA* – shall mean the Local Water Utilities Administration created under
25 Presidential Decree No. 198, as amended.

26 g) *MWSS* – shall mean the Metropolitan Waterworks and Sewerage System,
27 created by Republic Act 6234.

28 h) *NWRB* – shall mean the National Water Resources Board created by
29 Presidential Decree No. 424, as amended by Executive Order No. 124-A.

30 i) *Regulatory Units* – shall refer to the regulatory offices established under
31 Section 5 of this Act to issue Licenses authorizing the operation of Water
32 Supply and Sanitation Services; provide, review, determine, fix, and

1 approve water and sewerage tariffs, rates and charges that Licensees
2 may impose; and exercise such other functions and powers as may be
3 provided hereunder.

- 4 j) *Sanitation* – refers only to sewerage, sanitation and septage
5 management.
- 6 k) *Service Area* – shall refer to the area covered by the water distribution
7 system, sewerage and septage management services.
- 8 l) *Service Provider* – shall refer to any entity, natural or juridical, whether
9 private or public, providing or intending to provide levels II & III water
10 supply, including bulk water suppliers; sewerage; and/or septage
11 treatment and disposal services for domestic/residential, industrial or
12 commercial use.
- 13 m) *Sewerage* – shall refer to any system or network of sanitary pipelines,
14 ditches, channels or conduits including pumping stations, lift stations and
15 force mains, service connections including other constructions, devices or
16 appliances appurtenant thereto, which includes the collection, sanitary
17 piping transport, pumping and treatment of water-borne human or
18 animal waste removed from residences, buildings, institutions, industrial
19 and commercial establishments to point of sewerage treatment plant
20 disposal.
- 21 n) *Septage* – shall refer to sludge produced on individual onsite wastewater
22 disposal systems, principally septic tanks and cesspools.
- 23 o) *Septage Management* – shall refer to the provision of proper collection,
24 septage treatment and disposal of septage.
- 25 p) *Tariffs* – shall refer to such amounts which may be charged by Licensees
26 of Water Supply and/or Sanitation Services for their services based on
27 principles, standards, and guidelines established by the Commission.
- 28 q) *Water District* – shall refer to government-owned and controlled
29 corporations organized under Presidential Decree No. 198, as amended,
30 created primarily to acquire, install, operate, maintain and improve water
31 supply and distribution systems for domestic, industrial and municipal
32 uses of residents and to provide, maintain and operate waste water

1 collection, treatment and disposal facilities within the boundaries of the
2 district.

- 3 r) *Water Supply and/or Sanitation Service* – refers to any activity comprising
4 of Levels II and III water supply including suppliers to subdivisions and
5 other Service Providers; sewerage; and septage treatment and disposal
6 services.

7 **ARTICLE II**

8 **THE WATER REGULATORY COMMISSION**

9 Sec. 4. *The Water Regulatory Commission.* – There is hereby created and
10 established an independent, quasi-judicial regulatory body to be named the Water
11 Regulatory Commission, hereinafter referred to as the “Commission”, which shall be
12 organized within one hundred twenty (120) days after the effectivity of this Act. The
13 Commission shall be an attached agency to the Office of the President.

14 Sec. 5. *The Regulatory Units.* – The Regulatory Units of the Commission
15 shall be composed of the Provincial Regulatory Units and the Central Regulatory
16 Unit.

17 a) The Provincial Regulatory Units shall be established by the Commission
18 in accordance with such rules, regulations, guidelines and standards as
19 the Commission shall issue, and as provided hereunder.

20 b) the pertinent regulatory divisions or units of MWSS, NWRB and LWUA
21 are hereby transferred to the Commission, and they shall collectively
22 comprise its Central Regulatory Unit for water supply and sanitation
23 services that

- 24 1. Provide services to more than one province;
25 2. are owned, operated and/or maintained by special economic
26 zones and Metro Manila concessionaires.

27 Sec. 6. *Powers and Functions of the Commission.* – The overall authority
28 and powers of the Commission shall cover and apply to all Service Providers,
29 whether private or public, providing or intending to provide levels II & III water
30 supply, including suppliers to subdivisions and/or other Service Providers;
31 sewerage; and/or septage treatment and disposal services for domestic/residential,
32 industrial or commercial use.

1 The Commission shall have the following powers and functions:

- 2 a) Provide the overall policy directions, strategies and targets to meet the
3 goals and objectives for water supply, sewerage and septage management.
- 4 b) Issue and promulgate rules, regulations and guidelines as may be
5 necessary to implement and enforce its powers and functions under this
6 Act;
- 7 c) Set and enforce just and reasonable technical standards, classifications and
8 measurements of service;
- 9 d) Appoint the central and provincial regulators;
- 10 e) Establish rules and regulations to monitor, avoid and provide remedies for
11 any market power abuse or anti-competitive or discriminatory act or
12 behavior by or against any participant in the water supply and sanitation
13 sector. Upon finding that a market participant has engaged in, or fell
14 victim to such act or behavior, the Commission shall act to stop and/or
15 redress the same. Such remedies may, without limitation, include the
16 imposition of price controls, issuance of injunctions, requirement of
17 divestment or disgorgement of excess profits, invalidation of contracts and
18 imposition of fines and penalties pursuant to this Act.
- 19 f) Adopt and require that books, records and accounts be kept and
20 maintained in accordance with the prescribed uniform accounting system;
- 21 g) Fix and determine proper and adequate rates of depreciation of properties
22 and equipment used in Water Supply and Sanitation Service/s;
- 23 h) Impose and collect annual levies determined as a percentage of gross
24 revenue accruing in relation to the licensed activities, and reasonable fees
25 and surcharges as may be necessary for achieving the purposes, powers
26 and functions of the Commission;
- 27 i) Require the submission reports of finances and operations, verified under
28 oaths by the owner or president and secretary of the Licensee;
- 29 j) Determine and require the monitoring and submission of such data,
30 statistics and other information from the Regulatory Units and any or all
31 licensees as may be necessary for the effective and efficient exercise of its
32 duties, functions, powers and responsibilities.

- 1 k) Investigate, *motu proprio* or upon complaint in writing, any matter
- 2 concerning the operation of the service and require that service be
- 3 provided in proper and suitable manner;
- 4 l) Impose penalties and fines against any Licensee or against its owners,
- 5 directors, officers, agents or representatives for any violation of this Act or
- 6 of the license, order, rule regulation or requirement issued by the
- 7 Commission;
- 8 m) Require any Licensee to pay the actual expenses incurred by the
- 9 Commission in any investigation if it shall be found that a Licensee violated
- 10 any provision of this Act or of the license, order, rule regulation or
- 11 requirement issued by the Commission;
- 12 n) Advise, apprise and coordinate with other relevant agencies of the
- 13 national or local government on any matter relating to Water Supply
- 14 and/or Sanitation Services;
- 15 o) Deputize agents, whether from the public or private sector, to assist in the
- 16 performance of any of the powers and functions of the Commission;
- 17 p) Upon appeal and after due hearing, appoint an interim or temporary
- 18 management committee to ensure continuity of service in cases a Licensee
- 19 fails to meet conditions of the license and the concerned Regulatory Unit
- 20 fails or refuses to appoint an interim management committee as provided
- 21 in the following section.
- 22 q) Appoint, hire and maintain adequate staff and personnel, advisers, and/or
- 23 consultants, with suitable qualifications and experience, as necessary;
- 24 r) Original and exclusive jurisdiction over all cases contesting rates, fees, fines
- 25 and penalties imposed by the Regulatory Units in the exercise of their
- 26 powers, functions and responsibilities, as set forth herein, and over all
- 27 cases involving disputes between and among participants or stakeholders in
- 28 the Water Supply and Sanitation services; and
- 29 s) Such other incidental powers and functions as may be necessary to attain
- 30 the objectives of this Act.

31 Sec. 7. *Composition.* – The Commission shall be a collegial body composed
32 of five (5) full-time members composed of a Chairperson and four (4) members.

1 The Chairperson and the Commissioners who shall have the rank equivalent of
2 cabinet secretary and undersecretary, respectively, shall be appointed by the
3 President.

4 All members of the Commission must be citizens and residents of the
5 Philippines, of good moral character, recognized integrity and competence in the
6 field of law, business, commerce, finance, accounting or public administration,
7 water or utility economics, management, physical or engineering services,
8 hydrology and other related services, with at least ten (10) years actual and
9 distinguished experience in their respective fields of expertise; *Provided* that out of
10 the four members of the Commission, at least one (1) shall be a member of the
11 Philippine Bar with at least ten years of experience in the active practice of law,
12 and at least one (1) shall be a certified public accountant with at least ten years of
13 experience in active practice.

14 The term of office of the Chairperson and the Commissioners shall be seven
15 (7) years without reappointment. Of the first set of appointees, the Chairperson
16 shall hold office for seven (7) years and of the first four (4) Commissioners, two
17 (2) shall hold office for a term of seven (7) years and two (2) for a term of five (5)
18 years. In case a vacancy occurs before the expiration of the term of office, the
19 appointment to such vacancy shall only be for the unexpired term of the
20 predecessor. The Chairperson and the Commissioners shall enjoy security of
21 tenure and shall not be suspended or removed from office except for just cause as
22 provided by law.

23 The Commission shall meet as often as may be necessary on such day or
24 days as the Chairperson may fix. The presence of at least three (3) members of
25 the Commission shall constitute a quorum, which shall be necessary for the
26 transaction of any business. The affirmative vote of majority of the members of the
27 Commission where a quorum is present shall be necessary for the adoption of any
28 order, resolution, decisions, or other act of the Commission in the exercise of its
29 quasi-judicial functions; *Provided* that in promulgating rules, regulations,
30 guidelines and in the exercise of its quasi-legislative functions, an affirmative vote
31 of three (3) members shall be required.

1 The Chairman of the Commission shall exercise general executive control and
2 supervision of the Commission and its members, staff and personnel, agents and
3 representatives.

4 The staff and personnel positions of the Commission shall be filled by regular
5 appointments in accordance with a staffing plan to be prepared by the Commission.
6 Within three (3) months from the creation of the Commission and the appointment
7 of all Members of the Commission, the Chairman shall submit for the approval by
8 the President of the Philippines the new organizational structure and plantilla
9 positions necessary to carry out the powers and functions of the Commission,
10 including those of the Central and Provincial Regulatory Units.

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

18 Sec. 8. *Executive Director.* – The Commission shall appoint an Executive
19 Director who shall head the Commission Secretariat, keep and maintain the official
20 record and report of the proceedings of the Commission, and have the authority to
21 administer oaths in all matters falling within the jurisdiction of the Commission.

22 The Executive Director shall be responsible for the effective implementation of
23 the policies, plans, programs, rules, regulations and directives of the Commission;
24 coordinate and supervise the activities of the different operating units under the
25 Commission; and perform such functions as may be assigned by the Chairperson
26 and/or other members of the Commission.

27 Sec. 9. *The Secretariat.* – The Commission shall also establish a Secretariat
28 which shall provide the Commission with technical and other support including,
29 *among others:*

- 30 a) Providing the necessary technical inputs and secretariat support to the
31 Commission to facilitate the conduct of its functions;
- 32 b) Coordinating with Regulatory Units to ensure proper implementation of the

- rules, regulations and guidelines promulgated by the Commission;
 - c) Monitoring and assessing activities of the Regulatory Units vis-à-vis their respective annual performance plans and targets;
 - d) Maintaining a database on the WSS sector; and
 - e) Coordinating with other relevant agencies of the national or local government on any matter relating to WSS.

7 Sec. 10. *Compensation and Other Emoluments.* – The compensation and
8 other emoluments for the members and personnel of the Commission shall be
9 exempted from the coverage of Republic Act No. 6758, otherwise known as the
10 "Salary Standardization Act". For this purpose, the salaries and other emoluments
11 of the Chairperson, the Commissioners, and personnel of the Commission shall be
12 set based on an objective classification system, taking into consideration the
13 importance and responsibilities attached to the respective positions, and shall be
14 submitted to the President of the Philippines for his approval.

ARTICLE III

REGISTRATION AND LICENSING

17 Sec. 11. *Registration and Licensing of All Water Supply and/or Sanitation*
18 *Services.* – All Water Supply and/or Sanitation Service Providers, including Bulk
19 Water Suppliers and those providing services to subdivisions and/or other Service
20 Providers, shall register with the Commission and, subject to such rules, guidelines,
21 procedures and other issuances as the Commission may issue, obtain a License to
22 operate from the appropriate Regulatory Units.

23 The Commission shall also ensure that the granting and revocation of
24 licenses are carried out fairly, transparently, and without discrimination. Its
25 issuances shall therefore specify, among others, the qualifications, requirements
26 and procedure for the granting and revocation of Licenses, as well as the standards
27 and performance targets that must continuously be complied with in order to keep
28 such licenses valid.

Unless otherwise provided herein or by the Commission, no public Water Supply and/or Sanitation Service provider shall commence or conduct the business of providing water supply and sanitation services without first obtaining a license.

1 Concession agreements and other contracts for water supply provision
2 currently existing shall remain valid and in force, unless otherwise invalidated by
3 the Commission where public interest so dictates, after due notice and hearing.

4 Sec. 12. *Conditions in the License.* – The Commission and/or the concerned
5 Regulatory Unit, may impose such conditions in the issued License, as it may deem
6 necessary, such as but not limited to:

- 7 a) Tariffs, rates and charges that may be imposed from its
8 customers/consumers.
- 9 b) Term fixing the duration of the privilege.
- 10 c) Grounds for modification, suspension or cancellation of the License.
- 11 d) Minimum technical performance and service level standards.
- 12 e) Expansion targets and service level improvements over time.
- 13 f) Restrictions or conditions for transferability of the business or
14 controlling interest in the business.
- 15 g) Reportorial requirements and obligations of the grantee.
- 16 h) Submission to annual performance audit by the Commission or its duly
17 authorized representative(s).

18 The Commission shall specify the requirements and procedure for existing
19 holders of Certificate of Public Convenience/Certificates of Public Convenience and
20 Necessity issued by NWRB, and/or Conformance issued by LWUA, to convert their
21 existing certificates into Licenses issued by the Commission.

22 All existing providers of Water Supply and/or Sanitation Services without a
23 legal and valid Certificate of Public Convenience/Certificate of Public Convenience
24 and Necessity or Certificate of Conformance shall register with the Commission
25 and apply for a License within six (6) months from the effectivity of this Act.

26 Sec. 13. *Rights and Duties of Licensees.* –

- 27 a) Any person granted a License under this Act shall have the obligation to
28 ensure that its licensed activities are conducted so as to further the public
29 interest and, in particular, that they:
 - 30 1. Foster the maintenance and development of efficient, coordinated,
31 and viable operation of their licensed activities;

- 1 2. Ensure that their Water Supply and/or Sanitation Services are
2 provided in a diligent, conscientious and workmanlike manner, in
3 accordance with applicable laws and the standards and practices set
4 by the Commission and generally accepted in the Philippine and
5 interWater supply and/or sanitation industry;
- 6 3. Comply with drinking water quality requirements and other
7 requirements and standards that may be set by the Commission; and
- 8 4. Not abandon its service without notice to and approval by the
9 Commission.
- 10 b) Any person granted a License under this Act shall, to the extent allowed
11 by law and specified in the License, have the right to acquire or lease
12 land and lay or repair water or sanitation mains and other relevant
13 facilities in public ways, when required to fulfill their obligations.
- 14 c) Subject to any condition or limitation laid down in the License, a Licensee
15 may disconnect the supply of Water Supply and/or Sanitation services to
16 a customer if such customer defaults in the payment of amount(s) due to
17 that Licensee in respect of water supplied or sanitation services
18 provided, or for acts of pilferage pursuant to Sections 8, 9, 10, and 11 of
19 Republic Act No. 8041, otherwise known as the "Water Crisis Act of
20 1995."
- 21 d) Any License issued under this Act shall contain provisions designed to
22 ensure that Licensees:
- 23 1. Publish the Tariff and other charges approved by the Commission,
24 and other terms and conditions imposed by the Commission for
25 the provision of Water Supply and/or Sanitation Services.
- 26 2. Prepare, within three (3) months from the issuance of a License,
27 in consultation with its customers, a customer service code
28 specifying the manner and procedure for: (a) metering, billing,
29 and collection of the Licensee's approved tariff and other charges,
30 (b) disconnection or suspension of service in case of non-payment
31 of tariffs and/or other charges, or acts of pilferage, and (c)

1 recommendation and recovery of arrears in tariffs and other
2 charges; and

3 3. Maintain financial accounts in accordance with the manner and
4 procedure specified in the License and as may be required by the
5 Commission.

6 e) Maintain and upon request by anyone during regular office hours,
7 promptly make available for scrutiny and inspection such data, statistics
8 and other information, as may be required by the Commission.

9 Sec. 14. *Setting Tariffs, Rates and Other Charges.* – Regulatory Units shall
10 establish tariffs, rates and other charges which are fair and reasonable and which
11 provide for the economic viability of the service and a fair return on their
12 investments considering the prevailing cost of capital in the domestic and
13 international markets.

14 Such tariffs, rates and charges shall be based on and consistent with a rate-
15 setting methodology that the Commission shall, after due public consultation, define
16 and publish in consecutively for three weeks in newspapers of general circulation ,
17 taking into account the following, among others:

- 18 a) Reasonable and prudent capital and recurrent costs of providing the
19 service including a reasonable rate of return on capital;
- 20 b) Efficiency of the service;
- 21 c) Incentives for enhancement of efficiency;
- 22 d) Willingness to pay of the customers/consumers;
- 23 e) Equity considerations; and
- 24 f) Administrative simplicity.

25 Tariffs, rates and charges set by the Regulatory Units shall be presumed valid
26 and reasonable unless a protest or contest is filed with the Commission.

27 Sec. 15. *Promotion of Innovative Schemes to Improve Efficiency and*
28 *Management of Systems.* – The Commission shall promote innovative schemes,
29 including but not limited to the consolidation and/or integration of Water Supply
30 and/or Sanitation Services and/or Providers in the same Service Area, where it will
31 result in improved efficiency, services expansion and/or lowering of costs.

32 To this end, the Commission shall establish and issue such rules and

1 guidelines as may be necessary to (a) create incentives to encourage efficiency
2 and service expansion; (b) establish the standards and targets that service
3 providers are required to meet; and (c) set the fines and penalties that would be
4 imposed for failure to meet such standards and targets.

5 Sec. 16. *Twelve Percent (12%) Investment Cap.* – Pursuant to
6 Commonwealth Act No. 146, as amended, otherwise known as the “Public Service
7 Act,” shall further provide that any and all government agencies or such
8 government agencies’ private sector concessionaires, agents, operators,
9 contractors and the like delivering public services to the people must be subjected
10 to the Twelve (12%) cap financial formula on Return of Investment.

Furthermore the Commission on Audit (COA) is hereto designated as the sole and official Auditor to determine the Actual Physical Investments of such government agency/ies or private sector concessionaires, operators, agents, contractors and the like delivering public to the people for purposes of computing the Twelve (12%) Return on Investment Cap.

ARTICLE IV

QUASI-JUDICIAL FUNCTIONS OF THE COMMISSION

18 Sec. 17. *Proceedings Before the Commission.* – For the purpose of any
19 investigation, inquiry or proceeding, the Commission shall have the requisite power
20 to:

- 21 a) Issue *subpoena duces tecum* and *subpoena duces tecum ad testificandum*;

22 b) Appoint a Commissioner to hear and receive evidence on behalf of the

23 Commission;

24 c) Cite any person or party for contempt for refusal to appear, testify or

25 comply with an order of the Commission on any matter that is the subject

26 of investigation, inquiry or proceeding before the Commission.

27 Sec. 18. *Orders and Decisions of the Commission.* – The orders, resolutions
28 and decisions of the Commission, which must be reached as promptly and
29 expeditiously as reasonably and fairly possible, shall be in writing and shall state
30 clearly and distinctly the facts and law on which it is based.

31 The Commission shall publish and make available for public inspection all
32 decisions and final orders in the adjudication of contested cases or applications.

1 Sec. 19. *Appeals Procedure and Prohibition Against Injunction.* – The orders,
2 rulings, and decisions of the Commission are final and executory unless appealed
3 to the Court of Appeals within fifteen (15) days from receipt of notice of such order,
4 ruling or decision; *Provided* that orders, rulings, and decisions of the Commission
5 approving tariffs shall be immediately executory and may be suspended only upon
6 appeal and filing of a bond, in an amount to be fixed by the Commission, to
7 answer for damages occasioned by the suspension or stay of execution of such
8 orders, rulings, and decisions.

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

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

ARTICLE V

TRANSITORY PROVISIONS

19 Sec. 20. Interface with Other Sector Regulators. –

- 20 a) The Department of Environment and Natural Resources shall continue to
21 have the primary authority and responsibility for protecting the
22 environment and the quality water sources from waste and pollution and
23 shall promulgate rules, regulations, and standards in this regard.

24 b) The Department of Health shall have primary authority and responsibility
25 for determining and enforcing drinking water quality and sanitation
26 standards. The Commission shall coordinate with the DOH in this regard,
27 and shall ensure the consistency of the standards and targets that it will
28 set for compliance by licensees with the DOH's mandated standards.

29 c) The Commission shall coordinate with the NWRB for water allocation and
30 data collection, the local government units for development projects
31 relating to water supply and sanitation, and the Department of Public

1 Works and Highways for flood control and the harnessing and impounding
2 of water.

3 Sec. 21. *Transfer of Rights and Obligations.* – The Commission shall, by
4 virtue of this Act, be subrogated to all the rights, and assume all the obligations, of
5 the Water Utilities Division of the NWRB, the Regulatory Offices of MWSS and LWUA,
6 the Regulatory Units of all special economic zones, and all other government
7 agencies and units whose powers and functions have been transferred to the
8 Commission.

9 The transfer of powers and functions in the Department and agencies
10 attached thereto, as herein provided for, shall take effect within six (6) months after
11 the effectivity of this Act. The foregoing transfer of powers and functions shall
12 include all applicable funds, personnel, records, property and equipment, as may be
13 necessary. The same shall apply to agencies which have been attached to the
14 Department by virtue of this Act.

15 As such, all offices under the Department and all attached agencies affected
16 by the provisions of this Act shall continue to function under their present mandates
17 until transition is effected as provided for under this Act.

18 The heads of the agencies shall continue to serve until replaced as provided for
19 under this Act.

20 All rights and obligations of the said government agencies are hereby
21 transferred to and assumed by the Commission and shall be acted upon in
22 accordance with the rules and regulations of the Commission on Audit and other
23 pertinent laws, rules, and regulations.

24 Sec. 22. *Separation from Service.* – Employees separated from government
25 service as a result of this Act shall be entitled to the benefits which they may receive
26 under existing laws, rules and regulations.

27 Sec. 23. *Appropriations and Use of Fees, Charges and Penalties.* – The initial
28 budgetary requirements of the Commission of Three Hundred Million Pesos
29 (P300,000,000.00) is hereby appropriated. Such funds necessary for the continuous
30 and effective operation of the Commission shall be included in the annual General
31 Appropriations Act.

1 All fees, fines, penalties collected by the Commission and its Regulatory Units
2 shall be remitted to the National Treasury and shall accrue to the general funds.

3 Sec. 24. *Transparency Clause.* – Final decisions, orders and rulings of the
4 Commission shall be published on the official website. Records of public proceedings
5 shall be made available to the public.

6 Sec. 26. *Effectivity.* – This Act shall take effect immediately upon its approval.
7 The Chairman of the Commission shall, after due consultation with stakeholders,
8 promulgate such other rules and regulations as may be necessary and appropriate to
9 implement this Act.

10 Sec. 27. *Separability Clause.* – In the event that any provision of this Act is
11 declared unconstitutional, invalid, or illegal, the constitutionality, validity, or legality
12 of the remainder of the provisions of this Act shall not be affected thereby.

13 Sec. 28. *Repealing Clause.* – The provision with respect to fixing of water
14 rates and sanitation service fees of Section 3 (h) and Section 12, and regulation of
15 waterworks and deep wells of Section 3 (n), regulation of waterworks and sanitation
16 systems in privately owned subdivisions of Section 3 (p) of Republic Act 6234, as
17 amended, is hereby repealed or modified accordingly.

18 Section 62 on regulation and Section 63 on rate review of Presidential
19 Decree 198, as amended by LOI 700 (1978), LOI 744 (1978), EO 124 (1987), EO
20 123 (2002), is hereby repealed or modified accordingly.

21 The provisions of the Local Government Code and its Implementing Rules
22 and Regulations of Republic Act No. 7160 which allow local government units to
23 fix the rates of water utilities owned, operated and maintained by them within
24 their jurisdiction is hereby repealed or modified accordingly.

25 Section 13 (b) on regulation of enterprises in ECOZONE of Republic Act No.
26 7916 as amended, also known as the Special Economic Zone Act of 1995, is
27 hereby repealed or modified accordingly.

28 "Provisions under Section 69 of Republic Act No. 9593 or the Tourism Act of
29 2009 and its Implementing Rules and Regulations which mandates the Tourism
30 Infrastructure and Enterprise Zone Authority to grant franchises, supervise the
31 operation of public utilities, and register, monitor and regulate enterprises within
32 Tourism Enterprise Zones, are hereby repealed or modified accordingly."

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

4 All other laws, decrees, rules and regulations and executive orders that are
5 contrary to or inconsistent with this Act are hereby repealed or modified
6 accordingly.

7 Sec. 29. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
8 following the completion of its publication in a national newspaper of general
9 circulation.

Approved,