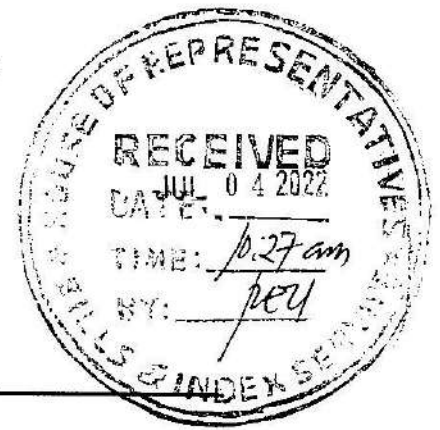


Republic of the Philippines
HOUSE OF THE REPRESENTATIVES
Constitution Hills, Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1013



Introduced by Rep. BERNADETTE HERRERA-DY

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, yet despite an overflowing capital, many Filipinos experience deprivation from affordable, safe drinking water and a working sanitation system. 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.

As noted at the 6th World Water Forum, ¹ the lack of sufficient, safe, acceptable, accessible, affordable drinking water and sanitation is not a problem unique to the Philippines, but 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.

The Philippines is lacking a strong liquid in-liquid out system, meaning that even if households are serviced with clean drinking water, a minute number receive adequate sanitation and sewerage services, leading to severe cases of leptospirosis, dengue, typhoid, and related tropical and water-borne illnesses. This year alone there has been a 16% increase in cases of dengue fever over the same period last year. Moreover, 31% of illnesses in the country are water-related.

The Water Regulatory Act 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 septage 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 189 states recognized the Right to Water and Sanitation at the United Nations in 2011¹, according to the World Water Forum.² In step with the international movement, through this bill the Philippines is declaring

¹ Held at Marseille, France. See <http://www.worldwaterforum6.org/en>

² See About page, 6th World Water Forum, <http://www.worldwaterforum6.org/en/the-forum/about/>

a primary political priority is the universal access to water and sanitation and sustainable management of water resources, forming an indispensable basis for social and economic improvement and basic health and prosperity. The Philippines is also committing to meeting and exceeding the Millennium Development Goals for water and sanitation. To ensure Filipinos the benefit of this most fundamental human right, the urgent approval of this bill is earnestly sought.


BERNADETTE HERRERA-DY

Republic of the Philippines
HOUSE OF THE REPRESENTATIVES
Constitution Hills, Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1013

Introduced by Rep. BERNADETTE HERRERA-DY

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

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

CHAPTER 1 - GENERAL PROVISIONS

SEC. 1. Short Title. This Act shall be known as the "Water Regulatory Act
of 2019."

SEC. 2. Declaration of National Policy. — It is hereby declared the policy
of the State to recognize, protect, realize and enhance the right of all
Filipinos to safe and clean drinking water and sanitation as essential to the
full enjoyment of life and all human rights.

In the pursuit of this Policy, this Act shall have the following objectives:

a) To prioritize and seek the immediate attainment of universal access to
safe,
adequate, affordable and sustainable water supply and sanitation services
for all Filipinos, and adopt all necessary measures directed towards the
realization of the human right to water;

b) To accelerate the expansion, improvement and ultimately, efficient
provision of
Level III water supply systems and sanitation services for the entire
country, in a manner consistent with the protection, preservation and
revival of the quality of the country's water resources;

- c) To encourage and enable private school leadership in the continued growth and development of water supply and septage management and sewerage facilities and sentences;
- d) To create a business and regulatory environment that is level, transparent and conducive for public and private domestic and foreign investment in water supply and sanitation services;
- e) To provide incentives and/or support to encourage investments, and/or take all steps necessary for the provision of affordable access to water supply and sanitation services in unserved and underserved areas;
- f) To ensure that water resources allocated to water service providers are used efficiently to meet public demand;
- g) To ensure fair, just and reasonable tariffs, rates and charges for water supply and sanitation services;
- h) To protect the legal and other interests of consumers of water supply and sanitation services rendered by public and private sector licensees;
- i) To establish an administrative process for economic regulation that is stable, transparent and fair, giving due emphasis to technical, legal, environmental, economic and financial considerations and with due regard to the observance of due process at all times; and
- j) To establish a strong and independent economic regulatory body to ensure consumer protection, promote good business practice and competition among Service Providers and full accountability to achieve greater operational economic efficiency.

SEC. 3. Definition Of Terms. — As used under this Act, the following words or terms 10 shall have the following meaning:

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

consumers, such as Water Districts or subdivisions managing 15 their own distribution network.

b) "Commission" shall mean the Water Regulatory Commission.

c) "Levels of water supply service" — consistent with the definitions provided under 18 NEDA Board Resolution no. 12 (Series of 1995) shall mean as follows:

Level I (point source) — a protected well or a developed spring with an outlet but without a distribution system, generally adaptable for rural areas where the houses are thinly scattered. A Level I facility normally serves an average of 15 households.

Level II (communal faucet system or standposts) - a system composed of a source, a reservoir, a piped distribution network, and communal faucets.

Usually, one faucet serves 4 to 6 households. Generally suitable for rural and urban fringe areas where houses are clustered densely to justify a simple piped system.

Level III (waterworks system or individual house connections) — a system with a source, reservoir, a piped distribution network and household taps. It is generally suited for densely populated urban areas.

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

e) "Licensee" shall mean the Service Provider to whom a License is granted or issued by the Commission.

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

g) "MWSS" shall mean the Metropolitan Waterworks and Sewerage System, created by Republic Act 6234.

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

i) "Regulatory Units" shall refer to the regulatory offices established under Section 5 of this Act to issue Licenses authorizing the operation of Water Supply and Sanitation Services provide, review, determine, fix and approve water and sewerage tariffs, rates and charges that Licensees may impose; and exercise such other functions and powers as may be provided hereunder.

j) "Sanitation" as used under this Act, refers only to sewerage, sanitation and septage management.

k) "Service Area" shall refer to the area covered by the water distribution system, sewerage and septage management services.

l) "Service Provider" shall refer to any entity, natural or juridical, whether private or public, providing or intending to provide levels II & III water supply, including bulk water suppliers; sewerage; and/or septage treatment and disposal services for domestic/residential, industrial or commercial use.

m) "Sewerage" shall refer to any system or network of sanitary pipelines, ditches, channels or conduits including pumping stations, lift stations and force mains, service connections including other constructions, devices or appliances appurtenant thereof, which includes the collection, sanitary piping transport, pumping and treatment of water-borne human or animal waste removed from residences, buildings, institutions, industrial and commercial establishments to point of sewerage treatment plant disposal.

n) "Septage" shall refer to sludge produced on individual onsite wastewater disposal systems, principally septic tanks and cesspools.

o) "Septage Management" shall refer to the provision of proper collection septage treatment and disposal of septage.

p) "Tariffs" shall refer to such amounts which may be charged by Licensees of Water Supply and/or Sanitation Services for their sentences based on principles, standards, and guidelines established by the Commission.

- q) "Water District" shall refer to government-owned and controlled 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 and to provide, maintain and operate waste water collection, treatment and disposal facilities within the boundaries of the district.
- r) "Water Supply and/or Sanitation Service " — refers to any activity comprising of Levels II and III water supply including suppliers to subdivisions and other Service Providers; sewerage; and septage treatment and disposal services.

CHAPTER 2 - ORGANIZATION

SEC. 4. The Water Regulatory Commission. — There is hereby created and established an independent, quasi-judicial regulatory board to be named the Water Regulatory/ 33 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 have a Board of Commissioners, and shall be vested with powers and functions, as conferred and set forth hereunder.

SEC. 5. The Regulatory Units. — The Regulatory Units of the Commission in accordance with such rules, regulations, guidelines and standards as the Commission shall issue 40 issue, and as provided hereunder.

Moreover, the pertinent regulatory divisions or units of MWSS, NWRB AND LWUA are hereby transferred to the Commission, and they shall collectively comprise its Central Regulatory Unit for water supply and sanitation services that

- a) provide services to more than one province;
- b) are owned, operated and/or maintained by special economic zones and Metro Manila Concessionaires.

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

The Commission shall have the following powers and functions:

- a) Provide the overall policy directions, strategies and targets to meet the goals and objectives for water supply, sewerage and septage management;
- b) Issue and promulgate rules, regulations and guidelines as may be necessary to implement and enforce its powers and functions under this Act;
- c) Set and enforce just and reasonable technical standards, classifications and measurement of sen/ice;
- d) Appoint the central and provincial regulators;
- e) Establish rules and regulations to monitor, avoid and provide remedies for any market power abuse or anti-competitive or discriminatory act or behavior by or against any participant in the water supply and sanitation sector. Upon finding that a market participant has engaged in, or fell victim to such act or behavior, the WRC shall act to stop and/or redress the same. Such remedies may, without limitation, include the imposition of price controls, issuance of injunctions, requirement of divestment or disgorgement of excess profits, invalidation of contracts and imposition of fines and penalties pursuant to this Act;
- f) Adopt and require that books, records and accounts be kept and maintained in accordance with the prescribed uniform accounting system;
- g) Fix and determine proper and adequate rates of depreciation of properties and equipment used in Water Supply and Sanitation Service/s;

- h) Impose and collect annual levels determined as a percentage of gross revenue accruing in relation to the licensed activities, and reasonable fees and surcharges as may be necessary for achieving the purposes, powers and functions of the Commission;
- i) Require the submission reports of finances and operations, verified under oaths by the owner or president and secretary of the Licensee;
- j) Determine and require the monitoring and submission of such data, statistics and other information from Regulatory Units and any or all licensees as may be necessary for the effective and efficient exercise of its duties, functions, powers and responsibilities;
- k) Investigate, moto proprio or upon complaint in writing, any matter concerning the operation of the service and require that service be provided in proper and suitable manner;
- l) Impose penalties and fines against any Licensee or against its owners, directors, officers, agents or representatives for any violation of this Act or of the license, order, rule regulation or requirement issued by the Commission;
- m) Require and Licensee to pay the actual expenses incurred by the Commission in any investigation if it shall be found that a Licensee violated any provision of this Act or of the license, order, rule regulation or requirement issued by the Commission;
- n) Advise, apprise and coordinate with other relevant agencies of the national or local government on any matter relating to Water Supply and/or Sanitation Services;
- o) Deputize agents, whether from the public or private sector, to assist in the performance of any of the powers and functions of the Commission;
- p) Upon appeal and after due hearing, appoint an interim or temporary

management committee to ensure continuity of service in cases a Licensee fails to meet conditions of the license and the concerned Regulatory Unit fails to appoint an interim management committee as provided in the following section;

- q) Appoint, hire and maintain adequate staff and personnel, advisers, and/or consultants, with suitable qualifications and experience, as necessary;
- r) Original and exclusive jurisdiction over all cases contesting rates, fees, fines and penalties imposed by the Regulatory Units in the exercise of their powers, functions and responsibilities, as set forth herein, and over all cases involving disputes between and among participants or stakeholders in the Water Supply and Sanitation services ; and
- s) Such other incidental powers and functions as may be necessary to attain the objectives of this Act.

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

- a) Subject to the review and approval of the Commission, issue and promulgate rules, regulations and guidelines as may be necessary to implement and enforce its powers and functions under this Section;
- b) Issue Licenses authorizing the operation of Water Supply and Sanitation Services in any specified area or areas within the Philippines;
- c) Impose fines, charges and other penalties upon any Provider and/or its officers and stockholders who shall fail or refuse to register and/or obtain a License prior to operation or commencement of business, as provided hereunder;
- d) Consistent with rules, guidelines, procedures and methodologies which the Commission shall provide, review, determine, fix and approve proposed water and sewerage tariffs, rates and charges that Licenses may impose upon their customers/consumers;
- e) Appraise and value property and equipment used by Licenses in providing water supply and sanitation service/s;
- f) Enforce technical, financial and other performance standards set by the Commission for licenses/utilities;
- g) Respond to consumer complaints and ensure the adequate promotion of consumer interests;

h) Investigate accidents directly or indirectly arising from or connected with the maintenance or operation of the service, and make such order or recommendation as the public interest may warrant;

i) Upon petition or motu proprio where in its determination public interest so dictates, require the review and/or approval of contracts or agreements that may impact on the tariff and rates of service provision entered into by Service Providers;

j) Require the submission of reports, plans and other documents that set out the performance targets of the licensees/utilities, and regular accomplishment reports;

k) Impose and collect annual levies determined as a percentage of gross revenue accruing in relation to the licensed activities, and reasonable fees and surcharges as may be necessary for achieving the purposes, powers and functions of the regulator;

l) Conduct benchmarking and monitor the performance of licensees/utilities under their jurisdiction, and publish reports detailing the results thereof, as may be necessary or required by the Commission;

m) Amend, modify, suspend or revoke any License issued by them, after due notice and hearing, on any of the following grounds: when the facts and circumstances on the strength of which the license was issued have been misinterpreted or has materially changed;

ii. where the Licensee has failed to meet or comply with terms, conditions and performance targets — including 15 but not limited to service expansion — that may have been set in the license; where the Licensee is found to be manifestly incompetent in the operation of or provision of Water Supply and Sanitation services in its area; or when the holder thereof has violated or willfully refused to comply with any order, rule or regulation of the Commission or any provision of this Act;

n) Appoint an interim management committee to ensure continuity of service in case a licensee fails to meet conditions of the license; and

o) Submit performance plans and reports as required by the Commission.

SEC. 8. Composition. — The Commission shall be collegial body composed of five (5) full time members composed of a Chairperson and four (4) members, who shall all be appointed by the President of the Philippines. All members of the Commission must be citizens and residents of the Philippines, at least thirty five (35) years of age, and of good moral character, recognized integrity and competence in the field of law, business, commerce, finance, accounting or public administration, water or utility economies, management, physical or engineering, services, hydrology and other related services, with at least three (3) years actual and distinguished experience in their respective fields of expertise; Provided, that out of the four members of the Commission, at least one (1) shall be a member of the Philippine Bar with at least ten years' experience in the active practice of law, and at least one (1) shall be certified public accountant with at least ten years experience in active practice.

The term of office of each member of the Commission shall be seven (7) years; Provided, however, that among the members first appointed, the Chairperson shall serve for a period of seven (7) years, two (2) members shall serve for five (5) years and the other two (2) members shall serve for three (3) years; Provided, further, that any member whose term has expired as specified herein 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 arising from death, removal, retirement or resignation shall be made only for the unexpired term; and Provided, finally, that in no case shall any member serve for more than seven (7) years in the Commission.

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

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

Within three (3) months from the creation of WRC and the appointment of all Members of the Commission, the Chairman shall submit for the approval by the President of the Philippines the new organizational structure and plantilla positions necessary to carry out the powers and functions of the Commission, including those of the Central and Provisional Regulatory Units.

The staff and personnel positions of the WRC shall be filled by regular appointments in accordance with a staffing plan to be prepared by the Commission.

Members of the Commission shall enjoy security of tenure and shall not be suspected or removed from office except for just cause as specified by law.

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

SEC. 9. Executive Director. — The WRC shall appoint an Executive Director who shall head the WRC Secretariat, keep and maintain the 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 shall be responsible for the effective implementation of the policies, plans, programs, rules, regulations and directives of the Commission; coordinate and supervise the activities of the different operating units under the Commission; and perform such functions as may be assigned by the Chairperson and/or other members of the Commission.

SEC. 10. WRC Secretariat. — The Commission shall also establish a Secretariat which shall provide the Commission with technical and other support including, among others.

- a) Providing the necessary technical inputs and secretariat support to the Commission to facilitate the conduct of its functions;

- 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-a-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.

SEC. 11. Compensation and Other Emoluments. The compensation of the members of the Commission and its staff shall be exempt from the coverage of Republic Act. No. 6758, otherwise known as the "Salary Standardization Act." Provided that the salaries of the Commission and its staff shall conform as closely as possible to the principles of R.A. 6758. For this purpose, the schedule of compensation of the Commission and its Regulatory Units and staff shall be submitted for approval of the President of the Philippines. The compensation schedule of the Commission and its Regulatory Units and staff shall be implemented within six (6) months from the effectivity of this Act and may be upgraded by the President of the Philippines as the need arises: Provided further, that in no case shall the compensation of the Commission and its staff be upgraded more than once a year. Pertinent civil service laws, rules and regulations of the Philippines shall be applicable to the Commission.

The Chairman and members of the Commission shall initially be entitled to the same salaries, allowances and benefits as those of the Presiding Justice and Associate Justices of the Supreme Court, respectively.

CHAPTER 3- REGISTRATION AND LICENSING

SEC. 12. Registration and Licensing of All Water Supply and/or Sanitation Services — All Water Supply and/or Sanitation Service Providers, including Bulk Water Suppliers and those providing services to subdivisions and/or other Service Providers, shall register with the Commission and, subject to such rules, guidelines, procedures and other issuances as the Commission may issue, obtain a License to operate from the appropriate Regulatory Units.

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

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

SEC 13. Conditions of License. — The Commission and/or the concerned Regulatory Unit, may impose such conditions in the issued License, as it may be deeming necessary, such as but not limited to:

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

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

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

SEC. 14. Rights and Duties of Licensees. —

(1) Any person granted a License under this Act shall have the obligation 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 viable operation of their licensed activities;
- b) ensure that their Water Supply and/or Sanitation Services are provided in a diligent, conscientious and workmanlike manner, in accordance with applicable laws and the standards and practices set by the Commission and generally accepted in the Philippine and inter-water supply and/or sanitation industry;
- c) comply with drinking water quality requirements and other requirements and standards that may be set by the Commission; and

d) not abandon its service without notice to and approval by the Commission. (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 sanitation mains and other relevant facilities in public ways, when required to fulfill their obligations.

(3) Subject to any condition or limitation laid down in the License, a Licensee may disconnect the supply of Water Supply and/or Sanitation services to a customer if such customer defaults in the payment of amount(s) due to that Licensee in respect of water supplied or sanitation services provided, or for acts of pilferage pursuant to Section 8,

9, 10, and 11 of Republic Act No. 8041, otherwise known as the "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 Water Supply and/or Sanitation Services.
- b) Prepare, within three (3) months from the issuance of a License, in consultation with its customers, a customer service code specifying the manner and procedure for: (a) metering, billing, and collection of the Licensee'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 and as may be required by the Commission.
- d) Maintain and upon request by anyone during regular office hours, promptly make available for scrutiny and inspection such data,

statistics and other information, as may be required by the Commission.

SEC. 15. Setting Tariffs, Rates and Other Charges. — Regulatory Units shall establish tariffs, rates and other charges which are fair and reasonable and which provide for the economic viability of the service and a fair return on their investments considering the prevailing cost of capital in the domestic and international markets.

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

- i. reasonable and prudent capital and recurrent costs of providing the service including a reasonable rate of return on capital;
- ii. efficiency of the service;
- iii. incentives for enhancement of efficiency;
- iv. willingness to pay of the customers/consumers;
- v. equity considerations; and
- vi. administrative simplicity.

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

SEC. 16. Promotion of Innovative Schemes to Improve Efficiency and Management of Systems. — The Commission shall promote innovative schemes, including but not limited to the consolidation and/or integration of Water Supply and/or Sanitation Services and/or Providers in the same Service Area, where it will result in improved efficiency, services expansion and/or lowering of costs. To this end, the Commission shall establish and issue such rules and guidelines as may be necessary to (a) create incentives to encourage efficiency and service expansion; (b) establish the standards and targets that service providers are required to meet; and (c) set the fines and penalties that would be imposed for failure to meet such standards and targets.

SEC. 17. Twelve percent (12%) investment cap. — Pursuant to Commonwealth Act No. 146, as amended, otherwise known as the "Public Service Act," shall further provide that any and all government agency/ies or such government agency/ies' private sector concessionaires, agents,

operators, contractors and the like delivering public services to the people must be subjected 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/es 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.

CHAPTER 4- QUASI-JUDICIAL FUNCTIONS OF THE COMMISSION

SEC. 18. Proceedings Before the Commission. — For the purpose of any investigation, inquiry or proceeding, the Commission shall have the requisite power to:

- a) Issue subpoena duces tecum and subpoena duces tecum ad testificandum;
- b) Appoint a Commissioner to hear and receive evidence on behalf of the Commission;
- c) Cite any person or party for contempt for refusal to appear, testify or comply with an order of the Commission on any matter that is the subject of investigation, inquiry or proceeding before the Commission.

SEC. 19. Orders and Decisions of the Commission. —

The orders, resolutions and decisions of the Commission, which must be reached as promptly and expeditiously as reasonably and fairly possible, shall be in writing and shall state clearly and distinctly the facts and law on which they are based.

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

SEC. 20. Appeals Procedure and Prohibition Against Injunction. —

- (1) The 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; Provided that orders, rulings, and decisions of the Commission approving tariffs shall be immediately executory and may be

suspended only upon appeal and filing of a bond, in an amount to be 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 Chairperson or any other member of the Commission.

CHAPTER 5- TRANSITORY PROVISIONS

SEC. 21. Interface with Other Sector Regulators. —

(1) The Department of Environment and Natural Resources shall continue to have the primary authority and responsibility for protecting the environment and the quality water sources from waste and pollution and shall promulgate rules, regulations, and standards in this regard. (2) The Department of Health shall have primary authority and responsibility for determining and enforcing drinking water quality and sanitation standards. The Commission shall coordinate with the DOH in this regard, and shall ensure the consistency of the standards and targets that it will set for compliance by licensees with the DOH's mandated standards. (3) The Commission shall coordinate with the NWR13 for water allocation and data collection, the local government units 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. 22. 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, the Regulatory Offices of MWSS and LWUA, the Regulatory Units of all special economic zones, and all other government agencies and units whose powers and functions have been transferred to the Commission. The transfer of powers and functions in the Department and agencies attached thereto, as herein provided for, shall take effect within six (6) months after the effectivity of this Act. The foregoing transfer of powers and functions shall include all applicable funds, personnel, records, property and equipment, as may be necessary. The same shall apply to agencies which have been attached to the Department by virtue of this Act. As such, all offices under the Department and all attached agencies affected by the provisions of this Act shall continue to function under their present mandates until transition is effected as provided for under this Act.

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

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. 23. 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.

SEC. 24. Funding. — The sum of THREE HUNDRED MILLION (P 300,000.00) 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 and its Regulatory Units shall be appropriated every fiscal year in the General Appropriations Act, in an amount that shall not be less than the amount appropriated for it the previous year. The Commission shall submit its annual budget, which shall include, among others, detailed information on the compensation and benefits received by their employees, to the Office of the President for approval.

SEC. 25. Effectivity. — This Act shall take effect immediately upon its approval. The Chairman of the Commission shall, after due consultation with stakeholders, promulgate such other rules and regulations as may be necessary and appropriate to implement this Act.

SEC. 26. 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. 27. Repealing Clause. - The provision with respect to fixing of water rates and sanitation service fees of Section 3 (h) and Section 12, and regulation of waterworks and deep wells of Section 3 (n), regulation of waterworks and sanitation systems in privately owned subdivisions of Section 3 (p) of Republic Act 6234, as amended, is hereby repealed or modified accordingly.

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

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

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

Provisions under Section 69 of Republic Act No, 9593 or the Tourism Act of 2009 and its Implementing Rules and Regulations which mandates the Tourism Infrastructure and Enterprise Zone Authority to grant franchises, supervise the operation of public utilities, and register, monitor and regulate enterprises within Tourism Enterprise Zones, are hereby repealed or modified accordingly. Commonwealth Act No, 146, as amended, otherwise known as the "Public Service Act," and all laws, decrees, rules and regulations, or portion thereof, inconsistent with this Act are hereby repealed or modified accordingly.

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

SEC. 28. Effectivity Clause. — This Act shall take effect fifteen (15) days following the completion of its publication in a national newspaper of general circulation.

Approved, . . .