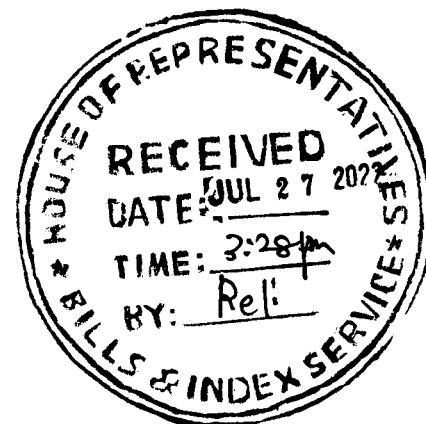


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

House Bill No. 2558

Introduced by Representative Ralph G. Recto

AN ACT

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

EXPLANATORY NOTE

The lack of access to safe water supply and sanitation has direct and adverse impact on health, environment, economic productivity and development. In the 2020 Annual Poverty Indicators Survey (APIS), 97.5 percent of the 26 million families had an improved source of drinking water.¹ Water refilling stations are becoming popular. Of the families with access to safe water supply, 47.8 percent obtain their drinking water from the refilling stations. However, four in every five families (80.2 percent) did not practice any method or treatment in ensuring that their drinking water is safe to drink.²

The same 2020 APIS study also showed that 80.4 percent of families have access to basic sanitation service level not shared with another household while 3.5 percent of families do not use any sanitation facility.

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

¹ 2020 Annual Poverty Indicators Survey. Philippine Statistics Authority.

² Ibid.

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

Compounding this issue is the low coverage of the economic regulatory mantle. There are an estimated 4,600 water utilities in the country, of which 2,200 are small utilities with less than 1,500 connections, and with different ownership structures and governance systems—from public and private corporate entities, LGU-ran systems and loosely formed community-based associations. Only 27 percent of the total utilities (mostly water districts and private utilities) are subject to economic regulation, leaving 73 percent without any standard guidelines for tariff setting or oversight on performance. Weak or benign exercise of regulatory functions has led to under investments and sub-optimal performance of water utilities.

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

The proposed measure seeks to achieve the following objectives:

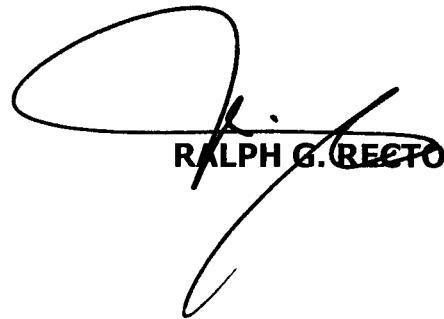
- Achieve universal access to improved water and sanitation services for the entire country through an effective economic regulatory system that can compel expansion of service coverage, efficiency in operations and quality of service;

- Encourage private sector participation in the development and expansion of water and sanitation services;
- Protect the interest of consumers; and
- Address the conflicts of interest inherent in the current water regulatory agencies.

The bill may be subject to refinements, upon the submission of position papers from government agencies concerned and from stakeholders, and after consideration of the collective wisdom of the members of the House of Representatives.

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

/mjma



RALPH G. RECTO

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
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HOUSE OF REPRESENTATIVES

House Bill No. 2558

Introduced by Representative Ralph G. Recto

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

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

CHAPTER I

TITLE AND DECLARATION OF POLICY

Section 1. *Short Title.* – This Act shall be known as the “Water Regulatory Commission Act.”

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

Sec. 3. *Objectives.* – The Commission shall have the following objectives:

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

- (c) To protect the legal and valid interests of consumers of Water Supply and/or Sanitation Services;
- (d) To promote efficient competition in the supply of Water and Sanitation Services in order to benefit the consumers; and
- (e) To develop and maintain a national water utility database using the geographic information system (GIS).

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

- (a) *Certificate of Public Convenience (CPC) or Certificate of Public Necessity (CPN)* shall mean a formal written authority to sell water issued to an applicant for the operation of a public service wherein a franchise is required by law;
- (b) *Commission* shall mean the Water Regulatory Commission;
- (c) *Commissioner* shall mean a person appointed in accordance with the provisions of this Act;
- (d) *Existing Licensee* shall mean any water service and/or sanitation service provider granted a license by existing regulatory institutions such as the NWRB, LWUA, MWSS, PEZA, that are qualified to provide water supply and sanitation services for a particular service area or areas;
- (e) *Integrated Innovation* shall mean the coordinated application of scientific or technological, social and business innovation to develop solutions to complex challenges;
- (f) *Level I (point source or stand-alone water point)* shall mean a protected well or a developed spring with an outlet but without a distribution system as it is generally adaptable for rural areas where the houses are thinly scattered. A level I facility normally serves around fifteen (15) to twenty-five (25) households and its outreach must not be more than two hundred fifty (250) meters from the farthest user. The yield or discharge is generally from forty (40) to one hundred forty (140) liters per minute;
- (g) *Level II (communal faucet system or stand post)* shall mean a system composed of a source, a reservoir, a piped distribution network and communal faucets, located at not more than twenty (25) meters from

1 the farthest house. The system is designed to deliver forty (40) to eighty
2 (80) liters of water per capita per day to an average of one hundred
3 (100) households, with one faucet per four (4) to six (6) households.
4 Generally suitable for rural and urban areas where houses are clustered
5 densely to justify a simple piped system;

6 (h) *Level III (waterworks system or individual house connections)* shall
7 mean a system with a source, a reservoir, a piped distribution network
8 connecting individual households based on a daily water demand of
9 more than one hundred (100) liters per person. It is generally suited for
10 densely populated urban areas. This level of facility requires a minimum
11 treatment of disinfection;

12 (i) *Licensee* shall mean the Water Supply and/or Sanitation Services
13 operating licenses issued by the Commission and are qualified to provide
14 Water Supply and/or Sanitation Services for a particular Service Area or
15 Areas;

16 (j) *LWUA* shall mean the Local Water Utilities Administration created under
17 PD No. 198, as amended;

18 (k) *NWRB* shall mean the National Water Resources Board created by
19 Presidential Decree No. 424, as amended by Executive Order No. 124-
20 A;

21 (l) *MWSS* shall mean the Metropolitan Waterworks and Sewerage System,
22 created by Republic Act No. 6234:

23 (m) *PEZA* shall mean the Philippine Economic Zone Authority, created by
24 Republic Act No. 7916;

25 (n) *Regulatory Units* shall mean the regulatory offices established under
26 Section 5 of this Act to issue licenses authorizing the operation of Water
27 Supply and Sanitation Services in accordance with its powers provided
28 in this Act;

29 (o) *Sanitation Service* shall mean a service involving the collection of effluent
30 and sludge from human waste and greywater from residences and
31 establishments utilizing a sanitation system through pipes and
32 structures;

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

26 **CHAPTER 2**

27 **ORGANIZATION**

28 Sec. 5. *The Water Regulatory Commission.* – There is hereby created and
29 established an independent, quasi-judicial body to be known as the Water Regulatory
30 Commission, hereafter referred to as the Commission and organized within one
31 hundred twenty (120) days after the effectivity of this Act. The Commission shall
32 exercise the power and functions provided in this Act.

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

6 Sec. 6. *Powers and Functions of the Commission.* – The powers and functions
7 of the Commission are as follows:

- 8 (a) To formulate rules and regulations, strategies and targets to facilitate and
9 rationalize the expansion, improvement, and efficient provision of Supply
10 and Sewerage Services throughout the country;
- 11 (b) To formulate tariffs for Water Supply and/or Sanitation Services, taking
12 into account among others, the following:
 - 13 1) capital and recurrent cost of providing the service including a
14 reasonable rate of return on capital;
 - 15 2) efficiency of the service;
 - 16 3) incentives for enhancement of efficiency, including demand side
17 management;
 - 18 4) consumers' willingness to pay;
 - 19 5) equity considerations; and
 - 20 6) administrative simplicity;
- 21 (c) To approve and regulate the tariffs to be charged by Licensees of Water
22 Supply and/or Sanitation Services, including local government units;
- 23 (d) To regulate persons or entities, whether from the public or private sector,
24 that provide Water Supply and/or Sanitation Services;
- 25 (e) To grant, issue, modify, monitor, enforce, suspend and/or cancel licenses
26 for Water Supply and Sanitation Services and impose penalties for
27 administrative violations thereof. Such penalties may be decided by the
28 Commission and may include the suspension or revocation of a license.
29 Where necessary, the Commission may delegate the management of the
30 Licensee through a receivership mode;

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

- (o) To conduct inquiries on matters relating to water supply or sanitation disposal;
- (p) To provide a system for the settlement of disputes between or among the Licensees;
- (q) To issue and promulgate rules and regulations necessary to implement, perform and effect its aforementioned powers and functions; and
- (r) Such other incidental powers and functions as may be necessary to attain the objectives of this Act.

Sec. 7. *The Regulatory Units.* – The Regulatory Units of the Commission shall be composed of the Regional Regulatory Units and the Central Regulatory Unit. The Regional Regulatory Units shall be established by the Commission in accordance with such rules, regulations, guidelines and standards provided hereunder as the Commission shall issue.

Moreover, the pertinent regulatory units of the 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 are owned, operated and/or maintained by public and private sector Licensees (including those for the special economic zones, and Metro Manila concessionaires), and for other institutions appropriate for the Central Regulatory Unit.

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

- (a) Subject to 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/or Sanitation Services in specified area;
- (c) Impose fines, charges, and other penalties upon any water service provider and/or 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

- 1 proposed water and sewerage tariffs, rates and charges that Licensees
2 may impose upon their customers;
- 3 (e) Appraise and value property equipment used by Licensees in providing
4 water supply and sanitation services;
- 5 (f) Enforce the financial, technical, and other performance standards set by
6 the Commission for Licensees and utilities;
- 7 (g) Respond to customer complaints and ensure adequate protection of
8 customer interests;
- 9 (h) Investigate accidents directly or indirectly arising from or connected with
10 the maintenance or operation of the service, and make such order or
11 recommendation as the public interest may warrant;
- 12 (i) Require the submission of reports, plans, and other documents that set
13 out the performance targets and accomplishment of Licensees and
14 utilities;
- 15 (j) Impose and collect annual levies determined as a percentage of gross
16 revenue accruing in relation to the licensed activities, and reasonable fees
17 and surcharges as may be necessary for achieving the purposes, powers,
18 and functions of the regulator;
- 19 (k) Conduct benchmarking and monitor the performance of Licensees and
20 utilities under their jurisdiction, and publish reports detailing the results
21 thereof, as may be necessary or required by the Commission;
- 22 (l) Amend, modify, suspend or revoke any license issued by the Commission,
23 after due notice and hearing, on any of the following grounds:
- 24 1) When the facts and circumstance on which the license was issued have
25 been misinterpreted or has materially changed;
- 26 2) When the Licensee has failed to meet or comply with terms, conditions
27 and performance targets – including but not limited to service
28 expansion – that may have been set forth in the license;
- 29 3) Where the Licensee is found to be manifestly incompetent in the
30 operation of or provision of Water Supply and Sanitation Services in its
31 area; or

1 4) When the holder thereof has violated or willfully refused to comply with
2 any order, rule or regulation of the Commission or any provision of this
3 Act.

4 (m) Appoint an interim management committee to ensure continuity of service
5 in case a Licensee fails to meet conditions of the license; and

6 (n) Submit performance plans and reports as required by the Commission

7 Sec. 9. *Composition.* – The Commission shall be a collegial body composed of
8 five (5) full-time members composed of a Chairperson and four (4) members, who
9 shall be appointed by the President of the Philippines. All members of the Commission
10 must be citizens and residents of the Philippines, at least thirty five (35) years of age,
11 and of good moral character, recognized integrity and competency in the field of law,
12 business, commerce, finance, accounting or public administration, water or utility
13 economics, management, physical or engineering services, hydrology and other
14 related services, with at least three (3) years of actual and distinguished experience
15 in their respective fields of expertise: *Provided,* That out of the four (4) members of
16 the Commission at least one (1) shall be a member of the Philippine Bar with at least
17 ten (10) years experience in the active practice of law, and one (1) shall be a certified
18 public accountant with at least ten (10) years experience in active practice.

19 Within three (3) months from the creation of the Commission, the Chairperson
20 shall submit for approval of the Department of Budget and Management the new
21 organizational structure and staffing pattern necessary to carry out the powers and
22 functions of the Commission and its Regulatory Units.

23 The term of office of each member of the Commission shall be five (5) years:
24 *Provided,* however, that among the members of the Commission first appointed by
25 the President; a) the Chairperson shall serve for a period of five (5) years, b) three
26 Associate Commissioners (Legal and Strategic Relations, Policy and Planning, and
27 Economic Regulation) shall serve three (3) years, and c) one other Associate
28 Commissioner for Administration and Finance shall serve for two (2) years, as fixed in
29 their respective appointments.

30 *Provided,* further, That upon the expiration of the term, each member of the
31 Commission shall serve until his successor shall have been appointed and qualified:
32 *Provided,* furthermore, that any appointment to fill a vacancy in the Commission that

1 arises prior to the expiration of the term of a member of the Commission shall only be
2 for the unexpired portion of such term: *Provided*, finally, that no member of the
3 Commission shall be appointed for more than two (2) consecutive or partial terms.

4 The Chairperson and members of the Commission or any of their relatives
5 within the fourth civil degree of consanguinity or affinity, legitimate or common law,
6 shall be prohibited from holding any interest whatsoever, either as investor,
7 stockholder, officer or director, in any company or entity engaged in the business of
8 water supply and/or sanitation services and must, therefore, divest through sale or
9 legal disposition of any and all interests in the water and sanitation sector upon
10 assumption to office.

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

19 The Chairperson shall exercise general executive control, direction and
20 supervision of the work, business, and operation of the Commission and its members,
21 staff and personnel, agents and representatives.

22 The staff and personnel positions in the Commission herein created shall be
23 filled by regular appointments in accordance with a staffing plan prepared by the
24 Chairperson of the Commission.

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

Sec. 11. *Staffing.* – 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. 12. *Compensation and Other Emoluments.* – The compensation and other emoluments of the Commission and its personnel shall be subject to the coverage of Republic Act No. 6758, otherwise known as the Salary Standardization Act.

CHAPTER 4

WATER SUPPLY AND/OR SANITATION LICENSES

Sec. 13. *Application for License for Water Supply and/or Sanitation Services.* – (a) All persons and public or private entities intending to engage in the provision of Water Supply and/or Sanitation Services, including but not limited to operators of privately-owned water supply systems, local government managed utilities, barangay waterworks associations, water districts, cooperatives, shall be required to apply for and obtain a license from the Commission prior to their operation of the relevant Water Supply and/or Sanitations Services.

(b) An application for a license of Water Supply and/or Sanitation Services shall, in addition to such information as may be prescribed by the Commission, contain details of:

- 1) The service for which the license is being sought; and
- 2) The Service Area, including location maps, within which the services will be provided.

(c) Service providers operating under existing agreements with MWSS, local government units, and special economic and freeport zone authorities shall register with the Commission and, during the validity of such agreement, shall be deemed duly licensed to provide services consistent with the terms and conditions of such existing agreements: *Provided*, That, the aforesaid service provider shall be regulated by the Commission or the appropriate regulatory unit in accordance with the terms and conditions of such existing agreements: *Provided, further*, That, any extension or renewal of such existing agreement shall be subjected to the review and approval of the Commission.

1 Sec. 14. *Restrictions on Grants for Water Supply and/or Sanitation Services.* –

2 Except for Service Areas with respect to which exclusive rights to provide Water Supply
3 and/or Sanitation Services are granted under existing laws, Licensees do not have the
4 exclusive right to provide Water Supply and/or Sanitation Services within a Service
5 Area and, consequently, the Commission may issue one or more licenses for operators
6 within any existing or proposed Service Area(s).

7 Sec. 15. *Conditions of License.* – (a) License(s) issued by the Commission shall
8 be subject to the following conditions:

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

30 (b) The Commission shall approve a tariff which is fair and reasonable and
31 which allows for economic viability of the operations and businesses of the Licensee,

1 including reasonable return on their investments considering the prevailing cost of
2 capital in the domestic and international markets.

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

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

10 (e) The Commission shall specify the requirements and procedures for
11 existing holders of CPC or CPN issued by NWRB, and other Certificates issued by LWUA
12 to convert their existing certificates into licenses issued by the Commission.
13 Henceforth, no further CPC or CPN or LWUA Certificates shall be issued by the NWRB
14 and LWUA, respectively.

15 (f) All existing providers of Water Supply and/or Sanitation Services without
16 a valid and legal CPC or CPN or Certificate of Conformance including all LGU-run
17 utilities shall have twelve (12) months from the effectivity of this Act to apply for the
18 appropriate license from the Commission.

19 Sec. 16. *Procedure for Granting of Licenses.* – (a) The Commission shall ensure
20 that the granting of a license under this Act is carried out fairly, transparently, and
21 without undue discrimination.

22 (b) The Commission shall prescribe in appropriate regulations the procedure
23 and requirements to be followed with respect to the granting of a license,
24 such regulations shall include:

- 25 1) The qualifications required of applicants for a license;
- 26 2) The application procedure to be followed by all applicants, including
27 arrangements for the publication of details of all applications received
28 by the Commission;
- 29 3) The procedure by which the Commission will consider applications,
30 including the consideration of all comments and objections lodged with
31 respect to applications; and

- 1 4) The procedure by which the Commission shall reach a determination
2 with respect to all such applications.

3 Sec. 17. *Rights and Duties of Licensees.* – (a) Any person granted a license
4 under this Act shall have the duty to ensure that its licensed activities are conducted
5 so as to further the public interest, and in particular, that they:

- 6 1) Foster the maintenance and development of efficient, coordinated
7 and viable operation of their licensed activities;
8 2) Ensure that their Water Supply and/or Sanitation Services are
9 provided in accordance with applicable laws and standards and
10 practices set by the Commission and generally accepted in the
11 Philippine and international water supply and/or sanitation industry;
12 3) Comply with drinking water quality requirements; and
13 4) Pay appropriate compensation in accordance with procedures laid
14 down in any relevant statute or in regulations promulgated or issued
15 by the Commission if, in laying or repairing a water and/or sewerage
16 main or relevant facility, a Licensee should injure any person and/or
17 damage any property.

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

21 (c) Subject to any condition or any limitation laid down in the license, a
22 Licensee may disconnect the supply of Water Supply and/or Sanitation Services to a
23 customer who defaults in the payment of amount/s due to that Licensee with respect
24 to water supplied or sanitation services, or for acts of pilferage pursuant to Sections
25 8, 9, 10, and 11 of Republic Act No. 8041 otherwise known as the "Water Crisis Act of
26 1995".

27 (d) Any license issued under this Act shall contain provisions designed to
28 ensure that Licensees:

- 29 1) Publish tariff and other charges approved by the Commission, and
30 other terms and conditions imposed by the Commission for the
31 provision of Water Supply and/or Sanitation Services;

- 2) Prepare within three (3) months from the issuance of a Water Supply and/or Sanitation license, in consultation with the customers, codes of practice specifying the manner and procedure for: (1) metering, billing, and collection of the Licensee's approved tariff and other charges, (2) disconnection or suspension of service in case of non-payment of tariffs and other charges, or acts of pilferage, and (3) recommendation and recovery of areas in tariffs and other charges;
- 3) A Licensee shall be bound by a performance contract which will lay down all key performance targets agreed by both the Licensee and the Commission; and
- 4) Maintain financial accounts in accordance with the manner and procedure specified in the license and as may be amended from time to time by the Commission.

Sec. 18. *Principles of Efficient Tariff.* – Regulatory Units shall establish tariff, 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 consultation, define and publish, taking into account the following, among others:

- (a) Reasonable and prudent capital and recurrent costs of providing the service including a reasonable rate of return of the capital;
- (b) Efficiency of the service;
- (c) Incentives for enhancement of efficiency;
- (d) Willingness to pay of consumers;
- (e) Equity considerations; and
- (f) Administrative simplicity.

Sec. 19. *Promotion of Integrated Innovations for Sustainable and Efficient Water and Sanitation Services.* – The Commission shall promote the consolidation of Piped-Water Supply and/or Sewerage Services in the same Service Area when it would improve the cooperation among service providers to develop and implement

1 integrated innovations to achieve efficient and affordable delivery of services. The
2 Commission shall issue and implement rules and regulations as may be necessary to:

- 3 (a) Create incentive programs as a stimulus for sustainable safe water and
4 sanitation services;
- 5 (b) Establish performance standards and indicators for service providers; and
- 6 (c) Impose fines and penalties on service providers for failure to meet
7 performance standards and indicators.

8 **CHAPTER 5**

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

10 Sec. 20. *Proceedings Before the Commission.* – The Commission shall, for the
11 purpose of any inquiry or proceeding under this Act, exercise quasi-judicial powers:

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

29 Sec. 21. *Order and Decisions of the Commission.* – Every order or decision
30 rendered by the Commission shall be in writing and shall state clearly and distinctly
31 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 orders in the adjudication of contested cases or applications.

Sec. 22. Appeals Procedure and Prohibition Against Injunction. – (a) The orders, rulings, and decisions of the Commission are final and executory unless appealed to the Court of Appeals within fifteen (15) days from the 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 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;

(b) 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 in a petition for certiorari brought before the Supreme Court; and

(c) Subject to Sec. 9, paragraph 3 of this Act, an act or decision of the Commission shall not be invalid merely because of the 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

Sec. 23. *Power to Arbitrate Interconnection Disputes.* – When 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 Systems, then upon elevation of the dispute to the Commission by two or more Licensees, the Commission may make a binding arbitration of the terms and conditions on interconnection that are in dispute.

CHAPTER 6

TRANSITORY PROVISIONS

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

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

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

Sec. 25. *Advisory Council.* – (a) 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, peoples organizations, non-government associations, professional organizations, consumer groups and indigenous peoples.

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

- 1) To help disseminate information to the public relating to the Commission's objectives, powers and functions; and
- 2) To serve as a permanent advisory body to the Commission on issues of interest to consumers;

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

Sec. 26. *Transfer of Duties, Powers, Functions, and Assets.* – The functions, powers, and assets of the Water Utilities Division of the NWRB, as set forth in Presidential Decree No. 1206, and other applicable laws are hereby transferred to the Commission. In the same manner, the pertinent economic regulation powers of LWUA as set forth under Presidential Decree No. 198, as amended; MWSS under RA No. 6234; PEZA under RA No. 7916; Subic Bay Metropolitan Authority (SBMA) and under RA No. 7227; Clark Development Corporation (CDC) under RA No. 7227 and Executive Order No. 80; and Tourism Infrastructure Enterprise Zone Authority (TIEZA) under RA No. 9593 are likewise hereby transferred to the Commission.

Sec. 27. *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 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. 28. *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. 29. *Penalties for Violations.* – Subject to Sec. 17, 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 Pesos (P500,000.00), or both. When the offender is a corporation, association, or partnership, the penalty shall be imposed on the president, directors, or managing partners, 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 of persons charged with administration thereof: *Provided, That*, the Commission may impose other administrative penalties and charges, upon the recommendation of the Commission and approval by the President.

Sec. 30. *Appropriations.* – The sum of Three Hundred Million Philippine Pesos (P300,000,000.00) shall be charged against the current year's appropriation of the Contingent Fund, and is hereby appropriated and authorized to be released, for the organization of the Commission, and in establishing the regional regulatory units 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.

CHAPTER 7

FINAL PROVISIONS

Sec. 31. *Implementing Rules and Regulations.* – Within sixty (60) days from the effectivity of this Act, the Chairperson of the Commission shall, upon consultation with the stakeholders, provide the necessary rules and regulations for the effective implementation of this Act.

1 Sec. 32. *Separability Clause.* – In the effect that any provision of this Act is
2 declared unconstitutional, invalid, or illegal, the constitutionality, validity, or legality of
3 the remainder of the provisions of this Act shall not be affected thereby.

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

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

16 Section 13 (b) on the registration, regulation and supervision of enterprises in
17 the ecozone of Republic Act No. 7916, as amended, also known as the Special
18 Economic Zone Act of 1995, is hereby repealed or modified, accordingly.

19 Provisions under Section 69 of Republic Act No. 9593 or the Tourism Act of
20 2009 and its Implementing Rules and Regulations which mandates the TIEZA to grant
21 franchises, supervise the operation of public utilities, and register, monitor and
22 regulate enterprises within Tourism Enterprise Zones, are hereby repealed or
23 modified, accordingly.

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

27 Sec. 34. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following
28 the completion of its publication in a national newspaper of general circulation or in
29 the Official Gazette.

Approved,