

[EXECUTIVE ORDER NO. 279, February 02, 2004]

**INSTITUTING REFORMS IN THE FINANCING POLICIES FOR THE
WATER SUPPLY AND SEWERAGE SECTOR AND WATER SERVICE
PROVIDERS AND PROVIDING FOR THE RATIONALIZATION OF
LWUA'S ORGANIZATIONAL STRUCTURE AND OPERATIONS IN
SUPPORT THEREOF**

WHEREAS, Presidential Decree No. 198 ("PD 198") established the Local Water Utilities Administration (LWUA), mandating it to serve as a "specialized lending institution" for the promotion, development and financing of local water utilities;

WHEREAS, the Local Government Units (LGUs) are responsible for the provision of basic services and facilities as enumerated under Section 17 of the Republic Act No. 7160 (Local Government Code), including among others, the provision of water supply and sewerage services;

WHEREAS, shifts in government financing policies and constraints in the availability of financing from the National Government, and lack of investor confidence in the water supply and sewerage sector and limited capital stock and domestic and foreign borrowing authority have constrained LWUA from providing financing assistance to qualified Water Districts (WDs);

WHEREAS, there is a need to tap financing resources available to the water sector, including international grants, and funding from government financing institutions (GFIs), private financing institutions (PFIs), and LGUs;

WHEREAS, there is a need to review and rationalize current financing policies for the Philippine water supply and sewerage sector to allow for the efficient flow of resources thereto;

WHEREAS, cognizant of the urgency of the aforecited need, the NEDA Board passed a resolution providing for the reforms in the financing of the water supply and sewerage sector and the creation of an Oversight Committee for the purpose of coordinating and overseeing the implementation of said financing reforms in the Philippine water supply and sewerage sector;

WHEREAS, the implementation of the recommended reforms requires that LWUA, as the focal government agency for financing and institutional development of local WDs, refocus its objectives and rationalize its operation;

WHEREAS, by virtue of Executive Order 123, s. 2002, the regulation of tariffs of WDs will be undertaken by the National Water Resources Board (NWRB) with a proviso that LWUA, consistent with its mandate under PD 198, may continue reviewing the tariff of WDs in which it has financial exposure with the end view of ensuring their financial viability.

WHEREAS, the LWUA is currently attached to the Department of Public Works and Highways (DPWH) by virtue of Executive Order No. 124, s. of 1987;

WHEREAS, rationalization of LWUA's operations require closer policy and program coordination with the Office of the President (OP);

WHEREAS, under Section 31, Chapter 10, Book III of Executive Order No. 292 or the Administrative Code of 1987, the President, in order to achieve simplicity, economy and efficiency, has continuing authority to reorganize the administrative structure of agencies under it;

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

PART I

General Provisions

SECTION 1. Reform Objectives/Policies - All concerned government agencies and instrumentalities of the water supply and sewerage sector, including but not limited to the Department of Finance (DOF), the Municipal Finance Corporation (MFC), Department of Interior and Local Government (DILG), Department of Budget and Management (DBM), Department of Environment and Natural Resources (DENR), DPWH, National Economic and Development Authority (NEDA), LWUA, and the GFIs are hereby directed to pursue and implement the following reform objectives/policies in the water supply and sewerage sector:

- a. Improvement of investor confidence in the water supply and sewerage sector;
- b. Rationalization in the allocation of scarce financial resources in the water supply and sewerage sector through classification and graduation initiatives;
- c. Freedom of choice of water service providers in sourcing financing;
- d. Increase in the participation of LGUs, GFIs, and PFIs in the financing of the water supply and sewerage sector;
- e. Stimulation of improved service and creation of financial self-sustainability for water service providers;
- f. Encouragement of initiatives aimed at self-sufficiency of water service providers, including, but not limited to, amalgamation, private sector participation, cost-recovery tariffs, and resource pooling;

- g. Grant of incentives for the improvement and graduation of water service providers;
- h. Education of consumers towards treating water as a scarce economic good; and
- i. Establishment of an independent economic regulator for the water supply and sewerage sector.

SECTION 2. Definition of Terms - For purposes of this Order, the term:

- a. *Water Service Providers (WSPs)* - refer to local water utilities such as WDs, LGU-run water utilities, rural waterworks and sanitation association, barangay waterworks and sanitation associations, regardless of location.
- b. *Amalgamation* - refers to the consolidation, joint operation or annexation of two or more WSPs resulting into a water district.
- c. *Classification* - refers to the categorization of WSPs into non-creditworthy, pre-creditworthy, semi-creditworthy or creditworthy to determine proper allocation of financing.
- d. *Cost-Recovery Tariff* - is the tariff required to cover capital and operation and maintenance costs of WSPs at all service levels.
- e. *Creditworthy WSPs* - are financially self-sustaining WSPs and capable of accessing financing from GFIs and/or PFIs.
- f. *Government Financial Institutions (GFIs)* - refers to the Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP) and other financing institutions owned and controlled by the Government.
- g. *Graduation* - refers to the progression of a WSP from semi-creditworthy to creditworthy status or of a non-credit worthy to pre-creditworthy or of a pre-creditworthy WSP to semi-creditworthy status based on improvements in financial and operational indicators.
- h. *Local Government Units (LGUs)* - refers to the territorial and political subdivisions of the Philippines, consisting of provinces, cities, municipalities and barangays.
- i. *Non-Creditworthy WSPs* - refer to WSPs with potential to reach pre-creditworthy status in the medium-term,

based on relevant financial and operational indicators set by the Oversight Committee.

- j. *Pre-Creditworthy WSPs* - refer to WSPs which are not likely to become creditworthy in the medium-term due to performance issues but can demonstrate the potential for creditworthiness in the long-term, based on relevant financial and operational indicators set by the Oversight Committee.
- k. *Semi-Creditworthy WSPs* - refer to WSPs with the demonstrated ability to achieve creditworthiness in the short-term, based on relevant financial and operational indicators set by the Oversight Committee, but either lack the full criteria for creditworthiness or do not meet the criteria consistently.

PART II

Oversight Committee

SECTION 3. Oversight Committee - An inter-agency Oversight Committee is hereby constituted for purposes of coordinating and overseeing the implementation of the reforms in the financing, graduation and regulatory policies in the water supply and sewerage sector.

SECTION 4. Composition - The composition of the Oversight Committee shall be as follows:

- Chair : Department of Finance (DOF)
- Vice-Chair : National Economic and Development Authority (NEDA)
- Members : Department of Budget and Management (DBM)
Department of Interior and Local Government (DILG)
Office of the President (OP)
Local Water Utilities Administration (LWUA)

Designated representatives of DOF, NEDA, DBM, DILG and OP must preferably be of Undersecretary level. LWUA must be represented by its Administrator.

GFIs and the Municipal Development Fund Office (MDFO) may serve as resource persons during meetings of the Oversight Committee.

SECTION 5. Functions - The Oversight Committee shall, among others:

- a. Formulate the implementing rules and regulations (IRR) of this Order;
- b. Review the rationalization plan to be submitted by LWUA pursuant to Section 9 of this Order and submit its recommendations on said plan to the President for approval;
- c. Review the criteria for the classification of WSPs, recommended by the Water Development Group (WDG) of LWUA;
- d. Review the classification of WSPs prepared by LWUA-WDG, duly certified by LWUA-Head that same is in accordance with the criteria presented to and reviewed by the Oversight Committee. The Oversight Committee may subject the classification of the WSPs to audit;
- e. Prepare an action plan for the reforms in the financing policies in the water supply and sewerage sector for the near term and the medium term including incentive schemes that appropriate agencies may consider to offer to GFIs and PFIs to encourage such institutions to lend to WSPs;
- f. Prepare and submit quarterly reports to the agency to which LWUA is attached; and
- g. Review the charter of LWUA and when necessary, propose amendments thereto.

The Oversight Committee shall immediately organize itself and set its policies and procedures to facilitate the implementation of the said reforms in the water supply and sewerage sector.

SECTION 6. Technical Secretariat - The Oversight Committee shall establish a Technical Secretariat under DOF to be staffed by personnel assigned by government agencies comprising it. It shall serve as the official repository of all data concerning the classification and evaluation of all WSPs.

SECTION 7. Expenses - Members of the Oversight Committee and its Technical Secretariat shall be entitled to receive honoraria and/or reimbursement of expenses as may be allowed subject to availability of funds and prevailing rules and regulations.