

AMENDMENT NO. 1 TO THE CONCESSION AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM (MWSS), a government-owned and controlled corporation, created under R.A. 6234, as amended, with office address at Katipunan Road, Balara, Quezon City, herein represented by its Administrator, Engr. **JOSE F. MABANTA**,

-and-

MANILA WATER COMPANY, INC. (MWCI), a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with address at MWSS Compound, Katipunan Road, Balara, Quezon City, represented herein by its President, Mr. **ANTONINO T. AQUINO**, (hereinafter referred to as MWCI);

WITNESSETH that:

WHEREAS, there is a need to amend the Concession Agreement to give authority to the MWSS Board of Trustees to address the urgent concerns to ensure the viability and continued operation of the Concession.

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties hereby agree to the following:

1. Notwithstanding the provisions of Article 9 of the Concession Agreement, the MWSS Board of Trustees, on recommendation of the Regulatory Office, or motu proprio, may, under exceptional circumstances, enter into an agreement with the Concessionaire to address immediate and urgent concerns that threaten the viability and continued operation of the Concession.

For this purpose, the parties hereto confirm and agree to the amendment of Article 9 for the implementation of the provisions of Section 1 of the MWSS BOT Resolution No. 512-2001, which is herein incorporated as integral part hereof.

2. Notwithstanding the pertinent provisions of Article 5, and Section 9.4 of the Concession Agreement relating to Service Obligations of the Concessionaire, and Rate Rebasing, the parties hereto confirm and agree to the amendment of said Articles for the orderly implementation of MWSS BOT Resolution No. 512-2001 which is herein incorporated as an integral part of this Agreement after which the provisions as originally agreed upon shall govern.

3. All other provisions of the Concession Agreement, as interpreted by the August 8, 2000 Final Award of the Appeals Panel in UNC24/HGN/OL, which are not inconsistent herewith or amended hereby, shall continue to remain in force and effect.

DSC

Antonino T. Aquino
Antonino T. Aquino

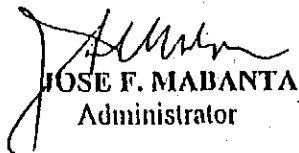
IN WITNESS WHEREOF, the duly authorized representatives of the parties have hereunto affixed their signatures this _____ day of _____ in Quezon City, Philippines.

**METROPOLITAN WATERWORKS
AND SEWERAGE SYSTEM**

MANILA WATER COMPANY, INC.

BY:

BY:


JOSE F. MABANTA
Administrator

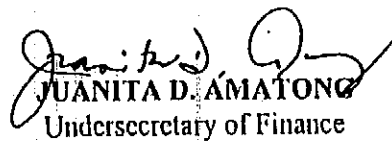

ANTONINO T. AQUINO
President

ACKNOWLEDGEMENT OF THE REPUBLIC OF THE PHILIPPINES

The Republic of the Philippines, through its following duly authorized representative, hereby expressly acknowledges the terms of this Amendment.

By:


DANTE B. CANLAS
Secretary of Socio-Economic Planning


JUANITA D. AMATONG
Undersecretary of Finance

WITNESSES:

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
) S.S.

BEFORE ME, Notary Public in and for QC Philippines, on this 36th day of Oct. 2001, personally appeared the following:

Name	Community Tax Certificate
JOSE F. MABANTA, MWSS Administrator	# 06172768 Issued at Quezon City on February 8, 2001
ANTONINO T. AQUINO, MWCI President	# 05959688 Issued at Quezon City on January 12, 2001

All known to me and to me known to be the same persons who executed the foregoing Amendment No. 1 of the Concession Agreement, and they acknowledged to me that the execution of this instrument is their own free and voluntary act and deed, as well as the act of the entities they respectively represent and are authorized to sign for.

This instrument consisting of three (3) pages, including this page whereon this Acknowledgment extends, refers to an Agreement between the parties and is signed by the duly authorized representatives and their instrumental witnesses.

WITNESS MY HAND AND SEAL, this 36th day of Oct., 2001 at QC, Philippines.

Doc. No. 243
Page No. 49
Book No. 72
Series of 2001.

[Signature]
Jovencio S. Julgarnas
Notary Public
My Commission Expires Dec. 31, 2001
PTR NO A 1973800 QC 1-03-01

DBE

[Signature]

JA

[Signature]



Republika ng Pilipinas
PANGASIWAAN NG TUBIG AT ALKANTARILYA SA METRO MANILA
Metropolitan Waterworks and Sewerage System
Katipunan Road, Balara, Quezon City 1105, Philippines

Excerpts from the Minutes of the Tenth (10th) Special Meeting of the MWSS Board of Trustees dated 12 October 2001

"Board Resolution No. 512 – 2001

WHEREAS, pursuant to the Concession Agreement (the "Original Agreement") dated February 21, 1997 entered into by MWSS with MWCI, as clarified and corrected by the Technical Corrections Agreement dated July 31, 1997 entered into by MWSS with MWCI, MWCI was granted the sole right to operate the Facilities, including the right to bill and collect for water and sewerage services supplied, in the Service Area East;

WHEREAS, pursuant to Section 9.3.1 (vi) of the Original Agreement, MWCI is allowed an Extraordinary Price Adjustment (EPA) upon determination by the Regulatory Office that, without regard to the Currency Exchange Rate Adjustment (CERA) referred to in Section 9.1, (a) in respect of any MWSS Loan, a change of more than 2% has occurred after December 6, 1996 in the rate of exchange between the Philippine peso and the currency in which such MWSS loan is denominated and (b) in respect of any Concessionaire Loan, a change of more than 2% has occurred after the drawdown date of such Concessionaire Loan in the rate of exchange between the Philippine peso and the currency in which such Concessionaire Loan is denominated, and in either case, such change in exchange rates has not previously been the subject of an EPA;

WHEREAS, adjustments pursuant to the aforementioned EPA mechanism for the foreign currencies exchange rate (FOREX) changes is spread over the remaining life of the Concession Period and commences several months after regulatory determination;

WHEREAS, the Asian financial crisis resulted in the deterioration in the value of the Peso (the "Peso Devaluation"), relative to the foreign currencies in which MWSS Loans and Concessionaire Loans are denominated, to levels that were not reasonably foreseen at the time the Original Agreement was entered into;

WHEREAS, the intent of the parties in the Original Agreement is that the water tariff should be adjusted in such manner and to such degree that would truly account for the financial consequences of unforeseen events by adequately compensating the Concessionaire therefor;

WHEREAS, the Special Study Team of the Cabinet Cluster on Public Services recognized that the existing mechanisms under the Concession Agreement for recovery of FOREX losses are not sufficient to address the financial problems due to FOREX losses incurred by Concessionaires from August 1997, owing to the Asian financial crisis, thus the need to provide relief from said losses;

WHEREAS, the MWSS Board of Trustees passed Resolution No. 407-2001 granting MWCI the extraordinary tariff relief to address the direct and indirect consequences of extraordinary FOREX problems of MWCI;

[Handwritten signatures]

WHEREAS, MWCI has applied for petition for EPA on March 31, 2001 on account of the impact of Peso Devaluation on foreign denominated loans. For this purpose, a public consultation was held on July 23, 2001, whereby the issue of FOREX losses incurred by MWCI was presented;

WHEREAS, based on the documents submitted by MWCI, the rate of Php 1.00 per cubic meter is the tariff rate increase that would allow the recovery of past FOREX losses for a period of eighteen (18) months. However, the RO has likewise proposed that in order to implement the above increase, the Concession Agreement must be amended;

WHEREAS, a special transitory mechanism shall be allowed to enable MWCI to recover FOREX losses for CY 2001 in relation to its concession fee payments and concessionaire's loans and the recovery of FOREX losses for the period beginning January 1, 2001 to December 31, 2001 and past FOREX losses incurred August 1, 1997 to December 31, 2000 which are unrecovered as of December 31, 2002;

WHEREAS, the FOREX losses or gains from the period January 1, 2002 until the expiration date also need to be addressed through a Foreign Currency Differential Adjustment (FCDA) mechanism;

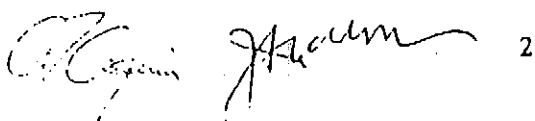
WHEREAS, the foregoing extraordinary remedy is being granted to maintain parity between MWCI and MWSI, in accordance with the intent of the parties and to enable the Concessionaire to continue with its investment programs as committed in the Concession Agreement, and to ensure the efficient and viable delivery of water and sewerage services which are to the best interest of the consuming public;

WHEREAS, apart from granting MWCI immediate and adequate relief for the Peso Devaluation, MWSS agrees to the conduct of the First Rate Rebasing on January 1, 2003, for the purposes of attaining a water tariff adjustment which will be both adequate and reasonable and attaining more realistic targets for the fulfillment of the Concessionaire's Service Obligations with the end in view of providing better service to its customers, especially to the depressed communities;

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved:

1. To allow MWCI to:

- 1.1 Implement a rate adjustment of Php 1.00 per cubic meter during the period October 25, 2001 to December 31, 2002 or up to the next immediate Rate Rebasing period to recover the FOREX losses incurred from August 1, 1997 to December 31, 2000, with any unrecovered FOREX losses, to be recovered through the special transitory mechanism under Sec. 1.2 below;
- 1.2 Implement a special transitory mechanism in accordance with paragraph 2.1 to enable MWCI to recover FOREX losses for the period beginning January 01, 2001 up to December 31, 2001 and past FOREX losses incurred August 01, 1997 to December 31, 2000 which are unrecovered as of December 31, 2002. Such transitory mechanism shall commence in July 1, 2002 up to the First Rate Rebasing, January 1, 2003, with the view to mitigating the overall tariff increase arising from the Rate Rebasing which will take effect on January 01, 2003;

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BY

- 1.3 Implement a rate adjustment for foreign currency differentials (FCDA) with respect to present and future FOREX losses or gains, including all accruals and carrying costs thereof, from the period January 01, 2002 until the Expiration Date on a quarterly basis. The FCDA mechanism means the rate adjustment mechanism for the recovery or compensation on a current basis, subject to quarterly review and adjustment by MWSS, when necessary, of accrued FOREX losses/gains beginning January 01, 2002, arising from MWSS Loans and any Concessionaire Loans in accordance with paragraph 2.3 used for capital expenditures and concession fee payments only, in accordance with paragraph 3 hereof, in lieu of the EPA recovery mechanism for FOREX losses under Article 9.3 of the Concession Agreement;

An indicative tariff schedule will be provided and become part of this Board Resolution subject to verification and validation by MWSS.


2. To impose the following upon MWCI:
 - 2.1 A correction mechanism to be formulated by the RO in consultation with MWCI to avoid under-recovery or over-recovery of FOREX losses;
 - 2.2 Coordination with the RO, in studying means to improve cross-subsidy in favor of poor households, and accelerate delivery and provision of water services to the poorest barangays in its concession area.
 - 2.3 As part of the Rate Rebasing process, for purposes of determining the FOREX losses/gains to be recovered by MWCI, the RO shall ensure that the Concessionaire's loan finance only concession fees and capital expenditures which have been prudently and efficiently incurred, in accordance with Section 2.1.
3. MWSS exercise its option to implement general Rate Rebasing on January 01, 2003, and in connection therewith shall:
 - 3.1 Enter into an agreement with MWCI within ninety (90) days from the effectivity of the amendments to the Concession Agreement, covering the action plan relating to service targets, including sewerage and water service targets to take into accounts such factors as: (a) sewer extension; (b) customer affordability; (c) magnitude of the works in the streets of the East Zone; and (d) absence of appropriate legislation to enforce the obligation to connect;
 - 3.2 Enter into an agreement with MWCI within ninety (90) days from the effectivity of the amendments to the Concession Agreement on the rates which will be effective on January 01, 2003 pursuant to the rebasing adjustment wherein the RO shall strictly apply the provisions of the Concession Agreement more specifically Section 9.4 which provides that only cost and expenditures efficiently and prudently incurred shall be recovered;
 - 3.3 Enter into agreement with MWCI within ninety (90) days from the effectivity of the amendments to the Concession Agreement on the issues to be addressed regarding the concerns of the lenders of MWCI, including the clarification of the Letter of Undertaking issued by the Republic of the Philippines dated July 31, 1997.

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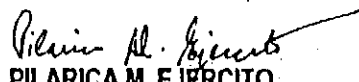
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4. Subject to the conformity of MWCI, the Concession Agreement be accordingly amended or clarified subject to required legal process and formal requirement of acknowledgement by the Republic, through the authorized official to be designated by the President.
5. MWSS notes and acknowledges that it is the essence of the foregoing Resolutions that the respective undertakings of the MWSS and MWCI are performed in a timely, complete and seasonable manner as set forth herein.
6. RESOLVED, finally to authorize the Administrator to sign and deliver this instrument and such other documents in the implementation of this Resolution for and in behalf of the System.
7. This Resolution shall take effect upon approval of Amendment No. 1 of the Concession Agreement by the competent authorities.

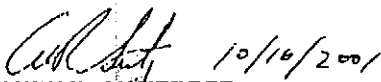

SIMEON A. DATUMANONG
 Chairman



JOSE F. MABANTA
 Vice Chairman and Administrator

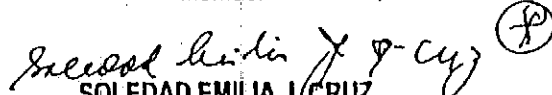

GLICERIO V. SICAT
 Member



PILARICA M. EJERCITO
 Member


YOLANDA Z. PIO DE RODA
 Member 10/16/01


AMAURY R. GUTIERREZ
 Member 10/16/2001


ALFREDO C. REYES
 Member 10/16/01


SOLEDAD EMILIA J. CRUZ
 Member


AMADO D. VALDEZ, 10/23/01
 Member

CONFORME:


ANTONINO T. AQUINO
 President, MWCI

0 P. or subject to
 validation

① Except for the 6-month recovery period under the transitional mechanism for RFF. Reasons:
 a. Agreement of transition should follow basic principle of agreement by majority etc. provide 2-4 yr. (not 6 mths) recovery period transitional mechanism
 b. agreement intent for alluvial cases: "and giving" tariff gov. should be