

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 Avenue, Balara, Quezon City, herein represented by its Administrator, Engr. JOSE F. MABANTA,

- and -

Maynilad Water Services, Inc. (MWSI), Concessionaire for the West Area, with official business address at Ground Floor, MWSS Engineering Building, Katipunan Avenue, Balara, Quezon City, herein represented by its President, Mr. RAFAEL M. ALUNAN III,

WITNESSETH that:

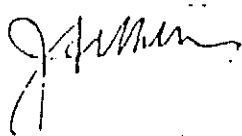
WHEREAS, there is a need to amend the Concession Agreement to give authority to the MWSS Board of Trustees to address the urgent concerns to ensure the viability and continued operation of the Concession;


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.

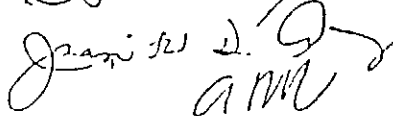
For this purpose, the parties hereto confirm and agree to the amendment of Article 9 for the implementation of the provisions of Section 1 of the MWSS BOT Resolution No. 457-2001, as amended by Resolution No. 487-2001, which are herein incorporated as integral part hereof.

2. Notwithstanding the pertinent provisions of Article 5, Sections 6.4, 6.9, and Section 9.4 of the Concession Agreement relating to Service Obligations of the Concessionaire, Concession Fees, Performance Bond, and Rate Rebasing, the parties hereto confirm and agree to the amendment of said provisions for the orderly implementation of MWSS BOT Resolution No. 457-2001, as amended by MWSS BOT Resolution No. 487-2001 which are herein incorporated as integral part of this Agreement, after which the provisions as originally agreed upon shall govern.


JFM


RMA


JFM


RMA

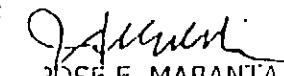
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IN WITNESS WHEREOF, parties hereto have hereunto set their hands
this 17th day of October 2001 in Quezon City Philippines.


METROPOLITAN WATERWORKS
AND SEWERAGE SYSTEM

MAYNILAD WATER SERVICES, INC.

BY:


JOSE F. MABANTA
Administrator

BY:


RAFAEL M. ALUNAN III
President

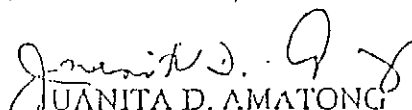
ACKNOWLEDGMENT OF THE REPUBLIC OF THE PHILIPPINES

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

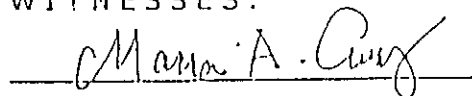
By:

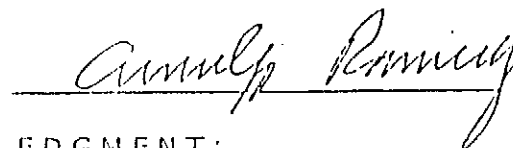

DANTE B. CANLAS

Secretary of SOCIO-Economic Planning


JUANITA D. AMATONG
Undersecretary of Finance

WITNESSES:


Maria A. Cruz


Arnold P. Romillo

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
CITY OF Quezon City) S.S.

BEFORE ME, a Notary Public in and for Quezon City, Philippines,
personally appeared:

Amendment # 1 to the Concession
Agreement with MWSI
X-----X

Name	Community Tax: Cert	date
Jose F. Mabanta, MWSS Administrator	# <u>06172768</u>	Issued at <u>QC</u> on <u>Feb 8</u> , 2001
Rafael M. Alunan III, MWSI President	# <u>00447651</u>	Issued at <u>QC</u> on <u>Jan 18</u> , 2001

known to me and to me known to be the same persons who executed the foregoing Amendment No. 1 to the Concession Agreement, and they acknowledged to me that the execution of this instrument is of 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 the Acknowledgment extends, refers to an Agreement between the parties and is signed by their duly authorized representatives and their Instrumental witnesses.

WITNESS MY HAND AND SEAL, at the place and on the date first above written.

Doc. No. 139;
Page No. 28;
Book No. XX;
Series of 2001.

ERLICH V. DIARBAQUIAS
Notary Public

UNTIL DEC. 31, 2000
PTR NO. 1203576 Q.C.
RP NO. 499093 Q.C.

[Signature]

[Signature]

DBLR

[Signature]
a/k/a *[Signature]*

Name -

Community Tax Certificate

Jose F. Mabanta, MWSS Administrator

06172768 Issued at Q.C.
on Feb. 8, 2001

Rafael M. Alunan III, MWSI President

00447651 Issued at Q.C.
on Jan. 18, 2001

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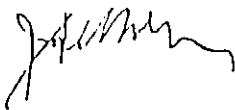
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ERLICH V. DARRAQUIAS
(Notary Public)

UNTIL DEC. 31, 2001
PTR NO. 1283576 Q.C.
RP NO. 499092 Q.C.



DBCS

Granito J. D. S.
a/b/c chief



Republic of the Philippines
Metropolitan Waterworks and Sewerage System
Katipunan Road, Balara, Quezon City 1105, Philippines
DL: +63(+2) 922-3757 / +63(+2) 922-2969; TL: 920-5521; Fax: 921-2887

Excerpts from the Minutes of the Sixth Special Meeting of the MWSS Board of Trustees for the Regulatory Office held on 03 September 2001:

"Board Resolution No. 457-2001

"WHEREAS, the Metropolitan Waterworks and Sewerage System (MWSS) and Maynilad Water Services, Inc. (Maynilad) entered into a Memorandum of Cooperation (MOC) dated 8 June 2001, copy attached, which addresses, among others, the direct and indirect consequences of extraordinary foreign exchange loss problems arising from Maynilad's payment of Concession Fees and Concessionaire Loans;'

"WHEREAS, in order to implement the MOC, MWSS Resolution No. 384-2001 directed MWSS Regulatory Office (RO), among others, to validate and verify all figures on the proposed recovery of past and current foreign exchange (FOREX) losses, as well as other figures on the operation of both Concessionaires that will be used for the establishment of appropriate water tariff adjustments for the implementation of the MOC within the framework of the Concession Agreement (CA);'

"WHEREAS, the Regulatory Office has validated the computations and recovery schedule of past FOREX losses, based on documents submitted and assumptions utilized by Maynilad and found the rate Php4.71 per cubic meter as the tariff rate increase that would allow the recovery of past FOREX losses for a period of eighteen (18) months. However, the RO had likewise proposed that in order to implement the above increase, the Concession Agreement must be amended;'

"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

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 Ninth (9th) Special Meeting of the
MWSS Board of Trustees dated 01 October 2001 Amending
Board Resolution No. 457-2001, dated 03 September 2001

"Board Resolution No. 487-2001

"WHEREAS, the Metropolitan Waterworks and Sewerage System (MWSS) and Maynilad Water Services, Inc. (Maynilad) entered into a Memorandum of Cooperation (MOC) dated 8 June 2001, copy attached, which addresses, among others, the direct and indirect consequences of extraordinary foreign exchange loss problems arising from Maynilad's payment of Concession Fees and Concessionaire Loans;"

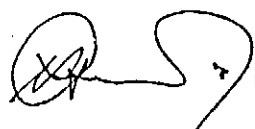
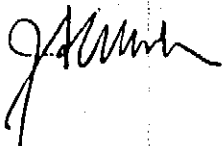
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"WHEREAS, the Regulatory Office has validated the computations and recovery schedule of past FOREX losses, based on documents submitted and assumptions utilized by Maynilad and found the rate Php4.71 per cubic meter as the tariff rate increase that would allow the recovery of past FOREX losses for a period of eighteen (18) months. However, the RO had likewise proposed that in order to implement the above increase, the Concession Agreement must be amended;"

"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 1, 1997 owing to the Asian financial crisis, thus the need to provide relief from said losses;"

"WHEREAS, during the public consultation held on July 20, 2001, Maynilad confirmed that the Extraordinary Price Adjustment (EPA) of Php0.50 per cu.m. already granted by MWSS-RO shall be deducted from the rate adjustment to be granted herein;"

October 1, 2001



"WHEREAS, to allow for a gradual increase in 2003, and for a reduction in the overall tariff increase in 2003-2005 arising from the first rate rebasing adjustment, on January 01, 2003, a transitory Mechanism for recovery of foreign exchange losses for the period January 1, 2001 up to December 31, 2001 shall be allowed;

"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 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;

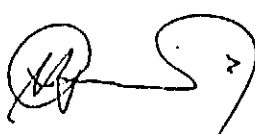
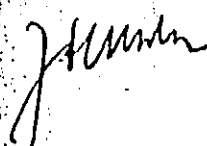
NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved:

1. To allow Maynilad to:

1.1 Implement a rate adjustment of Php4.21 per cubic meter during the period 15 October 2001 to 31 December 2002 to recover the FOREX losses incurred from 01 August 1997 up to 31 December 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 Maynilad to recover FOREX losses for the period beginning 01 January 2001 up to 31 December 2001, including FOREX losses arising from the (a) repayment of the US\$100 million bridge loan and short-term loans and other payments relating thereto, in accordance with paragraph 2.5 hereof; (b) payment of the amount of Concession Fees suspended; and (c) past FOREX losses incurred 01 August 1997 to 31 December 2000 which are unrecovered as of 31 December 2002. Such transitory mechanism shall commence in July 2002 at the latest for a period of two (2) to four (4) years with the view to mitigating the impact to the end users and reducing the overall tariff increase in 2003 - 2005 arising from the Rate Rebasing which will take effect on 01 January 2003;

1.3 Implement a rate adjustment with respect to present and future FOREX losses or gains, including all accruals and carrying costs thereof, from the period 01 January 2002 until the Expiration Date on a quarterly basis, provided, however, that the adjustment shall not apply to FOREX losses or gains arising from (a) the reimbursement of the US\$100 million bridge loan and short-term loans and other payments relating thereto; and (b) the payment of the amount of Concession Fees suspended, incurred and/or expected to be incurred, which will be recovered through the special transitory mechanism as described in item 1.2 above. 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 01 January 2002, arising from



MWSS Loans and any Concessionaire Loans in accordance with paragraph 2.1 used for capital expenditures and concession fee payments only, in accordance with paragraph 2.5 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.

Use the following upon Maynilad:

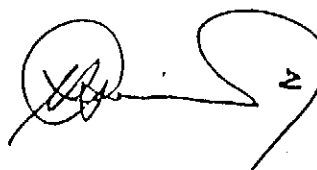
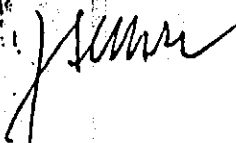
A correction mechanism to be formulated by the RO in consultation with Maynilad to avoid under-recovery or over-recovery of FOREX losses;

The infusion of additional funding support from its stockholders in the amount of US\$80 million as part of the total Project Finance, the Financial Plan of which, shall be submitted to MWSS not later than 31 October 2001.

To resume payment of the MWSS Current Operating Budget (COB) for CY 2002, which is part of the Concession Fees, beginning 02 January 2002. With respect to the maturing debt service obligations, payments shall be made by Maynilad subject to its capacity to pay depending on its cash flow as determined by MWSS. For this purpose, Maynilad shall submit its monthly financial statement for evaluation of MWSS. However, the balance of all past obligations as well as future maturing Concession Fees (Debt Service, Balance of COB for CY 2001 and local component costs of Existing-Foreign Assisted Project) already advanced or to be advanced by MWSS and related costs and other charges, shall be paid upon financial closure of its Term Loan, but not later than June 30, 2002, subject to Section 6.

Filing of: (a) a Joint Motion to Dismiss and/or a Joint Motion for Judgment Based on Compromise Agreement together with MWSS, in the case entitled 'Maynilad Water Services, Inc., Petitioner, versus Metropolitan Waterworks and Sewerage System, et al., Respondents,' currently pending with the Seventh Division of the Court of Appeals, and docketed as CA-G.R. SP No. 63854; (b) the necessary court pleading withdrawing the pending Petition (to Declare Respondent Mabanta Guilty of Indirect Contempt), also pending with the Seventh Division of the Court of Appeals and docketed as CA-G.R. SP No. 64214; forever desisting from filing of further Petition/s to Cite in Contempt in relation to the foregoing cases; (c) the proper manifestation discontinuing the arbitration proceedings filed with the Minor Dispute Appeals Panel in relation to its Force Majeure Notice dated March 8, 2001; in consideration of which the MWSS shall undertake in the Joint Motion to be filed with the Court of Appeals not to attempt to draw upon the Performance Bond posted by Maynilad due to the suspension of payment of Concession Fees, until the financial closure of its term loan, not later than 30 June 2002, subject to paragraph 6 below.

5. As part of the Rate Rebasing process, for purposes of determining the FOREX losses/gains to be recovered by Maynilad, the RO shall ensure that the Concessionaires'



loan finance only concession fees and capex expenditures which have been prudently and efficiently incurred, in accordance with Section 2.1.

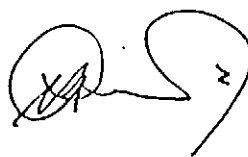
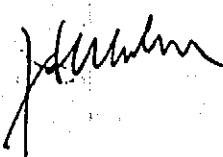
- 2.6 Coordination with the RO, in studying means to improve cross-subsidy in favor of poor households, and accelerate delivery and provision of water services to the poorest barangays in its concession area, and to address during the rate rebasing period the disparity in the tariffs of the West and East Concessions; and
- 2.7 For purposes of Rate Rebasing negotiations, submission to the RO not later than thirty (30) days from effectivity of the amendments to the Concession Agreement, a revised Business Plan with an initial set of financial statements and accompanying assumptions.

MWSS exercise its option to implement a general Rate Rebasing on 01 January 2003, and in connection therewith shall:

- 3.1 Enter into an agreement with Maynilad, 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 account such factors as: (a) sewer extension; (b) customer affordability; (c) magnitude of the works in the streets of Manila; and (d) absence of appropriate legislation to enforce the obligation to connect.
- 3.2 Enter into an agreement with Maynilad, within ninety (90) days from the effectivity of the amendments to the Concession Agreement on the rates which will be effective on 01 January 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 costs and expenditures efficiently and prudently incurred shall be recovered.
- 3.3 Enter into an agreement with Maynilad, 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 Maynilad, including the clarification of the Letter of Undertaking issued by the Republic of the Philippines dated 31 July 1997.

That subject to the conformity of Maynilad, the Memorandum of Cooperation dated June 8, 2001 is hereby superseded by the foregoing Resolution. Nothing herein or any amendment arising therefrom shall be construed as a waiver of any right or action by MWSS or Maynilad arising from the Concession Agreement prior to the effectivity of any amendment arising from this Resolution.

That, subject to the conformity of Maynilad, the Concession Agreement be accordingly amended or clarified subject to the required legal process and formal requirement of acknowledgment by the Republic, through the authorized official to be designated by the President.




SS notes and acknowledges that it is the essence of the foregoing Resolutions that the respective undertakings of the MWSS and Maynilad are performed in a timely, complete and reasonable manner as set forth herein. Any delay on the part of the MWSS on its performance undertakings shall result in the postponement of the June 30, 2002 deadline of Section 2.3 and 2.4 hereof to the extent of such delay.

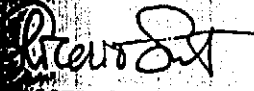
SOLVED, finally to authorize the Administrator to sign and deliver this instrument and such related documents in the implementation of this Resolution for and in behalf of the

Resolution shall take effect upon the approval of Amendment No. 1 of the Concession Agreement by the competent authorities.


SIMEON A. DATUMANONG
Chairman


JOSE F. MABANTA
Chairman & Administrator



AMAURY R. GUTIERREZ
Member

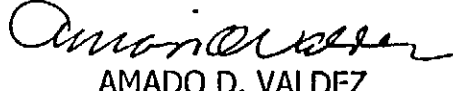

ELICERIO V. SICAT
Member

ALFREDO C. REYES
Member



MARICA M. EJERCITO
Member


SOLEDAD EMILIA J. CRUZ
Member


Z. PIO DE RODA
Member


AMADO D. VALDEZ
Member

CONFORME:


RAFAEL M. ALUNAN III
President, MWSI

*per my October 1, 2001
letter to Admin. Mabanta.
as attached.*

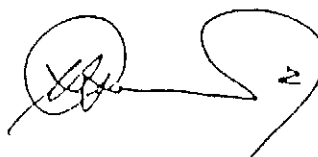
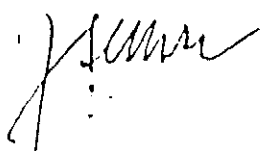
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An indicative tariff schedule will be provided and become part of this Board Resolution, subject to verification and validation.

2. To impose the following upon Maynilad:

- 2.1 A correction mechanism to be formulated by the RO in consultation with Maynilad to avoid under-recovery or over-recovery of FOREX losses;
- 2.2 The infusion of additional funding support from its stockholders in the amount of US\$80 million as part of the total Project Finance, the Financial Plan of which, shall be submitted to MWSS not later than 31 October 2001.
- 2.3 To resume payment of the MWSS Current Operating Budget (COB) for CY 2002, which is part of the Concession Fees, beginning 02 January 2002. With respect to the maturing debt service obligations, payments shall be made by Maynilad subject to its capacity to pay depending on its cash flow as determined by MWSS. For this purpose, Maynilad shall submit its monthly financial statement for evaluation of MWSS. However, the balance of all past obligations as well as future maturing Concession Fees (Debt Service, Balance of COB for CY 2001 and local component costs of Existing-Foreign Assisted Project) already advanced or to be advanced by MWSS and related costs and other charges, shall be paid upon financial closure of its Term Loan, but not later than June 30, 2002, subject to Section 6.
- 2.4 Filing of: (a) a Joint Motion to Dismiss and/or a Joint Motion for Judgment Based on Compromise Agreement together with MWSS, in the case entitled 'Maynilad Water Services, Inc., Petitioner, versus Metropolitan Waterworks and Sewerage System, et al., Respondents,' currently pending with the Seventh Division of the Court of Appeals, and docketed as CA-G.R. SP No. 63854; (b) the necessary court pleading withdrawing the pending Petition (to Declare Respondent Mabanta Guilty of Indirect Contempt), also pending with the Seventh Division of the Court of Appeals and docketed as CA-G.R. SP No. 64214; forever desisting from filing of further Petition/s to Cite in Contempt in relation to the foregoing cases; (c) the proper manifestation discontinuing the arbitration proceedings filed with the Minor Dispute Appeals Panel in relation to its Force Majeure Notice dated March 8, 2001; in consideration of which the MWSS shall undertake in the Joint Motion to be filed with the Court of Appeals not to attempt to draw upon the Performance Bond posted by Maynilad due to the suspension of payment of Concession Fees, until the financial closure of its term loan, not later than 30 June 2002, subject to paragraph 6 below.
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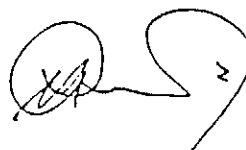
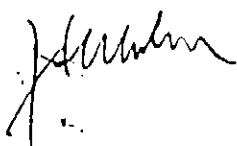
October 1, 2001



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- 2.6 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, and to address during the rate rebasing period the disparity in the tariffs of the West and East Concessions; and
 - 2.7 For purposes of Rate Rebasing negotiations, submission to the RO not later than thirty (30) days from effectivity of the amendments to the Concession Agreement, a revised Business Plan with an initial set of financial statements and accompanying assumptions.
3. MWSS exercise its option to implement a general Rate Rebasing on 01 January 2003, and in connection therewith shall:
 - 3.1 Enter into an agreement with Maynilad, 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 account such factors as: (a) sewer extension; (b) customer affordability; (c) magnitude of the works in the streets of Manila; and (d) absence of appropriate legislation to enforce the obligation to connect.
 - 3.2 Enter into an agreement with Maynilad, within ninety (90) days from the effectivity of the amendments to the Concession Agreement on the rates which will be effective on 01 January 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 costs and expenditures efficiently and prudently incurred shall be recovered.
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 4. That subject to the conformity of Maynilad, the Memorandum of Cooperation dated June 8, 2001 is hereby superseded by the foregoing Resolution. Nothing herein or any amendment arising therefrom shall be construed as a waiver of any right or action by MWSS or Maynilad arising from the Concession Agreement prior to the effectivity of any amendment arising from this Resolution.
 5. That, subject to the conformity of Maynilad, the Concession Agreement be accordingly amended or clarified subject to the required legal process and formal requirement of acknowledgment by the Republic, through the authorized official to be designated by the President.

Enter 1. 2001

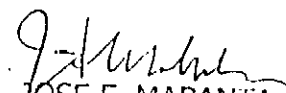


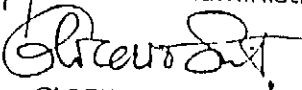
Plan with an initial set of financial statements and accompanying assumptions.'

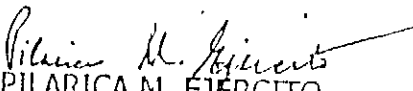
3. That MWSS exercise its option to implement a general Rate Rebasing on 01 January 2003, and in connection therewith:
 - 3.1 To enter into an agreement with Maynilad, within ninety (90) days from the effectivity to the amendments to the Concession Agreement, covering the action plan relating to service targets, including sewerage and water service targets to take into account such factors as: (a) accumulation of tariff increases for FOREX loss recovery and sewer extension; (b) customer affordability; (c) magnitude of the works in the streets of Manila; and (d) absence of appropriate legislation to enforce the obligation to connect.
 - 3.2 To enter into an agreement with Maynilad, within ninety (90) days from the effectivity of the amendments to the Concession Agreements on the rate which will be effective on 01 January 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 costs and expenditures efficiently and prudently incurred shall be recovered.
 - 3.3 To enter into an agreement with Maynilad, 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 Maynilad.
4. That subject to the conformity of Maynilad, the Memorandum of Cooperation dated June 8, 2001 is hereby superseded by the foregoing Resolution. Nothing herein or any amendment arising therefrom shall be construed as a waiver of any right or action by MWSS or Maynilad arising from the Concession Agreement prior to the effectivity of any amendment arising from this Resolution.
5. That, subject to the conformity of Maynilad, the Concession Agreement be accordingly amended or clarified subject to the

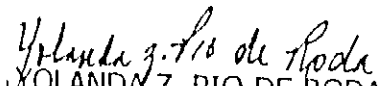
6. MWSS notes and acknowledges that it is the essence of the foregoing Resolutions that the respective undertakings of the MWSS and Maynilad are performed in a timely, complete and seasonable manner as set forth herein. Any delay on the part of the MWSS on its performance undertakings shall result in the postponement of the June 30, 2002 deadline under Section 2.3 and 2.4 hereof to the extent of such delay.
7. RESOLVED, finally to authorize the Administrator to sign and deliver this instrument and such other related documents in the implementation of this Resolution for and in behalf of the System.
8. This Resolution shall take effect upon the approval of Amendment No. 1 of the Concession Agreement by the competent authorities.


SIMEON A. DATUMANONG
Chairman


JOSE F. MABANTA
Vice-Chairman & Administrator


GLICERIO V. SICAT
Member


PILARICA M. EJERCITO
Member


YOLANDA Z. PIO DE RODA
Member



AMAURY R. GUTIERREZ
Member



ALFREDO C. REYES
Member


SOLEDAD EMILIA J. CRUZ
Member


AMADO D. VALDEZ
Member

CONFORME:


RAFAEL M. ALUNAN III
President, MWSI

*per my October 1, 2001
letter to Admin. Mabanta.
as attached.* 


October 1, 2001

