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Republika ng Pilipinas
PANGASIWAAN NG TUBIG AT ALKANTARIYA SA KALAKHANG MAYNILA
Metropolitan Waterworks and Sewerage System
REGULATORY OFFICE
Katipunan Road, Balara, Quezon City 1105, Philippines

IN RE: STATUS QUO FOR MANILA WATER COMPANY, INC.'s
(Manila Water) STANDARD RATES AND FOREIGN
CURRENCY DIFFERENTIAL ADJUSTMENT (FCDA)
UNTIL THE DETERMINATION OF REBASING
ADJUSTMENT BY THE APPEALS PANEL

RO RESOLUTION NO. 13-012-CA

WHEREAS, Section 9.2 (Rate Adjustments) of the Concession Agreement (CA), as amended, specifically provides that "The Standard Rates for water and sewerage services shall be adjusted each year effective January 1 of each Charging Year, in accordance with (i) the Rate Adjustment Limit, (ii) the adjustment principles and (iii) the procedures set forth in Section 9.2.1, Section 9.2.2, Section 9.2.3, respectively,"

WHEREAS, Section 9.2.1 (Rate Adjustment Limit) of the Concession Agreement, as amended, provides that "The Weighted Average Rates Increase implied by the Standard Rates proposed by the Concessionaire in respect of any Charging Year may not exceed the Rate Adjustment Limit";

WHEREAS, the Rate Adjustment Limit (RAL) is defined as the percentage, either positive or negative, equal to the sum of Consumer Price Index ("C"), Extraordinary Price Adjustment ("E") and Rate Rebasing Factor ("R");

WHEREAS, on 26 October 2001, the MWSS Board of Trustees (MWSS BOT) issued Board Resolution No. 512-2001 pursuant to Amendment No. 1 of the CA to address, among others, the direct and indirect consequences of extraordinary foreign exchange (forex) gains/losses arising from the payment of the concession fees and concessionaire loans by Manila Water;

WHEREAS, in said Resolution, MWSS BOT allowed Manila Water to recover past forex losses as well as present and future forex losses;

WHEREAS, apart from the mechanism to recover past forex losses, the FCDA mechanism was formulated to recover or account for future forex losses or gains beginning 01 January 2002, arising from MWSS loans and concessionaire loans used for capital expenditures and concession fee payments;

WHEREAS, pursuant to the same Resolution, the MWSS Regulatory Office (MWSS RO) is particularly mandated to formulate a correcting mechanism to avoid under-recovery or over-recovery of these forex losses;

WHEREAS, the MWSS RO noted that the inflation rate for July 2013 is 2.53%, as officially published by the National Statistics Office;

WHEREAS, on 31 October 2013, Manila Water submitted to MWSS RO its proposed Standard Rates adjustment of 2.5%. However, Manila Water asserted in its letter that "as the determination of the 'R' is currently under dispute, as provided under Article 12 of the CA, the proposed Standard Rates for Charging Year 2014 will be adjusted upon conclusion of the Arbitration process, and Final award by the Appeals Panel;"

WHEREAS, on 20 November 2013, Manila Water submitted for validation and evaluation by MWSS RO its FCDA proposal for the 1st quarter 2014 equivalent to negative 0.51% of the Basic Charge of Php26.29/cu.m. or negative Php0.04/cu.m. effective 01 January 2014. However, Manila Water mentioned in its proposal that "considering that the determination of the 'R' is currently under dispute before a duly constituted Appeals Panel as provided by Article 12 of the CA, the proposed FCDA for the 1st quarter 2014 will only be effected upon conclusion of the arbitration process, and Final Award by the Appeals Panel;"

NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to recommend to MWSS BOT to approve the implementation of a STATUS QUO for Manila Water's Standard Rates and FCDA for any and all of its scheduled adjustments, until such time that the Appeals Panel has issued the Final Award for the 2013 Rate Rebasing determination;

RESOLVED, FINALLY, that the deferred adjustments resulting from the status quo for FCDA shall be reckoned upon resumption of said adjustments, subject to the principle of no over- or under-recovery.

SO ORDERED.

10 December 2013, Quezon City.

EMMANUEL C. CAPARAS
Acting Chief Regulator

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DA for Admin and Legal

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P.S. Dec. 19, 2013