

Philippines: FDC position on Manila Water rate hike

Monday 17 December 2007, by [Freedom from Debt Coalition](#) (Date first published: 4 December 2007).

Dear friends.

Please find attached FDC submission last Dec 4 to MWSS Regulatory Office (RO) on Manila Water's petition for rate hike, for RO approval in December and implementation Jan 2008.

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EXCERPTS:

We, from the Freedom from Debt Coalition (FDC), a multi-sectoral coalition of people's organizations, civil society groups and individuals, manifest our strong opposition against the P14 per cubic meter rate increase being proposed by the Manila Water.

Specifically, we raise the following issues as we urge the MWSS-RO not to grant the water rate increase that MWCI has applied for:

1. Lack of transparency and public control.

FDC and other water rights advocates were not properly informed regarding the two previous public consultations held in April and May; except for the final rate rebasing consultation on November 16, 2007. Prior to November 16, the MWSS-RO and Manila Water also provided no proposed tariff as part of the presentations. There was also no information regarding the opening cash position of the concessionaire.. We, in FDC, requested for a complete set of documents concerning the current rate rebasing process in November 15, 2007, through both faxed and e-mailed correspondences. This also included the rate rebasing proposal of Manila Water, the financial and performance report of Manila Water coming from MWSS-RO, and key performance indicators (KPIs) and business efficiency measures (BEMs) being utilized for the rate rebasing process. MWSS-RO only provided pertinent documents a day before the

original
deadline for submission of position papers - 28 November 2007. Although
the
deadline was extended until December 4, 2007, the time was still not
sufficient for us to scrutinize fully the documents given to us and ask
for
other lacking documents and look at the entire process in full. The entire
process itself is a complex exercise, thus, needs further study and
evaluation especially by the public who have been kept in the dark on
pertinent documents with regard to the company's performance and details
of
the projected expenses.

2. Deliberate inclusion of proposal to extend the concession period of Manila Water.

We are fully aware that there are existing proposals to extend the concession to minimize the rates to be applied by Manila Water to the East Zone.. We argue that any projections or inclusions of a proposal to extend the concession period of Manila Water should be deemed illegal and contrary to law.

3. "Overperformance" due to incredibly low service targets.

The low hurdles set by the Manila Water in the following five years (2002-2007) as compared to the targets they utilized to acquire the East Zone concession (1997-2002) obviously paved the way for Manila Water to reach the hurdles they have reset.

4. Absence of due diligence and non-existent projects.

One of the projects included in the service targets for their first five years was the Wawa Dam project—one of the potential new sources of water to be tapped to increase the volume of water produced for the East Zone. Supposedly, this would also help augment the water pressure and coverage in their concession area as well. According to Manila Water's first rate rebasing proposal, this project was supposed to be completed by 2003. However, it is now 2007 and the project has yet to materialize.

5. Presence of other revenue generating mechanisms and means.

Aside from rate rebasing, the concessionaires have other means of collecting revenues - the Foreign Currency Differential Adjustment (FCDA), the Extraordinary Price Adjustment (EPA), and the Currency Exchange Rate Adjustment (CERA). .. These collecting mechanisms serve as a continuing revenue generating system for the concessionaires, given that from Manila Water's dive bid in 1997 up to their present rates, their tariffs already

increased up to 792 percent.

"government and the concessionaires went into a debate on what public utilities are. Relying merely on opinions presented by framers of the MWSS privatization, a technical working group created to resolve the issue persuaded the MWSS Board and RO to issue resolutions formally identifying the concessionaires as mere agents and contractors and not as public utilities. This must have been cause for celebration, particularly for Manila Water whose rate of return for 1999 was revealed by a Commission on Audit report to have reached 40.92 percent, or 28.92 percent higher than the allowable 12 percent. This translates to profits of about PhP281 million."

6. Regulating the rate of return through the appropriate discount rate (ADR).

By regulating the rate of return, rate rebasing virtually encourages 'cost-padding' or 'misreporting of costs' as a means to 'maximize' expenditures. If Manila Water, for instance, lowers costs/expenditures by becoming more efficient so as to maximize profits, the water rates should be lowered in the next rate rebasing period. In other words, it is not in the interest of the concessionaire to be cost-efficient, possibly because it has no incentives in doing so.

To simply put it, 9.3% ADR is too high. Many Filipino businesses do not even make this kind of profit. Further, considering this is guaranteed profit, given the peculiarities of what is essentially a flawed Concession Agreement, it is unconscionable and does not comply with the parameters of a Regulatory Office whose avowed mission is to assure both that the rates of the Manila Water Company are fair for the consumers even as they also assure the viability of Manila Water.

In the alternative, we advocate that the Regulatory Office set a price cap. A price cap would have the effect of compelling Manila Water to increase its efficiencies further in order to maximize their profit. A price cap would be favorable instead of the current ADR formula and ADR determination process which is skewed too much in favor of Manila Water.

7. Prudent and fair projections.

The assumptions built in to the costings must be reasonable and not factored

to an exaggerated level. El Niño and La Niña should not be factored in for additional costings since Manila Water knew that El Niño and La Niña happened when Manila Water bid for the concession. That fact should already have been integrated into the original bid price. Also, the rates must not substitute to serve as additional insurance to cover business risks. Such calamities are actually in the purview of being normal business risks that any venture capitalist must assume in the course of the water business.

The consumers also continuously cover the cost of maintaining raw water and the cost of bringing this to the point of distribution. This should not be costed all over again to the consumer. There are World Bank and ADB loans for the creation of water-holding systems. Considering that it is the taxpayers paying for this, it would be unfair for this to be double-charged to the consumers.

8. Finally, the rate rebasing exercise, being one of the cornerstones of the water privatization scheme, only serves the financial interests of the concessionaires, including its investors and creditors.

The concession agreement can essentially be described as a "cost reimbursement contract" via tariff adjustments, or a "cost of service contract." While the rate rebasing process provides for the establishment of service improvement targets, its real intent is to reformulate and recalibrate water tariffs so as to allow the concessionaires to recover the following: (a) Its operating, capital maintenance and investment expenditures, "efficiently and prudently incurred"; (b) Philippine business taxes; (c) The company's debt service payments on MWSS loans and Concession fees as required by the Concession Agreement; and (d) A rate of return equal to the ADR on these expenditures for the remaining term of the Concession.

By the very design of the rate rebasing exercise and the privatization setup as a whole, rates have no other way but up.

This also captures the premise that Manila Water never capitulates to the notion that water is a right that should be enjoyed by all. The astoundingly high rate increase that they propose to be applied on the consumers starting January 1, 2008 is unjust and utterly unacceptable, because there are other means to minimize it, or rather, reverse it, but we do not see any signs of the concessionaires maximizing them.

This all boils down to the corporate principle not to protect the interest of the consumers, but themselves, as they have always projected in the past

ten years of the MWSS privatized setup. We do not expect a utility fortified

by its corporate interests to prioritize services in the welfare of the public, given that it only declares itself a “mere agent and contractor” of

the MWSS rather than public service.

Under these grounds, we soundly call:

a.. For a comprehensive audit, accounting and evaluation of the concessionaires’ finances and actual performance;

b.. To stop any unjust water increases coming from Manila sWater, including this rate rebasing exercise;

c.. For the MWSS-RO to study alternative pricing models other than the present ones, including price cap;

d.. For a review of the MWSS privatization policy, and laws enabling them, including the National Water Crisis Act and Executive Order 311.

Stop rate rebasing!

No to unjust water rates increases!

End water privatization now!