



MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 149

**TRANSFERRING THE METROPOLITAN WATERWORKS AND
SEWERAGE SYSTEM FROM THE DEPARTMENT OF PUBLIC
WORKS AND HIGHWAYS TO THE OFFICE OF THE
PRESIDENT**

WHEREAS, the Metropolitan Waterworks and Sewerage System (MWSS) was created by virtue of Republic Act (RA) No. 6234, as amended, and is attached to the Department of Public Works and Highways (DPWH) by virtue of Executive Order (EO) No. 124 (s. 1987);

WHEREAS, the administrative supervision of the DPWH Secretary over the MWSS was strengthened through the issuance of EO No. 387 (s. 2004), with the objective of providing a concerted and well-coordinated effort in formulating policies, as well as planning and implementing programs and projects for the water sector;

WHEREAS, the proper operation and maintenance of waterworks system to insure an uninterrupted and adequate supply and distribution of potable water for domestic and other purposes, and the proper operation and maintenance of sewerage systems, are both vital to public health and safety;

WHEREAS, the MWSS is mandated to own and/or exercise jurisdiction, supervision and control over all waterworks and sewerage system in its designated territories;

WHEREAS, pursuant to the provisions of the Concession Agreements executed in 1997, the MWSS created the MWSS – Regulatory Office (RO) to perform the following functions, among others:

- a. Monitoring of the awarded Concession Agreements;
- b. Reviewing and Monitoring of Water Supply and Sewerage Rates;
- c. Arranging the regular, independent technical and financial audit of the water concessionaires; and
- d. Monitoring and enforcing standards of service to customers, and any agreed improvement in these standards, or extensions in the coverage of water supply and sewerage services; and

THE PRESIDENT OF THE PHILIPPINES

WHEREAS, there is a need to ensure transparency, accountability, and propriety in the performance of the RO of its functions;

WHEREAS, Section 31, Chapter 10, Title III, Book III of EO No. 292 (s. 1987), otherwise known as the "Administrative Code of 1987," grants the President the continuing authority to reorganize the administrative structure of the Office of the President (OP);

WHEREAS, Section 17, Article VII of the Constitution vests in the President the power of control over all executive departments, bureaus and offices, as well as the mandate to ensure the faithful execution of laws;

NOW, THEREFORE, I, RODRIGO ROA DUTERTE, President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

Section 1. Transfer of Supervision over the MWSS. The administrative supervision over the MWSS is hereby transferred from the DPWH to the OP.

Section 2. Transfer of the RO. The transfer of the MWSS shall include the transfer of the RO and the following divisions, which are currently serving the RO:

- a. Technical Regulation (responsible for technical and engineering functions including asset management and investment);
- b. Secretary and Legal Adviser;
- c. Financial Regulation (responsible for regulatory accounting, rate adjustment and economic functions); and
- d. Quality and Customer Service Regulation (responsible for service and customer relations including customer complaints and appeals).

Section 3. Nature of Administrative Relationship. The MWSS shall be under the administrative supervision of the OP. In this regard, the MWSS and the RO shall be subject to the following:

- a. A system of periodic reporting that shall reflect the progress of the performance of their respective mandates; and
- b. Any general policy that the OP may promulgate in order to ensure the proper, transparent, and equitable performance of their respective functions.

Section 4. Powers and Functions. The RO shall have the following powers and functions:

- a. Monitor the awarded Concession Agreements;
- b. Review and monitor the water supply and sewerage rates;
- c. Implement the Extraordinary Price Adjustment provisions;
- d. Implement the Rate Rebasing provisions;
- e. Monitor the contracts between the Concessionaires and Customers for the provision of water and sewerage services;
- f. Arrange for the regular, independent, technical, and financial audit of the activities of the Concessionaires, and the public dissemination of such information;
- g. Monitor and enforce standards of service to Customers, and any agreed improvement in these standards;
- h. Monitor the production of audited financial information, and rule on cost allocation and other accounting practices appropriate for the rate-setting methodology;
- i. Monitor the reported, audited condition of water and sewerage service infrastructure assets, and enforcement of the Concession Agreements with respect to these;
- j. Report on its activities and communicate its decisions;
- k. Respond to complaints or representations received from Customers and other interested groups;
- l. Investigate any matter concerning the services subject of the Concession Agreements, and require the Concessionaires to submit in writing any undertaking for immediate remedial measures;
- m. Conduct inquiries on matters relating to water supply, sewerage and sanitation services;
- n. Implement refunds/credit to consumers, upon finding that excess collections were made by the Concessionaires;
- o. Approve bilateral supply contracts, upon prior hearing/public consultations, provided that such approval will not result in an automatic increase and rates and should undergo the usual rate rebasing process;

- p. Monitor and enforce the adoption of transfer pricing and arm's length trading policies in transactions involving cross-ownership with the Concessionaires, provided that, in order to ensure compliance with the arm's length pricing or standard, the RO shall determine the prudent and efficient cost of services in the applicable transaction involving a related party to the Concessionaires; provided further, that related party shall include but is not limited to an affiliate or subsidiary of or party related to the Concessionaires;
- q. Promulgate rules and regulations concerning the Concession Agreements as may be necessary;
- r. Upon due notice and hearing, prescribe and impose sanctions, disallowances, penalties, and/or fines for: (1) violations of the provisions of the Concession Agreements and their amendments, (2) violations of any orders, rules, and regulations promulgated by the RO, (3) violations of any requirements and agreements entered into by the Concessionaires with the RO, and/or (4) failure of the Concessionaires to provide water, sanitation, and sewerage services efficiently and prudently. Fines and penalties collected in the exercise of this power shall be returned to the customers in the form of rebates, refunds, or credits, if feasible and practicable, or in any manner the RO deems appropriate;
- s. Issue *subpoena duces tecum* and *subpoena ad testificandum* to compel the production of documents which relate to any matter relevant to investigations and the personal appearance at proceedings before the RO; and
- t. Perform such other powers and functions as may be prescribed by law and as may be necessary, proper, or incidental to the attainment of its mandate, responsibilities, and objectives

Section 5. Creation of the RO *en banc*. There is hereby created an RO *en banc*, which shall be composed of the Chief Regulator and four (4) Members who all have five (5) year terms.

The Chief Regulator and the Members of the RO shall be appointed by the President. In the event of the death, incapacitation, or resignation of the Chief Regulator or a member, a successor shall be appointed by the President to complete the unexpired term of that member.

The members of the RO *en banc* shall designate one Member to oversee each Division provided in Section 2 of this Order. All matters raised before the RO *en banc* by any of the divisions shall require the prior endorsement and recommendation for approval of the designated Member in charge of such division.

Section 6. Qualifications. The Chief Regulator and the Members shall be citizens and residents of the Philippines. In addition, the Chief Regulator and

the Members shall be persons of good moral character, with at least ten (10) years of experience for the Chief Regulator and five (5) years of experience for the Members, and with recognized competence in the field of law, economics, finance, accounting, engineering, management, and/or business.

Section 7. Disqualifications. In addition to the disqualifications imposed by RA No. 6713, no person shall be a Member of the RO if he has been connected directly in a supervising and/or managerial capacity with either of the Concessionaires, affiliate of either of the Concessionaires, or any other institution which is subject to the supervision, examination, or regulation of the RO.

Section 8. Prohibitions. The Chief Regulator and the Members shall not, during their tenure, hold any other office or employment. They shall not, during their tenure, directly or indirectly practice any profession, except in a teaching capacity, participate in any business, or be financially interested in any contract with, or any franchise, or special privileges granted by the government or any subdivision, agency, or instrumentality thereof, including government-owned or-controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office. No spouse or relative by consanguinity or affinity within the fourth civil degree of any of the Chief Regulator and the Members may appear as counsel or agent on any matter pending before the RO or transact business directly or indirectly therein during incumbency and within two (2) years from cessation of office.

Section 9. Chief Regulator. The Chief Regulator shall have the overall responsibility for the operation of the RO. In the performance of its mandate, the Chief Regulator shall also chair meetings of the RO; have final approval over the hiring and dismissal of all professional personnel of the RO; and act as the principal spokesperson of the RO in matters affecting the Concessions.

The Chief Regulator shall be an individual of the highest professional reputation and integrity having the ability to develop rapidly a thorough understanding of the issues affecting the regulation of water and sewerage services in the two (2) Service Areas.

In performing the above functions, the Chief Regulator shall be accountable to the OP.

Section 10. Operations of the RO *en banc*. The RO *en banc* shall function as collegial body and the affirmative vote of three (3) Members shall be required for any action or decision of the RO in relation to the performance of its mandate. The Chief Regulator may from time to time prescribe procedural or administrative rules governing the activities of the RO that are not inconsistent with this Order.

Section 11. Transitory Provisions. In order to implement this Order, the following transitory provisions shall be complied with:

1. The current members of the RO shall continue to perform their functions until new members are appointed by the President; and

- Existing personnel of the RO shall continue to perform their respective functions, subject to compliance with applicable laws, rules, regulations and procedures.

Section 12. Separability. If any section or part of this Order is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force or effect.


Section 13. Repealing Clause. All orders, proclamations, rules, regulations or parts thereof, which are inconsistent with this Order are hereby revoked, amended or modified accordingly.

Section 14. Effectivity. This Order shall take effect immediately.

DONE in the City of Manila, this 27th day of September in the year of Our Lord, Two Thousand and Twenty One.



By the President:



SALVADOR C. MEDIALDEA
Executive Secretary

