



Resolution No. 12-006
Series of 2016

A RESOLUTION URGING PAWD TO MAKE AN APPEAL WITH THE OFFICE OF THE PRESIDENT FOR THE ISSUANCE OF AN EXECUTIVE ORDER THAT IS MORE COMPLIANT TO BOTH P.D. 198 AND THE GOCC GOVERNANCE ACT OF 2011, WHILE OBSERVING THE LEGAL DOCTRINE OF "OPERATIVE FACT" WITH REGARDS TO THE EFFECTS AND VESTED RIGHTS ARISING FROM THE ENFORCEMENT/OBSERVANCE OF THE SAID E.O. AND THE LWD-MaCRO.

Whereas, Executive Order Nos. 24 and 65, having been promulgated by the Aquino Administration in response to revelations of abuses by the Boards of Directors in Government-Owned and Controlled Corporations, were actually unnecessary with regards to Local Water Districts as these were already so tightly regulated by the LWUA that such GOCC abuses were highly unlikely and were in fact unheard of among Water Districts;

Whereas, the Philippine Association of Water Districts (PAWD) paid the Beltran Law Office more than Pp100, 000 to look into the issue as to whether or not the LWDs are covered by these EOs.

Whereas, the said law office cited, among other things, that

- the LWDs were operating under PD 198, which has the weight of a Republic Act, when E.O. 24 included it in its coverage;
- E.O. 24 was in effect superseded by the GOCC Governance Act of 2011, which explicitly excludes LWDs from its coverage
- E.O. 65 which was issued pursuant to E.O, 24, is inconsistent with the GOCC Governance Act;

Whereas, the legal opinion concluded that "PAWD has strong legal grounds to file a petition with the proper courts to seek a judicial declaration that E.O. 65 and the memorandum circulars issued by LWUA pursuant thereto, are null and void, and in the process, seek injunctive relief so as to restrain the implementation of the said E.O. and circulars."

Whereas, the preceding PAWD Board of Governors agreed not to take any action on this issue until the resolution of the bill on the condonation of LWD taxes, that PAWD was then lobbying for --- for fear of getting the disapproval of Malacanang, thereby jeopardizing the chances of this bill's being approved by then President Aquino;

Whereas, with the veto of the abovementioned bill by the former President, and the assumption of President Rodrigo R. Duterte to office, the above considerations no longer exist;

Whereas, the LWD-MaCRO, which was issued by the DBM, is contrary to both PD 198, which gives no powers to the DBM over LWDs relative thereto, and the GOCC Governance Act of 2011 which excludes LWDs from its coverage;

Whereas, the LWD-MaCRO's avowed thrust of making "the number of service connections become(s) a significant factor in categorization" to encourage the LWDs to reach as many clients as possible, has strong merits and should be pursued; but its categorization scheme is seriously flawed in terms of realizing such thrust;

Whereas, this serious flaw is proven by the fact that in Eastern Visayas, for example, only one out of the 516 operational Water Districts was ever upgraded to the next higher category in the past five years, hence it can be surmised that the LWD-MaCRO became a significant factor only for a few in their efforts to reach more clients;

Resolved, to urge PAWD to make an appeal or representations with the Office of the President for the issuance of an Executive Order that is more compliant to both the P.D. 198 and the GOCC Governance Act of 2011, while observing the legal doctrine of "operative fact" with regard to the effects and vested rights arising from the enforcement/observance of the said E.O.s and the LWD-MaCRO;

Resolved further, that the said appeal or representations include the following specifications for the desired Executive Order:

- a) a marching order for LWUA to coordinate with PAWD, in drafting, within a given timeframe, the replacement of the LWD-MaCRO and the *Local Water District Manual on Categorization/Recategorization*, provided that the draft document ____
 - adopts the LWD-MaCRO's thrust of making service connections a significant factor in the categorization of LWDs
 - has a categorization scheme that can be reasonably demonstrated as eventually becoming a significant factor in the LWDs' efforts to expand their service connections
 - shall, as a form of reality check, be submitted to a referendum among the LWDs for the affirmation by at least 60% of them that they are really challenged to increase their service connections by its categorization scheme
- b) a declaration that the *status quo ante*, prevails in the meantime with regard to the number of meetings and honoraria of the Boards of Directors of the Local Water Districts until the replacement of the LWD-MaCRO and the *Local Water District Manual on Categorization/Recategorization* becomes effective, except in cases where vested rights are involved.

Unanimously carried on August 12, 2016, Tacloban City, Leyte.

Certified true and correct:


ROSALINDA I. SOMORAY
EVAWD SECRETARY

Conforme:


PASTOR A. HOMERES
EVAWD PRESIDENT