



Republic of the Philippines  
Province of Sorsogon  
**CITY OF SORSOGON**



*Office of the Sangguniang Panlungsod*

EXCERPTS FROM THE MINUTES OF THE REGULAR SESSION VIA ZOOM  
TELECONFERENCING OF THE SEVENTH CITY COUNCIL HELD ON SEPTEMBER 21, 2021 AT  
THE OFFICE OF THE SECRETARY TO THE SANGGUNIAN PANLUNGSOD.

**PRESENT:**

**HON. MARK ERIC C. DIONEDA**  
City Vice Mayor/Presiding Officer

**BACON DISTRICT**

Hon. Jo Abegail C. Dioneda  
Hon. Melchor P. Atutubo  
Hon. Hilario D. Dioneda  
Hon. Danilo A. Deladia

**EAST DISTRICT**

Hon. Mary Ellen D. Jamisola  
Hon. Franco Eric O. Ravanilla  
Hon. Joven Francis J. Laura

**WEST DISTRICT**

Hon. Nestor J. Baldon  
Hon. Erwin J. Duana  
Hon. Fernando David H. Duran, III  
Hon. Rebecca D. Aquino

**EX-OFFICIO MEMBERS**

Hon. Ma. Teresa D. Perdigon  
Hon. Lorenz S. Abenion

**ABSENT:**

Hon. Ralph Walter R. Lubiano – on Official Business

***Resolution No. 274, Series of 2021***

(Author: Hon. Joven Francis J. Laura)

**RESOLUTION FORMALLY OPPOSING THE INCREASE IN WATER RATES/TARIFF  
BY PRIMEWATER AS APPROVED BY THE SORSOGON CITY WATER DISTRICT  
AND REQUESTING THE LOCAL WATER UTILITIES ADMINISTRATION TO  
EXERCISE ITS AUTHORITY UNDER PRESIDENTIAL DECREE NO. 198, AS  
AMENDED**

**WHEREAS**, the primary reason for this opposition by the 7<sup>th</sup> City Council is the very bad, condemning, damning, poor and already exorbitant service by PrimeWater Infrastructure Corp. (PrimeWater). No water is drinkable within the area of service by PrimeWater. The consuming public is continuously experiencing very low water pressure to no water affecting households, businesses, as well as the City government, including national and other agencies of the government operating within the jurisdiction of the City.

**WHEREAS**, such bad nature of service is documented by the Commission on Audit in its 2020 Annual Audit Report on Sorsogon City Water District (SCWD), to wit:

1. PrimeWater was not able to achieve the target active connections as of December 31, 2020 – short by 332 connections and 6 barangays.

2. In SCWD's Customer Satisfaction Survey covering 9,641 population as respondent resulted to the following – 40.05% of the respondents experience zero to 20 hours of water service, 25.64% experience low water pressure, 73.24% experience dirty water, and 65.59% answered "NO" when asked if they are satisfied with the service of PrimeWater.

3. That there is "an indication that all produced and delivered water to consumers had not passed the standard set by the Philippine National Standards for Drinking Water or with such prevailing standards on drinking water quality issued by the Department of Health or such other governmental agency of the Philippines that is tasked with issuing such standards." Moreover, the present situation of water quality affects the economic condition of the consumers by incurring additional cost for purchase of safe drinking water – "thus, more cost than benefits on the paying public."

4. From 2017 to 2020, the number of complaints received by the PrimeWater continued to increase peaking in 2018. For these years, there are 45,250 received complaints, 39,392 were resolved while 5,330 unresolved. Moreover, accomplishment rate of resolving such complaints were decreasing from 99% in 2017 to only 67% in 2020. "The usual complaints from consumers are: no water, low pressure, dirty water, leakages (mainline and service line), and high pressure.

**WHEREAS**, the Board of Directors of Sorsogon City Water District (BOD-SCWD) has passed on its regular session last July 22, 2021 Board Resolution No. 13-2021 committing the implementation of **tariff rates adjustment** by PrimeWater and recognizing the National Water Resources Board's (NWRB) Resolution No. 09-0819 approving PrimeWater's Certificate of Public Convenience and proposed **tariff rate adjustment schedule**.

**WHEREAS**, the **approved increase in basic tariff** (water rate) is 27% –15% of which will be implemented after two months starting on July 22, 2021, the date of approval by the above BOD-SCWD Resolution or in **September 22, 2021** that will be reflected in the **October 2021 Billing**. On the other hand, the remaining 12% will be implemented when the source development project at Sitio San Lorenzo with its transmission line and the replacement of Liner of Burabod (Bacon) Tank are **at least 80% completed** which will be determined by the SCWD.

**WHEREAS**, the Sangguniang Panlungsod has passed on its regular session last August 17, 2021 Resolution No. 241, series of 2021 appealing to the BOD-SCWD the suspension of implementation of tariff rates adjustment by PrimeWater.

**WHEREAS**, the BOD-SCWD through its Chairman, Mr. Charles Clemente, submitted a reply dated August 31, 2021 to Resolution No. 241-2021, stating that: "The SCWD BOD appreciates the Sangguniang Panlungsod's direction towards the welfare of the constituents of the City of Sorsogon, rest assured that the SCWD Board of Directors is towards the same course, for which all these are for the ultimate good of the SCWD's concessionaires and the public. Thus, its commitment to its Joint Venture Partner, PrimeWater...for the implementation of tariff increase **shall remain.**"

**WHEREAS**, the following are excerpted from the letter-reply by the BOD-SCWD as reasons and substantiation of still continuing with the increase in water rates/tariff:

1. That, the BOD-SCWD initially deferred the request to increase water rates by PrimeWater on August 13, 2020 through Board Resolution No. 16-2020 until after four conditions are met by PrimeWater.

2. That, these conditions are met with PrimeWater's proposed 2021 Capital Expenditures (CAPEX) infusion amounting to more or less 42 million pesos. The letter-reply stated, thus: "These CAPEX infusion, considered to resolve substantially water shortage issues in the East portion of the City, are heavily anchored on the conditional commitment from SCWD BOD that **it will allow PrimeWater to implement tariff increase.**"

3. That, as Contract Monitoring Unit, the SCWD believes that PrimeWater "is now improving" because according to its Customer Satisfaction Survey, PrimeWater now enjoys 49% satisfaction rate (2021) compared to 34% last 2020 – which translates to – 51% dissatisfied in 2021 and 66% dissatisfied last 2020, i.e. majority of the concessionaires. Still, however, said the letter-reply: "...the Board believes that with the **approved new rates PrimeWater will provide the agreed levels of service, such as number of hours of service, water quality, non-revenue water percentage, service coverage, and appropriate water pressure at which the service is provided.**"

**WHEREAS**, the only chosen method by the BOD-SCWD and PrimeWater as partners in the Joint Venture Agreement (JVA), in involving the consuming public in their scheme to increase water rates/tariffs is "**massive information dissemination**" from July 22, 2021 to September 22, 2021 – the first item of the dispositive part of Board Resolution No. 13-2021 provides: "...within this two-month pre-implementation period, **massive information dissemination will be jointly executed by SCWD and PrimeWater...**"

**WHEREAS**, adjustments in water rates/tariff cannot be solely based on the Joint Venture Agreement between SCWD and PrimeWater – even if disseminated massively to the consuming public. If this is the case, then it will be capricious and whatever rates decided by the parties will be arbitrarily done contrary to public policy.

**WHEREAS**, the consuming public must be included in whatever adjustments in water rates/tariff because they are the end-users that will be affected by such adjustments. Hence, public hearing must be in order and is the policy pursuant to the general welfare of the people.

**WHEREAS**, the spirit of fair play, that is, the right of due process of law of the consuming public calls for public hearing. **This constitutional right of the people is even more emphasized against an arbitrary exaction by a government entity considering the difficult economic and health situation brought about by the COVID-19 pandemic.**

**WHEREAS**, the due process of law is guaranteed whenever there is or there will be adjustments/increase in water rates/tariff. The following law, rules and regulations, provide as follows:

1. Presidential Decree No. (PD) 198 as amended by PD 1479 provides the following:

"Section 11. The last paragraph of Section 63 of the same decree is hereby amended to read as follows:

The rates or charges established by such local district, **after hearing shall have been conducted for the purpose**, shall be subject to review by the Administration to establish compliance with the abovementioned provisions. Said review of rates or charges shall be executory and enforceable after the lapse of seven calendar days from posting thereof in a public place in the locality of the water district, without prejudice to an appeal being taken therefrom by a water concessionaire to the National Water Resources [Board] whose decision thereon shall be appealable to the Office of the President. An appeal to the NWRB shall be perfected within thirty days after the expiration of the seven-day period of posting. The Council shall decide on appeal within thirty days from perfection."

2. Letter of Instruction No. (LOI) 700, s. 1978, provides thus:

**“(5) The water district concerned shall conduct public hearings prior to any proposed increase in water rates.”**

3. Local Water Utilities Administration Memorandum Circular No. (MC) 013.17, July 4, 2017 which have reiterated the validity Section 5 of LOI 700 s. 1978 as well as Local Water Utilities Administration Board of Trustees Resolution No. 85 Series of 1993 entitled Guidelines on the Conduct of Public Hearings For Any Proposed Water Rates Increase. Further, MC 013.17 provides that “public hearings conducted by Local Water Districts for purposes of tariff setting/adjustment shall be considered valid only for a period of not more than five (5) years.”

4. Merida Water District et al v. Francisco Bacarro et al, G.R. No. 165993, September 30, 2008, the Supreme Court of the Philippines held in this wise, interpreting Section 63 of PD 198, as amended:

**“When a local water district increases water rates, the law requires the district concerned to conduct a public hearing regarding these rates. The same rates are subject to review by the LWUA, which is tasked to determine whether the establishment of the rates complies with the law. Thus, compliance with the public hearing requirement means that the rates presented in the hearing should be the same rates submitted to the LWUA for review and approval.”**

**WHEREAS**, conduct of public hearing is a necessary requirement for whatever increase in water rates/tariff as a guarantee of due process and provided for by law. The LWUA MC 013.17 therefore states: “A public hearing in the context of these guidelines shall mean a **forum, a medium of public discussion or consultation between the water district and its constituency, the primary purpose of which is to inform the latter about a proposed water rates increase and the justifications appertaining thereto. For the concessionaires and the general public, this undertaking serves as a venue for airing their opinions, criticisms and counter suggestions to the issues at hand when necessary.**”

**WHEREAS**, the BOD-SCWD Resolution No. 13-2021 did not state that the SCWD conducted any public hearing for the purpose. We reiterate that the parties of the JVA simply based such increase in the same JVA and will impose it to the consuming public arbitrarily, capriciously and whimsically. Pursuance of implementation of such increase lacking a public hearing, which is a requirement of the right to due process and the law, will therefore be invalid and illegal.

**WHEREAS**, the one who granted, approved, and certified the water rates/tariff applied for by the PrimeWater was the NWRB who has no jurisdiction in this case.

**WHEREAS**, such approval by the BOD-SCWD of such increase, anchored from the prior approval by the NWRB, cannot be legally implemented.

**WHEREAS**, assuming arguendo that the NWRB has jurisdiction, still they did not comply with the substantive and procedural aspect of the due process clause for not communicating to the City and its people that an application of water rates/tariff increase and hearing thereof will be conducted. Further, it did not post its Order or such like issuance in the locality of the water district, approving such application;

**WHEREAS**, the proper regulatory body to approve any such certification and/or water rates adjustment is the LWUA pursuant to Section 4 of Executive Order No. 860, series of 2010 which provides that: “The NWRB shall desist from regulating the water tariffs of Water Districts,



which shall hereinafter be undertaken by the [LWUA] in accordance with ]PD 198] as amended by Executive Order 124-A, series of 1987.”

**WHEREAS**, LWUA did not abandon and/or deny its jurisdiction to review and approve water rates/tariff applied for by the parties in the JVA last 2018 as can be gleaned from BOD-SCWD Resolution No. 14-2021. It is the parties, rather, that withdrew its application to the LWUA and applied it to the NWRB who has no jurisdiction. Moreover, the impetus of such withdrawal was not, as we reiterate, the denial of own jurisdiction by LWUA but by a mere opinion from the Office of the Government Corporate Counsel who exercises no jurisdiction in any review and approval in whatsoever water rates/tariff increase;

**WHEREAS**, We reiterate Section 63 of PD 198 as amended by PD 1479, as earlier quoted above: “The rates or charges established by such local district, after hearing shall have been conducted for the purpose, **shall be subject to review by the Administration to establish compliance with the abovestated provisions. Said review of rates or charges shall be executory and enforceable after the lapse of seven calendar days from posting thereof in a public place in the locality of the water district, without prejudice to an appeal being taken therefrom by a water concessionaire to the [NWRB] whose decision thereon shall be appealable to the Office of the President. An appeal to the [NWRB] shall be perfected within thirty days after the expiration of the seven-day period of posting. The [NWRB] shall decide on appeal within thirty days from perfection.**”

**WHEREAS**, the NWRB, in this case, exercises only appellate authority from the review of the LWUA and that decision of NWRB may be appealed to the Office of the President.

**WHEREAS**, We reiterate that the approval by the BOD-SCWD of the water rates/tariff increase through Resolution No. 13-2021 lacks jurisdiction because it did not follow the requirements of the procedure provided for by law. Hence, pursuance of the implementation of such increase will be invalid and illegal.

**WHEREAS**, water rates/tariff increase schemed by the parties of the JVA – SCWD and PrimeWater, is illegal because (1) it lacks public hearing; (2) the regulatory body it anchored upon has no power to do so, hence lacking in jurisdiction; and, hence, that the BOD-SCWD’s approval of the increase results to an excess of jurisdiction. In sum, it did not follow the substantive and procedural requirements of the constitution and the law. If pursued to be implemented, it will be illegal subject to the abrogation of the Joint Venture Agreement by both parties without prejudice to any criminal, civil and administrative liabilities for both parties.

**WHEREAS**, if pursued to be implemented, the consuming public will surely suffer multiple damages considering the skyrocketing inflation in all basic commodities, the emergency situation brought by the COVID-19 pandemic, the historical unemployment phenomenon being experienced by the country, and such many related economic conditions by the people of this City.

**WHEREAS**, pending any hearing of this formal opposition, the implementation of water rates/tariff increase should be held in abeyance or be suspended.

**NOW THEREFORE**, on motion of **Hon. Joven Francis J. Laura** duly seconded by **Hon. Franco Eric O. Ravanilla**, be it resolve as it is hereby resolved to formally oppose the increase in water rates/tariff by PrimeWater as approved by the Sorsogon City Water District and to request the Local Water Utilities Administration to exercise its authority under Presidential Decree No. 198, as amended.

**RESOLVED FURTHER**, that pending any hearing of this opposition, the implementation of water rates/tariff increase should be held in abeyance or be suspended.

**RESOLVED FINALLY**, that copy of this resolution be also furnished to the Sorsogon City Water District, PrimeWater, and the National Water Resources for information and appropriate action.

**DATE APPROVED:**     **September 21, 2021**

**I HEREBY CERTIFY** to the correctness of the foregoing resolution.

  
**ROVAN E. DOMASIAN**  
Secretary to the Sangguniang Panlungsod

**Attested:**

  
**MARK ERIC C. DIONEDA**  
City Vice Mayor/Presiding Officer