



Republic of the Philippines  
Department of Environment and Natural Resources  
**NATIONAL WATER RESOURCES BOARD**

MEMORANDUM CIRCULAR No 2019-001, Series of 2019

FOR : ALL WATER UTILITY OPERATORS

SUBJECT : Economic Regulatory Framework  
(Light-Handed Regulation)

DATE : July 8, 2019

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The NWRB Economic Regulatory Framework has been approved and adopted under **NWRB Resolution No. 25-0818** dated August 28, 2018, and published in a newspaper of general circulation on May, 2019.

In view thereof, and henceforth, ALL water utility operators applying for certificate of public convenience, or any similar/related application, petition or action before this Board are hereby enjoined to adhere and comply with the revised NWRB Economic Regulatory Framework (Light-Handed Regulation), as well as the Implementing Rules and Regulations and the new/Revised Tariff Methodology.

Further, for reasons of uniformity and consistency of compliance hereof, **notice** is hereby given that effective **September 2, 2019**, all applications/petitions shall be in accordance with the new framework and methodology.

All forms, the revised tariff model are downloadable at [www.nwr.gov.ph](http://www.nwr.gov.ph)

For strict compliance.



**DR. SEVILLO D. DAVID, JR., CESO III**  
Executive Director



Republic of the Philippines  
Department of Environment and Natural Resources  
**NATIONAL WATER RESOURCES BOARD**

**RESOLUTION NO. 25-0818**

**August 28, 2018 – 181<sup>st</sup> Board Meeting  
Adoption of the NWRB Economic Regulatory Framework  
("REVISED TARIFF METHODOLOGY - 2018")**

WHEREAS, the National Water Resources Board (NWRB) regulates water utilities as part of its economic regulation function;

WHEREAS, there are challenges in the current economic regulatory framework of NWRB that need to be addressed such as small water service providers find it difficult to comply with NWRB requirements, tariffs adopted can hardly sustain operations, and lack of incentives to increase efficiency;

WHEREAS, in response to these challenges, the World Bank-Water and Sanitation Program sponsored a project entitled "Economic Regulatory Framework for NWRB" under the Expanded Small Water Utilities Improvement and Financing Technical Assistance – Phase 2 (ESWIF2);

WHEREAS, the NWRB Economic Regulatory Framework has been developed with the end view of establishing appropriate regulation for small water utilities (Light-Handed Regulation), and in support of the initiative to strengthen NWRB to prepare it to serve as the economic regulator of all Level III water service providers;

WHEREAS, the salient features of the NWRB Economic Regulatory Framework has been presented by the consultant during the 125<sup>th</sup> meeting of the Board held on December 11, 2013 and considerable work has been done to improve the said framework, including the conduct of consultations with Bank reviewers, NWRB management, NEDA and some water utilities of varying capacities;

WHEREAS, the Final Report on the NWRB Economic Regulatory Framework submitted by the consultant has been accepted by NWRB in its letter of September 1, 2014 with a request for the codification of the Implementing Rules and Regulations (IRR), vis-a-vis the capacity building of NWRB staff, to be able to successfully implement the recommendations in the Final Report;

WHEREAS, the varying capabilities and needs of water utilities have been recognized and the tariff setting mechanism rationalized, to provide incentives to increase efficiency of water utilities;

WHEREAS, categorization of water utilities with the appropriate 'Revised Tariff Methodology 2018' will pave the way for the sustainability of operations and/or full cost recovery with a reasonable rate of return, as the case may be;

WHEREAS, the NWRB Economic Regulatory Framework Implementing Rules and Regulations (IRR) which sets out the policies, requirements, and processes in the implementation of the said framework has been formulated;

WHEREAS, the adoption of the NWRB Economic Regulatory Framework will not only establish appropriate regulation for small water utilities but it will also harmonize the existing computation of the rate of return used by NWRB and NEDA;

WHEREAS, NEDA had reviewed and commented on the revised tariff methodology for the different categories of water utilities and NWRB had addressed its concerns in its communication to NEDA dated March 14, 2017;

WHEREAS, the revised tariff model had been pilot tested to select water utilities and a presentation was made to the Board during its 163<sup>rd</sup> and 166<sup>th</sup> meeting held on February 27, 2017 and May 24, 2017, respectively, on the comparison of results of the existing and new/revised tariff methodology;

NOW THEREFORE, BE IT RESOLVED, as it is hereby resolved, that the Board approves the adoption of the NWRB Economic Regulatory Framework (“Revised Tariff Methodology - 2018”) for the regulation of water utilities as follows:

A. CATEGORIZATION OF WATER UTILITIES (WUs)

| Category “A”   | Category “B”   | Category “C”  |
|--|--|---|
| <p>WUs operating for profit:</p> <ol style="list-style-type: none"> <li>1. Privately-owned or privately run WUs; or</li> <li>2. Government-owned and government-run WUs that opted to be classified or NWRB has classified as Category “A”; or</li> <li>3. Community based WUs that:                             <ol style="list-style-type: none"> <li>a) Have expanded/ are expanding outside original area of jurisdiction, or</li> <li>b) Opted to be classified or NWRB has classified as Category “A”</li> </ol> </li> </ol> | <p>Government-owned and government-run WUs that do not opt to be classified as Category “A” or NWRB has classified as Category “B”</p> | <p>Community-based WUs that:</p> <ol style="list-style-type: none"> <li>1. Are not operating for profit;</li> <li>2. Have not expanded/ are not expanding outside their original area of jurisdiction; or</li> <li>3. Do not opt to be classified as Category “A”/”B” or NWRB has classified as Category “C”</li> </ol> |

B. REGULATION STRUCTURE

| Particulars                                      | Category "A"  | Category "B" <sup>1</sup>   | Category "C"  |
|--|---|---|---|
| Certificate of Public Convenience (CPC) Validity | 10 years  | Only the certificate is not required  | 5 years   |
| Tariff Model                                     | Tariff model A/B  | Tariff model A/B  | Long-hand calculation or using Tariff Model C                             |
| Tariff Review                                    | Mandatory every five years (part of operations and financial review) or <i>motu proprio</i> | Mandatory every five years (part of operations and financial review) or <i>motu proprio</i> | Every five years or as necessary  |
| Review of business plan                          | Upon application  | Upon application  | Upon application (To submit sustainability plan instead of business plan) |
| Application for CPC Renewal                      | CPC Renewal may be filed on or before the date of expiration                                | No certificate  | CPC Renewal may be filed on or before the date of expiration              |
| Operations and financial review                  | Mandatory every five years or <i>motu proprio</i>   | Mandatory every five years or <i>motu proprio</i>   | Every five years or as necessary  |

RESOLVED FURTHER, that the NWRB Economic Regulatory Framework IRR is attached and incorporated as part of this resolution;

RESOLVED FURTHERMORE, that the required public dissemination for the IRR to take effect shall be complied as follows:

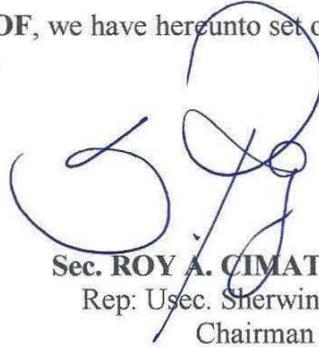
1. The IRR shall be published in a newspaper of general circulation.
2. The IRR shall be posted in the NWRB website. A Memorandum Circular shall be sent to WUs registered with the NWRB for information.
3. A copy of the IRR shall be furnished to the Office of the National Administrative Register, U.P. Law Center, in accordance with E.O. 292 dated July 25, 1987.

The IRR shall be effective fifteen (15) days after its publication in a newspaper of national circulation.

<sup>1</sup> For WUs that voluntarily submit to NWRB regulation.

RESOLVED FINALLY, that the IRR shall be applicable to all CPC petitions/applications, renewal, increase of rates, and/or other related petitions submitted before or filed upon or after the effectivity of the IRR shall be governed under this regulation framework. This, notwithstanding, all water rates duly approved under the 5-year tariff methodology (old) shall remain valid and subsisting until a new water rate under the revised tariff methodology (2018) shall have been issued.

**IN WITNESS WHEREOF**, we have hereunto set our hands this 28<sup>th</sup> day of August 2018, in Quezon City, Philippines.



**Sec. ROY A. CIMATU (DENR)**  
Rep: Usec. Sherwin S. Rigor  
Chairman



**Sec. ERNESTO M. PERNIA (NEDA)**  
Rep: DDG Rolando G. Tungpalan  
Vice-Chairman

Members:



**Sec. MENARDO I. GUEVARRA (DOJ)**  
Rep: Asst. Chief State Counsel Ruben F. Fondevilla



**Sec. FORTUNATO T. DE LA PEÑA (DOST)**  
Rep: Engr. Eduardo V. Manalili



**Dr. ROBERTO S. SORIANO (UP-NHRC)**



# **Economic Regulatory Framework Implementing Rules and Regulations**

2018

## **Implementing Rules and Regulations**

### **Economic Regulatory Framework “Revised Tariff Methodology - 2018”**

**WHEREAS**, the water sector in the Philippines is highly fragmented with approximately 3,000 water utilities of varying types that are operating outside Metro Manila. Of these 3,000, there are about 500 water districts, 470 local government unit (LGU)-run water utilities, 1,700 community-based water service providers, a mix of Rural Waterworks and Sanitation Associations (RWSAs), Barangay Waterworks and Sanitation Associations (BWSAs), cooperatives, and homeowners associations.

**WHEREAS**, there are some government agencies with overlapping mandates in the water sector, among which are the following: Department of Public Works and Highways (DPWH), National Economic and Development Authority (NEDA), Department of Environment and Natural Resources (DENR), Department of Health (DOH), Department of Agriculture (DA), National Water Resources Board (NWRB), Local Water Utilities Administration (LWUA), and the LGUs. Of the said entities, NWRB, LWUA and the LGUs exercise economic regulation function.

**WHEREAS**, in surveys conducted by the IPA Energy + Water Economics Ltd. (IPA), it was found out that the overlapping functions of some agencies led to the confusion of water service providers, which resulted in the discouragement of the latter from complying with regulation and their failure to secure licenses.

**WHEREAS**, it is clear from the foregoing that the country needs a well-defined regulatory framework that is responsive to challenges facing the sector in particular, if the long-term vision of “access to safe, adequate and sustainable water supply for all by 2025” is to be achieved.

**WHEREAS**, in the process of encouraging the water utilities to come forward to be registered and regulated, there should be a mechanism to capacitate these water utilities in order that they will be able to comply with the requirements of registration and regulation. Moreover, it will be helpful to simplify the tariff methodology and the requirements of registration and regulation to the extent that particular risks involved in each category of water utilities will allow.

**NOW, THEREFORE**, in view of the foregoing and in support of the initiative to strengthen NWRB and prepare it for the medium-term target, the following rules and regulations are hereby promulgated:

#### **Rule 1 Categorization of Water Utilities**

##### **Section 1. Determining the Profile of the Water Utilities**

**1.1** NWRB shall determine the category according to the profile of the WU in the application form submitted..

**1.2** The WU shall be categorized as follows:

- 1.2.a Category A: Privately-run – WUs that are owned and/or operated by private entities; excluding subdivisions under Category C or non-profit oriented
- 1.2.b Category B: Government-run – WUs that are owned and operated by the government and/or Government Owned and Controlled Corporations (GOCCs), i.e., water districts and LGU-run WUs, etc.
- 1.2.c Category C: Community-based – WUs that are owned and operated by the following entities: cooperatives, RWSAs, BWSAs, homeowners' associations, etc.; except those which opt to be categorized as profit-oriented.

Provided that, if upon the determination of the Board, the WU may be classified as category A for reason of sustainability and/or public interest.

## **Section 2. Regulation of Category “A” Water Utilities**

### **2.1. Certificate of Public Convenience Validity and Detailed Review**

- 2.1.a. CPC validity of Category “A” WUs shall be ten (10) years, unless otherwise revoked or cancelled.
- 2.1.b. Application for renewal of CPC shall be submitted at least one (1) year prior to expiration..
- 2.1.c. NWRB may, on its own, decide to renew/extend the CPC of a particular WU if, upon reasonable assessment of the NWRB such is warranted to keep tariffs at reasonable levels or to allow the investor to recover its investment.
- 2.1.d. A detailed review shall be conducted at the middle of the ten-year period or every five (5) years. The detailed review shall cover both the WU's operational and financial performance to determine whether: 1) tariff may be maintained, reduced, or increased; 2) standards and targets may be revised; and 3) the WU should be sanctioned or penalized for non-compliance with standards/targets or rewarded for exceeding standards/targets. Provided, that the NWRB may *motu proprio* conduct audit/review of the operational and financial documents anytime at its discretion for any reason whatsoever.

2.2. The Tariff Model . It computes for the basic average tariff/tariff adjustment according to planning/business period, project cash flows. Further, it includes but not limited to investments, unrecovered investment, investment not recoverable during the current business period. The allowable return on investment shall not exceed 12 percent.

**All Category “A” applicants shall submit a bankable Business Plan which includes the following:**

- 2.2.a. Service Quality Standards and Yearly Service Level Targets – Current and Proposed
  - 1) Water quality
  - 2) Service connections

- 3) Non-revenue water
- 4) Continuity of supply
- 5) Water pressure

**2.2.b. Water Demand and Supply Analysis – Current and Proposed**

- 1) Population, growth, and density for area currently served and proposed expansion areas
- 2) Demand projection based on service coverage targets
- 3) Non-revenue water levels
- 4) Water production requirement
- 5) Water sources
- 6) New water sources
- 7) Analysis of demand vs. supply

**2.2.c. Revenue – Current and Proposed**

- 1) Billed volume
- 2) Basic water revenue
- 3) Other operating revenues
- 4) Collection period: days in accounts receivable
- 5) Bad debts

**2.2.d. Operating Expenses – Current and Proposed**

- 1) Direct expenses
  - a) Labor
  - b) Power
  - c) Chemicals
  - d) Bulk water
  - e) Repairs and maintenance of property used in service
- 2) Indirect Expenses
  - a) General and administrative expense
  - b) Management fee
  - c) Outsourcing costs
  - d) Taxes
  - e) Others

**2.2.e. Capital Expenditures (CAPEX) – Current and Proposed**

- 1) Details and condition of property used in service, their replacement costs and their useful lives
- 2) Nature of the proposed CAPEX and pre-feasibility study
- 3) Impact of proposed CAPEX on service levels
- 4) Impact of proposed CAPEX on tariff

**2.2.f. Loan Details**

- 1) Loan Amortization Schedule
- 2) Loan Agreements

## **2.2.g. Yearly Audited Financial Statement**

### **2.3. Interim Rate Adjustments**

Applicants may apply for rate adjustments prior to the next detailed review or CPC renewal in cases where the proponent could justify such rate adjustments .

### **2.4. Service Quality Standards and Service Level Targets; Sanctions**

**2.4.a.** Service Quality Standards – Category “A” WUs shall be required to maintain the following service quality standards:

- 1) Potable water quality
- 2) NRW:  $\leq 25\%$
- 3) Continuity:  $\geq 12$  hrs.
- 4) Operating Ratio:  $\leq 80\%$
- 5) Customer Feedback:  $\geq 80\%$  satisfied

**2.4.b.** Service Level Targets – In addition to the foregoing service quality standards, the WUs need to commit on a 10-year target set by the NWRB and the WUs on a case to case basis, to wit:

- 1) Further reduction of NRW
- 2) Continuous water supply to gradually increase until it reaches 24 hours
- 3) Increase in water pressure
- 4) Increase in service coverage

## **Section 3. Regulation of Category “B” Water Utilities**

Category “B” WUs shall have the same requirements and compliance as that of Category “A”, but are not entitled to Return on Investment.

## **Section 4. Regulation of Category “C” Water Utilities**

### **4.1 Certificate of Public Convenience Validity**

The CPC validity of Category “C” WUs shall be five years.

**4.2** Tariff Model. The tariff methodology for Category “C” WUs is very simple, thus:

**4.2.a.** Determination of Annual Revenue Requirement – This consists of annual operating and other expenses, loan amortizations, and a provision for depreciation reserve, which shall provide for all property used in the service.

- 1) Operating and other expenses –The WU will be required to determine estimated operating expenses for one year, to be applied throughout a five-year period following the approval of CPC/implementation of new rates.

This should already include any provision for contingencies and for working capital requirements.

- 2) Loan Amortization – In the event that the WU secures or will secure financing for the purchase of property, equipment and materials to be used in its operations, the annual amortization or expected annual amortization for the subject loan shall be included in the revenue requirement.
- 3) Depreciation Reserve – The WU shall compute for the necessary amount to be set aside as depreciation reserve, which shall be equal to the straight-line depreciation of its property used in operations based on the estimated years of useful life of each property and the current replacement cost/market value of the property, to be verified by the NWRB technical staff. The property referred to herein shall include all assets of the WU, including donated assets.

The WU may have an independent determination of the amount that should be considered as depreciation reserve, provided it can justify the said amount. For instance, if the WU has plans of procuring new equipment in the next five-year period, the depreciation of the current asset may already be considered as depreciation reserve.

- 4.2.b. Determination of Tariff – The tariff shall be computed by dividing the estimated annual revenue requirement over the estimated annual volume.

#### **4.3 Tariff and Service Proposal**

Upon application for CPC, Category “C” WUs will submit a tariff and service proposal containing the following data:

##### **4.3.a. Data on Compliance with Minimum Service Quality Standards**

- 1) Water quality
- 2) Non-revenue water
- 3) Continuity of supply
- 4) Operating Ratio

##### **4.3.b. Water Demand and Supply Analysis**

- 1) Current Demand
- 2) Non-revenue water levels
- 3) Water production requirement
- 4) Current water sources

##### **4.3.c. Current and Estimated Operating Expenses**

- 1) Direct expenses
  - a) Labor
  - b) Power
  - c) Chemicals
  - d) Bulk water
  - e) Repairs and maintenance of property used in service

2) Total amount of indirect expenses

4.3.d. Book value, condition and useful life of each property currently used in service

4.3.e. Loan Details, if applicable

- 1) Loan Amortization Schedule
- 2) Loan Agreement

4.3.f. Yearly Audited Financial Statements

#### **4.4. Interim Rate Adjustments**

Applicants may apply for rate adjustments prior to the next detailed review or CPC renewal in cases where the proponent could justify such rate adjustments or restructuring of water rate.

### **Section 5. Transitory Provisions**

5.1 The Implementing Rules and Regulations (IRR) shall be publicly disseminated as follows:

- a) The IRR shall be published in a newspaper of general circulation.
- b) The IRR shall be posted in the NWRB website. A Memorandum Circular shall be sent to WUs registered with the NWRB for information.
- c) A copy of the IRR shall be furnished to the Office of the National Administrative Register, U.P. Law Center, in accordance with E.O. 292 dated July 25, 1987.

5.2 This IRR shall be applied to CPC petitions/applications, renewal, or increase of rates submitted to NWRB after effectivity of the IRR. This notwithstanding, all water rates duly approved under the 5-year tariff methodology (old) shall be valid and subsisting until a new water rate under the revised tariff methodology (2018) shall have been issued.

**5.2.a** All petitions/applications filed before the effectivity of this IRR, the water tariff of which shall be processed under the 5-year tariff methodology (old); provided that, processing shall be within one year after the effectivity of the new tariff methodology;

Provided further, that for any reason, petitions/applications that are with rates which were not processed within one year after effectivity of the new IRR, the same shall be refiled, or their supporting documents and data requirements adjusted and resubmitted according to the present methodology, in which case, the new tariff methodology shall be used in the determination of the water tariff.

**Section 6. Effectivity**

This Implementing Rules and Regulations shall be effective fifteen (15) days after its publication in a newspaper of national circulation.

Adopted by consensus during the 186<sup>th</sup> NWRB Regular Board Meeting held on January 29, 2019.