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French giant pulls out of Maynilad

By Des Ferriols, The Philippine Star 12/10/2003 The French multinational Suez Lyonnaise des Eaux is pulling out of the Lopez-controlled Maynilad Water Services Inc. (Maynilad), forcing the Arroyo administration into a \$20-million debt-for-equity swap that would give the government a 30-percent share in the collapsed consortium.

Sources revealed yesterday that the Metropolitan Waterworks and Sewerage System (MWSS) would enter into a debt-for-equity swap for a total of \$20 million, immediately giving it 30 percent of Maynilad.

According to the source, the rest of the foreign-held interest would be swapped next year although it was not immediately known what amount would be involved in the second stage of the swap.

The source said negotiations are still on-going. In the meantime, it was agreed that MWSS would not draw down from Maynilad's \$200-million performance bond.

Maynilad is 60-percent controlled by the Lopez-owned Benpres Holdings while the balance is held by Ondeo Waters, an affiliate of Suez Lyonnaise des Eaux. Sources said that Ondeo is pulling out of the consortium after Maynilad hit hard times that led to its inability to continue meeting its obligations to the MWSS.

The French-Philippine utility was ordered by the international arbitration court to pay \$109 million in dues to the government to maintain its 25-year concession agreement.

However, sources said Ondeo is reportedly not interested in holding on to its interest in Maynilad and the MWSS will be forced to take over the holdings since it is Maynilad's primary creditor.

"I don't know if this would qualify as a contract re-opener under the rules and regulations of the Philippine Build-Operate-Transfer Law," the source said. "But if it falls under this category, the transaction would have to be approved by the Investment Coordinating Committee (ICC)."

Under Section 12.10 of the BOT Law implementing rules and regulations, Maynilad's contract with the government could be reopened "where it is necessary due to conditions beyond the control of the parties involved and in times of extreme, unforeseeable conditions."

"The parties to the contract will agree on the specific conditions that will necessitate or result in a re-negotiation and modification of some or all of the substantial provisions of the contract," the rules stated.

Sources said the debt-for-equity swap is effective immediately or at least before the end of the year while the concluding portion would be undertaken in 2004.

MWSS to take back Maynilad concession

By JOSE VILLANUEVA, TODAY Reporter, December 10

Faced with an impasse with the Lopez Group over their Metro Manila water concession, the Metropolitan Waterworks and Sewerage System (MWSS) is poised to take back Maynilad Water Services Inc. by early next year, a senior administration official disclosed Tuesday.

The planned move effectively reverses one of the Philippines' most ambitious privatization programs dating back to the 1990s economic boom under the Ramos administration. The plans for Maynilad mark the latest in a string of controversies under the Arroyo administration, which has revised or canceled contracts dating back to the Ramos government the past three years.

But the official who disclosed the plan said it was too "premature" to say that Ramos's privatization program was a failure.

"This is not a failed privatization. The consortium had deep pockets and nobody then had any way of knowing that the peso would devalue and the Asian crisis would break out," she said.

Seven years after the government sold Metro Manila's waterworks in two blocks to the Lopez and Ayala families, Maynilad is caving under a mountain of debt that has constrained its ability to deliver on its goals to rehabilitate the capital's aging pipelines and supply potable water.

An international arbitration court ruled on November 7 that Maynilad's attempts to pull out of its 25-year contract last year were illegal, and on November 27, its cash-strapped parent company, Benpres Holdings Corp., was granted a court order preventing MWSS from collecting unpaid concession fees, increasing tensions between the Arroyo administration and the Lopezes.

The government's decision to retake Maynilad comes barely a week after the Energy Regulatory Commission sparked a public outcry by giving in to a rate increase to another Lopez-owned firm, the electric utility Manila Electric Co. (Meralco), after arm-wrestling for over a year. Critics have accused President Arroyo of capitulating to the Lopez family to secure their support for her reelection bid next year, a charge that both the President and the Lopezes vehemently deny.

The senior administration official disclosed a deal in the works that may bail out the Lopezes from the heavy obligations posed by its concession contract for Maynilad -- one of the biggest liabilities on the books of their cash-strapped holding company, Benpres Holdings Corp.

The official said MWSS is poised to conduct a debt-for-equity swap with Maynilad next week on \$20 million worth of debt that would land the regulator initially with a 30-percent stake in the utility.

"The rest will follow next year," she added, implying that the government will assume control and responsibility over running Maynilad.

The official was unable to say how the deal would affect Maynilad's ownership structure -- the company is owned 60 percent by Benpres and 40 percent by the French Ondeo Group -- or the owners' respective obligations under the original 1996 concession contract. But if the government steps in and takes control of Maynilad, then that means it would take most of the burden Benpres has been assuming for the water utility, such as loan guarantees and performance commitments.

Equitable PCI keeping PhP101-M Maynilad deposit as debt payment
December 10, 2003, by CECILLE M. VISTO, Senior Reporter , BusinessWorld

Equitable PCI Bank is keeping the PhP101-million deposit of Maynilad Water Services, Inc., saying it did not violate the suspension of payment order of a Quezon City court when it used the deposit to partly settle the utility's PhP410-million debt.

Lawyer Paulino L. Yusi, head of Equitable's special litigation division, told Judge Reynaldo B. Daway the bank objects to the plea of the Lopez firm to return the funds deposited at the Loyola Heights branch. The PhP101 million, not just PhP9.7 million as earlier quoted by lawyers, was electronically transferred to the main branch on Nov. 14 and subsequently applied to the outstanding loan obligation.

He said since the setoff has been effected, it could no longer be reversed.

"We vehemently object to the reversal. Although we notified them on Nov. 14 of the legal compensation, in truth, the setoff took place as early as March 2003 when Maynilad defaulted on its loan to bridge lenders. The Nov. 14 letter was a mere formality notifying Maynilad that legal compensation had taken place," said Mr. Yusi.

The counsel explained a setoff is allowed under banking laws considering that both parties are debtors and creditors of each other and both debts are due.

"The setoff took place as a matter of course. We did not take it [in violation of the stay order]. It was already ours to begin with given the default provision in our loan agreement," he noted.

Equitable PCI is a member of a consortium of local banks that lent Maynilad PhP1.8 billion for its capital expenditure.

The other consortium members that are bearing the brunt of the water concessionaire's default are Rizal Commercial Banking Corp., East West Bank and Development Bank of the Philippines.

On Nov. 14, Equitable applied Maynilad's deposits against its matured debts, a move the company questioned before the Quezon City Regional Trial Court, where its rehabilitation case is pending.

Maynilad had asked Mr. Daway to nullify the set-off and compel the bank to immediately return the funds. It said the forfeiture violated the order for suspension of payments and effectively gave Equitable an undue preference over other Maynilad creditors, which is prohibited under rehabilitation rules.

OVERDRAWN

In a hearing yesterday, Maynilad lawyer Joshua Paraiso said the deposits should be returned to preserve the assets of his client.

"This will help Maynilad get back on track and remain as a going concern," he said. Records showed Maynilad's checking account with Equitable Loyola Heights was overdrawn by PhP1.17 million as of Nov. 14.

Mr. Daway ordered the parties to submit their position papers by Dec. 22 after which, he will rule on the propriety of returning the PHP101-million deposit.

Aside from the consortium of local banks, among the creditors with biggest exposures in Maynilad are Credit Agricole Indosuez Merchant Bank Asia Ltd., which loaned some \$26 million, Citibank N.A., Barclays Bank PLC. and Paribas, and a number of other foreign banks that provided a \$100-million bridge financing.

While hearings are ongoing at the lower court, the Supreme Court first division today will hold a public hearing on the status of the \$120-million performance bond that Maynilad had secured in favor of state-run Metropolitan Waterworks and Sewerage System (MWSS). MWSS wanted to withdraw \$98 million of the security, claiming the bond was not included in Mr. Daway's order for suspension of payments.

Maynilad is a 60%-40% joint venture between Benpres Holdings Corp. and French water management service company Ondeo Services.

Maynilad, which has PhP16.94 billion in assets and PhP17.59 billion in liabilities as of end-October, is the government's water concessionaire providing service to the west zone of Metropolitan Manila.

Creditor forfeits PhP9.7M of Maynilad's deposits

December 9, 2003, by CECILLE M. VISTO, Senior Reporter, BusinessWorld

One of the local creditors of debt-saddled Maynilad Water Services Inc. (MWSI) has unilaterally set off PhP9.7 million in deposits of the Lopez-controlled water firm. Equitable PCI Bank has applied the deposits of Maynilad against its matured debts, a move that the company questioned before the Quezon City Regional Trial Court, where its rehabilitation case is pending.

In a motion, Maynilad counsel Ronald A. Ledesma asked Judge Reynaldo B. Daway to nullify the set-off or the so-called "legal compensation" and compel the bank to immediately return the funds.

"We seek the return of the funds to aid Maynilad in its rehabilitation," said Mr. Ledesma.

The issue will be subject of a hearing this morning at the sala of Mr. Daway. Equitable PCI is a member of a consortium of local banks that lent Maynilad PhP1.8 billion for its capital expenditure.

The other consortium members that are bearing the brunt of the water concessionaire's default are Rizal Commercial Banking Corp., East West Bank and Development Bank of the Philippines.

MOVE IS LEGAL

Francisco B. Vista, Jr., Equitable PCI director for corporate communications, said the bank's decision to set off the water concessionaire's deposits was legal and provided for under its loan agreement.

"We wish to inform you that to protect the bank's interests, it exercised its right to set-off as contained in the loan documents," he said.

Also among the creditors with biggest exposures in Maynilad are Credit Agricole Indosuez Merchant Bank Asia Ltd., which loaned some \$26 million and Citibank N.A., Barclays Bank PLC and Paribas and a number of other foreign banks that provided a \$100-million bridge financing.

Last month, the Quezon City court issued an order suspending payments of Maynilad's past due and maturing debts pending approval of its rehabilitation case.

The Supreme Court also promulgated a status quo order that effectively barred the state-run Metropolitan Waterworks and Sewerage System from touching Maynilad's \$120-million performance bond to partly answer for unpaid concession fees.

The high court will conduct tomorrow a public hearing that will be limited on the status of the performance bond.

Maynilad is a 60%-40% joint venture between Benpres Holdings Corp. and French water management service company Ondeo Services.

Maynilad, which has PhP16.94 billion in assets and PhP17.59 billion in liabilities as of end-October, is the government's water concessionaire providing service to the west zone of Metropolitan Manila.

Manila Water to upgrade pipes at Camp Aguinaldo
December 10, 2003, BusinessWorld

The Armed Forces of the Philippines (AFP) yesterday signed a deal with Manila Water Co., Inc. to modernize the decades old-water distribution system at the Camp Aguinaldo in Quezon City

(central Metro Manila). Groundbreaking for the program's first phase was also held yesterday. The first phase would replace and repair over 14 kilometers of the main and secondary pipelines inside the camp. The project seeks to provide clean and affordable water supply inside the camp by May next year and shut down all existing deepwells in the area. "We welcome this partnership with the Armed Forces that would help modernize our country's national security offices and facilities as well as improve the welfare of our men and women in uniform including their families who reside in the camp," Manila Water President Antonino T. Aquino said in a speech. Manila Water is embarking on a capital expenditure program worth PhP15 billion over the next 10 years to solve the water quality and other service-related problems in the city's distribution system.