IFIs & Privatization in the Philippine Power & Water Sectors

By Luis Corral, Asian Labor Network on IFIs (ALNI)-Philippines

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From Seattle to Cancun, we see the trade union movement shifting away from traditional "bread and butter" unionism to addressing the impact of globalization. Unions now speak more broadly on issues of liberalization, deregulation and privatization, to a wider audience including the International Financial Institutions (IFIs). For unions, the challenge of labor markets that did not work properly and the difficulty of finding new jobs, for workers and the trade union movement, seemed to proceed from IFI-funded programs which linked privatization to job separation, competition policy and pension schemes. Indeed, workers noted that public works programs and job retraining were not part of the evolving paradigm, and that when unions were consulted at all, it was after the restructuring was already in place.

True, the IFIs pushed the concept of corporate governance reform based entirely on "shareholder values" or "investor confidence". Somehow lost in the emerging scenario of globalization were the need to subject multinationals to certain constraints, such as the need to comply with environmental standards or core labor standards – freedom of association, the right to collective bargaining, the prohibition of child labor, non-discrimination against women and occupational safety and health concerns.

The 1980s to 1990s saw the dominant "private is necessarily better than public" ideology best personified through the Thatcherite-Reagan period combine with the multinational agenda which was translated by the IMF-WB-ADB into its lending programs. Trade unions were the sworn enemy as public enterprises were given to big business and massive unemployment resulted. Privatization was shoved down workers' throats, as IFI loan tranches were conditioned on privatization, and governments were constantly being bullied by the IFIs to demonstrate that they had the political will to meet privatization targets.

ALNI-Philippines (ALNI-P) is therefore examining the IFIs' role in the privatization program of the Philippines to obtain the best practices to challenge the one-size-fits-all approach of the IFIs. In part, ALNI-P is building on the acknowledged gains of the NGOs and green groups which have some campaign successes in criticizing the IFIs' "private is good, downsize the state" philosophy. The study also submits recommendations for trade unions and peoples' organizations to adopt strategies and tactics in meeting IFI privatization initiatives. Our engagement with IFIs will be key to determining whether the public sector will survive and whether Philippine trade unions and civil society can remain relevant in the development debate.

But the study also provides a test to the IFIs, of whether their "new" anti-poverty mission and their "comprehensive development approach" are real or cosmetic. Somehow, those of us in people's organizations and the trade union movement see duplicity in a World Bank (WB) and an Asian Development Bank (ADB) that have no trouble in pushing intellectual property rights and privatizing basic services, but sees no connection between good economics and unsecured tenure and child labor, especially when the oppressed will go to the streets. Much still has to be learned and as Amartya Sen said: “Famine seem to have a lot to do with economics.”

I. Overview of the Philippine Privatization Program

In the Philippines, the role of the private sector as the main engine of growth has long been recognized. The American occupation was characterized by a dominant laissez faire system and limited public enterprises to public utilities, welfare, defense and other activities affecting national interest and state of emergency. The Marcos years saw the government corporate sector taken over by cronies in practically all economic activities, from the traditional sectors of public utility, financing, and agricultural development to regulation, credit, manufacturing, industry, service and culture. These government-owned and -controlled corporations (GOCCs) have become an important instrument of the state in consolidating its political and economic power. When the government declared its inability to pay its $28 billion foreign debt (80% of which is by GOCCs) in 1983, the World Bank and the International Monetary Fund (IMF) loans specified privatization and limiting participation of public enterprises in the economy.

President Corazon Aquino launched the Philippine privatization program on 8 December 1986 through Proclamation No. 50 (Proc. 50). The proclamation provided the policy and procedural framework for privatization which is defined as the "divestment, disposition, and liquidation of non-relevant and non-performing government assets and corporations." The program aims to: (a) improve efficiency and provide better quality service, (b) focus government energies and resources on providing basic public goods and services, (c) create a favorable investment climate, (d) broaden ownership base and develop the capital market, and (e) generate revenues for priority government expenditures (e.g., CARP, public infrastructure).

The bulk of privatization was implemented during the term of President Fidel Ramos in 1994-98. Under Philippines 2000, appropriate legal, institutional and policy frameworks were put in place to pursue the private sector participation (PSP) in infrastructure and social services. Privatization became a new paradigm strategy for governance. The Water Crisis Act and Omnibus Energy Bill were crafted during this time; the two pieces of legislation paved the way for the privatization of the Metropolitan Waterworks and Sewerage Services (MWSS) and National Power Corporation (NAPOCOR).

Executive Order 12 (EO 12) -- issued by President Joseph Estrada on 14 August 1998 --reaffirmed the role of the private sector in economic growth and expanded the scope of privatization by directing other government entities, including local government units (LGUs), to identify additional assets or activities that are best handled by the private sector.

Under the current administration of Pres. Gloria Macapagal-Arroyo, the Electric Power Industry Reform Act (EPIRA) became law in June 2001, which finally paved the way for the privatization of the country’s ‘crown jewel’ – NAPOCOR.

Aside from Proc. 50 and EO 12, other laws have governed the country's privatization thrusts:

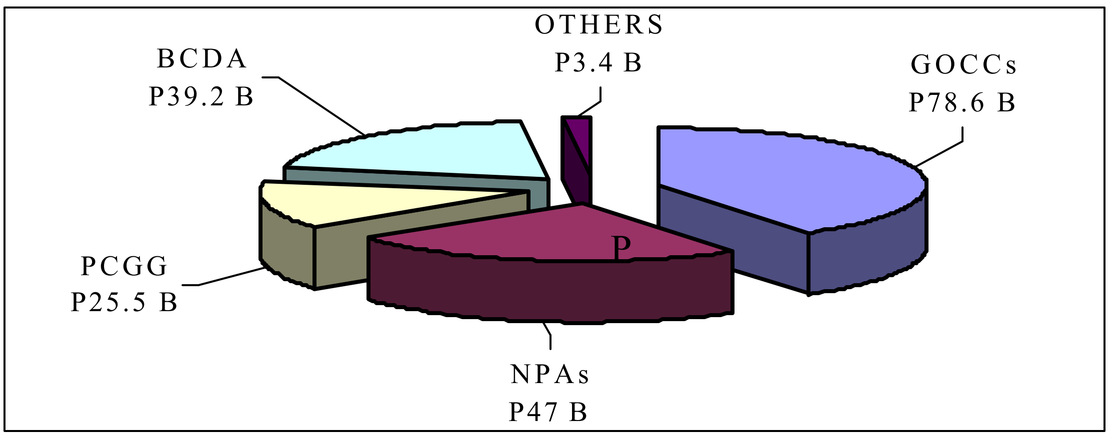
- The 1991 Local Government Code devolved certain functions to local government units (LGUs) and empowered LGUs to undertake privatization at the local level. As a result, certain local public services are being privatized (e.g., construction of public markets and garbage collection by private contractors) and increasingly, under current WB and ADB loans, water supply and sewerage services and other infrastructure.

- Two Build-Operate-Transfer (BOT) laws -- RA 6957 (1993) and RA 7718 (1994) – legalized PSP in infrastructure. RA 6957 created the Philippine Infrastructure Privatization Program (PIPP) and allowed the entry of independent power producers (IPPs) into the energy sector. RA 7718 expanded PIPP and signaled the so-called 'second wave' which covered other infrastructure sectors (e.g., transport, water) through a package of government incentives, including the liberalization of specific industries.

- Various laws amending the original mandate or charters of GOCCs targeted for privatization -- e.g., MWSS, NAPOCOR, National Food Authority (NFA).

As of 31 May 2000, a total of 466 state-owned assets had been sold, with gross revenue of PhP 194 billion (approx. US$5 billion); of this total, 348 were so-called 'non-performing assets' (NPAs). The sale of Fort Bonifacio alone (handled by the Bases Conversion Development Authority) comprised 27% of gross revenues, NPAs 32%, and GOCCs 36% (Fig. 1)

FIG. 1. GROSS REVENUES FROM PRIVATIZATION PROGRAM (AS OF 31 MAY 2000, COMMITTEE ON PRIVATIZATION).



Privatization became a panacea, a magic wand to window dress a Philippine economy where rampant corruption and a political system based on booty capitalism made us the odd man out in a region of tiger economies. Indeed, the only time that our government was not in the red was during the sale of Fort Bonifacio real estate, dubbed the "deal of the century".

Unsaid in this mad rush was that not only were we selling "white elephants" and non-performing assets, government was now disposing of the family silver. These were all being sold at a discount, even as COURAGE, a public sector workers' alliance, estimates that some 300,000 employees were put out of work.

II. Workers cry Foul over Privatization

The problem of workers is the legal regime governing privatization. Proc. 50 (as amended by Proc. 50-A) have provisions deemed to be explicitly anti-labor – i.e., automatic termination of employer-employee relations; right of buyer to retrench personnel; and no redress in court.

- Par. 4, Sec. 25:

"The Trust (Asset Privatization Trust) may require any one or more of the trusted corporations to adopt and implement cost-reduction measures to enhance the viability, and therefore the disposability of such corporations, to potential buyers; and such measures may include personnel retrenchment plans."

- Sec. 27:

"Automatic Termination of Employer-Employee Relations. – Upon the sale or other disposition of the ownership and/or controlling interest of the government in a corporation held by the trust, or all or substantially all of the assets of such corporation, the employer-employee relations between the government and the officers of such corporations shall terminate by operation of law. None of such officers or employees shall retain any vested right to future employment in the privatized or disposed corporation and the owners or controlling interest holders thereof shall have full and absolute discretion to retain or dismiss said officers and employees and to hire the replacement or replacements of any one or all of them as the pleasure and confidence of such owners or controlling interest holders may dictate.

FIG 2. VARIOUS STATEMENTS - WORKERS' PROTEST AGAINST PRIVATIZATION.	
LIAP	• Labor's declaration against privatization signed by various public sector unions (August 1988)
PSLink	• *Our message -- Output of 150 workshops participated by rank -and-file union members from LGUs, SUCs, NGA, GOCCs* (1996)
NCCP	• *Privatization of government hospitals mean the 'denial of the state of basic health services to the people'* (November 1996)
Dr Jose Rodriguez-AHW	• *Paghigpitin ang pagkakaisa, pag-ibayuhin ang sama-samang pagkilos! Ilantad at labanan ang bantang phase-out ng Tala Leprosarium!* (16 July 1997)
HEAD	• *Sa pakanang 'pole-vaulting' at 'medical center in East Asia': Mamamayan muna, hindi dayuhang monopolyo kapitalista* (25 July 1997)
UMAGAP-PGH-AHW	• *Tutulan ang pagsasakorporasyon at ibayong komersyalisasyon ng UP-PGH* (25 July 1997)
Peoples' Conference	• *Nobyembre 21: Araw ng protesta laban sa pribatisasyon at imperyalistang pandarambong* (21 November 1997)
AHW	• *Noon: Kalusugan ay karapatan! Ngayon: Kalusugan ay di bale na lang!* (27 Mar 1998) • *Papanagutin at singilin and gobyernong Ramos sa lumalalang kalagayan ng mga manggagawang pangkalusugan at kalusugan ng mamamayan* (7 May 1998) • *Pahayag hinggil sa pagkasunog ng Lung Center of the Philippines* (18 May 1998)
COURAGE	• *Government Employees Unite! Continue the struggle for higher salary, job security and union rights! Oppose the policy of privatization and re-engineering the bureaucracy* (7 July 1998) • *MWSS kahapon, NAPOCOR nagayon! Mga kawani ng NAPOCOR, Magkaisa! Ipagtanggol and kasegurohan sa trabaho! Tutulan, labanan ang pribatisasyon!* (9 July 1998)
COURAGE-NAFEDA	• *Dagdag na suweldo hindi tanggalan - Ito ang pananawagan ng mahihirap na kawani ng pamahalaan* (July 1998)
NAMA-AHW	• *Pahayag hinggil sa isyung pribatisasyon ng VMMC* (15 May 1998)
NOAP	• *LCP aftermath: The Philippines as medical center for East Asia* (19 May 1998)
NEWU	• *Ang pagsasapribado ng NAPOCOR - Pahayag ng NEWU para sa WDFI-Demo* (June 1998)
UMAKSYON	• *No mall! No lease! No to tuition fee increase! No to dorm fee increase and other fee in creases! No to CPDP! No to UP Land Use Plan! No to UP Plan 2008! Stop the commercialization and privatization of education! Fight for greater state subsidy in education!* (August 1998)

AHW Alliance of Health Workers; COURAGE Confederation for Unity, Recognition and Advancement of Government Employees; Dr. Jose N. Rodriguez Memorial Hospital Employees Union; HEAD Health Alliance for Democracy; LIAP Labor Initiative Against Privatization; NAFEDA National Federation of Employees' Associations of the Department of Agriculture; NAMA Nursing Aide and Midwives Association; NCCP National Council of Churches in the Philippines; NEWU NAPOCOR Employees and Workers Unions; NOAP Network Opposed to Privatization; Peoples' Conference Against Privatization of Health Services; PSLink Public Sector Labor Integrative Center; UMAGAP-PGH Unyon ng mga Manggagawang Pangkalusugan sa Philippine General Hospital; UMAKSYON Ugnayan ng mga Mag-aaral laban sa Komersyalisasyon. *{Source: Corral 1999]*

▪ Sec. 31 of Proc. 50, as amended by Proc. 50-A:

"No injunctions. No court or administrative agency shall issue any restraining order against the Trust in connection with the acquisition, sale or disposition of assets transferred to it pursuant to this Proclamation. Nor shall such order or injunction be issued against any purchaser of assets sold by the Trust to prevent such purchaser from taking possession of any asset purchased by him."

The status of employees changes as privatization takes place. The employees status of being public or civil servants covered by the Civil Service Rules and Laws is changed into a private employee status covered by the Philippine Labor Code.

Public sector workers' groups have continually raised their voices to protest against privatization (Fig 2). In the health sector where women comprise 60-65% of the total workforce, women workers will be the most affected by privatization. In the utilities sector (power and water), male employees form the majority (~60-80%) as jobs in the sector are traditionally viewed as 'masculine' involving construction/engineering works, maintenance and repairs.

In August 1988, several labor groups declared that the privatization program is "against the interest of the Filipino workers" and that it is but a part of the "bigger plot of the World Bank-IMF groups to strengthen their control over the Philippine economy."[1] The workers further declared that to uphold the rights of workers, the following should be adopted:

- Tripartite consultation should be made prior to privatization;
- There should be full disclosure of assets and profits of companies to their workers;
- Training and re-training programs should be ordered to workers with full government assistance;
- There should be full protection of trade union rights and job security of workers.

III. Role of IFIs in Restructuring the Power Sector

Prior to the ongoing restructuring in the Philippine power industry, it was functionally divided into two basic segments – a power generation and transmission segment (controlled and operated by the state through the National Power Corporation or NAPOCOR), and an electricity distribution segment which is largely in the hands of the private sector.[2] The Energy Regulatory Commission (ERC) was responsible for regulating the rates and other cost adjustments charged by NAPOCOR, the for-profit investor-owned distribution utilities and the rural electric cooperatives (RECs).

Many problems that beset the power sector had been identified – Retail rates are second highest in Asia (after Japan) and subsidies are not transparent in the pricing system; Pricing structure is not reflective of the true cost of electricity; Supply reliability is a long-term risk due to massive financial investment needed and overstrained infrastructure budget; Inadequate incentives for efficiency due to absence of true competition in generation sector. Moreover, the debt-ridden NAPOCOR was becoming an increasingly heavier drain on the government's budget.

At the height of the power crisis in the early 1990s, a major policy shift occurred when EO 215 was crafted to encourage greater private sector participation in energy projects through BOT scheme and Independent Power producers (IPPs). After the passage of the Electric Power Crisis Act in April 1993, the

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[1] Adopted at the Conference/Workshop on, "Privatization and its Impact on Labor Relations in the Philippines", 19-21 August 1988, UP-SOLAIR, Manila, Philippines.

[2] Distribution of electricity is handled by the Manila Electric Company (MERALCO), 16 privately owned utilities, 7 municipal systems and 119 member-owned rural electric cooperatives (RECs) that manage retail sales in rural areas. MERALCO is the largest of the private distribution utilities, and at present accounts for approximately 77% of NAPOCOR's electricity sales in Luzon, and 59% of its nationwide sales.

government entered into IPP "take-or-pay" contracts in quick succession; these were largely denominated in foreign currency. The entry of IPPs yielded additional capacity, supplying more than 50% of the country's energy needs. In 1996, for instance, the IPPs accounted for 40% of the total generation; this increased further to 46% in 1997.

IPPs, however, have proved to be the bane of Filipino consumers. Surplus private capacity did not come cheap for consumers and government. To pay contractual obligations to IPPs, consumers are being charged an extra cost – the controversial "Purchased Power Adjustment" or PPA (now called Generation Resource Adjustment Mechanism or GRAM). PPA that is being collected by NAPOCOR is roughly 20% of the total power rate; this translates to an additional P200-PhP1,000 in the monthly electric bill of an ordinary household.

Civil society groups claim that IPP contract provisions have been onerous or grossly disadvantageous to the government and ultimately Filipino taxpayers. The Philippine government offered generous terms and risk-sharing arrangements favorable to the private investors. NAPOCOR assumed market, fuel supply, and foreign exchange risks, with the government providing a performance undertaking on behalf of the public utility. An Inter-Agency review team was created in 2002 to conduct an analysis of the legal/contractual, financial/economic, and technical/operational aspects of IPP contracts; results of this review have yet to be fully disclosed to the public.

WB and ADB loans. Much of the activities involved the restructuring of the country's power sector was supported by the IFIs and Japan through various loans and Technical Assistance (TA) grants. To the IFIs, the implementation of power sector reforms in the Philippines is a pioneering effort in the Asian region; if successful, the reform measures will provide a good blueprint for the unbundling and privatization of other Asian power utilities.

World Bank loans and advisory services in restructuring the power sector include the following:

- 1990: *Energy Sector Loan* ($370.6 million) laid the foundation for reforms in the power sector; this includes the restructuring of NAPOCOR.
- 1992: *Policy and Human Resources Development Fund* TA grant to support NAPOCOR's preparatory work towards privatization.
- 1994: *Power Sector Study* recommended three actions to create competition in the sector: (a) tariff reform; (b) development of independent transmission; and (c) taxation of fuels for power generation.
- 1994: *Leyte-Cebu Geothermal Project* ($435 million) aimed to promote private sector participation (PSP) in power generation in Cebu and the Visayas region using indigenous geothermal energy.
- 1994: *Leyte-Luzon Geothermal Project* ($1.2 billion) would allow PNOC-EDC to enter into BOT contracts to construct and operate 440 MW geothermal power plants.
- 1996: *Transmission Grid Reinforcement Project* ($250 million) aimed to enable NAPOCOR to disperse power through grid connection to the country's major IPPs.
- 2000: *Rural Power Sector Strategy* (May 2000) studied options for PSP in rural electric cooperatives (RECs) and "graduating" them to more competitive financial markets through various PSP options.

The WB's private sector arm – International Finance Corporation (IFC) -- helps power distribution companies restructure through loan and equity financing, and provides direct financing and TA to private projects in cogeneration, transmission and non-traditional fuels. In 1993, the IFC invested in the IPP 700-mw *Hopewell Pagbilao power plant*, a landmark project where for the first time an export-import bank provided loans without government guarantees for a developing country power project. In July 1995, IFC agreed to invest US$47.5 million in *Pangasinan Electric Corporation (PEC)* which will build, own, and operate a 1200 megawatt (MW) coal-fired power plant at Sual in Pangasinan. In September 1999, IFC committed to invest P200 million in *Cagayan Electric Power & Light Co. (CEPALCO)* which would give the investment arm of the World Bank a 10-percent stake in the company. Conflict of interest issues arise, however, when the IFC become equity investors in certain private power companies while a sister institution – the World Bank -- advises government on how to unbundle the industry and divest its assets to the private sector.

The ADB, on the other hand, has extended some 25 loans, totaling $2.2 billion and 22 technical assistance grants worth $8.4 million to the Philippines' power sector. Its current priority is providing support to the "comprehensive restructuring" of the country's power industry, through a package that includes "unbundling" functional activities, privatization and introducing competitive markets.

Before 1998, ADB focused largely on investment lending in the transmission and generation subectors. Some $127 million was provided in 1993 to expand NAPOCOR's transmission networks. In 1995, a $244 million loan allowed output from the Masinloc and Sual power plants to feed into the Luzon grid, and supported NAPOCOR's restructuring program. In 1996, a $5.347 million TA loan aimed to prepare detailed planning and design of the transmission system to interconnect the Leyte and Mindanao power grids in southern Philippines. In 1997, a $191-million loan further expanded NAPOCOR's transmission system in Luzon to accommodate the IPPs and facilitate competition in power generation. Moreover, ADB's private sector operations in 1992 provided a $132-million loan to expand MERALCO's distribution system nationwide.

In December 1998, the comprehensive restructuring of the power sector found fruition in the ADB-funded $300 million *Power Sector Restructuring Program* (PSRP). PSRP was designed to dramatically reduce the government's role in the power sector by unbundling the various segments of the power industry, and preparing NAPOCOR for privatization. It aimed to restore NAPOCOR's financial sustainability in the period prior to privatization and finance some of the adjustment costs of the restructuring, including – debt burden, incorporation of long-term take-or-pay contracts with IPPs into the competitive framework, and separation payments to NAPOCOR employees (amounting to $200 million). The Japan Bank for International Cooperation (JBIC) co-financed the program loan with an additional $300 million loan support.

The PRSP loan was to be disbursed in three equal tranches, with twenty-one attached policy conditionalities. The ADB, WB and Japan government were all actively engaged in the design of the policy matrix. With the PSRP, ADB has become the lead financing institution in the Philippine power sector.

Concretely, the expected outputs of the PRSP are: (a) passage of the EPIRA legislation, (b) implementing rules and regulations (IRR) of the EPIRA; (c) power trading and power pool mechanism; and (d) approved plan for the restructuring and privatization of NAPOCOR. The submission of an 'action package' for a base-rate tariff increase is a condition of the release of the first tranche of the loan. The passage of EPIRA is a condition of the release of the second tranche; the promulgation of IRR is a condition of the release of the third tranche.

Two supplemental TA grants were also provided by ADB: (a) *Electricity Pricing and Regulatory Policy in a Competitive Environment* ($600,000); and (b) *Consumer Impact Assessment.* PSRP is being co-financed by an additional US$300 million loan from Japan Bank of International Cooperation (JBIC). Moreover, ADB shall finance *NAPOCOR's Privatization Master Plan* ($2 million AOTA, 2000), an advisory technical assistance that aims to develop a master implementation plan for the privatization process. Critical issues had earlier been raised viz the two ADB TA grants regarding the valuation of NAPOCOR assets and liabilities and the results of the consumer impact assessment (Box 1).

BOX 1. ISSUES RAISED IN ADB TA GRANTS TO POWER SECTOR RESTRUCTURING PROGRAM

1. Valuation of NAPOCOR Assets/Liabilities by discredited Arthur Andersen and Credit Suisse

Highly questionable process of selection of ADB consultants

- No bidding of consultancy services by Department of Finance and Philippine Senate
- Potential conflict of interest issues - No waiver signed by Andersen/Credit-Suisse that they will not represent bidders or NAPOCOR buyers/IPPs in any eventual sale of NAPOCOR assets. How can they objectively valuate NAPOCOR and recommend an independent program of privatization if they will be bidding for these same assets? The NAPOCOR has been accused of overvaluating their liabilities and undervaluating their assets. Insofar as the Power Bill will result in the balance of these liabilities being left with taxpayers, the Power Bill is really nothing more than a fire sale discount to pass on the NAPOCOR, the "jewels of the crown", to selected cronies, classmates and pirates.

Highly controversial foreign consultants selected

- *Andersen's dubious track record* – have already taken the entire UK national insurance system and made it unworkable; they then said that it was a mistake to privatize it ; also advising private water companies in the UK how to sell the water system back to the public - they say this will be much cheaper for everybody after their advise in the first place had led to privatization; sacked by a multinational for audit failures in the USA; attacked for ethically questionable role in auditing a privatised utility in Australia; sacked by the Canadian government for failing to deliver a system on time; sued by a US company for failing to deliver systems on time;

- *Credit Suisse (CS)* - has been at the center of every corrupt money-laundering scam since time began, by appointment to every nasty dictator on the planet, including hosting Marcos' bank accounts; had been investigated in connection with money-laundering and offences in prosecuted or have just been convicted of offences in Canada, China, Czech republic, Germany, India, Japan, Nigeria, Russia, Ukraine - and that's without taking the past into account, like Marcos, and the profits they made from hanging onto to the money in the accounts of victims of the Nazis' holocaust; In Philippines: CS was main contact for Marcos money (1986)

2. Results of the Consumer Impact Assessment/Valuation studies

These studies were not readily disclosed to the public notwithstanding various calls and requests from civil society;

Andersen/ Credit Suisse Valuation of NAPOCOR Assets/Liabilities

The ADB Consultants and the Senate Technical Working Group placed the liabilities of the NAPOCOR at US $ 15.7 billion. The Consultants estimated that the sale proceeds of NAPOCOR's privatization would come out at around US $ 5 billion. This will leave a balance of US $ 10.7 billion in liabilities. As proposed under the draft Omnibus Power Bill, this amount will be absorbed by the government over a period of fifteen years. In short the US $ 10.7 billion - or Ph P 550 billion - will be absorbed by the taxpayers and consumers. This means Ph P 550 billion over 15 years that will not go to provide primary healthcare, put up classrooms, address anti-poverty programs or raise the salaries of government workers as government tax revenues will be obligated to cover the liabilities that the NAPOCOR and DOE euphemistically refer to as "stranded costs".

Consumer Impact Assessment (by Navigant/UP School of Economics)

The Consumer Impact Assessment projects a savings to consumers of Ph P 12 billion over a period of fifteen years. According to the study this would average Ph P 900 annually per consumer user for fifteen years. It is unclear if the annual savings disaggregated the savings for large industrial and commercial users from the expected savings for small residential customers. If not, then based on the 35% of electricity used by commercial users the average savings per household annually would go down to Ph P 585. The study also glosses over the reality that experience in privatization in the UK shows that low usage residential consumers are redlined (i.e., are not given access to preferential rates and special pricing offers) in favor of providing large commercial users with volume discounts in electricity rates. This will happen here as the Bill proposes the total deregulation of the electricity generating sector and consequently will result in the residential consumer subsidizing the commercial and industrial users of energy.

While the study projects a 20 centavo per KWH savings due to increased competition , this may be limited only to Luzon as the removal of cross-subsidies would drive up the rates in Visayas and Mindanao. Under the bill an additional 30 centavos per KWH rate reduction is mandated but such would not be a product of competition policy but of the taxpayers absorbing the liabilities of NAPOCOR. Equally ignored by the study is the bill allowing Investor owned utilities such as MERALCO, Davao Light and Power, and the Aboitiz group from recovering their own "stranded costs" because of the passage of the Power bill. While the passage of the bill may initially bring down rates artificially (perhaps to support the Administration for the May 2001 polls), in the medium term what we will see is horrendous price volatility as witnessed by our experience with Oil Deregulation. Some estimate the Stranded cost recovery of the investor owned utilities at near Ph P 50 billion, which would totally wipe out the projected Ph P 12 billion "savings" and result in rate increases over the 15-year period.

A look to the results of both studies reveals the "fuzzy" math. The NAPOCOR and the DOE would have us believe in a savings to consumers of Ph P12 billion even as they propose that Ph P 550 of their liabilities which were due to graft and corruption, mismanagement, overpriced contracts be absorbed by the taxpayers to ensure that 12 billion savings. The intellectual dishonesty of the Consultants and Senior Officials of NAPOCOR and DOE is particularly revealing in this light.

In comparison with the bill's proposal to bring about savings to consumers by taxpayers assuming the Ph P 550 billion liabilities of the NAPOCOR, other studies have shown that should government condone the Ph P 19 billion liabilities of the 119 electric cooperatives, this would automatically result in a rate reduction of 35 centavos to 1 peso per KWH. It would also provide reform in the ownership of the cooperatives as some six million households would now acquire full ownership and control of the electric cooperatives.

Analysis of both studies reveal that the savings would be illusory and that the passage of the bill would result in the Filipino nation absorbing real losses in exchange for imaginary gains.

As part of the ADB's support to power sector restructuring, the Bank provided partial credit guarantee in December 2002 for the government to mobilize resources to meet the adjustment costs for the ongoing comprehensive restructuring of the power sector. At the same time, ADB approved the $40-million *Electricity Market and Transmission Development Project* which would help establish the Wholesale Electricity Spot Market (WESM) to spur competition in electricity generation; another $45.5 million would be co-financed by JBIC.

In July 2003, ADB approved a technical assistance project on *Promoting good governance in the restructured power sector* which aimed to strengthen the Department of Energy (DoE) to fulfill its new mandate in the restructured power sector and help clarify the respective roles of the DoE and Energy Regulatory Commission (ERC).

Both the ADB and WB have also taken an active interest in rural electric cooperatives. The WB, for instance, had recommended options to increase PSP in electric cooperatives. This is disturbing as the Bank has been pushing the cooperatives to convert into stock corporations, joint holding corporations, or be subjected to investment management contracts. The WB has not shown a preference to support strengthening the cooperative-ownership concept as a means to diversify and democratize ownership in the power sector. The Bank's bias is to restructure cooperatives thereby allowing multinational corporations and big investors to vote in their equity (as opposed to one man-one vote structures in the cooperatives).

By end-2003, WB is set to approve $19 million worth of loan and grant in support of the country's rural power project. The power project aims to support the implementation of reforms and priority investments to meet the needs of rural communities for "adequate, affordable and reliable energy services in an efficient and sustainable manner." This will be the first of a four-phase adaptable program loan (APL) that would provide up to US$150 million over a 14year-period.

(A listing of recent loans and technical assistance by the ADB and WB to the power sector is provided in Appendix A.)

EPIRA. The Electric Power Industry Reform Act (EPIRA) – signed into law on 8 June 2001 – is the most comprehensive legislation mandating the full privatization of the electric power industry in the Philippines. Some $1 billion in commitments and tranches from the ADB, WB, IMF and JBIC were hinged on the passage of the law. Its salient features include:

- *Deregulating and privatizing the generation sector* - EPIRA expressly declares that generation is not a public utility operation, and hence is not subject to return-on-rate base ceilings and foreign ownership limits under the Constitution. NAPOCOR's generation assets and contracts with IPPs, along with real estate and other disposable assets, shall be privatized. The Power Sector Assets and Liabilities Management Corporation (PSALM) is created to manage the sale, disposition and privatization of said assets. A 'residual' NAPOCOR will retain its existence only to perform missionary electrification function through the Small Power Utilities Group (or SPUG) in areas not connected to the transmission system.

- *Privatizing transmission* – The National Transmission Company (TRANSCO) is created which assumes the transmission functions of NAPOCOR that will be privatized either through an outright sale or concession contract.

- *Regulating distribution* – The distribution sector will retain its old structure and classification. It is still a public service and remains regulated by the ERC. It may be undertaken by private distribution utilities, cooperatives, local government units, and other authorized entities over a specific franchise area.

- *Introducing retail competition* – Electricity end-users shall have a 'choice' of a supplier of electricity. Consumers below certain threshold levels, however, still remain a captive market of the distribution utility serving their area. Retail competition shall be facilitated by several new mechanisms, including: open and non-discriminatory access to the transmission system to all electricity users upon payment of 'transmission charge' and distribution 'wheeling' charge; and creation of a wholesale electricity spot market (WESM).

  Under a deregulated power sector, electricity will be bought and sold on the spot market wherein power plants will compete against each other to supply electricity to the grid. The WESM, which shall be the venue for trading electricity, is a priority project of the Arroyo administration and forms part of the government's 10-point power program which aims to lower electricity rates; a 40-centavo per kilowatthour reduction is expected to be felt by consumers once the final WESM becomes operational by early 2004. When the WESM starts full operations next year, the Philippine Electricity Market Corp. (PEMC) would serve as the independent market operator of the spot market. PEMC would be made up of representatives of various industry stakeholders, including players across all sectors of the power industry.

- *Universal levy* - The universal levy ensures that NAPOCOR's "stranded costs" – excess debt and IPP obligations – are recouped upon privatization. A universal charge shall be imposed on all electricity consumers for the recovery of NAPOCOR's stranded debts, the recovery of stranded contract costs of eligible contracts of distribution utilities, missionary electrification, watershed rehabilitation and management, and others. . The transfer of the debt of NAPOCOR to PSALM is a prerequisite for the privatization of both TRANSCO and NAPOCOR and is a conditionality imposed by the ADB, WB and JBIC.

- *'Unbundling' of charges* – This is to clearly show where every centavo of electricity charges goes -- whether to the IPPs or Generation entities for the production of power, the Transmission company for the bringing of electricity from the distant power plants to the load centers, the Distribution utilities for the operation and maintenance of their conductors and transformers to bring the power to the customers' homes or establishments, the Supply entities for the metering, billing, customer service and other services, and to the government in the form of taxes.

Many believed that NAPOCOR could have been privatized without the need for EPIRA and that the law was enacted to legitimize passing on NAPOCOR "stranded costs" to taxpayers and consumers, and thereby legitimize the controversial IPP contracts. The ADB, WB and IMF had pressured the Philippine government to pass the EPIRA to reassure investors of the Philippines' commitment to market reforms.

The passage of EPIRA was marked by two "payolas'' (or pay-offs), one under the Estrada regime and another under the Arroyo administration. The instances of payola were brought to the attention of Mr. Peter Sullivan, then Vice President of the ADB by two party-list organizations, Association of Philippine Electric Cooperatives (APEC) and AKBAYAN. No formal action was taken by the ADB notwithstanding the red flags that this would emerge as an essentially flawed law pushed by the IFIs.

IV. Role of IFIs in Restructuring the Water Sector

With IFI advisory and technical assistance, the government has identified the general issues affecting the urban water supply and sanitation sector: (a) Lack of adequate coverage; (b) Unreliable services; (c) Inefficient management of water utilities; (d) Unsustainable service provisioning, especially in small towns; (e) Low institutional and technical capacity in LGU-managed water utilities to run the water utilities as commercial enterprises. Additionally, the small size of the respective customer bases makes these utilities generally unattractive to infrastructure financing institutions.

Since 1994, the government, with donor support, has instituted a series of measures to develop a coherent policy and financing framework aimed at (a) rationalizing the Philippine water sector, (b) promoting private sector participation, and (c) improving water and sanitation service delivery to low income communities in urban areas and, more recently, in secondary towns and cities. These measures include:

- NEDA Board Resolution Nos. 4 and 5, series of 1994 laid out the national policies for extending sustainable service provisions in the country.
- A Water Management Cluster or Cabinet Cluster G was established with the mandate of implementing the policy recommendations.
- In June 1995 the National Water Crisis Act (RA 8041) was enacted, vesting the Executive with special powers in order to improve management of water resources in general, and addressing the specific water crisis faced by the Metro Manila area.
- In April 1996, the Joint Executive-Legislative Water Crisis Commission, set up under the National Water Crisis Act completed its recommendations to the President on strategies and approaches that could be adopted to rationalize and streamline the water sector in the Philippines.
- NEDA Board Resolution No 6 in May 1996 devolved planning and implementation of water and sanitation services to LGUs, with the Department of Interior and Local Government (DILG) being made the national agency responsible for building capacity in LGUs.

The earlier success in privatizing the power generation sector through IPPs prompted the government to adopt similar strategies for the water and sanitation sector. This led to the privatization of Manila's Metropolitan Water and Sewerage Services (MWSS) in 1997, hailed as the largest and one of the most successful privatization of a water utility in the world. Following the enactment of the National Water Crisis Act in 1995, IFC provided fees-based advisory services to the Philippine government on the MWSS privatization strategy in 1996-1997 at a whopping fee of US$6.2 million. Under a concession agreement, two private sector companies have 25 years to rehabilitate and operate the water system, reduce physical losses, check illegal usage and expand coverage. In December 2002, however, one of the concessionaires (and ADB's private sector client) – Lopez-owned Maynilad Water Services – terminated its contract, blaming government for its own failure to deliver water services, and seeking the return of at least US$303 million it supposedly invested in the privatized water utility (more on MWSS later).

After the landmark privatization, investors have shown considerable interest to engage in PSP, ranging from BOT to Management and Concession Contracts in the Water Districts serving secondary cities and towns. On the wastewater side, following the decentralization of investment decision-making to LGUs, City Councils in some large secondary cities have signaled their willingness to invest in basic sanitation infrastructure.

The WB and ADB follow different development tracks for urban areas other than Manila. ADB views the Local Water Utilities Administration (LWUA) and the Water Districts as the most effective institutional arrangements for its lending and has agreed to a reform program with LWUA. WB maintains a skeptical view of LWUA and its more recent operations employs the Land Bank as the financial intermediary with local governments as implementors.

WB has been instrumental in sparking further private sector interest in the water supply sector. Through WB support, two additional water privatization models had been tried out in the Philippines -- a Subic Bay joint venture involving a private operator and a public sector development agency currently managing and investing in the water utility, and the first ever long-term lease contract between a private operator and the government of Magdalena (a small town in Laguna province) (See Box 2)

The WB-funded $83-million *LGU Urban Water and Sanitation Program* (LGUWSP) --- initiated in 1998 - marks the first time that the Bank will use its adaptable program loan (APL) instrument to strengthen infrastructure, facilitate PSP, and upgrade basic urban services in towns. APL is a long-term WB program intervention aimed at changing the structure and incentives of water utilities in the country. It is expected that with appropriate technical and financial designs, pricing rules and institutional incentives, water supply systems -- irrespective of size -- can be made both viable and sustainable. The program currently faces at least three major problems: high drop-out rates, pricing of raw water to reflect opportunity costs, and environmental issues.[3]

IFC, for its part, will continue to assist the government's privatization efforts in water and sanitation and will explore opportunities to provide direct financing and TA to private projects in the sector. In January 2003, IFC announced approval of a $30-50 million loan to Ayala-owned Manila Water Company, one of two MWSS concessionaires.

ADB, on the other hand, has also played a leading role in the development of the country's water supply and sanitation sector. Since 1973, it has financed 13 water supply projects and a sewerage project amounting to $546 million and provided 13 technical assistance grants worth $5.1 million. Many of these projects, however, were deemed by ADB itself as generally unsuccessful or "partially successful".[4] The

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[3] (a) High LGU drop-out rates were due to non-consultation by mayors, politically unacceptable proposed tariff rates either by Council members or by beneficiaries (mostly because they had cheaper options, such as when groundwater was easily available), and other financing options of LGUs (e.g. Congressional grants, BOT) which were deemed to have better terms than what was offered by the project; (b) Lease contracts may eventually lead to operators negotiating exclusive rights to develop other raw water sources in the LGU; hence, greater coordination and consistency is needed between the water resource management aspect and water supply management aspect so that pricing of raw water reflects its opportunity costs; (c) This 'Category B' project may require a separate EA (Environmental Assessment) to address issues related to protection of the raw water sources (mainly groundwater) and on impacts from the wastewater disposal in these small urban areas without a piped sewerage system.

[4] In an October 2003 evaluation by ADB's Operation and Evaluation Department (OED) of selected water supply projects implemented in the Philippines since 1986, only one – *Manila Water Supply* -- was rated "generally successful" because of the

Bank's Operations and Evaluation Department recommends that future projects should: (a) have adequate project design; (b) consult beneficiaries; (c) require commitment of water users groups to pay necessary fees as a precondition for loan approval; (d) carefully design demand-based water tariff structure; and (e) encourage adoption of socially-appropriate water supply technologies.

BOX 2. MAGDALENA LOCAL WATER: LGU MAKES GOOD SANS PSP

Under WB's APL project, the Magdalena municipal government applied for a 10-year loan (at 14% interest) from DBP to finance the construction of a new water system. Construction started in October 1999 and was completed in June 2001. Management of the water system was bidded out to the private sector; winning bidder was Lopez-owned Benpres (with foreign partner US-based Montgomery Watson).

The win came at a time when Lopez-owned Maynilad Water Services was experiencing enormous difficulties in financing its capital expenditures in MWSS. The terms of the contract provides an increase in water rate to at least P20.30/cu m, from pre-privatization rate of P8/cu m. Benpres hesitated and eventually decided to terminate its lease contract with the Magdalena municipal government. WB project advisors say that transactions with Benpres were "potentially controversial as the LGU did not have the benefit of a legal team to match the large private company, but were conducted smoothly with the help of WB consultants and Development Bank of the Philippines (DBP)".

The Magdalena LGU could not file for damages (a weakness in the contract with Benpres) and was hence forced to operate the water system starting July 2002. It committed itself to meet obligatory financial targets of full-cost recovery and loan payments to DBP. After 1½ years of operation, even WB staff concede that the new Magdalena water system was "approaching financial viability" By end-2002, about 95% of households were connected (from former 55-60% coverage) and 93% of water bills settled within the month of billing.

Some problems still continue, however -- high on-revenue water (NRW); sponsoring Mayor ending his term in office; and what WB perceives as "low (water) consumption per household". To attract private sector interest, WB suggests that water demand be "boosted" to an "acceptable" average consumption of 15 cu m/ household.

(References: various WB project documents, including status reports)

In September 1999, the ADB approved a $170 million loan to *Maynilad Water Services, Inc.*,[5] to improve and expand water distribution and wastewater treatment services. This is the Bank's first assistance to a privatized water and sewerage utility. The ADB loan is part of a US$350 million debt package being raised by the water firm to meet its financing needs up to the year 2002. According to ADB, what the Philippine government had provided Maynilad as part of the privatization design was a "performance undertaking" to support the obligations of MWSS under the 1997 Concession Agreement. ADB approved the loan despite Maynilad already experiencing severe cash flow problems brought about by, among others, the ballooning of foreign MWSS loans it assumed (worth US$800 million before the 1997 Asian financial crisis). Due to Maynilad's notice of early termination of its contract in December 2002, the ADB loan was aborted.

The various WB and ADB loans and TA grants are listed in Appendix C. These include urban water supply projects that promote PSP models in both urban and rural/secondary cities/towns water, and strengthening of the regulatory framework for PSP in the water sector.

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resultant sustainable water supply at least cost. The *Island Provinces Water Supply* project was deemed only "partly successful" since projects were either not operational or do not supply potable water. The 1st and 2nd *Manila Water Rehabilitation* loans were "unsuccessful" because the rehabilitated facilities suffered fast deterioration due to inadequate maintenance and continuing excessive system losses or non-revenue water (NRW).

[5] Maynilad has assumed implementation of two ADB-funded MWSS projects - the Angat Water Supply Optimization project and the Manila South Water Distribution project - to increase water supply, with a new water source expected from the Umiray-Angat Transbasin, another ADB-funded project. Maynilad has assumed implementation of two ADB-funded MWSS projects - the Angat Water Supply Optimization project and the Manila South Water Distribution project - to increase water supply, with a new water source expected from the Umiray-Angat Transbasin, another ADB-funded project.

V. Learning from the Failed MWSS Privatization

There were several reasons given in 1997 for handing over to private water companies the management of the water utility for the next 25 years: (1) the private sector can bring in foreign investments needed for expansion of water services, decreasing fiscal burden on the national government which subsidizes the operation of MWSS; and (2) the private sector can offer more efficient, de-politicized and less corrupt services. MWSS creditors such as the WB and ADB pushed for the private sector take-over of the utility; in 1995, both banks accounted for US$250 million of the total US$307 million long-term loans of MWSS.

From the onset, several civil society groups had been critical of the privatization, citing that water is a social good and its delivery should remain in public hands. Because water is a basic necessity for the maintenance of life itself, every citizen – rich or poor – has a fundamental right to water, and this right should not be subject to the profit motive of the private sector. Moreover, critics decried the lack of transparency and consultations in decision-making processes, government's lack of regulatory capacity, massive job displacement, and the absence of a full-options approach.

As an immediate adverse consequence of privatization, only 200 of a total 5,400 employees remained with the "residual" MWSS after the utility take-over. Some 3,000 employees were displaced or were pressured to avail of early retirement packages; according to former co-workers employed in the now privatized utilities, many of those who were displaced remain jobless to this day.

Winning bidders. The Lopez-controlled Maynilad Water Services (MWS) won the 'west zone' concession, with French Suez Lyonnaise de Eux (now Ondeo) as foreign partner. Ayala-owned Manila Water Company (MWC) won the 'east zone', in joint venture with UK's United Utilities, US-based Bechtel, and Mitsubishi Corporation of Japan. Maynilad and Manila Water won bids of PhP4.96/cu m and PhP2.32/cu m, respectively; the pre-privatization rate of MWSS water was PhP8.78/cu m.

Promised benefits of privatization. Upon privatization, water consumers were promised not only lower water rates but other befits including:

- 100% water coverage within 10 years;
- No real increase in water rates within first 10 years;
- US$7.5 billion in new investments over 25 years;
- Uninterrupted, 24 hours per day water service that meet Department of Health standards provided within 3 years to all connected customers;
- Non-revenue water (NRW) reduced from 56% to 32% over the first 10 years;
- Waste water program to dramatically improve public health and environmental conditions with 80% coverage within 25 years; and
- some $4 billion in income tax revenues over 25 years.

Table 1 shows the performance targets set for the concessionaires over the life of the concession.

TABLE 1. SUMMARY OF PRIVATIZATION BENEFITS.

	1996	2001	2006	2011	2016	2021
COVERAGE						
Water	67%	87%	98%	98%	98%	98%
Sanitation	1%	39%	40%	36%	33%	29%
Sewerage	8%	7%	15%	26%	38%	54%
Sanitation- Sewerage	9%	46%	55%	62%	71%	83%
NON-REVENUE WATER	56%	37.1%	31.8%	29.4%	27.2%	25.0%

(Source: MWSS 1997)

A failed privatization. Five years after the privatization, the Maynilad pull-out in December 2002 is testament to the failure of the water utility privatization. Maynilad is seeking the return of at least US$303 million it supposedly invested in the privatized water utility. A month later, Maynilad threatened not to return its concession unless paid the early termination amount provided for in the 1997 contract. Government, on the other hand, says it is prepared to take-over the concession should there be no interested third party takers. The case is under closed-door international arbitration. Prior to December 2002, several tell-tale signs of the failed privatization were already evident:

- Rising water prices. When the government approved a Foreign Currency Differential Adjustment in the water rate in October 2001 – and thereby amending the terms of the original concession agreement – water prices immediately went up. As a result of rate rebasing five years after the privatization, Maynilad's water rate increased five-fold from P4.96 in 1997 to P24.27 per cubic meter. Meanwhile, Manila Water's rates increased nearly seven-fold from P2.32 in 1997 to 14.40 per cubic meter. In both cases, the concessionaires were allowed to shift the burden of capital financing for service expansion to consumers.

- Non-revenue water (NRW) also went up! What IFIs do not readily advertise is that, contrary to claims of more efficient management practices by the private sector, NRW (or water losses due to water leaks, pilferages, etc) did not decrease with private sector management. In the case of Maynilad, NRW even went up from 56% in 1997 to 62% by end-200 and 68% in July 2003. The benchmark set in 1997 for NFW reduction was 37% by 2001! A high 68% NRW means that Maynilad only collects on a third of every cubic meter of water produced.

- No felt improvement in service coverage. MWSS regulators dispute both water companies' claims of improved coverage, citing exaggerated figures because of how the companies define a 'water connection' and how they calculate number of persons in an average household. Moreover, in a 2000 MWSS survey of residents of 100 communities in Metro Manila, 55% thought there had been no change in the water service while 12% claimed the service was worse; only 33% noticed an improvement. Moreover, 'Mickey mouse' targets in sanitation and sewerage was not achievable as investments in sanitation/sewerage have yet to be undertaken by the water companies.

- Urban poor coverage. The private water companies claim service coverage to the urban poor, with a total of over 100,000 households installed to date. Urban poor households who are now connected to the service pay much less for water than in the past when they buy water from vendors. Women and children no longer need to line at water sources several hours a day. The greater challenge to servicing urban poor areas, however, is sustainability of the service given the following: (a) higher financial investments involved in laying down pipes in urban poor settlements; (b) the high cost of connection fees; and (c) the lack of security of tenure of informal settlements.

- Weaknesses in regulation. Any success in privatizing government services or functions is premised on a strong regulatory framework. This was not the case in the MWSS privatization. From the onset, major weaknesses (independence, information, experience) were inherent in the MWSS Regulatory Office (RO). The RO is merely an appendage of the MWSS Board and was created by the Concession Agreement; its decisions are only recommendatory, with the MWSS Board having the final say. In Pres. Ramos' haste to privatize MWSS, the creation of a stronger and more independent regulatory office through legislation by Congress was dispensed with. The RO could not even compel the private concessionaires to pay obligatory concession fees, as when Maynilad suspended its monthly payments to MWS starting March 2001. Despite repeated orders By the RO to Maynilad to cease and desist from collecting illegal charges since January 2003, Maynilad has brazenly continued to overcharge its customers, with the total amounting to more than P5 billion to date. More recently, an international arbitration court that will rule on Maynilad's early termination of it contract has excluded consumers from participating in the proceedings.

- Changing the rules, alleged corruption and government bail-out. Privatization was hailed as a panacea to corrupt practices supposedly endemic in the bureaucracy. After privatizing the water, however, corruption has again reared its ugly head with allegations of bribery and highly irregular practices, this time within the MWSS RO. In March 2001, the Lopez-owned Maynilad, was able to ally itself with the then Chief Regulator to push for an amendment to the concession contract that would allow Maynilad to increase tariff rates through an automatic currency exchange rate adjustment (auto-CERA) mechanism. Auto-CERA has no basis in the concession agreement. In the process, the Chief Regulator eased out two other regulators who tried to uphold the provisions of the contract. Despite strong objections from consumers and civil society groups, the administration of Pres. Gloria Arroyo in the end acceded and bailed out the Lopezes by amending the concession agreement[6] to enable Maynilad to increase water tariff. A citizens' group filed charges of corruption, and the incident became a subject of Congressional inquiry.

- New government debts. Maynilad's nonpayment of its concession fees has forced the government to apply for new loans to avoid being in default with its creditors. In May 2002, MWSS acquired a short-term loan of $100 million from Deutsche Bank to pay for old debts supposed to be covered by Maynilad's concession fees. Later in October, MWSS again obtained another $15 million loan from Keppel Bank. These new loans are part of the intended MWSS's new borrowings worth $190 million.

- Plunderable private sector practices. A 2002 audit by the MWSS RO disallowed some PhP8 billion (~US$160 million) of Maynilad's expenditures as the regulators deemed these expenses as "inefficiently and imprudently incurred." This amount is nearly half the amount that Maynilad seeks to be reimbursed through the current international arbitration proceedings. Some of these expenditures are very expensive procurement contracts and 'sweetheart deals' with affiliate companies of the Lopezes & Ondeo, its French foreign partners.[7] Maynilad incurred very high advertising costs with sister company ABS-CBS, the country's largest television network, and passing on these costs to consumers! At a time when belt-tightening should have been the norm, Maynilad brought brand new luxury cars for its executives led by no less than the Maynilad President. Rather than spend for pipe-laying to improve NRW, Maynilad pampered its executives – both local and expatriates – with huge compensation packages. Maynilad's labor costs after five years of operation was pegged at P1 billion for Filipino workers and P500 million for foreign consultants. If these expensive procurement contracts occurred in the public utility, they would have been deemed acts of plunder punishable by death!

IFIs never-say-die attitude viz privatization. In April 2002, ADB President Tadao Chino still had only glowing remarks about the MWSS privatization -- "more people have access to piped water, especially among the poor; service quality has improved markedly with regular hours of supply, fewer interruptions, and an improvement in water quality; in general, water concessions improve service coverage and quality,

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[6] The amendment in October 2001 allowed Maynilad, and later Manila Water, to recover foreign exchange losses incurred in 1997-2000 within 16 months, instead of over the remaining life of the concession. It also institutionalized auto-CERA, later renamed Foreign Currency Differential Adjustment (FCDA).

[7] e.g., Technical assistance and service agreement with Benpres Holdings; Interim Program management agreement with Safege Consulting and Montgomery Watson and affiliate of Lyonnaise; Construction Agreement with First Philippine Balfour Beatty; Dollar-denominated fees of French consultants

and efficiency of operation."[8] With Maynilad's early termination, ADB is now setting its sight on the other concessionaire – Manila Water – in its desire to salvage the image and myth of a successful water privatization. Despite dubious experience with the private sector in urban water supply, ADB says it "remains interested in ensuring the success of privatization in the water supply sector in Metro Manila."[9]

ADB also says that it will be preparing "Project Completion Reports" on each of the ADB loans to MWSS, with the first one commencing in early 2003. ADB staff have expressed their interest in closely consulting with 'knowledgeable' NGOs during the preparation of these reports; to date, none of the more critical NGOs have been contacted by ADB for these assessments.

WB, meanwhile, is still busily promoting loans to attract PSP in not only urban but also in the more non-viable rural water supply sector.

VI. FOCUS: LABOR IMPACTS OF MWSS PRIVATIZATION[10]

MWSS employment was perceived to be overstaffed, a situation found in many government agencies in which recruitment was generally influenced by political patronage. Once employees were hired, Civil Service Commission rules dictated rigid job protection and made it difficult to remove even those employees who were abusing their regular status. Labor reduction, however, was an inevitable consequence of privatization. The Water Crisis Act provided for the reorganization of MWSS, primarily through an early retirement program.

Process of retrenchment. Reducing the workforce was made more 'manageable' by working closely with the employees association and by developing an attractive voluntary early retirement program (ERIP). This occurred in three phases:

- *Phase I*: MWSS Reorganization (August 1996) – this involved implementation of an early retirement program (ERIP), before the concession bidding.
- *Phase II*: MWSS Privatization and Transition (January to August 1997) – this included a second round of ERIP and issuance of probationary employment contracts.
- *Phase III*: Six-Month Probationary Employment Period (August 1997 to January 1998) – the final step of labor transition; employees became permanent or were separated from the concessions after the probationary period (Phase III already under private management)

The process was not smooth throughout the transition; there were instances of protest and an illegal strike organized just before the turnover of operations to the winning bidders. The main demand of the strikers was to make all employees regular without having to go through the probationary period.

To ensure that there would be no legal challenges based on timing delays, the lawyers (ACCRA) engaged by the privatization team pushed for issuance of an explicit Executive Order (EO), to implement the Water Crisis Act. EOs 286 and 311 were issued on December 1995 and March 1996, respectively, spelling out the details of privatization of MWSS. These EOs turned out to be crucial components of the

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[8] Tadao Chino, "*ADB's Water Financing Policies and Experience*," Opening remarks at the Second Meeting of the World Panel on Water Infrastructure Financing, 18 April 2002, ADB Headquarters, Manila, Philippines.

[9] ADB President Chino response (June 2002) to NGO Forum on ADB critique on MWSS privatization provided by Freedom from Debt Coalition (May 2002).

[10] Largely drawn from WB-PPIAF (July 2001).

process, since litigation did follow in the course of privatization and the EOs strengthened the legal position of the privatization team.

Early Retirement Program. The early retirement program (ERIP) was initiated in August 1996, a full year before the privatization itself and was introduced as part of a general MWSS reorganization plan. The ERIP package turned out to be sufficiently attractive to get about a third of MWSS employees to opt for early retirement.

The basic principle followed was ERIP should be worth about double what would be expected from the standard government retirement benefits. The various components added up to about 50-200% more than the standard retirement package. For example, a typical package that could be received by an employee with an adjusted monthly pay of P10,000 and 20 years of service, would be P400,000.

As a whole, the cost of implementing the retirement package was about PhP1.1 billion (or ~ $44 million). The amount was considered reasonable within the context of the entire privatization effort. About half of the package cost would have been the cost of standard retirement. In addition, this expense would allow progress in implementing the concession, including the transfer to the concessionaires of about $1.2 billion in existing MWSS debts.

Labor reduction. Starting with 7,370 employees before August 1996, the transition eventually led to the concessionaires' regularized workforce of 4,306 or 58.4 percent of the pre-privatization workforce. This was similar to the experience of 1994 Buenos Aires water privatization where the number of employees was reduced to 50-60% of pre-privatization levels. Tables 2a and 2b shows the reduction in labor force during the phases of privatization. (See also Fig 3.)

TABLE 2A. OVERVIEW OF TRANSITION OF WORKFORCE TO PRIVATE CONCESSION SYSTEM

Workforce by Time Period	Number of Employees	Percent of Starting Workforce
1. Starting Work Force, Pre-Privatization, (equal to Items 2+3+4+5)	7370	100
2. Availed of First Early Retirement Program, prior to January 23, 1997	2033	27.6
3. Availed of ERP on Concession Commencement date, August 1, 1997	190	2.6
4. Retained by MWSS Residual Agency on Commencement date, August 1, 1997	90	1.2
5. Absorbed by Concessionaires on Commencement date, August 1, 1997	5057	68.6

(Source: WB-PPIAF, July 2001)

TABLE 2B. FINAL REDUCTION OF EMPLOYEES AT END OF PROBATION PERIOD (FEB 1998)	
1. Number of Employees Absorbed in Both Concessions, August 1997	5,057
2. Employees Regularized by both Concessions	4306
-- Employees Regularized by West Concession: 2333	
-- Employees Regularized by East Concession: 1643	
4. Voluntarily Separated	649
5. Involuntarily Separated	102

(Source: WB-PPIAF)

Of the more than 2000 employees who took the two early retirement packages, about 80 percent were rank and file workers. Of the balance, about 15 percent were at the supervisors' level and 5 percent were at the managerial level. Most of the employees had been with MWSS for 20 or more years, and would have been eligible for standard government service retirement. However, unlike the standard government service retirement program, the MWSS early retirement packages provided for benefits for those with less than 20 years of service.

Ninety employees remained with the MWSS to continue with residual functions, such as managing facilities not turned over to the concessionaires and handling foreign loan transactions.

Consultations with labor, Argentina study tour. Management involved the leadership of the employees' association KKMK (Kaisahan at Kapatiran ng mga Manggagawa at Kawani ng MWSS, or Unity and Brotherhood of Workers and Employees of MWSS) in the privatization discussions. KMKK generally represented labor in negotiations with management.

Through KMK, MWSS staff conveyed the workers' main concerns were harder working conditions expected from private companies and job security. Most MWSS employees – especially among the rank and files whose salary levels are higher than contemporaries in the private sector -- would rather have the agency remain as a government corporation. As government employees, they had greater job security than workers in the private sector; as employees of a government corporation, they had better salaries and benefits than the regular government worker.

- According to Ed Borela, now President of the MWC Labor Union (Manila Water), the two main concerns that were present throughout the privatization process were that MWSS would not pay all the required benefits (specifically the amelioration allowance) and the separation benefits in the ERIPs were not enough. With respect to the latter, it was cited that the Philippine National Bank early retirement program had benefits that were three times what MWSS was offering. A strike deemed illegal was able to be organized by COURAGE because of employee dissatisfaction with the package. This was especially true for those with less than 20 years of service, since their benefits were viewed to be much less than those of employees with longer service. Almost all employees also were against having a probationary period since they wanted to keep whatever security they already had at MWSS when they transferred to the new organization.

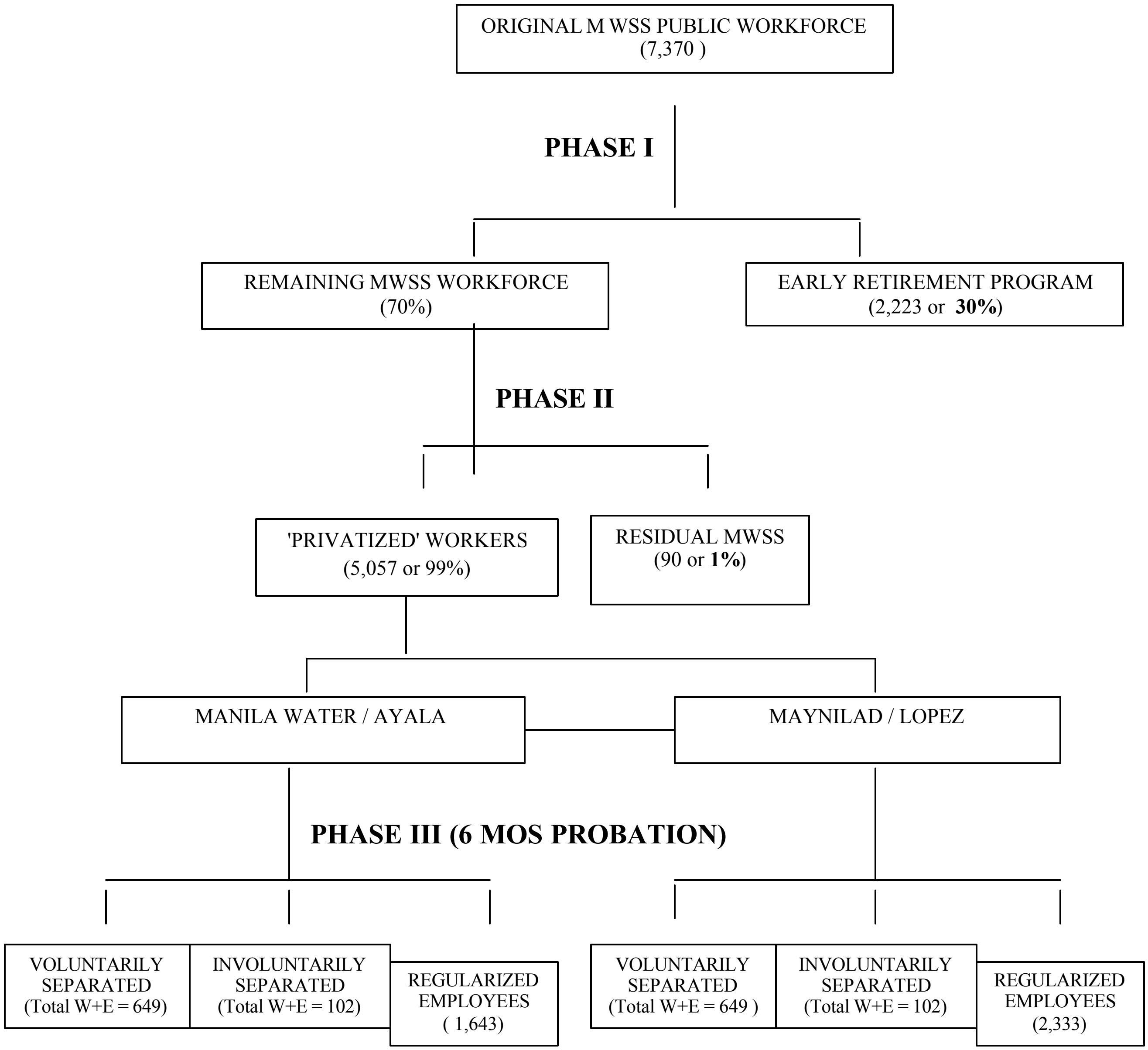
- According to Ruben Diaz, now President MWSI Labor Union (Maynilad), in addition to job security, a main concern of workers was the increased workload that was expected from a private company. Also, in the private sector it was expected that increases in benefits would not be as frequent as in the government sector.

- According to Edgardo Fernando, former official, KKMK employees association, most workers were really against privatization, including the membership of the KKMK. Now that there are two separate concessionaires, it is important to have a confederation of workers, so that the two labor groups will be able to assist each other. During the transition process, the most important challenge for management is to earn the trust of the workers. In this sense, there appears to be better progress in the East vs. the West Zone.

Labor leaders participated in an MWSS study tour to Buenos Aires organized by the World Bank in April 1996 to give MWSS officials an opportunity to observe first hand how privatization had progressed in the Buenos Aires water utility. Instead of involving just the usual high-level officials in the visit, the privatization team decided to invite three labor leaders from KKMK, including the KKMK president and two vice-presidents.

The group was able to discuss with the Argentinian labor leaders how the process had affected laborers; in general, the Argentinians were reportedly satisfied with the privatization effort, even though there was a significant percentage of workers who had to take early retirement. What was most impressive to the labor leaders, even with a 50-60% reduction in the workforce, was what appeared to be a positive overall result for labor. The study tour coincided with the labor union elections, and the Argentinian labor leaders who were active during the privatization period were running unopposed for re-election.

Fig 3. WHAT HAPPENED TO THE 7,370 MWSS EMPLOYEES?
(Figures based on WB-PPIAF study, July 2001)



Labor productivity. With the labor reduction program implemented, labor productivity increased. A simple indicator used is the number of employees per 1000 water connections. Prior to privatization, there were 7,958 employees and 837,000 connections; thus the number of employees per 1000 water connections was about 9.5. By contrast, other developing countries in the region had less employees per thousand water connections – 7.7 for Jakarta, 4.6 for Bangkok, 2 for Singapore and 1.1 for Kuala Lumpur. The leak repair crew -- one of the basic units of water distribution operations – is another indicator. Under private management, the traditional crew size changed from 4-5 persons to 2-3 persons, with alleged comparable or even improved effectiveness.

Private management face labor challenges The biggest challenge to the private concessionaires upon privatization was to further reduce employment while delivering short-term improvements according to the Concession agreements. Thus, significant improvements in labor productivity had to be pushed by the concessionaires (e.g. leak repair crew). By the end of the six-month probation period, the total number of employees was reduced from 5057 to 3976.

Moreover, the private companies had limited opportunity for using pay incentives to encourage workers. MWSS salaries for middle (supervisor) and high (managerial) levels were equal to or less than private sector salaries for comparable levels (see Table 3). However, for rank and file workers, MWSS salaries were actually greater than those in the private sector. This meant that the changes in incentive structure would have to focus on non-salary issues, such as improved working conditions and job security.

TABLE 3. COMPARISON OF MWSS GOVERNMENT SALARIES WITH PRIVATE SECTOR SALARIES

Employee Group	MWSS Monthly Salary + Benefits (Average or Range) (in Pesos)	Comparable Private Sector Remuneration (in Pesos)
1. Rank and file	10,000 --11,000	8,000
2. Supervisors	21,000 – 22,000	same
3. Managers	26,000 – 27,000	50,000

(Source WB-PPIAF, July 2001)

The East Concession (Manila Water/Ayala) assessment of the major labor issues at the start of the probationary period, identified the following areas for improvement: (a) job security; (b) low employee morale; (c) lack of understanding/acceptability of operational practices introduced by Foreign technicians; (d) highly hierarchical organization structure/poor communication of work problems; and (e) complex pay system and structure. To address these problems, Manila Water launched a range of programs, focusing on improving communication -- created a special internal telephone “hotline” to address all HR related concerns or problems; published an employee-oriented newsletter, AGOS (flow); launched a bulletin-board system; continued with audio-visual awareness raising program.

With regard to the regularization program, Manila Water management focused on improving selection and placement: Introduced a “performance appraisal system” for regularization; developed a method of selection that emphasized transparency, openness and fairness (involving job postings and panel interviews), in contrast to previous problems of favoritism and patronage.

To improve employee morale, Manila Water introduced simple, everyday improvements: A regular flag ceremony was instituted; Rotating informal lunches with the CEO was organized; ID cards and company uniforms were issued; Workplace cleanliness and “housekeeping” practices were set up.

Finally, for those who wanted to avail of ERIP or prepare if not regularized, training and work opportunities were organized: Livelihood seminars for employees and their spouses; Training seminars for cooperatives; A service cooperative for former employees was organized (WASSECO—Water and

Sewer Service Cooperative) and was given preferred contractor status for one year after end of the probation period; Rental system for employees' personal vehicles, to use for leak repairs and emergency calls; Employees were included the job referral network of the Ayala Group of Companies.

(See also Box 3)

BOX 3. ISSUES OF MWSS EMPLOYEES

According to Estrellito Polloso, Administrative and Finance Department, MWSS:

- Comparing Manila Water and Maynilad, Manila Water revamped the entire management structure for the East Zone while Maynilad retained the same structure and introduced only upper management, at the Department level. Thus, the new managers were drawing salaries of P60,000/month or more while their counterparts who came from MWSS had the government rate of about P18,000. This was a key source of low employee morale in Maynilad and was a constraint for integration of staff. By contrast, Manila Water introduced only a very small core team and used the old staff to fill up their new organization structure. Also, Manila Water employees have been enjoying annual 10% salary increases, and this has contributed to improved worker morale.

- Another managerial concern regarding Maynilad was the frequent change of top management since 1998. The current CEO, R. Alunan, is now the third since privatization. Previous CEOs were L. Mirasol and J. Olives.

- The current difference between labor and management relations is apparent, with Manila Water employees and management having better working relationships.

- On meeting service targets, before privatization, NRW was up to about 53%. By May 2001, Manila Water's NRW was down to 47%; however, for Maynilad it has increased to 67%.

- On the initial allocation of MWSS employees to join Manila Water or Maynilad: most employees initially wanted to join Maynilad, for the following reasons – Eugenio Lopez (head of Benpres) had personally visited MWSS and his speeches indicated strong support for labor; The Lopez companies had a long history of involvement with public utilities; The concession terms of Benpres appeared much more favorable than the Ayala group's, especially with their much higher water tariff.

- On the workers who were retained by the "residual" MWSS. Initially only 4 employees officially remained with MWSS – the administrator, deputy administrator, and 2 department heads. However, the rest of the current staff returned to MWSS from the concessionaires. These employees have had to return the ERP benefits that they were given; thus although they have substantially more security as government employees, many now have difficulty paying back the ERP benefits.

(Source: WB-PPIAF, July 2001)

More recently, KKMK-East -- the rank-and-file employees union of Manila Water – had been gearing for a strike vote to protest Management's wage increase offer in the ongoing Collective Bargaining Agreement (CBA) negotiations, which the union labels as "callous, inhuman and an insult to the integrity of Manila Water employees." Union members fear a breakdown in water services with the deadlock in the CBA (see Box 4).

ESOP In October 2001, Manila Water Co. started implementing its employees stock option plan (Esop) allowing its regular employees to become part owners of the company. This was in compliance to a provision of the concession agreement requiring MWC stockholders to implement a stock option plan for regular employees, supposedly not later than six months after the concession agreement has commenced.

Under MWC's Esop, employees can own 6 percent of the company's outstanding capital stock, equivalent to P150 million based on the 2.5 billion pesos outstanding capital of the company as of December 2000.[11]

BOX 4. PRESS RELEASE, KKMK-EAST, 7 NOVEMBER 2003

Manila Water CBA Deadlocked:
Breakdown in Water Services Feared

Residents of Metro Manila, especially those from the east zone, should brace themselves on the possibility of interrupted water supply, unattended leak repair complaints, billing problems and stinking sewer lines if the labor problem brewing at the Manila Water Company (MWC) is not immediately solved.

Employees of the water company have been doing a daily 12:00 to 1:00 PM mass action since November 5, 2003 and are gearing for a strike vote to protest Management's wage increase offer in the ongoing Collective Bargaining Agreement (CBA) negotiations. The offer calls for a P100.00 increase for the first year, P110.00 for the second year and P130.00 for the third year.

Ed Borela, president of Kaisahan at Kapatiran ng mga Manggagawa at Kawani (KKMK) ng MWC labeled the offer as *"callous"*, "*inhuman"*, and *"an insult to the integrity of Manila Water employees"*. He laments that in the beginning of the concession period, they were asked to make sacrifices to ensure the viability of the company. *"We took the challenge and paid a heavy price for such a challenge. Many of our employees died or contracted stress-induced illnesses as a consequence."* The company survived the crisis and has been steadily increasing its profit level for the last four years.

Last year alone, while granting its employees P1,200.00 increase in monthly basic salary, the company realized P553 million in net profit. "*Ironically, now that the net profit for the year ending is estimated at more than one billion pesos, they offer us a Machiavellian increase of P100.00 a month. Ano ito, lokohan?"* Borela added.

In his CBA Negotiations Update addressed to managerial employees, Human Resources Director Ramon de Leon justified MWC's position by citing that the business is highly regulated "*where expenses have caps, service obligations are closely monitored and performance is subject to reward and penalty,"* and that the Operating Expense (OPEX) *"should be kept at reasonable levels."*

The Union debunked this position by citing the Rate Rebasing Technical Evaluation Report prepared by Thames Water and the UPEcon Foundation for the MWSS Regulatory Office. The Report disclosed that it was not really the Regulatory Office that imposes restrictions on OPEX budget. Rather, it was Manila Water itself which proposed to the Regulatory Office a Business Plan that limits salary increases to 2% per year for the next five years. "*Para silang naglagay ng lubid sa sariling leeg, tapos magrereklamong nasasakal: I don't know how to properly describe this double-talk, but certainly it doesn't speak well of the Management,"* another Union leader commented.

At this point, the Union is not exhorting its members to slow down on their work activities, though most of them are visibly agitated. When asked whether he will stop them from filing mass leave applications, Borela replied: "*I cannot and I will not."*

Contractualization, loss of contracts. The outsourcing of work using former employees was part of the general program of both concessionaires at the time of turnover. Both concessionaires agreed to give preferential treatment to former employees through contracts with individual former employees or

[11] MWC pegged the subscription price of the shares to be sold to employees at P1 per share, the issue price of the company's shares at the time of its incorporation in February 1998. Unlike other stock option plans, MWC employees need not immediately shell out cash for the shares they are acquiring. The shares to be sold to employees were determined based on their monthly salaries while the purchase cost would be credited by yearend. Esop shares would be covered by a holding period of five years from the date of their supposed allocation, which was Feb. 1, 1998. This means companies can unload or encash their shares by year 2003.

through WASSECO. If projects are sourced through WASSECO, the cooperative earns a commission of 9.5% of the contract value, and a team of former employees is hired to do the work.

During the first year after turnover, WASSECO officials reported that the cooperative was able to get over P20 million worth of projects. However, this has declined over time and in 2000, the total amount of projects was less than P10 million. A major reason for this decline was a decision of Maynilad Water Services to stop using WASSECO for its projects after the first 2 years. When the large contractors came into the picture, the workers' cooperative was no longer tapped for contract jobs. On hindsight, workers say that outsourcing to former employees should have formed part of the Concession Agreement.

It should be noted here that there was no active job retraining, counseling or placement program for MWSS workers who were displaced. There is no continued monitoring of the socio-economic impacts of the privatized companies. Anecdotal evidence shows that many of those displaced were not able to find jobs. For those who retired or were terminated, the feedback is that they are generally worse off than before. The lump sum benefits that they received were quickly spent, and they have difficulty in finding new work. Some say that those who remained in the MWSS Residual Office have gotten the better deal, that there is "swift justice" and firing in the private sector. With the Maynilad termination in December 2002, former MWSS employees currently experience a double whammy and lingering job insecurity.

VII. NAPOCOR Privatization

The NAPOCOR is the largest Philippine Corporation in terms of assets and net sales. IPP obligations and burgeoning foreign debt had made NAPOCOR a losing proposition. As of end-1998 NAPOCOR has total assets of PhP640 billion. If privatized, "stranded assets of PhP550 billion will remain with government and passed on to consumers over the next 15 years (see Box 1).

As of 1997, NAPOCOR had a total workforce of 13,512 these are classified into Utility Operations Personnel (10,210), Engineering Personnel (1,940) and Support Services Personnel (1,362):

- Rank and file consists of 6,079 (5, 098 males, 981 females)
- Supervisory – 4,792 (3,732 males, 1,030 females)
- Managerial – 515 (456 males, 59 females)

NAPOCOR has three Employees Associations, namely: (a) Executive Association; (b) NPC Employees Consolidated Union or NECU; and (c) NPC Employees and Workers Union (NEWU). NEWU acts as its collective negotiating unit.

In 1999, total budget for personnel services of NAPOCOR amounts to P789.4 million, excluding cost of retirement benefits under its Special Early Disengagement Program (SPEED). In 1997, costs related to privatization, i.e., SPEED retirement benefits amounted to PhP112 million.

In June 1985, NAPOCOR was reorganized under EO 982; an early retirement plan called SPEED was offered. The targeted 15% reduction in workforce was achieved without an industrial relations problem.

NAPOCOR compensation levels are comparable to MERALCO, Philippine National Oil Corporation (PNOC), and Philippine Geothermal (PGI). In 1989, the Salary Standardization Law (SSL) was passed and affected NAPOCOR compensation. Employees were stuck with existing salary rates for the next seven years; this resulted to a relatively high rate of labor turn-over which in turn, also contributed to the worsening power situation in the country. In March 1994, Pres. Ramos signed Memorandum Order 180 which 'emancipated' NAPOCOR from the SSL; the basis of this new pay plan was RA 7648 or the Electric Power Crisis Act.

Among the major causes of labor turn-over in the corporation are:
- Unstable political scenario of the country (1983)
- Foreign exchange problem (1983)
- Opportunities for higher paying jobs in the Middle East (1983)
- Better-paying job offers from local private corporations (1989)
- Salary Standardization Law (1989-1993)
- Implementation of early retirement or SPEED Plan (1991, 1992, 1994, 197, 1998).

The massive labor turn-over between 1989-1993 delayed energy capacity addition, system reliability problem and power crisis. Turnover is most common to engineers and managers of the corporation who are highly in demand in local and foreign industries, especially power companies.

NAPOCOR has already downsized its workforce in preparation for privatization. In October 1997, NAPOCOR has already drafted a Privatization and Restructuring Strategy Report, which it then submitted to ADB as part of the requirements to obtain the PSRP. As of June 1998, NAPOCOR had 12,301 staff filling permanent positions and another 2,588 employees holding casual and contractual employment. A total of 1,595 staff have volunteered for early retirement through SPEED in 1998/99; a further 1,738 staff would be deemed redundant and eligible for SPEED retirement upon closure of certain power plants.

NAPOCOR workers expressed resistance to the privatization due to: fear of separation; unemployment; difficulty of obtaining alternative employment; uncertainty about future pay or compensation; fear of decline in real employee earnings; dislike of changes in type of work after privatization; dislocation of transfer of job location; and uncertainty of union status.

Early on, the workers unions decried the proposed privatization of NAPOCOR with its implications for workers and consumers in the face of possible cartelization of the industry, dominant position of local elites with their transnational partners in the economy, and the replacement of the public service ethos with a profit-driven mindset. They cite an earlier privatization of the Binga Dam and the failure of the new management to respect the provisions of their Collective Bargaining Agreement. Workers at Ambuklao HEPP, Malaya Thermal, and Caliraya-Botocan and Kalayaan also decreied the lack of consultation as to their situation. Some 6,000 workers in the Diliman and Regional Support Service offices are targeted for separation.

More recently, labor groups (ALNI/P) hit the fast-track privatization of NAPOCOR and TRANSCO, citing government's failure to conduct a social and environmental impact study of the cumulative costs of the privatization program. This was in response to reports that ADB froze a guarantee on a planned $250-million bond issue until NAPOCOR makes concrete moves to speed up its privatization. Moreover, ALNI called for a re-evaluation be conducted of the assets of NAPOCOR and address the current weak regulatory framework in the power sector.

To pursue the public interest, any planned privatization of NAPOCOR should consider the following: job displacements; labor relations and industrial peace; adequate regulations as to pricing of electricity; and loss of economic sovereignty and endangered energy security.

VIII. Recommendations and Conclusion

ALNI's Overarching Advocacy on Privatization

It is clear that the management of risk and vulnerability for workers and consumers is not a paramount concern for IFIs as borne out in the MWSS and NAPOCOR privatization programs. This may be a consequence of the globalization of national policy-making where Government has increasingly surrendered its prerogatives and policy-making role to the IFIs. In the same manner that the WTO can ensure compliance from member economies through sanctions for non-compliance, the power of IFIs is derived from its loan conditionalities. While there are many more democracies in the world, globalization comes out with a different message. Governments and people are told that there are "right" policies that make people better off, and that there should be no discussion of trade-offs and choice. If you do not toe the line then you will be punished and punished viciously. IFIs are saying in effect that while the ordinary citizen has the right to vote, this should be delegated to a group of central bankers and finance managers where there is no representative for labor. The first task must therefore be to democratize decision-making both in the IFIs and within the finance ministries and departments.

Countries have less options to determine to what extent the framework for opening their economies will look like. The post 9-11 world is now one where the American paradigm for rebuilding Iraq – privatization – is even now being translated into an even more extreme version of the Washington Consensus to increase the pace of privatizations worldwide. We have seen how the too-fast retiring of the state has resulted in an increased negligence to look into the income and asset distribution results because of privatization and enterprise reform. IFIs have to be reminded that equitable growth and equitable income are consistent with economic prudence and that when these parameters are set aside, we have seen the specter of stranded costs, regulatory capture, and cartels as we reap a harvest of international finance failures, with markets monopolized by some groups, discriminating against others. The second overarching task is therefore to bring labor and the basic sectors to the table with the IFIs, as we and our families are the first victims of unsustainable development.

While investments are important, what is more important is social stability. This stability is placed at risk as seen by the continuing public outcry to the burden of electricity stranded costs – previously known as PPA, now as GRAM – being borne by them. The reality however, is of the IFIs continuing to look at a country's equity outcomes and income distribution as somehow being autonomous from the economic restructuring that the IFIs bring about. It is not so. That is why you can have a situation where some guy in a suit coming from the IFIs , comes up and says "National incomes has gone up," but the trade unionist will say, "Child labor has increased." Both could be true. Our third task is to call for social cohesion and the formation of a new social contract in the context of an acquisitive private sector trying to take ownership of key public services. Under this concept we must call for re-regulation rather than deregulation.

This is not a surprising scenario given the continuing taboo in the IFIs to discuss worker's rights and real wages. While the "equalization" of the world would entail striking a balance between capital mobility and labor mobility, this too, remains taboo. IFI poverty measurements do not necessarily comprehend the issue of powerlessness. Social norms – such as the core labor standards – are not crucial in this setting and it is no surprise that the preferred labor market policy is in a privatization scenario is one of de facto flexibilization. Our fourth main plank must be to provide an alternative world view to the one-size-fits-all thinking of the IFIs and present a menu of options that will preserve the public sector. This could include joint venture arrangements, investment management contracts, cooperatives, or subjecting public sector management to commercial standards.

What Trade Unions and People's Organizations Can Do

In the light of the MWSS and NAPOCOR cases, there are tactics and strategies that can be pursued both in a pre-privatization and post-privatization situation by both workers and the larger civil society. This mix of responses are particularly relevant in the current policy climate where the Government remains keen on privatizing our ports system, the National Food Authority, the Local Water Districts and Municipal Water and the rural electric cooperatives. Among our recommendations:

First. Saving jobs by convincing the public sector corporations to work with the unions and the community to build competitiveness is key to the strategy to preserve the public sector. Positioning for survival as workers will require unions to acknowledge that jobs will be lost. But the emphasis here is one of employment security rather than job security, and the development of labor management community relationships that make the service or the product cheaper and more affordable. Unions can speak to the economic self-interest of the corporation and offer systems reviews on the theory that the "people down there, know more than the higher-ups." This has been remarkably successful in water in other countries where there are unorganized, antiquated, and repetitive systems. Workers said: "We are willing to help you butt you must help us keep our jobs." Tracing inefficiencies, unions and public sector corporations can find cheaper ways to get water to the household. Such a strategy is imperative as it is clear that the public sector will find it difficult to access capital (while MNCs say no problem, we will come in). Community-based Water Quality Councils should be established with NGOs, so as to advocate this approach as opposed to selling out to the Suez-Ondeos of the world. It is crucial to develop increased labor-management coordination to build up competitiveness. Such a cooperation can also evolve joint studies on preserving the public sector option in water, food, social services, ports and the electricity sectors. A caucus between public sector management and public sector unions could help stem the tide of privatization.

Second. Stay "inside" the new law when all else fails. In the struggle against deregulation in the US Shipping Act of 1984 (Abolition of the Federal Maritime Authority), the International Longshore and Warehouse Union (ILWU) was able to derail the proposed measure for two years but made a tactical decision to stay "inside" the new law. ILWU's agreement to partial deregulation was motivated by the need to ensure that the new law would allow workers to look into new contracts between a shipper and a carrier. Otherwise the danger lay that these would be treated as confidential contracts (a shipper would say that agreements on port handling was within the carrier's jurisdiction when it is actually under the shipper).

Third. Workers must continue asking the questions because the privateers do not have the answers. Do we risk the electrical system in this country for some theory that electricity is just like any other commodity? What is the role of government in all this? Is there a place for consumer oversight? What about the tariff structure? What about the jobs? By providing the points of debate, building coalitions, developing model letters and position papers unions can become a catalyst for social concerns.

Fourth. It is always critical to tie the issue of privatization to the pocket. Privateers do not make money by doing things better, they make money by charging more and doing less. Private does not work more and cost less necessarily, and in many cases private works worse and costs more.

Fifth. Unions can build coalitions with religious, NGOs, peoples' organizations and small businesses utilizing the issues identified. The message should be that: (i) services are better when they are regulated; (ii) consumers have no countervailing power against MNCs and local oligarchs; and (iii) people must collectively come together. For the coalition to build a presence and build recognition, it must help build personal relationships to solve the consumer – union – NGO divide, build procedures that lets everyone have a say, and gets something for the consumer. By involving broader stakeholders, we can insist on placing the social issues first and demand that economic analysis be linked to the social context. This integrated approach – not just carrying labor concerns – will allow unions to argue that social cohesion with social equity can lead to better growth.

Sixth. Come out with union-supported research on privatization. Let us get IFIs, government and legislators to accept economic policy analysis from the perspective of working people. This initiative helps shift attention to discussion on CBAs, wages, working hours, gender distribution _ and not the stock market or the GDP. Research with this kind of orientation is intended to empower unions in their bargaining with IFIs and the privateers. This is necessary capability-building to ensure that worker representatives will know what to say when dealing with the IFIs and to prevent unions becoming muted when IFIs come in with their reams and volumes of statistics.

Seventh. Transform privatization issues to development and human rights concerns. In the WTO, we have the dynamics of US energy firms wanting to go into Europe, European water firms wanting to enter the American Market, and both wanting to enter developing countries everywhere. This is the same storyline in the IFIs, in a process where there is no space for the social ministries and unions, and where the finance, water and energy ministries design the bills to privatize the sectors with the guidance of IFIs. Unions should highlight the threat of what it means to lose the knowledge base of public sector workers should privatization go awry. But we should also help them to understand the underlying threat to democracy and to democratic access. The campaign must focus on water as a human right where both environmental issues and social equity are inseparable. Unions can raise the concern that the increase in capital stock has not increased democratic stock. In fact, we are looking to a democratic deficit as people have less chances for universal access to water and electricity. This approach would help shift focus away from GDP issues to the impact of privatization on our lives.

Eighth. Unions must not approach the privatization debate ideologically but rather present benchmarks against which deregulation or privatization can be measured. Is there universal access? Is there safe, reliable, and affordable water, electricity, or ports services? How about job protection and an active labor market program? How do institutions function? Do regulatory agencies have sources of funding to maintain their independence? For IPPs, where can we compel rebidding or renegotiation? Where can we cut costs? Then, if not privatization, then what?

Ninth. Require IFIs to carry out labor impact and social impact studies before they rush towards privatization. Unions should be ready to engage but should call on the IFis to carry out more studies to fine tune the dream of privateers of a one world economy.

Tenth. Be prepared to undertake protest actions. Use offensive strategies and complement lobbying with other forms of direct action. While there are stories such as the Zambian victory against the IMF-WB (Zambian unions rallied civil society to oppose privatization as a strategy in their PRSP), operationally the WB is still following the same practices which tell us that sometimes, it makes more operational sense to confront the Banks on the street to bring them to the negotiating table. There are horror stories of the Banks bringing union leaders to Argentina and Great Britain ostensibly to see the wonders of privatization, but with the result of co-opting the union leadership. The ADB and the USAID also provided a grant for a fake consumer group to push electricity privatization in the media and funded a flawed assessment of tariffs which assumed perfect markets. Fighting politically through rallies can help get better laws passed and generate media coverage to influence public opinion. This is key to defeating the myth that privatization is a "good" thing because the government bureaucracy is a "bad" thing.

Eleventh. Insist on public performance audits of privatized agencies to determine if the contractors and new operators are keeping their promises. Such an audit would have revealed that 15 IPPs never had the capacity to meet their contracted take-or-pay obligations to generate power. In water, it would have shown the gap in the delivery on the part of the concessionaires, on their promised new connections and sewerage improvement. Where contracting out has taken place, research should be done to show that the new owners or concessionaires are not paying a living wage.

Twelfth. Push for a Freedom of Information Act. While freedom of information is provided for in our Constitution, it will require an enabling law that will enable unions to obtain disclosure of information to look into such items as Letters of Intent with the IMF as well as the loan conditionalities that our finance managers committed our Government to. While this will be a good step to compel accountabilities from our Cabinet, we will still have no access to many of the IFIs reports such as their back-to-office report.

Thirteenth. Oppose "gradual" or sequential privatization. The privatization agenda is being driven by everything from tax reform to actually mandating privatization. Even the "strong Republic nautical highway" is code for privatization in the ports (better for unions to advocate use of "innovative partnerships", "enterprise reform" or "economic restructuring" rather than public-private partnership, some other term with less bias). Water and healthcare privatization strategies are remarkably similar. The privateers will manipulate regulatory systems by building up the advantages of private for-profits and even private non-profit groups. This may be , ostensibly, to avoid personnel codes, or to avoid the collective bargaining situation. There is a gradualist policy in the healthcare industry/ hospitals, a creeping approach by sequentially privatizing first accounting, pharmacy, dietary services, ambulance services, laundry, all leading up to the actual provision of medical care (Counter-lobby: lobby for new law regarding the staffing of hospitals, e.g., proven fact that the nurse-to-patient ratio is key to the survival of patients.)

Fourteenth. Before and after privatization, should there have been a Collective Negotiation Agreement (CNA) in place, this should be raised to various agencies (DOLE, SEC, MWSS, DOE) as a reliability issue that anyone can bring to a particular agencies attention for appropriate investigation. This strategy can therefore provide us with a handle in ensuring that the CNA can be brought in as part of any restructuring legislation. One of the strategies to delaying passage of EPIRA was proposed language in the bill that existing CNAs would have to be respected and observed by the successor firms. It was also proposed that the certified collective bargaining unit be also recognized ipso facto by operation of law by the successor firm that buys the Government asset. If privatization, takes place, the CNA could be raised to highlight safety and reliability concerns. When Brazil Railways was privatized, there was concern as only one engineer was being used to run cars containing 1,000 passengers.

Fifteenth. Repeal of Proclamation 50 which essentially states that there is no security of tenure to a position which has been abolished . Essentially, such a repeal will help ensure that the successor firm will continue to respect the CNA, provide for the continuance of the existing workforce as regular from day one of operations of the successor firm, and maintain the status of the recognized collective bargaining agent/union.

Sixteenth. Reserve for Government the ownership of a portion of the asset being privatized to enable government to maintain a countervailing presence against cartels. In the electricity industry, ideally, this would mean bidding in the lower rates of Agus and Pulangi hydro plants to counter any price-fixing by the GENCOS and the IPPs. By selling away Government's share in PETRON to ARAMCO, Government effectively lost the ability to keep the petroleum players honest.

Seventeenth. Ensure that the IFIs and Government in consultation with unions establish an Active Labor Market Program (AMLP) to provide for job retraining, job counseling and job placement assistance for employees to be affected by privatization. Trade unions must bring up the concern of having ALMP whenever privatization is proposed. But Such an ALMP must be in place long before the proposed restructuring takes place. Trade unions must be interested, self-interestedly, in order to obtain not just any jobs, but jobs which can be unionized. This bias of workers must be projected as part of the social compact to correct market failures. But there remains the danger that an AMLP will be considered merely as a bolt-on to the IFI macro and micro approaches. This is especially sensitive in a mono-industry town, province or region which is dependent on an industry which is being restructured. AMLP must be designed to facilitate a seamless transition from the world of work to one of unemployment and back again to employment (but the unfortunate reality is that there are no jobs out there, thus, AMLP to provide for financial assistance for those who will have to go it on their own).

Eighteenth. Democratize ownership of the assets to be privatized through small investor and stock dispersal schemes. This is specially key to provide assurance against cross-ownership among the generation, transmission and distribution sectors in the electricity industry which can result in sweetheart deals to the detriment of the consumers. The danger also lies that in a country with no real anti-trust legislation you will have oligarchs and families present in all industrial sectors. This intervention to democratize ownership must also be seen as part of the countervailing force to counter cartels and duopolies.

<u>In Conclusion</u>

While IFIs insist that core labor standards are impositions of Northern states on southern states, the member governments of these same IFIs are the very ones to establish these standards. By pushing privatization and not endorsing core labor standards, the IFIs create a policy climate that places at risk the survival of the public sector. Trade unions must therefore learn from previous privatizations and ensure that unions are present at the very start of any economic restructuring initiative.

Trade unions must be present to renegotiate jobs. Trade unions must engage in "cooperation partnership" (sometimes seen as betrayal or collaboration by co-workers). The message of trade unions to IFIs and government must be simple: "Treat us as full partners, otherwise face us in strikes and boycotts which will all cost us dearly." The aim ultimately is to go to the negotiating table. Here let us not misconstrue what unions will say when locked out of the table as against what they will say when brought to the table. Trade unions must continue that "privatization" must be thrown into the dustbin of history. Let us revisit the concept of re-nationalization. Privatization is too tied up to neoliberalism. There have been good privatizations and there have been bad ones. Further, there remains no clear operational definition of privatization.

The Japan Railways was privatized 15 years ago and yet only one railway was actually privatized. In Germany, restructuring the railways was only partial private ownership. In Great Britain it meant sales at ludicrously undervalued prices, or the establishment of workers' cooperatives. In Brazil, it mean extracting the greatest amount of work from the smallest number of employees (up to 10 hours) raising serious safety concerns.

There were also initiatives that involved management changes which resulted in the "commercialization" of operations although the assets remained in public hands. Indeed the World Bank has admitted hat privatization is not the next option in all circumstances. However this concession from the World Bank still has to be translated into its operations.

The challenge persists. Can unions create a protocol for IFI-TU engagement? This may be interpreted as a neoliberal surrender of unions and indeed the task of explaining the workers the value of engaging the IFIs remains a difficult one. After all, how can one talk with someone who is trying to get you out of your job. Once engagement occurs, unions will still have the task of equipping their people so that they can talk usefully about what is going on. Indeed most unions do not know how to negotiate with the government and the IFIs. We have a right to expect a lot from the banks, publicly-funded institutions, but let us not expect them to stop advocating privatization. Neither will unions stop criticizing the banks. The banks claim that they represent the poor, well they don't. The banks represent the banks. But the banks can help towards empowerment. And if they are for that, we are for that, too. And we must all work to ensure that ultimately, the poor speak for the poor.

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Appendix A
WB & ADB LOANS/TA IN THE POWER SECTOR (1993 onwards)

- ADB: *Power Transmission Project* ($127.5 million, approved December 1993) aimed to expand and improve the transmission networks in the context of the ongoing generation expansion program; improve the utilization of existing hydro reservoirs; develop Demand Side Management (DSM)-oriented power tariffs; and enhance the in-house engineering capabilities of NAPOCOR.

- WB: *Leyte-Cebu Geothermal Project* ($435 million, approved February 1994) aimed to promote PSP in power generation in Cebu and the Visayas region using indigenous geothermal energy. The project would enable the PNOC-EDC to enter into BOT contracts with private sector companies to construct and operate a 185 MW geothermal power plant, and the NPC to construct overhead transmission in Leyte and Cebu.

- WB: *Leyte-Luzon Geothermal Project* ($1.2 billion, approved June 1994) would introduce the Expanded Cofinancing Operation (ECO) in the Philippines and allow PNOC-EDC to enter into BOT contracts to construct and operate 440 MW geothermal power plants.

- WB-IFC: In July 1995, IFC agreed to invest US$47.5 million in *Pangasinan Electric Corporation (PEC)* which will build, own, and operate a 1200 megawatt (MW) coal-fired power plant at Sual in Pangasinan province on Luzon Island. PEC will sell the electricity to NAPOCOR for a period of 25 years, at the end of which the plant will be transferred to NPC free of charge. IFC's financing consists of loans of up to US$30 million for its own account and up to US$200 million for the account of international commercial banks and financial institutions. IFC will also subscribe up to US$17.5 million in the share capital of PEC, amounting to about 5 percent of the total equity. The total project cost is about US$1.36 billion. Starting with the first independent power generation project in the Philippines (Navotas in 1989), this is IFC's fourth power project in the country.

- ADB: *Northern Luzon Transmission and Generation Project* ($244 million, approved November 1995) aimed to install the transmission network necessary to feed output from the Masinloc and Sual Power Stations into the Luzon Grid; support NAPOCOR's least-cost generation program for Luzon; and provide NAPOCOR with institutional support to assist with its restructuring and privatization program. ADB will also provide a credit guarantee of a bond issue by NAPOCOR --- the first ADB guarantee for a bond issue. Other funders are Kreditanstalt fur Wiederaufbau, WB, and the Export Import Bank of Japan.

- WB: *Transmission Grid Reinforcement Project* ($250 million, approved April 1996) aimed to enable NAPOCOR to disperse power through grid connection to the country's major IPPs.

- ADB: *Leyte-Mindanao Interconnection Engineering Project* ($5.347 million TA loan, approved September 1996) will prepare detailed planning and design of the transmission system to interconnect the Leyte and Mindanao power grids in southern Philippines

- ADB: *Power Transmission Reinforcement* ($191.4 million, approved December 1997) will expand and strengthen the high-voltage transmission system and enhance the reliability of the power supply; it will also reinforce and expand the transmission system in Luzon to accommodate the IPPs and facilitate competition in power generation.

- ADB: *Power Sector Restructuring Program* ($300 million, approved December 1998) will unbundle the electricity sector, promote competitive market and prepare the National Power Corporation for privatization. The Japan Bank for International Cooperation (JBIC) will provide co-financing of another $300 million. The total $600 million program loan will finance some of the adjustment costs of the restructuring, which include the debt burden, the incorporation of long-term take-or-pay contracts with independent power producers into the competitive framework, and separation payments to employees. Two supplemental TA grants will also be provided by ADB: (a) *Electricity Pricing and Regulatory Policy in a competitive environment* ($600,000); and (b) *Consumer Impact Assessment*.

- <u>WB-IFC</u>: In September 1999, IFC committed to invest P200 million in *Cagayan Electric Power & Light Co. (CEPALCO)* which would give the investment arm of the World Bank a 10-percent stake in the company. IFC has participated in a P500-million private placement of Cepalco where Hawaiian Electric Co., the biggest electric utility in Hawaii, bought P300 million for a 15-percent stake in the electric distributor in Cagayan de Oro. Cepalco distributes power to Cagayan de Oro and nearby towns.

- <u>ADB</u>: The *Rural Electrification Institutional Strengthening Project* ($0.75 million AOTA) was approved in March 2000.

- <u>ADB</u>: In June 2000, ADB agreed in principle to guarantee an additional $150 million syndicated loan for NAPOCOR to bankroll its Leyte-Mindanao transmission project; the syndicated loan is on top of the $100 million credit facility that the Bank is extending for the transmission project. Another $100 million will be secured from JBIC.

- <u>WB</u>: WB financed the $7-million pilot WESM project

- <u>ADB</u>: In December 2001, ADB approved *Competition Policy and Strategies for the Energy Sector (*$990,000 TA) to define the competition policy and strategies in the energy sector which will help to further mitigate the risks involved.

- <u>ADB</u>: In December 2002, ADB approved a *partial credit guarantee (PCG)* for up to US$500 million equivalent of commercial borrowing - and indicated readiness to provide US$250 million in further such support in early 2003 - in order to sustain essential reform and restructuring in the Philippine power sector. The ADB guarantee will be provided for yen-denominated bonds to be issued by the Philippines' Power Sector Assets and Liabilities Management Corporation (PSALM) in order to cover cash flow needs during the early stages of the privatization process. Together with a counter guarantee provided by the Government, this will ensure PSALM's access to competitive and long-term funds of up to 20 years, enabling it to pass savings on to consumers at an earlier stage. The bond issue was expected before 31 December 2002.

- <u>ADB</u>: The *Electricity Market and Transmission Development Project* (approved December 2002, $40 million) will help establish the Wholesale Electricity Spot Market (WESM), which will spur competition in electricity generation. This will bring prices in line to meet demand as well as the supply by competing generators. The project also supports the Government's accelerated rural electrification program that targets universal village coverage by 2006. A major component of the project will upgrade critical transmission lines and substations in Luzon and Mindanao to improve supply reliability and expand the rural network. In addition to the loan, ADB will also provide an US$800,000 advisory technical assistance to help the Department of Energy facilitate the transition from a regulated to a competitive market. Specifically, the TA will help to develop an implementation plan for the selection of an independent market operator for WESM. JBIC will cofinance the project with an untied loan of US$45.5 million.

- <u>WB-IFC</u>: In June 2003, IFC and Cagayan Electric Power and Light Company, Inc. (Cepalco) agreed to finance a $5.4-million solar power project in Mindanao. The new plant in Mindanao will be combined with an existing hydroelectric plant estimated to provide 950 kilowatts of power, the largest grid-connected solar installation in the developing markets.

- <u>ADB</u>: *Promoting Good Governance in the Restructured Power Sector* ($1.1 million, approved July 2003) will strengthen the Department of Energy (DoE) to fulfill its new mandate in the restructured power sector and help clarify the respective roles of the DoE and the newly established Energy Regulatory Commission (ERC). The regulatory function will be performed by ERC, while DOE will be responsible for the formulation of policies. The TA will also build planning capacity in DOE's newly created unit, the Electric Power Industry Management Bureau (EPIMB), and draw up a five-year plan to promote public and private partnerships for the expansion of rural electrification in areas previously considered unviable.

- ADB: In October 2003, ADB approved a $450,000 technical assistance to finance the study of existing designs *renewable energy systems in rural areas.* Funding will come from the Danish Cooperation Fund managed by the Bank.

- WB: By end-2003, WB is set to approve $19 million worth of loan and grant to be coursed through the Development Bank of the Philippines (DBP) in support of the country's rural power project. The power project will support the implementation of reforms and priority investments to meet the needs of rural communities for adequate, affordable and reliable energy services in an efficient and sustainable manner. There are three components — rural electrification subprojects, which includes grid connected electric cooperative subcomponents and decentralized electrification; a partial credit guarantee fund, funded by a United Nations Development Program (UNDP) Global Environment Facility (GEF) grant; and capacity building assistance, funded by a WBGEF grant, which covers the reduction of market barriers to the commercialization of renewable energy technologies for off grid electrification. This is the first of a four-phase adaptable program loan (APL) that would provide up to US$150 million over a 14year-period.

Appendix B
WB & ADB PROJECTS IN THE WATER SUPPLY SECTOR

- ADB: *Angat Water Supply Optimization Project* ($130 million, approved 1989) will construct additional supply, treatment, and distribution facilities to enable the MWSS to meet the increasing demands of household, commercial and industrial users in Metro Manila.

- ADB: *Manila South Water Distribution Project* ($31.4 million, approved December 1991) will improve the water supply services of MWSS in four large municipalities in the southern sector.

- ADB: *Municipal Water Supply Project* ($43.2 million, approved November 1993) will involve the implementation of water supply Rehabilitation and expansion programs for water districts (WDs) in eight cities and an Institutional Strengthening Program (ISP) to make the WDs self-reliant.

- ADB: Two TA grants on *Study to Strengthen the Operations of MWSS* ($1.2 million, approved February 1995) will review MWSS' overall operations and propose measures to make it more efficient. The studies will also recommend ways to improve the existing water distribution system and maximize the viability of future projects and other physical investments.

- ADB: *Umiray-Angat Transbasin Project* ($92.0 million, approved September 1995) will augment the treated water supply of MWSS and improve its operational efficiency and revenue generation through implementation of a nonrevenue water (NRW) control program.

- WB: *Manila Second Sewerage Project* ($48 million, approved May 1996) will finance the rehabilitation of Metro Manila's separate sewage network and the Ayala treatment plant, and the implementation of the first phase of the MWSS septage management plan (1998-2000). The septage management plan will introduce the gradual low-cost improvements of sewage systems in Manila and reduce pollution of Manila waterways and Manila Bay. The facilities will be managed by experienced international private operators with incentives to increase efficiency and minimize costs.

- ADB: *Subic Bay Urban Infrastructure Project* ($0.8 million TA grant, approved June 1996) will formulate an urban infrastructure improvement project and prepare a medium-term urban sector investment program up to the year 2010 for seven municipalities around the Subic Bay Freeport; work toward an urban infrastructure improvement project began in 1992 with the help of ADB advisory TA. The TA complements focus by thWB on projects within the freeport itself. Subsectors to be considered include water supply and sanitation; solid waste management; urban roads and transportation; flood control and drainage; housing; tourism development; industrial complex and economic zone development; and urban power distribution lines.

- ADB: *Rural Water Supply and Sanitation Improvement Project* ($37 million, approved June 1996) will make the rural water supply and sanitation sector in several provinces more efficient and sustainable. The Project will also support capacity building and community management programs -- focusing on health and hygiene, and water quality control and surveillance.

- ADB: *Small Towns Water Supply Project I* ($50 million, approved September 1996) will: (i) construct and/or rehabilitate simple, low- cost piped water supply systems; (ii) implement programs for health and hygiene education, and water quality testing; and (iii) implement institutional development, including a capacity building and training program for water districts to help communities set up water district management organizations for implementation, cost recovery, and operation and maintenance in 80 small urban towns.

- WB: *Second Subic Bay Freeport Project* ($60 million, approved November 1996) will strengthen the regulatory and management capacity of the Subic Bay Management Authority (SBMA), as well as continue to improve key infrastructure, including water supply. The Water Sector Component ($32.6 million) represented an important step toward SBMA's goal of privatizing services delivery and infrastructure provision. The *First*

Subic Bay Freeport Project ($40 million, approved June 1994) SBMA's efforts to attract private investors to the freeport by financing the rehabilitation of infrastructure and other institutional services.

- ADB: *Private Sector Participation in Urban Development* (TA Report, June 1997) surveyed the range of PSP in urban development, from management contracts to asset sales, and found a high and growing extent of PSP in the Philippines. These are largely in sectors that offer 'synergistic property developments' -- as in public markets and bus terminals, where malls can be combined with existing activities. In water and sewerage, PSP outside of Metro Manila is only beginning to emerge; LWUA's policy change to withdraw from lending to viable water districts will give impetus to PSP. The study also recommended a private sector framework on the most appropriate modalities for PSP. Transitional structures include: Strategic Business Unit (SBU), Local Government Trading Enterprise (LGTE) and Joint Venture which adopt private sector 'business' methods. Eight projects were identified with high potential for PSP: Bacolod - water supply and distribution and solid waste management (SWM); Baguio - SWM, bus terminals and a slaughterhouse; Davao - A sewerage proposal complementing current WB work and SWM; Naga - An LGTE for the maintenance and minor construction of roads and public drains, and the maintenance of city vehicles and mechanical plant.

- WB: *Water Districts Development Project (WDDP)* -- $2.3 million, approved September 1997 -- will pilot and field-test a public performance audit (PPA) system in MWSS after private operators take over its facilities. The PPA aims to furnish consumers with transparent information on service quality, reliability and satisfaction. It aims to spak private sector interest to enter into long-term contracts with Philippine water utilities.

- WB: *Sewerage, Sanitation and Drainage (SSD)* component of the *Water Districts Development Project* ($54.5 million, approved September 1997) will finance SSD investments in the cities of Davao, Cotabato, Calamba, and Cagayan de Oro based on the residents' willingness to pay. After the 1997 Asian Crisis, the four LGUs withdrew from the project. The SSD loan was restructured in May 1999 into a line of credit for sewerage, sanitation and drainage investments on the basis of demand from any LGU willing to borrow on the project lending terms. The project experience aims to assist national policy makers on how a demand-based approach can best be scaled up through other financing channels available to the LGUs.

- WB: The *LGU Urban Water and Sanitation Project (APL1*) ($23.3 million, approved December 1998) will assist LGU-managed water utilities to operate on commercial basis in about 250 secondary towns and cities. The major component is to finance civil works and equipment in water supply and to generate incentives for the private sector to participate in utility management. In the final list of ten towns in Phase 1, six are located in Isabela province, while the remaining four are in three geographically scattered provinces of the archipelago.

- WB: The proposed $60 million *LGU Urban Water and Sanitation Project (APL2)* will scale up the outreach of APL1 into approximately 100 more LGU-managed water utilities, with considerably reduced implementation periods. In keeping with the project's "doing and learning approach" some key lessons have been learned, and already incorporated in the project design. These include: (a) selection criteria - on a 'first-come, first-serve' basis resulting in high drop-out rates, (b) estimation of LGU budget envelope, (c) system management options, (d) streamlining the process of concluding PSP transactions, (e) improving the management of project implementation, and (f) maintaining a pipeline for potential PSP deals. LGUs that have the potential of forming into a subregional cluster were given more priority in the selection. Of the initial list of 21 towns, eight were located in Isabela province, four in Laguna province, four in Bicol province, and five in southern Philippines, including Iligan city -- the largest LGU-managed water utility in the country -- to test the relevance of the APL2 design to large urban centers. In APL2 projects LGUs are required to indicate their commitment by paying a commitment fee of P50,000, apart from obtaining an endorsement of the Mayor and their respective Municipal Councils. The endorsement must explicitly indicate LGU agreement with the project rules of pursuing (full) cost recovery, considering private sector management of the water utility, and borrowing at the terms set by the Dvelopment Bank of the Philippines.

- WB: *Local Government Finance and Development Project (LOGOFIND)* ($100 million, approved March 1999) aims to assist participating LGUs to expand and upgrade their basic infrastructure, services, and facilities by PSP, strengthen their capacities in investment planning and revenue generation, and accelerate the development of the capital market for LGU financing. LGUs generally lack familiarity with the procedures, rules and regulations governing private sector transactions like bond flotation, commercial bank loans, and BOT projects. Numerous BOT transactions are being explored by LGUs, but few deals have been closed. WB further noted that LGUs must do more to enhance their own revenues through the imposition of fees and user charges for services like water supply and solid waste management.

- ADB: *LGU Private Infrastructure Project Development Facility* ($3 million TA grant, approved December 1999) will enable LGUs to engage consultants to help them prepare local infrastructure projects for private sector financing. LGUs currently lack capacity and the resources to prepare projects and solicit private sector participation; instead, they depend on unsolicited project proposals that do not always provide the best value for money nor fully conform with the communities' needs. A financing mechanism will help LGUs prepare and bid project proposals, giving them more control over their projects and providing a more level playing field and competition among bidders. If there is a successful bid for the prepared project, the winning bidder repays the cost of the project preparation. Technical support will be provided by the Government's Coordinating Council for Private Sector Participation (CCPSP). ADB also provided a $0.6 million TA grant to strengthen Land Bank's capacity to appraise and provide financing for LGU infrastructure projects with PSP.

- ADB: The *MWSS New Water Source Development Project* ($4 million TA loan, approved February 2002) will study the feasibility of tapping water from four initially identified sources -- the Wawa River and Laguna Lake in Southern Tagalog, the Marikina River in the National Capital Region and the Angat Reservoir in Central Luzon. Metro Manila principally sources the bulk of its water supply from the La Mesa Reservoir in Quezon City. Previous proposals suggested that government tap either the Laguna de Bay or the Angat Reservoir to supplement water from the La Mesa Dam but plans were never pursued. Laguna Lake is the country's largest freshwater lake and Southeast Asia's second-biggest inland body of water.

- ADB: In June 2002, A US$800,000 grant agreement was signed today between the Asian Development Bank (ADB) and the Philippine Government to strengthen the operations and functions of the Regulatory Office of the Manila Waterworks and Sewerage System (MWSS-RO). The project will help the regulator identify fair and transparent regulatory mechanisms in financial and technical regulation, and legal affairs. It will focus on price adjustments and penalty assessments resulting from nonperformance as well as measuring service performance and devising remedial actions. The project will help execute concession agreements more efficiently and to identify good regulatory practices for other water utilities and their operators.

- ADB: In October 2003, ADB approved a US$3.26 million technical assistance loan to MWSS to help develop new water sources for Metro Manila's 10 million residents. The project will prepare feasibility studies and provide advice on legal and financial issues for new water source development. It also aims to conduct training to improve the financial management of MWSS and promote better accounting and fiscal control. MWSS has already identified three potential water source projects to be studied under the loan: (a) The Wawa River Project, which would refurbish a dam and restore the infrastructure to make it a viable resource by removing silt from the reservoir and constructing a new transmission pipeline and water treatment plant; (b) Angat Water Utilization and Aqueduct Improvement Project, which will help to improve the main water source for Metro Manila, accounting for 97% of the city's water supply. One of the aqueducts is leaking, putting half of the capital's water supply at risk. There is an urgent need to make repairs and construct a new one; (c) The Laiban Dam Project, for which preparation started in 1979 to deliver high quality water to Metro Manila. Since construction was suspended in 1989, about 3,000 families have settled on the dam site. Reviving the project would cost about $1 billion and would involve relocating the settlers, reviewing the existing design, and preparing environmental impact assessments.

- WB: TA will be provided to draft legislation for streamlining the economic regulation of water utilities through the *Public-Private Investment Assistance Facility (PPIAF).*

- ADB: *Water Supply and Sanitation* ($0.6 million PPTA, 2001/2002) is in the pipeline.

- ADB: Small Towns Water Supply and Sanitation Sector II ($0.6 million PPTA, 2001) in the pipeline.