

Section A:

- Proposed Amendments to the NWSDB Act and Statement of Legal Effect
 - Regulatory Guidelines
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**An Act Amending the National Water Supply and Drainage
Board Law, No. ____ of ____**

Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:

1. This Act may be cited as the National Water Supply and Drainage Board (Amendment) Act No. __ of ____, and shall come into operation on such date as the Minister may by Order publish in the Gazette appoint (hereinafter referred, to as the “appointed date”).
2. Paragraph (a) of subsection (1) of Section 16 of the National Water Supply and Drainage Board Law No.2 of 1974 (hereinafter referred to as the “principal enactment”) is hereby amended by inserting immediately after the words “co-ordinated” the words “sustainable and viable” and by adding at the end of that paragraph the words “at reasonable prices”
3. Paragraph (b) of subsection (1) of Section 16 of the principal enactment is hereby amended by inserting immediately after the words “co-ordinated” the words “sustainable and viable” and by adding at the end of that paragraph the words “at reasonable prices”.
4. Paragraph (d) of subsection (1) of section 16 of the Principal Enactment is hereby amended by inserting immediately after the words “local authority” by adding the words “or registered community based organization”
5. Paragraph (d) of section 17 of the principal enactment is hereby amended by inserting immediately after the words ‘duly authorized agents’ the words “Registered Community Based Organizations”.
6. Section 22 of the principal enactment is hereby amended by inserting immediately after the words ‘aqueducts’, the words “Treatment Plants, Pipe lines, Rain Water Structures, Dug Wells, Boreholes”.
7. The following new sections to the inserted immediately after section 22 of the principal enactment:

“22A. The Board may take active measures to assess water potential, conserve protected zones, manage demand, minimize energy use, promote water saving technology, and sustain quality as required for its end use, in such activity.”

Amendment of section 16 of the principal enactment

Amendment of section 17 of the principal enactment

Amendment of section 22 of the principal enactment

Insertion of new sections 22A and 22B in the principal enactment

“22B. The Board may establish and follow a criteria to prioritize and phase out such activity.”

- Amendment of section 23 of the principal enactment
8. Subsection (1) of the section 23 of the principal enactment is hereby amended by:
- (a) inserting immediately after the words “The Board” in the first line of that subsection the words “for the purposes of investigation, , surveys, soil tests or other related activity measurement, or”;
 - (b) inserting immediately after the words “any pipes” the words “either above, below, or bored vertically into the ground”;
 - (c) inserting immediately after the words “in every such case give” the words “two weeks”.
 - (d) inserting immediately after the words “shall on completion of the work” the words “ “make good such damage equivalent to its original condition, and/or,”
- Amendment of Section 25 of the principal enactment
9. Section 25 of the Principal Enactment is amended by inserting the following words immediately after the end of the section.
- “Notwithstanding the above, the Board may with good reason, refuse the request of the Local Authority provided, alternative adequate arrangements are available.”
- Amendment of Section 31 of the principal enactment
10. Section 31 of the Principal Enactment as amended by Act No. 13 of 1992, be amended by the repeal of that section and substitution thereof of new section 31(1) and 31(2).
- “31 (1) It shall not be lawful for the owner or occupier of any premises supplied with water from the Board, or any Consumer of the waster of the Board, or any other person to affix or cause or permit to be affixed any pipe or apparatus to any pipe or apparatus provided for the conveyance, reception, or control of water from the Board, whether or not such pipe or apparatus is the property of the Board or private property, without the consent in every such case of the General Manager of the Board; and if any person acts in any respect in contravention of the provisions of this section, he shall, for every such offence, be liable on conviction after trial before a Magistrate to a fine of not less than five thousand rupees and not more than ten thousand rupees.
- (2) Where any person is convicted of an offence under subsection (1) the Magistrate shall,
- (a) in addition to any penalty which he is required to impose under that subsection, impose on such person a fine in a sum of money calculated and certified by the Board on the basis of any injury done to the Board’s property and the value of any water wasted, misused, or unduly consumed; and any sum so recovered as such additional fine shall be

paid to the Board on application made to the Court by the Board; and

- (b) confiscate any such pipe or apparatus which has been affixed to any pipe or apparatus which is the property of the Board or private property which has been produced in Court and shall order the disposal of such pipe or apparatus in such manner as the Court may direct.”

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| Amendment of Section 37 of the principal enactment | 11. Paragraph (e) of section 37 of the principal enactment is hereby amended by the inserting immediately after the words “boiler” the words “toilet”, or industry,” |
| Amendment of section 39 of the principal enactment | 12. Section 39 of the principal enactment is hereby amended by the insertion immediately after the words “has been fouled” the words “as ascertained by an accredited laboratory to the prevailing standards”. |
| Insertion of a new section 39A in the principal enactment | 13. The following new section to be inserted immediately after section section 39 of the principal enactment:

“39A. (1) Within the areas of authority of the Board, any land, state of private, which is adjacent to a water course, a water body, recharge area of a bore or dug well, or other source used as a water works belonging to the Board, and lying within a prescribed distance therefrom, measured in such a manner as prescribed, shall be deemed a hydrological reservation.

(2) The Minister may by order published in the Gazette declare any such identified hydrological reservation as a protected zone.” |
| Insertion of a new section 40A in the principal enactment | 14. The following new section to be inserted immediately after Section 40 of the Principal Enactment

“40A Further, the Board may promote, facilitate, design and/or construct latrines septic tanks, digesters, ponds, wetlands, or any other means of sanitation, with emphasis on
(1) Water, nutrient and energy recovery with planned reuse and

(2) Prevention of groundwater contamination by pathogens and nutrients. |

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| Amendment of section 58 of the principal enactment | 15. | Subsection (1) and (2) of section 58 of the principal enactment are hereby amended by the insertion immediately after the words “local authority” the words “or registered community based organization”. |
| Amendment of section 59 of the principal enactment | 16. | Section 59 of the principal enactment is hereby amended by the insertion immediately after the words “local authority” the words “or registered community based organization”. |
| Amendment of section 60 of the principal enactment | 17. | Subsection (2) of section 60 of the principal enactment is hereby amended by the insertion immediately after the words “local authority” the words “or registered community based organization”. |
| Amendment of section 62 of the principal enactment | 18. | Paragraphs (a) and (b) of subsection (1) and subsections (2) and (3) of section 62 of the principal enactment are hereby amended by the insertion immediately after the words “local authority” the words “or registered community based organization”. |
| Amendment of section 63 of the principal enactment | 19. | Subsection (1) of section 63 of the principal enactment is hereby amended by the insertion immediately after the words “local authority” the words “or registered community based organization”. |
| Insertion of a new Part V(A) in the principal enactment | 20. | <p>A following new part is inserted immediately after Part V of the principal enactment and shall have effect as Part V(A):</p> <p style="text-align: center;">“POWERS AND FUNCTIONS OF
THE PUBLIC UTILITIES COMMISSION
IN RELATION TO THE BOARD</p> <p>83A (1) The water supply and sewerage services carried on by the Board shall be regulated by the Public Utilities Commission of Sri Lanka (hereinafter referred to as “the Commission”) created under PUCSL Act No. 35 of 2002.</p> <p>(2) The Commission shall exercise the following powers and functions as the economic, safety and technical regulator of the Board, in a manner which it considers is best calculated to protect the interests of the Board and consumers, by promoting efficiency, economy and safety:</p> <p>(a.) Advise the Minister on policies relating to water services with a view to promoting efficiency, expanding coverage and improving services;</p> <p>(b.) Approve or determine water supply and sewerage rates and charges to be levied by the Board;</p> <p>(c.) In consultation with the Minister and Board, formulate</p> |
| Commission vested with regulatory powers over the operation of the Board. | | |

operational performance and service level standards to be complied by the Board, and evaluate, report and ensure compliance with such standards;

- (d.) Investigate, mediate and resolve customer complaints and disputes;
 - (e.) Consult, to the extent the Commission considers appropriate, any person or group who or which may be affected, or likely to be affected, by the decisions of the Commission;
 - (f.) Conduct or cause to be conducted investigations, surveys, studies, audits or assessments in relation to the activities and performance of the Board, as the Commission may deem necessary;
 - (g.) Require the production and submission of reports, statements and such other documents as maybe deemed necessary by the Commission;
 - (h.) Levy appropriate regulatory fees and charges ;
 - (i.) impose penalties on the Board in the event of non compliance of the operational, performance and service level standards;
 - (j.) Grant incentives in the event of compliance with established operational performance and service level standards;
 - (k.) Issue rules and guidelines as maybe necessary to effectively perform its powers and functions under this Law;
 - (l.) Undertake all incidental or ancillary powers and functions as maybe necessary for the effective discharge of its functions.
- (3) The Commission shall, in accordance with Section 28 of the PUCSL Act, appoint a Consumer Consultative Committee, whose functions, among others, shall be to promote awareness of the standards prescribed or determined and the rights of consumers with respect to those standards.

Minimum
operational
performance and
service level
standards and
indicators

“83B (1) The Commission shall, in consultation with the Minister and the Board, prescribe minimum operational performance and service level standards and indicators, taking into consideration their impact on the over-all price level; the efficiency and long-term viability of the Board; and applicable health, safety and environment standards;

Customer
Service
Guidelines
setting the rights
and obligations of
consumers.

83C The Commission shall prepare in consultation with the Minister and the Board the Customer Service Guidelines setting out the rights and obligations of consumers in relation to the Board.

The Consumer Affairs Authority shall not exercise its powers, duties and functions on matters involving the operation of the Board.

83D The Consumer Affairs Authority created under the Consumer Affairs Authority Act No. 9 of 2003 shall not exercise, perform or discharge any power, duty or function conferred on such Authority by the aforesaid Act, in relation to the exercise, performance and discharge by the Commission of the powers, duties and functions conferred on it by this Law.”

Amendment of Section 84 of the principal enactment

21. Section 84 of the principal enactment is hereby amended as follows:

(1) In subsection (1):

- a. by substituting the words “Subject to the provisions of this Law” with the words “Notwithstanding any provision of this Law and any other Act”.
- b. by substituting the words from “as may be fixed” to the end of that subsection with the words “as may be proposed by the Board and approved or determined by the Commission”.
- c. by inserting at the end of that subsection the words “Any changes in the rates and charges without the approval of the Commission shall be invalid and unenforceable.”

(2) The following new subsections are inserted immediately after subsection (1) of that section:

“(1A) The Commission shall, in consultation with the Board, adopt a methodology that will allow recovery of reasonable, prudent and efficient costs including, among others operating expenses, debt-service, taxes and a reasonable surplus for asset replacement and renewals.”

(1B) Furthermore, in approving or determining the appropriate rates and charges, the Commission shall give effect to the following considerations:

- a. financial viability of the Board;
- b. efficiency in the operation of the Board and provision of services and use of water resources;
- c. affordability of rates and charges especially to low income bracket consumers;
- d. compliance with health, safety and environmental laws, regulations and such standards formulated by the Commission.

(1C) Orders made by the Commission under this section shall be final and binding. Provided that appeal shall lie by any party on question of law to the Court of Appeal.

(3) Subsection (4) of that section is hereby repealed.

(4) Subsections (5) and (6) of that section are renumbered as subsection (4) and (5).

(5) In subsection (7):

(a) by substituting the words “fixed by the Board” with the words “approved or determined by the Commission”;

(b) by renumbering that subsection as subsection (6)

Amendment of section 84F of the principal enactment

22. Section 84 F of the principal enactment as amended by Act No. 13 of 1992 is hereby further amended by the addition immediately after subsection (1) of that section of the following paragraph,

(a) Where any person is convicted of an offence under subsection (1) the Magistrate shall :-

(i) in addition to any penalty which he is required to impose under that subsection impose on such person a fine in a sum of money calculated and certified by the Board on the basis of any injury done to the Board's property and the value of any water wasted, misused, or unduly consumed and any sum so recovered as such additional fine shall be paid to the Board on application made to Court by the Board; and

(ii) Confiscate any such pipe or apparatus which had been used for by-passing the water meter installed by the Board and which has been produced in Court and shall order the disposal of such pipe or apparatus in such manner as the Court may direct.

Amendment of section 84G of the principal enactment

23. Section 84 G of the principal enactment as amended by the Act No. 13 of 1992 is hereby further amended as follows :-

(1) by the renumbering of that section as subsection (1) of that section; and

(2) by the addition, immediately after the renumbered subsection (1) of the following new subsection :-

“(2) Where any person is convicted of an offence under subsection (1) the Magistrate shall in addition to any penalty which he is required to impose under that subsection, impose on such person a fine in a sum of money calculated and certified by the Board on the basis of the cost of replacing the

meter with a new meter and the value of any water wasted, misused or unduly consumed and any sum recovered as such additional fine shall be paid to the Board on application made to the Court by the Board”

Amendment of section 85 of the principal enactment

24. Section 85 of the principal enactment is hereby amended by substitution of the words “fixed by the Board” with the words “approved or determined by the Commission”.

Amendment of section 86 of the principal enactment

25. Section 86 of the principal enactment is hereby repealed, and a new section is inserted as follows:

“86. (1) Notwithstanding any provision of this Law or any other Act, a customer may refer any unresolved customer complaint or dispute to the Commission for investigation, mediation and resolution. The Commission shall mediate and resolve such complaint or dispute unless the Commission decides that it is more appropriate for the same to be determined by Court or by Arbitration.

(2) The practice and procedure to be followed in the resolution of any such complaints or disputes shall be such as the Commission shall set out by rules made under the PUCSL Act.

(3) A resolution of the Commission under this section-

(a) may include an order, award or direction as the Commission considers appropriate including such incidental, supplemental and consequential provisions requiring either party to pay a sum in respect of the costs or expenses incurred by the Commission;

(b) shall, subject to subsection (4), be final and enforceable in the District Court of Colombo as if it were a Decree entered by that Court;

(4) An appeal shall lie by any party aggrieved by an order, award or direction made under subsection (3) (a) above on a question of law to the Court of Appeal.

(5) The provisions of subsections (3), (4) and (5) of section 19 of the PUCSL Act shall mutatis mutandis apply in relation to the preferring and determination of such an Appeal.

(6) A copy of any order and direction or other document made by or in the custody of the Commission and certified by the Chairman to be a true copy thereof shall, in any court, be evidence of the order and direction or other document without proof of the signature of the Commission.

(7) Any person who without lawful authority contravenes or fails to comply with an order, award or direction of the Commission shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding one million rupees and where the offence is a continuing offence to an

additional fine of five hundred thousand rupees for each day during which such contravention continues.”

Amendment of section 87 of the principal enactment

26. Section 87 of the principal enactment is hereby amended as follows:

(1) in subsection (2) paragraph (b), by inserting the words “The demand may also be conveyed by any other secure means with valid acknowledgment” immediately after the words “in the ordinary course of post” at the end of that paragraph.

in subsection (5) paragraph (a), by deleting the word “finally”;

(2) in subsection (5) paragraph (b), by substituting the words “shall be finally determined by the Board” to the end of that paragraph with the words “shall be determined by the Commission in accordance with Section 86.”

(3) at the beginning of subsection (6), by inserting the words “Subject to the provisions of subsection 5”

Amendment of section 90 of the principal enactment

27. Section 90 of the principal enactment is hereby amended as follows:

(1) by inserting a new subsection 3 immediately after subparagraph (k) of subsection 2, as follows:

“Provided that regulations issued with respect to Parts V (A) and VI of the Act shall be made only upon the recommendation of the Commission”

(2) by renumbering subsection (3) and (4) as subsections (4) and (5)

Amendment of section 100 of the principal enactment

28. Section 100 of the principal enactment is hereby amended as follows:

(1) by inserting immediately after the definition of the words “area of authority” the following new definition:

“Commission” means the Public Utilities Commission of Sri Lanka established under section 2 of the Public Utilities Commission of Sri Lanka Act No. 35 of 2002”

(2) by inserting immediately after the definition of the words “public corporation” the following new definition:

“Public Utilities Commission of Sri Lanka Act” or PUCSL Act”

means the Public Utilities Commission of Sri Lanka Act No. 35 of 2002 and any amendments thereto.”

29. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Statement of Legal Effect

Clause 2: This clause amends Paragraph (a) of subsection (1) of Section 16 of the National Water Supply and Drainage Board Law No.2 of 1974 (hereinafter referred to as the “principal enactment”) and the legal effect of the amendment is to impose a duty on the Board to also provide a “sustainable and viable” water supply and to provide the services mentioned in the said paragraph at reasonable prices.

Clause 3: This clause amends paragraph (b) of subsection (1) of Section 16 of the principal enactment and the legal effect of the amendment is to impose a duty on the Board to also provide a “sustainable and viable” sewerage system and to provide the services mentioned in the said paragraph at reasonable prices.

Clause 4: This clause amended paragraph (d) of subsection (1) of Section 16 of the Principal enactment to insert the words “registered community based organizations to the said paragraph.

Clause 5: This clause amends paragraph (d) of section 17 of the principal enactment and the legal effect of this amendment is to enable the Board to enter into contracts with “Registered Community Based Organizations” to perform the duties and exercise the powers of the Board.

Clause 6: This clause amends section 22 of the principal enactment and the legal effect is to insert the words “treatment Plants, Pipe lines, Rain Water Structures, Dug Wells, Boreholes” to the said section.

Clause 7: This clause inserts a new section 22A to the principal enactment to enable the Board to take measures to assess water potential, conserve protected zones, manage demand, minimize energy use, promote water saving technology, and sustain quality as required for its end use.

Clause 8: This clause amends subsection (1) of the section 23 of the principal enactment and the legal effect of the amendment is to enable the Board, to break up streets and enter premises etc. for purposes of investigation, measurement and to lay pipes either above, below or to bore such pipes vertically to the ground, by providing a maximum of two months notice.

Clause 9 This clause amends clause 25 of the principal enactment and the legal effect of the amendment is to provide a right to the Board for good reasons to refuse a request of the Local Authority for the supply of water from the public stand pipes provided, alternative adequate arrangements are available.

Clause 10: This clause further amends subsection (1) and (2) of the section 31 of the principal enactment and the legal effect of the amendment is to make it an offence for an owner or occupier of any premises supplied with water by the Board or any consumer of the Board to affix or cause or permit to be affixed any pipe or apparatus to any pipe or apparatus provided by the Board, without the consent of the General Manager of the Board.

Clause 11: This clause amends paragraph (e) of section 37 of the principal enactment by inserting the words “toilet”, or industry” into the said paragraph.

Clause 12: This clause amended section 39 of the principal enactment by adding the words “as ascertained by an accredited laboratory to the prevailing standards” to the said section.

Clause 13: This clause inserts a new section 39A to the principal enactment is to make any land, state

or private, which is adjacent to a water course, a water body *etc* within the area of authority of the Board a hydrological reservation and the Minister may declare such hydrological reservation as a protected zone.

Clause 14: This clause inserts a new section 40A to the principal enactment and the legal effect of the insertion is to enable the Board to construct latrines, septic tanks, digesters, ponds etc. with emphasis on water, nutrient and energy recovery and prevention of groundwater contamination.

Clause 15 : This clause amends subsection (1) and (2) of section 58 of the principal enactment and the legal effect of the amendment is to insert the words “Registered Community Based Organizations” to this subsections

Clause 16: This clause amends section 59 of the principal enactment and the legal effect of the amendment is to insert the words “Registered Community Based Organizations” to this section

Clause 17: This clause amends subsection (2) of section 60 of the principal enactment and the legal effect of the amendment is to insert the words “Registered Community Based Organizations” to this subsection

Clause 18: This clause amends paragraphs (a) and (b) of subsection (1) and subsections (2) and (3) of section 62 of the principal enactment and the legal effect of the amendment is to insert the words “Registered Community Based Organizations” to these paragraphs and subsections.

Clause 19 : This clause amends subsection (1) of section 63 and the legal effect of the amendment is to insert the words “Registered Community Based Organizations” to this subsection.

Clause 20. This clause inserts a new Part V(A) to the Principal Enactment and the legal effect of this insertion is to enable the Public Utilities Commission (hereinafter referred to as the “Commission”) to function as an economic and technical regulator over the water supply and sewerage services carried on by the Board and to prescribe minimum operational performance and service level standards and indicators that should be complied by the Board, and to limit the powers of the Consumer Affairs Authority over the powers exercised by the Commission over the Board in terms of this Act.

Clause 21: This clause amends section 84 of the Principal Enactment and the legal effect of this amendment is to make it mandatory for any rates and charges to be levied by the Board for Water and sewerage services to be approved or determined by the Commission and any rates and charges implemented without such approval or determination of the Commission is to be invalid and unenforceable. Further this clause inserts a new sub sections (1A) and (1B) which provide a methodology and criteria to be adopted and followed by the Commission in approving or determining a proposal submitted by the Board to increase the rates and charges. Any Orders made by the Commission are to be final and binding, subject to an appeal on question of law to the Court of Appeal

Clause 22: This clause amends 84F of the principal enactment and the legal effect of the amendment is to enable the Magistrate to impose fines and to make order confiscating and pipe or apparatus used for by passing the water meter against any person convicted under subsection (1)

Clause 23: This clause amends section 84G of the principal enactment by inserting a new subsection (2) to enable the Magistrate to impose a fine on any person convicted under subsection (1)

Clause 24: This clause amends section 85 of the principal enactment by substitution of the words “fixed by the Board” with the words “approved or determined by the Commission” and is consequential to the amendments made by clause 21

Clause 25: This clause repeals section 86 of the principal enactment and a new section is inserted. The legal effect of this new section is to enable a customer to refer any unresolved complaint or dispute for

investigation, mediation and resolution to the Commission. The Commission could resolve the complaint or dispute by making an award or direction which could be enforced in the District Court of Colombo. An appeal would lie from such award or determination to the Court of Appeal on a question of law. Any person who without lawful authority contravenes or fails to comply with an order, award or direction of the Commission will be guilty of an offence.

Clause 26: This clause amends paragraphs (a) and (b) of subsection 5 of section 87 and the legal effect of this amendment is for disputes referred to in said sub section to be resolved by the Commission.

Clause 27: This clause amends section 90 of the principal enactment by inserting a new subsection 3 and the legal effect of this amendment is that the Minister may make regulations with respect to Parts V (A) and VI of the Act only on the recommendation of the Commission.

Clause 28: This clause amends section 100 of the principal enactment by inserting a definition for the words "Commission" and "Public Utilities Commission of Sri Lanka Act".

Regulatory Guidelines

PART 1: REGULATORY FRAMEWORK

A. Introduction

83A (1) of the NWSDB Act provides that the operation of the Board's water supply and sewerage system shall be regulated by the Public Utilities Commission of Sri Lanka.

1. Amendment to the Act No _____ dated _____ vests with the Public Utilities Commission of Sri Lanka (Commission) the power to regulate the water and sewerage services covered under the National Water Supply and Drainage Board (Board). By conferring such authority, an economic regulatory regime is established in the water supply and sewerage sector that is under the jurisdiction of the Board.

B. Scope and Objectives of Regulation

2. The economic regulation by the Commission covers technical, customer service and financial regulation and extends only to areas that are currently covered by the Board for both water supply and sewerage services. In case service areas are added to the coverage of the Board, these are deemed to be automatically included in the regulation of the Commission.

3. Overall, the objective of the economic regulation of the Board by the Commission is to ensure the provision of efficient and sustainable water services while protecting customers' interests. Regulation also seeks to:

- (a) Ensure that the short-term interest of customers to receive the appropriate levels of service as well as the long-term objective of having a sustainable supply is met.
- (b) Ensure that water supply and sewerage services are delivered at agreed levels of service based on a fair and affordable price. The reasonableness of tariffs in this case is determined in terms of the linkage of agreed levels of service to the price paid for by the customers.
- (c) Ensure the financial viability of Board and sustainability of water supply and sanitation services. While the Commission has the obligation to protect the customers in terms of ensuring affordable and fair tariffs, it has to balance this objective with ensuring that the Board generates sufficient revenues to meet its current operating costs and provides a reasonable surplus for asset replacement and expansion for sustainable operation.

C. Institutional Arrangements and Relationships

4. An important aspect of a regulatory framework is a well defined institutional arrangement among the regulated entity, the regulator and the policy maker and other regulatory agencies. It is necessary that functions and responsibilities are well defined to avoid overlaps in functions and confusion in the roles and responsibilities. In order to delineate the scope and functions of each agency and establish protocols for coordination, it may be necessary to execute interagency agreements. Under the regulatory regime to be established, following are the key players with their roles and responsibilities.

5. The Ministry of Water Supply and Drainage The Minister of Water Supply and Drainage was identified by Government Gazette No. ____ of

2007-2-xx1 as the Minister in charge of the NWSDB. It provides the overall policy direction for the water supply and sanitation sector. It sets out the broad policy objectives that will guide the operation and regulation of the Board, particularly those that relates to expanding access and providing subsidy to marginalized sectors.

6. The National Water Supply and Drainage Board is the principal agency for water supply and sanitation in Sri Lanka. The Board was established in January 1975 pursuant to the Law No. 2 of 1974. It is a publicly owned utility that operate and provides water supply and sewerage services to most parts of the country. The Board is under the oversight function of the Ministry of Water Supply and Drainage, and is regulated by the Commission. It is currently being regulated to some extent by other government agencies in connection with environmental, water quality, health and safety concerns.

7. The Public Utilities Commission of Sri Lanka is the technical and economic regulator of the Board. It is responsible for determining the appropriate tariffs that the Board is authorized to levy from consumers, and ensuring the Board's financial viability. The Commission shall set the minimum standards in coordination with the Board and the Ministry for (a) service levels; (b) operational performance; (c) asset performance; and (e) customer services and to monitor compliance thereto.

D. Other Regulatory Institutions

8. The Commission will also monitor and ensure that the Board complies with minimum standards set by the Central Environment Authority and Marine Pollution Control Authority for effluent standards, Ministry of Health for quality of drinking water, and Sri Lanka Standards Institute for safety.

9. The Central Environment Authority is responsible for regulating sewerage discharges and other environmental matters. Among others, the CEA sets minimum standards for effluent, and the Commission will ensure that the Board complies with these standards.

10. The Ministry of Health is responsible for, among others, regulating the quality of water supplied by the all water utilities, including the Board. The Commission will ensure that the Board complies with the minimum standards for water quality as set by the Ministry of Health.

11. The Court of Appeals will decide appeals from determinations on tariffs, and resolutions, orders and awards of the Commission on customer complaints and disputes. Appeals to the Court of Appeal may be brought only on question of law.

E. Regulatory Laws and Guidelines

12. The Amendment to the NWSDB Act, dated _____ is the enabling law for the regulation of the Board by the Commission and shall be the principal law which shall guide the Commission in undertaking its regulatory functions.

13. Upon the advice of the Commission, the Ministry of Water Supply and Drainage may issue regulations relating to the amendments of the

NWSDB Act.

14. As necessary the Commission shall develop and issue rules and guidelines with respect to carrying out the functions as set out in the Amendment. The Board shall develop a Primer on NWSDB's responsibilities, Service Standards and Performance Indicators and Customer Service Guidelines that will guide the Board in the discharge of its various responsibilities and provide the Commission a basis for monitoring details of service standards and customer service. The Primer and the Guidelines shall be developed around the principles and objectives of effective economic regulation. The Commission, Minister and the Board shall agree on the contents of the Primer and the Guidelines and shall adopt them as part of the regulatory rules and policies.

**PART 2: FUNCTIONS AND RESPONSIBILITIES
OF THE COMMISSION**

Section 83A of the NWSDB Act defines the powers and functions of the Commission in relation to the operation of the Board's water and sewerage system

1. The Commission shall be responsible for the economic regulation of the Board and shall cover the following areas:
 - (a) Tariff and Financial Regulation
 - (b) Technical Regulation
 - (c) Customer Service Regulation
2. The Commission have the following powers and functions:
 - (a) Advise the Government, through the Minister in charge of water and sewerage and the Board on policies relating to water services with a view to promoting efficiency, expanding coverage and improving services;
 - (b) Review and approve water supply and sewerage tariff and charges to be levied by the Board in any area of authority in accordance with subsection (1B) of Section 84;
 - (c) In consultation with the Board, formulate operational performance and service level standards to be adopted by the Board, and evaluate and report compliance with such standards;
 - (d) Investigate, mediate and resolve customer complaints and disputes;
 - (e) Consult, to the extent the Commission considers appropriate, any person or group who or which may be affected, or likely to be affected, by the decisions of the Commission;
 - (f) Conduct or cause to be conducted periodic audit or assessment of the Board's performance as the Commission may deem necessary;
 - (g) Conduct or commission investigations, surveys and studies in relation to the activities of the Board;
 - (h) Require the production and submission of reports, statements and such other documents as may deemed necessary by the Commission;
 - (i) Levy appropriate regulatory fees and charges;
 - (j) Impose penalties or grant incentives to ensure compliance with established operational performance and service level standards;
 - (k) Issue rules and guidelines as may be necessary to effectively perform its powers and functions under this Law; and;
 - (l) Undertake all incidental or ancillary powers and functions as may be necessary for the effective discharge of its functions.

PART 3: WATER AND SEWERAGE TARIFF

A. Regulation of Tariff and Other Charges

Section 84 (1) of the NWSDB Act provides that tariff and charges to be levied by the Board shall be in accordance with such tariff and charges as approved or determined by the Commission

1. The Commission shall review and approve the tariff for water and sewerage services of the Board. It shall also advise and develop guidelines in coordination with the Minister and the Board as are necessary to regulate the tariff and other charges of the Board.

B. Goals and Principles of Tariff Setting

2. In the regulation of the tariff and other charges of the Board, the Commission will be guided by the following goals and principles:²

- (a) Financial sustainability - this is the ability of a utility to generate sufficient revenues to cover all financial obligations as they occur
- (b) Good governance – relates to the setting and implementation of the tariff, where the resulting tariff is expected to be simple and easy to implement and there is transparency on how the tariffs are determined.
- (c) Economic efficiency – is achieved through demand management and water conservation considerations in the tariff structure.
- (d) Distributive justice – requires the public service to be distributed to meet society's standards for the amount of the service that everyone including the poor deserves or needs
- (e) Fair Pricing – it is achieved if users pay the net social cost associated with their use of the public service, unless society has decided to subsidize some users.

B. Cost Recovery Framework

3. It is the objective in tariff setting for water supply to recover the cost of operation and maintenance expenses, depreciation expense, taxes and levies and a reasonable surplus to provide for asset replacement and renewals.

4. For sewerage services, the Commission shall review the existing methodology and cost recovery framework which provides for the recovery of operation and maintenance expenses. It shall develop and advise on an appropriate methodology for setting the tariff for sewerage services that is consistent with the principles and objectives of effective economic regulation.

D. Setting Tariff and Other Charges:

5. The Commission shall adopt a tariff methodology for both water supply and sewerage services that consider the goals and principles for rate setting as set out in the Amendment to the Act in consultation with the Board and the Minister. The methodology

Section 84 (1B) of the NWSDB Act provides that the Commission shall adopt a methodology for tariff determination that will allow recovery of reasonable, prudent and efficient costs, including, among others, operating expenses, debt-service, taxes and a reasonable surplus for asset replacement and renewals.

that will be adopted shall be in force until such time that a new guideline is passed by the Commission revising the methodology. In the adoption of subsequent changes to the methodology, the Commission shall consult the Board and the Minister and come into a consensus into the required changes or updating of policies in tariff setting.

6. Tariff and charges will be reviewed and approved by the Commission as found necessary and justified every 5 years. The Board shall file an application for rate adjustment no later than the end of the 6th month of the 5th year. The application shall be supported by a 5-year business plan consisting of the following:

- Capital Expenditures Program
- Supply and Demand Projection
- Projected Operation and Maintenance Expenses
- Projected Service Levels and Performance Targets
- Projected Financial Statements

E. Rate Review and Approval (5-Year Tariff)

7. Water and sewerage tariff and charges for the next five years shall be submitted for review and approval by the Commission unless there is sufficient basis for an extra-ordinary price adjustment prior to the next tariff setting period. The Commission shall make a determination on the adequacy, reasonableness and propriety of tariff and charges as provided in the Act. The review and determination of the tariff and charges shall be undertaken in accordance with the following procedures:

- (a) The Commission shall act on the proposal and make a determination on the proposed adjustment within six (6) months from receipt. The Commission and the Board shall agree on the review and approval schedule for the 6-month period. The decision by the Commission on the rate proposal shall be published in a paper of national circulation over a period of 2 weeks. No later than December of the current year, the approved rate schedule will be gazetted by the Commission and become effective within three (3) months of the following year from the date of publication.
- (b) The Commission may outsource a qualified firm or organization to assist it in the tariff determination exercise. The cost of outsourced activities shall be covered from the budget of the Commission.
- (c) The decision of the Commission shall be final but may be appealed if there is a question of interpretation or application of the law.
- (d) The resulting annual increases in tariff shall not exceed 50% of the existing tariff, unless there is clear basis that an increase of more than 50% is necessary to ensure the viable operations of the Board. The limit in annual increases is to protect the costumers from abrupt increases in tariff.

- (e) In the case of the failure of the Commission to act on the tariff proposal within the period required under the Act, due to no fault of the Board, the proposed tariff shall be deemed approved and effective. However, if it is the failure of the Board to provide the required information in time to allow the Commission to make an accurate and realistic tariff determination, the Commission cannot be held in default and the Board cannot implement the tariff without the Commission's approval.

E. Extra-ordinary Price Adjustments

8. In the event that tariff has to be increased beyond the level that is approved for the 5-year period, as a result of extra-ordinary events the Board may apply for an extra-ordinary price adjustments (EPA). The grounds for EPA shall include events or occurrences that have significantly increased the costs that the Board has to recover from water and sewerage tariff such as damages to the Board's assets due to fortuitous events, abnormal increases in the cost of labor, power, fuel, fluctuations in foreign exchange, and other expenses that were not foreseen or would have been difficult to project in the determination of the water tariff.

9. Justification to support the EPA will be submitted by the Board to the Commission and shall consist of the following documents:

- (a) Actual and projected losses incurred as shown in actual cash flow and income statements;
- (b) Laws and pronouncements resulting to the extraordinary increases in power, fuel, labor and foreign exchange;
- (c) Copies of official receipts or proof of payment, labor, power, fuel, and foreign exchange made by the Board.

10. The Commission shall act on the application for EPA within sixty (60) days from receipt of the application

G. Implementation of Tariff and Charges without Commission Approval

11. Tariff and charges that are implemented by the Board without the Commission's approval shall be deemed invalid and unenforceable. In such case, the Board may be caused by the Commission to refund the water bills paid based on the new and unapproved tariff.

PART 4: SERVICE OBLIGATIONS

B. Service Obligations of the Board

1. As the technical regulator of the Board, the Commission's responsibility is to ensure that the Board delivers the agreed levels of service to its customers, operate and maintains its facilities in an efficient manner while maintaining financial viability – which is the ability to have sufficient funds to meet operating and maintenance expenses, and to provide for system improvement and expansion.

Section 83B (1) of the NWSDB

Act provides that the

Commission shall, in

consultation with the Board

and the Minister, prescribe

minimum operational

performance and service level

standards and indicators.

B. Service Coverage

2. Service provision - this relates to the primary obligation of providing water and sewerage services and meeting the targeted service coverage as set out in the national water supply and sanitation policy of the GOSL. Urban and rural targets are to be expressed as a percentage of the population given water services to the total population of the area. The Board's plans and targets in terms of population and area coverage shall be indicated in its 5-year business plan.

3. Sewerage Services. - The Board shall offer to supply sewerage services for either domestic sewage or industrial effluents compatible with its existing treatment facilities to all customers connected to the utility's water system. The Board shall endeavor to meet the coverage target percentages set out by the government or in accordance with its own plans or goals.

4. The Board shall provide data and supporting evidence to the Commission that demonstrate compliance with such coverage targets, along with the method by which such compliance was calculated.

5. The population figure to be used as the denominator in the target calculations shall not include any member of the population in each area who receive water services from any other legal and/or authorized water providers.

6. Those who were connected to the system but have been disconnected prior to the target date are not to be counted as population who has been given water.

7. The Commission shall, in consultation with the Board, set out a methodology on estimating the number of people served by each type of connection in order to determine the population served. Such a methodology may be subject to review every 5 years or as the need arises.

C. Service Standards – Water Supply

8. The Commission shall adopt the service quality standards that the Board will commit to deliver to its customers on the following aspects:

- (a) Drinking water quality standards - The Board shall ensure at all times that the water supplied to customers complies with the minimum requirements for drinking water set under Sri Lanka Standards 614-1983 provided however that the Commission, after consultation with any appropriate government authorities shall have the discretion to consent to a phase-in compliance with these standards over a ten (10) year period from adoption of these Guidelines. The Board shall observe any requirements regarding sampling procedures, record keeping or reporting as may be required by applicable laws or regulations.
- (b) Water Quantity and Reliability of Supply. It shall be the target of the Board to ensure the availability of an uninterrupted 24 hour supply of water to all connected customers in their service area, subject to interruptions resulting from the temporary failure of some items of their facilities or required for the repair or construction of their facilities where such repairs or construction cannot be performed without interruption to the supply of water. In all cases, the Board shall provide at the minimum at least 6 hours supply of water and achieve a 24-hour goal within five (10) years from adoption of these guidelines.
- (c) Water Pressure. The Board shall supply water at a level of positive pressure sufficient to secure the system against the ingress of untreated water or other contaminants. Such pressure shall be at a minimum of 7 meters *and a maximum of 40 meters* for all areas connected by new conveyance pipelines and for all service area pipelines. Water pressures shall be determined by measuring service pressure on the customer's side of the water meter. Phase-in compliance shall be agreed between the Board and the Commission.

C. Service Quality Standards – Sewerage

9. Wastewater Standards. The Board shall comply with all national and local environmental laws and standards relating to treated wastewater in its service area and in accordance with a schedule of compliance agreed with the Commission. The schedule may be modified or supplemented from time to time and the Board shall have the sole liability for any penalties that may be assessed in connection with violations thereof.

D. Establishing the Standards

15. The service obligations and service quality standards except those that have been pre-determined by other government bodies are set out by the Commission at the commencement of the regulatory regime in consultation and agreement with the Board and the Ministry and following the national policy on water supply and sewerage provision. The service obligations shall be reviewed at least every five (5) years by the Commission in parallel with the updating of the Board's corporate and business plan.

16. Where it may not be possible to achieve the service quality standards, the Board and the Commission shall agree on the minimum standards during the phase-in period.

F. Asset Management

17. Planning for Capital Expenditures. Investment resources are limited and should be used wisely. The Commission's role is to promote the efficient use of these resources including reviewing investment decisions to ensure appropriate size and type of technology, cost management in the design and construction services and streamlined and competitive procurement policies. The Commission shall also ensure that the Board has sufficient funds for asset replacement and equity for capital expansion.

18. To ensure that both short and long term demands are met, the Commission shall ensure that the Board prepares 5-year plans for rehabilitation and replacement of existing sources of supply, plants, conveyances and equipment, and when still inadequate to meet demands, plans shall include provision for new facilities. These plans are to be submitted to the Commission together with cost estimates which will be used for evaluating tariff proposals and for asset valuation purposes. Priority shall be given to repairing or improving those facilities that could adversely affect public health or welfare, cause damage to third party property *and promote water conservation.*

G. Asset Condition Reporting

14. The Board shall provide a report to the Commission in the form and substance prescribed by it on the condition of infrastructure facilities in their service area. This report shall cover:

- (a) Facilities related to the provision of water supply services, distinguishing among dams and intakes, wells, treatment plants, distribution reservoirs, pipelines and pumping stations.
- (b) Facilities related to the provision of sewerage services distinguishing among others sewerage treatment plants, lift stations, sewer lines and disposal assets.

15. The Board shall update the Asset Condition Report as often as may be required by the Commission but not more than once yearly. The Commission shall have the right, at any time, to Commission an independent technical audit of the accuracy and completeness of the Asset Condition Report.

PART 5: CUSTOMER SERVICE REGULATION

A. Customer Service Guidelines

Section 83B (3) of the NWSDB Act provides that the Board shall prepare and submit for approval by the Commission its Customer Service Guidelines setting out the basic rights and obligations of its customers in relation to the Board.

1. It is the duty of the Commission to ensure that the customers' welfare is taken into consideration alongside the Board's financial viability. The Commission thus shall require the Board to develop and implement a Customer Service Guidelines that will define the customers' rights and how these rights will be protected, including the customers' obligations.

2. The Customer Service Guidelines that will be developed by the Board in coordination with the Commission shall ensure that the rights of the customers are protected. It shall be updated periodically by the Board in consultation and with the agreement of the Commission.

B. Basic Customer Rights

3. The customers of the Board are deemed to have the following rights:

- (a) Right to receive the committed levels of service by the Board – The customers have the right to expect and demand the appropriate levels of service that the Board has committed to provide. In this regard, the role of the Commission is to monitor whether the customers get the agreed levels of service.
- (b) Right to Information - This refers to the right of the customers to be informed on the services provided by the Board, deviations from expected levels of service, adjustments in tariff and other charges, and the Board's performance as published by the Commission. The Commission shall, in accordance with Section 29 (2) of the PUCSL Act, appoint a Consumer Consultative Committee, whose function, among others, shall include promoting awareness of the standards prescribed or determined by the Commission and the rights of consumers with respect to those standards.
- (c) Right to a healthy environment - Customers have the basic right to live and work in an environment which is neither threatening nor dangerous and which permits a life of dignity and well-being. Individual customers and the society as a whole shall be protected from certain environmental risks such as pollution (associated with the use of the water utility's assets) and degradation (from development of additional water resource due to limited supply). The Commission's role is to monitor whether the Board acts according to good practices and continuously improve its operations to ensure public health and safety. Other authorities, in addition, have the obligation to work towards the same objective by providing effective regulation of water resource usage and protection.

Section 83A (3) provides further that the Commission shall discharge its functions in a manner which it considers is best calculated to protect the interest of consumers by promoting efficiency, economy and safety.

In accordance with Section 29 of the PUCSL Act, the Commission shall appoint a Consumer Consultative Committee, whose functions, among other shall be to promote the awareness of the standards prescribed or determined by the Commission and the rights of the consumers with respect to those standards.

D. Customers’ Role and Obligations

4. The customer has an equally important role to play in ensuring an efficient and sustainable water supply operation. Towards this end, the Board and the Commission shall work complementarily with one another to ensure the following:

- (a) Customer support for water conservation programs;
- (b) Customer support for sustainability of utility operations; and;
- (c) Securing customers feedback on the utility operations.

E. Customers’ Service Systems and Procedures

5. The Board shall implement necessary structures and systems in place to promote a responsive and harmonious customer relationship which may include but not be limited to the following :

- (a) a public relations and feedback system that will promote customers’ understanding of the Board and its functions, and the customers’ role in promoting a sustainable water supply and sewerage operation;
- (b) customer care system to handle customer complaints and requests.

Section 83A (3) provides further that the Commission shall discharge its functions in a manner which it considers is best calculated to protect the interest of consumers by promoting efficiency, economy and safety.

F. Standards for Response Time

6. Standards for response time shall be established by the Board in coordination with the Commission on the following aspects of the Board’s operations at the minimum:

<p>Billing</p> <ul style="list-style-type: none"> - over or under reading of meters - Errors in bill computation
<p>Water Quality (usually aesthetic aspects)</p> <ul style="list-style-type: none"> - foul odor, high iron content, yellowish color , etc.
<p>Water Supply/Quantity</p> <ul style="list-style-type: none"> - No water - Low pressure
<p>Leakage</p>
<p>Continuity usually due to excessive interruptions in supply)</p>
<p>Meter/metering Related</p> <ul style="list-style-type: none"> - meter transfer - defective meter

7. The Commission shall monitor the compliance of the Board to the standard response time that will be established. The Board shall submit on a quarterly basis a summary report on actual response time on complaints and service requests received.

8. To ensure that the Board take immediate action on service requests and complaints by the customers, and attain overall satisfactory customer relations, the Commission may adopt a policy to compensate customers whenever the Board fails to

comply with the standard response time for specific consumer complaint.

9. The specific instances where the consumers shall be compensated from the failure of the Board to comply with the standard response time shall be identified, adopted and communicated to the customers.

PART 6: PERFORMANCE MONITORING AND PERFORMANCE INDICATORS

1. The primary role of the Commission as an economic regulator is to ensure that the Board is efficiently operated and that it delivers the expected level of service at a fair and reasonable price to its customers. To achieve this objective, the Commission will conduct periodic performance monitoring of the Board's operation, report the results of performance to the customers and other stakeholders and recommend to the Board necessary improvement measures.

A. Key Result Areas

2. Key Result Areas. The Commission shall review and assess the Board's performance in the following areas using an agreed set of performance indicators.

Sections 83A (2) (c) and 83B provide that the Commission has the power to, in consultation with the Board and the Minister, formulate operational performance and service level standards to be complied by the Board, and monitor and ensure compliance with such standards.

- (i) Service standards and system performance – extent to which the committed levels of service have been complied with;
- (ii) Customer Service - this area covers the interface between the Board and its customers and how well the Board has handled customer concerns and interests;
- (iii) Operational Performance – Indicates the ability of the Board to deliver its targeted levels of service in an efficient and effective manner; and
- (iv) Financial Management Performance – measures the financial performance of the Board and its ability to sustain long-term operations

3. Aspects of Operations to be Measured. The Commission shall monitor the following aspects in each KRA which are reflective of the efficiency and effectiveness of the Board's operations.

Service Standards and System Performance

- Drinking water quality
- Water system reliability
- Sewerage system reliability
- Sewerage system performance

Customer Service

- No. of complaints received per type
- Customer complaint resolution
- Legal Actions
- Disconnections

Financial Performance

- Collection Effort
- Cost Control
- Profitability
- Liquidity
- Sustainability

B. Performance Indicators

(d) The Commission shall use a set on performance indicators in the more detailed review of the Board that will be conducted annually. For the more frequent monitoring of the Board's performance (on a quarterly basis) the Commission and the Board shall agree on a lesser number but more significant performance indicators. These key performance indicators or KPIs shall be reported along with the financial and operating highlights by the Board to the Commission.

(e) In carrying out the monitoring and review function, a set of indicators shall be used to assess the operational performance of the Board and to determine its compliance to established service standards. These indicators which are referred to as Key Performance Indicators (KPIs) will provide the Commission a guide for easy identification of problematic areas of operations that should be addressed. Details of these KPIs are discussed separately in the Primer on NWSDB's Responsibilities, Service Standards, and Performance Indicators and Monitoring

(f) For a more detailed review of the Board, the Commission has the option to conduct other forms of evaluation and assessment such as regulatory audits, technical reviews such as non-revenue water audit and related studies.

C. Performance Monitoring Mechanisms

4. The Commission shall conduct periodic performance monitoring of the Board, the frequency and scope of which are discussed in the succeeding sections.

5. Quarterly Desk Monitoring and Review. The KPIs and Standards will be reported together with the Financial Reports that will be submitted every three (3) months by the Board to the Commission as outlined in Part 8 of these guidelines. Based on these reports, the Commission shall conduct a desk review of the Board's performance. If there are significant findings in the review, the Commission may request for a more detailed investigation of the Board's performance.

6. Annual Performance Review. The Commission shall conduct a more comprehensive annual review of the Board's performance based on the submitted audited financial reports and Annual Report, and compliance to the business plan objectives. It shall also conduct field investigations to validate reports on service standards and operating performance that were reported. The annual performance review shall be conducted during the period April and May of each year.

7. The results of the review of the Board's performance shall be published in June of every year and benchmarked against other comparable water utilities.

PART 7: DISPUTE RESOLUTION AND APPEALS

A. Customer Complaints

Section 86 (1) of the Act provides that unresolved customer complaints and disputes involving the operation of the Board, including but not limited to matters relating to applicability of tariff, billings, service disconnections and service levels may be brought to the Commission for investigation, arbitration and resolution.

1. Customer complaints and disputes involving the operation of the Board, including matters relating to applicability of tariff, billings, service disconnections, and service standards, may be brought to the Commission for resolution. The Commission, however, will act only on complaints and disputes which remain unacted by the Board after 30 days from the date of filing by the customer or which remained unresolved because the customer is not satisfied with the action or decision of the Board.

2. For complaints involving disputed billings, the Board and the customer shall attempt to settle the dispute by agreeing on the amount in accordance with Section 87 (5) (a) of the NWSDB Act. If no agreement is reached within 30 days from filing of the complaint with the Board, the complaint or dispute may be brought by the customer to the Commission for resolution. The Commission shall not act on any customer complaint for disputed billing unless the customer submits proof to the Commission showing that payment of the disputed billing under protest has been made to the Board.

3. The Commission shall act on complaints and disputes within seven (7) days from filing of the complaint. The Commission shall have the option to resolve the complaint or dispute by mediation or investigation or refer the complaint to the Minister, the relevant court, or for arbitration if deemed more appropriate under the circumstances.

4. In any case or complaint brought to the Commission for resolution, the Commission may conduct an independent investigation to determine the factual circumstances. Within thirty (30) days from the time the complaint was filed, the Commission shall issue a resolution in writing with its factual findings and reasons to support its resolution. It may include an award or direction to pay such amount as deemed appropriate, including payment of rebates to the customer and such costs or expenses incurred by the other party and the Commission and shall be final and enforceable in the District Court of Colombo.

5. The resolution, order, award or direction of the Commission may be appealed by an aggrieved party to the Court of Appeal on question of law with the period prescribed by such court

6. The practice and procedure before the Commission shall be in accordance with such rules issued by the Commission under the PUCSL Act.

PART 8: GENERAL REQUIREMENTS TO PROVIDE INFORMATION

1. The Board shall have a general duty to provide to the Commission all information that it may reasonably require in order to permit the Commission to monitor the Performance of the Board and shall include but not be limited to:

A. Service Performance Information

2. The Board shall provide to the Commission not more than 30 days following the end of each calendar quarter a report of its performance with respect to the provision of water and sewerage services in the Service Area which shall contain the information specified by the Commission.

B. Financial Information

3. The Board shall provide to the Commission not later than 120 days following the end of each calendar year a report of the financial performance of the Board. Such report shall include (i) an analysis of revenue by source and revenue from other sources, (ii) an analysis of operating costs which distinguishes between water supply, sewerage and other services, (iii) an analysis of capital expenditures and investments which distinguishes between water supply, sewerage and other services, and (iv) such other information that may be required by the Commission.

4. On a quarterly basis, the Board shall provide the Board copies of financial reports such as the Consolidated Income Statement and Income Statement per Regional Office and a Balance Sheet and such other information that may be required by the Commission.

5. Copies of the annual audited financial reports shall be furnished to the Commission by the Board within 15 days from the receipt of the copy from the Auditor General's Office.

6. The schedule, frequency and form of reports to be furnished to the Commission by the Board shall be established and agreed between the parties at the commencement of the regulatory regime.

PART 9: OPERATION AND BUDGET OF THE Commission:

A. Water Regulatory Unit

1. A Water Regulatory Unit within the Commission shall be established and be in-charge of the regulation of water supply and sewerage services under the NWSDB. The unit shall be manned with adequate no. of staff with the appropriate skills to undertake the functions and responsibilities discussed in the foregoing. It is the objective to keep the water regulatory unit lean, maintain only key regulatory staff to undertake the regular functions and outsource instead the activities requiring highly specialized skills. This is to ensure the efficient and economic use of resources, as any increase in cost of regulation will eventually be borne by the consumers.
2. The recruitment and employment of Commission staff for the water sector regulation shall be governed by existing regulations under the Commission Act. Compensation and benefits of the water staff shall be fixed and aligned with the salary scale for the whole Commission.

B. Guidelines of Conduct

3. The Commission's role is key in balancing the interests of the Board and the consuming public. In this regard, the Commission is expected to exercise the highest degree of independence, fairness and transparency in all its dealings with the Board and the customers to avoid regulatory capture. The Commission shall be guided by the following work ethics and practices:
 - (a) Publication of all decisions – all decisions and determinations by the Commission shall be made in writing and published for the information of all parties concerned.
 - (b) The members of the Commission shall not accept any gift or favor and shall not receive preferential treatment from the Board and customers other than those that are authorized by law such as the entitlement to a regulatory fee.
 - (c) The Board shall not employ relatives within the second degree of any Commission's personnel and vice versa.

C. Regulation Fees

4. The Commission shall be entitled to charge the Board a regulatory fee to defray the costs of regulating the Water Board. The regulatory fee shall be based on a reasonable amount that will be discussed and agreed between the Commission and the NWSDB. Such amounts shall be paid to the Commission no later than the 30th of April of each year.
5. The regulation fees shall be used to cover the cost of operation of the water regulatory unit in the Commission and shall be adequate to meet the following costs:

- Salaries, wages and benefits
- Office running costs

Section 86A of the NWSDB Act provides that the Commission is entitled to charge an annual regulation fee not exceeding .01 per centum of the net book value of the Board's property, plant and equipment in-service, and

such other charges as may be deemed reasonable by the Commission

- Traveling expenses to conduct visits of field offices
- Other costs needed to undertake the functions and responsibilities as defined in the Act.

D. Outsourcing of Other Activities

Section 83A (2) paragraphs (f) and (g) provides that the Commission has the power to conduct or cause to be conducted periodic audit or assessments of the Board's performance, and conduct or commission investigations, surveys and studies in relation to the activities of the Board.

4. In the discharge of the Commission's regulatory functions, it shall identify special activities, examinations or studies that need to be undertaken to establish the reliability of data submitted by the Board to enable and/or further assess the performance of the Water Board. Such studies may include but not be limited to the conduct of technical and operations audit, asset valuation studies, non-revenue water audit, and etc.

5. The cost of conducting said studies or activities shall be borne by the Board and will be part of the recoverable expense. The budget of the studies will be agreed between the Commission and the Board.