



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Prime Minister's Office

No.: 191 /PM

Vientiane Capital Dated: 1 July 2005

Decree
On Regulation of Urban Water Supply Operations

- Based on the Law of the Government of Lao People's Democratic Republic No 02/NA dated 06 May 2003.
- Based on Business Law No 03/94/NA dated 18 July 1994
- Based on the Proposal No 6425/MCTPC dated 1 June 2005 of the Minister of the Ministry of Communication, Transport, Post and Construction

The Prime Minister decrees the following:

SECTION I - GENERAL PROVISIONS

Article 1: Objectives

This Decree sets principles, regulations and measures necessary for the regulation of water supply operations in order to create an environment that facilitates and encourages water supply operators (**Suppliers**) to operate effectively and efficiently, and to ensure that customers receive a good quality service at a fair price.

Article 2: Jurisdiction

This Decree shall apply to enforce both public and private urban water supply operations countrywide.

Article 3: Regulation of water supply operations

The regulation of water supply operations comprises technical regulation and economic regulation for which the Water Supply Authority (**WASA**) is responsible for implementation under the direction of the WASA Regulatory Committee (the

Regulatory Committee).

SECTION II - TECHNICAL REGULATION

Article 4: Approval of service areas

Candidate **Suppliers** shall submit to **WASA** a detailed plan indicating their service areas endorsed by the Department of Communication, Transport, Post and Construction concerned. The **WASA** shall then examine and provide recommendations before submitting to the **Regulatory Committee** for approval. Once approved, the service areas will be incorporated within the **Suppliers'** licences for water supply operation. **WASA** shall specify the level of details of the service area plan.

The approved service area shall be subject to modification from time to time to incorporate actual status of service areas including expansion of the existing service areas and new service areas approved.

Article 5: Application for water supply operation licences

Any Candidate **Supplier** willing to run water supply operations within an approved service area should apply for a water supply operation licence in compliance with the Business Law, the Law on Promotion of Domestic Investment and other relevant legislations. For foreign investment, the Law on Promotion and Management of foreign investment shall apply.

Article 6: Water supply service provision

Suppliers shall provide water supply service to all potential customers in their service areas that request to be served, be they domestic or non-domestic consumers.

Article 7: Development and maintenance of the water supply systems

Suppliers shall develop and regularly maintain water supply systems in their service areas in order to ensure the economic, technical and service effectiveness.

Article 8: Technical performance standards

The **WASA** shall prepare a procedure for reference for the agreement of performance targets with each **Supplier** and a phased approach within a defined time frame to achieve finally required technical performance standards. **WASA** shall also monitor **Suppliers** compliance with the agreed performance targets.

Suppliers shall comply with technical performance targets with respect to pressure and security of service as agreed with the **WASA**.

Article 9: Maintenance of water quality standards and monitoring procedures

WASA shall prepare guidelines on upgrading of water supply quality, and sampling, testing and analysis procedures to be adopted by **Suppliers** in a phased manner, within a defined time frame, towards eventual achievement of the National drinking water quality standards.

Suppliers shall comply with water supply quality targets and monitoring procedures as agreed with **WASA**.

Article 10: Monitoring of level of service performance

WASA shall establish guidelines for monitoring of level of service performance including water quality, pressure, and security of supply and customer satisfaction.

Suppliers shall regularly monitor their level of service performance in accordance with such guidelines and shall maintain accurate records that shall be made available to the general public.

Article 11: Assessment of technical performance

The **WASA**, or appointed persons or organisations by **WASA**, shall be responsible for the assessment of technical performance, including monitoring

procedures.

Suppliers shall provide all the necessary information for this assessment.

Article 12: Maintenance of maps, drawings and schedules of assets

Suppliers shall maintain accurate maps, drawings and other schedules of their assets and such information contained therein shall be made available to the general public except where confidentiality is expressly required and approved by the **WASA**.

Article 13: Customer relations

Suppliers shall establish procedures for dealing with their customers including public information activities that will be periodically disseminated and made available to the general public. A complaints register shall be established and well maintained.

WASA, or appointed persons or organisations by **WASA**, has the right to inspect the complaints register at any time.

Article 14: Easements

Suppliers shall be entitled to install elements of the system on private land in accordance with the Law on Land of the Lao PDR and demarcate easements within which the landowner or any other individual or organisation is prohibited from undertaking construction activities without the consent of the **Supplier**. Nevertheless, landowners or land users shall be entitled to undertake agricultural and animal farming activities within demarcated easements, but with care in order to ensure that their activities are not detrimental to the integrity of the water supply system.

Article 15: Compensation for damages

Suppliers shall provide compensation to the landowner or user of the land demarcated as an easement for financial and other losses incurred as a result of the easement in accordance with the existing legal framework of the Lao PDR.

Article 16: Enforcement notice

In the event of non-compliance with agreed level of service obligations or statutory regulations, the **WASA** shall be obliged to issue an enforcement notice to the offending **Supplier** and it shall be an obligation of the **Supplier** to comply with this notice except where non-compliance is due to:

- Extreme climatic conditions resulting in a failure to meet security of supply obligations
- Inadequate investment in primary infrastructure.

Article 17: Compliance with the enforcement notice

The Supplier shall within the time period specified in the enforcement notice undertake whatever action is appropriate to ensure compliance with the agreed level of service.

The **WASA** may propose that the offending **Supplier** pay compensation to affected Customers as appropriate.

SECTION III - ECONOMIC REGULATION

Article 18: Development and amendment of water supply tariff policy

The Ministry of Communication, Transport, Post and Construction carries out the function of development and periodical amendment of water supply tariff policy to suit changing circumstances, then submit to the Government for approval. The **WASA** shall publish the approved water supply tariff policy.

Article 19: Guidelines for determining tariffs for water supply

On the basis of the approved water supply tariff policy, **WASA** shall prepare and submit water supply tariff determination guidelines to the **Regulatory Committee** for approval, and publish these guidelines for customer and general public information.

Article 20: Tariff approval authority

The tariff approval authority shall be the Provincial Governor concerned in the case of Provincial Nam Papis and other state owned public utility organisations. However, for other management models such as private operators and community owned schemes the Provincial Governor concerned shall nominate the approval authority.

Article 21: Tariff determination process

Suppliers shall determine the water supply tariff structure and level for their service areas in accordance with the water supply tariff determination guidelines and then submit to **WASA**, Department of Communication, Transport, Post and Construction and other organizations concerned as appropriate for recommendations. After incorporating all comments received on the water supply tariff structure and level, these shall be submitted to the approval authority for consideration.

Article 22: Water supply tariff approval

The approval authority has the right to either approve the water supply tariffs as submitted or provide further recommendations for tariff determination before finally offering official approval.

WASA shall publish the approved water supply tariff structure and levels.

Article 23: Tariff review

The **WASA** shall undertake periodic reviews of water supply tariffs in accordance with the provisions of the tariff policy and the water supply tariff determination guidelines.

Article 24: Charges for water supply services

Suppliers are entitled to impose charges on Customers for the water supply

services in accordance with the approved water supply tariff and shall be permitted to apply enforcement measures to customers in the case of non-payment for service within a defined time frame.

The **WASA** shall prepare and publish guidelines for enforcement of payment by Customers including disconnection procedures.

Article 25: Imposition of charges for the repair or replacement of infrastructure

Suppliers shall be entitled to impose charges for the repair or replacement of infrastructure that has been interfered or tampered with. In the event of non-payment by the default Customer, the **Supplier** shall be permitted to apply enforcement measures in accordance with regulations.

Article 26: Assessment of financial performance

The **WASA**, or appointed persons or organisations, shall be responsible for the assessment of financial performance, including monitoring procedures.

Suppliers shall provide all the necessary information for this assessment.

Article 27: Maintenance of financial accounts

Suppliers shall maintain financial accounts in accordance with laws and statutory regulations and regulatory accounting guidelines as specified by the **WASA**.

SECTION IV - REGULATORY ORGANISATIONS FOR THE WATER SUPPLY OPERATIONS

Article 28: The Regulatory Committee

The **Regulatory Committee** comprises 7 members as follows:

- 1) A Vice Minister of MCTPC as Chairman
- 2) The Director General of DHUP as Vice-Chairman
- 3) The Director of the Office for State-owned Enterprise Restructure, Prime Minister's Office as member

- 4) The Head of the Water Supply Division, DHUP as member
- 5) The General Manager of Water Supply State-owned Enterprise
Vientiane Capital City on behalf of **Suppliers** as member
- 6) The Chairperson of MCTPC's Women Union on behalf of Customers as member
- 7) The Director of **WASA** as member and Chief of the Secretariat

Positions on the **Regulatory Committee** are part-time. The **Regulatory Committee** shall meet on a quarterly basis and on an as needed-basis. A decision of the **Regulatory Committee** shall be by simple majority. The Chairman shall have the casting vote in the case of a tie.

The Minister of the Ministry of Communication, Transport, Post and Construction appoints members of the **Regulatory Committee**. In the future, as the urban water supply sector develops, the number of **Regulatory Committee** members will be modified accordingly.

Article 29: Rights and Duties of the Regulatory Committee

The **Regulatory Committee** has the rights and duties as follows:

- 1) Defining policy and directing overall regulatory activities based on the national water supply sector policy.
- 2) Considering and endorsing regulatory planning established by WASA including action plans, staffing, training, budgets and financial plans before submitting to the Minister of Ministry of Communication, Transport, Post and Construction for approval.
- 3) Approving guidelines, regulations, benchmarks and performance indicators related to water supply operation regulatory activities established by WASA.
- 4) Directing, monitoring and supervising the water supply regulatory activities of **WASA**.

Article 30: Rights and duties of the Water Supply Authority

The Minister of Ministry of Communication, Transport, Post and Construction issues the Decision on Organization and Activities of the Water Supply Authority and this will be modified periodically as the water supply sector develops.

Article 31: Budget for water supply operation regulatory activities

The budget for water supply operation regulatory activities of the **WASA** is the state budget and funding from other funding sources both local and external. In addition, **WASA** has the right to be financed in part from a surcharge on water supply tariffs and others as approved by the Government.

SECTION V - SETTLEMENT OF DIFFERENCES

Article 32: Settlement of differences

Differences arising between the **Supplier** and its Customers shall be solved mutually on an amicable basis. If no agreement is reached, the differences may be referred to **WASA**. If they are still not able to be settled, legal process shall be considered.

SECTION VI - AWARDS AND SANCTIONS

Article 33: Awards

Individuals or organizations with prominent achievements in the contribution to improved effectiveness and efficiency of water supply operations as well as **Suppliers** that are able to achieve the agreed performance target shall be awarded and benefit from other policies as appropriate.

Article 34: Offences

The following conduct is considered as an offence:

- 1) A **Supplier** to fail to comply with an enforcement notice in accordance with the time provisions of the notice;
- 2) A **Supplier** to falsify any records, data or other information;
- 3) A **Supplier** to obstruct or interfere with an officer of WASA in the carrying out his duties;
- 4) A **Supplier** to impose charges greater than those approved;
- 5) Any individual or organization to interfere or tamper with the water supply system under responsibility of the **Supplier** without the Supplier's consent;
- 6) Any individual or organization to interfere or tamper with any metering device;
- 7) Other offences affecting the water supply operations and resulting in loss or damage to a public, collective and individual interest.

Article 35: Sanctions

All offences specified in **Article 34** of this Decree shall be subject to necessary measures as follows:

- Education measure: in the case that the offence results in negligible loss or damage;
- Administration measure: in the case that education measures have already been received but offences are still committed. If loss or damage is very serious the water supply service shall be ordered to be suspended or the water supply operation shall be ordered to be terminated.
- Criminal measure: in the case where the offence is a criminal violation.

In addition to the application of the measures above mentioned, the offending party shall compensate for loss or damaged caused.

SECTION VII - FINAL PROVISIONS

Article 36: Implementation

Ministry of Communication, Transport, Posts and Construction, other Ministries and Local Authorities concerned shall be informed and implement this Decree effectively.

Article 37:

This Decree is effective from the date of signature.

The Prime Minister

Boungnang VORACHITH