

**RESOLUTION NO. 009-0906**  
**September 20, 2006 – 47<sup>th</sup> Board Meeting**  
**POLICY REGARDING THE REGULATION OF BULK WATER SUPPLIERS**

WHEREAS, the Department of Justice (DOJ) in its Opinion No. 80 series of 2004 dated 27 August 2004, stated that the NWRB can grant Certificates of Public Convenience (CPC) to business entities selling bulk water to other entities engaged in the retail trade of water, citing the ruling of the Supreme Court in JG Summit Holdings, Inc. vs. Court of Appeals, G.R. No. 124293, September 24, 2003;

WHEREAS, in light of the Supreme Court Decision under the case of JG Summit Holdings, Inc. and Court of Appeals, “public utility” was defined as a “business or service engaged in regularly supplying the public with some commodity or service of public consequence such as electricity, gas, water, transportation, telephone or telegraph service. As its name indicates, the term public utility implies public use and service to the public. The principal determinative characteristic of a public utility is that of service to, or readiness to serve, an indefinite public or portion of the public as such which has a legal right to demand and receive its services or commodities.”

WHEREAS, the DOJ in its Opinion No. 80 series of 2004 dated 27 August 2004 clarified that “a private business operated under private contracts with selected customers and not devoted to public use cannot, by legislative fiat or by order of a public service commission, be declared a public utility.”

WHEREAS, the Board agreed that bulk water suppliers, although not classified as public utilities and therefore not required to secure CPCs, should still be subject to regulation especially as regards tariffs because the nature of their business is imbued with public interest.

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved, to regulate the bulk water suppliers that are not classified as public utilities through the review of their tariff and/or parametric formula for adjustment.

Subsequent tariff adjustment of Bulk Water Suppliers whose initial tariffs were fixed through solicitation (whether through a swiss challenge or open solicitation), shall be regulated through an approved parametric formula and tariff. Adjustments through the parametric formula shall not be applied until the Board has confirmed the correct application of the formula.