



PT PALYJA's comments on KRuHA statements in its submission to the UN Independent Expert on the Right to Water and Sanitation that concern the water concession contract for the West Zone of Jakarta

Introduction

In 2009 the UN Independent Expert on the Right to Water and Sanitation, Catarina de Albuquerque, announced that during the course of 2010 she would prepare a report on "Private Sector Participation in the Provision of Water and Sanitation Services". This new report focusing on private operators will be prepared with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and will be presented to the September 2010 session of the Human Rights Council. The Independent Expert invited written submissions from all stakeholders to be submitted formally to her by 26th of March 2010.

A considerable number of submissions were received by the Independent Expert and posted on her web site : http://www2.ohchr.org/english/issues/water/iexpert/Ind_expert_DeAlbuquerque.htm

Among these, there is a submission from the Indonesian organisation KRuHA (People's Coalition for the Rights to Water). This submission contains a certain number of mistakes and inaccuracies, which are prejudicial to PT PALYJA¹, the concessionaire of the West Jakarta water contract and its client PT PAM JAYA and the Regional Government of DKI Jakarta (DKI).

The purpose of this document is to rectify and clarify the posted report especially in using the most up to date data and information, so that the Independent Expert and others who may consult her website understand the factual situation.

For that reason PT PALYJA requests that this document be placed on the Independent Expert's website as a "right to reply".

Format of the submission

This submission consists of the original text from the KRuHA document, which is reproduced in standard characters. This is accompanied by information and comments provided by PALYJA together with various tables and diagrams, for illustration purposes, PALYJA text is all in blue italic characters and all tables and diagrams provided by PALYJA are formatted with a blue double border.

PALYJA has made no attempt to rectify any part of the KRuHA document that does not concern PALYJA directly.

For any questions or clarifications please contact:

Philippe Folliasson – President Director - philippe.folliasson@palyja.co.id and;

Philippe Pedrini – Contract Manager – philippe.pedrini@palyja.co.id

¹ PT Pam Lyonnaise Jaya

PALYJA's Right to Reply

The KRuHA document contains a table referring to 4 concession contracts in Indonesia. The following table contains an extract from this regarding PALYJA. We have extracted this from the original submission and added a column with corrected information relative to PT PALYJA.

<i>Information provided by KRuHA in relation to PT PALYJA</i>		<i>Corrected information provided by PT. PALYJA</i>
The table below provides a summary of the four concession contracts in Indonesia. Description	PT. Palyja	
Period	1998-2022 (25 yr)	
Owner	Suez Environnement (51 %) ASTRATEL (30%) CITI Group (19%)	
Population	4.414.993	4,446,024
Customers	371.987	412.456 - (2009)
Service Coverage	59 %	63,9% - (2009)
NRW	47 %	43,9% - (2009) <i>(Six-month rolling average as per contract)</i>
Investment (IDR)	1 T (2006)	1,4 T - (2009)
IRR	22 %	
Average Tariff (IDR/m3)	7.100	7,713 - (2009)
Regulator	Regulatory Body	Jakarta Water Service Regulatory Body (JWSRB)

Jakarta Water Concession

The public-private partnership scheme in Jakarta was introduced in 1994 through a World Bank loan tied with the medium term investment plan for the improvement of clean water service in Jakarta. The consultants who conducted the study was later assigned to assist the PDAM DKI Jakarta in the negotiation with two water companies, Lyonnaise des Eaux (France) and Thames Water International (United Kingdom) that have expressed their interest in Jakarta's water business. The two companies later joined to establish a joint venture with two local firms. After a protracted debate and process, the cooperation agreement was signed in June 1997 between PDAM DKI Jakarta (as First Party) and its two private partners (as Second Party). The agreement was made effective in February 1998 and later was amended in 2001 because of economic crisis that affected the foreign exchange rate.



At present the holder of the concession in West part of Jakarta is PT Palyja with 51% shares owned by Suez Environnement. PT Astratel Nusantara owns 30% while Citigroup Financial Products Inc. has 19% of the shares. For the concession in Eastern Jakarta, PT Aetra Air Jakarta is 95% owned by Acuatico Pte. Ltd. (registered in Singapore) and the remaining 5% by PT Alberta Utilities

The Jakarta concession all this time is often viewed from two sides that are mutually difficult to reconcile. From the view of concession holder, the Jakarta project provides good profit and revenue. This is proven by the total revenue and profit of PT Palyja that continually increases annually.

These increases are mainly due to the combination of:

- (i) a higher volume of water sold (allowing an increase in the number of the people having access to the water and therefore increasing the coverage ratio),*
- (ii) a higher Water Charge that is mainly due to the increased cost of the Bulk treated water sold to PALYJA by the public authority. This has risen by +101.5% for the period 2004 to 2009.*
- (iii) the efficiency gains following the various action plans over the contract period.*

The Water Tariff has been insufficient to cover the necessary capital investments, operational expenses, reimbursement of the debts to the bondholders, reimbursement of PAM Jaya's debt to the Ministry Of Finance (MOF).

Since 2004 – 2008, the net revenue continually increased from Rp 560 billion in 2004 to Rp 920 billion in 2008. The net profit also shows a similar trend. In 2004 the net profit was Rp 114 billion, and it reached Rp 138 billion in 2008. Not surprisingly, water tariffs also escalated during this time.

The "theoretical" net profit in 2008 reached Rp 137 billion in 2008.

The water Tariff increase is due to:

- (i) the fact that in the Water Tariff, more than 750 Rp/m³ (almost 10% of Average Water Tariff) is due to the reimbursement of PAM Jaya's debt to the Ministry Of Finance (for both concessions, this debt reimbursement amounted to Rp 94 billion in 2004 and Rp 207 billion in 2009 or an increase of +120% in 5 years)*
- (ii) the increases in input costs, such as the Bulk treated water, which has risen by +101.5% for the period 2004 to 2009*
- (iii) the salaries and benefits increases made in order to maintain the purchasing power of the employees, etc....*

From Rp 4.450 in 2004, water charges hiked up to Rp 7.020 last year. In the newest concession, the water charge per cubic meter of water in 2007 was Rp 5.541. This increased to Rp 5.67 in 2008.

Over the period from 2004 up to 2009, inflation is evaluated at approximately 57.9%, a figure that justifies the increase of the water charge.



The concession contract also gives the right to the holder to receive an internal rate of return (IRR) of 22% along with the power to collect several types of fees like the fee for using the expertise in human resource development, finance, legal, technical and management. Another example is the “Know how license agreement” by Suez that gives it the right to collect a fee (4% of revenue up to 2003, 2.5% for the period 2004-2012), for the utilization of “technical expertise”.

The Technical Assistance Fee keeps decreasing beyond 2012, as follows: 2.0% for the period 2013-2017, then 1% until contract term. All these fees are charged for real services provided.

As a long established company that has extensive experience in managing water systems worldwide, supported by research and development facilities and the Suez University, SUEZ Environnement has specific measures to enable its expert staff to transfer know-how and technology to staff and to communicate through information technology tools to add value to its subsidiaries, including in this case to PALYJA.

Technical Assistance is a service provided exclusively for the operating business units and is carried out by the experts of the Department of Operation, Research and Environment (DORE) of SUEZ Environnement or by business units recognized for their technical expertise. A Technical Assistance mission is usually a single piece of work, but may also include regular inputs to PALYJA's project team. The work may include fieldwork and/or desk study and may be undertaken within PALYJA or outside PALYJA. Technical Assistance may also be in the form of specialist technical training and access to research and development of knowledge.

During year 2008, there were 9 missions implemented, including 10 visits.

- o *Long Term Data Base (LTDB) Improvement and optimization*
- o *Central Monitoring System (CMS) Enhancement*
- o *Health and Safety Training and Audit*
- o *CIS Support*
- o *NRW Strategy Review and Training*
- o *Preliminary study of Sludge Treatment Process*
- o *Action Plan For drinking Water Production*
- o *GPOBA Project Support (Water for All)*
- o *Assistance in obtaining a Rupiah loan from ADB (Asian Development Bank)*

All of these missions had specific objectives to respond to the needs of PALYJA and for which the local expertise was insufficient.

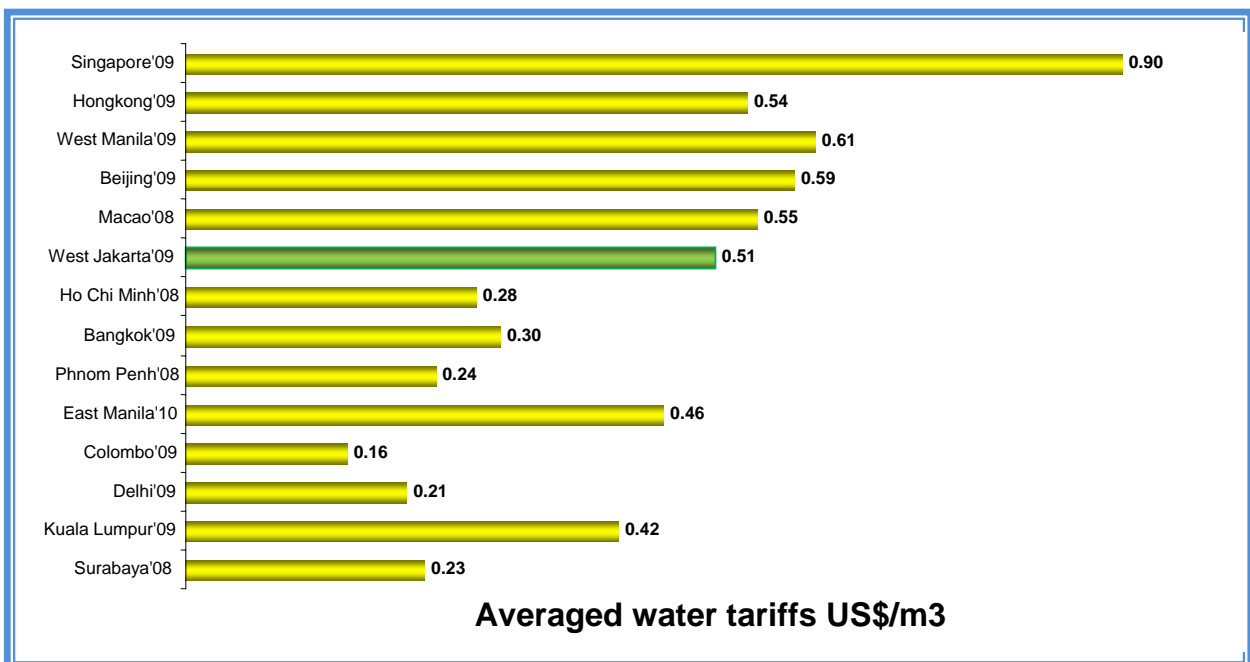
It is common practice in the water industry, as in many others, that the strategic partners (water operators) receive Transfer & Technology and Know-How fees amounting to approximately 5%, as recognized by International Financial Institutions (IFI) for the water industry.

Meanwhile, the customers are bleeding from high tariffs due to these various concession holder rights. According to the Regulatory Body, the Jakarta water tariff is one of the highest in Southeast Asia outside Singapore and Hong Kong.

The following table and graph show the averaged water tariff for major cities Southeast Asia, for comparison purposes with the current tariff in Jakarta:

No.	Country	City	Water Company	Average Tariff	Reference Year	Reference Source
1	Indonesia	Surabaya'08	PDAM Kota Surabaya	US\$0.234/m ³	2008	PDAM SURABAYA OVERVIEW
2	Malaysia	Kuala Lumpur'09	Syarikat Bekalan Air Selangor SDN, BHD (SYABAS)	RM 1.39/m ³ or US\$ 0.416/m ³	2009	
3	India	Delhi'09	Delhi Jal Board	US\$0.213/m ³	2009	Delhi Jal Board Office of The Director Varunlaxya phase II, Karol Bagh, New Delhi
4	Sri Lanka	Colombo'09	National Water Supply and Drainage Board	US\$0.155/m ³	2009	www.mwsd.gov.lk
5	Philippines	East Manila'10	Manila Water Company	P 21.1792/m ³ or US\$0.4622/m ³	2010	www.manilawater.com
6	Cambodia	Phnom Penh'08	Cambodia's Phnom Penh Water Supply Authority (PPWSA)	US\$0.24/m ³	2008	The 3rd Edition of The Sourcebook on Emergency Good Practice in Managing for Development Results, 2008
7	Thailand	Bangkok'09		US\$0.3031/m ³	2009	www.mwa.co.th (Tap water)
8	Vietnam	Ho Chi Minh'08	Ho Chi Minh City Water Supply Company	\$0.28/m ³	2008	The 3rd Edition of The Sourcebook on Emergency Good Practice in Managing for Development Results, 2008
9	Indonesia	West Jakarta'09	PALYJA	US \$ 0.51/m ³	2009	
10		Macao'08	Macao Water Supply Co. Ltd.	4.39MOP/m ³ or US\$ 0.5493/m ³	2008	www.macaowater.com (Annual Report 2008)
11	People's Republic of China	Beijing'09	Beijing Water Co. Ltd.	US \$0.585/m ³	2009	Company Report Beijing Enterprises "High Demand on Natural Gas, Raise TP, Reiterate "BUY" article
12		West Manila'09	Maynilad Water Service	P 27.764/m ³ or US\$0.605/m ³	2009	www.mayniladwater.com.ph
13		Hongkong'09	Water Supplies Department	US \$0.534/m ³	2009	www.wsd.gov.hk
14	Singapore	Singapore'09	Singapore Public Utilities Board (PUB)	S\$1.2519 or US\$ 0.901/m ³	2009	www.pub.gov.sg (Annual Report 2009)

This shows clearly that Jakarta's domestic water tariff is lower than those of other major Asian cities such as Singapore, Hong-Kong, West Manila, Beijing and Macao:





In addition, it should be noted that the tariffs for the Jakarta Water Service are based on full cost recovery ("the water pays for the water"), when numerous other Asian Cities have their water service subsidized (mostly CAPEX) by the local or central government.

PALYJA - domestic averaged water tariff / 2009

(1 US\$ = 9,200 Rp)

KODE TARIF (TARIFF CODE)	Kelompok- Tariff Group	REKENING (PRINTED RECEIPT & ISSUED) No.	VOLUME (m3)	BIAYA PEMAKAIAN (Volumetric CHARGE) - Rp	SEWA METER (METER LEASE) - Rp	BEBAN TETAP (FIXED CHARGE) - Rp
			a	b	c	d
2A1	K2	78,791	1,888,538	2,383,327,800	266,470,800	130,110,570
2A1	K2	3,237	40,583	46,987,500	10,849,400	5,297,060
2A2	K3A	125,176	1,779,054	7,807,018,350	470,873,600	822,813,975
2A2	K3A	1,682	14,204	58,192,000	6,182,600	10,803,280
2A3	K3B	71,875	1,099,953	6,675,918,450	313,242,400	537,495,385
2A4	K4A	64,025	1,401,300	12,103,255,375	330,297,400	902,916,735
Total		344,786	6,223,632	29,074,699,475	1,397,916,200	2,409,437,005
AWT (Total)-IDR /m3 : (b+c+d)/a	5,283.42					
AWT (Total)-USD /m3	0.57					
AWT (Volumetric Revenue only)-IDR/m3 : b/a	4,671.66					
AWT (Volumetric Revenue only)-USD /m3	0.51					


The Jakarta water tariff (0,51 USD/m³) only refers to domestic users in order to compare what is comparable. This is primarily due to the cross-subsidized tariff grid, which creates the differential of a factor 14 between the lowest and the highest tariffs.

Jakarta Domestic Water Tariffs as decreed by the Governor in January 2007² - (1 US\$ = 9,200 Rp)



Golongan	Description	Per Gub. No. 17/2006		
		Dated : 15 January 2007		
		0 - 10 m ³	11 - 20 m ³	> 20 m ³
K 1	Social Customers	1,050	1,050	1,050
K 2	Low Income Domestic	1,050	1,050	1,575
K 3A	Middle Class	3,550	4,700	5,500
K 3B	Upper Class and	4,900	6,000	7,450
K 4A	small Business	6,825	8,150	9,800
K 4B	Non Domestic	12,550	12,550	12,550

² Note there are no customers in the K5 category in the PALYJA zone.

DKI Jakarta Governor's Decree – Water Tariff / 15 January 2007



PEMERINTAH PROPINSI DAERAH KHUSUS IBUKOTA JAKARTA
PERUSAHAAN DAERAH AIR MINUM
 Jl. Penjernihan II, Pejompongan Jakarta 10210
 Telp. (021) 570.4250 (Hunting) Fax (021) 571.1796
PENYESUAIAN TARIF OTOMATIS (PTO) AIR MINUM
SEMESTER I TAHUN 2007
DIREKSI PERUSAHAAN DAERAH AIR MINUM
PROPINSI DAERAH KHUSUS IBUKOTA JAKARTA

Pelanggan Yth,
 Sesuai dengan Peraturan Gubernur DKI Jakarta Nomor 11/2007 tanggal 15 Januari 2007 tentang Penyesuaian Tarif Otomatis (PTO) Air Minum Semester I Tahun 2007 di Daerah Khusus Ibukota Jakarta, maka terhitung tanggal bulan Februari 2007 diberlakukan tarif baru untuk biaya pemakaian air minum.

Demikian pembentahan kami, atas perhatian dan kerjasamanya yang baik, kami ucapkan terima kasih.

Jakarta, Februari 2007

I. Tarif Air perkelompok pelanggan dan besarnya pemakaian

No	Kelompok Pelanggan	Blok Pemakaian & Tarif Air per m3		
		0-10 m3 Rp	11-20 m3 Rp	>20 m3 Rp
1	Kelompok I	1.050,-	1.050,-	1.050,-
2	Kelompok II	1.050,-	1.050,-	1.575,-
3	Kelompok III A	3.550,-	4.700,-	5.500,-
4	Kelompok III B	4.900,-	6.000,-	7.450,-
5	Kelompok IV A	6.825,-	8.150,-	9.800,-
6	Kelompok IV B	12.550,-	12.550,-	12.550,-
7	Kelompok V/Khusus	14.650,-	14.650,-	14.650,-

II. Uraian Kelompok / Golongan Pelanggan

Kelompok I : - Tempat ibadah - Masjid dan Ledeng Umum - Asrama Badan Sosial - Rumah Yatim Piatu - Dan sejenisnya	Kelompok II : - Rumah Sakit Pemerintah - Rumah Tangga Sangat Sederhana - Rumah Susun Sangat Sederhana - Dan sejenisnya	Kelompok III A : - Rumah Tangga Sederhana - Rumah Susun Sederhana - Stasiun Air dan Mobil Tangki - Dan sejenisnya
Kelompok III B : - Rumah Tangga Menengah - Rumah Susun Menengah - Kios/Warung - Bengkel Kecil - Usaha Kecil Dalam Rumah Tangga - Lembaga Swasta Non Komersial - Usaha Kecil - Dan sejenisnya	Kelompok IV A : - Rumah Tangga di atas Menengah - Kedutaan/Konsulat - Kantor Instansi Pemerintahan - Kantor Perwakilan Asing - Lembaga Swasta Komersial - Institusi Pendidikan/Kursus - Instalasi TNI - Usaha Menengah - Usaha Menengah Dalam Rumah Tangga - Tempat Pangkas Rambut - Penjahit - Rumah Makan/Restoran - Rumah Sakit Swasta/Poliklinik/Laboratorium - Praktek Dokter - Kantor Pengacara - Hotel Melati/Non Bintang - Industri Kecil - Rumah Susun di atas Menengah - Bengkel Menengah - Dan sejenisnya	Kelompok IV B : - Hotel Berbintang 1,2,3/ Motel/Cottage - Sate/bakso/Salon Kecantikan - Night Club/Kafe - Bank - Service Station, Bengkel Besar - Perusahaan Perdagangan/ Niaga/Risiko/Rukan - Hotel Berbintang 4,5 - Gedung Bertingkat Tinggi, Apartemen/Kondominium - Pabrik Es - Pabrik Makanan/Minuman - Pabrik Kimia/Obat/Kosmetik - Pabrik/Gudang Perindustrian - Pabrik Telatit - Pengudangan/Industri Lainnya - Tongkang Air - PT Jaya Ancol - Dan sejenisnya
Kelompok V/Khusus : - BPP Tanjung Priok - Dan sejenisnya		

Since 2004 an Automatic Tariff Adjustment was applied every six months. Based on this mechanism, the private operator has the right to propose tariff increase once every six months to the Regulatory Body for submission and approval by the Governor. During the water service undertaking by the private partner there have been nine tariff hikes and the last was last December 2008

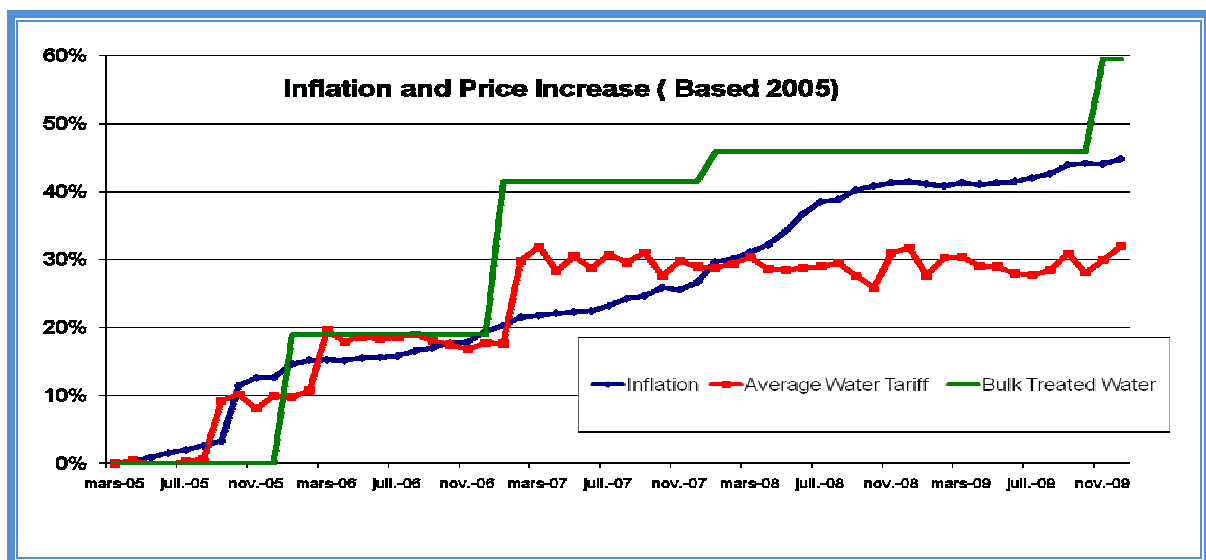
This statement contains a common confusion that is often made between the Water Tariff and the Water Charge. PALYJA's revenue is based on a fixed water charge, which is reviewed every six months to take into account inflation (CPI). PALYJA's revenue, the Water Charge, evolves independently from the tariff (which is decided at the Jakarta city government level).

The Automatic Tariff Adjustment mechanism (ATA) is a mechanism which was introduced for the period 2005-2007 enabling an automatic 6-monthly water tariff adjustment to be made. Out of the 6 potential ATAs (VI ATA) only 4 were enacted before the corresponding Decree expired.

Pursuant to the "Automatic Tariff Adjustment" decree issued by the Governor of DKI Jakarta in 2004 and enforced from 2005 to 2007; tariff review were implemented every semester to keep up with the cost of the service. However, tariff adjustments were not agreed and implemented every Semester and were left to the sole decision of the Governor, meaning tariff adjustments were not automatic at all. Since January 2008, the ATA decree is not longer applicable and since 2006, there is a Ministry of Home Affairs Decree (MOHA 23/2006) stating, among others, that tariff ought to be reviewed and adjusted once a year for all the PDAMs in Indonesia.

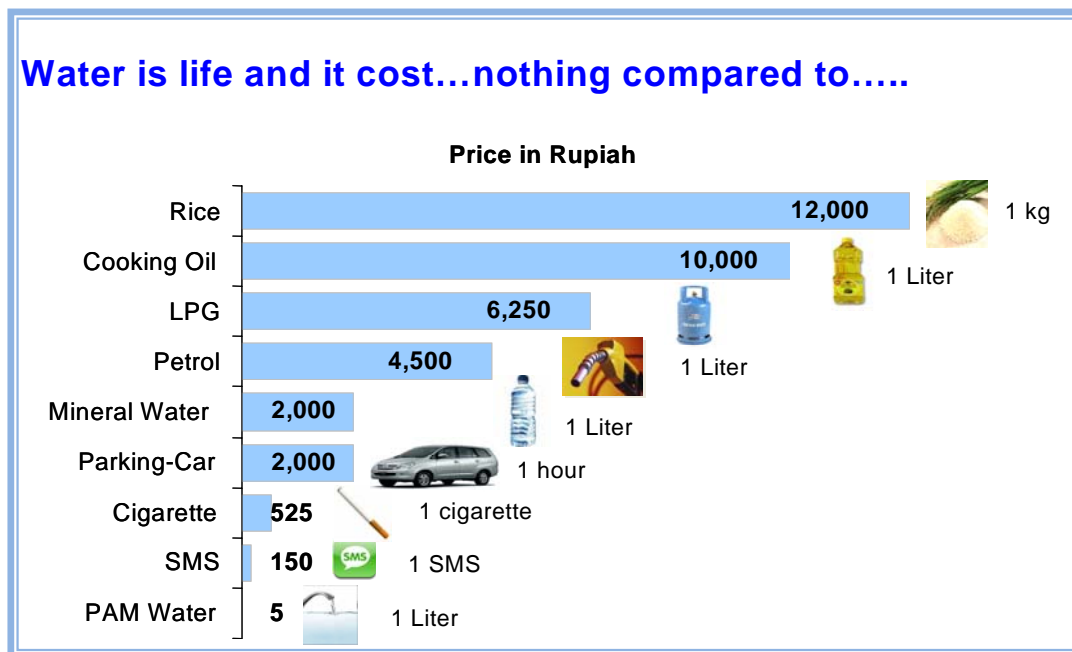
It is worth highlighting that there has been no tariff increase for the past three and a half years. The last one took place in January 2007. Since that date, CPI has increased by about 23%, which would have justified a tariff increase to at least covers for inflation.

Comparative evolution of CPI index, Average Water Tariff and Bulk Treated Water



NB: Bulk Water increased by 34% during the period in which the Water Tariff has remained unchanged

When comparing the tap water average domestic tariff in Rp. to other basic consumer goods and utilities, it appears that it is very reasonable.



In addition, it is worth to recall that in Jakarta, low-income household not having yet access to pipe water have to buy water from local retailers and end up paying between 25 to 50 times the DKI regulated rates used for piped water.

Water source	Per unit cost price (Rp/m ³)
Bottled water	131,579
Vended water from public hydrant delivered to household by ambulatory vendor	37,500 - 62,500
Public hydrant (transport of water done by household)	12,500 - 25,000
Illegal public hydrant (transport of water done by household)	17,500
Illegal tank	4,000
Unofficial pipe connection (legal connection shared by several households)	50,000/month
Spaghetti pipe connection to deep well	50,000 - 75,000/month
House connection to piped water network (poor households sized between 28.8 & 70 m ² - PALYJA / 2007)	3,550
House connection to piped water network (very poor households sized below 28.8 m ² - PALYJA / 2007)	1,050

source: Michelle Kooy's field Research - 2006



Because it was difficult to increase the tariff, the water operators unilaterally implemented customer category adjustment that further hiked up the water bills. The implementation of this customer category adjustment drew huge protest from the public including legal summon from the Consumer Foundation Institute.

The statement "water operators unilaterally implemented customer category adjustment" is not true. The water tariff and tariff categories are decided at the city level by the Governor of DKI Jakarta Regional Government. Even though the Concessionaires express their views regarding the city water tariff increase, water operators are not involved in the decision process. The Operator is checking on a regular basis, and adjusting when necessary, the individual customer classification in the database in order to match it with the provisions of the DKI decree on customer categories classification. This is necessary for various reasons, for example the designation and use of an individual house/accommodation may have changed over the time.

Reclassification is working both ways. In 2009 a total of 10,662 customers (out of 412,456 - i.e. 2.6%) were reclassified, 75% towards higher tariff category and 25% towards lower one. In 2007 the trend was inverse, 19% moved towards higher tariff and 81% towards lower tariff category.

The high tariff is the only resource to pay the interests from various loans made by the private partners.

Most of the loans are former loans contracted by PAM Jaya prior to the concession entering into force. The sum total of the debts that have been repaid by the customers via the water tariff amount to some Rp 207 Billion in 2009. Until the concession contract ends, there remains Rp 2,051 Billion to be reimbursed. Moreover, the difficulties of PAM Jaya to meet its payment obligation towards the Ministry of Finance were one of the key reasons for engaging private sector participation in 1997.

The First Ten Years of Implementation of the Jakarta Water Supply 25-Year Concession Agreement (1998-2008)
 Jakarta Water Supply Regulatory Body – 2009
<http://www.jakartawater.org/images/stories/unduh/10tahunbrEng.pdf>

"In 1997, the Government realized that the provision of water supply service managed by the locally owned enterprise, i.e. PD PAM Jakarta Raya or PAM Jaya, was experiencing enormous challenges. The observation at that time was that its financial condition is not viable enough to obtaining support (loan) from the banking sector for expansion of its service..."

PT Aetra Air Jakarta has loans from a number of banks and debt obligations totaling Rp 601 billion. The revenue from debt obligation in actual was used by the company to repay its loan to Citibank (AS\$ 69.5million). The interests of debt obligation must continually be repaid by the company up to 2015.

PT. Palyja also has debt obligations that must be repaid by 2012. Like PT Aetra, the revenue from debt obligation was also used by PT Palyja to repay its loan to European Investment Bank and Calyon Merchant Bank Asia. On March 18, 2008, the company again received a loan from the Asian Development Bank worth Rp 45 billion.

During the 1998 crisis the only possibility to raise funds was in foreign currency (USD). In 2005 PALYJA succeeded to issue 650 billion IDR bonds to refinance in Rupiah these commercial loans (European Investment Bank - Calyon Merchant Bank Asia). This enabled to get rid of the exchange rate adjustment component in the Water Charge escalation formula, to the benefit of the customers.



It is common practice to borrow money and contract bank loans to finance investments, when the tariff is not generating enough cash for direct investment. Rp 1.4 Trillion has been invested by PALYJA since 1998. Moreover debt is more cost effective than equity financing.

Another problematic issue regarding the Jakarta concession is the unmet targets. On the target of reduction of “unaccounted for water”, since 2003-2007, PT Palyja never reached the planned target

PALYJA over performed the NRW target (Non Revenue Water, equivalent to “Unaccounted For Water”) in 2009 reaching 43.9% (six-month rolling average as per contract) better than the 44% contractual target; and current performance should allow, if both investments and water resources are available, to reach about 30% at the end of the concession contract.

PT TPJ/Aetra reached the target in 2003-4 but has failed ever since. On service coverage, PT Palyja managed to achieve the target in 2003 but not for the subsequent years. Meanwhile PT TPJ/Aetra achieved service coverage targets only in 2003 and 2004.

PALYJA also over performed the service coverage ratio target in 2008 and 2009 reaching respectively 61.8% and 63.9%, better than contractual targets (respectively 61% and 62.5%).

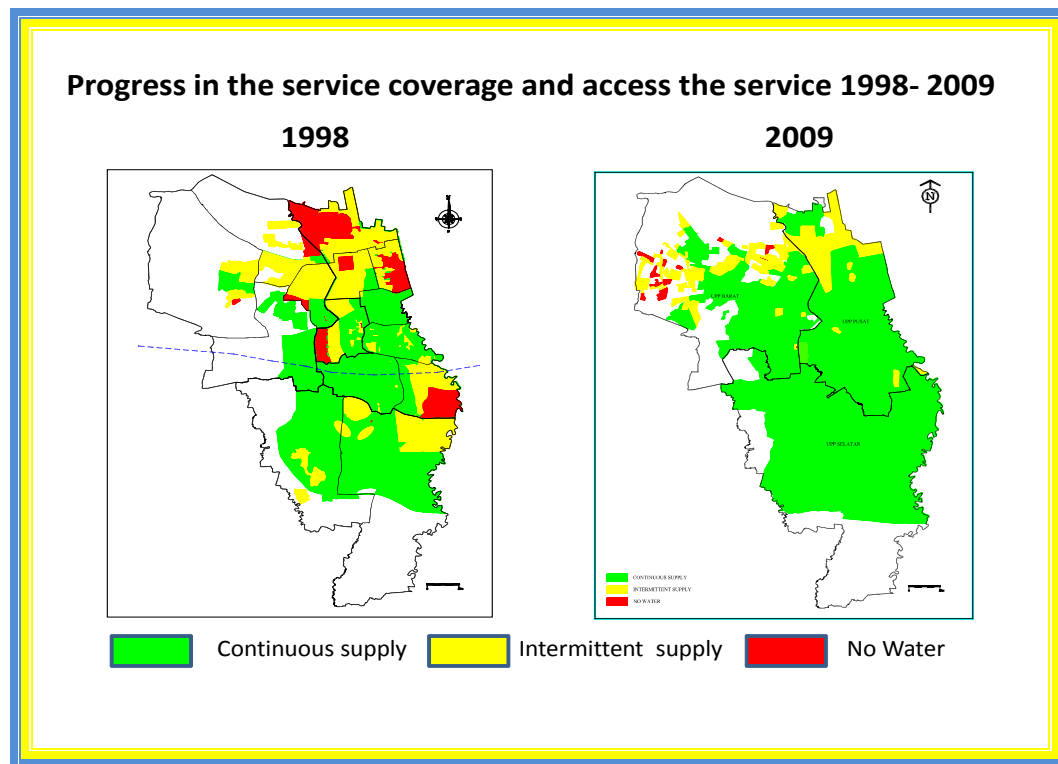
Impacts

The Water privatization experience in Indonesia provides a vivid illustration of how privatization failed to be the best and only solution to the multi-faceted problems of water service and delivery. It is not only a story of unfulfilled promises but also of how the Indonesians were disregarded in favor of private profit and vested interests.

The results of the Private Sector Participation in Western Jakarta are proven and beyond doubt. Between February 1998 and December 31st 2009, PALYJA brought water to an additional 1,300,000 people in Western Jakarta, by using the same quantity of water resource, thanks to an approximate investment of 140 M USD, which enable:

- o Network length to increase by an additional 1,228 km of pipe (network length of 5,250 km, 2009)*
- o To rehabilitate 850 km of pipes*
- o To more than double the number of customers but also to multiply by 8.5 the number of connections for low income populations*
- o To reduce Water losses (NRW) from almost 60% to less than 44%*

Illustration of the evolution of the Service coverage and access to service 1998-2009



EVOLUTION OF THE SERVICE / 1998 -2009

	1998	2009	improvement
Number of Customers	201,668	412,456	+ 105%
Service Coverage Ratio	33.8%	63.9%	+ 89%
Volume - sales - M m3 (*) 1999	101.7 ^(*)	137.7	+ 35%

The Indonesian community is the main beneficiary of the concession because, in Western Jakarta, more than 94% of the cash generated by the activity is reverted to the Indonesian community trough:

- o *Ministry of Finance loan repayment*
- o *DKI + PAM Jaya + Regulatory Body running costs*
- o *salaries and social charges*
- o *purchase of raw water , bulk water, electricity and chemicals*
- o *VAT*
- o *corporate taxes*
- o *Subcontractors and suppliers*
- o *interests to bond holders and local banks, etc...*

In addition, water concessionaires companies of Jakarta are 80% owned by Indonesian companies.

Unfulfilled Promises

A. On Efficiency, Expansion & Investments

The privatization of PAM Jaya reeks of unfulfilled promises. Even the ADB reported in 2003 that “the private operator concessions in Jakarta have not been too successful in investments and efficiency improvements.”

More recent literature on PALYJA’s performance is available, from IFIs like World Bank and ADB.

Among others, these are extracts from various organizations’ reports:

Public Private Partnership for Urban Utilities – A review of experiences in developing countries / World Bank – PPIAF – 2009

http://www.ppiaf.org/documents/trends_and_policy/PPPsforUrbanWaterUtilities-PhMarin.pdf

“In Jakarta the concessionaires performed better than their counterparts in secondary cities, but they cannot be meaningfully compared with them because of the differences in size and conditions for access to financing.” - (Page 65)

ADB – august 2007

Report and Recommendations of the President to the Board of Directors

<http://www.adb.org/Documents/RRPs/INO/41913-INO-RRP.pdf>

“27. Since the start of the concession period in 1998, PALYJA has invested more than Rp1 trillion (\$109.8 million) in the water systems of West Jakarta, mainly to (i) improve the quality of delivery services, (ii) rehabilitate existing distribution networks, and (iii) expand distribution networks to increase the service coverage area. Significant achievements include (i) service coverage ratio increased from 32% of the population in 1998 to about 55% in 2006; (ii) more than 1,500 kilometers (km) of the water supply network rehabilitated and extended; (iii) total connections increased from 210,000 in 1998 to 350,000 in 2006; (iv) population served increased by 1.25 million, including low-income customers increased by 124% and middle income customers by 40%; (v) physical and commercial water losses reduced by 15%; and (vi) water quality compliance dramatically improved.” (Page 6)

To illustrate:

- Suez investment remains below target, at a \$200 million shortfall in 2003

Following the Asian crisis and the insufficient tariff increases, the initial targeted investment (CAPEX) were reviewed and agreed by both parties (PAM JAYA and PALYJA) in 2001. According to the revised contract agreement, the investments below targets amounted to only US\$ 29 million as of 2003 and not US\$ 200 million.

- Suez claimed it had increased connections to 50%, but still short of the 70% target.

At the end of 2009 the service coverage ratio (SCR) reached 63.9%, far above the 50% mentioned. This achievement has been obtained in spite of severe difficulties for the PALYJA contract to receive sufficient raw water which makes servicing communities at the extremities of the network almost

impossible. While this problem is beyond PALYJA's responsibility, the company has taken numerous steps to assist its client to overcome this problem and continues to do so.

- In 1997 PAM Jaya's account for water leakage was 45%; on March 2006, the leakage was 53% for PALYJA and 55% for RWE-Thames.

The above figure ("PAM Jaya 1997 leakage was 45%") is contradictory with Regulatory Body statement (In 1996 the level of Non Revenue Water (NRW) reached around 57%), reproduced below:

The First Ten Years of Implementation of the Jakarta Water Supply 25-Year Concession Agreement (1998-2008)
Jakarta Water Supply Regulatory Body – 2009

<http://www.jakartawater.org/images/stories/unduh/10tahunbrEng.pdf>

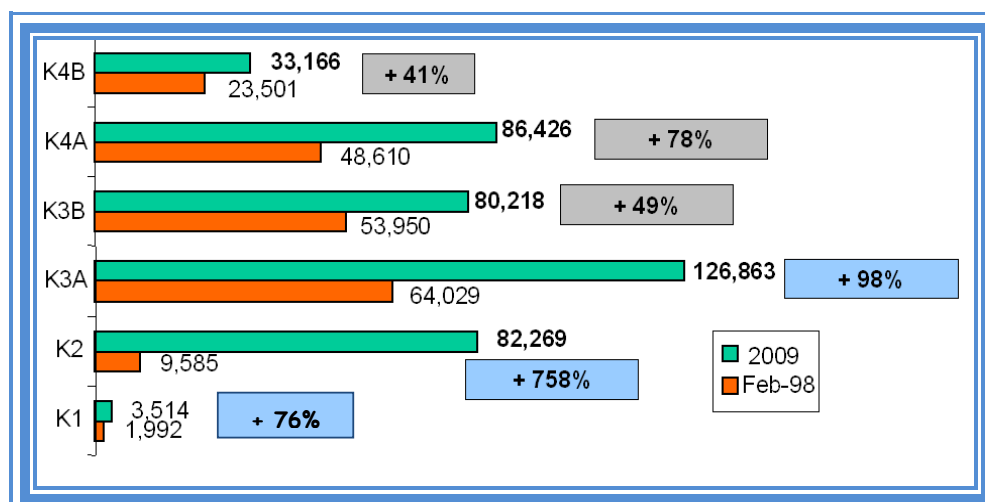
"In 1996 the level of Non Revenue Water (NRW) reached around 57%"

Moreover, PALYJA's achievement at the end of 2009 with respect to NRW is 43,9%, better than the contractual target of 44%.

- Water services in Jakarta's rich middle-class and industrial areas improved. However, most poor communities remain without piped water due to unaffordable connection charges, informal tenure arrangements, and lack of incentives for PAM Jaya or the companies to service these areas.

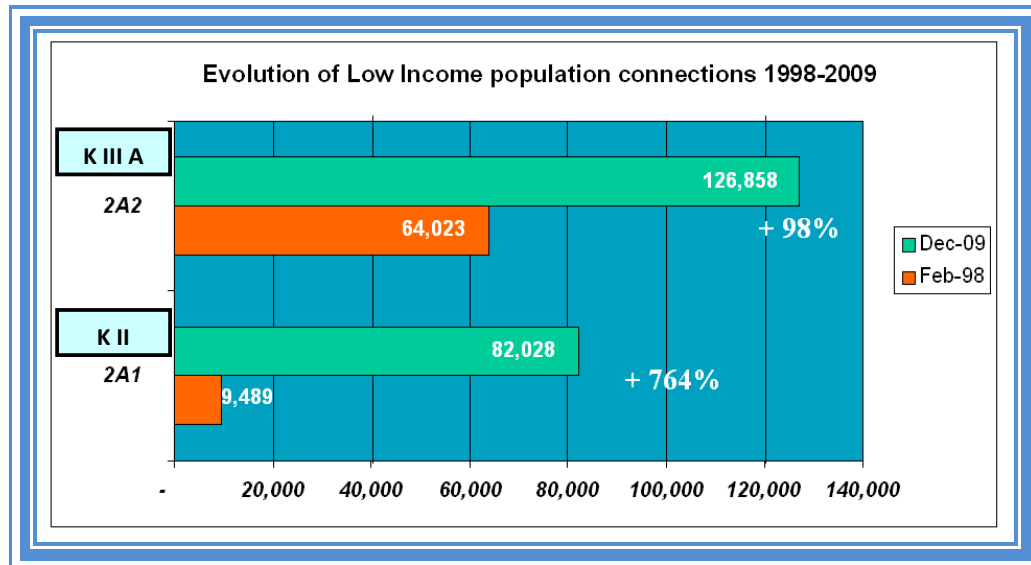
This statement is unfair and misleading. In Western Jakarta, where the number of customers has doubled since 1998, the major beneficiary of service expansion is the low-income population for which the number of customer has been multiplied by more than 8.5 times (see below). This is not to say that problems such as land tenure do not hinder progress. PALYJA actively works on proposing solutions to its client and customers as described elsewhere in this document.

Total number of customers by tariff categories (K1 to K4) evolution 1998 to 2009



This clearly shows how PALYJA has increased the coverage of all contraries of customers with a clear bias in the results being achieved towards the lower income categories (K2 – K3A see below).

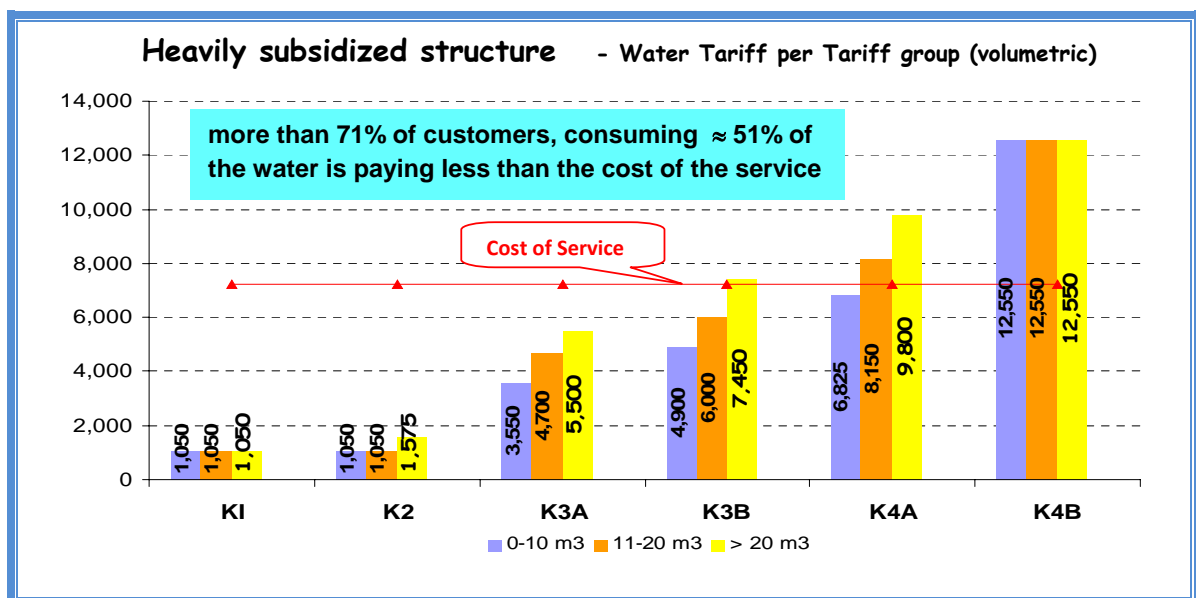
Evolution of Low-Income Customers categories (KII= 2A1 & KIII A 2A2) over 1998-2009



The Low Income domestic population is concentrated mostly in:

- category K II / sub-category 2A1 : household area less than 28.8 m²
- category K III A / sub-category 2A2 : household area between 28.8 m² and 70 m²

PALYJA has been promoting public service and “water for all” indifferently of the tariff class of individual users. The local authorities (PAM Jaya – DKI – Regulatory Body) have concerns over the direct consequences of increases in the shortfall that might arise from promoting access to poor households due to the cross-subsidies system (factor 14 between highest and lowest tariffs). This is a classic political challenge that occurs regularly in large a complex cities like Jakarta. This kind of challenge that requires a practical solution to reconcile social, political and economic factors in a sustainable way affects operators of all backgrounds (public and private alike). PALYJA understands this and seeks appropriate solutions with the public authorities.





Global Partnership on Output Based Aid (GPOBA³)

In complement to its general access to water for all policy, PALYJA (with the support of Suez Environnement) has initiated and implemented a pilot GPOBA scheme. In specific deprived areas, it has installed distribution networks and house connections through a special program agreed between PALYJA, the World Bank and DKI Jakarta.

This GPOBA program aims at connecting approximately 6,800 households to the water network through post-completion subsidies for both the distribution network capital expenditure and customers' connection fee.

This financial subsidy scheme is based on audited results. Therefore PALYJA is in charge of pre-financing and implementing the project. Once an independent technical auditor approves the project results, based on achieved performances (coverage target and average daily water consumption); then eligible expenses, currently amounting to US\$ 1.64 million, become reimbursable by the World Bank but until then, the financial risk is fully borne by PALYJA.

The implementation was done in collaboration with the NGO Mercy Corps, specialized in urban development in Jakarta.

With GPOBA, more than 5,000 households have been connected in deprived areas in 2009, which represents almost a third of PALYJA's new connections that year. 1,800 additional house connections will be installed during the second phase of the project (2010-2011).

PALYJA would have been able to do much more towards the poor communities, if it could get the cash (as per contract) to implement its full CAPEX program and if the Local Authorities would have taken action to increase the raw water resource and enable its transfer to the deprived areas. PALYJA is struggling to supply more and more customers with the same constraints on raw water supply as it had 12 years ago. In the absence of adequate water supplied to it by the state, which is beyond PALYJA control, PALYJA has been forced to split and rebalance the water allocation. Regrettably this is often to the detriment of low-income populated areas which are generally located at the extremity of the network.

³ The Global Partnership on Output-Based Aid - <http://www.gpoba.org/gpoba/node/199>



C. Consumers

Water service and quality in Jakarta remains a problem under the privatized set-up. Consumers still have to boil their water while frequent water interruptions continue to occur leaving them without water for days. In Slum Area the water had stop running since 2003. Nevertheless, companies have already raised water tariffs six times; the first was in February 1998. Currently, the two companies are no longer required to conduct consultations with the Parliament or the governor as they have been given authority for automatic tariff increase every six months.

Water quality

The water quality is often altered following service disturbance due to reduction / shortage in bulk water delivery and/or electricity supply disruptions, all those events being beyond PALYJA's control.

PALYJA is currently developing the "Drinking Water Area" program to comply with Drinking Water standard in the whole Western Jakarta service area, by the end of 2012.

Continuity of water service

Most of the population that is not served is located in the northwest of Jakarta. The services insufficiencies are due to the lack of sufficient water resources and network to serve these areas.

The raw and bulk treated water resources available for PALYJA have reduced since the beginning of the contract as a result of the closing of the mini water treatment plants such as Muara Karang and Taman Kota. These have been closed due to deteriorating raw water quality, which has made them inoperable.

Moreover, the proliferation of illegal activities is also contributing to the degradation of the level of service. PALYJA has been asking for assistance from PAM Jaya and DKI. It has also proposed to Regulatory Body to take measures which will enable due access to piped water to customers having an illegal status and who have no other alternative than buying water in jerry cans from vendors.

In order to facilitate access to piped water, PALYJA implemented in these deprived areas "Water Kiosk" and "Master Meter" in order to diversify the access to water for those customers.

Water Kiosk Program

Description / operation:

- *capacity of reservoir per water kiosk is 5,000 litres*
- *source of water for water kiosk, are PALYJA water trucks*
- *11 water kiosks built in 2008*
- *built in personal property of the water kiosk operator*
- *distributes water through on site water tap or push cart*

coverage:

- *1 water kiosk could serve ±150 family*
- *11 water kiosks serve ±9,900 population*

PALYJA is aware of the importance of supply improvement to the no water or low supply areas, also called the "historical areas", and has a continuous programme of operational actions and capital investment projects. Through these measures, PALYJA has been able to improve the supply to more than 16,000 customers located in such historical areas over the past 4 years.

Water Tariff

Water tariff increases are the sole decision and power of the Governor.

Water Charge / Concessionaire's remuneration

The Concessionaires' remuneration through the water charge is fixed by contract. It is totally delinked from customer tariff as explained below. The principle is that the Operator's remuneration is based on the Water Charge which basically corresponds to the cost of the service when the Water Tariff combines a series of categories with socio-political considerations that are the sole discretion of the Governor of DKI Jakarta Regional Government.

Public Private Partnership for Urban Utilities – A review of experiences in developing countries / World Bank – PPIAF – 2009

http://www.ppiaf.org/documents/trends_and_policy/PPPsforUrbanWaterUtilities-PhMarin.pdf

Though delinking tariff levels from the remuneration of a private operator is relatively simple for a lease-affermage, it is more complex for a concession in which the operator is responsible not just for O&M costs but also for investment costs. Several concessions have adopted an indirect approach, with the government providing grant financing for some investments to reduce the impact on tariffs. Among the PPP projects reviewed for this study, Jakarta (Indonesia) provides the only examples of concessions in which the customer tariff was explicitly delinked from the operator's remuneration. There, the concessionaires were remunerated through a volumetric water charge (much as in an affermage) that was set in the contract, leaving the government free to change the customer tariff. Because Indonesia was severely affected by the Asian financial crisis, and because the government was unwilling to adjust tariffs for inflation during some periods, the water charge was well above the tariff level several times.

D. Labour Issues

New problems were also created, such as the labor dispute concerning the welfare of water workers who were transferred or seconded to the private concessionaires. These workers received discriminatory treatment due to unclear employment status. The attendant issues resulting from this unclear arrangement include: (1) seconded workers received significantly lower salaries (about 2.5 – 5 times) compared to the workers of PDAM; (2) meal and transportation allowances did not increase since privatization and were deemed no longer responsive to current prices; (3) failure of companies to remit retirement allowances to the appointed retirement fund.

(1): As no data is available on PDAM's workers, it is difficult to compare worker's conditions in PALYJA with other PDAMs. However, when the takeover took place in 1998, workers transferred or seconded to PALYJA did not receive discriminatory treatment as they were hired at the same salary as those before delegation to private sector.



(2): This statement is a false affirmation. Meals and transportation regulations are as follows. Before the delegation to private sector, PDAM's employees received a transport and meal allowance. After 1998, people transferred from PAM JAYA (Jakarta's PDAM) continued receiving those allowances. Since April 2008, this allowance is included with their work allowance. For direct employees, people recruited by PALYJA after the takeover, there are no allowances for meals and transportation.

(3): This statement is also a false affirmation as PALYJA never failed to remit retirement allowances to the appointed retirement fund. Indeed, PALYJA always complied with conditions and regulations stated in UUK NO13 (2003).

Moreover, from a general perspective, PALYJA on a regular basis is always trying to increase prosperity and employee's productivity in order to create a harmonious working climate. Employee statuses have always been clear and pursuant to the legislation, regulation of the company and mutual agreement with PDAM DKI. Thus, there are two employee's statuses: direct employee and seconded employee. The company applies a strict remuneration system, which considers the internal balance (meaning salaries are based on the job value, the employee's level, their performances and their experience in terms of years of service and competition at market's level).

PALYJA determines an employee's salary based on the value of the required work and also on the employee's competences and performances. On a yearly basis, PALYJA proceeds to a new evaluation of the employee's salary in order to continuously motivate them for an optimal work.

In terms of training, it is important to stress that PALYJA spent IDR 1.9 Billion in 2009, to enable almost 90% of its employees to benefit from training. The PALYJA training centre ensured 39,260 hours of training which corresponds in average to 31.7 hours per trained employee; with a special focus on health and safety.

The dispute led to various protest actions and workers' strikes, and hundreds were fired. Those who were allowed to return to work were no longer allowed to go on field since it was feared that they would influence other workers to fight for their welfare

For the past 5 years, PALYJA did not face any strike. Before 2005, two strikes took place: the first one in 1998 and the second one in 2004 but none of them lead to employees getting fired.

PALYJA is always placing forward the deliberation towards a general consensus in a hope that employees get the picture of their rights and obligations. Thus, if a dispute happens, a bipartite negotiation takes place at first and if no mutual agreement can be reached, mediation with a related institution (Dinas Tenaga Kerja) will follow before leading eventually to the termination of the employee's contract.

E. Water Utilities remain in Debt Problem

PAM Jaya's debt situation continues to worsen. The devaluation of the rupiah resulting from the 1997 Asian Financial Crisis spelled great losses for PAM Jaya as payments for the two concessionaires were dollar-denominated. As of 2005, this debt was reported to stand at Rp. 2.6 trillion.

PAM Jaya indebtness has been one of the major reasons for engaging a Private Sector Participation, as mentioned in the following citation:

The First Ten Years of Implementation of the Jakarta Water Supply 25-Year Concession Agreement (1998-2008) Jakarta Water Supply Regulatory Body – 2009
<http://www.jakartawater.org/images/stories/unduh/10tahunbrEng.pdf>

"In 1997, the Government realized that the provision of water supply service managed by the locally owned enterprise, i.e. PD PAM Jakarta Raya or PAM Jaya, was experiencing enormous challenges. The observation at that time was that its financial condition is not viable enough to obtaining support (loan) from the banking sector for expansion of its service...

Outside the shortfall debt, PAM Jaya also had debt around Rp. 1.6 trillion to the Central Government. The debt originated from the development projects of several water treatment plants, improvement and augmentation of distribution main and other investments during the period 1980 to 1995, which was in the form of two-step loan mechanism from the World Bank and OECF Japan to PAM Jaya, as an institution under the ownership and management of the DKI Jakarta Government. The initial debt was around Rp. 762 billion. However, because it failed to pay the loan, the loan was then getting bigger due to the interest. In the early period, there were 21 loans, where in 2006 all have been repaid

The key issues of water supply provision in Jakarta are poor water service performance, limitation of financial resources, low service coverage ratio, and very high water losses."

Since the private sector contracts have been in place it has enabled the reimbursement of more than Rp. 1,068 billion of PAM Jaya debt to the Ministry of Finance. As indicated above, this debt was contracted long before private sector participation started. The total amount to be reimbursed is Rp 3,119 billion. Today, Jakarta customers are suffering as a result of PAM Jaya's debt concluded almost 15 years ago and will do so until 2018. The impact of this debt in Rp/m³ represents almost 750 Rp/m³ (i.e. 75% of the lowest social tariff of 1,050Rp/m³).

Regarding the ability of PALYJA to re-finance itself on the financial market and raise funding for its investment program, PEFINDO, one of the Indonesian rating agencies, upgraded in June 2010 PALYJA's corporate rating to "A Stable Outlook" from "A minus Stable Outlook". As a matter of fact, PEFINDO, in spite of the recurrent cash flow issues faced by PALYJA acknowledged that PALYJA is managing its debt properly, and business improvements (sales growth) have been steady.



Some Important Note:

1. Pursuing full cost recovery cannot deny the social implication of pricing in water services. The full cost recovery principle is not applicable to improve water service system in developing countries.

The Private Sector has been pushing for local government and/or central government subsidies, on the same basis as those that are already applicable for energy (PSO – Public Service Obligation) on a non-discriminatory principle. Full cost recovery will not enable an increase in water resources, which is the limiting factor to improving service coverage especially in deprived poor areas. The Concessionaires also encourage the local government to explore alternative financing, such as the GPOBA⁴, a subsidy program based on the results where the subsidy is only granted at the end of the project, which has been piloted by PALYJA and has led to the connection of approximately 6,800 additional homes (or 50,000 population), in the most deprived areas.

2. PPPs do not supplement public spending, they absorb it.

Since Private Sector participation early 1998, public spending in Jakarta water supply has been non-existent while PALYJA invested 1,400 billion IDR in the public domain of Western Jakarta.

3. The right to water and sanitation depends on public control and funding of water infrastructure.

The water service, delegated to the Private Sector in Jakarta, is fully under public control via local authorities (PAM Jaya and Regulatory Body). Public local or central authorities, failed so far to invest in water infrastructure (especially new water resources and transmission lines) despite several reminders from Jakarta's concessionaires on challenges ahead such as conversion of deep wells users into PAM Jaya customers, to mitigate city subsidence and protect the quality of water and public health from ground water contamination.

4. Government must apply a binding standard on private corporations. State have the primary obligation to uphold human rights, Private companies should also held accountable under human rights treaties, laws and standards.

PT PALYJA recognises the Human Right to Water and is endeavoring to ensure its "progressive implementation" in accordance with the terms of "General Comment 15". The company points out that there are many practical constraints that are entirely beyond its control that prevent it from meeting this objective. The company takes a responsible and constructive attitude to seeking solutions to these constraints, including providing advice to and cooperating with its clients and the Government of Indonesia.

⁴ The Global Partnership on Output-Based Aid - <http://www.gpoba.org/gpoba/node/199>