

REPUBLIC OF MOLDOVA



APA CANAL CHISINAU

CHISINAU WATER SUPPLY & SEWAGE TREATMENT - FEASIBILITY STUDY



CHISINAU WATER SUPPLY AND SEWERAGE SERVICES INSTITUTIONAL ANALYSIS & ASSESSMENT - FINAL

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LIST OF ABBREVIATIONS AND ACRONYMS

ACC	S.A. Apa Canal Chisinau
ANRE	National Agency for Energy Regulation
CMC	Chisinau Municipal Council
EU	European Union
IFRS	International Financial Reporting Standards
JSC	Joint-stock Company
KPI	Key Performance Indicators
LPA	Local Public Administration/Authority
PSA	Public Service Agreement
S.A	Societati pe Actiuni
ToR	Terms of Reference
SPSP	Sector Policy Support Programme
UNDP	United Nations Development Programme
WSS	Water Supply and Sanitation

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PART A – INSTITUTIONAL SITUATION AND EVOLUTION

1. NATIONAL BACKGROUND

1.1. LEGAL AND INSTITUTIONAL ARRANGEMENTS

1.1.1. LEGAL FRAMEWORK

Water supply and sewerage services in Moldova are governed and regulated by a number of laws, decisions and regulations.

Among the key legal documents relating to the sector of water and sewerage services at national level are:

- The Water Code No. 1532-XII of 22.6.1993;
- The Law “On Local Government” Nr 436-XVI of 28.12.2006
- The Law “On Public Communal Services” No. 1402-XV of 24.10.2002;
- The Law “On Drinking Water” No. 272-XIV of 10.2.1999;
- The Law “On Sanitary and Epidemiological Support to Population” No.1513-XII of 16.6.1993;
- Regulation No. 934 of 15.8.2007 “Sanitary Norms on Drinking Water Quality”.

A new Water Law has been drafted to harmonize Moldovan water policy with the EU Water Framework Directive 2000/60. The Draft Water Law sets out the rights to use of water, principles of water management and measures for prevention of pollution and makes provision for the introduction of regulatory impact assessment. It also seeks to consolidate the provisions of the 2007 Strategy and proposes the establishment of a Water Fund, which would be used to support the development of water supply and sanitation projects. The Draft Water Law is still undergoing screening for its compliance with EU legislation, which means that the current legal framework (Water Code 1993) does not fully take account of the EU water-related legislation to which the Republic of Moldova seeks to converge.

1.1.2. SECTOR STAKEHOLDERS AND RESPONSIBILITIES

In Moldova, according to the Law on Local Government (Art.14), the provision of water and wastewater services to the population is the responsibility of the local public authorities LPAs (municipalities, towns and villages). The Law on Public Communal Services stipulates (Art.3) that municipal utilities shall ensure the provision of water supply and sewerage / treatment of wastewater. The same Law (Art.10) specifies that municipal public services shall be provided by specialized operators (municipal enterprises, joint-stock companies, etc.).

The economic regulation of the water and wastewater services is the responsibility of the National Energy Regulatory Agency (ANRE). This Agency, initially exclusively dedicated to the energy sector, has been recently vested with the responsibility of the economic

regulation of the drinking water and wastewater services, but, so far, ANRE only regulates tariff of industrial water in Chisinau. In 2004, the Agency has issued a methodology (Hotarire 164) for determining, approving and applying the tariff for the public services of water supply and wastewater collection and treatment.

Water resources management and protection are the responsibility of the Ministry of Environment, through its subordinate agency ApeleMoldovei, in particular its Directorate for Water Supply and Sewerage. In order to contribute to the development of the strategy for the water sector and the application of the technological and scientific advances in the Moldovan water sector, ApeleMoldovei has established an education facility which trains scientists and specialists.

The Ministry of Health establishes the standards of drinking water quality, and monitors the quality of water supplied by the operators

The Ministry of Finance is responsible for the national public financial budgetary control and management, including for the water sector.

1.2. NATIONAL STRATEGY

The “*Strategy of Water Supply and Sewage disposal in communities of the Republic of Moldova*” approved by the Government in 2007 sets out specific medium and long-term objectives for the period 2008-2025, which includes decentralization of services, promotion of sustainable development, environmental protection and social partnership. This over-ambitious strategy shall be updated and reviewed shortly and a more realistic strategy adopted and implemented.

As part of the “Sector Policy Support Programme” (SPSP) supported by the European Union and implemented by the Ministry of Environment, a technical assistance for the implementation of the strategy shall start late 2011, that will provide support to:

- the updating of Moldova’s Water Supply and Sanitation sector policy and the legal framework to implement sector policy;
- the institutional reform of the WSS sector at central and local levels;
- financial planning and coordination in the WSS sector;
- WSS sector management and strategy updating;
- the Steering Committee of the Water SPSP (administrative support);
- capacity building activities

In particular, the SPSP shall focus on three important institutional aspects of the sector, addressed as follows in the 2007 strategy. Although they might be subject to some amendments, these key orientations must be taken into consideration for recommendations regarding the institutional evolution of the services in Chisinau.

a) *the relations between LPAs and operators*

“From the administrative standpoint, public water supply and sewage services are organized and rendered by local governments according to the following principles:

- *local government owns goods of public interest, which are operated to produce these services;*
- *operators, regardless of their legal status, get the right to perform on the basis of a contract on delegation of authorities;*
- *contract on delegation of authorities and rules of allocation of such are drafted in compliance with some framework models, elaborated by ANRE;*
- *tariffs will be approved by the conceding authority and notified by ANRE;*
- *activity of operator will be evaluated on the basis of contracts and performance criteria.*

As to obtain the desired levels of cost/quality ratio, it is necessary to generalize the concepts of:

- *assessment of operator's performance and institutionalization of benchmarking procedure*
- *separation of operator's activity from obligation to ensure social protection. Social protection of population with low income should be ensured by special programs, which are financed the state and local budget*
- *balance between costs and collection, with a permanent control of tariff;*
- *maintenance of salaries at the level negotiated with federations of trade unions, observing current regulation"*

This important section of the strategy clearly states that assets of "public interest" are LPAs' property. It also specifies that operators should perform on contractual basis (performance-based contracts) and insists on the commercial and customer orientation of the operators.

b) *the relations between the operators and the regulator (ANRE)*

"Relations between providers of public water supply and sewage services and the National Agency for Regulation in Energy (ANRE) are established in compliance with legal provisions in this field.

Among the most important attributes of ANRE in its direct relations with operators in the field of public services, there are the following ones:

- *approval of prices and tariffs for water supply and sewage depending on some parameters;*
- *supervision of tenders for delegation of administration of services;*
- *drafting and harmonization of standards, norms, and technical prescriptions with regulations of the European Union."*

This section of the strategy confirms the key regulatory role of ANRE, in tariff setting as well as in approving the delegation of services. Surprisingly and questionably, the Strategy vests the ANRE with the role of technical regulator.

c) *the process of reduction of the number of operators*

“The majority of providers of public water supply and sewage services cannot offer a performance, cannot support development programs, and cannot be efficient partners in the process of modernization of local infrastructure because of reduced amount of available resources and small number of beneficiaries. This is why it is necessary to reduce the number of such providers, taking into account:

- economic and financial performance and professional training of personnel;*
- potential to prepare, support, and implement development programs;*
- management integrated on hydrographic basin*

Measures targeted to reduce the number of providers in compliance with these criteria should be carried out by local government. ANRE will get involved in this process only by way of drafting and approving tariffs and, correspondingly, by monitoring contracts on delegation of service”

This section of the strategy acknowledges the fact that most of the existing utilities in Moldova are too small and cannot perform satisfactorily. Aggregation of the utilities at regional level would allow mutualizing the resources, improving the services and achieving economies of scale.

2. INSTITUTIONAL ANALYSIS OF THE CHISINAU MUNICIPALITY

This section presents the Chisinau Municipality in general terms (constitution, organization, etc.) followed by its involvement in the water supply and sewerage services sector.

2.1. GENERAL INSTITUTIONAL FRAMEWORK

2.1.1. CONSTITUTION

Article 55 (2) of the Law on Local Government stipulates that “ *Public administration of the Chisinau Municipality is performed by the Municipal Council and the district, town and village (commune) councils as deliberative authorities, and by the General Mayor and the district, town, village (commune) mayors, as executive authorities*”.

The Law on the Statute of the Chisinau Municipality (# 431 of 1995, revised 2009), specifies the powers, duties and functioning of the Municipal and District Councils, and the General Mayor, as well as those of the District Mayors (Praetors).

2.1.2. ORGANIZATION

The Municipality of Chisinau is an administrative territorial unit divided into five districts (Botanica, Buiucani, Centru, Ciocana and Rascani), which include autonomous territorial-administrative units: towns and villages (communes).

The current central organization of the Chisinau Municipality is illustrated by the following tables.

- The Municipal Council, i.e. the “legislative power” of the Municipality, comprises the following functions:

Table 1: Functions of the Municipal Council

Field	Activity
Finance	Economy, reform and patrimony
Public transport and communications	Architecture, urban planning and lands
Housing and development	Education, youth and sport
Social assistance	Commerce and services
Health	Culture
Agriculture and food	Child rights and protection
Prix	Socio-Ecology

- The City Hall, under the direction of the General Mayor, i.e. the “executive power” of the Municipality, comprises the following directorates

Table 2: Directorates of the City Hall

Directorate	Activity
Internal audit	Local public administration
External relations & European integration	Public relations
Juridical assistance	Petitions & audiences
Accounting & economic analysis	Permits and discipline in construction
Human resources	Administration
Control	Technology & information systems
Archives	Social, humanitarian, interethnic relations

2.1.3. MUNICIPAL ASSETS

Article 75 of the Law on Local Government states that

“The public area of the administrative-territorial unit contains property established by law, and property of local public use or interest. Public interest involves the allocation of property to a public service or any activity that meets the community needs” and that “public area property of local interest shall be inalienable, un-transferable and imprescriptible”

On the other hand the Law on the Statute of the Chisinau Municipality specifies that (art.56) *“the municipality’s economic base is the municipality assets, which serve as a sources of obtaining revenue to meet the economic and social needs of the population”*. It adds (art.57):*“The municipality assets is a part of the public property, consisting of movable and immovable property managed by government authorities of the municipality, businesses, state institutions and organizations within the territory, directly meeting the people’s needs, including the housing stock, the building stock with other destination than for housing, the assets of businesses and associations of communal and housing utilities...”*

The same law specifies that (art.60 & 61) *“the Municipal Council is the owner of the Municipality assets”* and that *“The City Hall has the right of possession, use and management of municipal assets, in accordance with the law and the Municipal Council decisions”*.

The fixed assets of the Chisinau Municipality are reportedly not totally and clearly identified and valued. This problem is addressed by the Chisinau Municipality Development Project supported by UNDP: *“An important finding of the 2008-2009 in-depth functional review of Chisinau Mayorality performed under this project was the excessively fragmented, disorganized and confused nature of public assets management. This diffusion of responsibilities and competences leads to the creation of such a scenario, where an important part the municipal property is not yet inventoried and registered within the national cadastre system. As a consequence, the ownership of many apparently public real estate units became legally disputable”*.

An *“assessment of the public assets management function within the Chisinau Mayorality, and a conceptual ‘road-mapping’ of the requested improvements of the assets management function within Chisinau Mayorality”* were due to be performed in 2010/2011 under the UNDP project, but this exercise did not materialize.

2.2. INVOLVEMENT IN THE WATER / WASTEWATER SERVICES SECTOR

2.2.1. RESPONSIBILITY IN WATER AND WASTEWATER SERVICES

In its Chapter X ("*Public services, property and works*"), the Law on Local Government stipulates (Section 1 – Art. 73: "Organization of Local utilities") that:

- "*Local utilities shall be organized by the local council, at the mayor's proposal, in decentralized areas set for administrative-territorial units of level 1 and 2, according to available funds*".
- "*The local council may decide to contract some local public services from private individuals and legal entities, under the law*"

Without any ambiguity, the responsibility for organizing the water and wastewater services is vested by the Local Council, but these services can be delegated to a legal entity.

In Chisinau, the Law on the Statute of the Chisinau Municipality stipulates (Art.22a) that the Municipal Council "*coordinates the activity of the town and village (commune) councils within the Municipality to address issues of common interest*". This statement implicitly acknowledges the leadership of the Municipal Council in public utilities such as water supply and sewerage services in the entire area of the Municipality.

As the owner of the water and sewerage assets, the Chisinau Municipality is responsible for their rehabilitation and replacement, but also for their development.

2.2.2. SETTING UP OF S.A. APA CANAL CHISINAU (ACC)

On August 27, 1997, the Chisinau Municipal Council founded the Joint-stock Company S.A. Apa Canal Chisinau. The original statute of the ACC was amended in 2000 and 2003 by decisions of the Municipal Council; the most recent version of the ACC statute dates back to 2008.

The Chisinau Municipal Council is the Founder of the ACC and the sole owner of all shares of ACC share capital. Consequently the ACC Board is dominated by the Chisinau Municipal Council which holds 4 of the 7 seats of the Board (the others being attributed to ACC representatives).

It is important to notice that **there is no formal mandate from the CMC to the ACC for providing the water and sewerage services on behalf of the Municipality**. The delegation of services – including the rights and obligations of each party, objectives assigned to the ACC, tariff setting procedure, etc. – is implicit; this is potentially a source of misunderstanding and conflict.

Legal and institutional features of the S.A. Apa Canal Chisinau are detailed in section 3 below.

2.2.3. MONITORING OF ACC ACTIVITIES

As the sole shareholder (i.e. the owner) of the ACC, the Chisinau Municipal Council totally controls ACC activities and performance. This control is achieved through:

- ACC General Assembly of shareholders, i.e. gathering only members of the Municipal Council
- ACC Board of Directors, whose members are nominated or approved by the Municipal Council. Currently the Board of 7 members includes 4 representatives from the Municipal Council and the General Mayor's team. One of the Board members is attached to the General Mayor's cabinet and reports regularly on ACC activities and achievements

These ACC constituent structures are described in section 3.

Incidentally, municipal entities not permanently involved in water or wastewater issues, such as entities in charge of urban planning, health, etc. may request information from ACC Board and ACC management.

"Performance indicators" – that should allow the Municipality to monitor ACC performance – are mentioned in the "*Regulations on the organization and provision of public water supply and sewerage services in the Municipality of Chisinau*" (section XIII – art.13) issued by the CMC in 2008. These "indicators" include the continuity of service, the non-discrimination of customers, the compliance with the legislation, the contractual link with the customers, metering, billing and collection, the processing of customer complaints, etc. Such "indicators" are essentially obligations of the service provider, and cannot be considered for assessing ACC performance.

It is worth noting that the Law on the Statute of the Chisinau Municipality guarantees some autonomy to the municipal public services, as stated in article 50: "*Public services are vested with their own powers and enjoy certain independence in the execution of decisions taken by the specialized central bodies and government authorities of the municipality. They are accountable to these bodies in carrying out their duties*".

The ACC Board regularly reports to the Municipality (General Mayor's office) through:

- The (audited) financial report
- The proceedings of the annual meeting of the General Assembly
- The quarterly reports

2.2.4. TARIFF OF SERVICES

A methodology has been issued by the National Agency for Regulating Energy (ANRE) for the determination, approval and implementation of tariffs for public water supply, sewerage and sewage treatment (Hotarire# 164 of November 29, 2004).

Tariff changes prepared and requested by the ACC according to the above-mentioned methodology are reviewed, endorsed or rejected by the Municipal Council; the endorsement by the ANRE is not compulsory, but ACC reportedly asks for ANRE

clearance before submitting the proposals to the Municipal Council. The only exception to this rule is the tariff for “technological water” (i.e. water for industrial processes) which should be endorsed by the ANRE before being approved by the Municipal Council.

On May 26, 2011, the Government approved (Decision 377) a draft proposal to “*change the modality of tariff approval for the water and sewerage services, through the delegation of functions from the local public authorities to the central specialized authority, the National Energy Regulatory Agency*”. This proposal of extending ANRE competencies – which would require additional and adequate resources for ANRE – has not yet been ratified by the Parliament.

3. INSTITUTIONAL ANALYSIS OF APA CANAL CHISINAU

3.1. ACC CHARTER

S.A. Apa Canal Chisinau was set up by the CMC in 1997 (out of the State enterprise "Regia Apa Canal Chisinau"), as a Joint-Stock Company ("Societate pe acțiuni"), in accordance with Law # 1134 of 02.04.1997. Its charter (revised in 2008) specifies that:

"The joint-stock company Apa-Canal Chisinau is a commercial enterprise whose share capital is entirely divided into shares, and whose bonds are secured by its assets.

The Company has economic, financial and organizational independence, autonomous balance, bank accounts, seal, stamp with letterhead and forms with its name, as well as trademark (service mark)".

All ACC shares are held by the Chisinau Municipal Council, the founder and sole shareholder and therefore the owner of the ACC.

In conformity with the Law on Joint-Stock Companies, ACC managing bodies are:

- The General Assembly of the Shareholders, ACC supreme governing body whose regular meetings are held at least once a year. ACC shareholders are identified at the State Registration Chamber.
- The ACC Board, an elected collective body representing the interests of the shareholders which exercises general management and control over ACC activity. The Company Board is subject to the General Assembly of the Shareholders.
- The ACC General Director (elected by the General Assembly and appointed by the Board for 5 years) and the Executive Committee (i.e. the 3 top managers of ACC elected by the General Assembly for 1 year)
- The ACC Audit Committee of 3 members appointed by the General Assembly to supervise ACC financial and economic activity on a yearly basis

The ACC Charter (Statute) provides full details on the respective roles, rights and duties of these bodies in a Joint-Stock Company such as the ACC. With the exception of the Company's activities and details of the share capital, the ACC charter is the standard statutory document for the JSCs.

Of course, the ACC Charter doesn't identify the shareholders, and doesn't specify a particular mandate from the CMC to provide services in the Chisinau area.

3.2. ACC MISSION

ACC main activities are described as follows in the Charter (clause 3.1)

- catchment, treatment and distribution of water
- collection and treatment of wastewater

- construction and operation of hydraulic plants;
- land drainage, waste disposal, sanitation and other similar activities;
- technical testing and sampling;
- design, topographic and geodesic works

However, if the ACC Charter specifies that ACC core activities focus on water and sewerage services, it also states that (clause 3.2) *“to achieve permanent profit, the Company will perform activities of production and delivery of central heating”*. Moreover, the charter states that *“in order to provide itself with autonomous sources of electricity and heat, the Company will produce electricity and heat, and will perform other activities aimed at providing itself with own resources and material goods”* (Clause 3.3). Thus, the charter allows the ACC to engage in all businesses associated to the provision of water supply and sewerage services.

Finally (Clause 3.4), the charter specifies that *“the Company will perform the activity types which require state license or authorization only after their issue”*. This opens the possibilities for ACC of developing side businesses not necessarily connected to the water sector. Opportunely, Clause 4.2g clearly states that ACC is allowed *“to perform any activity type not forbidden by law, provided that they will not replace the main activity types for which the Company was established”*.

The Charter doesn't specify:

- a specific area where the ACC can provide the services; ACC is therefore entitled to provide services throughout the country
- any exclusivity for the ACC in providing the services in any part of the country

As a water and sewerage service provider, the ACC is subject to specific decisions from the central government (191/2002, 656/2002, 1228/2007, etc.). As a provider of services in the Chisinau Municipality, the ACC is subject to the CMC decision Nr5/4 of 25.03.2008 (*“Regulation on the organization and provision of public water supply and sewerage services in the Municipality of Chisinau”*); however, this CMC decision doesn't specifically refer to the ACC.

Actually, as stated earlier, **there is no formal delegation of the water supply and sewerage services, i.e. no formal mandate from the Municipality (CMC) to the ACC.**

3.3. ACC ASSETS

The ownership of ACC tangible fixed assets associated to the services, i.e. assets such as buildings, lands and infrastructures, is somewhat confusing. In its decision 27/25 of December 23, 2000, the Municipal Council specifies that the *“municipal patrimony is transmitted to the Company for economic management”*. A later decision (3/16 of August 28, 2003) contradicts the previous one, and states that the *“municipal patrimony is given in ownership to the ACC”*.

The 2003 decision, although apparently not illegal, does not conform to more recent legislation, such as the Law on Local Government of 2007 that states that *“public area*

property of local interest shall be inalienable, un-transferable and imprescriptible”, and the Law on Administration and Privatization of Public Property (#121 of May 4, 2007) which specifies that (Art.10) “the assets from the public sector cannot be alienated or privatized or deposited in the share capital of a legal entity”.

Finally, in 2008, the General Assembly of ACC Shareholders, i.e. currently the Municipal Council, defined the ACC assets as follows in the new version of the Company charter (Chapter VII):

“The Company assets are made up of fixed and current assets and other assets owned under title, their value being elucidated in the balance sheet.

The Company shall be the owner:

- a) of assets purchased at its own expense;*
- b) of goods produced as a result of economic activity;*
- c) of income received;*
- d) of assets created following the sale of its shares;*
- e) of other wealth acquired under rights not prohibited by the Moldovan legislation.*

The Company has the right to own, use and manage its assets. It shall be entitled to carry out various actions regarding its property, unless they contradict the legislation of the Republic of Moldova”

This statement contradicts the decision of the Municipal Council of 2003; clearly, ACC fixed assets do not include the assets of “*public interest*” assigned to it by the Municipal Council for “*economic management*”. However, it is not clear that this new version of the ACC charter invalidates the 2003 decision.

Actually, it appears that fixed assets managed by ACC are – or more exactly should be – the property of the Chisinau Municipal Council, whereas “*operating assets*” acquired by ACC should remain its property.

Moreover, in some LPAs within the Chisinau Municipality, assets relating to water and wastewater services have reportedly been “*transferred*” for free in ACC property, as a compensation of debts to ACC (case of Stauceni). Such a transfer of property clearly contradicts the law and these assets should return in the ownership of the local councils.

3.4. ACC ORGANIZATION & MANAGEMENT

The ACC Charter (2008 revision) provides full details on the organization and the management of the Company. ACC organization structure is summarized on the following chart:

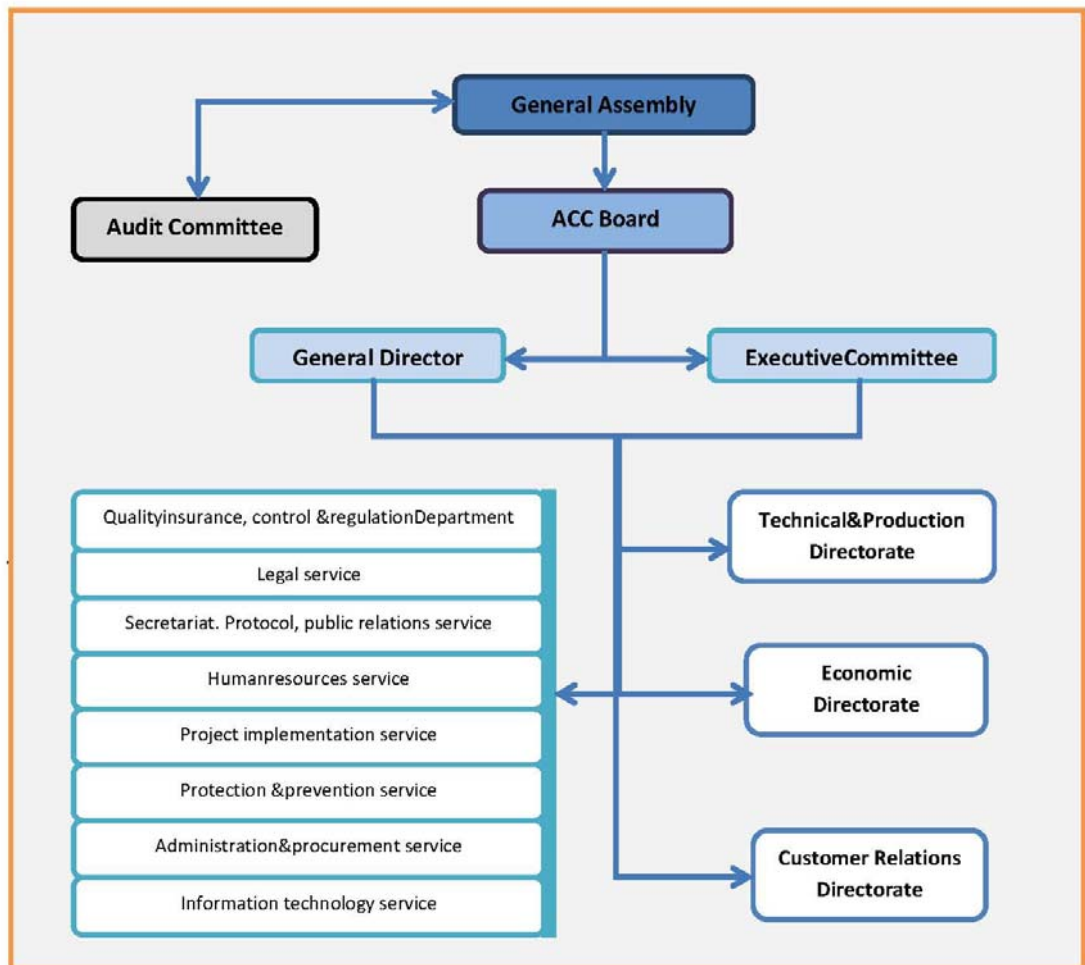


Figure 1: ACC organization Chart

The above structure leads to the following comments:

- Human resources, a key function in a public utility such as the ACC, should be enhanced through a Human Resources Directorate, to deal not only with the administration of the employees, but also with staff planning, career development, training and coaching, etc.
- The structure is linear: all Directorates, Department and services report to the General Director. A specific Directorate may relieve the General Director from administrative and logistic issues.
- The planning and investment function is scattered in several Directorates and services, and would deserve a structured Directorate to take charge of the evolution of the demand, the development of the infrastructure, the relations with potential donors, etc.

ACC General Assembly of Shareholders is exclusively composed of representatives from the Chisinau Municipal Council. It is the supreme management body of the Company. The General Assembly has extensive powers; in particular it may decide on changes in share capital.

As stated in the Law on Joint-Stock Companies (art.65.1) “*The Board of the company shall represent the shareholders’ interests between the general meetings and within its competence shall control and regulate the activity of the company. The Board of the company is accountable to the general shareholders meeting*”. ACC Board is composed of a majority of shareholder’s (CMC) representatives (4) and a minority of ACC personnel representatives (3). The presence of Company employees in the Board is not compulsory; they can be elected, but cannot make the majority (Law on JSC – art.66.5). Board members get a remuneration approved by the General Assembly.

Among the most important duties of the Board are (Clause 11.7 of the charter):

- The approval of the quarterly reports prepared by the Company
- The approval of the “norms of remuneration for the Company’s staff”
- The approval of the Company’s general organization
- ACC strategic development through the “*approval of annual and future plans for the Company business*”

Surprisingly, the charter doesn’t explicitly mention any role of the Board in the reviewing or setting of tariff for the services.

As stated above, the General Director is assisted by the Executive Committee. All major management issues are discussed among the Executive Committee members, and decisions are implemented by the General Director. The powers and duties of the Executive Committee and the General Director are detailed in the charter (Clauses 12.7 & 12.8). It is worth noting that among the powers of the Executive Committee is “*the approval of prices for services provided*”(Clause 12.7d)

ACC General Director is elected by the General Assembly and appointed by the Board for 5 years; his/her contract is signed by the Chairman of the Board. Reportedly, the General Director’s contract does not include clear objectives associated to performance indicators and targets. The General Director chairs the Executive Committee. He/she can be dismissed by the General Assembly on Board’s proposal.

The Deputy General Director is the ACC Technical and Production Director (Clause 12.4).

3.5. RELATIONSHIP WITH CUSTOMERS

The customer service within ACC is divided into two distinct functions located within different Directorates:

- The Customer Relations Directorate, in charge of billing and collection
- The Dispatch office within the Technical and Production Directorate dealing with operational requests from customers

ACC customers are divided into several categories: domestic (4 categories for blocks, 2 for apartments and houses), public (budget) institutions and commercial / industrial estates. ACC applies 3 different tariffs, one for domestic customers, one for commercial /

industrial customers and budget institutions, and one for “technical water” (i.e. partially treated water) for industries.

Customer contracts are subject to the provisions of various government decisions:

- Regulation on provision and payment of housing municipal services, metering of apartments and terms of their disconnection from / connection to water supply systems (Decision 191/2002)
- Framework regulations on the use of municipal water supply and sewerage systems (Decision 656/2002)
- Acquisition, design, installation, reception and operation of water consumption meters (Decision 1228/2007)

Based on the above decisions, detailed “*Regulations on the organization and provision of public water supply and sewerage services in the Municipality of Chisinau*” were issued in 2008 by the Chisinau Municipality. These regulations provide for instructions and guidance for establishing customer contracts with the service provider, notably:

- Connection to / disconnection from the water and sewerage systems
- Conclusion of contract for services
- Installation and maintenance of water meters
- Determination of volumes of water consumed
- Payment for water and sewerage services
- Obligations, rights and responsibilities.

Based on this, Apa Canal Chisinau established standard contracts for each category of customers.

ACC has no more individual contracts with consumers living in apartment blocks; contracts are with the block associations, who are charged according to the block meter. To ACC, this policy conforms to Decision 656 that stipulates that, for apartment blocks, the responsibility of the service provider is limited to the external wall of the building (for water supply), and the first manhole (for sewerage). The ACC position is challenged by the Competition Protection Agency who claims that ACC must install meters in individual apartments.

Water supply to the “thermal points” of the hot water and the heating company Termocom is a permanent conflict between ACC and Termocom. ACC supplies cold water at the entry of the “thermal points”, then Termocom is responsible to heat the water before it arrives to the consumer. Today, Termocom only supplies thermal energy to heat the water. In other words, the water supplied to the clients of the centralised heating system is not billed as “hot water” by Termocom, but as “water for heating” by ACC; Termocom only bills the thermal energy. Termocom has so far refused to sign a contract recognising the heating units as points of delivery of the service by ACC because Termocom does not want to accept the cost for the water losses between the “Thermal Point” and the client’s water meter.

Finally, ACC provides water in bulk in communes outside the Municipality of Chisinau (e.g. Cosernita, Maximovca) based on a standard individual domestic contract, and charges the local utilities at the full domestic tariff in force in Chisinau. These communes are thus considered ordinary domestic customers whereas ACC doesn't operate and maintain the distribution systems, nor the billing and collection from the customers.

This situation illustrates the institutional vagueness of the services in the Chisinau area. On the one hand, ACC has no territorial limit imposed by its charter, and is therefore free to provide services outside the Chisinau Municipality; on the other hand, tariff approved by the Municipality doesn't apply to places outside the Municipality, especially for bulk supply. This kind of issues should be clarified in a formal service agreement between the Municipality and the ACC.

The ownership of water meters is regulated by the Government Decision 1228/2007: individual meters are customer's property, whereas block meters are ACC's property.

3.6. REPORTING REQUIREMENTS

In accordance with the Law on JSC and its own charter, the ACC prepares the following documents for the submission to the Municipality through the Board:

- The (audited) financial and statistical report (that includes balance sheet, information on investment, etc.).
- The minutes of the General Assembly annual meeting
- The quarterly reports

It is worth noting that the reporting requirements do not formally include the business plan (with the capital investment plan). There is also no requirement for an annual report synthesizing the activities in all areas and functions of the ACC for the previous year. Only a brief "Information Note" is prepared by the ACC for the Municipality.

4. KEY PENDING ISSUES

4.1. FIXED ASSETS

4.1.1. OWNERSHIP AND MANAGEMENT OF FIXED ASSETS

As discussed earlier (cf. 2.1.3 & 3.3), the Local Councils are the owners of the fixed assets (lands, buildings and infrastructure) necessary for the provision of services, whereas the ACC is the owner of its operational assets.

Therefore, after identification, inventory and valuation, these fixed assets should return to the Local Councils, and, then, assigned to the ACC for “economic management”, while their ownership will remain with the Local Councils. Depreciation of these assets should appear in ACC accounts.

Replacement or rehabilitation of these assets should be delegated by the Local Councils to the ACC.

This being said, two key issues are to be addressed:

- The inventory and valuation of the fixed assets,
- The streamlining of the assets ownership within the Chisinau Municipality

4.1.2. IDENTIFICATION, INVENTORY AND VALUATION OF FIXED ASSETS

Two actions are required to clarify the patrimonial situation of the fixed assets:

- The inventory of the fixed assets related to the water and sewerage services – assets of “public interest”, property of the Local Councils of Chisinau and surrounding Local Public Authorities (LPAs), and “private interest” property of ACC – and the valuation of those assets.
- The process of reallocating the “public interest” assets into the ownership of the Local Councils

The Chisinau Municipal Council and other Local Councils within Chisinau Municipality affected by the problem (e.g. Stauceni), should initiate an inventory of all fixed assets related to the water and wastewater sector to identify and value those which should be passed into public ownership and those which should legitimately remain in ACC ownership. This task should be best performed by the ACC.

This exercise would allow an updating of the fixed assets constituting the water supply and sewerage systems in the register of public property. Relevant assets – i.e. assets required for providing the services – would then be assigned to ACC for “economic management”.

This process would lead to a clear vision of the assets of the sector, and a clear delineation of the roles of the owners (local councils) and the operator (ACC).

4.1.3. STREAMLINING ASSET OWNERSHIP WITHIN THE CHISINAU MUNICIPALITY

Within the territory of the Chisinau Municipality (i.e. including the 5 Districts), water supply and wastewater systems have originally developed independently, each LPA having its own systems. For various reasons (limitation of water resources, urban expansion, etc.) the Chisinau systems are progressively integrating the small systems of the surrounding LPAs. This tendency should be confirmed by the Master Plan under preparation.

In terms of assets ownership, this evolution would lead to a fragmentation of the centralized system, and local councils might claim the property of a section of a feeder or a sewer, a pumping station, etc.

To avoid an inextricable situation, it seems important and urgent to streamline the notion of “property” of the centralized systems of the Greater Chisinau, such as the water and wastewater systems. This could be achieved through amendments of laws allocating the property and the responsibility for the development and the management of centralized systems within the municipal territory to the Chisinau Municipal Council (this doesn't exclude a dialog with the local councils and mayors). This key issue should be taken into consideration during the revision of the sector strategy (cf. section 1.2 above).

4.2. DELEGATION OF SERVICES

4.2.1. PRESENT SITUATION

Law 1402 on “*municipal public services*” (art.17) states that (1) “*Municipal utilities shall be managed by a) direct management, b) indirect management or public-private partnership or c) service contract*”, and (2) “*The selection of management of municipal utilities shall be decided by local government authorities, depending on the nature of the service provided/rendered, the current and future interests of the population and administrative-territorial units and the size and complexity of municipal public systems*”.

The JSC Apa Canal Chisinau was founded by the Chisinau Municipal Council to manage water and wastewater services, presumably under “indirect management”. According to ACC Charter:

- the ACC operational territory is not confined to the Chisinau Municipality, and
- ACC has no exclusivity within the municipal territory.

The CMC has issued in 2008 “*Regulations for the organization and operation of a public service of water supply and sewerage in the Municipality of Chisinau*” (Decision # 5/4 of March 2008) which apply to all providers within the Municipality, i.e. to ACC but also to some towns which still manage directly these services. Mid-2011, only about 37,000 people in 8 communes (out of 19) within the municipal territory were not supplied with water by the ACC, i.e. 5% of the total municipal population, and about 25% of the suburban population.

There is currently no formal delegation of the services to the ACC, stating the rights and obligations of both parties and setting objectives and targets to the operator. In particular the respective roles of the Municipality and the ACC in rehabilitating, replacing and developing the fixed assets (i.e. the investment in the infrastructure) are not clearly defined.

Actually, ACC legitimacy is based on the fact that the CMC (1) is by law responsible for providing water and wastewater services and (2) is the founder and sole shareholder of the ACC.

4.2.2. SHORT-TERM EVOLUTION

As long as the ACC, as a JSC, is considered as the owner of the public assets (i.e. the water and wastewater infrastructure) in contradiction with the law, any delegation of services between the CMC and the ACC would not be legally acceptable.

But, as soon as these public assets are back to the CMC, a delegation of services between the CMC and the ACC will make sense even if ACC is fully owned and controlled by the CMC. A public service agreement (PSA) should specify the respective roles and obligations of the parties and set clear objectives and targets to the operator, thus formalizing the delegation of services by the CMC to the ACC.

To take into account that the water and sewerage systems within the municipal territory are more and more integrated – so much that they will soon be unified systems – such a PSA should involve all communes within the Municipality.

Actually, article 22 a) of the Law on the statute of the Chisinau Municipality specifies that the Municipal Council “*coordinates the activity of the town and village (commune) councils within the municipality to address issues of common interest*”. Thus, the CMC may sign a PSA regarding water and wastewater services (that are clearly of public interest) in the name of all districts/communes included in the Chisinau Municipality.

Communes located outside the current limits of the Chisinau Municipality and benefitting from ACC specific services would not be part of the PSA. Their relationship with the ACC would be governed by specific service contracts.

4.2.3. MEDIUM-TERM EVOLUTION

As discussed above, the water and sewerage systems within the Chisinau Municipality are – or shall be soon – integrated in single systems. But the Chisinau systems are likely to serve customers outside the municipal territory; the study area of the master plan under preparation includes several communes located outside the Municipality.

On the other hand, the Government has recently launched the revision and implementation of the strategy adopted in 2007, which just starts late 2011 under the Ministry of Environment with EU support. This 2-3 year exercise includes the concept of regionalization of water and wastewater services. Without prejudging the outcomes of this project, the most appropriate option would be a regional operator acting as a

concessionaire of the association of LPAs (as successfully implemented in Romania, but adjusted to the Moldovan realities and constraints).

Such a reform (which is consistent with the Government's recommendations on inter-district cooperation) would lead to a major reshuffle of the judicial arsenal relating to local governments, public services, concessions, public assets, etc.

It is important to stress that the interest of setting up regional Associations of Local Public Authorities goes far beyond the water/wastewater services sector; such associations can also take care of other utilities, such as solid waste collection and treatment.

4.2.4. RECOMMENDED ARRANGEMENT

The recommended transitional period comprises the following steps:

1. Fixed assets, i.e. the lands, buildings and infrastructures, are inventoried, valued and returned to their legitimate owners, i.e. the local councils within the Chisinau Municipality.
2. The PSA (see draft attached), which specifies the rights and obligations of both parties (CMC and ACC) and the indicators to be used for measuring ACC performance, is approved and signed by the Chisinau Municipal Council in the name of all local councils within the Municipality. This PSA shall specify in an annex the assets belonging to each local council.
3. Specific service contracts for communes located outside the municipal territory and benefitting from ACC services are prepared and signed between the commune and the ACC, after approval from the Chisinau Municipal Council.

This transitional arrangement, limited to the Chisinau Municipality, doesn't constitute an obstacle whatsoever for the development of the regionalization of services, and the association of local authorities.

PART B - PUBLIC SERVICE AGREEMENT

5. BASES OF A DELEGATION OF SERVICES

5.1. RATIONALE FOR A PUBLIC SERVICE AGREEMENT

The Terms of Reference require (component A11) that a “*Service Agreement*” between the Municipality and the ACC be prepared “*to ensure continuous and smooth provisions of the services in a financially viable manner with adequate transparency and accountability*”.

Similar public agreements were designed under EBRD-supported water projects in Tajikistan (Southern Project), Georgia (National and Kobuleti Projects), and Ukraine (Dnipropetrovsk Project).

The specificity of a Public Service Agreement between the Chisinau Municipal Council and the JSC Apa Canal Chisinau is that ACC is not a private company but a public company fully owned by the Chisinau Municipal Council. The ACC General Assembly and Board are totally controlled by the CMC.

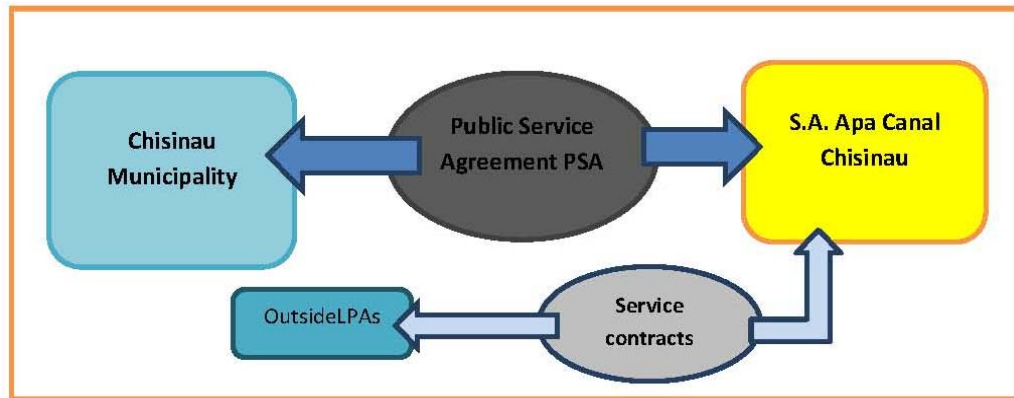
In this context, an agreement between the CMC and its subsidiary (ACC) cannot be more than a reminder of the rules of the game, in particular the rights and obligations of both parties not formalized in the existing legislation, and a performance commitment based on selected indicators. Such a performance-based agreement cannot include penalties and incentives.

Actually, the proposed PSA would fill a gap in the current institutional setup, which doesn't include any formal delegation of services between the CMC and the ACC. (cf.4.2.1). But a clear identification and inventory of the assets is definitely required to legitimate such an agreement.

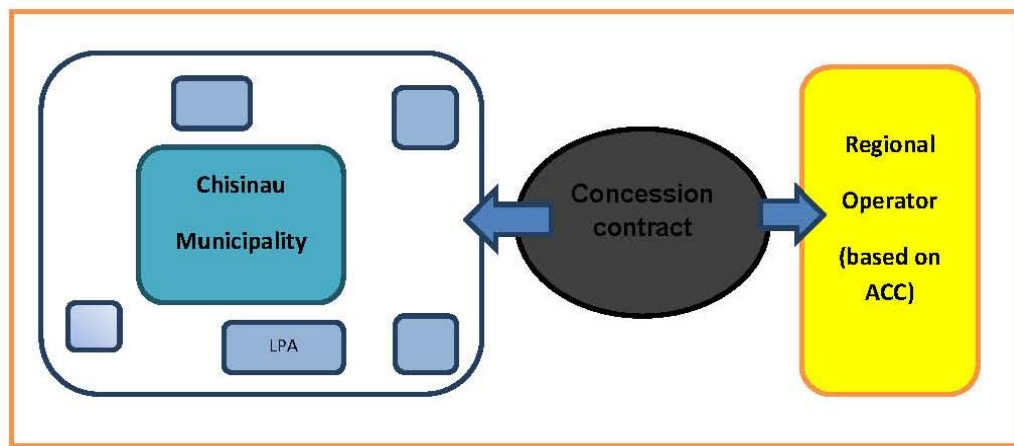
5.2. TOWARDS A REGIONAL ORGANIZATION

The forthcoming regionalization of services would likely lead to “*Associations of Local Public Authorities (LPAs)*” delegating the water and sewerage services to a regional public (or private or under a PPP) operator through a concession contract, as successfully implemented in Romania. In the Chisinau region, the regional operator would be built from the ACC. Such an arrangement would require significant legal changes regarding the setting up of associations of LPAs as legal entities, the concession to a public operator, etc.

This institutional evolution is illustrated by the following sketches.



Transition period (Public Service Agreement between Municipality and ACC)



Regionalization of services
(Concession contract between the Association of LPAs and the Regional Operator)

Figure 2: Institutional Evolution

6. DRAFT PUBLIC SERVICE AGREEMENT

FOREWORD

1. Rights and obligations of the parties imposed by laws (on local government, on statute of Chisinau Municipality, on Joint-Stock Companies, etc.), government decisions and by the existing ACC charter are not duplicated in this draft PSA, which focuses on the specific issues of the water and sewerage services in Chisinau and the relationship between the Chisinau Municipality and S.A. Apa Canal Chisinau.
2. This Agreement involves the Municipality as defined in the Law on the Statute of the Chisinau Municipality, i.e. including the communes and villages included in the Municipality territory. Therefore, the Agreement requires that local councils of towns and communes within the Chisinau Municipality authorize the Chisinau General Mayor to sign this Agreement with S.A. Apa Canal Chisinau
3. This Agreement assumes that the responsibility for the replacement, rehabilitation and development of the fixed assets owned by the Municipality and managed by the ACC is delegated by the Municipality to the Company.
4. As stressed above, this agreement requires that the sector public assets are identified and inventoried and reallocated to their legitimate owners.
5. This Agreement is for a transitional period until the date of the implementation and effectiveness of the regionalization of the services.

CHAPTER 1 - GENERAL PROVISIONS

1. Parties and parties' representatives

The Chisinau Municipal Council (hereinafter referred to as the CMC) and the Local Councils of [list of Local Councils] represented by the Chisinau General Mayor, Mr. Dorin Chirtoaca

And

S.A. Apa Canal Chisinau (hereinafter referred to as "the Company" or "the ACC") a Joint-Stock Company established by the Chisinau Municipal Council in accordance with the Law on Joint-stock Companies, represented by its General Director, Mr. Constantin Becciev,

hereinafter referred to as "the Parties", have concluded this Public Service Agreement ("the PSA") as follows.

2. Basic legal and regulatory framework

- The Parties should in all aspects and at all times conform to the current and future legislation, norms and standards in force in the Republic of Moldova.
- The key legislation relating to the provision of the services is listed in Annex 1.
- The present PSA refers to articles of laws, decisions and regulations, without duplicating them.

3. Definitions and acronyms

- CMC: Chisinau Municipal Council
- ACC: S.A. Apa Canal Chisinau
- S.A.: SocietatiipeActiuni.
- JSC: Joint-stock Company
- PSA: Public Service Agreement = Delegation agreement for public water supply and sewerage services
- Chisinau Municipality = the legal administrative entity established according the Law on the Statute of the Municipality of Chisinau
- LPA: Local Public Administration
- ANRE: National Agency for Energy Regulation
- Transition period: the period elapsing from the signing of this PSA to the effective implementation of the regionalization reform.

4. Parties' competencies

- Local councils are responsible for the provision of water and sewerage services (Law 1402 - Art.14). The CMC is the coordination entity for those services within the Chisinau municipal territory (Law 431 – Art.22a).
- S.A. ACC has been founded in 1997 by the CMC as a specialist company for providing water and sewerage services, fully owned by the CMC.

5. Purpose of the PSA

- The purpose of this PSA is to formalize a delegation agreement from the CMC and other local councils to the ACC for the transition period, and to specify:
 - The respective responsibilities in terms of provision of water and sewerage services in the Municipality of Chisinau
 - The rights and obligations of both parties
 - The method for establishing the tariff of the services

- The customer rights and duties

6. Service area

- The area of application of the present PSA is the Chisinau municipal territory, i.e. the five districts (Botanica, Buiucani, Centru, Ciocana, Rascani).that constitute the municipal territory, as defined in sections 3 and 4 of the Law on the Statute of the Municipality of Chisinau.

7. Duration, amendment and termination of the Agreement

- The present PSA shall last until the regionalization of water and sewerage services is in force and effective.
- It can be amended on request of either party, and subject to mutual agreement, but not more than once a year.
- It can be terminated by either party with prior notice of not less than one year.

CHAPTER 2 - RIGHTS AND OBLIGATIONS OF THE COMPANY

8. Management, replacement and development of fixed assets

- Fixed assets owned by the CMC and other local councils, inventoried and valued as detailed in Annex 2, are assigned to the Company for management. These fixed assets, as well as fixed assets owned by the Company are depreciated in the Company's accounts.
- The development, replacement and removal of fixed assets owned by the CMC and other local councils are planned by the Company and implemented by the Company after approval by CMC and other local councils.

9. Planning and investment

- The Company shall prepare and submit annually to the Municipality a 5-year rolling business plan based on strategic directions provided by the Municipality, as stated in clause 18 of this PSA.
- The Company's business plan covers all areas of the Company's activities, and includes annual targets for selected performance indicators (cf. clause 16) reflecting the quality and levels of services, as well as the management performance of the Company.
- The Business Plan includes a prioritized Capital Investment Plan for the replacement, rehabilitation and development of the water supply and sewerage infrastructure, and cost estimates associated to those investments

- The Company shall be responsible for identifying the sources of funds (internal, external, etc.) and mobilizing the funds required for the implementation of the Capital Investment Plan.

10. Accounting and auditing

- The Company keeps financial accounts in accordance with the requirements of Law 113/2007, i.e. using both National Accounting Standards and International Financial Reporting Standards (IFRS).
- Company's accounts are to be audited in accordance with the law by a registered and qualified auditor.

11. Operation and maintenance

- The Company operates and maintains the water supply and sewerage facilities in accordance with the norms, standards and best practices, so as to ensure the optimum use of these facilities in terms of efficiency and lifetime, to optimise the operation and maintenance costs, and to protect the environment.
- Within 6 months of signing this PSA, the Company shall prepare and implement an Emergency Response Plan dealing with the most critical potential events.

12. Customer management

- The Company shall comply with the provisions of the Government Decisions 191, 656 and 1228 regarding the relationship with the customers, as well as Regulations 5/4 (2008) from the CMC.
- The Company shall keep and maintain at all times a customer database for each category of customers, including historical information on billing, payments and debts.
- The Company shall keep a register of complaints from customers, stating the date, time and nature of the complaint, and details on actions taken and response time.
- The Company shall ensure at all times an equitable treatment to all customers in the service area without any discrimination whatsoever.

13. Sub-contracting

- Sub-contracting any part of the Company's core activities is not allowed without the formal approval of the Municipality

- Non-core activities may be sub-contracted but the Company must ensure that the sub-contractor has the skill and capacity to provide the services according to best practice.

14. Procurement

- Procurement of works, goods and services by the Company must comply with national regulations, or with procurement rules agreed in loan or grant agreements.

15. Services outside the service area

- The Company may provide water and sewerage services to towns and villages located outside the service area as defined in clause 6 of this PSA, provided that these services are not detrimental to those provided within the service area, and that contracts for those services are formally approved by the Municipality.

16. Company's performance

- Company's performance shall be evaluated by means of performance indicators and associated targets set in the Company's business plan.
- Relevant performance indicators, their definition and method of measurement are listed in Annex 3.

17. Reporting

The Company shall prepare and deliver the following reports to the Municipality on agreeable formats, according to the following schedule:

- Before January 31: the annual report providing all relevant information on the Company's activities and performance (against indicators and targets as agreed in the Business Plan) as well as the budget execution for the past year.
- Before April 30, July 31 and October 31: the quarterly reports providing key information on the Company's activities and performance (against key indicators and targets as agreed in the Business Plan) as well as the monitoring of the current budget.
- Before June 30: the Company's audited accounts
- Before November 30: the budgets for the forthcoming year and the updated 5-year Business Plan (with associated Capital Investment Plan)
- On its own initiative or on Municipality's request, ACC shall prepare and submit specific reports to the Municipality.

CHAPTER 3 - RIGHTS AND OBLIGATIONS OF THE MUNICIPALITY

18. Strategic development

- The Municipality is responsible for developing strategic objectives for the water and sewerage services, and providing strategic directions to the Company.

19. Municipal coordination

- The Municipality shall coordinate with towns and communes in the Municipality area in all aspects of the services (development strategy, investments, tariffs, etc.)

20. Investment

- Planning for the development, rehabilitation and replacement of elements of the water and sewerage infrastructure is delegated by the Municipality to the Company, their implementation are subject to Municipality's approval of the Capital Investment Plan associated with the annual Business Plan.
- The Municipality shall support the ACC in identifying and securing the sources of funds required for the development, the rehabilitation and the replacement of the infrastructure, as provided for in the approved Capital Investment Plan.

21. Monitoring and Supervision

- The Municipality shall monitor and supervise Company's activities and performance through its representatives in the Company's Board, and through the Company's reports as mentioned in Clause 17 of this PSA.
- The Municipality may comment Company's reports and issue recommendations and/or instructions to the Company's Board.
- If deemed necessary, the Municipality may order audits and investigations on any activity or function of the Company.
- In accordance with article 50 of the Law on the Statute of the Chisinau Municipality, the Municipality shall guarantee some autonomy to the municipal public services, and shall not interfere with its daily management.

CHAPTER 4 - TARIFF OF SERVICES

22. Tariff setting methodology

- The Company shall prepare proposals for tariff changes in accordance with the Decision 164/2004 of the ANRE on the "*Methodology of establishment, approval*

and application of tariffs for water supply, sewerage and wastewater treatment services”.

- Company’s proposals shall be reviewed according to the legislation, and approved by the Chisinau Municipal Council before their implementation.

CHAPTER 5 - DISAGREEMENTS & DISPUTES

23. Settlement of disagreements and disputes

- The Parties shall endeavour to resolve disagreements and disputes by way of negotiation and amicable settlement
- Should the Parties fail to resolve a disagreement or a dispute through amicable settlement, the opinion of the CMC shall prevail.

CHAPTER 6 - FINAL PROVISIONS

The provisions of this Agreement shall be supplemented with the provisions of the legislation in force in the Republic of Moldova. In case of inconsistencies between the provisions of this Agreement and the legal provisions, the legal provisions shall prevail.

Date

On behalf of the Chisinau municipal Council

On behalf of the Joint-Stock Company Apa Canal Chisinau

Annexes

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Annex 1

Key Legislative and Regulatory Background (October 2011)

Key legal documents relating to the sector of water and sewerage services at national level:

- Water Code No. 1532-XII of 22.6.1993;
- Law “On Local Government” Nr 436-XVI of 28.12.2006
- Law “on Joint-Stock Companies” Nr 1134 of 02.04.1997
- Law on “the Administration and Privatization of public property” Nr 121 of 04.05.2007
- Law “On Public Communal Services” No. 1402-XV of 24.10.2002;
- Law “On Drinking Water” No. 272-XIV of 10.2.1999;
- Law “On Sanitary and Epidemiological Support to Population” No.1513-XII of 16.6.1993;
- ANRE Decision 164/2004 on the Methodology of setting, approval and application of tariffs for water supply, sewerage and wastewater treatment services
- Regulation No. 934 of 15.8.2007 “Sanitary Norms on Drinking Water Quality”.
- Government Decision 662/2007 approving the Strategy of water supply and sewerage in localities of Moldova
- Government Decision 656 of 27.05.2002 on the framework regulation on the use of municipal water supply and sewerage systems
- Government Decision 191 of 19.02.2002 on the regulation of the provision and payment of housing services, metering on heating and water supply connections
- Government Decision 1228 of 13.11.2007 on the regulation on the acquisition, installation, reception and maintenance of measuring equipment for water consumption

Specific legislation and regulation for Chisinau:

- Law “on the statute of the Chisinau Municipality” Nr 431 of 19.04.1995
- Declaration of constitution of the Joint-Stock Company Apa Canal Chisinau 27.08.1997
- Statute of the Joint-Stock Company Apa Canal Chisinau (Charter) approved on 18.01.2008 by the General Assembly of Stakeholders (new wording)
- Chisinau Municipal Council Decision 5/4 of 25.03.2008: Regulation on the organization and operation of the public services of water supply and sewerage in Chisinau Municipality
- Chisinau Municipal Council Decision 27/25 of 23.12.2000 approving the statute of the Joint-Stock Company Apa Cana Chisinau
- Chisinau Municipal Council Decision 3/16 : modification to the Decision 27/25 r

Annex 2

Fixed Assets Inventory and Valuation

(to be completed after identification, inventory and valuation of assets owned by CMC, other Local Councils and ACC)

Annex 3 Performance Indicators

Activities and achievements of the Company shall be evaluated through the following performance indicators, among which key performance indicators (KPI) provide the most important information on the Company's performance. Whereas quarterly reports prepared by the Company shall focus on KPI, the annual report shall include all performance indicators.

Key Performance Indicators (KPI)

- Non-revenue Water (%) = difference between water supplied and water sold expressed as a percentage of net water supplied
- Operating cost coverage ratio (%) = Total annual operational revenues/total annual operating costs
- Collection ratio (%) = Cash income/billed revenue as a %

Other Performance indicators

- Debt service ratio (%) = Cash income/debt service x 100
- Staff productivity ratio = Total number of staff (excluding staff employed in ACC heating business) expressed as per thousand connections
- Energy efficiency (kwh / m³) = total energy consumed for water and sewerage/total number of cubic meters produced
- Water sold that is metered (%) = Volume of water sold that is metered/ total volume of water sold, expressed in percentage
- Receivables (months of billing) = total receivables / average monthly billing for the last 12 months
- Payables (months of billing) = total payables / average monthly billing for the last 12 months
- Customer complaints (%) = Total number of water and wastewater complaints per year expressed as a percentage of the total number of water and wastewater connections
- Complaint response time (hours) = time in hours elapsed between customer request to resolution of the problem
- Pipe breaks (Nr / year / km) = Total number of pipe breaks per year expressed per kilometer of the water distribution network.
- Sewer blockages (Nr / km / year) = Total number of blockages per year expressed per kilometer of sewers
- Quality of Water Supplied (%) = Percentage of samples tested for residual chlorine that pass the relevant standard