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DECISION RE: APPLICATIONS FOR AUTHORITY FOR FARE ADJUSTMENT OF PROVINCIAL AIRCON BUSES

LTFRB FARE ADJUSTMENT OF PROVINCIAL AIRCON BUSES, February 16, 2005

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Southern Luzon Bus Operators
Association (Soluboa),
In representation of its Members –

Case No. 2004-1767

Alps and Sons
Binan Bus Lines Trans. System, Inc.,
BLTB Co., Batangas Express,
Jethro Liner, Et AL., Applicants,

x ----------x

Provincial Bus Operators
Association of the Philippines (PBOAP)
In representation of its members --

Case No. 2004-1834

Bachelor Express, Inc.,
Baliwag Transit, Inc.,
Victory Liner, Inc.,
Partas Transport Inc.,
Philtranco Service Ent., Inc.,
Et Al.,

Applicants,

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D E C I S I O N

These are two (2) Applications for Authority for Fare Adjustment of Provincial Aircon Buses filed by herein applicants on the following dates:

PBOAP - May 27, 2004
SOLUBOA - June 1, 2004

In both applications, they prayed to charge the following fare rates for their AIR-CONDITIONED buses, under four (4) classes/categories, to wit:

1. REGULAR AIR-CON BUS
(2x2 and 2x3 seating layout without amenities) -

P 1.35 per km.

2. DE LUXE AIR-CON BUS
(2x2 and 2x3 seating layout with amenities) -

P 1.45 per km.

3. SUPER DELUXE AIR-CON BUS
(2x2 seating layout of not more than 40 passenger with amenities)

P 1.55 per km.

4. LUXURY AIR-CON BUS
(1x2 or 1x1 seating layout with not more
than 33 passengers with amenities and
comfort room and steward or stewardess)

P 2.00 per km.

The Board issued a Notice of Hearing dated May 27, 2004 for the Application for Authority to Increase Passenger Fare Rates for PUB AIR-CONDITIONED Service filed by PBOAP setting said application for hearing on June 8, 2004.

On the initial date of hearing, PBOAP presented its witness in the name of Mr. Robert R. Rejano, Director of PBOAP, and the Board, due to lack of material time, ordered for the resetting of the case. Applicant and the representative from Office of the Solicitor General (OSG) were notified in open court of the resetting on June 10, 2004. On the latter date, the direct testimony of the witness was continued and was even subjected to initial cross-examination by the counsel from OSG. Unfinished, the Board ordered for the continuation of the cross-examination on June 15, 2004, and for the submission of the fare computation of the same witness on other categories of the Air-Conditioned Bus on or before June 15, 2004, furnishing the OSG a copy of the same. The counsel from OSG, on the other hand, reserved her right to cross examine the witness on points relative to such

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computation, which this Board granted. On June 15, 2004, the cross examination of the witness was terminated, and there being no additional witness to be presented by PBOAP as well as the oppositor OSG, the parties were given three (3) days from June 15, 2004 to file their Position Papers, thereafter, the case was deemed submitted for resolution.

With regard to the Application for Authority to Adopt Passenger Fare Rates for Air-Conditioned Bus Service filed by SOLUBOA, the Board issued a Notice of Hearing on June 2, 2004, setting the said application for hearing on June 15, 2004.

On the scheduled date of hearing, the Board directed the resetting of this case to June 22, 2004 in view of the lack or proof of service of the Notice of Hearing to the OSG. Came June 22, 2004, there was no appearance from OSG despite the fact that said office was duly notified of the said date of hearing. SOLUBOA and other members of its organization appeared through counsel. SOLUBOA requested and manifested that it be allowed to present the jurisdictional facts, which this board granted. The Board likewise granted the manifestation of SOLUBOA that it was adopting all the pieces of evidence previously presented by PBOAP, and that this case was submitted for resolution.

Both applicants (PBOAP and SOLUBOA) were citing the Consolidated Decision dated May 25, 2004 as their bone of contention in praying for the Application for Approval of Fare Increase of PUB Air-Conditioned Service. They cited the justification for the fare adjustments granted to the provincial bus operators, for their PUB regular (non-air-conditioned) service, which was the unstable situation in the Middle East which brought about the "incessant global increase in the price of Dubai crude", breaching the highest peak levels of fuel price during the 1991 Gulf war with Dubai Crude at $31.52 per barrel. They further cited the part in the Consolidated Decision which strongly states "justice now demands to give benefit to PUB and PUJ operators and drivers who assumed the burden of such increase for the past three (3) years", which was one of the main justifications in the approval for the fare increase for PUB regular and PUJ services. They averred further that considering PUB Air-Conditioned service utilizes more expensive units due to different structural design and body configuration than the regular, and is more costly to operate and maintain, approval of the present application should be favorably considered.

This Board finds the present application for fare increase of PBOAP and SOLUBOA to be tenable and impressed with merit.

Considering the series of increases of oil products, toll rates, vehicle spare parts, and the like which are matters of judicial notice, the Board is now left without any recourse but to grant the present applications. We are now adopting the basic justifications as cited in the previous decisions approving the applications for fare increase. The bases of the previous decisions were the successive increases of the prices of fuel, spare parts, brake fluid, grease, gear oil, and tires and other operational expenses such as the wage increase and the grant of ECOLA amounting to P50.00, and the increase of government fees, like the LTO registration fees which affected the viability of the operations of the transport operators. Other items and factors which were considered in the approval of the increase of fares on PUB and PUJ services were the depreciation of rolling stocks, peso devaluation, increase of government fees and other operational expenses.

The Toll Regulatory Board likewise increased its charges in both North Luzon Expressway and Southern Luzon Expressway by more than four hundred percent (400%) and two hundred percent (200%), respectively, which fully burdened the bus operators.

WHEREFORE, pursuant to and in accordance with Section 16, subsection (c) of the Public Service Act and Section 5, sub-section (c) of Executive Order No. 202, the Board authorizes the fares for provincial PUB

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Air-conditioned to be increased from the across the board rate of P1.10/km. to the following categorized fare structure:

1. REGULAR AIR-CON BUS
(2x2 and 2x3 seating layout without amenities) -

P 1.35 per km.

2. DE LUXE AIR-CON BUS
(2x2 and 2x3 seating layout with amenities) -

P 1.45 per km.

3. SUPER DELUXE AIR-CON BUS
(2x2 seating layout of not more than 40 passenger with amenities)

P 1.55 per km.

4. LUXURY AIR-CON BUS
(1x2 or 1x1 seating layout with not more
than 33 passengers with amenities and
comfort room and steward or stewardess)

P 2.00 per km.

The implementation of the fares indicated above are subject to the following conditions:

1. All franchised air-conditioned bus operators having been benefited by this DECISION, are all deemed to have applied for a fare increase and shall pay the Board the corresponding filing fees of P520.00 (inclusive of one (1) original copy of a certification of approved fare) per case number plus P50.00 per authorized unit under such case number. The P50.00 fee shall entitle the operator to an original copy of such certification where the plate number and class/category of that particular unit is indicated therein. Operators must submit, upon filing of the written request for certification their list of Buses with their corresponding plate nos. under per class/category as stated on this Decisions;

2. All air-conditioned bus operators shall post in conspicuous places inside their buses and terminals or stations, the aforesaid certification for the information of the riding public and to avoid disputes with drivers and conductors;

3. The elderly, disabled and students are entitled to a 20% discount on regular fares upon presentation of their duly issued Identification Cards (IDs);

4. Children three (3) feet and below shall be free of charge when riding provincial PUB Air-Conditioned service with an adult companion and shall not be forced or coerced to sit on the lap of such adult companion for safety purposes. Operators are therefore required to provide a measuring device (eg. tape measure, yardstick and the like) set up on the vehicle entrance to serve as a guide;

5. Failure to comply with the requirement of posting the certification of this approved fare rate shall be subject to a penalty of P2,500.00 and the failure of giving discounts to the elderly, disabled and students shall subject the erring drivers and operators to the imposition of the corresponding fines and penalties pursuant to LTFRB Memorandum Circular 2003-033 dated December 15, 2003, Re: "GRANT OF FARE DISCOUNTS TO ELDERLY, DISABLED PERSONS and STUDENTS," to wit:

First Offense ---------- P3,000.00
Second Offense -------- P5,000.00
Third Offense ----------Suspension of CPC for 60 days
Fourth Offense ---------Cancellation of the CPC

6. Overchanging and/or undercharging of passengers shall be penalized in accordance with the penalties prescribed by existing laws, rules, regulations and circulars on this matter:

7. Passengers that were previously charged with a higher rate from that rate previously authorized by the Board (P1.10/km) shall be credited by all the operators/conductors in their (passengers') next purchase of bus air-conditioned tickets upon presentation of the actual tickets issued to them which reflect the unauthorized increase of fare. Only bus air-conditioned tickets previously issued by operators/conductors on May 27, 2004, onwards, up to the last day prior to the effectivity of this Decision are given proper credit. Operators are required to make the necessary credit procedures to facilitate implementation of this provision. Failure to credit the overpayment to the next ticket purchase of affected passengers shall be subject to five thousand pesos (P5,000.00) penalty to be paid by the operator.

This Decision shall take effect fifteen (15) days following its publication in a newspaper of general circulation or the filing of three (3) copies hereof with U.P. Law Center, pursuant to Presidential Memorandum Circular No. 11, dated 09 October 1992.

SO ORDERED.

Adopted: 16 Feb. 2005

(SGD.) MARIA ELENA H. BAUTISTA
Chairperson

(SGD.) FELIX S. RACADIO
Board Member

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