CREATING THE COMPOSITION OF THE “FRANCHISE ENFORCEMENT AND ADJUDICATION SERVICES”, DEFINING THE POWERS AND FUNCTIONS THEREOF AND PROVIDING FOR THE OPERATING PROCEDURES IN THE EN...

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WHEREAS, the BOARD seeks to address the flagrant violations by public land transport utilities of existing laws, such as the Public Service Act (C.A. 146), Executive Order 202, and other Memorandum Circulars issued by the LTFRB.

WHEREAS, while recognizing the concurrent power of other agencies in the enforcement of existing traffic laws, the enforcement of laws relating to public land transport must be given flesh and meaning with the end in view of directing compliance aside from the mere imposition of penalties.

WHEREAS, LTFRB Memorandum Circular No. 2007-004 mandated the creation of the Law Enforcement Unit citing the provisions of Sec. 13(a) of the Public Service Act (C. A. 146) and Sec. 5(k) of Executive Order No. 202 as the legal basis for the creation of the Law Enforcement Unit clearly mandating that the enforcement of rules and regulations as well as jurisdiction, supervision and control over Public Utility Vehicles are vested with the LTFRB.

WHEREAS, the Land Transportation and Traffic Code (R.A. 4136) particularly Sec. 63 thereof, expressly provided that [“nothing contained in this Act shall be construed as limiting or superseding any provision of the Public Service Act, as amended, with respect to the control by the Public Service Commission (now LTFRB) of motor vehicles operating as public service, nor, shall any provision of this Act be construed as limiting or abridging the powers conferred upon and exercised by the Public Service Commission (now LTFRB) with regard to the control and supervision of the operation of such motor vehicle as public service”].

WHEREAS, the Public Service Act (C. A. 146 as amended) under Sec. 17, par. a) confers with the Public Service Commission (now LTFRB) the power and duty [“to prohibit or prevent any public service as herein defined from operating without having first secured a Certificate of Public Convenience or public necessity and convenience, as the case maybe x x x.] Further, Sec. 18 of the same Act, declares unlawful [“for any individual, co-partnership and association and corporation or joint stock companies appointed by any court or company their lessees, trustees or receiver appointed by any court whatsoever, or any Municipality, Province or other Department of the Government of the Philippines to engage in any public service business without having first secured from the commission a certificate of public convenience and necessity as provided for in this act x x x.”]

NOW, THEREFORE, the BOARD adopts and promulgates the following rules and regulations, to wit:

I. COMPOSITION OF THE “FRANCHISE ENFORCEMENT AND ADJUDICATION SERVICES (FEAS)

The FRANCHISE ENFORCEMENT AND ADJUDICATION SERVICES is created as an adjunct Office in the LTFRB with the primary responsibility in the enforcement of public transport laws such as, the Public Service Act (C. A. 146), Executive Order 202, existing rules and regulations and memorandum circulars of the LTFRB. All powers and functions exercised by the FEAS emanates from the CHAIRMAN who shall have direct

administrative and functional control and supervision over the FEAS.

The FEAS shall headed by a Task Force Head who shall have supervision and control of the four (4) service units, to wit:

a) Public Transport Law Enforcement Office (PTLEO)-

1. Chief, Public Transport Enforcement Officer (CPTEO)

2. Public Transport Enforcement Officers (PTEO) – as may be appointed, deputized or designated by the LTFRB Chairman.

b) Public Transport Adjudication Office (PTAO)

1. Chief, Public Transport Adjudication Officer – (must be a lawyer)

2. Office Staff (3 to 5 office staff)

c) Intel and Investigation Office

1. As may be deputized by the Chairman

Functions/Responsibilities – task primarily with the gathering of informations in cases of syndicated and large scale fraud, i. e. tampered meters, illegal issuance of for hire plates, colorum operation.

d) Custudial/Redemption Office

Functions/Responsibilities – serve as the repository of impound- ed vehicles, confiscated plates and other instruments or exhibits that may be turned over for custody and deposit.

II. OPERATING PROCEDURES

II.A) - The Chief, Public Transport Law Enforcement Officer shall be responsible in the deployment, supervision and other functional responsibilities with respect to the enforcement officers under him.

II.A) - The Appointed, Deputized or Designated Enforcement Officers upon the apprehension of any public and land transport utility (as defined by law) with or without a Certificate of Public Convenience shall inform the concerned driver/operator of the vehicle apprehended of the particular violation committed and forthwith issue Investigation Report and Summons (IRS) or Show Cause Order if necessary indicating the date and time when to appear before the Office of the Public Transport Adjudication Services.

On the date and time set to appear, once the operator admits commission of the charge, the Chief, Public Transport Adjudication Services shall issue Order directing payment pursuant to the prescribed penalties under existing memorandum circulars. Other violations maybe Ordered complied with if the records in the Office show that the erring operator/driver has not complied therewith. In cases of suspension or cancellation of franchise (CPC), appropriate recommendation should be forwarded to the Chairman as the administrative head of the BOARD.

II.B) – In cases where the operator contests the violation charged in the summons, the Office of the Public Transport Adjudication Services shall in accordance with Part II, Rule 10, (Procedure in Complaints) Rules of Practice and Procedure in the LTFRB proceed as if a disciplinary complaint is filed with the Board. Thereupon, an Order shall be issued requiring the Public Transport Law Enforcement Services to prosecute the cited operator. The Apprehending enforcement officer whenever available shall be present during the hearing as a witness.

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In acting on all matters involving franchise violation, the Chief, Public Transport Adjudication Services shall have the function of a Hearing Officer with the power to issue subpoena and subpoena duces tecum. In the evaluation of the particular violation the PTAS is not bound by the technical rules of evidence and proceed to rule based on substantial evidence. The proceedings shall be summary in nature where the parties may be required to submit their evidence and position papers.

The Order or Decision disposing the matter shall be final and executory.

Any Order/Decision imposing fines or penalties not involving suspension or cancellation of franchise, the Chief, PTAS is vested with the power to summarily impose the prescribe fines or penalty. In case of suspension or cancellation of CPC, the PTAS shall prepare its investigation and recommendation to the Chairman who shall have the final authority to act and dispose of the case.

To curb and forestall the commission of the same violation, inspection of compliance of the particular violation should be mandated at all times.

All fines and penalties imposed in the level of the PTAS must conform with the table of penalties as prescribed under existing Memorandum Circulars.

All Decisions/Orders imposing suspension, cancellation or any other penalty as the Board may deem expedient in the interest of the public as well as Cease and Desist Orders shall be vested in the Board.

III. The citation form shall be in accordance with the draft IRS (Investigation Report and Summons) and made an integral part of this MC as “Annex A[*].”

Nothing in the provisions contained herein shall in any way limit or otherwise affect proceedings commenced by any person, operator or the public directly, in accordance with Part II, Rule X, Rules of Practice and Procedure (administrative matters between operators or public complainant) which shall be shall be acted upon accordingly.

IV. All vehicles which under existing memorandum circulars, rules and regulations are subject to impoundment as a consequence of the apprehension or upon Order of the Board and such other instruments or documents connected with the apprehension are to be turned over to the Custodial and Redemption Office (CRO) and released only when ordered by the BOARD upon the recommendation of the PTAS.

This Memorandum Circular hereby modifies, supersedes and amend accordingly any and all issuances inconsistent herewith.

This MEMORANDUM CIRCULAR shall take effect fifteen (15) days after its publication in a Newspaper of general circulation or in the UP Law Center Official Publication. Let three (3) copies hereof be officially filed with the UP Law Center in accordance with Presidential Memorandum Circular No. 11, dated October 1992.

Adopted: 14 Nov. 2007

(SGD.) THOMPSON C. LANTION (RET)
Chairman

(SGD.) GERARDO A. PINILI
Board Member

(SGD.) MA. ELLEN DIRIGE-CABATU
Board Member

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[*] Text Available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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