NATIONAL ADMINISTRATIVE REGISTER · JULY 6, 2005

DECISION RE: FARE ADJUSTMENT OF PROVINCIAL NON-AIR-CONDITIONED (REGULAR) BUSES

LTFRB, July 06, 2005

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Case No. 2005-0412

PROVINCIAL BUS OPERATORS
ASSOCIATION OF THE PHILIPPINES (PBOAP)
In representation of its Members -

BACHELOR EXPRESS, INC.,
BALIWAG TRANSIT, INC.,
VICTORY LINER, INC.,
PARTAS TRANSPORT INC.,
PHILTRANCO SERVICE ENT. INC.,
ET.AL.,

Applicants,

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

DECISION

This is an Application for Authority for Fare Adjustment of Provincial Non Air-Conditioned (Regular) Buses filed by herein applicant on April 20, 2005

In the application filed by PBOAP, it prayed to charge the following fare rates for their NON-AIR-CONDITIONED buses:

Provincial Utility Bus Regular (Nationwide) FROM TO %

Minimum (1st 5 km.) P6.00 P9.00 50%

Succeeding Km. P1.10 P1.30 19%

The Board issued a Notice of Hearing dated April 21, 2005 for the Application for Authority to Adjust Passenger Fare Rates for PUB Regular Service filed by PBOAP setting said application for hearing on May 17, 2005.

On the scheduled date of hearing, petitioners represented by counsels Atty. Jose A. Galsim and Atty. Orlando P. Viray, Sr., appeared. The Office of the Solicitor General likewise appeared through Atty. Herminigildo Dumlao II. Petitioners presented the jurisdictional facts/requirements and the same were admitted by the Board. Counsels

for petitioners prayed that they be given a period of ten (10) days within which to file its Memorandum/Position Paper, which this Board granted. The Office of the Solicitor General was likewise given a period of ten (10) days within which to file its Position Paper. Thereafter, with or without such pleadings this case shall be submitted for resolution on the basis of the evidence so far presented.

In the application and Amended Application filed on April 20, 2005 and May 16, 2005, respectively by herein petitioners, it averred that other operational costs of applicants have likewise been increasing correspondingly since 2004, 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 recent increase of fares on PUB Regular in Metro Manila and PUJ like the peso devaluation, increase of government fees and other operational expenses.

In the Opposition and Position Paper filed by the Office of the Solicitor General (OSG), which contains almost similar arguments. It cited once again the landmark case for rate fixing of Kilusang Mayo Uno Labor Center vs Garcia, 239 SCRA 386. It argued that the contentions of the applicants are unfounded because they proceed on the premise that the ever-increasing fuel costs resulted in increased operational costs, but it failed to present evidence to support their affirmative allegations. It averred that the proposed fare increase appears to be burdensome, a moderate increase in the fare rate seems sufficient and will still bring a reasonably good return for investment for the operators and drivers. It likewise argued that the burden of showing that the proposed schedule of rates is fair and reasonable, that it is not confiscatory and discriminatory, which the applicants failed to do. On the technical side, it questioned the authority of Alejandro R. Yague, President of PBOAP to file the original and/or amended Application. It was not supported by a Board Resolution duly passed by the Board of Directors of the PBOAP.

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

Considering the series of events, which are matters of judicial notice, the Board is now left without any recourse but to grant the present applications. This Board just recently approved the application for fare adjustment filed by FEJODAP, Et.Al. for Public Utility Jitney Service and INTERBOA, IMBOA Et. Al for Regular Public Utility Buses in Metro Manila as per Decision issued by this Board on May 9, 2005.

We are now adopting the basic justifications as cited in the most recent decision approving the applications for fare increase. The basis of the recent decisions for both PUJ and PUB Regular in Metro Manila was the successive increase of fuel (diesel) that occurred during the period of last fare hike up to the present. In the last fare increase, as per Decision in LTFRB Case No. 2004-0677 dated May 25, 2004, the cost of diesel was P18.83 per liter. This has now jumped to P27.90 per liter or an increase of forty eight percent (48%), the highest jump ever given such short period of time. The twenty percent (20%) given to elderly, disabled and students as mandated by the Board should likewise be considered.

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

It must be stressed that the impact of Expanded Value Added Tax (EVAT) Law which will take effect on July 1, 2005 and the oil industry projections for the year was highly considered in the approval of this Application for Authority to Adjust Passenger Fare Rates for Provincial PUB Regular Service.

WHEREFORE, pursuant to and in accordance with Section 16, sub-section (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 Non-Air-Conditioned as follows:

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FROM TO %

Minimum (1st 5 Km.) P6.00 P8.50 42%

Succeeding Km. P1.10 P1.30 19%

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

1. All franchised provincial regular 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 fee of P520.00 (inclusive of one (1) original copy of fare matrix) per case number plus P50.00 per authorized unit in excess of one unit and P40.00 for franchise verification records. The P50.00 fee shall entitle the operator to an original copy of the fare matrix where the plate number of that particular unit is indicated therein and the landmark of every kilometer;

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

3. The elderly and the Disabled are entitled to a 20% discount on regular fares all year round upon presentation of their duly issued Identification Cards (IDs);

4. The students are entitled to a 20% discount on regular fares upon presentation of their duly issued identification cards (IDs); However, students can only avail of the 20% fare discount during the school year, from Mondays to Fridays. No student discounts on Saturdays and Sundays; legal holidays; summer and Christmas breaks. Graduate School Students and the like are not covered by the said fare discount;

5. Children three (3) feet and below shall be free of charge when riding provincial PUB Regular service and shall not be allowed to sit on the lap of his/her adult companion for safety purpose. Operators are therefore required to provide a measuring device (e.g. tape measure, yardstick and the like) set up on the vehicle entrance to serve as guide;

6. Failure to comply with the requirement of posting the fare matrix and 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 existing LTFRB and LTO rules and regulations;

7. Overcharging and/or undercharging passengers shall be penalized with the corresponding penalties prescribed for the said offenses by this Board;

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: 06 July 2005

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(SGD.) MARIA ELENA H. BAUTISTA

Chairperson

(SGD.) FELIX S. RACADIO

(SGD.) GERARDO A. PINILI

Board Member

Board Member

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