

GUIDELINES FOR HEARINGS AND INVESTIGATION BEFORE THE MARITIME INDUSTRY AUTHORITY AMENDING CERTAIN PROVISIONS OF THE INTERIM RULES OF PRACTICE AND PROCEDURE, AND FOR OTHER PURPOSES

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Pursuant to Resolution No. 90-19, of the Maritime Industry Board, and in order to provide uniform guidelines in the conduct of hearings in the MARINA or its regional offices, more specifically in applications for franchise under the Public Service Act, as amended, and in investigations for violations of Presidential Decree Nos. 474/666/760/866/1711, and Executive Order Nos. 125/125-A, and other laws, rules, and regulations implemented by this Authority in its economic or enforcement functions, and for the purpose of fairly and expeditiously resolving all cases/complaints, without affecting, while in fact, enhancing the basic rights of due process to parties-litigants, the Maritime Industry Board RESOLVES to issue, as it hereby issues, the following guidelines in the conduct of all hearings and investigations before this Authority:

1. The Authority hereby adopts a system of procedure whereby applications (whether original or extension/renewal) for Certificates of Public Convenience (CPC), Provisional Authorities (PA) or Special Permits (SP) are deemed officially accepted for filing and processing only upon presentation of the following:

1.1

Latest Audited financial statements relative to the operation of the vessel(s)/company; for an existing operator, the latest Annual Report;

1.2

NAMRIA (formerly BCGS) certified distances per port-to-port link (not applicable to tramping);

1.3

Proposed sailing schedules (not applicable to tramping);

1.4

Vessel's General Arrangement and/or Passenger Accommodation Plans;

1.5

Colored photographs of the vessel showing port side and starboard side view (5" x 7");

1.6

Updated/valid Certificate of Inspection issued by the Philippine Coast Guard reflecting the vessel's authorized area of operation/vessel's authority to carry passengers;

1.7

Survey/inspection report by MARINA surveyor. If vessel is required for classification, certified true copy of the provisional class or a valid final class certificate issued by an internationally recognized classification society;

1.8

Articles of Incorporation/Co-Partnership/Business Name;

1.9

Oil Pollution Cover for tankers and barges carrying oil and petroleum products.

1.10

Payment of Filing Fees

1.11

Others as may be required by the MARINA

2. The provisions of the Interim Rules of Practice and Procedure promulgated under Executive Order No. 1011, s. of 1985, in the exercise of the MARINA's quasi-judicial functions, such as, hearings prior to the issuance of Certificate of Public Convenience, or on rate-making, among others, as well as the pertinent provisions of Memorandum Circular No. 53 which became effective on 06 November 1989 more importantly, the ten (10) day publication period, the submission of affidavits and counter-affidavits to serve as direct testimonies for the applicant and oppositor, respectively, and the continuous hearing are hereby adopted and shall likewise apply to investigations involving complaints initiated by this Authority or those filed by a private complainant as a result of the enforcement and/or regulatory functions of the MARINA insofar as they are not inconsistent with these guidelines.

3. All pleadings filed in connection with the quasi-judicial functions of the Authority and those resulting from the exercise of its economic, enforcement or regulatory functions in implementation of laws, rules and regulations prescribed hereunder must be filed within seven (7) working days from receipt of the pleading or order requiring the filing thereof as the case may be.

4. The hearing officer/attorney/panel shall have authority to hear all applications for Certificates of Public Convenience to operate a public water service as well as petitions for rate fixing and all complaints for violations of laws, rules, and regulations implemented by this Authority.

5. In all hearings and/or investigations, the hearing officer/hearing attorney/panel shall hold and conduct a

pre-hearing conference.

6. During the said conference, the following matters, aside from those already mentioned in the Interim Rules of Practice and Procedure, shall be agreed upon:

- the number of witnesses to be presented;
- the approximate number of hours or hearing days required by each party for the presentation of its evidence; and,
- the specific hearing dates needed to complete the presentation of all parties, which must be within a period of ninety (90) days from the initial hearing, unless an extension is called for as determined by the presiding officer. Continuous hearings shall be greatly encouraged by the hearing examiner/attorney/panel.

7. After the pre-hearing conference, the hearing officer/attorney/panel shall issue an Order reciting the actions taken, such as issues involved, whether factual, legal or both, the facts stipulated, and evidence marked. Such order shall bind the parties, limit the trial to matters or issues not disposed of and control the course of the action during the trial, unless modified by the hearing officer/attorney/panel to prevent manifest injustice.

8. No postponement of the hearing dates agreed upon shall be granted except on good and meritorious reasons supported by evidence.

9. Each party is bound to complete the presentation of his evidence during/within the hearing dates assigned to him. After the lapse of said dates, the party is deemed to have completed his presentation, unless, upon verified motion, based on serious and compelling reasons, the hearing officer/attorney/panel allows a party additional hearing dates, provided these shall not extend beyond the 90-day limit computed from the first hearing date.

10. Parties so desiring may simultaneously submit memoranda after the conclusion of a hearing within an inextendible period of 15 days.

11. To ensure speedy disposition of cases, the following functions are hereby delegated by the Board to the Management:

- The Management can issue Provisional Authorities with duration of not more than three (3) months in contested or opposed applications for CPC when in its judgment there is an urgent and compelling necessity therefor and public interest will be better served thereby. Provided however, that subsequent extensions of provisional authorities herein mentioned have to be referred to the Board for approval.
- The Administrator can sign Decisions approving the issuance of CPC in all cases in which the Board has finally deliberated and approved said issuance in cases referred to it for approval in a meeting duly called for the purpose.
- Subject to the policy on duration of authorities established by the Board and on jurisdictional requirements, the Management can issue Certificate of Public Convenience/Provisional Authorities/Special Permits in all uncontested applications and petitions for the issuance of a CPC/PA/SP; grant petitions for change of name of vessel or change of vessel's homeport, or change/increase of authorized passenger capacity to conform to vessel's documents, approve petitions for approval of sale and/or transfer of vessel including the franchise; act on petitions for substitution and rerouting of vessels and all other petitions of similar nature which are not adversarial in character and which can be disposed of and decided by Management without referring the same to the Board for approval.
- Clerical corrections of names of vessel/persons/ports/periods, and analogous cases.

Nothing in this paragraph 11 shall be deemed to derogate from the Board its inherent right to exercise plenary

authority in appropriate cases.

12. The provisions of the Revised Rules of Court which are not inconsistent herewith shall be applicable in an analogous or suppletory character whenever practicable and convenient.

This Memorandum Circular shall take effect immediately after its publication once in a newspaper of general circulation in the Philippines.

Adopted: 21 Sept. 1990.

(SGD.) PHILIP S. TUAZON
Administrator

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