NATIONAL ADMINISTRATIVE REGISTER · MARCH 25, 2011

PETITION FOR ADJUSTMENT OF FARE FOR PUB ORDINARY AND AIR-CONDITIONED SERVICE

LTFRB ORDER, March 25, 2011

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INTEGRATED METRO BUS OPERATORS ASSOCIATION, INC. (IMBOA)

Case No. 2007-3235

METRO MANILA BUS OPERATORS ASSOCIATION, INC. (MMBOA)

INTER-CITY BUS OPERATORS ASSOCIATION, (INTERBOA)

NORTH-EAST MANILA BUS OPERATORS GROUP (NEMBOG)

Movants.

x————————————————————x

INTER-CITY BUS OPERATORSASSOCIATION, (INTERBOA)

Case No. 2011-0141

Petitioner

x————————————————————————x

ORDER

Pending resolution before this Board is a Petition for Adjustment of Fare for PUB Ordinary and Air-Conditioned Service with prayer for Provisional Increase Pending Main Petition filed by INTERBOA, as well as an Urgent Motion to Revoke the November 8, 2008 and the December 4, 2008 Orders issued by this Board concerning the provisional reduction of fare rates of public utility buses (PUB) in Mega Manila Area, Region 3, and Region 4 filed by herein Movants IMBOA, MMBOA, INTERBOA, and NEMBOG.

Movants IMBOA et. al., in their Urgent Motion allege the following as grounds to support their motion:

- That on July 10, 2008, this Board rendered as Decision under consolidated case nos. 2007-3235 and 2007-194, approving fare rate adjustment for PUB services from the previous rate of Php9.00 to the approved rate of Php10.00 for the first five (5) kilometers. Accordingly, Movants paid the fare rate adjustments and Fare Matrix Fees.

- That on November 4, 2008, this Board issued Provisional Order, reducing the fare rates from Php10.00 to Php9.50.

- That on December 4, 2008, another Provisional Order was issued further reducing the said fare rate from Php9.50 to Php9.00.

- That no other order, ruling, decision, or resolution has been issued by this Board relating to PUB fares thereafter.

- That the last two (2) Provisional Orders did not revoke or cancel the July 10, 2008 Decision under case Nos. 2007-3235 and 2007-1941, considering the fact that the subsequent orders were merely provisional and valid only until “full and final disposition” of the petition it addresses, or unless modified, revoked, or cancelled by this Board.

- That the return of the ten peso (P10.00) fare rate “is just, fair and equitable to the public and the transport sector” considering that the oil price in the world market is at around $93.48/barrel, or a pump price of about Php41.60/liter, whereas when the November 4, 2008 Order was issued, the oil price in the world market then was only at around $50.00/barrel, or a pump price of about Php35.00/liter in the local market.

- That the commuting public could very well afford the practical increase in fare rates considering that it was able to do so in 2008 when the minimum wage was only Three Hundred Eighty Two Pesos (Php382.00), and which has increased to its present rate of Four Hundred Four Pesos (Php404.00), or an equivalent of five and eight-tenth percent (5.8%) raise.

Petitioner INTERBOA on the other hand contends that “supervening events have, since the subject decision granting fare increase was rendered, occurred collectively mandating review of and, consequently a revision of an increase in the public transportation scheme” such as: the increase in toll prices for all classes of vehicles by the South Luzon Expressway; the dramatic increase in diesel prices, a cumulative increase amounting to 56% in the price of local and imported spare parts, and a relatively higher cost of capitalization in acquiring brand new units for Public Utility Buses.

A brief discussion of the above-mentioned Orders is warranted before this Board decides to resolve the issues raised by herein Movants/Petitioners:

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On July 10, 2008, when the pump price of diesel in local markets was at Fifty Two pesos (Php52.00) per liter, this Board issued a Consolidated ORDER granting Provisional Authority to adjust the fare rates of PUB services operating with the Mega Manila area. Accordingly, this Board maintained that the then existing fare rates "were not responsive to the basic needs of PUB operators in Mega Manila in pursuit of reliable and safe transport business, as well as the daily needs of the drivers." The dispositive portion thereof provides, to wit:

> IN VIEW OF ALL THE FOREGOING, and by virtue of Sec. 16(c) of CA 1456, otherwise known as the Public Service Act, as amended, and finding that public service and convenience will be nest served, the board hereby resolved to ISSUE this PROVISIONAL AUTHORITY to increase/adjust fare rates, subject to the following terms and conditions:
>
> xxx xxx xxx
>
> 1. Public Utility Bus (PUB) Regular/Ordinary Service operating within the Mega Manila area are provisionally authorized to adjust fare in the amount of TWO PESOS (P2.00) for the first five (5) kilometers, and Twenty Centavos (P0.20) increase for the succeeding kilometer/s. Thus, resulting in the provisionally authorized fare of Ten Pesos (P10.00) for the first five (5) kilometers, and One Peso and Ninety Five centavos (P1.95) for every succeeding kilometer.
>
> 2. Public Utility Bus (PUB) Airconditioned Service operating within the Mega Manila area are provisionally authorized to adjust fare in the amount of Two Pesos (P2.00) for the first five (5) kilometers, and Sixty Centavos (P0.60) increase for the succeeding kilometer/s. Thus, resulting in the provisionally authorized fare Twelve Pesos (P12.00) for the first five (5) kilometers, and Two Pesos and Thirty Five Centavos (P2.35) for every succeeding kilometer.
>
> xxx xxxx xxx

On November 4, 2008 however, prompted by the sudden and dramatic drop of oil prices in the world market, this Board issued an Order in LTFRB Case No. 2008-1654 granting a provisional reduction of fare rates on Public Utility Bus (PUB) Regular/Ordinary Service operating within the Mega Manila area, Region III (Central Luzon) and IV (Southern Luzon) in the amount of fifty centavos (Php0.50), thus resulting in a provisionally authorized fare of Nine Pesos and Fifty Centavos (Php9.50) for the first five (5) kilometers with no provisional reduction on the succeeding kilometers. The prevailing pump prices of diesel fuel at that time was Forty-Four Pesos and Forty Three Centavos (Php44.43) per liter.

On the other hand, Public Utility Bus (PUB) Air-Conditioned Service operating within the Mega Manila area, Region III (Central Luzon) and IV (Southern Luzon) were provisionally authorized to reduce fare rates in the amount of one peso (Php1.00) for the first five (5) kilometers with no provisional reduction on the succeeding kilometers, thus resulting in a provisionally authorized fare of Eleven Pesos (Php11.00) for the first five (5) kilometers.

Finally, on December 4, 2008, due to the continuous decline of the price of crude oil in the world market, this Board, issued a Consolidated Order in LTFRB Case Nos. 2008-1654 and 2008-0692, further granting another provisional reduction of fare rates from Nine Pesos and Fifty Centavos (Php9.50) to Nine Pesos (Php9.00) for the first five (5) kilometers and Ten Centavos (Php0.10) for every succeeding kilometer on Public Utility Bus (PUB) Regular/Ordinary Service operating within the Mega Manila area, Regions III and IV, thus resulting in a provisionally authorized fare of Nine Pesos (Php9.00) for the first five (5) kilometers and Php1.85 for the succeeding kilometer/s. Meanwhile, as regards Public Utility Bus (PUB) Air-Conditioned Service operating within the Mega Manila area, Regions III and IV, the said Order provisionally reduced the fare rates by Fifteen Centavos (Php0.15) for the succeeding kilometer/s while retaining the Eleven Pesos (Php11.00) rate for the first five (5) kilometers. The prevailing pump price of diesel fuel at that time was Thirty Five Pesos (Php35.00) per

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liter.

For this year alone, the country has experienced a total of ten (10) price increases with only one (1) roll back on diesel prices. As of March 15, 2011 data, the price of diesel stands at around Php46.65/liter, with no sufficient indication that the oil price in the world market will stabilize and revert back to its previous prices. This, compounded by growing political uncertainties in oil-producing countries has caused unnecessary burden on the transport industry.

From the foregoing, this Board is constrained to grant a provisional increase in the PUB fare rates in accordance with Section 16(c) of the Public Service Act, as amended, which states to wit:

> "That the Commission (Board) may, in its discretion, approve rates proposed by public services provisionally without necessity of any hearing; provided it shall call a hearing within thirty (30) days thereafter, upon publication and notice to the concerns operating in the territory affected." [emphasis supplied]

While the Board recognizes the plight of the Filipino people in this time of crisis, it cannot be insensitive to the present clamor of stake holders in public land transportation, services for necessary action on fare rates. Thus, the Board has to judiciously balance the rights of the riding public who are mostly dependent on the public transport system vis-à-vis the right of grantees of Certificates of Public Convenience to a reasonable return of investment – "the duty which the court (or this Board) owed to the public is not less than that which it owes to the carriers." (Manila Railroad Co. vs AL Ammen Trans. Co. Inc. 48 Phil. 900; 1926). This Board, being the regulatory agency for the people, is duty bound to act accordingly when so warranted by events that affect the society as a whole, and considering that any petition for fare rate adjustment is a matter of paramount importance, this Board is now constrained to provisionally dispose the pending Petition/ Motion in the above-mentioned case numbers.

WHEREFORE, in view of the foregoing premises, this Board hereby grants PROVISIONAL AUTHORITY to adjust the fare rates of PUB services subject to the following terms and conditions:

> - Public Utility Bus (PUB) Regular/Ordinary Service operating within the Mega Manila area are provisionally authorized to adjust fare in the amount of One Peso (P1.00) for the first five (5) kilometers, with no provisional increase on the succeeding kilometers, resulting in the provisionally authorized fare of Ten Pesos (P10.00) for the first five (5) kilometers, and One Peso and Eighty Five centavos (P1.85) for every succeeding kilometer.
>
> - Public Utility Bus (PUB) Air-Conditioned Service operating within the Mega Manila area are provisionally authorized to adjust fare in the amount of One Peso (P1.00) for the first five (5) kilometers, with no provisional increase on the succeeding kilometers, resulting in the provisionally authorized fare of Twelve Pesos (P12.00) for the first five (5) kilometers, and Two Pesos and Twenty Centavos (Php2.20) for every succeeding kilometer.
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> - All Passenger Utility Bus (PUB) services are directed to grant to qualified senior citizens utilizing their services a fare discount of not less than 20% of the provisionally increased fares upon presentation of their senior citizen identification card;
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> - Students are entitled to a student fare discount of not less than 20% of the provisionally adjusted fares every day, during school days, upon presentation of their ID cards or their Registration Cards, both duly validated by their schools, bearing their pictures with their names and schools indicated therein;
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> - The same 20% discount of the provisionally adjusted fares shall also be granted to disabled persons.

This Order shall take effect on March 29, 2011 and shall be valid until full and final disposition of the above Petition, or unless modified, revoked, or cancelled by the Board.

Let a copy of this Order be published in a newspaper of general circulation for proper information dissemination.

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SO ORDERED.

Adopted: 25 March 2011

(SGD.) ATTY. NELSON P. LALUCES
Chairman

(SGD.) ENGR. SAMUEL JULIUS B. GARCIA
Board Member

Dissenting Opinion:

I dissent from the main decision as I do not believe that a fare hike should have been granted in this case. Petitioners claim that the increase in fuel prices has compelled them to request for a fare hike. However, increases in fuel prices and alleged high maintenance and operation costs should not be the only factors considered in the grant of fare hikes, since fare hikes greatly affect the riding public and contributes to a rise in the cost of goods.

Judicial notice should be taken that Visayas and Mindanao's fuel prices are higher by as much as five pesos (Php5.00) compared to Luzon's fuel prices and still, a Petition was filed in Region VII for a REDUCTION of fare rates on PUBs from Php8.50 to Php6.00 for the first five (5) kilometers and from Php1.40 to Php1.20 for every succeeding kilometer. This, to me, raises a presumption that even with the increase in fuel prices, the operators can still operate profitably.

Ultimately, the task of the Board is to protect the riding public by regulating public transportation. Such task therefore requires that every petition for fare hike be accompanied by evidence to prove financial losses suffered by the public transportation operators as every fuel increase should not result in a fare hike.

(SGD.) ATTY. MANUEL M. IWAY
Board Member

Attested by:

(SGD.) ATTY. DANTE XENON B. ATIENZA
Executive Director

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