

[MEMORANDUM CIRCULAR NO. 2018-011, June 06, 2018]

**OPENING OF APPLICATIONS FOR APPROPRIATION OF
ABANDONED AND/OR EXPIRED CPCs**

*Adopted: 31 May 2018
Date Filed: 06 June 2018*

WHEREAS, under public utility laws and jurisprudence, an Application for Appropriation is among the modes of securing/ acquiring a Certificate of Public Convenience/ Franchise.

WHEREAS, the following are settled principles in public utility jurisprudence as enunciated by the Supreme Court in a host of cases: that appropriation is a valid mode of acquiring the operating rights of another person who has either abandoned his CPC or allowed it to lapse or expire without renewal thereof (*Paz Marquez Benitez vs. Santo*, 107 Phil. 167); that it is also a well-entrenched doctrine that public need and convenience are paramount considerations (*Raymundo Trans Co. vs. Cerbo*, 91 Phil. 504 and *Santiago Ice Plant vs. La Paz*, 87 Phil. 221); and should not be made to wait; that public need and convenience once declared in a decision continues to exist even with the abandonment and expiration of the CPC unless there is evidence to the contrary (*Laguna Tayabas Bus Co. vs. M Ruiz Highway Transit, Inc.* 107 Phil. 143).

WHEREAS, relative to applications for appropriation, this Board issued Memorandum Circular ("MC") No. 2000-021 dated December 29, 2000 suspending the acceptance of said nature of application.

WHEREAS, on December 21, 2009, the Board issued MC No. 2009-035 wherein the Board amended MC No. 2000-021 to allow the acceptance of Applications for Appropriation of expired/ abandoned CPCs of Taxi Air- conditioned Service and Public Utility Bus Service.

WHEREAS, on February 18, 2010, the Board suspended the implementation of MC No. 2009-035 pending review and study by the Board of the data of every region and until further orders from the Board pursuant to MC No. 2010-009.

WHEREAS, on May 04, 2010, the Board issued MC No. 2009-020 lifting the suspension of the implementation of the Appropriation Program with respect to LTRFB-REGION 1 after assessing the need for transport services and upon compliance with the directive of the Board to submit the necessary inventory of CPCs to be considered as abandoned.

WHEREAS, on June 17, 2010, the Board issued MC No. 2009-030 lifting the suspension of the implementation of the Appropriation Program with respect to

LTFRB-REGION 3 after assessing the need for transport services and upon compliance with the directive of the Board to submit the necessary inventory of CPCs to be considered as abandoned.

WHEREAS, after thorough review and evaluation of the current situation of public land transportation in the country, this Board, in coordination with the Department of Transportation, concluded that infusion of additional units of critically identified denominations/ services of public land transport conveyances compliant with the modernization program under Department Order No. 2017-011 or the Omnibus Franchising Guidelines (OFG) be undertaken in the entire country, through appropriation as a mode of acquiring CPC.

WHEREAS, the lifting of the moratorium on appropriation shall correspond to demands and convenience of the riding public, and will further enhanced accessibility of tourism areas, improved inter-regional trade, reduced travel time, and will significantly increase volume of trade and exchange of commodity.

NOW THEREFORE, premises considered, this Board hereby LIFTS the suspension/ moratorium on Applications for Appropriation, and OPENS the filing and acceptance of said nature of application with the LTFRB and its Regional Franchising and Regulatory Offices (RFROs) subject to the following guiding policies:

1. This Memorandum Circular shall only cover Public Utility Buses (PUBs) nationwide. Utility Vehicle (UV) Express Service and Air-conditioned Taxi (TX) Service shall be dealt with in subsequent issuances by the Board in consultation with the DOTr.
2. All abandoned and expired CPCs as of December 2012 are hereby declared cancelled and open for appropriation.

A CPC is considered abandoned when the CPC holder fails to confirm his franchise prior to the registration of the authorized unit/s with the Land Transportation Office (LTO) for Two (2) consecutive years which shall result to cancellation of the franchise.

3. As a policy, CPCs and its corresponding routes opened for appropriation shall be bundled in packages and the Board shall adopt the selection Premium Point-to-Point Express Bus Service project, in the selection of qualified Applicants for appropriation of abandoned/ expired CPCs. The implementing guidelines and details of the procedure for appropriation shall be set in a subsequent Memorandum Circular to be issued by the Board or RFRO concerned.

Further, operators of abandoned/ expired CPCs shall not be allowed to apply for appropriation.

Applicants should comply with the consolidation requirements set forth under Department Order No. 2017-011 Re: OMNIBUS GUIDELINES IN THE PLANNING AND IDENTIFICATION OF PUBLIC ROAD TRANSPORTATION SERVICES AND FRANCHISE ISSUANCE.

4. All received Applications for Appropriation shall be forwarded to the Secretariat of the Pre-Qualification Committee which will