

[LTFRB, July 21, 2005]

**AMENDED APPLICATION FOR INCREASE OF RATES (TAXI
COUPON SERVICE)**

NISSAN CAR LEASE PHILIPPINES, INC.,

Applicant

Case No. 2003-0998

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AMENDED DECISION

Before this Board is an Amended Application for Increase of Rates (Taxi Coupon Service) with Request for Provisional Permit or Authority, dated 25 May 2004, which was filed on 28 May 2004 by Applicant Nissan Car Lease Philippines, Inc. praying that the present rate of Taxi Coupon Service in the amount of Twenty One Pesos (Php 21.00) per kilometer based on Manila International Airport Authority (MIAA) approved distance from Ninoy Aquino International Airport (NAIA) to specific destination points be increased to Thirty Three Pesos (Php 33.00) per kilometer.

The factual backdrop is recapitulated as follows:

Originally, applicant filed on 19 March 2003 an Application for Increase of Rates (Taxi Coupon Service) with Request for Provisional Permit or Authority seeking that the present rate of Twenty One Pesos (Php21.00) be increased to Thirty Pesos per kilometers based on MIAA approved distance from NAIA to specific destination points.

However, said original Application mentioned in the preceding paragraph did not prosper for lack of legal requirement and on 28 May 2004 said Amended Application was filed.

On 14 June 2004, the Chief of Legal Division, this Board, issued a Notice of Hearing and applicant was required to publish such Notice of Hearing once in one (1) Manila-edited newspaper of general circulation in the Philippines.

Hearing for the presentation of the jurisdictional requirements was set on 8 July 2004. On 28 June 2004, applicant filed a Motion for the Issuance of Second Notice of Hearing which the Board granted but the same hearing was reset as per request of applicant to 15 July 2004, which hearing was again reset to 22 July 2004.

During the 22 July 2004 hearing, applicant presented in evidence its exhibits "A" to "D" (Jurisdictional Facts) and thereafter prayed for a general default for all oppositors who failed to appear in this hearing which the Board granted. However, considering that the Solicitor General had previously filed his Opposition to the Amended Application, dated 13 July 2004, he was not included in the said Order.

Nevertheless, since a Board Resolution authorizing Cecilia Vinoya to file the Amended Application had not yet been complied with including the submission of the Certification for Non-forum Shopping, applicant was required to submit both documents on or before 23 July 2004. The hearing was reset to 10 August 2004.

On 10 August 2004, the hearing was postponed to August 26, 2004 as per verbal request of applicant. However, on the same date, applicant submitted its Manifestation and Reply to Opposition.

The 26 August 2004 hearing was again reset to 14 September 2004. And in the hearing of 14 September 2004, applicant requested that it be given ten (10) days therefrom to file Position Paper in lieu of the direct testimony of its witness subject to cross-examination by the Solicitor General and such Position Paper would be submitted on or before 24 September 2004 and with or without said pleadings filed, this case would be submitted for resolution.

On 24 September 2004, applicant filed its Position Paper with Formal Offer of Evidence. Likewise, on the same date, the Solicitor General filed his Manifestation and Motion praying that in lieu of Position Paper, he was adopting its Opposition, dated July 13, 2004, as his Position Paper.

There being no more pleading needed to be filed, this case is ripe for decision.

On 12 May 2005, the Board issued a Decision granting with modifications the instant Petition filed. The said Decision did not become effective because the same was not published as required.

Applicant mainly anchored its Application for Increase of Rates (Taxi Coupon Service) on the ground of substantial increase of the prices of fuel, equipments, spare parts, cost of labor, electricity, rentals and other increments in the operation of the service, which the Board takes judicial notice of. It submitted Exhibits "L" to "O" to justify its case.

Applicant also added that it operates the service in NAIA twenty four (24) hours a day to serve arriving passengers from the first flight to the last flight. Thus, it caters only to limited class of passengers who are mostly in the economic A and B classes. The relatively high fare for coupon taxi is compensated by the amenities in the service, and the safety and comfort it provides for its passengers.

Corollary to the above, applicant was constrained to apply for an increase of fare rates for Coupon Taxi Service in order to continue its adequate, efficient, comfortable and safe service to the riding public.

The Office of the Solicitor General opposed such view in its Opposition. It averred, among other things, that applicant failed to show any specific data, including studies/ projections, on why the present fare rates are no longer economically viable and how the increase in prices of fuel and spare parts have affected the viability of its operations. The OSG added that the proposed increase appears to be burdensome and excessive to the riding public, particularly considering the Overseas Filipino Workers (OFW) who avail of the coupon taxis.

The focal point of the approval or denial of an Application for an Increase of Rate is not only to recover costs. Approval or denial of such Application must go beyond determining whether a fare change is justified based on cost and revenue analyses. Fare setting should be undertaken in the context of a variety of larger policy issues