

**[ MARINA MEMORANDUM CIRCULAR NO. 74-A,  
July 13, 1995 ]**

**IMPLEMENTATION OF THE RULES OF PROCEDURES FOR MARINA  
TO OBTAIN AN INEXPENSIVE, SPEEDY AND EQUITABLE  
DISPOSITION OF CASES**

By virtue of the power vested in the MARINA pursuant to Section 11 (a) of P.D. 474 and Section E.O.125/ 125-A, in relation to Chapter V, Section 29 of the Public Service Act and paragraph 2 of E.O. No. 26 dated 07 October 1992 and in furtherance of the policy of the MARINA to obtain an inexpensive, speedy and equitable disposition of cases before it, the MARINA Board in its meeting 13 July 1995, orders the implementation of the following rules of procedure in cases enumerated in Rule I of PART I and PART II hereof.

**PART I**

**Rule 1. Coverage**

The procedure set forth hereunder shall govern and apply to the following cases, heard before the Maritime Regional Offices and the Central Offices, to wit:

- a) application or petitions for the issuance of the Certificate of Public Convenience (CPC), Provisional Authority (PA) or Special Permit (SP), granting authority or permitting the operation of interisland vessels as public service in the domestic trade, for the carriage of cargo, or cargo/passenger or both, either as liner or tramp service; and
- b) renewals or amendments to the CPC, PA, or SP;
- c) petitions for rate increase/adjustments.

**Rule 2. Definition of Terms**

- a) **Uncontested Application** - one in which the application is uncontroverted, unopposed and unadversarial.
- b) **Contested Application** - one in which the application is controverted, litigated, opposed, and disputed.
- c) **Affected Operators** - any unauthorized or authorized/ franchised operator who stands to be prejudiced by a probable grant of the relief/prayer sought in the application.
- d) **Affected Parties** - parties who stand to be prejudiced by any grant of rate increase.
- e) **MARINA** - Maritime industry Authority.

**Rule 3. Construction**

These rules shall be liberally construed in order to promote their object in obtaining a just, speedy and inexpensive disposition and resolution of applications/ petitions filed before the MARINA.

#### **Rule 4. Venue**

*SECTION 1.* Applications for the issuance of CPC, PA, or SP shall be filed in the Maritime Regional Office (MRO) or the Central Office whose territorial jurisdiction, the vessel{s) is (are) being operated in, provided that, in case of tramping vessels, the MRO where the vessels are homeported; provided further that in case the operation involves two (2) or more regions, the MRO where the vessel is homeported to the exclusion of all the MROs; provided, finally, that in case the application is contested the MRO concerned, shall after hearing, forward the records of the case to the Central Office for final resolution or decision in accordance with Section 2, sub-section 2.2 of Administrative Order No. 06-94.

*SECTION 2.* Venue may be transferred at the discretion of the MARINA, upon a written motion by any of the parties based on convenience and other meritorious reasons.

#### **Rule 5. Filing of the Application**

*SECTION 1.* Jurisdiction is acquired over the applicant upon the filing of the application and the payment of the required fees.

*SECTION 2.* No CPC shall be granted without substantially complying with the three requisites stated in Section 16 (a), Chapter 2 of the Public Service Act or CA No. 146, as amended, namely, 1) Filipino ownership; 2) public necessity; and 3) financial capacity.

*SECTION 3.* Hearing shall be set on a date that will allow a 10-day period for publication prior to the initial hearing.

*SECTION 4.* The notice of hearing (NOH) should specify the route and schedule applied for by the applicant and shall contain the attached list of existing/affected operators and concerned parties who shall be individually furnished a copy of the NOH and a copy of the application, at least five (5) days before the initial hearing.

*SECTION 5.* The notice of hearing shall be published ones in a newspaper of general circulation or in the case of regions, of regional circulation at least 10 days before the date of hearing.

*SECTION 6.* The applicant shall serve to the affected operators and affected parties copies of the application and NOH either by personal delivery or by registered mail.

*SECTION 7.* Postponements shall be allowed only in meritorious cases, at the discretion of this Authority upon the filing of an appropriate pleading or motion at least three (3) days before the scheduled hearing and with proof of service to the affected parties.

#### **Rule 6. Pre-Trial**

*SECTION 1.* After the applicant has submitted proofs of compliance with jurisdictional requirements of publication of the notice of hearing and service of notice to the affected parties, the Hearing Officer shall direct the parties to appear

before it for a pre-trial conference, to consider the following: a) the possibility of arriving at an amicable settlement or for submission to arbitration; b) possible stipulation of facts, in order to simplify the issues; c) the number of witnesses and the nature of their written testimonies; d) the evidence to be presented; e) agreement on settings of the subsequent hearings; and f) such other matters as may aid for the prompt disposition of the case.

*SECTION 2.* Applicants or oppositors may be declared non-suited or in default, respectively, *motu proprio* by the Authority or upon the motion of the parties.

*SECTION 3.* The pre-trial conference shall be called by the Hearing Officer in uncontested applications for the purpose of shortening the period of the proceedings.

*SECTION 4.* After the pre-trial conference, the Hearing Officer shall issue an Order stating the ultimate facts that the parties have stipulated on, the issues to be heard, the number of witnesses and the provisions of Saw involved.

## **Rule 7. Compromise**

To expedite administrative proceedings involving conflicting rights and to obviate expensive litigation, the parties are encouraged and enjoined to enter into an amicable settlement, compromise and arbitration.

## **Rule 8. Summary Procedure**

*SECTION 1.* At the initial hearing of uncontested applications, the applicants shall submit to the MARINA through the Hearing Officer their formal written offer of exhibits with the following documents attached thereto, stating the nature and purpose of the offer:

A. Application for CPC/PA/SP shall indicate the proposed schedule of trips and the proposed route for the vessel (schedule of trips not applicable to tramping).

B. Documents to be submitted upon filing of the application:

B.1 VESSEL DOCUMENTS;

B.1.1 Updated/valid Bay and River License (BRL) Coastwise License (CWL) for the motor boat/vessel

B.1.2 Updated/valid Certificate of Inspection (CI) reflecting the vessel's authorized area of operation/vessel's authority to carry either passengers or cargoes, or both.

B.1.3 Certificate of Ownership, Certificate of Philippine Registry or Certificate of Vessel Registry and Certificate of Admeasurement.

B.2 FINANCIAL STATEMENTS:

B.2.1 For existing operators:

1.1 Latest Annual Report; or

1.2 Latest Balance Sheet, and Latest Income Statement

B.2.2 For new operators:

1.1 Estimated/Projected Income and Expense Summary for at least a period of two (2) months; and

1.2 Beginning Balance Sheet, or Certified-Statement of Assets and Liabilities as of the latest date together with a schedule showing an itemized list of income producing properties and/or Source of Income and the average Annual income from each.

### C.3 OTHER MANDATORY REQUIREMENTS:

C.3.1 Certified Distance from the National Mapping Resource and Information Authority (NAMRIA) formerly Bureau of Coast and Geodetic Survey (BCGS) showing distance of port-to-port link (not applicable to tramping)

C.3.2 Sketch showing the proposed route or line of operation, the homeport and the port(s) of call(s) or origin and destination (not applicable to tramping)

C.3.3 Updated/valid Radio Station License issued by the National Telecommunications Commission (NTC) for vessels 35 GRT and above

C.3.4 Articles of Incorporation/Partnership approved by the Securities and Exchange Commission (SEC) for Corporations and Partnership reflecting as its primary/secondary purpose(s) the operation of a common carrier as defined in the Public Service Act, as amended: Registration of Business Name/ Business License for Single Proprietorship. Charter Agreement, if vessel is locally chartered.

DOT accreditation (if vessel is for tourism purposes)

C.3.5 Condition Survey Report/Provisional Class Certificate/Class Maintenance Survey/ Provisional Class Certificate/Final Class Certificate/Class Maintenance Survey Report (if vessel is required to be classed).

#### C.3.6 Insurance Policy

##### 1. Tankers and Barges carrying oil and petroleum products

1.1 Oil/Marine Pollution/Protection and Indemnity (P & I) Cover, or their equivalent, of not less than US\$300 million per vessel for vessels carrying a capacity of 700,000 liters or more

1.2 Oil/Marine Pollution/Protection and Indemnity (P & I) cover, or their equivalent, of not less than US\$10 million per vessel for vessels carrying a capacity of less than 700,000 liters

1.3 Tanker Owners Voluntary Agreement on Liability for Oil Pollution (TOVALOP) if applicable

2. LPG Carriers-Insurance cover against third party liability in the amount equivalent to US\$2 Million.

3. Passenger vessels-insurance coverage of P 50,000 per authorized vessel.

For Tankers and Barges carrying oil and petroleum products

1. P 2 M paid-up capitalization for corporations

2. Petroleum industry suitability checklist requirements/hauling contract/spot hire contract with oil companies (for tankers and barges 500 GRT and below)

C.3.7 Registration/accreditation under Memorandum Circular No. 79

C.3.8 Payment of filing/processing fees.

C.3.9 Three colored photographs of the vessels, (5" x 7") showing port side, starboard side, and astern view.

C. Proof of compliance of jurisdictional requirements to be submitted during the hearing:

1. Affidavit of the editor or business manager of the newspaper of regional or provincial publication in which the notice of hearing was published together with a complete copy of the issue of the newspaper clippings;

2. Proof of mailing/delivery of the notice of hearing to the affected operator/s within the specified period of affidavit, showing that a copy of the application and the notice of hearing, enclosed in an envelope properly addressed to the affected parties postage prepaid was mailed ten (10) days prior to the date of hearing to which affidavit the registry receipt and return cards, or any enclosed letters, shall be attached.

*SECTION 2.* The foregoing summary procedure shall be applicable to contested and uncontested applications.

### **Rule 9. Petition for Rate Increase**

*SECTION 1.* The provisions in Rule 5 of this Book shall be applicable to petitions for freight and/or passenger rate increase/adjustments.

*SECTION 2.* In addition, the petition should state the existing rates being charged, as well as, the proposed rates. A list of affected parties should be attached to the petition.

*SECTION 3.* The list of affected parties shall contain, all affected sector(s), i.e., shippers, passenger groups, local government units, non-governmental units, and the like.

*SECTION 4.* The NOH and the petition shall be published in accordance with the provisions of Section 5, Rule 5 of this Book.

*SECTION 5.* Provisions of Rule 6 and 7 shall also be applicable.

*SECTION 6.* The following documents/data shall be required:

A. Latest audited financial statement/annual report, i.e., balance sheet; income statement of the subject vessel; income sheet of the company; and cost of the