

**[MIA MEMORANDUM CIRCULAR NO. 74 s 1993,
January 14, 1993]**

**RULES OF PRACTICE INSTITUTING SUMMARY PROCEDURE IN
APPLICATIONS FOR CERTIFICATE OF PUBLIC CONVENIENCE
(CPC), OR PROVISIONAL AUTHORITY (PA) OR SPECIAL PERMIT
(SP), AMENDMENTS OR RENEWALS THEREOF,
SUBSTITUTIONS/REPLACEMENTS OF VESSELS UNDER A VALID
CERTIFICATE OF PUBLIC CONVENIENCE AND FOR COMPLAINT
CASES AND PETITIONS FOR RATES**

Pursuant to paragraph 2 of Executive Order No. 26 dated October 7, 1992, signed by the President of the Philippines, prescribing procedures and sanctions to ensure speedy disposition of administrative cases, and in furtherance of the policy of the MARINA for economical, speedy, and equitable disposition of cases before it, the MARINA Board in its meeting last January 14, 1993, orders the implementation of the following summary procedure:

1

Scope of Coverage

The procedure set forth under this Circular shall apply to applications or petitions for issuance of 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, for petitions for rates increase/adjustments and to complaint cases filed by aggrieved person(s) on the basis of official reports.

The procedure herein implemented shall be limited to the quasi-judicial hearings/dispositions/resolutions/decisions of the Maritime Industry Authority in the exercise of its quasi-judicial powers vested by law under Executive Order No. 1011, series of 1985, and further re-confirmed by Executive Order No. 125, as amended by Executive Order No. 125-A, both series of 1987, and the Public Service Act (Com. Act No. 146, as amended).

2

**Requisites Before an Authority to
Operate Interisland Vessel in the
Domestic Trade may be Granted**

Under Section 16(a), Chapter II of the Public Service Act (C.A. No. 146, as amended), the following requisites must be complied with before any Certificate of Public Convenience (CPC), may be granted:

(1) the applicant must be a citizen of the Philippines, or a corporation or co-

partnership, association or joint-stock company constituted and organized under the laws of the Philippines, sixty (60) per centum at least of the stock or paid-up capital of which belongs entirely to citizens of the Philippines;

- (2) the applicant must be financially capable of undertaking the proposed shipping service; and
- (3) the applicant must prove that the operation of the proposed service will promote the public interest in a proper and suitable manner.

3

Abbreviation of Proceedings

3.1 *Compromise and Arbitration in Contested Cases* — In accordance with Section 10, Chapter 3, Book VII of the Administrative Code of 1987, in the applications for Certificate of Public Convenience (CPC), Provisional Authority (PA), or Special Permit to operate a vessel or vessels for public service, and to expedite administrative proceedings involving conflicting rights and claims and to obviate expensive litigation, the parties are encouraged and enjoined to enter into an amicable settlement, compromise, and arbitration.

3.2 Pre-trial Conference — 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) 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 re-settings of the subsequent hearing(s); and
- f) such other matters as may aid for the prompt disposition of the case.

Applicants or Oppositors who failed to attend at the Pre-trial conference may be declared non-suited or in default, respectively.

After the pre-trial conference, the Hearing Officer shall issue an Order, stating the ultimate facts that the parties have agreed/stipulated on, the issues to be heard, number of witnesses, and the provisions of law involved. This Order shall govern the direction of the proceeding of the case.

Even in uncontested applications, a pre-hearing conference shall be called by the Hearing Officer for the purpose of shortening the period of the proceeding.

In complaint cases, pre-trial conference shall likewise be conducted for the same purposes as above-stated.

3.3 Summary Procedure Applicable to Contested and Uncontested Applications —

3.3.1 At the initial hearing of uncontested applications, the applicants shall submit to the MARINA, through the Hearing Officer(s), their formal written offer of exhibits, with the following documents attached thereto, stating the nature and purpose of the offer;

- a. Documents showing compliance with the MARINA's jurisdictional requirements;
- b. Proofs that the affected operators or concerned parties have been served with a copy of the application/petition and the notice of hearing at least five (5) days before the scheduled hearing;
- c. Documents showing ownership by the applicant of the vessel(s) and vessels' documents issued by the Philippine Coast Guard;
- d. Written testimonies under oath of applicant's witnesses proving public necessity for the applied public service and showing its financial capability, and
- e. In case of vessels required to be insured or classed, documents showing that the vessel has been classed or has been insured by Insurance Commission-accredited insurance company or equivalent security, such as Protection and Indemnity (P & I Coverage), or any security satisfactory to the MARINA, including Radio Station License.

3.3.2 Upon the filing of the complaint, duly supported by affidavits of witnesses and other relevant documents, copy furnished the respondent, the latter shall be summoned to submit his counter-affidavit and supporting affidavits/documents, copy furnished the complainant, within ten (10) days from receipt thereof.

3.4 Parties opposed to the grant of Certificate of Public Convenience/Provisional Authority/Special Permit or petitions for rates increase/adjustment, shall, at the hearing, submit counter-affidavit of their witnesses, controverting applicant's evidence.

Every party shall have the rights to cross examine witnesses presented against him and to submit rebuttal evidence.

With the submission by the parties of the aforesaid documentary evidence and written testimonies under oath, the application shall be deemed submitted for final decision. Witnesses may be called for clarificatory questions.

With prior agreement the parties may submit memorandum, or position paper, or even draft of the decision they seek, stating clearly and distinctly the facts and the law upon which it is based. Following the termination of the hearing, and after considering and appreciating the applicable laws, rules and regulations and the evidence submitted, the MARINA may adopt, in whole or in part, either of the parties' draft decisions, or reject both. This requirement shall likewise be applied to