



Republic of the Philippines
DEPARTMENT OF TRANSPORTATION

14 June 2023

ATTY. HERNANDO T. CABRERA
Administrator
Light Rail Transit Authority
LRT Line 2 Depot Administration Building
Marcos Highway, Santolan, Pasig City

Dear **Administrator Cabrera**:

This refers to the attached memorandum for the Secretary of this Department dated 24 March 2023 received from the undersigned on the Railway Regulatory Unit's Recommendation on the Fare Adjustment Petition of the Light Rail Manila Corporation (LRMC) and Light Rail Transit Authority (LRTA).

The undersigned hereby informs the LRTA that the application for fare adjustment for the LRT 2 system has been duly approved by the Secretary, based on following scheme:

	Fare Formula
LRT Line 2	Boarding Fare = PHP 13.29 Distance Fare = PHP 1.21 per kilometer

Further, the LRTA is reminded to comply with Section 2.7, Rule 5 ("Procedure for Approval of Adjusted and Periodic Fare Rates for Applicants without Concession Agreements") of the Rules of Procedure for Fare Rate-Fixing under the Department of Transportation Railway Regulatory Unit, as contained in Department Order No. 2022-027 dated 07 December 2022 on the Creation of the DOTr Railway Regulatory Unit, to wit:

X X X X

2.7 *Approved Fare rates shall be published, at the expense of the Applicant, once a week for three (3) consecutive weeks in a newspaper of general circulation. Collection Date¹ shall be implemented **thirty (30) days** after the last day of publication. Said publication must include the following:*

- (a) *Approved adjusted fare rates; and*
- (b) *Collection Date when the approved fare rates shall take effect.*

X X X X

Very truly yours,

for. 
CESAR B. CHAVEZ
Undersecretary for Railways and
Chairperson, DOTr Railway Regulatory Unit

¹ Rule 2 (Definition of Terms) defines Collection Date as "thirty (30) days after the last day of publication as contemplated under these Rules, when Applicant may start collecting the approved adjusted rates"



Republic of the Philippines
DEPARTMENT OF TRANSPORTATION

MEMORANDUM FOR THE SECRETARY

FROM : **The Chairperson**
Rail Regulatory Unit (RRU)

SUBJECT : **RRU Recommendation on Fare Adjustment Petitions of Light Rail Manila Corporation (LRMC) and Light Rail Transit Authority (LRTA)**

DATE : **24 March 2023**

1.0 Introduction

This respectfully pertains to the *Petitions for Fare Adjustment* filed by **LRMC** and **LRTA**.

2.0 Body

LEGAL ASPECT

AUTHORITY OF DOTR THROUGH RRU TO RULE ON RAIL FARE ADJUSTMENT MATTERS

- 2.1. DOTr is vested with regulatory powers under existing laws for purposes of fixing rates and granting franchises to rail transportation utilities.¹
- 2.2. Under the *1987 Administrative Code*, DOTr is the primary regulating and administrative entity mandated to administer and enforce laws, rules, and regulations in the field of transportation.² Pursuant to Executive Order (EO) No. 125-A,³ DOTr is authorized to determine, fix and prescribe rates for the operation of public land transportation utility facilities and services.
- 2.3. A harmonized reading of EOs 292 and 125-A indicates that DOTr's authority to fix and prescribe rates for land transportation utilities necessarily covers rail transportation services.
- 2.4. In fact, DOTr is also authorized by the same EOs to issue *Certificates of Public Convenience* for operation of public rail transportation utilities and services.

SUFFICIENCY OF PETITION

- 2.5. Based on the *Report* of the Hearing Officer⁴ and submissions made by LRMC and LRTA, both petitioners complied with the requirements as to the sufficiency of

¹ Executive Order No. 292 or the Administrative Code, and Executive Order No. 125-A.

² Executive Order No. 292, Section 1 and 2; Executive Order No. 125-A, Section 5.

³ Executive Order No. 125-A, Section 5.

⁴ Memorandum for RRU Chairperson dated 28 February 2023.

Petition, timely publication, and *Notice of Hearing*⁵ as required under the law and the RRU Rules.

- 2.6. Both Petitions are found to be sufficient in form and substance as they provided for the proposed fare rate, factual antecedents in arriving at said proposed fare rate, and the basis for such adjustment. While LRM C's petition is unverified, it is worth noting that the same was filed based on the *Concession Agreement*, prior to the establishment of the RRU Rules.

AUTHORITY TO FILE PETITIONS/APPLICATION

- 2.7. As to signatories' authority in filing the *Petitions*, both Petitions submitted the necessary authorizations,⁶ in compliance with the provisions of the *Revised Corporation Code of the Philippines*⁷ and *Executive Order 603*, as amended.⁸

PUBLICATION AND PUBLIC HEARING

- 2.8. RRU conducted its first Public Hearing on **17 February 2023** at LRTA Administration Bldg., LRT Line 1 Pasay Depot, Gate 1, Aurora Blvd., Pasay City. Petitioners and other organizations attended the said hearing and each were given adequate time to present their positions.
- 2.9. As manifested during the Public Hearing, *Kilusang Mayo Uno (KMU)*, *Kabataan Partylist (Kabataan)*, *Alliance of Nationalist and Genuine Labor Organization (ANGLO)*, *Anakbayan* and *Bagong Alyansang Makabayan* submitted their *Position Papers* on **20 February 2023**, interposing their comments and objections on the proposed fare increase.⁹ All position papers submitted are duly considered herein.
- 2.10. The foregoing twin requirements of publication and public hearing are in compliance with the *1987 Administrative Code*¹⁰ and jurisprudence. In *Manila International Airport Authority (MIAA) v. Blancaflor*,¹¹ the Supreme Court expounded on necessity of a public hearing in rate fixing/increases scenario, ruling that MIAA, being an agency attached to the Department of Transportation and Communications (now DOTr), is governed by *Administrative Code of 1987*, which specifically mandates the conduct of a public hearing.

Similarly, as held in *Francisco, et. al. v. Toll Regulatory Board (TRB)*,¹² subsequent toll rate adjustments (*in this case, Rail fare adjustments*) are mandated by law to undergo both requirements of **public hearing and publication**.

COORDINATION WITH COMMISSION ON AUDIT (COA) AND LAND TRANSPORTATION FRANCHISING REGULATORY BOARD (LTFRB)

⁵ For LRM C Annexes: **A-** LRM C *Petition*, **B-** 27 January 2023 publication, **C-** 1 February 2023 Publication, **D-** 6 February 2023, **E-** Notice of Public Hearing and **F-** Affidavit of Publication;
For LRTA Annexes **G-** LRTA *Petition*, **H-** 27 January 2023 publication, **I-** 1 February 2023 Publication, **J-** 6 February 2023, **K-** Notice of Public Hearing and **L-** Affidavit of Publication.

⁶ Annex **M-** LRM C Secretary's Certificate authorizing the President/CEO; Annex **N-** LRTA Board Resolution Number 068-2022 dated 19 December 2022.

⁷ Section 22, Republic Act No. 11232, Revised Corporation Code of the Philippines, 20 February 2018.

⁸ Section 3 of Executive Order No. 603, as amended, Creating a Light Rail Transit Authority, Vesting the same with Authority to Construct and Operate the Light Rail Transit (LRT) Project and Providing Funds Therefor, 12 July 1980.

⁹ Hereto attached as Annexes **O-** KMU, **P-** Kabataan, **Q-** ANGLO, **R-** Anakbayan and **S-** Bagong Alyansang Makabayan.

¹⁰ Section 9, Book VII of the Administrative Code of 1987

¹¹ G.R. No. 157581, 1 December 2004

¹² G.R. No. 166910, October 19, 2010.

- 2.11. LRTA, under its *Charter*, is required to consult with LTFRB in fixing LRT's fare rates.¹³ This consultative process is to determine the reasonableness and economic viability of the fare adjustment and does not arrogate unto LTFRB the authority to fix fares for rail transportation.
- 2.12. Accordingly, LRTA consulted LTFRB to provide comments for the proposed fare adjustments for LRT1 and LRT2. LTFRB in response interposed no objection to the proposed fare increase.¹⁴
- 2.13. On the other hand, *Section 22 of the 1987 Administrative Code*¹⁵ and *Francisco v TRB* requires a special audit on the matter of fare adjustment. In compliance thereto, LRTA wrote COA,¹⁶ which replied that audit is not a procedural requirement nor a condition precedent to any adjustment and implementation of fare rates, and further stated that it is the sole duty of the regulatory body concerned who has the power to issue, modify and promulgate fare adjustment.¹⁷
- 2.14. COA posited that they cannot participate on the ground that they can only be involved post-audit after the fare adjustment is approved.

DOTR'S CONTRACTUAL OBLIGATION

- 2.15. For LRMC, pursuant to *Sections 20.3.b and 20.3.c* of Concession Agreement dated **2 October 2014**, whenever notional fare is adjusted, Concessionaire shall apply to the grantors, LRTA and DOTr, for an adjustment of the approved fare so that it is at least equal to the notional fare.
- 2.16. As raised in the Petition, the approved fare rates took effect on January 2015 and is approximately **36%** lower than the notional fare.

TECHNICAL, FINANCIAL AND OPERATIONAL ASPECT

- 2.17. Foremost, it is respectfully recognized that LRTA Board's expertise, as co-grantor of DOTr, already passed upon policy determination on technical, financial and operational matters involving the petitions made as evidenced by **LRTA Board Resolution No. 068-2022**.
- 2.18. For LRMC, improvement has been established in terms of service as evidenced by the increase in trains deployed, faster travel time, improved headway, progress of major projects, and the progress in Cavite Extension Project's construction.
- 2.19. For LRTA-operated Line 2, it is likewise acknowledged that LRT Line 2 has served more than 1 billion passengers since it started operating in 2003. With the current number of passengers, LRTA intends to allocate 97% (3% for common carrier's tax), or about **P110.6 million**, of the expected **P114 million** additional rail revenue per year, to augment funds for Maintenance and Other Operating Expenses (MOOE). Sufficient resources for repair and maintenance will help improve turn-around time

¹³ Section 4 (13) Article 2, E.O. No. 603, 12 July 1980

¹⁴ Annex T - LTFRB letter dated 23 November 2022.

¹⁵ Section 22 Chapter 4, Subtitle B, Title 1, Book V of Administrative Code of 1987.

Authority to Examine Accounts of Public Utilities. (1) The Commission shall examine and audit the books, records and accounts of public utilities in connection with the fixing of rates of every nature, or in relation to the proceedings of the proper regulatory agencies.

¹⁶ Annex U- Letter dated 3 August 2021; Annex V- 2 September 2021 for LRTA (LRT Line 2) and Annex W- 11 October 2022 for LRMC (LRT Line 1).

¹⁷ Annex X- Letter dated 10 August 2021; Annex Y- 18 August 2021 for LRMC and Annex Z- 25 October 2022 for LRTA

of equipment repairs, as well as the timely conduct of preventive maintenance activities for optimal performance of critical rail systems and facilities.

- 2.20. Based on tentative data presented during the public hearing, LRTA's deficit for CY2023 is projected to be **-P8.500 billion**. It has been actually operating at a loss and relying on government subsidies for its operations and maintenance, as reflected in its financial performance in CY2022 when it incurred a deficit of about **-P7.006 billion**.
- 2.21. On the part of LRMC, its fare deficit vis-à-vis the notional fare prescribed in its Concession Agreement with government is **P1.46 billion**. As of January 2023, LRMC's actual fare is **50% behind the notional fares**. This gap will exponentially increase. In 2026, without an increase, actual fare will be 81% behind the notional fare.
- 2.22. As such, although LRMC and LRTA claims that they continue to operate and maintain the Railway Systems with the highest performance and safety standards despite the apparent financial challenge, it is our view that the sought fare adjustments is of extreme urgency, and LRMC, LRTA and/or public interest will suffer great damage or inconvenience if the same is not imposed as it may cause delay or stoppage of urgently needed improvements, expansions and/or repairs.
- 2.23. Thus, in order to ensure the viability and sustainability of the services rendered, LRMC's petition as applied to Stored Value Card (SVC) shall range from a minimum fare of **P14.00** and a maximum of **P35.00**; while fares for Single Journey Ticket (SJT) shall range from **P 15.00** to **P35.00**.
- 2.24. For LRTA, the resulting fares as applied to SVC shall range from a minimum fare of **P14.00 and a maximum of P33.00**; while fares for SJT shall range from **P15.00 to P35.00**.
- 2.25. The foregoing fare rates were derived using *inflation rebasing formula*¹⁸ (2018 as base year), an option available in the LRT Line 1 Concession Agreement in determining the fares, and considers prevailing consumer price indexes (CPI) in the country within the last four (4) years.
- 2.26. In fact, as commented by LTFRB, *inflation rebasing method* is a more comprehensive method as it considers computed average growth rate of inflation which is a significant economic parameter that is practical and reliable. Further, the timing consideration (4 years) is generally adequate, which suggests that the period (to adjust fares) is not too short nor too long.
- 2.27. Hence, both petitions for fare adjustment appears to be reasonable even as compared with other modes of road transportation.

¹⁸ Section D "Inflation Rebasing of the Notional Fare," Schedule 9 of the LRT Line 1 Concession Agreement.

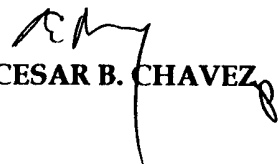
Sample Comparison: Petitioned Fare (SJT) vs. Other Road Transportation Fares

Full and Ave. Trip	Single Journey Tkt.	Ordinary Jeep	Modern E-Jeep AC	Ordinary Bus	City Bus AC	TNVS Sedan	TNVS SUV
(in kilometer)	LRT2 Petition P13.29 + P1.21	P12.00 +P1.80	P14.00 +P2.20	P13.00 +P2.25	P15.00 +P2.65	P15.00 +P15.00	P55.00 +P18.00
16.56	P35.00	P35.00	P42.00	P39.00	P46.00	P294.00	P353.00
8.5	P25.00	P20.00	P24.00	P21.00	P25.00	P173.00	P208.00

3.0 Recommendation

- 3.1 In view of the foregoing, RRU finds merit in LRMC and LRTA's Petitions for fare increase.
- 3.2 The fare rates herein approved are subject to the continuing authority to review rates and validate the reasonableness of such rates and entitlement of grantee/operator by RRU to determine the reasonableness of its imposition, and the post auditing authority of COA.
- 3.3 Further, approved fare rates shall be published, at the expense of petitioners, *once a week for three (3) consecutive weeks* in a newspaper of general circulation. **Collection Date** shall be implemented *thirty (30) days after* the last day of publication. Said publication must include the following:
 - 3..3.1 Approved adjusted fare rates; and
 - 3..3.2 Collection Date when approved fare rates shall take effect.

Respectfully submitted.


CESAR B. CHAVEZ

APPROVED
 FOR FURTHER STUDY


 JAIME J. BAUTISTA
 Secretary 
 DOT-OSEC SJB 23-000814

MAR 27 2023