

### Teresa Electric Power Co., Inc. vs. Public Service Commission and Filipinas Cement Corporation

#### Facts:

Teresa Electric Light and Power Co., Inc. (hereinafter referred to as petitioner) is an electric service provider in Teresa, Rizal with a certificate of public convenience issued on June 2, 1960. Filipinas Cement Corporation (hereinafter referred to as respondent), engaged in the cement manufacturing business, applied for a certificate of public convenience on May 24, 1962, to establish an electric plant for its own use and its employees within its premises in Teresa, Rizal.

The petitioner opposed the application on various grounds including lack of authorization by the respondent's articles of incorporation, lack of municipal council approval, willingness to supply the necessary electricity to the respondent, and the argument that the respondent's application does not fall under the jurisdiction of the Public Service Commission.

Following a series of hearings, where upon an urgent motion for postponement by the petitioner was denied, the Public Service Commission granted the certificate to the respondent on March 15, 1963, for fifty years from June 26, 1958, under certain conditions. The petitioner's motions to set aside the decision and reopen the case were denied, leading to the filing of this petition for review.

#### Issues:

1. Whether Filipinas Cement Corporation needed to secure a municipal or legislative franchise before obtaining a certificate of public convenience and necessity.
2. Whether the respondent's articles of incorporation authorized it to operate and maintain an electric plant.
3. Whether the respondent can be granted a certificate notwithstanding the existence of another electric plant operator in the same municipality.

#### Court's Decision:

The Supreme Court affirmed the decision of the Public Service Commission and addressed the issues as follows:

1. **\*\*Municipal or Legislative Franchise Requirement:\*\*** The Court held that the requirement under Act No. 667 for a municipal or legislative franchise applies only to those seeking to serve the general public. Since the respondent sought the certificate exclusively for its own use and for its employees free of charge, a certificate of public convenience and necessity

was deemed sufficient.

2. **Authorization under Articles of Incorporation:** The Court found that the operation of an electric plant is connected with the respondent's business of manufacturing cement, as stipulated under paragraph 7 of its Articles of Incorporation, and thus, the respondent was authorized to establish and operate an electric plant.

3. **Existence of Another Electric Plant Operator:** The Court emphasized that the protection of operators from competition does not extend to an exclusive right to a franchise or certificate. The primary consideration is the public service and interest, which in this case, was aligned with granting the certificate to the respondent due to its specific need for 6,000 Kilowatts of power, far exceeding the petitioner's capacity.

#### #### Doctrine:

The operation of a utility exclusively for an entity's own use and for its employees does not necessitate a municipal or legislative franchise, but simply a certificate of public convenience and necessity. Also, the grant of franchises or certificates should prioritize public service and interest over protection from competition among utility providers.

#### #### Class Notes:

- Municipal or legislative franchises vs. certificates of public convenience: distinct requirements and applicabilities.
- Articles of Incorporation can authorize operations integral or incidental to the main business activities.
- Public service and interest are paramount in the grant of franchises and certificates, overcoming concerns of competition among providers.
- Relevant legal statutes: Act No. 667, Commonwealth Act 146 (section 15).

#### #### Historical Background:

This case illustrates the evolving regulatory landscape for utilities in the Philippines, particularly in contexts where private entities seek to satisfy their own utility needs independently from public providers. It underscores the balance between ensuring competitive markets and addressing specific utility needs of large industrial operations through the lens of public interest.