

THE METROPOLITAN WATER DISTRICT, PETITIONER, VS. THE PUBLIC UTILITY COMMISSION, RESPONDENT.

G.R. No. L-22318. October 15, 1924

Ponente: STREET, J.

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STREET, J.:

This is a petition to the Supreme Court, presented by the Metropolitan Water District, pursuant to section 35 of Act No. 3108, for the purpose of obtaining a review of an order of the Public Utility Commission, dated March 21, 1924, whereby resolution No. 2, series of 1922, of the District Board of the Metropolitan Water District, was annulled and suspended.

The Metropolitan Water District is a public corporation created by Act No. 2832 of the Philippine Legislature. As appears from the Act mentioned, said corporation was created for the purpose of supplying water and maintaining a sewerage service for the inhabitants of the territory therein defined, consisting of the City of Manila and nearby municipalities. To effect this purpose the corporation was given the possession, administration and control of the existing systems for the distribution of water and of the sewerage plants in the territory mentioned; and upon it was conferred the powers of administration, control and legislation particularly defined in section 2 of said Act. In section 9 of the same Act it is declared that the Metropolitan Water District shall charge and collect a uniform rate for all services rendered.

It appears that, while the water mains used in the distribution of water to the inhabitants of the water district are the property of the Metropolitan Water District, the connecting pipes and meters at the various places where water connections are installed belong to the consumers, who are required to pay for the material and labor used in the installation of the apparatus. Prior to April 1, 1922, it had been the practice of the District, upon repairing meters and connecting lines, to make charges proportionate to the services rendered to the respective consumers; but this practice had been found to be unsatisfactory as the persons served would frequently make complaint about the charges,—as might be expected from the fact that the service was forced upon the consumer without previous agreement as to price. To remedy this situation the District Board decided to adopt a scheme whereby a level rate should be imposed upon all consumers, and the service of inspection and repair should be rendered gratis to all. In conformity with this idea, resolution No. 2, series of 1922, was adopted, which is in terms as follows:

"Be it resolved by the District Board of the Metropolitan Water District, that:

"SECTION 1. Meters and service pipe lines, maintenance of.—All actual and necessary repairs on the meters and pipe lines from the street main to the meter shall be done by the Metropolitan Water District at its expense, but every concessioner shall pay to the District an annual charge for the maintenance and upkeep of said meter and pipe lines in accordance with the following rates:

Size of pipes
inches

Amount annual

charge

$\frac{1}{2}$

P1.20

$\frac{5}{8}$

1.20

$\frac{3}{4}$

1.60

1

2.00

$1\frac{1}{4}$

2.40

$1\frac{1}{2}$

3.00

2

4.00

3

8.00

4

16.00

6

30.00

"SEC. 2. Unserviceable meters, replacement of.—In case a meter, from any cause, becomes unserviceable beyond repair, it shall be replaced by the Metropolitan Water District at the expense of the concessioner.

"SEC. 3. Repeal of inconsistent regulation.—All regulations or part of regulations of the Metropolitan Water District inconsistent with the provisions of this resolution are hereby repealed.

"SEC. 4. Date when effective.—This resolution shall take effect on April 1, 1922."

The practical operation of this regulation appears to have been all that could have been desired, as complaints in the main ceased, but the validity of the regulation was called in question, and the matter was referred to the Public Utility Commission, with the result that the Commissioner issued an order requiring the Metropolitan Water District, through its authorized representative, to appear before the Commission and show cause why said resolution should not be suspended. After certain delay, attributable to the fact that the Metropolitan Water District questioned the jurisdiction of the Public Utility Commission over it, a hearing was had and the Commissioner rendered a decision declaring the resolution in question to be ultra vires and enjoining its enforcement.

Only two questions are before us for consideration, namely, first, whether the Public Utility Commission has authority to review the rates fixed by the District Board of the Metropolitan Water District; and, secondly, supposing this question to be answered in the affirmative, whether the Commissioner erred in annulling the

resolution in question.

Upon the first of these points we see no reason to doubt that the Commission has the authority claimed by it. In section 13 of Act No. 3108, as in the similar provisions of prior Acts relating to the same matter, the Commission is given general supervision and jurisdiction over all public utilities with power to regulate and control the same to the extent and in the manner provided in said Act. In the definition of "public utility" inserted in the same section a great number of enterprises are mentioned, including pipe lines and water and sewer systems for public use. In express words the definition is made to include not only enterprises existing at the time this legislation was framed but such as may at any time hereafter come into existence. The only exceptions specified in the section are public utilities operated by the Federal Government exclusively for its own use and the Manila Railroad Company, so long as the same shall be controlled by the Government of the Philippine Islands,—these enterprises being excluded from the jurisdiction of the Commission, except so far as relates to the rates charged by the railroad company.

That the Metropolitan Water District is a public utility is not denied, and it obviously falls among the enterprises over which the Public Utility Commissioner is given jurisdiction in the section above-mentioned. The circumstance that the Metropolitan Water District is placed for administrative purposes under the Department of the Interior is not in any wise inconsistent with the exercise of jurisdiction over it by the Public Utility Commission. As was pointed out in an opinion of the Attorney-General on this point, under date of November 6, 1922, there is a well-defined distinction between the supervision lodged in the Department Head and the jurisdiction of the Public Utility Commission, the first being of an administrative, and the latter of a judicial or semi-judicial character. The Metropolitan Water District was created to serve the public along the lines of any well-regulated business enterprise; and, although its energies are not directed to the end of private gain, it is nevertheless charged with the duty of confronting the obligations created by the bonds issued to raise funds for the creation of the systems with which it is concerned. This made it proper to leave said District under the jurisdiction and control of the Public Utility Commission; and the Legislature must have so intended, or a provision would have been inserted in Act No. 2832 excepting it from such control. In the absence of some such proviso, the Commission must be held to have the same powers of review and control over the Metropolitan Water District that it has over private enterprises.

Upon the second point we are of the opinion that in passing resolution No. 2, series of 1922, the District Board was acting within its lawful powers and that the Public Utility Commissioner committed error of law in suspending the same from operation. When the provisions of Act No. 2832, relating to the charges to be made by the Metropolitan Water District are carefully examined, it will be found that the Legislature contemplated the imposition of uniform rates for all services rendered rather than the imposition of particular charges to be estimated with relation to the service done for each individual [Act No. 2832, sec. 9, and sec. 2, subsecs. (e), (f), and (h)]. Of course the cost of material and instalment of apparatus in making particular connections should be paid by each individual served, and such is the practice even under the resolution in question; but as regards the inspection and ordinary repair of meters and pipe lines, it was we think clearly within the power of the District Board to fix a system of rates, such as that specified in the resolution.

It is intimated in the appealed decision that the resolution in question should be held unreasonable because some consumers may pay the specified rates for a period of greater or less duration without getting in return any substantial benefit in repairs to their connecting line or meter. We think this is drawing matters too fine. The outlay on the part of each consumer is always compensated in some measure by the service of inspection, and the expenditure serves as a protection against the heavier outlay that would otherwise be necessary when the inevitable day of repair and reckoning comes. This consideration will not be lost upon the minds of a people

accustomed to pay insurance for protection from such calamities as fire, earthquakes and storms. Both absolutely and relatively considered, the fixing of level rates for the services mentioned in the resolution seems to us to have much to commend it, even apart from the practical demonstration of the superiority of this system as regards the satisfaction of the consumers in general.

It appears that, in the period of fifteen months immediately following the putting of the resolution into effect, the Metropolitan Water District expended in repair of service pipes and meters an amount decidedly in excess of the income derived from the rates fixed in the resolution. The management of the Water District attributes this to the circumstance that in the period stated the percentage of meters repaired was temporarily much in excess of what was expected on the average in the future. The circumstance that the rates fixed in the resolution were not sufficiently high to cover the actual cost of service and repair during the period mentioned tends to show that the rates were excessively low. Certainly it does not show that the charges made in the resolution are unreasonably high from the point of view of the consumer.

We are not unmindful of the fact that this court is only authorized to modify or set aside an order of the Public Utility Commission when it clearly appears that there was no evidence before the Commission to support reasonably such order or that the same was without the jurisdiction of the Commission. In this case the Commissioner we think committed error of law in holding that the District Board had no power to enact the resolution in question; and there was no evidence before him to justify the conclusion that the regulation was unreasonable.

It follows that the order of the Commission contained in the decision of March 21, 1924, must be reversed, and it is so ordered, with the result that resolution No. 2, series of 1922, of the District Board, will remain in force until hereafter abrogated by some lawful resolution of the District Board itself or of the Public Utility Commissioner in proper behalf extended.

Johnson, Malcolm, Avanceña, Villamor, Ostrand, and Romualdez, JJ., concur.

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