

ALFREDO BENITO ET AL., PETITIONERS, VS. THE PUBLIC SERVICE COMMISSION, RESPONDENT.

G.R. No. L-2751. June 30, 1950

Ponente: PARAS, J.

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PARAS, J.:

The petitioners, under the trade name of Lealda Electric Light, Inc., are the owners and operators of an electric light plant supplying electricity in Legaspi and Tabaco, Albay. Upon complaint of some customers, the Public Service Commission³ thru its Secretary, addressed on July 13, 1948, a letter to the petitioners requiring compliance with thirteen instructions four of which (involved herein) read as follows:

"Instruction No. 8.—Charge for flat rate service in accordance with Sections 97 and 98, Revised Order No. 1, of the Public Service Commission;

"Instruction No. 11.—Revise all bills for metered service already rendered to the effect that the minimum charge of P6 should not be added to the charge for actual kwh consumption. It should be charged only when the customer uses less than 15 kwh per month;

"Instruction No. 12.— Desist from collecting P1 as meter rental per month; and

"Instruction No. 13.—Refund or credit to customers in subsequent bills all overcharges made."

On July 29, 1948, the petitioners filed a motion for the reconsideration of the four instructions above-quoted, which motion was denied by the Public Service Commission on December 28, 1948. Hence the present petition for review.

1. Under instruction No. 8, the petitioners are required to stop from collecting light bills in advance for flat rate service. The basis of this directive is sections 97 and 98 of Revised Order No. 1 of the Public Service Commission, issued on November 27, 1941, providing as follows:

"Sec. 97. Payment of Bills.—A public service may require that bills for service be paid within a specified time after rendition. When the billing period covers a month or more,, the minimum time allowed will be ten days and upon expiration of the specified time, service may be discontinued for the nonpayment of bills, provided that a H-8 hours' written notice of such disconnection has been given the customer; Provided however, That disconnections of service shall not be made on Sundays and official holidays and never after 2 p.m., of any working day: Provided further, That if at the moment the disconnection is to be made the customer tenders payment of the unpaid bill to the agent or employee of the operator who is to effect the disconnection, the said agent or employee shall be obliged to to accept tendered payment and issue a temporary receipt for the amount and shall desist from disconnecting the service."

"Sec. 98. Bills for Metered and Flat Rate. Service.—Bills to metered service customers shall be rendered at reasonably regular intervals and shall show at least the date upon which the meter was last read, the reading of the meter on that date, the number and kinds of -units, supplied, reference to the schedule of rates applicable and the amount of the bill.

"Bills to flat rate service customers shall be rendered at reasonably regular intervals and shall show the period for which the bills is rendered, reference to the schedule of rate applicable and the amount of the bill. The number and kinds of units for which a flat rate bill is rendered shall also be shown on the bill."

It is contended that these provisions do not prohibit collection in advance, as the provision of Section 97 that "a public service may require that bills for service be paid within a specified time after rendition," is merely permissive and relates to the matter of disconnection of service, and as Section 98 (which expressly covers metered and flat rate service) does not outlaw such advance collection.

The contention is without merit. Section 97 plainly refers to "Payment of Bills," and Section 98 to rendition of bills. In the absence of any qualification, Section 97 must be construed as including charges for flat rate and metered service; and since it is specifically provided therein that payment of bills may be required within a specified time "after rendition" of service, it follows that collection of charges for service not yet rendered is not authorized. It is true that the word "may" is used, but this term may be construed, as it is in this case clearly is intended to be, in a mandatory sense. Indeed, this provision is unnecessary if operators may, at their option, demand payment in advance. On the other hand, section 98 speaks only of the manner of rendering bills, without regard to their payment, and cannot therefore support petitioners' stand.

The petitioners can neither invoke the cases in which the Public Service Commission seemed to have allowed collection of light bills in advance, first, because the Commission should have the power to revoke and correct erroneous policies or rulings and, secondly, because, as held in *Raymundo Transportation Co. vs. Tanay Transit Co. and Yangco*, (63 Phil. 1064), "in proceedings before a commission, which involve either directly or as a necessary consequence, the annulment, modification or alteration of a previous order by it entered, the doctrine of estoppel or res judicata, as usually applied to judgment of courts of record, is without application whatever."

Moreover, under their reconstituted certificate of public convenience and necessity, the petitioners have not been given authority to collect bills in advance. At any rate, by virtue of an order of the Commission dated February 16, 1949, the petitioners are authorized to require customers to make a deposit equivalent to one month's bill, with the result that the petitioners already have some security for the payment of electric consumption.

II. The petitioners are authorized to charge the following rates for electric consumptions

First 15 kwh P0.40

Next 35 kwh .35

Next .50 kwh .30

Excess over 100 kwh .20

Minimum charges: P6 per month for connection of
200 watts, or less;

For connection of 200 watts, P0.01 per watt connection.

In case a customer with a 200-watt connection consumes 20 kwh in a month, the petitioners charge the following:

15 kwh at P0.40 a kwh P6.00

5 kwh at P0.35 a kwh 1.75

Minimum charge per month for connection of 200
watts 6.00

Total P13.75

By instruction No. 11, the petitioners are directed to desist from charging the minimum rate of P6, in addition to the cost of the fluid actually consumed. In other words, in the example given, the customer will have to pay only P7.75.. A, customer, however, is required to pay the fixed minimum of P6 if the cost of his consumption is less than: such rate. Thus, if a customer uses only 10 kwh in a month, the actual cost of this consumption is P4.00; and yet he has to pay the minimum rate of P6.00. This is the construction adopted by the Commission of the schedule of rates which the petitioners are authorized to collect, and such construction is reasonable and correct.

We cannot accept the theory of the petitioners that the amount of P6 in question is to be paid monthly by a customer for having a 200-watt connection. In the first place, connection is installed by the petitioners only once. In the second place, such connection is necessary, if the petitioners are to have customers.

III. By instruction No. 12, the petitioners are required to desist from collecting from their customers the sum of P1 as monthly meter rental. This instruction is assailed by petitioners on the ground that they have heretofore been allowed by the Commission to collect such rental, which represents a nominal fee for the use of or damage to electric meters. The position of petitioners is not tenable, because the cases invoked by them are anterior to Revised Order No 1 of the Public Service Commission which, under Commonwealth Act No. 146, is empowered to issue regulations governing public services. The instruction in question is reasonable, the installation of the meter being an essential part of the service rendered to a customer. To allow the permanent collection of a monthly rental would give the petitioners a profit disproportionate to the cost of a meter.

IV. The petitioners also assail instruction No. 13, requiring them to refund or credit to customers in subsequent bills all overcharges previously made, and their main argument is that the Commission has no power to impose such severe punishment which only a judicial court can impose. This is without merit, as the requirement is not in the nature of a penalty, but is merely a measure by which the petitioners are asked to return what they did not have the right to collect. The order is not unduly hard to comply with, because the petitioners have the option either to refund overcharges or to credit them in subsequent bills.

Wherefore, the present petition for review is dismissed with costs against the petitioners. So ordered.

Ozaeta, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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