

NEGROS ICE AND COLD STOKAGE CO., INC., PETITIONER VS. PUBLIC SERVICE COMMISSION AND BACOLOD ICE & COLD STORAGE CO., INC., RESPONDENTS.

G. R. No. L-2846. September 29, 1951

Ponente: BENGZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/604831e88edd/>

BENGZON, J.:

This is a review of the order of the Public Service Commission dated December 8, 1948, authorizing the Bacolod Ice & Cold Storage Company Inc. to sell its ice in the City of Bacolod, and all municipalities of Occidental Negros.

It appears that said corporation (hereafter called Bacolod Ice for short) obtained about October 1947 a certificate of public convenience to operate and maintain a 15-ton ice plant in the City of Bacolod, with the privilege to distribute its products within the whole province of Occidental Negros, excepting that city (Case No. 17620). Six months thereafter, in March 1948, said corporation, applied for inclusion of the City of Bacolod in the territory previously assigned to it. The Negros Ice & Cold Storage Co. Inc. (hereafter named Negros Ice) possessing a certificate of public convenience to manufacture and retail, ice within the city, opposed the application, which after hearing was granted, the commission saying in part:

"After a careful examination of the entire record, we are satisfied that the need for authorizing the applicant, to sell ice in Bacolod City has been sufficiently established. Bacolod City is much larger in territory and is more populated than the former municipality of Bacolod. It can hardly be denied that this increase in area and population has brought about a corresponding increase in the demand for ice coming from the general public, new commercial establishments, hotels, restaurants, refreshment parlors, bars and other businesses which need ice regularly. We believe that oppositor's 5-ton production, while it might have been sufficient for Bacolod when it was a municipality, is inadequate and insufficient to meet the ice demands of a community as large, populated and commercially active as the City of Bacolod, so that it becomes necessary, in the interests of the public, to permit the herein applicant to supplement oppositor's service."

Dissatisfied with the ruling, the Negros Ice filed this petition, which is based upon two main propositions to wit: (1) the decision violates the agreement entered into by and between the applicant and the oppositor in Case No. 17620 and (2) the decision is contrary to law, not being supported by the evidence.

When the Bacolod Ice was first authorized to manufacture and sell its ice in the Province of Negros (case No. 17620) the order granting the certificate declared in part:

"* * * Applicant proposed, to include the City of Bacolod within its territory of operation, but in view of the opposition filed by the Negros Ice and Cold Storage Co., Inc., an agreement was reached between the applicant and the oppositor whereby the former amended its application by eliminating the City of Bacolod from its proposed territory of operation, and the latter desisted from prosecuting its opposition. It was further agreed that the applicant would under no circumstance knowingly sell ice to any person or entity who would use the ice so purchased within the City of Bacolod or who might resell it within the limits of said City; also that

applicant' would take all the necessary steps and precautions to prevent that any quantity of ice obtained from its plant be ultimately used sold or distributed within the limits of the City of Bacolod."

The Negros Ice contends that the agreement above mentioned has the force and effect of law and should debar the Bacolod Ice from entering the market of Bacolod City.

We have serious doubts "whether the said agreement bound the Bacolod Ice, never thereafter even if circumstances have changed, to apply for permission to sell its ice in, the City of Bacolod. It was obvious that the Bacolod Ice merely manifested its conformity to a scheme whereby it would be authorized to sell ice throughout the province, excepting Bacolod. But it did not promise to the Commission that it will never thereafter apply for authority to sell ice in the City. And supposing that Baeolod Ice covenanted with Negros Ice that in consideration ; of the latter's withdrawing its opposition,' the Bacolod Ice promised never to invade the territory of the City of Baeolod, that stipulation is not valid, being contrary to public interest. Two public service companies may not validly agree to divide among themselves a certain territory and impose their agreements upon the Public Service Commission.

In a similar case [1] Fernando Enriquez a transportation operator agreed with the Pampaiiga Bus Company "not to present any application in the territory now¹ occupied" by the latter; Subsequently he applied for, and was granted permission to operate in the same territory of the Pampanga Bus Co. On appeal, we made the following opposite remarks:

"The principal question to decide in the two appeals is whether the Public Service Commission erred in ignoring and not giving any consideration, force or effect to the agreement dated November 9, 1929, entered into between, the parties, of the following tenor:

"Come now the undersigned attorneys and -to this Honorable Commission respectfully state:

"1. That Fernando Enriquez withdraws the three motions presented in the above-entitled case.

"2. That Fernando Enriquez withdraws his application to operate in all points served by the Pampanga Bus Company and agrees not to present any application in the territory now occupied by the Pampanga Bus Company.

"3. That the Pampanga Bus Company agrees to withdraw its opposition to the application of Fernando Enriquez for additional hours from Masantol to Manila with the right to pick up passengers, in Macabebe and Apalit * * *.

"We are of the opinion that such agreement cannot be interpreted as to deprive the Public Service Commission of the power, conferred upon it by law to 'issue certificates of public convenience and to promulgate orders and regulations intended to supervise a public service the better to benefit and serve the public interests. To sustain the contention of the appellant would be to deprive the commission of said power * * *. Beyond dispute is the power of the Public Service Commission to modify and alter its orders for the purpose of adapting the same to new situations and circumstances as long as the latter are reasonably supported by the evidence presented * * *.

"As a general rule, the rights granted by law are waivable, unless such waiver is against public interest (art. 4, Civil Code), in which case it cannot be done, and if done, will be void. The waiver made by Fernando Enriquez, in the aforesaid agreement, of his right to ask for the lifting of the restrictions imposed in his certificates of public need and convenience is illegal and void because contrary to public interest."

In regard to the second proposition a reading of the record discloses that there is evidence reasonably supporting the Commission's finding that public interest and convenience will be subserved by permitting the Bacolod Ice to dispose of its products in the City of Bacolod.

Firstly, there is this same oppositor's petition in Case No. 24398 wherein it applied for permission to increase the output of its business establishment. Therein it alleged under oath "that the 5-ton production of its plant is not sufficient to supply the entire City of Baeolod with ice.[2]"

Secondly, the notable growth and progress of the city from 1939 (when Negros Ice was established) to the year 1948 was amply demonstrated by its increase of population from 57,474 to 101,433 together with the expansion of its limits and its conversion into a chartered city, coupled with its booming construction activities and increasing commercial and industrial enterprises. All of which naturally developed a greater demand for the needs and comforts of civilized life, ice among others.

Thirdly, some persons testified as to their inability to obtain service from the Negros Ice on various occasions. Proprietors of several refreshment parlors in the city complained in writing to the mayor of Bacolod about the inability of the Negros Ice to fully meet the local demand for ice, and criticized the refusal of the Bacolod Ice to sell to them—which refusal, by the way, was due to the restriction originally imposed in the certificate granted by the Commission.

It is unnecessary to go into further details. Enough has been found to apply the constant principle that when there is evidence of record reasonably supporting the findings of fact made by the Public Service Commission this Court will not interfere with and alter the same.³

The decision under review is affirmed with costs. So ordered.

Paras, C. J., Feria, Pablo, Padilla, Tuason, Jugo and. Bautista Angelo, JJ., concur.

[1] Pampanga Bus Company vs. Enriquez, 66 Phil., 645.

[2] Such application failed of approval, not by reason of inadequacy of demand, but thru the failure of the Negros Ice to obtain on time sufficient equipment for the enlarged service.

[3]Javellana vs. La Paz Ice Plant and Cold Storage Co., 35 Off. Gaz., 1756; Aleosan Transportation Co. vs. Public Service Commission, 35 Off. Gaz., 2080; Ampil vs. Public Service Commission, 59 Phil., 556; Manila Electric Company vs. Balagtas, 58 Phil., 429; Calabia vs. Orlanea & Banaag Transportation Co., 55 Phil., 659.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.