

MANILA ELECTRIC COMPANY, APPLICANT AND APPELLEE, VS. PASAY TRANSPORTATION CO., OPPOSITOR AND APPELLANT.

G.R. No. 43913. December 09, 1935

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the Pasay Transportation Company from a decision of the Public Service Commission granting the application of the Manila Electric Company to establish a supplementary and additional autobus service along the lines already being served by its street and electric cars and issuing to it a certificate of public convenience therefor.

In support of its appeal the appellant assigns the following alleged errors committed by the Public Service Commission in its decision, namely:

"1. The Public Service Commission erred in holding that there is evidence of public necessity and convenience to support the granting of the application.

"2. The Public Service Commission erred in not denying the application as a duplication of service prejudicial to public interest.

"3. The Public Service Commission erred in not denying the application on the ground that it would promote ruinous and destructive competition among operators.

"4. The Public Service Commission erred in denying the motion for reconsideration and new trial filed by the oppositor-appellant."

The first question to be decided in the instant appeal, raised in the first assigned error, is whether or not the Public Service Commission erred in holding that there is evidence of the existence of a public necessity and convenience justifying the granting of the application of the Manila Electric Company.

The evidence adduced by the applicant Manila Electric Company in support of its application shows the following proven facts:

The applicant Manila Electric Company at present possesses several certificates of public convenience to operate autobuses in the following lines: Azcarraga and Avenida Rizal; F. B. Harrison and Mabini; General Solano and Echague; Tanduay and Quinta Market; Legarda; Santa Mesa from Valenzuela Street until Rotonda, and Azcarraga.

The applicant company has at present 96 motor cars which are sufficient for its present service and for the additional service applied for, but alleges that it needs six more autobuses to have a reasonable number in reserve. The certificate applied for includes only the lines already covered by its street cars, save that of Pasig. The additional service will be for every thirty minutes along the same street car lines.

The purpose of the additional service is to avoid the interruption of the service where there is damage to or defect

in the rails or in the wires, and to remedy the situation where a street car is filled with passengers desirous of reaching their destination without loss of time, but are prevented from doing so by other street cars ahead of it along the same line. At curves where no connecting track and switches exist, the bus can go straight ahead, avoiding thereby transfers from one car to another car or trolleybus and vice versa; it can park by a sidewalk when there is need to wait; it can help pick up passengers in parts where single tracks are used for both directions which renders one through service difficult due to encounters. The line can be easily extended, when the occasion so demands, because there will be no need to install tracks and wires. The autobus likewise solves the problem when the electric current is interrupted and during typhoons when the railway system is paralyzed; and when there is flood the autobuses are more easily operated. It also responds to emergencies, as for instance, defective street car axles, obstructions on the tracks, etc. During holidays when there are parades attended by a great number of people, and when traffic is congested, the autobus can pick up passengers and change its route. Passengers of autobuses are entitled to transfer to street cars and vice versa, because said autobuses will be operated on the same basis as the street cars and trolley-buses as to the fare and transfer privilege.

Undoubtedly the additional autobus service applied for by the Manila Electric Company will be beneficial to the public because passengers ordinarily taking the street and electric cars of said company will be subjected to less inconvenience resulting from transfers and delays in going from one place to another where there is no continuous and direct street car service and when, for one reason or another, the street car service is paralyzed.

There is, therefore, sufficient evidence of a public necessity and convenience justifying the granting of the permit applied for.

As to the second alleged error assigned, that the Public Service Commission did not deny the application as the service applied for is merely a duplication detrimental to the public interest, in view of our holding that the additional service applied for by the Manila Electric Company answers a public need and convenience, said second assigned error is untenable.

As to the third alleged error assigned, that the Public Service Commission did not deny the application as the additional service applied for would bring about ruinous and destructive competition among land carriers, there is no evidence of record demonstrative of this result. Inasmuch as the applicant-appellee Manila Electric Company, in the additional service applied for, could not pick up passengers outside the lines traversed by its street and electric cars, and inasmuch, furthermore, as the oppositor-appellant could not pick up passengers along the routes of the street and electric cars of the Manila Electric Company, there could be no ruinous competition between the two operators because each has its own territory of operation which the other could not invade without violating the conditions of its certificate. Of course, to a certain extent, there will be competition in those parts where the routes of both companies are parallel, when the distance between them is not such that it would not pay to make the crossing to avail of a better service, but this competition is not ruinous and is of the nature of those which make rival land transportation operators improve their service for the benefit of the public which they serve.

For the foregoing considerations, we are of the opinion and so hold, that an additional autobus service operated by a company along the same lines traversed by its street and electric cars, for the benefit of the street car riding public, saving it the inconveniences resulting from transfers and delays, is permissible and does not constitute ruinous competition against other land carriers whose certificates do not permit them to pick up passengers in said routes.

Wherefore, finding no error in the appealed decision, the same is hereby affirmed in all its parts, with the costs to the appellant. So ordered.

Malcolm, Imperial, Butte, and Goddard, JJ., concur.

Decision affirmed.

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