

**PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, PETITIONER,
VS. HON. ENRIQUE MEDINA, PUBLIC SERVICE COMMISSIONER AND
OSCAR L. NOBLEJAS, RESPONDENTS.***G.R. No. L-24658. April 03, 1968*

Ponente: BENGZON, J.P., J.

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The Public Service Commission received complaints to the effect that Philippine Long Distance Telephone Company was discriminating in its servicing and grant of telephone installations. Specifically, it was reported that an application for telephone connection had been filed with said company by Cesar J. Bautista; that said application had been coursed through the Public Service Commission and approved by it; that notwithstanding such approval, Philippine Long Distance Telephone Company has failed to act on said application and, instead, accorded priority to other applicants whose applications were not approved by the Public Service Commission.

Acting thereon, Public Service Commissioner Enrique Medina issued on March 19, 1965 an order requiring Philippine Long Distance Telephone Company (PLDT for short), to appear before Public Service Commission on March 25, 1965, at 9:00 A.M., to show cause why the applied telephone of Cesar J. Bautista should not be installed and why other applications, not approved by the Commission, have been favorably acted upon. And in the same order, an application for telephone connection filed by Oscar L. Noblejas, received by the Commission, was endorsed to PLDT for compliance.

At the proceedings held on March 25, 1965, docketed as Case No. 65-16-OC, Commissioner Medina advised PLDT's counsel that the complaint against PLDT was for inadequate service. PLDT requested a copy of the complaint but Commissioner Medina ruled that it was not necessary to provide PLDT with such copy.

PLDT then informed the Commissioner that Cesar J. Bautista did file with PLDT on June 2, 1964 an application for a telephone connection. It however maintained that Oscar L. Noblejas had not filed any application except that endorsed by the Commission in its aforementioned order. And PLDT stated that upon its receipt of said order, on March 23, 1963, it entered an application in the name of Noblejas in its file of requests for telephone service.

At PLDT's instance, Commissioner Medina allowed it to present evidence to show why the telephone service applied for by the complainants had not yet been installed.

PLDT called its first witness, Col. Candido G. Bautista, its General Commercial Superintendent, to testify on the priority status of the applications under consideration. Said witness was thereupon questioned by Commissioner Medina. And in the process, he testified that Bautista's requested telephone was not yet then installed because PLDT was still enlarging its Makati Central Office and because there were several prior applications.

At his own instance, Commissioner Medina discontinued the testimony of the first witness and called on Teodoro Bacani, an official of the Public Service Commission, who testified on the prevalence of complaints of

PLDT customers that preferences are made in repairs and installations of telephones on the basis of some bribe given to PLDT linemen.

And, thereafter, Commissioner Medina issued an order dated March 25, 1965, requiring PLDT to install a tele-phone at the residence of Cesar J. Bautista within fif-teen days and another telephone in the residence of Oscar L. Noblejas within twenty days from the date of said order.

Further hearings in the case were set for April 21, 22 and 23, 1965.

Subsequently, on March 31, 1965, PLDT installed Ce-sar J. Bautista's telephone. Such fact was manifested to the Commission and the incident as to said complainant was closed.

At the hearing on April 21, 1965, Commissioner Medi-na again called on PLDT Superintendent Col. Bautista. Af-ter questioning him, Commissioner Medina called another witness, Luciano de la Rosa, over PLDT's counsel's objec-tions, who up to this time had not been able to propound questions on the witnesses. Said witness testified that his application for telephone service was installed only after a long delay because of his refusal to give money to PLDT and that his telephone is always intercepted by a party line.

After de la Rosa's testimony, PLDT's counsel was fi-nally given the chance to ask its witness, Col. Bautista, questions on direct examination. Said witness testified that while PLDT, in view of the completion of its expan-sion program in Makati, Rizal, was able to serve the appli-cation of Cesar J. Bautista, it could not immediately pro-vide telephone service to Oscar L. Noblejas. The PLDT, he explained, still had to attend to the applications for te-lephone services in the area of Noblejas' residence which were filed way ahead of Noblejas' recorded date of applica-tion and that, therefore, Noblejas' application can be at-tended to by PLDT only after those prior applications shall have been served.

On May 4, 1965, PLDT filed a motion for reconsidera-tion of the order of March 25, 1965.

On May 13, 1965, the hearing was resumed. Engr. Con-rado Tadle of the Public Service Commission, upon being called and questioned by Commissioner Medina, testified that cable facilities were available to serve the tele-phone application of Noblejas. Said witness, however, admitted on cross examination that he did not verify whether there were other applicants for telephone service in the area where Noblejas resides, who had filed prior applica-tions. PLDT then agreed to provide the map showing the route passed by the cable mentioned by Engr. Tadle, con-taining indications of the various prior applicants for telephone service. Said map was later submitted (Exh. 6).

At said hearing, also, Commissioner Medina denied PLDT's motion for reconsideration, by an order dated May 13, 1965.

After PLDT formally offered its evidence, Commissio-ner Medina, on June 2, 1965, issued an order containing this dispositive portion:

"FOR ALL THE FOREGOING CONSIDERATIONS, the Commission reiterates its order dated March 25, 1965 with respect to the application of Oscar L. Noblejas and orders the same be serviced immediately; and considering that the period of 20 days granted in said order, has already expired, PLDT is hereby fined Fif-ty (P50.00) Pesos a day, everyday until the telephone service applied for is fully ins-talled and in service; provided, however, that if the telephone service of Oscar L. Noblejas is connected and completed on or before June 10, 1965, the fine herein imposed will be con-sidered condoned and wiped out.

"Oscar L. Noblejas as well as the respon-dent PLDT are hereby ordered to inform the PSC in writing on June 11, 1965, whether the telephone applied for has been connected or not.

"Should there be other telephone applications in the files of PLDT unserved until now, without bearing the dates of filing in the PSC, stamped thereon by the PSC, the PLDT is hereby required to advise the applicants to renew said applications and course them thru the PSC, for the purpose of recording thereon the date or dates of filing before the PSC and such dates shall determine the priority to be observed by the PLDT."

PLDT then appealed to Us from the orders dated March 25, 1965, May 13, 1965 and June 2, 1965.

Appellant's contentions are reducible to two: First, that said orders are invalid for not having been signed by three Commissioners, instead of containing Commissioner Medina's signature alone; and, second, the Public Service Commission cannot legally order it to grant the application of Noblejas for telephone connection ahead of others who had filed prior applications with PLDT.

Assuming that the present case involves an uncontested proceedings not requiring the vote of three Commissioners, which We do not here decide, the point that is here controlling is that the records clearly and undisputedly show that there were applicants prior to Noblejas who have not yet been served with telephone connections.

Said applicants, appellees would argue, cannot be considered entitled to priority because their applications have not been approved by the Public Service Commission. And Commissioner Medina would impose the system of determining priority in accordance with the date of approval of the application by the Commission rather than their filing with the PLDT.

In support of this procedure, Commissioner Medina cites the so-called conditions allegedly imposed on PLDT in several cases where the latter applied for, and was granted, permission of the Commission to increase its rates and to expand its services.

Said conditions, contained in the decision in PSC Cases Nos. 61-5270, 61-5280, 61-5271, 61-2111 and 62-4168, dated July 31, 1963, included inter alia, the following:

"(2) x x x (c) In order to avoid complaints of favoritism and/or suspicions of discrimination or that the new telephone connections or transfer are effected for money consideration, all telephone connections and/or transfers after the receipt of this decision shall be undertaken only upon prior approval of the Public Service Commission."

This point has already been resolved by Us in PLDT vs. Medina, L-24340, July 18, 1967, wherein We ruled that pursuant to an amended decision of the Public Service Commission, dated January 9, 1964, in the abovementioned cases, all the conditions imposed in the original decision were removed and deleted.

It follows, therefore, that the priority in granting applications for telephone service cannot be the dates of approval of said application by the Public Service Commission, since no such approval is required. The priority should be determined in accordance with the dates of filing of the application with PLDT, the general rule provided for in Sec. 3 of Public Act 3436, the law granting telephone franchise to the PLDT. And following such a priority system, applicant Noblejas is not entitled to installment of his requested telephone until the prior applicants concerned shall have been served. Respondent Commission, therefore, should have ordered PLDT to service the prior applicants first, instead of applicant Noblejas.

WHEREFORE, the appealed orders are hereby reversed and set aside and the present complaint against PLDT is hereby dismissed, but PLDT is hereby enjoined to service the applications in the priority of their dates of filing with PLDT. No costs.

SO ORDERED.

Reyes, J.B.L., (Acting C.J.), Makalintal, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

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