

MANILA ELECTRIC COMPANY, PETITIONER, VS. PUBLIC SERVICE COMMISSIONER ENRIQUE MEDINA, ETC., ET AL., RESPONDENTS.

G.R. No. L-24406. June 29, 1965

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Decision in amplification of our minute resolution of June 15, 1965.

The Manila Electric Company petitioned for (a) certiorari to review and set aside the order of the Public Service Commission, under date March 19, 1965, suspending the effectivity of the rate increases granted to the Manila Electric Company in PSC Case No. 64-5706, by decision of March 15, 1965, as well as to delay the hearings on the motions for reconsideration of said decision and the resolution thereof; and (b) for a writ of mandamus to compel the Public Service Commission to immediately hear and resolve the motions for reconsideration filed in said case.

The facts are in the main not controverted. The Manila Electric Company (generally known as MERALCO), by application dated October 22, 1964, had asked the Commission to approve revised (increased) rate schedules, terms, and conditions, and rules and regulations appended to the application. Docketed as Case No. 64-5706, the application was given course, by order of October 26, 1964. Copies were served upon all local governments of the territories where petitioner MERALCO rendered electrical service, and the corresponding Notice of Hearing was duly published. Oppositions were filed by the Solicitor General, on behalf of the Republic of the Philippines; the City Fiscal for the City of Manila; the City Fiscal of Lucena; the Provincial Fiscal of Quezon Province, and various other entities and individuals. After hearing, a division of three Commissioners rendered a decision dated March 15, 1965, approving the proposed "Terms and Conditions of Service" and "Rules and Regulations", but reducing the proposed rate schedule:

For Residential Service, from the proposed

increase of 32.5% to 23% only;

For General Services, from the proposed increase

of 27.90% to only 24.99%

For General Power, instead of 27.90% to 21.99%

After promulgation and publication of the decision, which expressly provided that the increases "shall be effective from the date of this decision", the Solicitor General filed, on March 18, 1965, a petition for reconsideration, and on March, 1965 moved ex parte to suspend the effectivity of the decision authorizing the rate increases. On the same day, and without notice to, or hearing of, the applicant, the Commission issued an order suspending the effectivity of the decision (Annex B, Petition). Applicant MERALCO (Petitioner herein) moved for a hearing to

enable it to oppose the order of suspension, but no action was taken on its motion. In the meantime, other motions seeking reconsideration of the decision were filed, and petitioner MERALCO filed its opposition to the same on March 23. On the same date, respondent Medina issued an order requiring applicant to answer the motions for reconsideration within 20 days and the movants 20 days to reply (Annex "C"). By telegram of March 29, respondent Commissioner Enrique Medina, ordered that the motions for reconsideration be not calendared until his arrival, and that oppositors "be notified and given legal period for reconsideration and also to reply" (Annex "D"). On March 31, said Commissioner (Medina) issued an order expressing the desire that all motions for reconsideration and oppositions thereto, "be heard and argued simultaneously, to save time and effort", and directed the Secretary of the Commission to call his attention as soon as the reglementary period to file motions for reconsideration expired, "with the end in view of setting all motions for reconsideration and all oppositions thereto in one setting" (Annex "E", Petition). In view thereof, MERALCO resorted to this Court, claiming the aforementioned orders to be invalid and without, or in excess of, jurisdiction and charging the respondents, particularly Medina, with a scheme to delay the hearing and resolution of the motions for reconsideration.

Respondent Commissioners and the Republic of the Philippines answered, alleging that the orders complained of were legal, valid, and within the jurisdiction of the Commission; that the orders of Commissioner Medina alone, Annex "C" and "E", were interlocutory and lawfully issued by him as presiding officer of the Commission. Such is also the City of Manila's answer.

The issues formulated by the pleadings are two:

- (1) Whether the Commission acted in accordance with law in suspending the effectivity of its decision;
- (2) Whether Commissioner Medina, acting alone, had authority to issue the orders Annex "C" and "E".

On the first issue, the Public Service law, in its section 83, is clear and specific:

"All orders of the Commission to continue an existing service or prescribing rates to be charged shall be immediately operative; all other orders shall become effective upon the dates specified therein."

It is manifest that the law, from which the Commission derives its powers, confers upon the Commission no discretion to suspend the effectivity of the orders, continuing existing service or prescribing rates. Otherwise, it would have added after the words "shall be immediately operative" the expression "unless the Commission provides otherwise", or some words of like import.

The Commission's lack of authority to suspend in situations like those discussed is further emphasized by section 37 of the Public Service Act, to the effect that—

"The institution of a writ of certiorari or other special remedies in the Supreme Court shall in no case supersede or stay any order, ruling, or decision of the Commission, unless the Supreme Court shall so direct, and the appellant may be required by the Supreme Court to give bond in such form and of such amount as may be deemed proper."

The express grant to the Supreme Court of the power to stay (i.e., suspend) the effectivity of a Commission order or decision, in contrast to the silence about any such power in the Commission itself, can not but lead to the conclusion that the law intended to deny to the Commission any authority to stay or suspend the immediate operation of an order or decision to continue an existing service or prescribing rates to be charged.

It is argued for the respondents that the Commission's power to suspend the operation of such orders is implied in the power to reconsider its orders, rulings or decisions. No such power can be implied where the express words and spirit of the statute are to the contrary. The Commission, as a creature of statute, can exercise only those

Powers that the latter chooses to confer upon it. At any rate, the right to reconsider its orders in no way necessitates the suspension of the effectivity of the order pending reconsideration, particularly in view of the express terms of the law.

It is, likewise, urged that the power to suspend should be considered as conferred upon the Commission because a rate order affects a very large number of people. That the operation of a public utility, and the orders regulating such operation, will necessarily affect a large number of people is a fact so obvious that it can not be presumed that the Legislature was not aware of it; and yet, as we have seen, it chose not to confer the power to suspend upon the Commission in the cases referred to. Actually, the respondent's argument amounts to contending that the lawmaker did not realize or foresee the consequences of making certain Commission rulings immediately operative. For obvious reasons, such thesis is unacceptable.

What makes the order of suspension (Annex "B") particularly invalid and obnoxious, even if the Commission had power to so direct, is that the same was issued merely upon an ex parte motion, and without giving the party adversely affected an opportunity to oppose the suspension and present its side of the question. In effect, the suspension order amounted to a denial of due process, since it is incontestable that under the decision of March 15, 1965 the petitioner acquired valuable rights, of which it was deprived without being given a chance to be heard. Being violative of the constitutional limitation, the Commission's order of suspension is invalid on its face.

Not only this: in the decision of March 15, 1965, the Commission had expressly decreed that—

"The increases hereinabove APPROVED and AUTHORIZED shall be effective from the date of this decision
* * * * *

so that the order (Annex "B"), in so far as it suspended the effectivity of the decision, was actually an amendment thereof. This Court has repeatedly ruled in previous decisions that an amendment to an order, issued without notice to, and hearing of, the prejudiced party, is illegal and in violation of the guarantee of due process, and that the guarantee can not be evaded by invoking the provision that the Public Service Commission is not bound by the rules of judicial proceedings (Halili vs. Public Service Commission, 92 Phil. 1036; Halili vs. Public Service Commission and Heras, 93 Phil., 357). That the Commission is not a court but an administrative board does not warrant its playing fast and loose with Constitutional inhibitions. The due process clause of the Constitution binds not only the government of the Republic of the Philippines but also each and every one of its branches, agencies or instrumentalities (Halili vs. P. S. C, supra). The sooner this basic principle is understood and heeded, the better for all concerned. It should not be necessary for this Court to continually reiterate such a well-established rule.

Turning now to the power of respondent Commissioner Medina to indefinitely defer consideration of the motions to reconsider and the oppositions thereto, it is well to recall the provisions of section 3 of the Public Service Act:

"* * * Provided, however, that any motion for reconsideration or non-Interlocutory order of any Commissioner or division shall be heard directly by the Commission en banc and the concurrence of at least four Commissioners shall be necessary for the promulgation of a final decision or order resolving such motion for reconsideration."

When the Solicitor General, on behalf of the oppositor Republic of the Philippines, filed its motion to reconsider the decision, Annex "A", jurisdiction to act thereon, and upon all motions of like import, vested in the Commission en banc, and respondent Medina could not act alone in the premises unless such power had been properly delegated to him. No rule or resolution containing such delegation has been brought to our attention.

However, it has become unnecessary to pursue this matter further, since the period for the filing of motions for reconsideration and those allotted for interposing oppositions thereto have long elapsed, and there is no obstacle

now to the Commission hearing the motions immediately, and to decide the same promptly, as it is specifically required to do by section 34 of the Public Service Act.

In view of the foregoing, the writs prayed for are granted, and the respondent Commission's order of March 19, 1965, suspending the effectivity of the rate increases previously authorized, is hereby declared illegal, null, and void. The respondent Public Service Commission is directed to immediately hear and promptly resolve the motions for the reconsideration of its main decision of March 15, 1965. No costs.

Bengzon, C.J., Bautista Angelo, Concepción, Paredes, Dizon, Regala, Makalintal, Bengzon, J.P., and Zddivar, JJ., concur.

Writs granted.

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