

**MANILA ELECTRIC COMPANY, PETITIONER AND APPELLANT, VS.
PASAY TRANSPORTATION CO., INC., RESPONDENT AND APPELLEE.***G.R. No. 37136. March 01, 1933*

Ponente: HULL, J.

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The Manila Electric Company operates a street car line between Manila and the neighboring town of Pasig, Rizal, which was constructed by its predecessor in interest about twenty-five years ago, and on which has been expended more than a million pesos. The respondent-appellee, the Pasay Transportation Co., Inc., purchased the right of one Salen to make one round trip daily between Montalban, Rizal, and Manila, which route ran by Pasig and Marikina. By various applications of the Public Service Commission, of which the Manila Electric Company usually was not notified, the Pasay Transportation Co., Inc., now has an approved schedule of seven round trips per day between Marikina and Montalban, and forty-two authorized round trips between Marikina and Plaza Santa Cruz, Manila, via Pasig with the right on special occasions and holidays to dispatch their autobus on a five minute schedule. Manila Electric Company believing that the Pasay Transportation Co., Inc., was engaged in unfair and illegal competition with the Manila Electric Company with special reference to the passengers from Pasig to Manila brought complaint before the Public Service Commission, in paragraph" six of which it was alleged:

"That the respondent is competing with the electric cars of the complainant in" that the auto-trucks of said respondent are carrying passengers between Pasig and Manila, and vice-versa, at a lower rate of fare than the Manila Electric Company and at a lower rate of fare than is authorized by the schedule of rates of the Pasay Transportation Co. on file with this Hon. Commission." After hearing, the Public Service Commission dismissed the complaint of the Manila Electric Company, and upon refusal of a re-hearing petitioner brings the case here for review.

The schedule of rates of the Pasay Transportation Co., Inc., approved and on file with the Public Service Commission fixes a minimum charge of one and one-half centavos per kilometer per person. Without special authority from the Public Service Commission respondent has been charging for this trip 15 centavos, while the minimum fare of the Manila Electric Company is 16 centavos before 7 a. m. and 18 centavos from 7 a. m. to midnight. Petitioner claims that the distance from Plaza Santa Cruz to Pasig (kilometer 11) is 14.5 kilometers. Respondent claims that it is only 11.5 kilometers. We have made a careful scale of the official map of which this court can take judicial notice and find that the distance is 12.19 kilometers.

Although the company admits charging a lower rate than a centavo and a half per kilometer per person, the commission says they have not encountered any proof to sustain this allegations of petitioner and that the charges of the respondent as to this portion of the line are adjusted to the authorized tariff. Our attention has not been called to where this lower rate had been authorized by the commission which should only be done after a hearing. This court does not desire to attempt to state what a fair rate would be. Too many elements enter into rate making to make it advisable for an appellate court to enter that field even if it had the legal authority so to do. Under the

Public Service Act rates are submitted by the public carriers and are subject to approval by the Public Service Commission. In fixing the rate of the bus service between Pasig and Manila the right and investments of the Manila Electric Company must be taken into consideration. Especially does equity and fair dealing require this, as the bus companies could not compete with the Manila Electric Company were it not for the construction by the Electric Company of an expensive bridge across the river at Pasig.

The virtual approval by the Public Service Commission of a 15-centavo rate by its dismissal of the complaint in this case not being reasonably sustained by the evidence must be set aside. Until after further hearing the Pasay Transportation Co., Inc., should not be permitted to charge less than 18 centavos per person from Pasig to Plaza Santa Cruz, with the right of the Public Service Commission after full hearing of all parties interested to approve a rate that will be fair and just to all concerned and which will not engender ruinous competition. Costs against appellee.

Villamor, Villa-Real, Vickers, and Imperial, JJ., concur.

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