

**MANILA YELLOW TAXICAB CO., INC., AND ACRO TAXICAB CO., INC.,
PETITIONERS AND APPELLANTS, VS. FRANCISCO JAVIER,
RESPONDENT AND APPELLEE.***G. R. No. 38190. October 26, 1932*

Ponente: MALCOLM, J.

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The question here submitted pertains to the practice which should be followed where, by certiorari or petition, application is made for the review of an order of the Public Service Commission, and specifically is as to whether the time authorized for making the application is thirty days from the date upon which the order of the commission becomes effective, not counting the time which the commission takes Before rendering an order denying the motion for a rehearing, or is thirty days from the date of notice of the order denying the motion for a rehearing. For the first time the question is squarely presented for decision, for we have found no authoritative precedent on the matter and there are no rules governing it.

The decision of the Public Service Commission in this case was served upon the parties concerned on July 29, 1932. In the last paragraph of the decision it was provided that it shall go into effect immediately and shall become final thirty days after notification. On August 22, 1932, the Manila Yellow Taxicab Co., Inc., filed a motion for a rehearing. This motion was denied on August 24, 1932, a copy of the same having been received by the petitioner on August 25, 1932. A petition for review was presented in the Supreme Court on September 21, 1932. It is thus evident that more than thirty days had elapsed after the date when the original order became effective, but that more than thirty days had not elapsed from the date when the order denying the motion for a rehearing became effective.

Section 35 of the Public Service Law, Act No. 3108, provides that "Any order made by the Commission may be reviewed on the application of any person or public service affected thereby, by certiorari in appropriate cases, or by petition, to the Supreme Court, within thirty days from the date upon which such order becomes effective, as herein provided * * *." Section 29 of the same law provides that "* * * All orders of the Commission to continue service or rates in effect at the time said order is made shall be immediately operative; all other orders shall become effective upon the date specified therein." Section 28 of the law provides that "The Commission, at any time, may order a rehearing to extend, revoke, or modify any order made by it. Once a case has been decided after the rehearing, any interested party may, if he so desires, take an appeal to the Supreme Court by following the procedure prescribed in section thirty-five of this Act, * * *." Recurring again to section 35 above cited, its concluding sentence reads: "The procedure for review, except as herein provided, shall be prescribed by rules of the Supreme Court."

We thus have before us the question conceded to be at issue, the controlling facts admitted to be such, and the applicable law to which the parties direct attention. We think there can be no uncertainty as to the correct rule to enunciate. This court has heretofore announced that an application for a rehearing and a decision thereon by the

Public Service Commission are conditions precedent to appeal to the Supreme Court (Philippine Shipowners' Association vs. Public Utility Commission [1925], 47 Phil., 489). But in this decision there was not the slightest intimation that the thirty-day period should begin to run from the date when the application for a rehearing was denied, but on the contrary it was intimated that the same practice should be followed as' in Courts of First Instance. The tenability of this result is easily demonstrable when the phraseology of section 35 of the Public Service Law is considered, for it makes the thirty-day period commence from the date upon which the order becomes effective, and the order herein became immediately effective. The Public Service Law indicates a purpose to expedite proceedings coming from the commission to the Supreme Court, and this purpose can be better effectuated by strictly limiting the time for, appeal. Of course, when a rehearing is granted, an entirely different state of affairs exists, but that is not what is now before us. As a consequence, we reach the following conclusion: The time allowed for making application to the Supreme Court for the review of an order of the Public Service Commission by certiorari or petition is thirty days from the date upon which the order becomes effective, not counting the time which the commission take? before rendering an order denying the motion for a rehearing, and is not thirty days from the date of the overruling of the application for a rehearing.

The foregoing is not all there is to the case. It has an equitable aspect. As pointed out, the question is one of first impression. Nevertheless the Public Service Law has been on the statute books for a number of years and many cases have been elevated to this court from the Public- Service Commission which, under the rule now announced, could very well have been dismissed. Under observation are two such cases, and we are made to understand that others with similar facts are on the way to this court. Should we make a rule effective immediately, it would go against accepted practice, would take by surprise parties and attorneys who have given a different interpretation to the law, and would necessitate the dismissal of a number of important cases. Since, therefore, the law appears to be susceptible to divergent interpretations, and since until this time the court has not prescribed rules of procedure for review of public utility cases, we think it only just to make the rule effective at a future date.

Summarizing the foregoing, the court announces a rule of procedure for the review of public service cases as follows: The time allowed for making application to the Supreme Court for the review of an order of the Public Service Commission by certiorari or petition is thirty days from the date upon which the order becomes effective, not counting the time which the commission takes before rendering an order denying the motion for a rehearing. This rule shall take effect on January 1, 1933.

Subject to the above observations, the motion to dismiss the petition for review of the Manila Yellow Taxicab Co., Inc., is denied.

Street, Villamor, Ostrand, Villa-Real, Hull, Vickers, Imperial, and Butte, JJ., concur.

Avanceña, C. J.: I dissent.

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