

## **M. P. TRANSPORTATION CO., INC., PETITIONER, VS. THE PUBLIC SERVICE COMMISSION AND THE MANILA RAILROAD CO., RESPONDENTS.**

*G.R. No. 40637. December 20, 1933*

Ponente: HULL, J.

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### **HULL, J.:**

An original action for certiorari with injunction. On August 26, 1933, the Manila Railroad Company filed an application with the Public Service Commission to put into effect supplement No. 7 to special tariff 254-B, which supplement provides for reduced rates on acids, chemicals, iron cables, and galvanized iron roofing between Manila and Baguio and the mines in that immediate district. The Public Service Commission, ex parte and without taking any evidence, authorized the rates to be put into effect September 4, 1933, and provided for notice and giving all persons a right to object in writing within thirty days. The M. P. Transportation Co., Inc., an operator of auto lines between Bauang and Baguio and the mines and a competitor of the Benguet Auto Line, which operates over the same territory (Benguet Auto Line is owned by the Manila Railroad Company), filed an opposition and asked that the order of August 29, allowing the so-called joint rates of September 4, 1933, be reconsidered and set aside.

This was denied by the commission on October 16, and the case was set for hearing on the merits on November 28, 1933.

This application was filed on October 21, 1933.

We believe that under paragraph (h), section 15, of Act No. 3108, the Legislature has laid down the rule that changes in rates under normal conditions should not take effect within thirty days. The commission is, however, given authority by order to permit the rates to take effect in a shorter period. To set aside the legislative period requires an affirmative act of the commission, and it would seem that due showing of the necessity of the order should be required before the commission acts. As, however, the thirty-day period expired before the filing of this case, the question is deemed academic.

The nature of the changes proposed is not set forth in this proceeding. The Public Service Commission was to have a hearing on the merits one week after this case was submitted to this, court. It must be assumed that the Public Service Commission, after hearing, will enter appropriate orders, will not approve of any change in rates that would be unremunerative or destructive, or would permit the Benguet Auto Line to engage in ruinous competition with petitioner through an unrestrained rate war. If any rights of petitioner are being adversely affected, it has a speedy remedy in a hearing before the Public Service Commission, and therefore must exhaust that remedy before coming to this court for relief.

The issue of a writ of certiorari is denied. Costs against petitioner. So ordered.

Malcolm, Villa-Real, Imperial, and Diaz, JJ., concur.

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