

SIO CHU TIAN, PETITIONER AND APPELLEE, VS. MANILA ELECTRIC CO., RESPONDENT AND APPELLANT.

G.R. No. 45353. June 27, 1938

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Upon the refusal of Sio Chu Tian to install and use, at his own expense, a wire conductor known as "B-X flexible cable" at the entrance of the electrical installation in his house at No. 761 Soler Street, Manila, for the reason that he had already an "open installation" which was approved by the chief electrician of the city, the Manila Electric Company cut his electric service connection. The case having been brought to the attention of the Public Service Commission, the latter ordered the company to restore the service, which it did, pending hearing by the commission of the complaint of Sio Chu Tian. After hearing both parties and the testimony of William Liepe, who was presented by the Manila Electric Company, and of Schoendube, chief electrician of the city, who had been called to testify by the commission, the latter rendered a decision on September 22, 1936 holding that the company had no reason nor just cause for depriving the tenants of the house at No. 761 Soler Street, Manila, of their electric light service, and that said service having been restored on order of the commission of August 21, 1936, said order was final.

This decision is now the one before us for review after the commission denied the motion for its reconsideration filed by the Manila Electric Company.

One of the regulations of the Manila Electric Company having reference to service entrance cable installations, is the following:

"* * * All service entrances must be installed in either B-X flexible cable, service entrance cable or rigid conduit, and in accordance with the National Electrical Code."

Said regulations were filed in the office of the Public Service Commission, but have not been approved by the latter.

May the Manila Electric Company demand as of right the use by an applicant for electric service, of the "B-X flexible cable", which is more expensive than the open installation?

The chief electrician of the city, Schoendube, stated that the regulations of his office do not require the use of said "B-X cables", the open installations, like that used by the appellee, being sufficient as this kind of installation securely protects the lives and property of the occupants of a house. He added, however, that the use of such "B-X flexible cables" protects the interests of the company and increases the safety of the consumer.

In view of the foregoing testimony, the commission considered the use of the said "B-X flexible cables" as desirable, but not obligatory or necessary because the main purpose of the company in compelling their use, according to the chief electrician of the city, is to protect its own interests inasmuch as theft of electric current is rampant in Manila.

The appellant contends in its brief that the Public Service Commission erred in holding unjust and unreasonable the regulation adopted by the company requiring its consumers to use the electric cables called "B-X flexible cable, service entrance or rigid conduit" in electric installations.

The commission did not make the pronouncement attributed to it by the appellant. It merely stated that it considered desirable the use of the "B-X flexible cables" and their accessories in so far as they afford greater protection to persons and their property; but it did not find that said electric cables are necessary, being of the opinion that the principal object of the company in requiring their use is to protect its interests by preventing the theft of electric current. For this reason, the commission considered it "of doubtful equity that the consumer be made to pay for said cable, since this would have the effect of shifting to him an additional item of expense which would not bring about any change in the service nor give him any additional benefit because it is the company which benefits from the use of the same by being better able to protect its interests from the theft of electric current." It, therefore, stated in the appealed decision that if the company desires the use of "B-X flexible cables" and their accessories, it may install them on its own account, without cost to the consumer. We can not see any error in these findings of the commission.

The case of Consolidated Gas, Electric Light and Power Company (PUR, page 141 [1927-B]) is analogous to the case at bar. In the State of Maryland, the City of Baltimore and the National Board of Fire Underwriters had adopted regulations which required the use of "enclosed switches" for the same purpose of protecting the company from the theft of electric current and because, as in this case, they generally afforded better protection to lives and property. Nevertheless, the Public Service Commission of said state decided that the company should install at its own expense the enclosed switches in question.

We, therefore, hold that the "open installation" system being sufficient for the safety of the life and property of the consumer of electric current and the use of "B-X flexible cable" with its accessories not being necessary to him, the Manila Electric Company can not, as of right, require their use or stop the supply of current to the consumer who refuses to use and shoulder the expense of such costly cables which, being necessary for the protection of the company from the theft of electric current, should be paid for by the company itself.

The appealed decision is affirmed, with costs against the appellant. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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