

**PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, PETITIONER,
VS. THE HON. ENRIQUE MEDINA, AS COMMISSIONER OF THE PUBLIC
SERVICE COMMISSION; TELEPHONE ENGINEERING & SERVICE
CO.**

G.R. Nos. 24340-44. July 18, 1967

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Original action for prohibition started by Philippine Long Distance Telephone Company[1] to stop Public Service Commissioner Enrique Medina from reopening and taking further proceedings in PSC Cases 61-5270, 61-5271, 61-5280, 61-2111 and 62-4169. Ground: The decision in said cases - jointly heard - had become final and executory, and the Public Service Commission[2] already "lost its jurisdiction thereon".

The cases below were:

PSC Case 61-5270 - for authority to revise PLDT rates;

PSC Case 61-5271 - for authority to increase PLDT's authorized capital from P25,000,000.00 to P60,000,000.00;

PSC Case 61-5280 - for authority to revise PLDT's rules and regulations applicable to the services being provided by PLDT;

PSC Case 61-2111 - for authority to reissue 52,000 shares of PLDT preferred stock to utilize the proceeds thereof, in financing its expansion and improvement program; and

PSC Case 62-4169 - for approval of the expansion program of PLDT at an estimated cost of P105,000,000.00.

Notice, issued and published, directed parties interested to appear at the hearing; otherwise, their right to be heard would be deemed waived.

A number of oppositors appeared. Respondent Teletronic System, Inc.[3] entered its opposition in PSC Cases 61-5270 and 62-4169.

The other principal respondents did not appear at the trial.

On July 31, 1963, after almost two years of joint public hearings, the PSC, thru Chairman Enrique Medina and two Associate Commissioners, Francisco A. Perfecto and Gregorio C. Panganiban, rendered judgment approving the expansion program subject to conditions, and the increase of rates projected in the application, but not exceeding 47% for business telephones and 40% for residential and other telephones, over and above the then existing schedule of rates, which increase "may" take effect on January 1, 1965, also subject to conditions.

On August 15, 1963, PLDT moved to reconsider. Its prayer -

- (1) To set aside the finding that PLDT has no valid franchise and authority to operate local services in Manila and suburbs, and the requirements relative to such finding;
- (2) To set aside the PSC-imposed conditions, and the rate limitations of 47% for business telephones and 40% for residential and other telephones set forth in the judgment; and
- (3) To expressly approve the applications in PSC Cases 61-5271, 61-5280, and 61-2111.

On January 9, 1964, the Commission [Commissioners Alex F. de Guzman, Josias K. Guinto, Gregorio C. Panganiban and Jose A. Fornier taking part] rendered an amended decision: (a) approving the expansion program and authorizing increase of rates by 47% for business services and 40% for residential services - both without recital of the conditions imposed in the original decision; (b) approving the applications in PSC Cases 61-5271, 61-2111 and 62-4169;^[4] and (c) granting a provisional certificate of public convenience and necessity upon the terms therein specified.

Teletronics did not appeal.

The decision of January 9, 1964 became final.

On December 28, 1964, respondents Teletronics and Telephone Engineering & Service Co.^[5] filed in Case 61-5270 and the other related cases, a petition "to suspend the effectivity of increased rates." Their theory: The conditions in the original decision of July 31, 1963 were not eliminated, expressly or impliedly, by the amending January 9, 1964 decision. Alleging that PLDT has failed to remove all faulty installations and to connect 5,000 telephones within the required period or that at least PSC records do not show compliance thereof by PLDT, Teletronics and Tesco prayed that the effectivity of the increased rates be suspended until PLDT complies.

On January 11, 1965, PLDT registered its opposition to the petition just mentioned upon the grounds that: (1) the conditions in the original decision are no longer contained in the amended January 9, 1964 decision; (2) at the time PLDT's motion to reconsider the decision was resolved (January 9, 1964), it was impossible to comply with the condition of installing telephones because the deadline therefor [December 31, 1963] had long expired; and (3) PLDT, nonetheless, did install more than 5,000 telephones and continues to do so.

On January 26, 1965, Araneta University,^[6] Teletronics and Tesco filed in said cases, a joint petition "for a reexamination of the amount of the increase in rates" to be charged by PLDT. Appearing as telephone subscribers, they allege that subsequent to the July 31, 1963 original decision "certain facts and circumstances were brought out disclosing or tending to disclose, that PLDT has acquired and/or is about to acquire, telephone equipment and material from its sister or associated companies abroad, at excessive or exorbitant prices, although the same, or compatible equipment, may be acquired from other sources, including domestic sources, at much less cost and under more favorable terms"; and that because of this, PLDT can carry out its improvement and expansion program at a lesser burden to its subscribers. They reiterated the prayer for suspension, and asked that, after hearing, the increased rates originally authorized be lowered "to a more equitable, reasonable and justifiable level."

On February 5, 1965, PLDT opposed the petition just described, because: (1) the petition seeks to revive a case which is already final and executory, and the decision thereunder has already gone into effect since January 1, 1965; (2) the petition is upon the same grounds urged by the same parties in PLDT's application [PSC Case 64-5437]^[7] for the approval of its financing agreement with Export Credits Insurance Corporation [ECIC] and are matters still pending resolution by PSC; and (3) the petition is premature, patently unmeritorious and groundless.

On February 16, 1965, PLDT moved to dismiss the petition of December 28, 1964, for the suspension of the

effectivity of rates, filed by Teletronics and Tesco. Reasons: (a) that actually, from July 1, 1963 to December 31, 1963, PLDT has installed 9,482 telephones, and from January 1 to December 31, 1964, a total of 16,776 telephones; and (b) that a similar petition filed by one Ramon G. Umali was dismissed on January 18, 1965, not merely because Umali moved to dismiss it, but also for the reason that, as PSC said, "the rate increases were authorized in a final decision on the merits on January 9, 1964, effective from January 1, 1965".

On February 22, 1965, PSC issued an order denying the motion to dismiss just recited, because it raises points evidentiary in character. PSC, however, stated that the denial is without prejudice to raising the same questions at the proper time.

PSC set the two petitions - December 28, 1964, by Telec-tronics and Tesco; and January 26, 1965, by Araneta, Teletronics and Tesco - for hearing on March 10, 1965.

On March 3, 1965, PLDT filed a motion to reconsider the February 22, 1965 order and "for immediate resolution of grounds to dismiss" Teletronics and Tesco's petition dated December 28, 1964 and the other petition of January 26, 1965, filed by Araneta, Teletronics and Tesco. PLDT claims that its motion to dismiss of February 16, 1965 is planted not only on factual averments, but also on purely legal grounds, namely, the finality of the January 9, 1964 decision, the dismissal by PSC of a similar petition (Umali's), and the elimination in said January 9, 1964 decision of the conditions imposed in the original decision of July 31, 1963.

The PSC order [signed by respondent Medina] of March 5, 1965, denying the motion for reconsideration, stated:

"The fact that the decision rendered by this Commission on July 31, 1963 as amended by the majority opinion of January 9, 1964, is final with respect to the merits of the case, does not deprive the undersigned of his supervisory powers to deter-mine whether any of the conditions imposed in said decision had been violated or ignored by the public utility concerned or whether said public utility is or is not rendering adequate, sufficient and satisfactory service.

Furthermore, Section 16 (m) of the Public Service Law gives the Commission ample powers to amend, modify or even to revoke any order or certificate of public convenience granted, whenever the circum-stances have materially changed."

This order was received by the PLDT on March 12, 1965.

Hence, the present petition for prohibition filed on March 25, 1965.

Upon respondents' separate returns to the petition, and after oral arguments and memoranda, the case for prohibition was submitted to this Court for decision.

Since then, supervening incidents occurred.

On November 7, 1966, Teletronics and Tesco moved in the PSC to dismiss their petition of December 28, 1964 to suspend the effectivity of increased rates. They state that PLDT has sub-stantially complied with the conditions prescribed in the July 31, 1963 decision, and that because PLDT has shown good faith in rendering adequate service, "the rates as authorized in the decision of July 31, 1963 as amended by that of January 9, 1964, can no longer be suspended or reexamined under the same pro-ceedings".

Thereafter [by petition which bears date of October 27, 1966], Teletronics and Tesco registered in PSC a motion to dismiss their petition of January 26, 1965 for rate reexamination, insofar as they are concerned. They there aver that the com-promise agreement filed in the case of Lozano vs. PSC, et al. (L-25979) already included "provisions regarding purchases by PLDT" of its equipment and supplies (which agreement was referred by this Court to PSC, approved by the latter on July 22, 1965, and was the basis of the dismissal by this Court of the

Lozano case). They allege that the compromise agreement "prescribed the factors to be considered and the methods to be adopted by the PLDT in making purchases of equipment and supplies, including provisions for competitive bidding therein specified." Movants then believed that the rate reexamination proceedings have become moot, and felt satisfied that public interest has been served.

On November 18, 1966, PSC issued an order, which reads: "Upon motion of counsel for the petitioners, without objection on the part of the respondent, the petition filed in this case is considered withdrawn and the case dismissed without prejudice".[8]

With the foregoing backdrop, we grapple with the problems posited by the prohibition case now before us.

1. Forefront amongst these is Araneta's insistence that PSC suspend the effectivity of PLDT rates. The theory relied upon is that the conditions in the July 31, 1963 decision have not yet been met.

Tersely stated, the key question is this: Are the conditions in the July 31, 1963 original decision taken away by the January 9, 1964 amended decision?

This requires but a comparison of the two decisions. So comparing, it will not be difficult to arrive at the conclusion that the conditions previously imposed are no longer tacked to the amended decision.

To fully project the marked difference between the two PSC decisions, we set them out in parallel columns:

Original Judgment of

July 31, 1963

"FOR ALL THE FOREGOING CONSIDERATIONS,

the Commission:

(1) HEREBY APPROVES AND AUTHORIZES the expansion Program proposed by applicant PLDT as projected in Exhibits F, F-1, F-2, F-3, F-3-S and other pertinent exhibits, subject to the express condition (a) that a legislative or municipal franchise be obtained, within the period of one (1) year from the date of this decision, permitting and authorizing the PLDT to construct, maintain and operate a local telephone system; and (b) that within the same period of one (1) year, a certificate of a public convenience and necessity be obtained from the Public Service Commission for said purpose;

(2) HEREBY APPROVES AND AUTHORIZES the increase of rates projected in the application but must not exceed forty-seven percent (47%) for business telephones including PBX and PABX services and forty (40%) for residential and other services, over and above the schedule of rates authorized by the PSC in its decision of September 1, 1950 in Case No. 16533; the new rates herein authorized may take effect from January 1, 1965, subject to the following conditions;

(a) PLDT must first obtain a valid and subsisting legislative or municipal franchise and/or a valid and subsisting certificate of public convenience and necessity from the Public Service Commission before enforcing said schedule of rates.

(b) PLDT must show its good faith and its willingness to render an efficient, adequate and satisfactory service by removing all faulty installations, improving its present inadequate and unsatisfactory service and making good its promise to connect not less than five thousand (5,000) new tele-phones from July 1, 1963 to the end of the year, and ten thousand (10,000) new tele-phones from January 1 to December 31, 1965 and be able to meet in full all applications for new installations and/or transfers after 1965. As 1964 will be a year' of work due to PLDT's expansion and reconstruction program, the number of new telephones to be installed during said year will depend on the work and circumstances of each individual application.

(c) In order to avoid complaints of favoritism and/or suspicions of discrimination or that the new telephone connections or transfers are effected for money consideration, all telephone connections and/or transfers after the receipt of this decision shall be undertaken only upon prior approval of the Public Service Commission. [9]

x x x"

Amended Judgment of

January 9, 1964

"FOR ALL THE FOREGOING CONSIDERATIONS, we hereby dated July 31, 1963 as penned by the Hon. Enrique Medina, and the Commission:

(1) HEREBY APPROVES AND AUTHORIZES the expansion and improvement program proposed by the applicant PLDT as projected in Exhibits F, F-1, F-2, F-3, to F-3-S and other pertinent exhibits;

(2) HEREBY APPROVES AND AUTHORIZES the increase of rates by forty seven percent (47%) for business services, including PBX and PABX services and forty (40%) for residential services, over and above the schedule of rates authorized by the Commission in its decision of September 1, 1950 in Case No. 16533; the new rates to take effect from January 1, 1965;

(3) HEREBY APPROVES PLDT's applications docketed as PSC Cases Nos. 61-5271, 61-2111, and 62-4169;

(4) HEREBY GRANTS a Provisional Certificate of Public Convenience and Necessity to the applicant, to operate and maintain its present telephone plant and facilities in the City of Manila and Suburbs and to add thereto the facilities and equipment specified in Exhs. F, F-1, F-2, F-3, F-3-S and other pertinent exhibits; said provisional certificate is valid until December 31, 1964 pending formal application by the PLDT for a certificate in accordance with and subject to the applicable terms and conditions specified in Act 3436, as amended by Commonwealth Act 407; and

(5) HEREBY MODIFIES AND AMENDS the decision of the Commission dated July 31, 1963 accordingly."

And then, as we retrace the proceedings below, we find that the thrust of petitioner's motion to reconsider the decision of July 31, 1963, is precisely to eliminate the conditions therein which, for emphasis, we have just underscored. Those conditions were deleted in the amended decision of January 9, 1964. Decisive of PSC's intent to eliminate them, is the fact that, whereas the original decision provides that "the new rates [not to exceed 47% and 40%) herein authorized may take effect from January 1, 1965, subject to the following conditions", the amended decision made a specific pronouncement for "the new rates [definitely fixed at 47% and 40%) to take effect from January 1, 1965". The plain import of the phrase "to take effect" is that no obstacle stands in the way of rate effectivity, no condition precedent is exacted of PLDT to enable it to implement the rates.

True it is that in the first portion of the amendatory decision of January 9, 1964 the Commissioners stated that they "hereby maintain with minor modifications, the decision dated July 31, 1963". The term "minor modifications" could yet be the subject of guesswork, conjecture. But we need not shake meaning from this. For, that same amendatory decision concludes with the emphatic statement that the same "(5) HEREBY MODIFIES AND AMENDS the decision of the Commission dated July 31, 1963 accordingly". This consideration is convincing enough to warrant a conclusion that the new decision supplants the old.

A striking fact is that the amendments in the new decision are not piddling; they are meaningful, important. In writing out a new dispositive portion, the Commissioners could not have simply deleted the conditions in the old, if their intention was to reincorporate them. The absence therein of those conditions forecloses a speculative approach to the intent and meaning of the amended decision. Virtually crossed out, such conditions cannot now be scissored from the original decision and pasted to the amended.

We rule that the amended judgment on the merits - January 9, 1964 - is the final repository of the conclusions reached by the Public Service Commission, is meant to replace that of July 31, 1963,[10] and that, accordingly, the conditions required in the original decision of July 31, 1963 were eliminated from the amended decision of January 9, 1964.

2. Our attention, however, was drawn to a Memorandum dated February 22, 1965 - more than one year after the amended decision of January 9, 1964 - textually reproduced as follows:

"REPUBLIC OF THE PHILIPPINES

MANILA

IN THE PUBLIC SERVICE COMMISSION

February 22, 1965

MEMORANDUM

To Serve as Guide -

Gentlemen:

In a decision dated July 31, 1963, Commissioners Perfecto, Panganiban and myself, among other things said:

(a) that the PLDT must connect not less than 5,000 new telephones in 1963, and 10,000 in 1965;

(b) and in order to avoid discrimination, all new telephone connections or transfers should be undertaken only upon prior approval of the Public Service Commission;

(c) furthermore, PLDT was ordered to show cause why the penalties provided by the law for operating without first obtaining a certificate of public convenience should not be imposed.

For the guidance of my office, I want to know your opinion whether or not in the order granting the motion for reconsideration, you intended to reconsider or remove such requirements or you consider them in force until now.

(Sgd.) ENRIQUE MEDINA

Commissioner

The order granting the reconsideration did not discuss said three (3) points because we did not intend to reconsider or to remove them from the final order.

Hence, they should be enforced and PLDT com-pelled to adhere to said three requirements.

(Sgd.) JOSIAS K. GUINTO (Sgd.) FRANCISCO A. PERFECTO

Associate Commissioner Associate Commissioner

(Sgd.) ALEX F. DE GUZMAN (Sgd.) GREGORIO C. PANGANIBAN

Associate Commissioner Associate Commissioner

(Sgd.) JOSE A. FORNIER

Associate Commissioner"

We note that this Memorandum of February 22, 1965 - to serve as guide - was written at a time when the amended decision of January 9, 1964 had long become final. If for this fact alone, we are wholly unprepared, at

this late date, to lend an attentive ear to the opinion expressed in that memorandum.

More to this. Said memorandum does not partake of the nature of a nunc pro tunc order.[11] The language of a decision should suffice to give the meaning the decision-makers intend to convey. A fair notion of justice will not permit a material elaboration of a decision - which has become final - by the authors thereof. We are to be guided solely by the decision, as it is written.

What could prevent another set of Commissioners from appending another opinion as to the meaning of the amended decision, written in so clear a language? Were this to be allowed, instability of written opinions results. And, judges may bandy their judgments about from time to time, recast them as they please. The baneful effect is that a decision in terminated proceedings becomes subject to the winds of change; a decision, whose main purpose is to end contro-versies, can instead ignite other needless lawsuits. So basic is our respect for final judgments that no further amendments or corrections of substance - not merely clerical errors, misprisions or omissions - may be authorized, no matter how flagrant and glaring they may be. A judgment long final, cannot be made to speak a different language. Illuminating is the following lifted from *II Moran, Rules of Court, 1963 ed.*, pp. 197-198:[12]

"x x x The general power to correct clerical errors and omissions does not authorize the court to repair its own inaction, to make the record and judgment say what the court did not adjudge, although it had a clear right to do so. The court cannot, under the guise of correcting its record put upon it an order or judgment it never made or rendered, or add some-thing to either which was not originally included although it might - and should have so ordered and adjudged in the first instance. It cannot thus repair its own laches and omissions to do what it could legally and properly have done at the right time. A court's mistake in leaving out of its decision something which it ought to have put in, and something in issue of which it intended but failed to dispose, is a judicial error, not a mere clerical misprision, and cannot be corrected by adding to the entered judgment the omitted matter on the theory of making the entry conform to the actual judgment entered".

Indeed, there is no need to expand on the meaning of the amended decision herein. Its language, we repeat, is plain. What was granted, was expressly set forth therein. To assure stability of judgments, they must be taken at their face value. Words employed therein are to be construed as any right thinking reader would accept them as their meaning. Writers of opinions should make sure that they say what they mean. From them, precision is not merely desired. It is demanded. Because, if later on they would want to turn out meanings distinct from what was unambiguously written, the law will stop them, disauthorize them to take back what has already been said, or substitute another, or add new material matter thereto.

It is in this context that we hold that the memorandum heretofore transcribed, is null and void, without force and effect, and did not operate to vary the terms of the amended judgment. And, PSC may not suspend the rates thus fixed.[13]

Prohibition to stop proceedings for the suspension of rates is the remedy.

3. Araneta seeks reexamination of the rates approved by the Commission. Araneta avers that PLDT can carry out its improvement and expansion program at less onerous terms to the subscribers.

But Araneta [University] was not a party to the rate-fixing case or to any of the other proceedings below. These rate-fixing and allied cases terminated with the final judgment of January 9, 1964. Not being a party, it could not have moved to reconsider said decision.[14] Nor could it have appealed from that decision - it had no standing in that case.[15] Even if we treat Araneta's reexamination petition as one for reconsideration, the time therefor has long passed.[16]

4. On top of all these is the fact that the amended judgment has reached the stage of finality before Araneta sought re-examination of rates.[17]

On this point, it may be well to take a look at the historical background of the present statute. The old Public Service Law, Public Act 3108, provides in Section 28 thereof, that the Public Service Commission "at any time, may order a rehearing to extend, revoke, or modify any order made by it". An examination of jurisprudence under the legal provisions just cited is quite revealing. This Court has held that "[f]inality must be written on Public Service Commission cases just as public policy demands that it be written on judicial controversies".[18] That was later clarified by this Court to mean that "once a question has been definitely decided and the decision has become final, that same question cannot again be raised between the same parties".[19] And in another case, we made it abundantly clear that: "Public interest requires that proceedings already terminated should not be altered at every step. The rule of non *quieta movere* prescribes that what has already been terminated should not be disturbed".[20] As a corollary, a record of a case once closed, should not be reopened to permit presentation of evidence which could have been offered before the close of the record.[21]

That final judgments of PSC should command respect is well-exemplified in the present case. Here, PLDT has entered into financial arrangements in no small amounts for the expansion of its telephone service. And this, in natural reliance upon a final decision. Paraphrasing the language of this Court in *Ariaga vs. Javellana*, 92 Phil. 330, 338, to uproot the decision, suspend the rates, and return PLDT's position to where it was before the cases herein involved were decided, "would be most unfair and unjust as it would be tantamount to ignoring the big investment already made" by PLDT and "would be tantamount to a punishment" which PLDT "does not deserve". Serious consequences that might ensue from a contrary rule, are not difficult to perceive. The flow of operations may be disturbed. The program of expansion may suffer from a bottleneck. Inefficiency or inadequacy of service may result. Oppositors to a given final decision, may yet constitute a wrecking crew of a public utility company. They may even bring about its financial ruin. In the end, the consumers are prejudiced.

5. We are not to deny the power of the Public Service Commission to amend, modify or revoke or establish rates in lieu of those set forth in the final decision. The statute on this point, is quite clear. Sections 16 [c] and [m], and 20 of the Public Service Act amply justify such power. These statutory precepts read:

"SEC. 16. Proceedings of the Commission, upon notice and hearing. - The Commission shall have power, upon proper notice and hearing in accordance with the rules and provisions of this Act, subject to the limitations and exceptions mentioned and saving provisions to the contrary:

x x x

(c) To fix and determine individual or joint rates, tolls, charges, classifications or schedules thereof, as well as commutation, mileage, kilometrage, and other special rates which shall be imposed, observed, and followed thereafter by any public service: Provided, That the Commission may, in its discretion, approve rates proposed by public services provisionally and without necessity of any hearing; but it shall call a hearing thereon within thirty days thereafter, upon publication and notice to the concerns operating in the territory affected: x x x.

x x x

(m) To amend, modify or revoke at any time any certificate issued under the provisions of this Act, whenever the facts and circumstances on the strength of which said certificate was issued have been mis-represented or materially changed.

x x x

SEC. 20. Acts requiring the approval of the Commission. - Subject to established limitations and exceptions and saving provisions to the contrary, it shall be unlawful for any public service or for the owner, lessee or operator thereof, without the approval and authorization of the Commission previously had -

(a) To adopt, establish, fix, impose, maintain, collect or carry into effect any individual or joint rates,

commutation, mileage or other special rate, toll, fare, charge, classification or itinerary. The Commission shall approve only those that are just and reasonable and not any that are unjustly discriminatory or unduly preferential, only upon reasonable notice to the public services and other parties concerned, giving them a reasonable opportunity to be heard, and the burden of the proof to show that the proposed rates or regulations are just and reasonable shall be upon the public service proposing the same.[22]

X X X

The reexamination herein sought by Araneta, perforce seeks the fixing of new and different rates.

We part from the premise that, by reason of the final judgment of January 9, 1964, the current rates are being enforced. These rates were arrived at after PSC had considered the factors in rate-making, following a protracted hearing. These rates are meant to be in force not for a day or a week. We are quite certain that said rates were fixed in the expectation that they are to stay till conditions warrant a change.

Now to change once more the recently changed rates, a number of elements need again be considered. The new rates to be fixed should allow PLDT to economically and efficiently manage its business, such that its revenues adequately meet its operating expenses and fixed charges; should afford it a fair return upon its capital; should give it sufficient leeway to maintain and support its credit and enable it to raise money necessary for the proper discharge of its public duty.[23]

Upon the other hand, the party primarily interested in an adequate and efficient service is the public, the persons to use and pay for the service. Such service does not necessarily mean reduced rates. It could be quite the contrary. So it is, that, at bottom, a just rate must be founded upon conditions which are fair and reasonable both to the public utility and the public itself.[24]

Stated in another way, it is not merely PLDT, not merely Araneta, but the consuming public as a whole, who stand to be affected by any change of rate Araneta now proposes.

6. Araneta, in effect, institutes a fresh petition - for new rates, different from those already established. Such petition is a proceeding separate and distinct from those concluded by the final judgment of PSC of January 9, 1964. The records of the finished cases are closed. Consequently, Araneta's petition for new rates should be instituted as a new proceeding. This is but consistent with orderly procedure. And such a step is proper, if only to avoid confusion, promote expediency, and canalize attention to the substance of the new petition for change of existing rates. It has been truly said that "[w]here the matters involved can be made the subject of new proceedings, the dismissal of a petition for rehearing decides nothing adversely to the petitioner".[25]

We, accordingly, hold that to reexamine the existing rates for telephone services charged by petitioner, a new case must be filed under separate docket in the Public Service Commission.

7. It thus becomes necessary that, for Araneta's petition to be cognizable, opportunity must be afforded the consumers to have a say on the merits of the petition, the public utility to object to the same, and the competitors to protect their interests.[26] It is for this reason that the law (Secs. 16 and 20, Public Service Act) has appropriately provided that in a rate-fixing case, proper or reasonable notice be given. The familiar method of notice by publication must be complied with. This is not to say that the Public Service Commission is restricted by this manner of issuing notice. In addition, other forms of notice may, in the Commission's discretion, be required. And this, to the end that all parties to public utility rate proceedings receive reasonable notice thereof to enable them to prepare and present their respective sides in the controversy.[27]

We hold that the Public Service Commission may not reduce or increase rates established in a judgment that has become final, without proper notice; and that a Commission order reducing or increasing said rates without such

notice is void.[28]

8. As we look in retrospect at Araneta's petition for reexamination, we find: (1) that Araneta was not a party to the original proceedings below and has no standing therein; (2) that it was belatedly filed in those cases which are closed; (3) that no provision was made for bringing in as parties thereto PLDT's competitors; and (4) that the public - the subscribers most concerned - were not appropriately notified. These are compelling reasons which justify this Court to hold that the Public Service Commission did not acquire jurisdiction to entertain and hear the petition aforesaid.

Prohibition again is the proper remedy.

9. One last question remains: Was the petition for prohibition prematurely filed before this Court?

It is well to recall here that on February 16, 1965, petitioner filed a motion to dismiss the petition for suspension of rates. This motion was planted, inter alia, upon the ground that the judgment increasing rates was final. The Commission overruled said motion on February 22, 1965. Petitioner's motion to reconsider dated March 3, 1965 suffered the same fate. Respondent Medina's resolution of March 5, 1965 on this point invoked the Commission's power, on mere motion, "to amend, modify or even to revoke any order" of the Commission - in the same proceedings where the rates were fixed - in spite of the fact that such order has acquired the status of finality. On the question of the Commission's power, respondent Commissioner stood firm; he confirmed his stand in his return to the present petition for prohibition before this Court.

Coming now to the petition for reexamination of rates. Here, as in the petition for suspension, petitioner urged in its opposition that reexamination could not be had in the same proceedings for the reason, amongst others, that judgment thereon had become final. What is more, in the motion of March 3, 1965 referred to in the preceding paragraph, PLDT also sought "immediate resolution of grounds to dismiss" both the suspension and reexamination petitions. The order of March 5, as aforesaid, shunted aside this motion, instead set the petitions for hearing. Since the issue of the Commission's power was thus squarely met and decided by respondent Commissioner, there is no necessity to reopen that question.[29]

In the circumstances, to require petitioner to further press the dismissal of the petition for reexamination of rates, would be but an act of supererogation. Surely enough, the law does not exact useless ceremony.

Prohibition is proper.

For the reasons given, the prayer for prohibition is granted, the corresponding writ will issue, and respondent Enrique Medina, Commissioner of the Public Service Commission, is hereby ordered to desist from further hearing Araneta University's petition herein involved for suspension and reexamination of rates, as filed in PSC Cases Nos. 61-5270, 61-5271, 61-5280, 61-2111, 62-4169.

No costs allowed.

SO ORDERED.

Reyes, JBL, Makalintal, Bengzon, Zaldivar, Ruiz Castro and Angeles and JJ., concur.

Concepcion, C.J., and Dizon, J, on leave, took no part.

Fernando, J., did not take part.

[1] Hereinafter referred to as PLDT.

[2] Hereinafter called PSC.

[3] Hereinafter referred to as Teletronics.

[4] PSC Case 62-4169 is the application for approval of PLDT's expansion program, which was already granted in the original decision and expressly reiterated in the first portion of the amended decision. What PLDT prayed to be expressly approved, but was omitted, was PSC Case 61-5280, its application for authority to revise its rules and regulations.

[5] Hereinafter referred to as Tesco.

[6] Hereinafter referred to as Araneta.

[7] This case is not one of those herein involved.

[8] It would seem that the words "the petition filed in this case" are intended to refer to the petitions for suspension and re-examination insofar as Teletronics and Tesco are concerned. The rate suspension and reexamination questions remain, because Araneta has not withdrawn its petition.

[9] Underscoring ours.

[10] *Magdalena Estate, Inc. vs. Caluag*, L-16250, June 30, 1964.

[11] "We do not think that the action suggested would be legally justified. It would entail a substantial amendment of the decision of June 23, 1959, which has long become final and in fact partially executed. A decision which has become final and executory can no longer be amended or corrected by the court except for clerical errors or mistakes, and however erroneous it may be, cannot be disobeyed; otherwise litigations would be endless and no questions could be considered finally settled. The amend-ment sought by appellant involves not merely clerical errors but the very substance of the controversy. And it cannot be accomplished by the issuance of a 'nunc pro tunc' order such as that sought in this case. The purpose of an order 'nunc pro tunc' is to make a present record of an order which the court made at a previous term, but which was not then recorded. It can only be made when the thing ordered has previously been made, but by inadvertence has not been entered. In the instant case there was no order previously made by the court and therefore there is nothing now to be recorded." *Maramba vs. Lozano*, L-21533, June 29, 1967.

[12] Citing *Robles vs. Timario*, L-13911, April 28, 1960; *Ablaza vs. Sycip*, L-12125, November 23, 1960; *Macasantos vs. Fermin*, L-13726, May 31, 1961. See: *Daquis vs. Bustos*, 94 Phil. 913, 917; *Galvez vs. PLDT*, L-16370, October 31, 1961. See also: *I Freeman on Judgments*, 5th ed., pp. 269-274.

[13] "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 [in Section 33, Public Service Act] after the words 'shall be immediately operative', the expression 'unless the Commission provides otherwise', or some words of like import." *Manila Electric Co. vs. Medina*, L-24406, June 29, 1965.

[14] *Del Rosario vs. Vergara*, L-11643, April 28, 1958.

[15] *Lirio vs. Philippine Power and Development Co.*, 89 Phil. 504, 507-508.

[16] Section 34, Public Service Act, reads:

"SEC. 34. Any interested party may request the reconsideration of any order, ruling, or decision of the Commission by means of a petition filed not later than fifteen days after the date of the notice of the order, ruling or decision in question. The grounds on which the request for reconsideration is based shall be clearly and specifically stated in the petition. Copies of said petition shall be served on all parties interested in the matter. It

shall be the duty of the Commission to call a hearing on said petition immediately, with notice to the parties, and after hearing to decide the same promptly, either denying the petition or revoking or modifying the order, ruling or decision under consideration".

[17] Section 1, Rule 44, Rules of Court, reads:

"SEC. 1. How appeal taken. - An appeal from a final award, order or decision of the Public Service Commission, the Patent Office, the Agricultural Inventions Board, the Court of Tax Appeals, and the General Auditing Office, shall be perfected by filing with said bodies a notice of appeal and with the Supreme Court twelve (12) copies of a petition for review of the award, order or ruling complained of, within a period of thirty (30) days from notice of such award, order or decision".

[18] Manila Electric Co. vs. PSC, 61 Phil. 456, 458, citing Philippine Shipowners' Association vs. Cui, 48 Phil. 377; Napa Valley Electric Co. vs. Railroad Coms., 251 U.S. 366.

[19] Manila Electric Co. vs. PSC, 63 Phil. 107, 111.

[20] Espiritu vs. San Miguel Brewery, 63 Phil. 615, 618.

[21] Pennsylvania Public Utility Commission vs. The Peoples Natural Gas Company, 55 FUR (N.S) 214, 215, citing Public Utility Commission vs. Edison Light & P. Co., [1941] 22 Pa PUC 774, 41 PUR (N.S.) 41.

[22] Underscoring supplied.

[23] Bluefield Water Works vs. Public Service Commission, 262 U.S. 679, 692-693, 67 L. ed. 1176, 1182-1183. See also: In re Gassaway Development Co., PUR 1915 D, 551, 554; Re Huntington Water Corporation, PUR 1922 C, 636, 642; C. H. Meade Coal Co. vs. Appalachian Power Co., PUR 1923 E, 221, 226; Re United Fuel Gas Co., PUR 1925 B, 705, 741.

[24] Ynchausti Steamship Co. vs. Public Utility Commissioner, 42 Phil. 621, 624, 631.

[25] Pennsylvania Public Utility Commission vs. The Peoples Natural Gas Company, supra, citing Pittsburgh vs. Public Utility Commission, [1941] 145 Pa Super Ct 580, 40 PUR (N.S.) 191, 20 A (2d) 869.

[26] Manila Railroad Co. vs. A. L. Ammen Transportation Co., Inc., 48 Phil. 900, 906; Vigan Electric Light Co., Inc. vs. Public Service Commission, L-19850, January 30, 1964.

[27] Re Montana-Dakota Utilities Company, 31 PUR (N.S.) 229, 235.

[28] "A Commission order reducing rates without the statutory notice and hearing is void notwithstanding the provisions of a former rate order reserving jurisdiction to issue further orders upon the evidence in the record or upon such evidence and supplementary evidence as may be added thereto". Southern Bell Telephone & Telegraph Company vs. Alabama Public Service Commission, 8 PUR (N.S.) 165, at headnote 2.

[29] Municipal Council of Masantol vs. Guevara, 44 Phil. 580, 587.

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