

A. L. AMMEN TRANSPORTATION CO., INC., PETITIONER, VS. PUBLIC SERVICE COMMISSION, RESPONDENT.

G.R. Nos. 40264, 40265. October 20, 1933

Ponente: HULL, J.

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HULL, J.:

Application for a writ of certiorari to review the orders of the Public Service Commission charging certificate fees alleged to be due under section 27, Act No. 3108, as amended by Act No. 3418.

The petitioner is the holder of several certificates of public convenience and necessity and is engaged as an operator of auto-trucks in several provinces of these Islands. In the course of business and in accordance with the rules of the Public Service Commission, whenever operators decide to substitute a new truck for one that has become old and unserviceable, they make a request to the Public Service Commission to authorize the change, and the commission by order grants their request. Heretofore, the commission has been charging each operator the same fee for the issuance of such an order as it would for the issuance of a new certificate of public convenience and necessity and predicates its action on 27 (b), which reads:

"SEC. 27. For services rendered or documents issued the Commission is hereby authorized and ordered to collect from any public service the following fixed fees:

* * * * *

"(b) For each certificate of public convenience covering the operation of a motor vehicle:

"(1) For each three-ton auto-truck, twenty pesos;

"(2) For each two-ton auto-truck, fifteen pesos;

"(3) For each one-ton auto-truck, ten pesos;

"(4) For each automobile or auto-truck of less than one-ton, five pesos."

One of the orders brought in question by these proceedings is case No. 20483 of the Public Service Commission in which the operator desired to substitute 30 1½ ton or 1 1/3 ton trucks for 30 old one-ton trucks and for which the Public Service Commission desired to charge P300 for its approval order.

The charges to be made by the Public Service Commission were not left to its discretion but were fixed by the Legislature in statute laws. The statute above quoted is clear and precise and section [paragraph] (b) does not cover charges as herein made by the Public Service Commission.

The Public Service Commission in its answer raises the question that petitioner was improperly here, as he did not formally ask for reconsideration of the orders of August 16, 1933. The record shows that the charge was made on May 20, 1931, that a reconsideration was asked on July 20, 1931, that petitioner wrote again on January 26, 1933, that after considerable correspondence, the commission again notified petitioner of the holding of the commission

by a letter dated July 10, 1933, that the order of August 16, 1933, was after a conference and hearing on the request of the petitioner on the 8th of August, 1933.

Instead of one application for rehearing, there have been three or four applications, and a further application for rehearing is deemed unnecessary.

We therefore hold that petitioner is properly here and that the charges in question set up against petitioner by the Public Service Commission are without authority of law.

The writ must therefore be granted. Costs de oficio. So ordered.

Avanceña, C. J., Malcolm, Villa-Real, and Imperial, JJ., concur.

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