

MANILA ELECTRIC COMPANY, PETITIONER AND APPELLANT, VS. M. R. MATEO, RESPONDENT AND APPELLEE.*G.R. Nos. 45455, 45456. July 21, 1938*

Ponente: DIAZ, J.

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Petitioner and respondent were applicant and oppositor, respectively, in case No. 47456, and vice versa, in case No. 41245, both of the Public Service Commission. In the latter case respondent petitioned that he be permitted to extend his present line from its terminus at the Divisoria Market to Arroceros Street in the City of Manila, passing through Santo Cristo, Marcelino de Santos, Elcano, Urbiztondo, Barraca, and Dasmariñas streets and Plaza Lawton, without charging any additional fare therefor, but only for the purpose of enabling his autotrucks to bring to that place the persons utilizing the same from their points of departure in Navotas and Malabon, and not from any of those included in the line of petitioner, outside of Navotas and Malabon, in which respondent is not allowed to take passengers. In the first case (No. 47456) petitioner in turn asked that it be allowed to extend its line from the church of San Bartolome, in the municipality of Malabon, Rizal, to Concepcion Street, of the same municipality, passing through General Luna Street, without also charging any additional fare, so as to avoid the necessity on the part of its passengers to negotiate on foot or in carretelas the short distance between said two points to board its buses every time they desire to go to any of the points within its line. Petitioner opposed the application of the respondent and the latter that of the former, each alleging that the granting of the other's petition would amount to establishing an unfair competition and that there is no necessity for the extension of the other's line because that maintained by one or the other is sufficient and adequate to meet the public need. Petitioner further alleged that respondent has been constantly violating the terms of his certificate of public convenience, and that for this reason, instead of granting the petition, his certificate of public convenience should be cancelled.

After trial in which the parties adduced their respective evidence, the Public Service Commission decided the questions raised in the two cases aforesaid at the same time in only one decision, favorably acting on the application of respondent, and overruling petitioner's opposition upon considering that the public would benefit from the additional service proposed by the former. The application of said petitioner in case No. 47456 was denied for the reason that, there being already a transportation service—that of the respondent, which is also satisfactory and adequate—in the territory to which it desired to extend its line, no need exists for authorizing the creation of another and additional line. Not satisfied with the decision of the commission, petitioner interposed an appeal to have the same reviewed and, in its brief, now alleges that the commission erred:

- In granting respondent's application in terms distinct from those alleged therein;
- In denying petitioner's application after finding that there is need for a direct autotruck service between the municipalities of Malabon and Navotas on one hand, and other points in Manila outside of Divisoria Market, on the other.
- The purpose of respondent in filing his application that he be permitted to extend his line to Arroceros Street in

the City of Manila is, as the Public Service Commission has found, to satisfy the need and convenience of his passengers who, coming from Malabon and Navotas in Rizal Province from which' his present line begins, must reach the offices where they work or transact business as the Philippine Constabulary, Bureau of Lands, Bazaar Siglo XX, Bureau of Posts, Bureau of Public Works, Bureau of Civil Service, and the Legislature.

Petitioner, as the commission has likewise held, seeks to extend its line to Concepcion Street in the municipality of Malabon, passing through that of General Luna, for the purpose of taking passengers in said places, thus giving rise to a needless and unfair competition with the respondent, for the reason that the latter's service extends to and passes through said places and is sufficient and adequate. The record does not furnish any evidence sufficiently indicative that the decision of the commission is without basis. The evidence which said commission had before it justifies, on the contrary, its conclusion that the service which respondent has been rendering in his line which includes the portion in which petitioner desires to establish an additional service is satisfactorily and adequate. Although said service may be inadequate (surely the commission did not find it so), the remedy does not lie in awarding a new service to another, but in requiring respondent to improve his and to comply strictly with the terms and conditions of his certificate. And this can be easily done by means of an administrative action on the part of the commission. No reason exists for altering the rule which has so far been observed, that while one who is engaged in the business of a common land carrier and holds a certificate of public convenience for that purpose, observes and complies with the terms and conditions of his certificate and the rules promulgated by the commission, he should be protected in said business and no one should be allowed to disturb him or to compete with him therein, when there is no necessity therefor; and that before a certificate issue to another desiring to engage in the same business, the one who has already an established business should be given an opportunity to improve his service if the same were not sufficient or adequate (*Bohol Land Transportation Co. vs. Jureidini*, 53 Phil., 560; *Batangas Transportation Co. vs. Orlanes*, 52 Phil., 455; *Javier vs. Orlanes*, 53 Phil., 468).

- Petitioner's contention that the commission granted more than what respondent prayed for in his application has no basis. Respondent distinctly asked that he be permitted to extend his line from Divisoria Market where it ends at present, to Arroceros Street, passing through the streets above named, so that his buses may bring up to that place passengers taken in Malabon, Navotas and Obando, and not in any part of the territory of the petitioner, without charging any additional fare, and only between the hours of six and eight in the morning and between four and six in the afternoon, which coincide with the entrance and departure of office employees. The commission granted exactly what he prayed for, but with the condition annexed that he would not pick up any passengers at any point between Divisoria market and Arroceros Street.

- As to the second error attributed by the petitioner to the commission, we find the same not more meritorious than the first, because even if there is need for a direct autobus service from Malabon and Navotas to Arroceros Street in the City of Manila, it does not mean that petitioner in desiring to extend its line from the San Bartolome church of Malabon, to Concepcion Street in said municipality so as to take passengers for Manila, his purpose or the effect of such service, if he secured the same, is not to invade the territory which respondent has occupied for many years, and not as he pleases, but under the condition that he would not pick up passengers on the road between Navotas and Malabon and Divisoria Market or Arroceros Street. Under its present certificate, petitioner may pick up and drop passengers at any point between Malabon and Manila, charging the corresponding fare therefor, while respondent is not allowed to do so.

In view of all the foregoing, and finding no error in the decision of the Public Service Commission and considering further that we should not, as we can not, substitute the discretion or opinion of the commission with our own if the same is in any manner supported by the evidence as it is in the two cases under discussion (*Mejica vs. Public Utility Commission*, 49 Phil., 774; *San Miguel Brewery vs. Lapid*, 53 Phil., 539), the decision appealed

from is hereby affirmed and petitioner's application dismissed, with costs against petitioner. So ordered.

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

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