

BEFORE THE PUBLIC UTILITIES COMMISSION

**In the matter of the Public Utilities
Commission Act 1990 (No. 26 of
1990), as amended,**

- and -

**In the matter of the claim for
compensation by Guyana
Refrigerators Limited against the
Guyana Electricity Corporation.**

PRESENT –

| | | |
|-------------------------|---|----------|
| PAMADATH J. MENON, A.A. | - | Chairman |
| L.J.P. WILLEMS, A.A. | - | Member |
| HUGH GEORGE | - | Member |
| CHANDRABALLI BISHESWAR | - | Member |
| BADRIE PERSAUD | - | Member |

REPRESENTATION

| | | |
|--------------------------------|---|----------------------------|
| Guyana Refrigerators Limited | - | Mr. C.A. Nigel Hughes |
| Guyana Electricity Corporation | - | Mr. Kaisree S. Chatterpaul |

The above mentioned matter was heard at public hearings on the 30th June, 21st July, 29th July, 4th August, 27th October, 26th November and 9th December, 1998. Written arguments were submitted by Attorney-at-Law Mr. C.A. Nigel Hughes on behalf of the claimant and Attorney-at-Law Mr. Kaisree S. Chatterpaul on behalf of the Guyana Electricity Corporation (GEC).

Decision

On the 24th October, 1996 Mr. M.A. Brassington, Managing Director of Guyana Refrigerators Limited (“Claimant Company”) wrote to this Commission as follows:-

“MAB:as/GRL

24th October, 1996

The Secretary,
Public Utilities Commission,
Public Buildings,
Georgetown

Dear Sir,

For many years now we have had to repair refrigerators and freezers under our three year warranty as a result of the failure of the compressors due to power surges and extremely low voltage. We have been trying to get the Guyana Electricity Corporation to introduce a system for handling these failures which are very costly to us. The Company has suffered losses, in recent years, in excess of G\$10M. Unfortunately we have met with a deaf ear and all our efforts to get a response have failed.

In the circumstances we are placing this matter before you with the hope that the appropriate action will be taken to first of all put in place a system to deal with these complaints from customers and secondly to assess our losses for compensation.

Yours truly,

Sgd. M. A. Brassington
M.A. Brassington
Managing Director”

The Claimant Company manufactures refrigerators and freezers.

2. As seen from the letter dated 1st April, 1997, from the Claimant Company to this Commission, the claim relates to losses suffered by the Claimant Company during the period 1989 to 1996 “due to inconsistent power supply emanating from the Guyana Electricity Corporation”. The claim was in respect of damage caused to refrigerators and freezers sold by the Claimant Company to different persons and which were, at the time when the damage was caused, in the possession of the purchasers.

3. The claim was made only in respect of replacement of compressors changes carried out within the warranty period. Charges incurred by the Claimant Company during the warranty period in connection with other matters, like replacing fan motors and other electrical parts, which would have failed as a result of inconsistent power supply, were not included in the claim.

4. The break down of the amount claimed, as stated in the afore-mentioned letter from the Claimant Company, is given below –

| <u>“Year</u> | <u>In-warranty jobs with compressor changes</u> |
|--------------|---|
| | \$ |
| 1989 | 733,708.11 |
| 1990 | 182,305.49) Only limited docu- |
| 1991 | 297,919.67) mentation available |
| 1992 | 399,707.14) hence low claims |
| 1993 | 1,555,794.50 |
| 1994 | 1,759,880.70 |
| 1995 | 2,804,161.72 |
| 1996 | 1,922,953.52 |
| Total | <u>\$9,656,430.85”</u> |

5. Having considered all the evidence produced and the arguments advanced in this case, we are of the view that the claim made by the Claimant Company would fail for the following reasons.

6. While the Claimant Company was a consumer in relation to the Guyana Electricity Corporation so far as the manufacture of refrigerators and freezers are concerned, it was not a consumer in relation to the refrigerators and freezers that were already sold and were in the possession of the purchasers.

7. The Warranty Certificate issued by the Claimant Company had a disclaimer to the effect that the Claimant Company would not be responsible for any damage from voltage fluctuations or an unstable power supply. To quote from the testimony of Brassington, Managing Director of the Claimant Company –

“Mr. Chatterpaul: On your Warranty Certificate under the heading ‘Normal responsibilities of the user’, the owner of the unit shall be responsible for the following and I refer to (iv):

“ensuring that there is proper connection to an electric power source of voltage as specified in the

name-plate. GRL will not be responsible for any damage resulting from voltage fluctuations or an unstable power supply.”

GRL will not be responsible for any damage resulting from voltage fluctuations or an unstable power supply. That’s part of your Warranty Certificate. It’s part of the conditions under which you issue the warranty.

Mr. Brassington: Yes, it is.

Mr. Chatterpaul: We have been told, and indeed your claims are based on the argument that the damage resulted from voltage fluctuations, low or high voltage, as your expert said. He examined 16, 14 of them sustained damage as a result of low voltage and two of them as a result of high voltage. You have a disclaimer, Sir. Did you apply that with respect to the complaints made by your clients?

Mr. Brassington: I will have to go back on this. We did not apply because the Company’s reputation and position suffered as a result of it, and we had no alternative. They said they had claimed or they had gone to GEC in a number of instances, their claims were dishonoured, and we had no alternative but to honour the claims.”

(Transcript of the Commissions’s proceedings on 4th August, 1998, pages 12 and 13).

8. If the compressors in the refrigerators and freezers were damaged because of voltage fluctuations or an unstable power supply, the Claimant Company was not, in view of the disclaimer provisions in the Warranty Certificate, under any legal obligation to replace them. On the other hand, if the compressors were damaged for any other reason, no claim for compensation can be maintained under the Public Utilities Commission Act 1990 (No. 26 of 1990).

9. If any of the persons who purchased a refrigerator or freezer from the Claimant Company suffered loss or damage on account of defective supply of electricity by GEC, the remedy for that person was to claim compensation from that public utility and if, as stated by Brassington in his testimony, GEC refused to pay compensation to that person he or she could have complained to this Commission and as we have done in several cases, we would have directed GEC to pay compensation to the complainant if we were satisfied that there were justifiable grounds to do so.

10. Incidentally it may also be pointed out that the Public Utilities Commission Act 1990 (No. 26 of 1990) came into operation only on 1st October, 1990 and no claim for compensation can be maintained under that Act for loss or damage caused before that date.

ORDER

11. In light of the above discussions and for the reason given above, we dismiss the above claim for compensation. The parties are directed to bear their costs.

Dated at Georgetown, Guyana.

This 25th day of April, 2000.



Pamadath J. Menon
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PAMADATH J. MENON, A.A.

- CHAIRMAN

L.J.P. Willems
.....
L.J.P. WILLEMS, A.A.

- MEMBER

Hugh K. George
.....
HUGH GEORGE

- MEMBER

Ch. Bisheshwar
.....
CHANDRABALLI BISHESWAR

- MEMBER

Badrie Persaud
.....
BADRIE PERSAUD

- MEMBER