

BEFORE THE PUBLIC UTILITIES COMMISSION

**In the matter of the Public Utilities
Commission Act 1999 (No. 10 of
1999)**

and

**In the matter of a motion by the
PUC for determination whether
electricity consumed prior to 1st
July 2001 and bills for which will
be issued in July 2001 will attract
the new higher tariff.**

Present were:

Public Utilities Commission

Mr. Prem Persaud, C.C.H	-	Chairman
Mr. L.J.P. Willems, A.A.	-	Member
Mr. Hugh George	-	Member
Mr. Badrie Persaud	-	member

Guyana Power & Light Inc.

Mr. Timothy Jonas	-	Attorney-at-Law
Mr. Phillip Jacques	-	Chief Financial Officer

Guyana Consumers Association
Guyana Consumers Advisory Bureau

Ms. Eileen Cox	-	President/Chairperson
Mr. Patrick Dial	-	Vice-president

By a press release issued by the Hon. Prime Minister, the public was informed that with effect from 1st July 2001 the subsidy paid to Guyana Power and Light Inc. (GPL) by Government to GPL will be reduced and finally cease on the 1st October 2001.

GPL also issued a press release to the same effect, and in addition set out the new rates with effect from 1st July and 1st October 2001. The notice from GPL was that **“Government has now decided that these subsidies are to be discontinued from 1st July 2001. Arising from this, electricity prices charged to customers will change from 1st July 2001”**.

This notice was published in a newspaper with daily circulation on the 29th June 2001. The decision referred to was contained in a document dated May 2, 2001 and signed by the Hon. Prime Minister of the one part and Michael J.C. Hogan, Chairman of Americas and Caribbean Power Ltd, and John Lynn, Chief Executive Officer of Guyana Power and Light (GPL.).

For completion of the record and understanding of the position of the parties “Americas and Caribbean Power Limited” is a company referred to in the Share Subscription agreement dated October 1, 1999, amongst GPL, Government of Guyana and Americas and Caribbean Power Ltd. Apparently the payment by the Government of Guyana of subsidies to GPL is a condition precedent to all future equity contributions to GPL by Americas and Caribbean Power Limited.

The attention of the staff of the Commission was directed to a bill issued by GPL for the consumption of electricity for the period 1st June to 30th June 2001. The consumer paid the bill but was charged the higher rate which was published to take effect from 1st July 2001.

Accordingly, on July 10, 2001 the Commission wrote GPL requesting information as to whether “the prices charged would be for the consumption of electricity with effect

in July 2001? In other words, would consumers whose bills were prepared in July for consumption of electricity prior to 1st July be billed at the new rate also?”.

On 11th July 2001 GPL responded that “Electricity prices charged to customers” will apply to bills issued in July 2001. By letter dated 12th July 2001 to GPL the Commission noted the contents of their letter dated 11th July but sought “**clarification whether electricity consumed prior to 1st July 2001 and the bills for which will be issued in July 2001 will attract the new tariff.**”

The GPL did not respond to the query and on the 24th July 2001 the Commission conducted a hearing to determine this issue.

GPL’s case, in a nutshell, is that they are receiving subsidy from the Government on the bills issued, and the subsidy has nothing to do with the volume of consumption of electricity; That bills are generally issued in the month following the consumption; that Government subsidy ends at the end of June billing; therefore bills issued in and from July will not benefit from the subsidy, and accordingly all bills issued in and from July will attract the higher new rates.

In his submission before us, Counsel for GPL opined that “The only question which remain relates to any bills which may be issued to the future which ought properly to have been issued in June”. He offered that GPL has taken the position that they must be calculated using the rate of the earlier subsidy.

The Consumers have protested that since the rates are to be increased from 1st July the question of billing has no relevance, and June bills should not attract the higher rates. They pointed out that customers cannot be told at the end of the period of consumption (end of June) that the rates for that month will be increased. If indeed the subsidy is on bills issued then the public should have been so alerted since May 2nd when the agreement with the Prime Minister was executed.

The Consumers also protested that meters are not regularly read and estimated billings are used. Accordingly whenever the meters will be read and adjusted the customers are likely to pay at higher rates for electricity which had already been subsidised by the Government.

And they also complained that good business practices involve consumers being aware in advance how much they will spend on a service and they should not be confronted with bills for which they did not cater.

The PUC has given mature consideration to all the issues raised. We are fully cognizant of our duties and responsibilities. We are required to ensure that the utility provides a proper service to its customers and must be duly recompensed. We must also ensure that the consumers' interest are protected – so we must take all factors into consideration to hold an even balance between the parties.

The document dated May 2nd, 2001 is in the form of a letter from John Lynn, Chief Executive Officer of GPL addressed to “The Co-operative Republic of Guyana” and to “Chairman, Americas and Caribbean Power Limited”. It is a Letter Agreement on Subsidy of May and June 2001 Electricity Rates”. It sets out GPL’s agreement with respect to the payment by the Government of a general subsidy in respect of bills issued in May and June 2001; It then goes on to state:

(a) during May and June 2001 GPL will charge its customers: “May and June 2001 Actual Rates” as set forth in Schedule:

The schedule show as follows

“Actual rates May and June:-	fixed charges 194.11 per month
Rate A	Energy charges per kWh (100 kWh/month and less (23.21)
Residential:	Energy charge kWh (over 100 KWh/month (25.44)

It also sets out rates for Commercial, Industrial and street lighting and all the rates specified with respect to each category are the same for the months of May and June 2001.

The letter agreement further goes on:-

- (b) May and June 2001 Electricity Rates”, determined in accordance with ESRA and the Licence, will be used in determining the amount of the subsidy, and
- (c) From July 1, 2001 until December 31, 2001, unless further subsidies are agreed by the parties hereto, the rates to be charged to GPL’s customers will be those determined in accordance with ESRA and the Licence.

The Second Schedule to ESRA No. 11 of 1999 explains the following:-

- “Actual Rates” - means the rates actually charged and chargeable by GPL to consumers for the supply of electricity for the period 1.1.99 to 31.12.2000
- “Service Rates” - means the rate charged for service provided by GPL.
- “Electricity Rate” - means the rates chargeable by the company for the supply of electricity as of 1st January 2001.
- “Headline Rates” - means the rate charged and chargeable by the Company for the supply of electricity.

- “Basic Rates” - means electricity rates and service rates.
- “Rates” - mean any tariff charged by GPL for the supply of electricity or services, and includes as appropriate in the context, headline rates, actual rates or basic rates.

It seems clear to us that the rates for May and June 2001 charged to consumers must be billed at the rates agreed upon and set out in the Schedule, and rates charged or to be charged from 1st July must be billed at the rates determined in accordance with ESRA and the Licence.

We feel fortified in our opinion having regard to the said agreement when it stated: “provided that:

- (i) Government pays directly to GPL a subsidy, which is equal to the estimated amount of revenue which will be forgone arising from the difference between the May and June 2001 Electricity Rates (which would otherwise be applicable to customers’ bills in May and June), and the May and June 2001 Actual Rates.
- (ii) The subsidy amounts payable under (i) above shall be estimated by GPL and GPL shall submit an **invoice to the Government in respect of the subsidy payable for each of May 2001 and June 2001 within seven (7) days of the last working day of each such month. The Government shall pay to GPL the amount invoiced within seven (7) days of receipt of each invoice.** No later than July 31, 2001 GPL will complete a reconciliation of the “Actual Revenue Forgone” taking account of actual sales volumes and the differences between May and June 2001 Electricity Rates and May and June 2001 Actual Rates. GPL will determine a “Settlement Amount” which will be calculated as the “Actual Revenue Forgone” minus the subsidy payments made by Government in respect of

calculations contained in the report will be verified by KPMG, the Independent Firm of Accountants.

The independent firm of Accountants are the accountants to GPL. So the Company will do its own calculation and the Government must pay the subsidy. .

If the reconciliation will be completed by the end of July 2001 it follows that June's consumption will be taken into account. The reconciliation will take into account the actual sales volume and the deficiencies between May and June 2001 Electricity rate and May and June 2001 Actual rates.

Paragraph 3.4(a) of the Shareholders Agreement provides that the subsidy by the Government required to compensate for the difference between the Headline Rates and the Actual rates, if any, **shall be determined by GPL on a quarterly basis on the electricity sales for the previous three months**, provided however that this timing may be extended due to any difficulties that GPL may encounter due to the computer and billing system in place at the time of closing.

What we understand by this is that the subsidy is paid on the sales or consumption of electricity, and the question of billing has no relevance. The billing by GPL is their means to collect what is due for the consumption of electricity; and as is provided for by ESRA, the difference between the headline rates and the actual rates shall be billed and paid as a subsidy.

In the circumstances we find that the increased rate can only be applied to consumption from 1st July 2001. We accordingly make the following orders:

- (i) GPL shall bill customers for the actual consumption of Electricity up to and including June 30, 2001 at the then existing rate.

- (ii) Any and all amounts collected in excess of those rates based on the July 1, 2001 rates to be credited to the account of each consumer for whom the excess or additional amounts were collected.
- (iii) Such credit must be reflected in the respective bills and not later than October 31, 2001.

The press release for GPL directs that with effect from 1st October 2001 the rates will be further increased.

It is further ordered as follows:-

- (i) that the new rates with effect from October 1st, 2001 will be billed to customers for electricity consumed with effect from 1st October, 2001.
- (ii) GPL is hereby ordered to pay to the PUC the cost of two hearings on 24th July and 2nd August 2001, in the sum of One hundred and ninety-seven thousand one hundred and eight dollars (\$197, 108.00).

CERTIFIED A TRUE COPY OF THE ORIGINAL

Dated this 28th day of August 2001.

...(Sgd)..... Prem Persaud, C.C.H.	-	Chairman
...(Sgd)..... L.J.P. Willems, A.A.	-	Member
...(Sgd.)..... Hugh George	-	Member
...(Sgd.)..... Badrie Persaud	-	Member

Dated this 28th day of August 2001.

<i>Prem Persaud</i> Prem Persaud, C.C.H.	-	Chairman
<i>J.P. Willems</i> J.P. Willems, A.A.	-	Member
<i>Hugh K. George</i> Hugh George	-	Member
<i>Badrie Persaud</i> Badrie Persaud	-	Member

