

In the matter of:-

NEW THRIVING RESTAURANT INC.

Complainant

AND

GUYANA POWER & LIGHT INC.

Respondents

On March 17, 2010 the complainant, New Thriving Restaurant Inc., represented herein by Fraser, Housty and Yearwood, Attorneys-at-Law, filed an application with the Commission seeking the following:

- a) That the respondent, Guyana Power & Light Inc. (GPL) be prohibited from disconnecting the service to the complainant pending the hearing of the complaint.
- b) An order quashing the decision of the respondent evidenced in the bill dated October 10, 2009, to unilaterally bill the complainant the sum of \$13,717,284.00 as a Credit/Debit adjustment on Account No. 10-999-250-34.
- c) An order that the above mentioned sum is unlawful.
- d) An order directing the Government Electrical Inspectorate (GEI) to inspect meter No. IT0001482 installed at the complainant's premises, to determine its correct reading and accuracy.
- e) An order fixing a date, time and place for investigation and hearing of the complaint.

Before we continue to rule on this matter we wish to make a few comments, as follows:

- i. The complainant seeks an order to quash the decision set out in bill dated October 10, 2009 which was, they alleged, “unilaterally arrived at”. The basis for this application is unfortunate. All bills issued by GPL are based on the alleged consumption of electricity by consumers, and they do not have to seek the consensus of consumers. If consumers query their bills then an investigation will be conducted. There is no question of unilateral billing.
- ii. If GPL has issued a bill seeking a credit/debit adjustment they are in duty bound to issue particulars setting out how they have arrived at the figures. Apparently this was not done in this case and that may have prompted the complainant to seek the assistance of the Commission.

As we understand it, the complainant’s claim is based on a perception that the bills issued by GPL are inflated since they installed a heavy duty generator in an attempt to reduce GPL’s electricity charges and that the meter may not be representing accurately the consumption by the business enterprise.

Concerning the claim that the amount of \$13,717,284.00 is exorbitant and does not properly or accurately represent the amount owing, we have an interesting response from GPL.

The utility company by letter to us dated April 30, 2010 in response to the complainant’s claims posits that that amount was transferred to the current account No. 10-999-250-34 from an account No. 13 003 346 11 which was in the name of **New Thriving Restaurant**. The complainant and holder of account No. 10-999-250-34 is **New Thriving Restaurant Inc**. Interestingly enough, GPL is conceding that “the transfer was due to the misunderstanding and lack of recognition of the legal distinction between New Thriving Restaurant Inc. (the complainant) and New Thriving Restaurant, a mistake that could easily have been made given the similarity of the names, the fact that application forms for each entity were executed by the same representatives, namely, Xiao Guang Zhao Ping and Che Jian, and the application of the company was stamped with the business stamp of New Thriving Restaurant.”

The GPL further states that it recognized the oversight and will rectify the situation and remove the Credit/Debit charge from the complainant's account No. 10-999-250-34, which adjustment is to be reflected in the May 2011 billing of the account. And the utility further informed us that they will seek redress from the High Court to recover the amount of \$13,717,284.00 from the individuals trading under the name of New Thriving Restaurant.

This in effect disposes of the complainant's claim with respect to the amount owing being "unilaterally billed" and that the amount, with respect to the complaint, is unlawful.

What remains for the Commission to determine therefore, is whether meter No. IT0001482, which services the complainant's premises, accurately records the consumption of electricity supplied to the premises.

By the said letter dated April 30, 2010, GPL has expressed agreement for an accuracy test of the meter to be conducted by the GEI.

On June 22, 2010 the Public Utilities Commission (PUC) represented by our engineer, New Thriving Restaurant Inc. by its Attorney-at-law, GPL and the GEI attended the premises of the complainant to conduct a test. There the GEI explained that his department did not have the requisite instrument to do the testing of the meter. The GPL however, proceeded to test the meter but Counsel for the complainant objected and left.

By letter to the Commission dated July 6, 2010, Counsel for the complainant, informed us that he was aware that the GEI did not have the requisite instrument to test the accuracy of the meter, and he has identified a private contractor who has the necessary equipment which may be of assistance to the GEI in the performance of its duties. He recommended that the parties meet to agree on the modus operandi to be adopted to ensure a fair determination by the GEI.

On August 3, 2010, the Chief Electrical Inspector by letter indicated that the Guyana National Bureau of Standards (GNBS) is the authority legally responsible for testing the accuracy of measuring instruments, but the GNBS reported that they could not perform the tests required.

The GEI however, had no objection to the required tests being performed by private contractors after agreement on the mode of operating, type of testing instrument and calibration of the instrument of the parties concerned, namely, GNBS, GPL, New Thriving Restaurant Inc. and the GEI.

Time had been running, we had not heard from the parties and we assumed that all was well. But we sent out notices and called the parties together at a meeting on March 11, 2011. Counsel for the complainant informed us that a test of the meter was in fact conducted by a contractor and the report will be made available to us. The GPL officials protested that any test done was unknown to them. On March 16, 2011 Counsel for the complainant submitted a copy of the report from the Contractor, TELS Engineering Services (TELS) dated March 15, 2011. The report however shows that the electrical measurements were done from November 15, 2010 to November 19, 2010; that the test did not determine the measurement accuracy of the meter, neither was there a certification of the instrument's calibration.

On April 11, 2011 all parties again met and it was agreed that the following conditions will apply in the determination of the tests, namely:

- a) The GPL and TELS to do the accuracy test of the meter.
- b) Primary metering to be done.
- c) Certification of the calibration for the instruments used to be submitted to the GNBS for approval.
- d) Representatives from the four parties will be present.
- e) To verify that the measuring is primary and the connections of the current transformer and the voltage transformer.
- f) The requisite current and voltage connections to be done for the test instruments.
- g) Verify the current and voltage readings on the test instruments.
- h) Synchronise both start times and take billing meter readings.
- i) Confirm that both instruments are zero.
- j) **When accuracy test commences:**
- k) Accumulated KWh readings taken and recorded every 15 minutes by both test instruments, and off the billing meter. The records to be kept by all parties present at the test.
- l) Test to be conducted for three (3) hours.
- m) Each party to submit results within two days after conclusion of test.

Mr. Lall of TELS was present and stated that all the above are correct, and agreed.

Mr. Fraser, counsel for complainant stated that he needed to be satisfied that the criterion for the primary metering, in other words, the complainant needs something that New Thriving Restaurant Inc. should be billed on primary metering.

The GPL undertook to submit same before the commencement of the test.

On May 17, 2011 Mr. Fraser informed us that they were awaiting the certification of TELS measuring instruments.

We heard nothing further and on July 18, 2011 we wrote Counsel for the complainant that the matter is part heard—that it had been adjourned for the past three months to have an accuracy test done, and in May when the matter was again called he requested a further adjournment on the grounds that his clients were awaiting certification of the measuring instruments. We adjourned the matter to July 27, 2011 and on that date Mr. Fraser informed us that Mr. Lall was in Lethem carrying out electrical works and was unable to attend the hearing.

On August 2, 2011 we wrote Mr. Lall and informed him that the matter was adjourned to August 15, 2011 and we required him to attend and present what evidence he has at his disposal. At the hearing on August 15, 2011 Mr. Lall was present and he explained that he had received the calibration certificate for his instrument but which was subsequently damaged. He offered that he was expecting a replacement instrument with certified calibration the following week and he will be ready to proceed.

Mr. Fraser later informed the Chairman that he had received no further word from Mr. Lall, and he had identified Mr. Lloyd Rose of Dynamic Engineering Company (DEC) to conduct the test. Arrangements were made with Mr. Rose to conduct the test and for him to be present at the premises on September 24, 2011 with a view to conducting same.

On September 24, 2011 representatives from GPL, New Thriving Restaurant Inc., the PUC and Mr. Lloyd Rose were all present. A measurement accuracy of the meter was done thrice using GPL's Bird Dog Plus Analyzer (No. 6000 – 2070) and found to be 101.1%, 101.1% and 101.6% respectively. These averages were substantiated by printouts, which also included configuration data—and all data were submitted by GPL to the PUC and to Mr. Rose. We also received a valid calibration certificate for GPL's instrument as well as certification from the GNBS, dated September 6, 2011, stating that the Bird Dog Plus Analyzer (No. 6000 – 2070) was considered acceptable to determine the accuracy of the watt-hours meter tested by GPL.

At a hearing on September 26, 2011, the commission decided that GPL and the complainant will conduct another meter test in the presence of the GEI. This was scheduled for October 3, 2011. Present at this test were representatives from the PUC, GPL, GEI, DEC and the complainant (represented by Messrs. Fraser and Zhang). Using the previously certified Bird Dog instrument, the GPL's measurement accuracy results from the meter were 101.6%, 101.1% and 100.6%. These averaged 101.1%.

Dynamic Engineering conducted its test on the same day using an Amprobe DM11 Pro Data Logger (MFG#004544) instrument. This was of similar model used by TELS Engineering Services, and the test was done over a 5-day period from October 3 – 8, 2011. The consumption logged by the data logger on the transformer secondary for the period was 9,781.5 kWh while the GPL meter recorded approximately 12,440 kWh for the same period from the primary side of the transformer.

The report from Dynamic Engineering revealed also the following:

- The test did not determine the measurement accuracy of the meter.
- There was no certification of the measuring instrument's calibration.
- The instrument was programmed to log the consumption for a "3-phase, 4-wire Wye" connection, whereas it was connected to a "3-phase 4-wire" highleg delta arrangement.
- The details for the transformer losses were not provided.

By letter dated October 13, 2011, Mr. Lloyd Rose advised us that the test result obtained (**computer printout**) of the comparator metering reflected major discrepancies. He wrote that although the voltage recording showed that electricity supply during the period of the test was continuous, with

no block out, the various recorded line current measurements did not show the same consistency. He considered it necessary to redo the test for two days during which period very careful monitoring of the process will be done.

By consent of all parties the request was granted and the test was redone on November 3, 2011, for two days.

On November 15, 2011, Mr. Rose again wrote a “report on Comparative Electricity Meter Test.” He reported that the PUC had approved the undertaking of a comparative GPL electricity meter test at the request of Counsel for the complainant, that the purpose of the test was to evaluate the accuracy of the currently installed electricity meter with a view to establishing that it is recording within the legal threshold of plus or minus 2.5% accuracy, and that his company was engaged by the complainant for the test and evaluation report. He referred to both tests done on October 3, 2011 and November 3, 2011. The second test was undertaken with due precaution for the set up programming and security of the testing apparatus.

He has found that the instrument used by him was apparently failing to recognize current below 290 amps, repeatedly, and resulting in 19% to 21% lower energy recordings below that of GPL meter of the same period. He has concluded that his instrument is unreliable and the recordings unacceptable for the purpose intended. He added that a new test with an instrument confirmed to be reliable is considered necessary.

The report above referred to was received by us on November 16, 2011. A day prior, on November 15 we held another meeting where all parties attended. We enquired about the result of the test conducted on November 3 – 5, 2011. Mr. Fraser stated that he has the report and same will be submitted before the end of the day—November 15, 2011.

The Chairman asked Mr. Fraser whether he can advise the Commission of the findings of that test. Mr. Fraser said he preferred the Commission to look at it and arrive at a decision. In further answer to the Chairman, Mr. Fraser stated that it was not necessary for another meeting as the Commission has enough evidence to come to a conclusion of the matter.

Mr. Fraser reminded the Commission that he had invited it to refer two issues to the Court of Appeal for a ruling, namely:- the removal of a meter and its replacement by another when the matter was engaging the attention of the Commission, and secondly, the authority of GPL to bill the complainant on primary and not secondary metering.

The Chairman indicated that in view of the fact that another meeting is not necessary since Counsel for the complainant had nothing further to add on the report by Mr. Rose, the Commission will determine the question of the accuracy of the meter, and consider the issues raised re: referral to the Court of Appeal.

We noted Mr. Rose's concern that a new test with an instrument confirmed to be reliable is necessary. Having regard to the history and all circumstances surrounding the complaint, we, with respect, refused to grant such a request. The complainant had three opportunities to do a test he required to be done, and they have all been aborted.

What concerns us is that in none of the three opportunities afforded the complainant, did his engineers attempt to do what was required—that is to say—to test the accuracy of the meter. Mr. Rose himself has recognized the task he undertook. In the first paragraph of his November 15, 2011 report he unequivocally stated that the undertaking was a comparative GPL electricity meter test at the request of the Counsel for the complainant—that the purpose of the test is to evaluate the accuracy of the currently installed meter, with a view of establishing that its recording are within the legal threshold of the $\pm 2.5\%$ accuracy.

GPL has used its "**Bird Dog Plus Analyzer**" and the results show that the meter was accurate to within the range prescribed by the relevant legislation.

Mr. Rose's tests appeared to be flawed at the outset. His instrument was programmed to **log consumption** and for a "**3-phase, 4-wire Wye**", but he had it connected to a **3-phase, 4-wire high leg Delta** arrangement. His instrument was not certified as per its calibration, and we had no details for the transformer losses, something which Mr. Rose himself had promised to provide. He wrote that he needed an instrument confirmed to be reliable which is a necessity, but he made no attempt on two occasions to get such an instrument or confirmation as to its accuracy.

Our view, with respect, is that the quantum of consumption of electricity must be intrinsically linked to the instrument, through which the supply of electricity passes, and the determination of the accuracy of the meter must be established. Both the utility and the business enterprise have recognized this basic fact and each wished a ruling on this vital aspect of the investigation.

We therefore rule that the meter No. IT0002292 is accurate to within the limits prescribed for the purpose intended. This meter, however, has replaced meter No. IT0001482 on October 30, 2010: GPL has explained the necessity to replace the meter because the entire area has been changed over from 50 Hz to 60 Hz, and that consumers were notified of the intended change. This change over did not in any way affect the meter accuracy. The actual happening is that with effect from October 2010 New Thriving Restaurant Inc. was supplied electricity via meter No. IT0002292 which instrument we find to be working quite satisfactorily and all bills issued represent the consumption by the business enterprise.

We find that when the consumer was receiving electricity via the meter which was removed in October 2010 there ought not to be cause for complaint nor concern. The average monthly consumption was then sixty five and a half thousand kWh compared to the current average consumption of just over seventy three thousand kWh per month.

On the question of primary or secondary metering. These terms are used when the metering is done on the primary or secondary side of the transformer. On whatever side the metering is done, the accuracy of the meter is not affected. The difference between the primary and secondary metering is that the primary metering would also record the losses in the transformer to about 1 - 3% difference.

When the frequency conversion was done in October 2010 the Potential Transformers (PT) for the metering installation had to be changed—the reason? The 50 Hz voltage is 11000 while the 60 Hz has voltage capacity of 13800. If there was no change, the PT would have been burnt and the meter would have been damaged.

We referred to the fact that the average monthly consumption as reflected by the current meter is higher than the consumption when the other meter was in place, before its removal. When the supply frequency was changed from 50 Hz to 60 Hz the consumption would have shown an increase. The consumer's load is predominantly air conditioning and refrigeration which depend heavily on motors and compressors which rotate faster, and in the process utilize more power. It follows that the Restaurant's power consumption would accordingly increase.

In view of all we have said we find that the meter is accurate and the complainant is liable for the charges as set out in the billing process.

We find no good or valid reason to refer any issue for the opinion of the Court of Appeal.

It is a matter for the business enterprise, New Thriving Restaurant Inc. and GPL, Guyana Power & Light Inc., to work out an arrangement for the payment of the rates due.

Dated this 29th Day of December, 2011.

____ Sgd. _____
Justice Prem Persaud (Ret'd)
CHAIRMAN

____ Sgd. _____
Badrie Persaud
MEMBER

____ Sgd. _____
Maurice Solomon
MEMBER