

BEFORE THE PUBLIC UTILITIES COMMISSION

In the matter of the Public Utilities Commission Act 1990 (No. 26 of 1990)

- and -

In the matter of the over-recovery of surcharge by the Guyana Telephone and Telegraph Company Limited in respect of telephone calls to Antigua, the United States, Canada and the United Kingdom.

PAMADATH J. MENON, A.A.	-	CHAIRMAN
HUGH GEORGE	-	MEMBER
JOHN WILLEMS, A.A.	-	MEMBER
ERROL HANOMAN	-	MEMBER
A.M.B. SANKIES	-	MEMBER

REPRESENTATION -

The Guyana Telephone & Telegraph Company Limited	-	Mr Joseph Sanders, Attorney-at-Law.
The Guyana Consumers' Association	-	Miss Lily Ferdinand, Attorney-at-Law.
The Guyana Consumers' Advisory Bureau	-	Miss Eileen Cox, Vice-Chairman.

Mr Vidyanand Persaud, Attorney-at-Law, was in attendance to assist the Public Utilities Commission.

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D E C I S I O N

This matter was heard on 14th November, 1996.

2. By decision dated 12th November, 1991, read with supplemental decision dated 23rd December, 1991, this Commission fixed increased telephone rates for telephone calls to Antigua, the United Kingdom, Canada and U.S.A. The increases were retrospective in operation. By decision dated 21st December, 1993, temporary rate increases or surcharges were granted by this Commission to the Guyana Telephone and Telegraph Company Limited ("GT&T"), in respect of telephone calls to the above-mentioned four countries, as set out in Annex I to that decision, to enable GT&T to recover revenues in arrears consequent upon the implementation of rate adjustments pursuant to this Commission's decision dated 12th November, 1991, referred to above. The decision of 21st December, 1993, also made corrections in the collection charges in respect of telephone calls to Canada and the United Kingdom as it was discovered that incorrect US\$/SDR exchange rate was applied earlier.

3. The temporary rate increases were modified by the decision of the Commission dated 31st October, 1994. The decision determined \$313,288,483.00 as the uncollected revenues due to GT&T consequent on the retrospective increase of rates for telephone calls to the four countries referred to above. The Order stated that the temporary rate increases shall remain in effect for a period not earlier than 30th June, 1996, unless the Commission determines, after periodic reviews, that the rate of surcharge would result in full collection of uncollected revenues before that date in which case the surcharges shall be reduced accordingly. If the entire amount of arrears is collected, in any case, the surcharge will cease on 30th June, 1996.

4. On 5th June, 1996, GT&T wrote to this Commission saying that it has already collected \$13.2 million in excess of the amount of \$313,288,483.00, which was determined as due to it by the decision of this Commission dated 31st October, 1994. GT&T requested that the excess collection be allowed to be applied towards -

- (i) the arrears that had become due to it on account of the retrospective increase in rates granted in respect of 83 countries by this Commission's decision dated 31st October, 1994;
- (ii) additional arrears that had become due consequent on the correction of the US\$/SDR exchange rate by decision dated 21st December, 1993. The amount of additional arrears was stated to be \$22,790,761.00.

5. Mr W.W. Lynch, the Consultant appointed by this Commission had pointed out in his report dated 19th August, 1996, that as at the billing period of 1st August, 1996, GT&T was continuing to collect arrears of revenue for the four destinations referred to above. This was in complete disregard of the order of this Commission dated 31st October, 1994, which had clearly stated that the temporary rate increases granted to recover uncollected revenues will in any case cease on 30th June, 1996. GT&T had been reminded of this order by letter dated 24th July, 1996.

6. Mr Lynch in his report has projected the over-recovery by GT&T to be approximately \$35.7 million dollars. He has also pointed out that the sum of \$22.8 million which GT&T claims to be due to it on account of the adjustment of US\$/SDR exchange rate has not been approved by this Commission for recovery from the subscribers.

7. By letter dated 6th September, 1996, GT&T has intimated to this Commission that it continued to collect the surcharge up to 5th August, 1996, and after allowing for the increased surcharge due to it on account of the correction of the US\$/SDR exchange rate, the net overbilling of uncollected revenues in respect of the four countries, that is, Antigua, Canada, U.S.A. and U.K., is \$26,980,437.00.

8. The Commission is of the view that there is no justification to allow GT&T to keep the excess amount recovered by it from subscribers and use the same for its business purposes. The Commission is also of the view that the excess amount recovered should be returned to the persons from whom it was recovered.

O R D E R

9. In view of the above the Commission hereby orders that -

(1) Within ten days from the date of this order -

(a) an escrow account shall be opened by GT&T in a bank in Georgetown agreed to by this Commission; and

(b) an amount of \$26,980,437.00 should be deposited in that account;

(2) Within two months from the date of this order, the excess surcharge recovered by GT&T in respect of telephone calls by any subscriber to Antigua, the United States, Canada and the United Kingdom shall be refunded to him from the escrow account referred to in order (1) above;

(3) In respect of Canada and the United Kingdom, GT&T shall be entitled to adjust the excess amounts recovered from any subscriber towards any amount that may have fallen due from him on account of the adjustment of US\$/SDR exchange rate by the decision of this Commission dated 21st December, 1993;

- (4) Before the 7th January and 7th February, 1997, a statement in respect of the payments made out of the escrow account during the preceding month shall be furnished by GT&T to this Commission;
- (5) The Commission reserves the right to verify the amount payable, and the payment made, to all persons or any person under the orders herein contained and issue appropriate orders;
- (6) The amount deposited in the escrow account under order (1) above shall not be used for any purpose, other than the purpose specified in order (2) above, except with the permission of this Commission.

Dated at Georgetown, Guyana,
 this 25th day of November, 1996.

Pamadath J. Menon

 PAMADATH J. MENON, A.A. - CHAIRMAN

Hugh K. George

 HUGH GEORGE - MEMBER

John Willems

 JOHN WILLEMS, A.A. - MEMBER

Errol Hanoman

 ERROL HANOMAN - MEMBER

A.M.B. Sankies

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