

In the matter of:-

NEW THRIVING RESTAURANT INC.

Complainant

AND

GUYANA POWER & LIGHT INC.

Respondents

MEMORANDUM OF REASONS

On March 17, 2010, the complainant filed a request for an order (a) prohibiting the respondents from disconnecting its electricity service pending the hearing of its complaint that (b) the claim by the respondents for the sum of \$13,717,284.00 was unlawful and (c) that the Government Electrical Inspectorate (GEI) be directed to inspect the electricity meter which services the complainant's premises to determine the correct reading and accuracy *inter alia*.

In their response, the respondents agreed to the testing of the meter for accuracy by the Government Electricity Inspectorate at a time of convenience to the PUC, the GEI, the complainant and the respondents.

Counsel for the complainant accepted the proposal made by the respondents and it was agreed that the test would be conducted on June 22, 2010.

On June 22, 2010 the four parties were present through their representatives. However, the Government Electrical Inspector, Mr. Randolph Cummings, did not have the requisite testing instrument for the meter tests and Mr. Stephens Fraser, Counsel for the complainant objected when GPL offered to do the test in the presence of those present. Having objected counsel for the complainant and the complainant departed.

By letter dated July 6, 2010, Mr. Fraser, for the complainant, informed the Commission that the complainant has identified a private contractor who has the necessary equipment which may assist the Government Electrical Inspectorate in performing its duties. He added that the complainant understood that the procedures for calibration of the various testing apparatuses

are established. He suggested that the parties meet as soon as is convenient to agree on the *modus operandi* to be adopted to ensure a fair determination by the GEI. The GPL and the complainant agreed to meet on July 26, 2010 to discuss the proposal and to establish the way forward.

At a meeting on July 26, 2010 at which the PUC was present, it was agreed that the complainant will arrange with a contractor to do the test—and that GPL will do its test on the same day. It was agreed that the contractor will be approved by the PUC or GEI.

The quantum of the current charge was discussed. The GPL was maintaining that it amounted to approximately \$4M per month but counsel of for the complainant, Mr. Fraser disputed that amount. The PUC suggested that the complainant should pay half of the amount due per month, pending final determination. This was accepted by counsel for the applicant.

On August 3, 2010 the Chief Electrical Inspector wrote the PUC, copied to the Counsel for the complainant and GPL, explaining that the Guyana National Bureau of Standards (GNBS) is legally responsible for testing the accuracy of measuring instruments and the GEI Division depends on GNBS to have these tests done. It was indicated however, that the GNBS had indicated that it was not in a position to perform the tests required. He further stated that he had no objection to the required tests being performed by private contractors, after having agreed on the mode of operating, the type of testing instrument and the calibration of the instrument by the parties concerned.

An inordinately long period had elapsed since the last communication and the Commission fixed a date for the hearing of the complaint.

At the hearing on the March 11, 2011, the Commission was informed by Counsel for the complainant that a test was done by a contractor but the report was not available to them. It was further stated that the report will be made available shortly.

The GPL, by its Counsel, on the other hand, stated that the company was not informed of the testing of the meter, the equipment used or the certification of the equipment's calibration in keeping with the agreement. They reiterated that they were to carry out meter tests simultaneously. The Counsel for GPL also stated that the complainant was in default of paying the electricity bills and has issued cheques which were dishonored. They indicated that they amount currently due was approximately \$30M.

Counsel for the complainant did not deny that "bounced" cheques were issued, but requested time to investigate what were the amounts owing to the company.

The Commission was of the view that if the reports are correct, that the complainant has defaulted in the undertaking to pay half of the bills. And secondly, it is surprised that a test of the meters were done unknowing to either the Commission or GPL.

In the premises the Commission requested the following:

- (1) That GPL shall submit to the Commission the outstanding bills for the complainant as of July 2010 on or before March 14, 2011. The statement from GPL will be the amount allegedly due for the period 26/7/2010 to 28/2/2011;
- (2) That the complainant pays as previously agreed, the 50 percent of the bills for the period July 2010 to February 2011, by Manager's Cheque not later than March 25, 2011 and
- (3) That the complainant should file with the Commission the report of the test done by the Contractor by noon of March 16, 2011. The said report shall set out the calibration, certification of the equipment used, and methodology to determine the findings:

It was ruled that non-compliance of the aforementioned will result in the Commission striking out the complaint filed by New Thriving Restaurant Inc.

The matter has been adjourned to March 29, 2011 for report.

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Prem Persaud
Chairman

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Badrie Persaud
Member

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Maurice Solomon
Member

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John Caesar
Member

Dated this 11 day of March, 2011