

BEFORE THE PUBLIC UTILITIES COMMISSION

Order No. 1/2014.

In the matter of an application by Guyana Power & Light Inc for a reduction on the interest rate payable on consumers deposits.

Coram:

Justice Prem Persaud, CCH.
Mr. Badrie Persaud
Mr. Maurice Solomon

Chairman.
Commissioner
Commissioner

With:

Mr. Vidiayar I Persaud
Mr. Moorsalene Sankar

Secretary
Financial Analyst.

Guyana Power & Light Inc.

Mr. Bharat Dindyal
Mr. Aeshwar Deonarine

Chief Executive Officer
Deputy Chief Executive Officer.

Guyana Consumers Association.

Mr. Patrick Dial, AA., JP. Chairman.

DECISION.

This is an application by the GUYANA POWER & LIGHT INC (GPL) to reduce the interest rate payable on consumers' security deposits from the 2.4% ordered by the Public Utilities Commission (PUC) in November 2011 to 1% with effect from November 2013 (Order 4/2011). Interest on consumers' security deposit is authorized by the provisions of the Standard Terms and Conditions for Electric Services, and it is an interesting exercise to explain what this is all about.

The STANDARD TERMS AND CONDITIONS FOR ELECTRIC SERVICES (Standard Terms) is Schedule 4 of the GPL's Licence which sets out the terms and conditions for the supply of electricity to consumers. It was approved in October 1999 and modified in March 2000, December 2001 and further amended in January 2005 and in October, 2010. Section 4.9 of the Standard Terms reserves the right to GPL to require any customer to provide a security deposit to the extent the company offers post-paid service, to increase such security deposit and to update such deposit to reflect any increase in tariffs and/or changes in the consumer's consumption characteristics.

In terms of the Licence the Standard Terms provide that interest on the deposit shall accrue at the rate of 7%, or such other rate as agreed by the Company (GPL) and approved by the Public Utilities Commission (PUC), compounded annually, from the date the deposit is received by GPL, provided that the company holds the security deposit for more than six months.

Interest owing on the security deposits at the end of each fiscal year will be credited to the customers' bills for the subsequent period or will be refunded to the customer at the time of service termination. If the consumer requests a new service at another location the security deposit relating to the first location shall be credited against the requirement for a security deposit for the second location.

If a customer fails to pay any amount billed for services rendered GPL may apply all or any portion of that consumer's security deposit to the unpaid amount. If GPL takes that step the customer will be required to adjust his security deposit in accordance with the amount allowed under Section 4.9 failing which GPL will have the right to disconnect the customer's supply.

Any consumer who is supplied through a pre-payment meter shall not be required to pay a security deposit in respect of the supply. It is worthy of note that a pre-paid consumer does not also have to pay a monthly fixed charge.

Up to and including October 2011 the interest rate for the security deposit was 7%, and GPL had applied to the Commission in 2011 to vary and reduce that rate to 1.6% per annum claiming that since the original consumer deposit interest rate was set at a discount of 32% on the then existing term deposit rate, the same basis and discount rate should prevail and applied to the current term deposit interest rate.

At that public hearing the Commission heard arguments in favour of GPL, and also from the Consumers' groups who opposed GPL's application. The Commission, after full, frank and mature discussion, reduced the rate of interest to 2.4% per annum with effect from November 1, 2011 for a period of two years.

Now, by an application dated November 15, 2013, GPL is seeking to have the Commission approve a reduction of the interest to 1% on the ground that the interest rate on a twelve-month fixed-deposit account is currently 1% and in effect is really 0.08% when the withholding tax is taken into consideration.

The Commission held a public hearing on April 02, 2014 which was attended by officials of GPL, Guyana Consumers' Association and members of the public. We heard interesting views and exchanges from all parties.

The Consumers Association contends:

- (a) That the beneficiary of the deposit is GPL since the deposits provide the company with significant working capital for which it offers only 2.4% interest. Without the deposits GPL's cash flow would have been restricted by the amount of the consumers' deposits the need to borrow additional funds may have become necessary.
- (b) The interest paid is just an accounting entry in GPL's books since consumers' deposits are held for very long periods, and are generally not refunded to consumers unless the consumers surrender their services, which is seldom the case. In 2002 the value of the consumers' deposit was approximately \$300 million, which rose to approximately \$1.6 billion at the end of 2012.
- (c) The interests credited to consumers' accounts are a legitimate expense for tax purposes and to this extent the Company would enjoy a tax saving of 35% on the interest provision.

GPL contends that consumers benefit in two ways by their deposits:

- (a) The deposits allow them to receive a lower tariff since the asset base on which the Company's profit is calculated is reduced by the amount held in the consumers' deposit account, and
- (b) Consumers receive an annual interest of 2.4% on the deposits and this does not attract withholding taxes.

The Association further contends that the argument of GPL in using the savings rates that currently prevail at the commercial banks is flawed. It would be more logical to use the lending rates which are more relevant to the consumers' position, since the consumers'

deposits have the characteristics of a loan and should be regarded as a long term loan to the Company.

The Consumers Association contends that a rate of 10% per annum is fair and equitable.

GPL argues, however, that it is incorrect to equate the interest on consumers' deposits with interest payable on loans at the commercial banks. The company explained that GPL is precluded from borrowing funds through the banking system because of the HIPC (Heavily Indebted Poor Countries) conditionality, and that because of this it receives loans at concessionary rates from the Government of Guyana and from International Financial Agencies.

We wish to make a general comment. Commercial banks have tended to become mercenary and this accrues to the detriment of consumers. Reductions in savings rates over the years and the multiplicity of innovative miscellaneous charges that surface from time to time have disadvantaged the customer. Savings rates are significantly lower than the rate of inflation resulting in the shrinkage of the customers' savings on an annual basis, and the withholding tax compounds the plight of the savings public.

We have considered all that was urged before us, and doing the best we can, we hold the view that a rate of interest at 2.4 percent per annum compounded annually is reasonable, equitable and just and we order same to be applied to the consumers' security deposits with effect from November 01, 2013, for a period of two years ending October 2015.

It is be noted that Commissioner Solomon proffered a dissenting opinion. It is his view that having regard to the weight of the consumers' submissions and to present circumstances, the rate of interest on consumer's deposits should be pegged at 3.4%. He has issued a dissenting judgement which is hereto attached.

The company is advised that because interest rates are influenced by the dynamics of the economy it changes over time to reflect this new dynamism. The approved rate will therefore, remain in effect for two years and will expire on the 31st October 2016, when it will again be the subject of a review. GPL will again have to apply to the Commission for such a review.

We commend the efforts of all parties which facilitated our deliberations in discharging our responsibilities in arriving at our Order.

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Prem Persaud – Chairman.

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Badrie Persaud – Commissioner.

Dated this 17th day of April, 2014.

Dissenting Judgement

PUC ORDER RELATING TO RATE OF INTEREST ON GPL'S CUSTOMER SECURITY DEPOSIT

Order 4/2011 which expired in November 2013 made provision for the rate of interest set at 2.4 % per annum.

The PUC arranged public hearings to obtain the views of GPL (the Utility) and other stakeholders including consumer associations on how the new rate should be determined based on the arguments put forward by each stakeholder.

The Utility made the point that the rate of interest applicable should follow current interest rates payable on deposits by financial institutions e.g. commercial banks currently running at 1 to 2% per annum and suggested that the rate of interest should be pegged at 1 % per annum.

The value of customer deposits as at 31 December 2013 amounted to \$ 1,708,341,000 compared to \$1,597,616,000 at 31 December 2012, an increase of \$ 110,725,000. The Utility confirmed that refunds of deposit when consumers terminate service are very small compared to deposits received from new consumers.

The Utility also made the point that at the end of each financial year in calculating final increase in service rate (as per established and approved formula), the customer deposits in total are removed from the asset base thereby reducing the asset base and resulting in a lower allowable tariff or service rate that would otherwise be applicable if this adjustment was not made. In fact with this adjustment the service rate increase was 12.00% but if not made it would have been 12.30%.

The Guyana Consumers Association on the other hand feels strongly that consumer security deposits should not be equated to any kind of commercial bank deposit as put forward by the Utility. They are of the view that such deposits are more in the nature of a loan used as part of the working capital of the utility especially since this "loan" is permanent in nature and increasing year by year. They argue therefore that the rate of interest applicable should follow the lending rate normally used by the commercial banks i.e. between 12 to 15% per annum.

In carrying out its evaluation of what is an equitable rate of interest applicable on customer security deposits, the Commission took note of Section 50(1) of the PUC Act, 10 of 1999 states inter alia that every public utility " shall pay interest on such cash deposits at an annual compound rate of eight percent or such other rate as may be specified in any other written law, license held by the public utility " etc. The Commission also took note of Schedule 4 of GPL's License- as amended on 4 October 2010 which allows interest to accrue at the rate of seven percent or such other rate as ordered by the Public Utilities Commission compounded annually.

Having regard to all the points mentioned above and the arguments put forward by all the parties and bearing in mind the economic well- being of the public utility, we are of the view that a rate of interest of 3.4 percent per annum compounded is reasonable and equitable and should be applied to all customer security deposits at GPL.

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Commissioner Maurice Solomon

Dated this 17th day of April, 2014