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PUBLIC UTILITIES COMMISSION

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ANNUAL REPORT 1999

Existing In The Interest Of The People Of Guyana

PUBLIC UTILITIES COMMISSION

Annual Report 1999

Report on the Commission's Operations for the Year Ended December 31, 1999.

Establishment of the Commission

The Public Utilities Commission is a body corporate established under the Public Utilities Commission (PUC) Act No. 26 of 1990, which Act came into effect on the 1st October 1990. The Act was subsequently amended by Act No. 10 of 1991, and Act No. 14 of 1994, which came into effect on the 22nd April 1991 and 19th September 1994 respectively.

On 1st October 1999 a new PUC Act came into effect. This Act, No. 10 of 1999, repealed and replaced the 1990 Act and its amendments.

Composition of the Commission

Pursuant to section 5 (10) of the Act as amended, " The Public Utilities Commission.....consists of a chairman and four other members.....appointed by the Minister from among persons appearing to the Minister to be qualified as having had experience of, and shown capacity in, matters pertaining to the functions of the Commission"

By the powers conferred upon him by section 5 (1) and (3) of the Act, the Minister of Trade, Tourism and Industry, Mr. Michael Shree Chan appointed the following persons to serve on the Commission, for a three (3) years term, effective from March 14, 1997.

Mr. Pamadath J. Menon, A.A.	- Chairman
Mr. John Willems, A.A.	- Member
Mr. Hugh George	- Member
Mr. Chandraballi Bisheswar	- Member
Mr. Badrie Persaud	- Member

Section 90 (1) of the PUC Act No. 10 of 1999 states ‘ Notwithstanding the repeal of the Public Utilities Commission Act 1990 by section 89, the Public Utilities Commission as constituted under section 5 of the said Act shall, for such time as the Minister deems necessary, continue to function as such on and after the coming into operation of this Act, as though the chairman and other members were appointed under section 5 of this Act.....”

Thus the members of the Commission appointed on March 14, 1997 continued to serve under the PUC Act No. 10 of 1999.

The Functions and Responsibilities of the Commission

Quality and Cost of Service Offered by the Utilities

The Public Utilities Commission is a regulatory body, the functions of which include ensuring a satisfactory quality of service from public utilities to consumers, as well as monitoring the provision of that service to ensure it is provided at a reasonable cost. To be able to do this the Act confers on the Commission regulatory, investigatory, advisory and enforcement powers and stipulates that the decisions and orders of the Commission, ‘Shall be fair in accordance with the Act and other applicable laws in operation in Guyana and, subject to any rule of law or provisions of this Act relating to the burden of proof, based on the evidence presented to the Commission.’

Returns to the Utilities

While protecting the public’s interest, the Commission needs to ensure that the utilities earn a sufficient level of profits to guarantee its continuance as a viable entity. This level of profits is usually agreed before hand with the utility.

Utilities Affected by the PUC’s Regulatory Powers

The PUC Act applies to every utility engaged in:

- (a) The producing, generation, storage, transmission, sale, delivery, furnishing or supplying directly or indirectly to or for the public, of electricity,
- (b) The conveyance or transmission of messages or communications by telephone, telegraph or wireless telegraph.
- (c) Any other services specified by the Minister, by order, being any of the following services:-
 - (i) carriage of passengers, in motor buses or hire cars;
 - (2) airport or airlines services;
 - (3) carriage of goods for hire or reward by goods vehicles;
 - (4) lighterage or cargo handling;
 - (5) dockage, wharfage, or related cargo services; and
 - (6) water supply services, except retail deliveries.

Further, the PUC Act of 1999, included the following as public utilities under section 4 (b):-

“Satellites, cable television, telecom service providers, pay telephone service providers, telecom resellers, internet and other telecom network service providers, radio common carriers, or cellular mobile providers or any other method of transmission, currently offered to the public or offered as common carriage in the future.”

In summary, the functions of the PUC, in keeping with the provisions of the Act are as follows:-

- (a) to determine and fix the rates which the public is entitled to pay;
- (b) to monitor, scrutinise and approve of the public utility's investment programme;

- (c) to ensure that the utility provides and maintains a safe, adequate and efficient standard and quality of service at a reasonable cost to consumers;
- (d) to support the financial viability of the utility, with regard to both the ability of the company to earn reasonable, agreed profits and the avoidance of the utility and its customers from carrying too great a burden of debt.

Administrative Organisation of the Commission

During the year the full-time staff of the Commission were as follows:-

- Secretary of the Commission
- 2 Financial Analysts
- 1 Law Officer
- 1 Administrative Officer
- 2 Confidential Secretaries
- 3 Computer Operator/Typist
- 2 Office Assistants
- 2 Cleaners
- 1 Driver

Of the full-time staff, five were seconded from the former Ministry of Public Utilities. There are the Secretary, the Assistant Accountant, one of the Confidential Secretaries and both Office Assistants. All of these persons were confirmed on March 04, 1999 retroactive to July 08, 1991, the date of their commencement of work with the PUC.

During the latter part of the year the contract of the Financial Analyst I, Mr. Lancelot Mc Caskey, came to an end.

Utilities Under the Authority of the PUC in 1999

In 1999, under the PUC Act of 1990 and its amendments, the utilities which fell under the regulatory umbrella of the Public Utilities Commission (PUC), were the Guyana Telephone and Telegraph

Company Limited (GT&T), Caribbean Telecommunications Limited (CTL) and the Guyana Electricity Corporation.

The PUC Act of 1999, brought the Guyana Power and Light Inc. (GPL) and the Internet Service Providers under the purview of the PUC, in addition to the above utilities.

Operation During 1999

GT&T

There were ten (10) public hearings held during the year in relation to matters pertaining to the Guyana Telephone and Telegraph Company Ltd. (GT&T).

Notices were issued by the Secretary of the PUC for hearings on the following matters:-

1. To hear:
 - (a) the failure of the GT&T to comply with paragraph 11(c) of Order No. 1/1998, dated 27th January 1998 of the Commission;
 - (b) to investigate complaints made by thirty two (32) telephone subscribers about matters pertaining to their telephone bills in respect of overseas calls, to the extent to which there is no hindrance to deal with those matters.
2. To hear and determine the application for new rates for services provided by GT&T as proposed in Tariff Notice 1-98, filed on October 28, 1998.
3. (a) To consider the letter dated April 30, 1999, addressed to Mr. Nurse, Secretary of the Commission, signed by Mr. G. Statia, Deputy General Manager- Regulatory and Business Affairs, GT&T.
 - (b) To address and determine the issue raised in a letter dated April 22, 1999 to Mr. Nurse, signed by Mr. Keith Massiah S.C., Attorney-at-Law.

4. To hear the matter of the application dated November 2, 1994 to the PUC by GT&T for increase in tariffs in respect of an additional 82 countries on the ground of a substantial devaluation of the Guyana dollar, with effect from May 20, 1991, having regard to the date of the devaluation.
5. To hear de novo the matter of the Advisory Fees paid or agreed to be paid by GT&T to ATN.
6. To hear de novo the matter of the Promissory Notes Nos, 1-5, 6-40 and 43-66, executed by GT&T in favour of ATN.
7. In the matter of the public hearing to be heard de novo which was scheduled for November 19, 1997, but was adjourned without fixing a date. This matter is in respect of the Commission's right to revisit and rehear those aspects of its Order No. 7 of 1995, dated October 11, 1995, which were struck down by the Honourable Justice Carl Singh, in his judgement dated January 13, 1997, and which judgement was clarified on September 24, 1997 in Motion 4491 of 1995.
8. To hear the matter of non-compliance by GT&T with Order (X) in paragraph 41 of the Decision of the Commission dated October 29, 1997.

Particulars of the Decision of the Commission:

Order No. 5/97 issued by the PUC dated October 29, 1997, in the matter of setting a New Expansion Plan for telecommunications in Guyana, it was ordered that GT&T submit to the PUC quarterly reports regarding progress made by it in implementing the directions give by Order (I) to (VI) above.

9. To hear the matter of "Change in the Cellular Charging Principle", being proposed by GT&T.

Public Hearings were held on the following dates during the year, namely May 18 and November 9 and 29, 1999. Although nine (9) Notices for Public Hearings were issued only three were held, as most of the hearings were postponed.

ORDERS

As a result of the hearings, the following three (3) Orders were issued by the Commission:-

Order No. 1/1999 suspended for a further period of three (3) months, effective from February 24, 1999, rates proposed by Tariff Notice dated October 27, 1998, by GT&T, for various services provided or proposed to be provided by GT&T.

Order No. 2/1999 dealt with letters addressed to the PUC by and on behalf of GT&T, dated April 22 and 30, 1999.

The Order stated:

- (a) that no action will be taken by any party in relation to the Tariff Notice of December 31, 1997 and October 27, 1998 until after the hearing and determination of the court proceedings of 13-M of 99;
- (b) that the status quo be maintained until the determination of the Court proceedings of 13-M of 99. This status quo being that the temporary rates by virtue of the Orders of the PUC made on January 27, 1998 and March 27, 1998 respectively continue to be remain in force until new rates are approved by the PUC.

Order No.03/1999 dealt with the matter of “ Change in the Cellular Charging Principle” proposed by GT&T.

The Order stated:

- (1) that GT&T observe and comply with the provisions of section 41 of the PUC Act No. 10 of 1999, should they wish to proceed in this matter.

To accommodate this, it further ordered:

- (2) that in their filing for change in cellular charging principle, GT&T be guided by the request for evidence as recorded in the transcripts of the hearing;
- (3) that GT&T undertake a formal study of the impact of the calling party pays (CPP) regime, on the demand for cellular services in Guyana;

- (4) that there be no change in the cellular charging principles as proposed by GT&T by December 01, 1999, save as follows:

The Commission permits GT&T for a period of thirty (30) days minimum and ninety (90) days maximum, to temporary change the cellular charging principle, whereby airtime charges will not be paid for incoming calls to the cellular radiophone network within the agreed test area. The test period and area is to be determined by GT&T in consultation with the Caribbean Telecommunications Ltd. (CTL) and the PUC.

- (5) The cellular rates are to return to the charging principles in force prior to December 01, 1999 after the trial period ends.

GEC

Most of the complaints that came to the PUC regarding GEC were dealt with by the Small Claims Committee comprising of representatives from the PUC and GEC.

Complaint By Toolsie Persaud Ltd. Against GEC

This complaint was dealt with by the full Commission, and not by the Small Claims Committee.

On June 01, 1999 the Commission received a complaint from Toolsie Persaud Ltd. (TPL) against the GEC, claiming that the GEC had disconnected the electricity power supply to their Sawmill Plant located at Lombard Street, Georgetown.

The GEC claimed that TPL had tampered with electrical meter.

The Commission wrote to GEC, requesting that GEC restore the supply of electricity to TPL, or to appear at a hearing of the PUC on Monday June 07, 1999, in the Boardroom of the PUC.

Hearings on this matter were held on June 07, 24 and July 07, 14, 1999.

Orders

Three (3) Orders were made in 1999 relating to GEC.

Order No. 1/1999 in the matter of the complaint by Farfan and Mendes Ltd. against the GEC for the loss and damage to valuable electrical equipment due to faulty electricity supply, it was ordered:

- (1) that GEC shall pay within thirty (30) days from the date of this Order the sum of five hundred and twelve thousand and fifty one dollars (\$512,051.00), to the Complaint as compensation under section 27 (1) of the PUC Act;
- (2) GEC shall pay within thirty (30) days from the date of this Order the sum of three thousand dollars (\$3,000.00) as cost in these proceedings.

Order No. 2/1999 was made as a result of a request by GEC, by letter dated January 04, 1999, for the PUC to review its position and amend the Order GEC No. 4/1998 dated November 18, 1998 which dealt with a complaint by R. Sookraj & Sons against GEC.

The review was held on March 10, 1999.

The Order stated that the Commission holds and so rules:

- (1) That there is no justification for any adjustment to or variation of its Order GEC No. 4/1998, dated November 18, 1998.
- (2) That the decision of the said Order is hereby affirmed.
- (3) That the request for a review by the Corporation (GEC) is hereby dismissed.

Order No. 3/1999, was made in the matter of the complaint by Toolsie Persaud Ltd. against the GEC.

At a Hearing on June 07, 1999, both the complainant and GEC agreed to the following pending investigation, hearing and final decision of the complaint;

- (1) electricity supply will be restored to the Company upon payment by it of fifty percent (50%) of the arrears of four million two hundred and

- ninety four thousand, eight hundred and eighteen dollars (\$4,294,818.00), due from it to GEC as peer bill for April 1999;
- (2) the remaining fifty percent (50%) of the foresaid arrears to be paid to GEC by the Company within four (4) weeks after the first payment has been made to GEC;
 - (3) the hearing in respect of the assessed charges will be completed by this Commission as expeditiously as possible;
 - (4) this agreement is made without prejudice to the contentions of both parties.

The Commission is of the view that the above agreement is fair and reasonable and hereby makes this Order in accordance with terms thereof. It is further ordered that during the pendency of the proceedings relating to the complaint, GEC shall not, without approval of the Commission, disconnect supply of electricity to TPL.

CONSULTANCIES AND ADVISORS

1. The Georgetown Consulting Group Inc. of Connecticut, U.S.A., continued to assist the Commission with its review of GT&T's Tariff filing, with the objective of setting permanent rates for the Utility.
2. Additionally, the Georgetown Consulting Group Inc., continued to assist the Commission, with any other regulatory matter as may be referred to them by the Commission.
3. Mr. Aston Chase, S.C. and his associates entered appearances in the High Court and the Court of Appeal in matters involving the Commission and the two Utilities, GT&T and GEC.

TRAINING SEMINARS AND CONFERENCES

During the year the Commissioners as well as some senior staff attended conferences and seminars on regulatory matters.

Some of the conferences and seminars attended are listed below;-

1. Seminar and workshop on Telecommunications Regulation, sponsored by Caribbean Telecommunications Union (CTU)/ Nortel. Held in Miami in the week of April 27th 1999.

2. CTU/Temic course on Telecom Management and Regulation. Held in Toronto, Canada, from March 22nd to April 1st 1999.
3. ITU Regional Management Workshop on "Transformation of the Telecom Organisations to be Competitive in an Open Market". Held in Dominica from July 12th to 16th 1999.
4. CTU 5th Annual Policy Seminar. Held in Grand Cayman, from July 19th to 23rd 1999.
5. Interconnect Cost and Rate Rebalancing Seminar. Held in the Dominican Republic from August 26th to 27th 1999.
6. Seminar to discuss the establishment of the Organisation of Caribbean Utility Regulator (OCUR). Held in Barbados from July 28th to 30th, 1999.
7. A conference on the Reform and Regulation of the Electricity Sector. Held in Croydon, U.K. from October 27th to 29th 1999.

Attendance of these conferences and seminars has helped to keep the Commission abreast of developments in the world of regulation and specifically the rapid changes in the telecommunication sector. It has also helped the Commission to establish working relationships with other regulatory agencies in the Caribbean and the rest of the world.

CONCLUSION

The year in review was not as productive as the Commission would have liked. The main reason being, that the work of the Commission was once again stymied by matters before the Courts.

Early in 1999, the Commission held a Press Conference mainly dealing with matters relating to GT&T. Subsequently, GT&T filed a motion in the Courts claiming that the Chairman, Mr. P.J. Menon and the Commission were biased.

This action prevented the Commission from hearing GT&T's Tariff Notice No. 1/97, for a rate increase and other matters relating to GT&T. This can be seen from the section of the Report entitled GT&T, where Notices were issued for a number of hearings, but most were postponed.

The most significant event of the year however, was the enactment of a new PUC Act.

The new PUC Act defined some new entities, as public utilities, which were not so defined before, for example, internet service providers and cable television.

At the same time of the enactment of the new PUC Act, the Electricity Reform Sector Act (ESRA), No. 11 of 1999 was also enacted. This Act, along with the Licence granted to the new electricity company (Guyana Power and Light, Inc.-GPL), took precedence over the PUC Act in many instances, and in effect gave the PUC little or none of the normal regulatory functions in regards to the new electricity Company.

The Commission was very vocal in its opposition of what it perceived to be an erosion of its regulatory role in the electricity sector. However, the Commission sought to perform its function within the ambit of all the laws and agreements that affect it, and to do so to professionally, impartially and independently.

Another disappointment to the Commission was the inability to acquire a suitable building that would have allowed it to accommodate more staff. There is need for more professional staff, but the Commission cannot accommodate any more staff at its present location. Many pleas were made to the relevant Government Ministers, but to no avail.

The Consumer Groups continued to actively participate in Public Hearings on behalf of all consumers. Their support of the work of the Commission was highly appreciated.

During the year 2000, the Commission looks forward to being able to conclude the outstanding matters before it. As it performs its functions, the Commission continues to be ever aware of its duty to consider the rights of the consumer, government and the utility when issuing any Order.

It is the objective of this Commission to be able to work with all utilities, consumer bodies and Government to provide a better service to all Guyanese.