
5th Session First Parliament Trinidad and Tobago
15 Elizabeth II



TRINIDAD AND TOBAGO
Act No. 15 of 1966

[L.S.]

AN ACT to provide for a Public Utilities Commission to determine rates for public utilities and to perform certain other functions respecting public utilities.

[Assented to 23rd July, 1966]

BE IT ENACTED by the Queen's Most Excellent Majesty, Enactment
by and with the advice and consent of the Senate and
House of Representatives of Trinidad and Tobago, and
by the authority of the same, as follows:—

1. This Act may be cited as the Public Utilities Commis- Short title
sion Act, 1966.

Preliminary

Interpretation

2. In this Act—

- “Chairman” means the Commissioner appointed as such under section 4;
- “Commission” means the Public Utilities Commission established by section 4;
- “Commissioner” means a member of the Commission and includes an alternate member;
- “compensation” includes gain or reward;
- “Constitution” means the Constitution of Trinidad and Tobago;
- “local authority” means the Port-of-Spain Corporation established under the Port-of-Spain Corporation Ordinance, the San Fernando Corporation established under the San Fernando Corporation Ordinance and the Arima Corporation, established under the Arima Corporation Ordinance, and includes a County Council established under the County Council Ordinance;
- “Minister” means the Minister to whom responsibility for public utilities is assigned;
- “Public Officer” has the meaning assigned to it in section 105 of the Constitution;
- “public utility” means a statutory authority performing services to the public for which any compensation or payment whatsoever is required but does not include any public utility excluded from the provisions of this Act under section 3;
- “rate” means every rate, fare, toll, charge, rental or other compensation or payment whatsoever for services rendered by a public utility;
- “services” includes the accommodation afforded consumers by a public utility, the supplying or furnishing of any commodity derived directly from the purposes in which a public utility is engaged and the use and accommodation afforded the public by the facilities employed by or in connection with any such services performed by a public utility; but does not include any other commodity, by-product or article produced or manufactured by a public

utility or any associate thereof that is offered for sale to the public at retail or wholesale prices;

“statutory authority” means a local authority and any commission, board, committee, council or similar body (whether corporate or incorporated) established by any Act or Ordinance.

3. (1) Subject to this section, this Act shall be read and construed as applying to a public utility notwithstanding any general or special power or authority vested in such public utility by any enactment or by virtue of its incorporation. ^{Application of Act}

(2) The Governor-General may by Order published in the *Gazette* declare that any public utility named in the Order is exempt from the provisions of this Act or any part thereof and such Order may have reference to any particular public utility or any specified class of public utility.

PART I

ESTABLISHMENT OF COMMISSION

4. (1) A Commission is hereby established for the purpose of exercising such powers and performing such duties as are conferred upon it by this Act and by any other enactment and is a body corporate. ^{Commission established and incorporated}

(2) The Commission shall consist of five members designated Commissioners who shall be appointed by the Governor-General as follows—

(a) three members from among persons appearing to him to be qualified by reason of having had experience and shown capacity in matters relating to trade, law, finance, engineering or accounting; and

(b) two members representative of the general public.

(3) The Governor-General may appoint as chairman, a Commissioner who is a barrister or solicitor of the Supreme Court in either case of not less than five years standing.

Appointment of
Commissioners
and termination
of office

5. (1) Appointment to the office of Commissioner shall, subject to the provisions of subsection (2) be for such period, being not more than five years, as the Governor-General shall specify at the time of the appointment, but any Commissioner shall be eligible for re-appointment.

(2) A Commissioner may at any time resign his office by instrument in writing addressed to the Chairman who shall forthwith cause it to be forwarded to the Minister to be submitted to the Governor-General.

(3) The appointment of any person as a Commissioner and the termination of office of any person as a Commissioner whether by death, resignation, revocation, effluxion of time or otherwise shall be notified in the *Gazette*.

(4) Every Commissioner appointed under this section or under section 6 shall make and subscribe an oath before the Governor-General that he will faithfully, and to the best of his ability discharge the trust and perform the duties devolving upon him as such Commissioner.

Temporary
appointments

6. (1) If a Commissioner is unable to act by reason of illness or other cause, the Governor-General may appoint a person to act as a member of the Commission in his stead for that occasion or until the termination of the disability.

(2) The Governor-General may fix the remuneration of a person so appointed, and any person so appointed may complete any unfinished business of the Commission in which he has taken part notwithstanding the resumption of duty of the commissioner in whose place he was appointed under this section.

Termination of
appointments

7. The Governor-General may terminate the appointment of a Commissioner or any person appointed under subsection (1) of section 6, for any good or sufficient cause, and in particular, if such Commissioner or other person—

- (a) becomes of unsound mind or incapable of carrying out his duties;
- (b) becomes bankrupt or compounds with his creditor;
- (c) is convicted of any offence;
- (d) is guilty of misconduct in relation to his duties;

- (e) is absent, except on leave granted by the Commission, from all meetings of the Commission held during two consecutive months or during any three months in any period of twelve months;
- (f) fails to carry out any of the duties or functions conferred or imposed on him under this Act.

8. (1) The Commission shall meet at such times as may be necessary or expedient for the transaction of business and in any case not less than once a month and such meetings shall be held at such place and time and on such days as the Commission may determine. Meetings and
procedure

(2) Minutes in the proper form of each meeting shall be kept and shall be confirmed at a subsequent meeting of the Commission. Certified copies of such minutes when so confirmed shall be forwarded to the Minister.

(3) Subject to this Act, the Commission may regulate its own procedure.

9. (1) The Commission may appoint committees to examine and report to it on any matter whatsoever arising out of or connected with any of its powers and duties under this Act. Appointment
of Committees

(2) A committee appointed by the Commission under subsection (1) shall consist of at least one member of the Commission together with such other persons, whether members of the Commission or not whose assistance or advice the Commission may desire.

(3) A committee appointed under this section in relation to the matter respecting which it is appointed, shall have and exercise such of the powers of the Commission under this Act as are specified in the terms of reference of such committee.

(4) The Commission may reject the report of any such committee or adopt it either wholly or with such modifications, additions and adaptations as the Commission may think fit.

10. (1) A Commissioner shall be paid such remuneration and allowances in respect of his office as the Governor-General may determine from time to time. Remuneration of
commissioners,
&c.

(2) A person not being a Commissioner who is a member of a committee appointed under section 9 may be paid such remuneration and allowance as the Governor-General may direct.

Declaration
of interest

11. (1) A Commissioner who is in any way, whether directly or indirectly interested in a contract or proposed contract with, or in any other matter concerning, a public utility—

- (a) shall declare the nature of his interest on the first convenient opportunity at which it is practicable for him to do so; and
- (b) shall not take part in any deliberations of the Commission thereon.

(2) Where in the course of any deliberations of the Commission upon any contract or proposed contract with, or upon any matter concerning, a public utility, it comes to the notice of a Commissioner that he is in any way directly or indirectly interested therein the provisions of subsection (1) shall apply and such Commissioner shall withdraw from such deliberations.

(3) This section shall not apply to an interest in any matter relating to the terms on which the right to participate in any service provided by a public utility is offered to the public.

(4) For the purposes of this section, a person who, or any nominee or relative of whom, is a shareholder or partner in a company or other body of persons (other than a statutory authority), or who is an employee thereof, shall be treated as having indirectly a pecuniary interest in a contract or other matter, if such company or such other body of persons is a party to the contract or proposed contract or has a pecuniary interest in such other matter under consideration.

(5) A person who fails to comply with the provisions of this section, is guilty of an offence and for every offence is liable on summary conviction to a fine of two hundred and fifty dollars, unless he proves that he did not know that a contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(6) In subsection (4) "relative" means a father, mother, brother, sister, son or daughter of a person and includes the spouse of a son or daughter of such person.

Annual report
of Commission

12. The Commission shall make an annual report of its proceedings to the Minister which shall be laid before Parliament.

13. The Commission may appoint on such terms and conditions as the Minister may approve, officers and employees as it may consider necessary for the due and efficient exercise and performances of its functions, powers and duties under this Act. Appointment of staff

14. (1) A public officer may, with the approval of the Commission and of the appropriate Service Commission, transfer from any branch of the Public Service to the service of the Commission and an officer in the service of the Commission may with the approval of the appropriate Service Commission be transferred to any branch of the Public Service. Transfer and secondment of staff

(2) A public officer may with the approval of the Commission and of the appropriate Service Commission, be transferred on secondment to the service of the Commission, and an officer in the service of the Commission may, with the approval of the appropriate Service Commission be transferred on secondment to any branch of the Public Service.

(3) The period of transfer on secondment shall not in any case exceed three years.

(4) A transfer whether on secondment or otherwise under this section shall be on such terms that may be acceptable to the Governor-General, the appropriate Commission and the officer concerned and the pension or superannuation rights accruing to the officer at the time of his transfer shall be preserved.

15. The Governor-General shall, in accordance with the provisions of the Pensions Extension Ordinance, provide for the application of the Pensions Ordinance to such officers in the service of the Commission as he may consider fit and proper. Pension of officers and employees

PART II

JURISDICTION AND PROCEDURE AS TO RATING

16. In this Part—

“claim” means a claim by a public utility for increase in rates payable to it for any of its services made to the Commission pursuant to section 25;

Definitions

“complaint” means a complaint against the rate payable or to be payable for services provided by a public utility made to the Commission pursuant to section 24;

“matter” includes every claim, complaint or proceeding before the Commission.

Commission
established
a tribunal

17. (1) For the purposes of this Part the Commission is hereby established a tribunal which shall have and exercise jurisdiction—

- (a) to hear and determine complaints relating to rates payable for any service of a public utility;
- (b) to hear and determine claims by a public utility for an increase of the rates payable for any of its services;
- (c) to hear and determine objections to agreements under section 30 (3);
- (d) to hear and determine disputes between public utilities as to any matter concerning the rates payable or to be payable for services provided by any of those public utilities;
- (e) of its own motion or at the instance of the Minister to review and determine the rate payable for any services of a public utility whether on the registration of any agreement therefor or otherwise.

(2) The tribunal under subsection (1) shall comprise of the chairman and two other Commissioners nominated for the purpose by the chairman.

(3) Where a Commissioner withdraws from any proceedings on a matter before the tribunal on account of interest, illness, or otherwise, the tribunal shall not be disqualified for the transaction of business by reason of such vacancy among its members save that in the case of an equality of votes the chairman shall have a casting vote.

Hearing of
decision of
matters before
the Commission

18. (1) The Commission shall expeditiously hear and inquire into and investigate every matter which is before it and in particular shall hear, receive and consider statements, arguments, and evidence made, presented or tendered—

- (a) by or on behalf of any complainant;

- (b) by or on behalf of the public utility concerned;
- (c) on behalf of the Minister.

(2) The Commission shall determine the periods that are reasonably necessary for the fair and adequate presentation of the matter by the respective parties thereto, and the Commission may require those matters to be presented within the respective periods so determined.

(3) The Commission may require evidence or arguments to be presented in writing and may decide the matters upon which it will hear oral evidence or arguments.

(4) All matters brought before the Commission shall be determined by a majority of the members thereof.

(5) Subject to subsection (6) no award or other determination of the Commission in any matter brought before it under this Part—

- (a) shall be challenged, appealed against, reviewed, quashed or called in question in any court on any account whatever;
- (b) shall be subject to prohibition, mandamus or injunction in any court on any account whatever.

(6) Any party to a matter brought before the Commission shall be entitled as of right to appeal to the Court of Appeal on a point of law from any judgment, order, or award of the Commission. The decision of the Court of Appeal on any matter brought before it under this subsection shall be final.

19. Every party to a matter shall be entitled to appear Appearances at the hearing thereon and may be represented by counsel or solicitor or any other person who in the opinion of the Commission is competent to assist such person in the presentation of the matter.

20. (1) Subject to this section, for the purposes of Powers of Commission under Part II dealing with any matter brought before it, the Commission shall have all such powers as are vested in the High Court of Justice on the occasion of an action, to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise, to compel the production of documents and to enforce its orders.

(2) A summons signed by the secretary to the Commission shall have the same force and effect as any formal process capable of being issued in any action taken in the High Court for enforcing the attendance of witnesses and compelling the production of documents.

Awards

21. (1) An award on any matter brought before the Commission may be made retrospective to such date not being earlier than six months before the date on which the matter was brought before the Commission.

(2) In addition to the powers conferred on the Commission by the preceding provision of this Part, the Commission may, in relation to any matter brought before it—

- (a) make provisional or interim order or award relating to the matters or part thereof, or give a direction in pursuance of the hearing or determination;
- (b) dismiss any matter or part of a matter or refrain from further hearing or from determining the matter or part thereof if it appears that the matter or part thereof is trivial or vexatious or that further proceedings are not necessary or desirable in the public interest;
- (c) order any party to pay to another such costs and expenses, including expenses of witnesses, as are specified in the order;
- (d) generally give all such directions and do all such things as are necessary or expedient for the expeditious and just hearing and determination of the matter.

Transitional
as to filing
and inspection
of rates

22. (1) Within thirty days of the commencement of this Part, every public utility shall file with the Commission in the prescribed form, tariffs showing all rates established by it and shall keep copies of such tariffs open to public inspection.

(2) The rates specified for such tariffs shall be the authorised rates of such public utility unless altered as provided by this Act.

Adherence
to tariffs

23. (1) Subject to the provisions of this Part, a public utility may not, directly or indirectly, demand or receive a greater or less rate for any service rendered than the

authorised rates referred to in section 22 (2) or the rates agreed upon in an agreement filed or registered pursuant to section 30, as the case may be, except as is otherwise determined by the Commission upon any matter brought before it under this Part.

(2) Where—

- (a) an amount is paid in excess of the rate properly exigible in accordance with subsection (1); or
- (b) any money is paid in pursuance of a provisional or interim order or award or for temporary rates under section 28,

such sums and any such money which would not be payable upon the final order or award or the final determination in the case of temporary rates, shall be repaid or made good; and any payment made shall, so far as it is not or would not have been authorised pursuant to subsection (1) or under the final order or award or other determination as to temporary rates, be deemed to be an unauthorised payment.

(3) Nothing in this section or in section 22 shall apply or be deemed to apply to rates specially agreed upon between a public utility and an individual consumer for the supply of services or facilities designed to meet the specialised requirements of such individual consumer.

24. (1) Any person may make a complaint to the Commission against the rate payable or to be payable in accordance with the provisions of section 22 for the services provided by a public utility on the ground that the rate so payable is unfair or unreasonable or contrary to law. Complaints
respecting
rates

(2) Every such complaint shall be in writing and may be made by the complainant in person, or by his counsel or solicitor or by any person authorised by him in writing in that behalf.

(3) Particulars of the ground or grounds upon which the complaint is made shall be supplied therewith in the prescribed form.

(4) The Commission may require any person making a complaint to provide security for the cost of the hearing and investigation of the said complaint.

25. (1) Where a public utility desires to make a claim for an increase in rates payable to it for any of its services it shall, not later than twenty-eight days before making Making of claims

any such claim to the Commission, cause to be published by means of advertisement in a newspaper circulating in Trinidad and Tobago a notice of its intention to make the claim.

(2) A notice required by subsection (1) shall state the particulars of such claim and also that any person who desires to object to an award or other determination allowing such claim may, before such date not earlier than twenty-one days after the publication of the advertisement as may be specified therein, make a complaint against such claim for an award or determination.

(3) Upon the expiration of the period required for the publication of the notice under subsection (1) a public utility may make a claim in the prescribed form for an award or other determination allowing such changes in the rates then in force and fixing the time when the changed rates are to take effect, as is specified in the claim.

Service of
claims and
complaints

26. Upon the making of a claim or complaint or upon any other proceedings for the hearing and determination of any matters concerning which the Commission has jurisdiction under section 17, the Commission shall cause a copy thereof to be served upon such persons as it considers interested in the matter or cause of the claim, complaint or proceeding, accompanied by a notice to satisfy the claim, complaint or proceeding or to answer the same in writing or otherwise within such time as may be specified by the Commission in such notice.

Proceedings
open to public

27. The proceedings of the Commission shall be open to the public and minutes thereof including a summary of the evidence given and a statement of all facts taken into consideration, shall be kept by the direction of the Chairman.

Temporary rates

28. (1) The Commission may, in any matter or proceeding involving the rates of public utility brought either upon its own motion or at the instance of the Minister or upon a claim or complaint, if it is of the opinion that the public interests so require, immediately determine temporary rates to be charged by such public utility pending the final determination of such matter or proceeding.

(2) Subject to subsection (3) whenever the Commission, in the exercise of its powers under Part III, upon examination of any annual or other report, or of any papers, records, books or documents or of the property of any public utility, is of the opinion that any rates of such public utility are producing a return in excess of a fair return upon the fair value of the property of such public utility, the Commission may, instead of holding an investigation of its own motion or otherwise by Order, prescribe for a trial period not exceeding six months, such temporary rates to be observed by such public utility as in the opinion of the Commission, will produce a fair return upon such fair value, and the rates so prescribed shall become effective upon the date specified in the Order of the Commission, and the rates so prescribed shall become permanent at the end of such trial period.

(3) Where the Commission determines to make an order under subsection (2) it shall give twenty-one days' notice of its intention so to do to the public utility concerned, who may, if aggrieved by the proposal of the Commission to exercise its powers under the said subsection (2), within such time as is prescribed, make a claim to the Commission for a revision of the rates, and the Commission shall hear and determine such claim before making any order under this section.

(4) If the rates as finally determined are in excess of the rates existing prior to the determination of the temporary rate under subsection (1) or to the making of an Order under subsection (2), then the public utility shall be permitted to amortize and recover by means of a temporary increase in the rates finally determined, the sum which represents the difference between the gross income actually received by the public utility during the period commencing with the date on which the determination of the temporary rate or the making of the Order aforesaid first took effect and ending on the date on which the rate as finally determined became effective, and the gross income which would have been received during the same period if the rates finally determined had been in effect.

29. In any proceeding upon the motion of the Commission involving any proposed or existing rate of any public utility, or in any matter upon a claim involving any proposed increase in rates, the burden of proof to show that

Burden of proof

the rate involved is fair and reasonable shall be upon the public utility.

Registration
of agreements

30. (1) Subject to section 31, within thirty days of the commencement of this Part every public utility shall submit to the Commission for registration copies of all agreements made by it with persons or with other public utilities for the supply of services in respect of which a tariff is not required to be filed under section 22.

(2) Every agreement made after the commencement of this Part by a public utility with an individual consumer or another public utility for the supply of services in respect of which a tariff is not required to be filed under section 22 shall be registered with the Commission.

(3) Any person aggrieved by the terms and conditions or other effect of any agreement submitted for registration with the Commission under this section may, by notice in writing to the Commission and to the parties concerned, object thereto; and such notice of objection shall be treated as a complaint in accordance with the provisions of this Act.

Ratification
of certain
agreements

31. Where an agreement for the supply of services is submitted to the Commission for registration in accordance with section 30, in every case in which objection is made to the registration of any agreement referred to in section 30 or in which the Commission on its own motion or at the instance of the Minister determines to hold an inquiry thereon, the Commission shall hear and determine the rate payable and ratify or otherwise the terms and conditions applicable to the provision of the services by the public utility and in particular the Commission may—

- (a) ratify the agreement without amendment or modification; or
- (b) ratify the agreement with such amendments and modification as it may consider necessary or proper; or
- (c) refuse to ratify such agreement.

Validity of
agreements

32. An agreement referred to in subsection (2) of section 30 shall have effect only if it is ratified by the Commission in accordance with this Part and every agreement so ratified and registered in accordance with this Part shall, during its continuance be binding on all parties thereto.

PART III

RESEARCH, INQUIRIES AND ADVICE

33. (1) For the purposes of this Part the Commission ^{Research} may establish an office for economic research which shall have the following functions—

- (a) collecting and compiling, any information which may be of assistance to the Commission in the exercise of its powers and functions under this Act;
- (b) keeping information so collected and compiled up-to-date;
- (c) conducting studies of economy and efficiency;
- (d) making such valuations of the property of a public utility as are required by the Commission.

(2) Information collected and compiled and the results of the research carried out under this section shall be furnished subject to the permission of the Commission to any person or authority desiring to obtain that information or those results upon payment of the prescribed fee.

34. The Commission shall act in an advisory capacity ^{Advisory} to the Minister in such matters concerning public utilities ^{functions of} as are referred to it by the Minister, and for such purpose ^{the Commission} as well as any other of the purposes of the Commission under this Act, the Commission shall have power to initiate and conduct investigations into the operations and standards of service of all public utilities.

35. The Chairman, member, Secretary or any officer or ^{Duties of public} employee of a public utility shall, on being designated by ^{utilities to} the Commission so to do— ^{furnish reports,}

- (a) furnish to the Commission in such form and detail as the Commission may require, all tabulations, computations and all other information required by it to carry into effect any of the provisions of this Act, and shall make specific answers to all questions submitted by the Commission; ^{information, &c.}
- (b) whenever required by the Commission, deliver to the Commission copies of any or all maps, contracts, agreements, franchises, reports, books, accounts, papers and records in

its possession or in any way relating to its property or affecting its business and also a complete inventory of all its property in such forms as the Commission may direct;

- (c) furnish all annual reports to the Commission at such time and in such form as the Commission may require;
- (d) file such monthly reports of earnings and expenses as the Commission may require; and
- (e) file periodical or special reports or both concerning any matter about which the Commission is authorised by any law to inquire or to keep itself informed or which it is required to enforce.

Inspection
of books,
accounts, &c.

36. A Commissioner or any officer or other person authorised by the Commission may at any time inspect the accounts, books, papers and documents of any public utility.

Failure of
public utility
to furnish
information

37. Every person who, being required by the Commission so to do, fails to prepare and furnish to the Commission within the time and in the manner and form and with such particulars and certifications as are required by this Act or the Regulations—

- (a) any return of information required in the forms of returns furnished to the Commission; or
- (b) any answer to any question submitted by the Commission; or
- (c) any information required by the Commission which is in his possession or control,

is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

Making false
returns

38. Every person who wilfully makes any return or furnishes any information to the Commission which is false in any particular is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

PART IV

MISCELLANEOUS AND GENERAL

39. (1) The Commission may, with the approval of the Minister, make regulations for the purpose of carrying this Act into effect and in particular—

- (a) for regulating the procedure upon the making, hearing and enforcement of awards and other determinations of the Commission;
- (b) setting out the principles on which rates chargeable by public utilities should be based;
- (c) for the procedure on the making of investigations into the operations and standards of service of any public utility and for holding inquiries under section 34;
- (d) for prescribing any matter or thing that is required by this Act to be prescribed.

(2) Where the Commission makes regulations under paragraph (b) of subsection (1), it shall have regard to the following matters—

- (a) the original capital cost expended by the relevant public utility;
- (b) the operating expenses of such public utility;
- (c) the annual depreciation calculated upon the original capital cost of such public utility;
- (d) such taxes and other duties as may be payable by such public utility;
- (e) the returns on the depreciated original cost rate base of such public utility.

(3) Regulations made under this Act may contain provisions for imposing on any person contravening the regulations, a fine, recoverable on summary conviction, of two hundred and fifty dollars in respect of each offence and in the case of a continuing offence, a further fine of twenty-five dollars for each day during which the offence continues after conviction therefor.

40. A Commissioner shall not be disqualified from acting in any matter arising under this Act by reason only of his being one of several ratepayers, or as one of any other class of persons, liable in common with the others

Commissioners
not disqualified
by liability
to rates

to contribute to, or be benefited by any rate or fund out of which any expenses of the public utility concerned are to be defrayed.

Penalty for obstructing execution of Act

41. A person who wilfully obstructs any person acting in the execution of his duties under this or under any regulation, order or award, made or issued thereunder is guilty of an offence and liable on summary conviction to a fine of one hundred dollars.

Evidence of documents

42. A copy of any regulation, order or award or other document made by or in the custody of the Commission, certified by the secretary of the Commission, to be a true copy thereof, shall in any court be evidence of the regulation, order, award or other document without proof of the signature of the secretary.

Commencement

43. This Act shall come into operation on a date to be fixed by Proclamation of the Governor-General published in the *Trinidad and Tobago Gazette*.

Passed in the House of Representatives this 10th day of June, 1966.

G. R. LATOUR
Clerk of the House of Representatives

Passed in the Senate this 21st day of June, 1966.

J. E. CARTER
Clerk of the Senate