

**FAIR TRADING COMMISSION**

**IN THE MATTER** of the Utilities  
Regulations Act, Cap 282 Laws of Barbados;

**IN THE MATTER** of the Utilities  
Regulations (Procedural) Rules;

**IN THE MATTER** of an Application by the  
Barbados Light & Power Company Limited  
for a Review of electricity rates pursuant to  
Section 16 of the Utilities Regulations Act,  
Cap 282 Laws of Barbados;

**APPLICANT:** Barbados Light & Power Company Ltd.

**INTERVENORS:**

- Barbados Association of Non Governmental Organisations
- Barbados Association of Retired Persons
- Barbados Consumer Research Organisation Inc.
- Barbados Small Business Association
- Dr. Roland Clarke
- Mr. Errol Niles
- Mr. Douglas Trotman
- CANBAR Technical Services Ltd.

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**CLOSING ARGUMENTS**

**BARBADOS ASSOCIATION OF NON GOVERNMENTAL ORGANISATIONS  
(BANGO)**

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1. In the matter of the application by the Barbados Light & Power Co. Ltd., the Commission held a Rate Hearing in which the Applicant put forward its case for a raise in rates. During the Hearing, the Applicants main theme was that it needed to show a greater rate of return from its operations and that this would help it attract debt rather than equity; since equity is more expensive.
2. The Company has at no time in the past 26 years made a loss. Today it is not making a loss and this must be weighed against either the burden or the financial capacity of the many consumers that are being asked to pay more. BANGO contends that there is a section of the population that is already in rate shock and even the more fortunate among these are tending to the Poverty Line. (See page 9)
3. Furthermore, customers are being saddled with an additional burden of cost recovery for poles which is unnecessary because the company can recover up to 65% of its costs but chooses to collect only 23% of the said costs from service providers using the BL&P Infrastructure. In this regard, not only are consumers being asked to pay more, but they are being short-changed because the company which reserved the poles is only using one-sixtieth of the pole capacity.
4. Noting that Mr. Williams testified that the choice for TeleBarbados was also because CBC wanted to use a few poles, we submit that TeleBarbados is similarly only utilising a few poles and was unfairly and unreasonably given a pole reserve at a fraction of the cost that would effectively block providers from competing with TeleBarbados. While the matter of abuse of dominant position is not a consideration for the rate hearing, what can be legitimately considered as a result of this state of affairs is that consumers should not be asked to contribute any portion of costs which could be otherwise collected by sound business practices. The most critical question is the extent to which the company is under an obligation not to arbitrarily pass on these costs and considering that it has projected itself as a company with competent management operating at maximum business efficiency isn't this a legitimate expectation?

## Lost Revenue from Existing Assets

5. During cross examination, Mr. Peter Williams agreed that the pole network was a public good – that it existed for the “Public's Convenience”, and that it would make no sense for there to exist two pole networks. When asked if the Company sought to maximize returns from this asset, the answer was no, but instead the goal was to recover costs. When asked if it was possible for there to be more than two attachers to the BL&P pole network, he said no.
6. Mr. Williams also stated that BL&P could not be a [telecommunications] carrier. Although not stated, the reason for this is the regulatory policy in North America is that Utilities cannot be telecommunications carriers because access to the “last mile” infrastructure (the Transmission and Distribution (T&D) network) is paid for by the consumers of the Utility, and thus should not be used by the Utility for anything but delivery of Electricity. Access to the infrastructure for other purposes must be done at commercially competitive rates, and at “arms-length”.
7. Mr. Williams also stated that in North America there are normally two classes of “attaching parties”: Telephone (telephony) and Cable (television). Mr. Camfield also agreed to this being nominal in his experience during his cross examination. Mr. O'Sheasy agreed during his cross examination that BL&P was a “natural monopoly” in T&D.
8. Mr. Williams also said that other than Cable and Wireless (C&W), Redifusion was the second attacher previously, but they abandoned their position “in the mid 1990's”. When asked why TeleBarbados was given the second pole attaching position, the answer was that “they came to us first”.
9. BANGO notes that TeleBarbados (TBB) is an associated company of BL&P – owned 25% by Barbados Light and Power Holdings (BLPH), and 75% by Leucadia National Corporation, itself a majority shareholder in BLPH.

10. Furthermore, BANGO finds it very disturbing that TBB have been given such preferential access to BL&P infrastructure, which BANGO submits is being used sub-optimally. This was confirmed during cross examination by Mr. Williams who stated that TBB were only using approximately one thousand (1000) of BL&P's pole network – a tiny percentage. And yet no other attacher could use other poles, because the remainder is “reserved” for TeleBarbados.
11. It is important to observe that TBB does not use the pole network to serve residential customers; it is used instead for fibre optic connections to commercial customers.

### **Consumers Subsidizing Carriers**

12. During cross examination, Mr. Worme agreed that the “Street Lights” existed for the “public's convenience”, and that during his rate design he had adjusted the charge for these to have a zero rate of return. This means that while not generating profit, they are being effectively removed from the Rate Base. Hence, customers are not subsidising street lighting.
13. BANGO finds it very disturbing that the same effort has not been made for the pole attachment positions. Because the rate of return for pole attachment is below the cost of recovery, it means that the consumers of BL&P are effectively subsidizing the attaching parties – TeleBarbados to a significant degree.
14. Since TeleBarbados is an associated company of BL&P, BANGO finds these arrangements highly inappropriate and irregular because apart from subsidising the attachments of TeleBarbados, it effectively insulates TeleBarbados from competition from other carriers who would wish to use the poles to deliver services for the convenience of the people of Barbados.
15. BANGO thus asks the Commission to consider this as an inappropriate squandering of a “public good” and prevent the company from claiming the lost revenue from its consumers that could and should have been generated from the carriers. Furthermore, the

Applicant has indicated that it will be revising its pole contracts with these carriers. This means that while it is claiming this cost from its customers in the proposed rate increase, it has plans of recovering this cost after the rate is set.

16. If the Applicant had followed the recommendations for charges provided by its consultants, PriceWaterhouse Cooper (PWC) (See Table 1 below) for Attached and Reserved poles, it would have been able to recover \$2.588 million, or 63.5% of the cost of providing the attachments. If they had allowed an attaching party who would have used a greater number of polls (such as a Cable TV provider), they could have recovered \$2.961 million, or 72.7% (See Table 2 Below).

17. Instead, the Applicant is only recovering \$0.918 million, or 22.5%, of the cost of providing the pole attachment positions allowing its customers to subsidise two telecommunications providers including an associated company which made a profit in 2008 (the test year).

PriceWaterhouse Coopers Recommended Rates:

	<b>C&amp;W</b>	<b>TeleBB</b>
Recommended Monthly Revenue / Pole Used	\$2.54	\$2.31
Recommended Monthly Revenue / Pole Reserved	\$1.27	\$1.16

**Table 1**

Lost Revenue:

	<b>C&amp;W</b>	<b>TeleBB</b>	<b>Total</b>
Total Number of Poles			70000
Poles in Use	35000	1000	
Poles Reserved	35000	69000	
Recommended Monthly Pole Network Revenue	\$133,350	\$82,350	\$215,700
Recommended Annual Pole Network Revenue	\$1,600,200	\$988,200	\$2,588,400
Actual Monthly Revenue per Pole Used	\$2.0200	\$2.3083	
Actual Monthly Revenue per Pole Reserved	\$0.0000	\$0.0500	
Actual Monthly Pole Network Revenue	\$70,700	\$5,758	\$76,458
Actual Annual Pole Network Revenue (Test Year)	\$848,400	\$69,100	\$917,500
Difference between Recommended and Actual	\$751,800	\$919,100	\$1,670,900

**Table 2**



## **Rate Shock/Impact**

18. One matter that never arose in the cross examination of witnesses was a definition of Rate Shock or Rate Impact. We do not deny that explanations and descriptions were given, but no definition was advanced that could be applied across groups. We submit that rate shock and its impact is important in light of the economic downturn which includes loss of jobs among the working class and the impending impact of the economic recession forecasts that will be felt in the near future. We further submit that the poorer sector of the population will be **very sensitive** to price increases and loss of jobs.

## **Economic Outlook**

19. In terms of the plight of low income workers and households, Senator Maxine McClean is on record publicly asking Barbadians to brace for the loss of jobs expected during the period of the economic recession. The economic forecast for Barbados predicts that recovery will not be before the year 2011. It is within this period that the utmost concern should be shown for low income households in order to prevent any unnecessary fall in living conditions that could be avoided.

## **Electricity Usage in Low Income Households**

20. First, Mr. Stephen Worme, under cross examination by Dr. Roland Clarke, agreed that the elasticity of electricity usage is zero. Second, he also agreed under cross-examination by Mr. Toft of CANBAR that it is fairly hard for the average household to stay at or below 100kwh/month and that a more accurate minimum usage for a household is just over 200kWh/month. This speaks to the unreasonableness of 0-100kwh/month as a block to capture low income households.

## **Rate Shock/Impact: Identifying the Most Vulnerable**

21. In recent times, Government has reduced the subsidy on oil and coupled with the sharp increases in the price of oil, low income households are already bearing a large increase in their electricity bills, which have more than doubled within the last five years. For

example, the bill of a household using 250kWh/month is now roughly \$125.00. Five years earlier, the amount for this usage would have ranged between \$40 and \$60.

22. If we take the example of a low income household of three persons earning \$2000/month, this is an average of \$166/week per person which places each household member just above the poverty line<sup>1</sup>. Considering that \$312.00/week<sup>2</sup> is very low income, any further erosion of their income pushes them closer to the poverty line and is therefore unreasonably burdensome because being so close to the poverty line is not economically healthy or socially desirable.
23. BANGO proffers a definition of Rate Shock/Impact and invites the Commission to consider the following definitions:
24. **Rate impact** is the likely effect of a change in circumstances brought about by an increase in rates to any class of users based on salary ranges, given that the elasticity of electricity usage is zero.
25. **Rate Shock** is the extent of the negative impact on circumstances brought about by an increase in rates to any class of users based on salary ranges, given that the elasticity of electricity usage is zero.
26. BANGO submits that the lower margin of 100kWh was applied arbitrarily to create a convenient measure rather than a margin which takes the usage of the poorer householders in consideration and the likely impacts on salary or wages any raise in rates will cause.
27. A better application of the definition of rate shock/impact would have been to determine the number of users according to salary ranges, household size and reasonable electricity usage. What is reasonable electricity usage? If we consider that we are living in modern society and that as a developed society and for health, nutrition, education and safety

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<sup>1</sup> Poverty Line = \$5,503/annum = \$458.58/month = \$114.65/per week. See page 9

<sup>2</sup> See Table 4 page 10

reasons, one would expect the poorest households to have as basics: a fridge; a TV; at least a 60W light bulb; and a computer. (See Table 3 below).

<u>Appliance</u>	<u>Watts</u>	<u>Hours / Day</u>	<u>Hours / Month</u>	<u>kWh</u>
Refrigerator	166	24	720	119.52
60 W Light	60	4	120	7.2
TV (Tube)	286	4	120	34.32
TV Box	23	4	120	2.76
Computer	240	4	120	<u>28.8</u>
				<b>192.6</b>

**Table 3**

28. With these basic electrical appliances and most meagre usage, consumption comes to roughly 200kWh/month. 100kWh is half this and therefore begs the question, to what extent is the application of a 100kWh margin a reasonable consideration if the average low income household is using 200kWh/month at the minimum to maintain modern standards of living? It should be noted that the real impact will be felt by the working poor, rather than by the welfare cases, which are borne by Government through the Welfare Department.

29. Mr. Worme in his evidence admitted that among those customers who would fall into the category of 100kWh were unoccupied buildings including apartments for rent where tenancy is in transition. Welfare houses and welfare recipient households can be added to that list. It means that any raise in rates will only further increase government's contribution for welfare recipients and while this may not be a strong consideration, it means that those using a realistic level of electricity, between 200kWh and 250kWh will feel the impact. Arguably, these are among the low income households whose incomes are sensitive to any increases in rates and prices.



## Impact Indicators

30. In 2008, the Government of Barbados introduced free bus rides for school children and for the first time, Schools Meals was introduced into secondary schools like Parkinson Secondary School, Grantley Adams Memorial and St. Lucy Secondary School to address the problems of children not getting to school because their parents could not afford the bus fare and lunch money. With effect from income year 2007 Government introduced a reverse tax credit of \$800 for workers earning less than \$15,000 annually but not more than \$1,250 monthly. This Reverse Tax Credit was increased from \$500 annually.
31. These actions by Government can be seen as indicators for the level of workers that are feeling the crunch of economic times, so that those working for up to \$1,250/month are deemed by the State to be in a state of substandard living and therefore, most vulnerable.
32. Since Government has gone to such lengths to ease these workers, and we have not yet felt the brunt of the economic crisis, any future impacts that could be avoided, should be avoided. Further, some room should be given to workers just above this salary level since the \$1,250/month can be said to represent a bottom line for the “working poor” but also a ceiling for the amount of working poor that can be assisted with Government resources.

## The Working Poor

33. Among the characteristics of the group classified as the working poor are the large number of persons and the low wages that are far from adequate to meet basic needs. It is in this group that the greatest impacts are felt, directly proportional to rise in prices. Data from the Barbados Statistical Services indicate the following:

### 34. Barbados Statistical Services<sup>3</sup>

#### Miscellaneous Data:

1. The Average Household is made up of approximately three (3) persons – 2000 Census
2. Poverty Line = \$5,503/annum = \$458.58/month = \$114.65/per week – 2000 Census

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<sup>3</sup> Statistics provided by the Barbados Statistical Services.

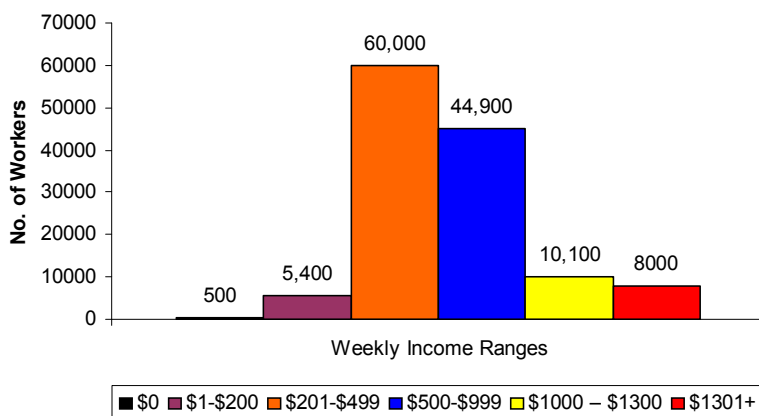
3. Minimum Wage Range = \$1.00 - \$200.00/week; defined as substandard wages; (see Table below).
4. In the table below, 128,900 workers support the entire population of 275,000; Household Index = 1.133 Workers per Household. (See Table below)
5. The Table below shows that 65,900 workers (more than half) are in the substandard salary range (below \$500/week) when the household index is applied, these represent 58,319 households supporting 174,956 people living on substandard wages. The two examples below are based on the Average Household where one person in the household is employed (Household Index rounded off to 1). They are designed to demonstrate how salary ranges relate to low income households:
  - a. \$200/week: takes 1 ½ persons past the poverty line but only sufficient for one at the substandard margin.
  - b. \$500/week: takes all three persons past the poverty line but only sufficient for 2 ½ at the substandard margin.

### 35. Barbados Statistical Services

**Table of Income Ranges and Workers: 1<sup>st</sup> January – 31<sup>st</sup> March 2009**

Weekly Income (\$)	None	1-200	201-499	500-999	1000 – 1300	1301+	Total Workers
No. of Workers	500	5,400	60,000	44,900	10,100	8000	<b>128,900</b>

Table 4



## Who Can Withstand Rate Impacts

36. Since many of those below \$200/week are Government assisted, the most worrisome group is the block of 60,000 workers in the wage range of 201 – 499/week, many of whom will not qualify for any relief from Government and are therefore most vulnerable to any increases. Furthermore, it would be defeating the purpose of Government assistance to impose any increases on those receiving assistance.
37. If it can be agreed that those within the \$500 - \$1000 salary range and above can withstand impacts, then BANGO submits that the income ranges below should bear no increase at all. However, considering the difficulty with targeting all customers based on household income, we respectfully submit that a kWh margin should be established on the basis of reasonable usage for low income customers that would ensure that the majority of low income households would be spared any impacts.
38. BANGO further submits that the households in the block above 250kWh/month will not feel the impact of a raise in rates and any increases contemplated for users below 250kWh should be spread across households and businesses surpassing 250kWh/month. This would encourage energy saving by low income households and offer them the option of staying within the 250kWh usage where hardship sets in.
39. It makes no sense saying that you are encouraging savings without giving customers realistic opportunities to save. It would make the utterances of such words meaningless. It is important to give meaning to such objectives because the effort required to address the present recession is a national effort. While there is no objection to a raise in rates for those who can afford it, certainly shielding the most vulnerable is very desirable from the point of view of their numbers and the fact that if such numbers are allowed to deteriorate, it will have significantly greater impact on the nation as families plunge closer to poverty.

## Capital Structure

40. The applicant indicated that it is desirous of moving towards a new capital structure of 35% Debt and 65% Equity which it considers will better match the Debt/Equity ratio for the period in which the proposed new tariff will be in existence.
41. The applicant's current capital structure consists of 20% Debt and 80% Equity. However, the applicant's budgets for the next five (5) years show clearly that even with the substantial borrowings that will be necessary to fund its proposed future expansion, the applicant is unlikely to achieve a capital structure of 35% Debt and 65% Equity over the next five to ten years. It is therefore an unrealistic goal.
- 42. Consequently, the Commission should reject the applicant's submission on the methods used to calculate both the Weighted Average Cost of Capital ("WACC") and the Rate of Return on Equity ("ROE").**
- 43. In the absence of a study, the FTC should commission a study of the Caribbean or request the Applicant to commission one. There is no quick fix solution as this will take gathering information over a period of time to come up with an appropriate structure.**

## Cost of Service Study

44. During cross examination Mr. Camfield conceded that the cost of service study was done only for the test year (i.e. 2008). A study of the various elements of costs such as fixed, variable, semi-variable, controllable, uncontrollable etc. involve observing these costs over a period of time (generally more than one year) since they are not always incurred in a linear manner and can vary over different levels of operating activities, product types, locations and also can be influenced by government's fiscal policies and environmental factors.

45. Consequently, one would have expected the Applicant to have conducted a cost of service study over a period of no less than five (5) years to ensure that all of these considerations would have been considered.

**46. The Commission should therefore not place any reliance on the cost of service conducted by Mr. Camfield, the expert witness.**

**47. BANGO recommends that the applicant commission a more detailed study over five or more years to determine whether the numbers from the study would support the COS done by Mr. Camfield.**

### **Rate Hearing Costs**

48. The applicant has proposed that the costs be recovered over a period of five (5) years.

49. It should be noted that in the past the Commission has allowed applicants to recover rate hearing costs over a specific period of time. However, the Commission has, in the past, been lax in not monitoring the amortization period with the result that the applicant was able to continue recovering the rate hearing costs beyond the expiry date of the amortization period.

**50. BANGO recommends that the Commission should make an appropriate order for the applicant to recover its Rate Hearing costs for the approved amortization period but that an appropriate adjustment should be made to any approved rates so that no unauthorized recovery is permitted by the applicant beyond the said approved amortization period.**

### **Rate of Return on Equity**

51. In the calculation of the rate of return on equity a disproportionate use was made by Mr. Camfield of stock prices quoted on stock exchanges in the United States and Canada as opposed to similar information available on Caribbean stock exchanges.

52. The expectations of shareholders and lenders in Barbados do not necessarily mirror those in North America. In addition, it would be very misleading to compare the applicant's operations, style of management and business practices with utilities in North America.

**53. BANGO recommends that the Commission should reject the applicant's use of data compiled from the stock exchanges in the United States and Canada and request the applicant to make more use of similar information available within the Caribbean region.**

**54. There is enough information available on the Caribbean Stock Exchanges that an appropriate study could be carried out that would form the basis on which the applicant can calculate its rate of return on equity.**

## **Summary**

55. A raise in rates for those using 250kWh/month or less is unreasonable and we therefore urge the Commission to:

- i. Accept the margins established by Government that gives a working definition of poverty and the working poor as the most vulnerable customers of the Applicant whose wages are very sensitive to the upward changes in prices;
- ii. Recognise the fact that electricity bills have more than doubled in the last five years and that these increases would have already impacted negatively on the most vulnerable customers;
- iii. Define the first block based on reasonable usage as 250kWh/month or less for a household or small business;

56. Any cost which is recoverable should not be allowed in the rate base and we urge the Commission to strongly consider:

- i. Determining the cost recoverable for pole attachments based on the rates recommended by the Applicant's consultants, PriceWaterhouse Coopers;
- ii. Disallowing recovery of these costs in principle from the Applicant's customers because they can be recovered by prudent management.

57. We further urge the Commission to make the following a part of its decision:

- i. The inclining block structure be adjusted so that the first block is from 0-250 kWh/month
- ii. Deny the application for a raise in rates for users at or below 250kWh/month.
- iii. The rate design be adjusted to reflect increases in all blocks except the first block.
- iv. That the amount of lost revenue from pole attachments be subtracted from the Revenue Requirement, or, alternatively, that the value of the pole attachment positions be subtracted from the Rate Base.

Prepared and submitted on behalf of the Barbados Association of Non Governmental Organisations by:

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Roosevelt O. King

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Christopher Halsall

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Douglas Skeete