

IN THE SUPREME COURT OF BELIZE, A.D. 2003

ACTION NO. 525

IN THE MATTER of the Public Utilities Commission Act,
(Cap. 223) and the Belize
Telecommunications Act (Chapter 229) of
the Laws of Belize, Revised Edition 2000

AND

IN THE MATTER of the rebalanced rates for
telecommunication services imposed by
Belize Telecommunications Ltd on the 1st
day of December, 2001

BETWEEN

(PUBLIC UTILITIES COMMISSION	Applicant
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(AND	
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(BELIZE TELECOMMUNICATIONS LIMITED	Respondent

—

BEFORE the Honourable Abdulai Conteh, Chief Justice.

Mr. Derek Courtenay S.C. with Mr. Michel Chebat for the Applicant.
Ms. Lois Young Barrow S.C. for the Respondent.

—

RULING

This decision is concerned with the preliminary objections raised by the respondent, the Belize Telecommunications Ltd. (BTL for short) against the hearing of the Originating Notice of Motion dated 23rd October 2003 brought by the applicant (the Public Utilities Commission – PUC for short).

2. In the motion, PUC asks for relief principally by way of a declaration and certain consequential orders. These are as follows:

- (1) *A Declaration that the rates for telecommunication services contained in the tariffs published and in effect prior to the 1st day of December 2001 are the rates chargeable by the Respondent to users of its services in the period commencing the 1st day of December 2001 and thereafter;*
- (2) *An Order that the Respondent alter its rates for telecommunication services to conform with the rates in effect prior to the 1st December 2001;*
- (3) *That a suitably qualified person be appointed by the Court for the purpose of taking an account of any sum or sums due by way of refund to users of the Respondent's services in the period from the 1st day of December 2001 to the present as the result of charges made by the Respondent in excess of those lawfully permitted;*
- (4) *That upon the report of the person appointed in accordance with paragraph (3) hereof the Respondent be ordered to refund to the persons entitled thereto any sum or sums found by the Court to be due to them; and*
- (5) *All further proper accounts inquiries and directions.*
- (6) *Costs."*

BELIZE TELECOMMUNICATIONS LIMITED'S OBJECTIONS TO THE MOTION

3. Against this, BTL has, **in limine**, raised objections and asked that the motion be dismissed. BTL's objections may be stated thus:
4. First: Ms. Lois Young Barrow S.C. for BTL, has strenuously objected that the PUC has no standing to bring the present proceedings as it has no interest recognized by law in the alleged dispute; and that as the actual claim is proprietary predicated as it is on claims for refunds of money which would go to persons who are not parties to these proceedings, the PUC therefore has no tangible benefit or interest in the outcome of the case. Therefore, she objects, as the PUC does not stand to benefit or be

relieved from any disability by the reliefs sought, it should not be allowed to espouse the claim and seek relief from the Court. In further elaboration of the first limb of her objection, Ms. Young Barrow S.C. submitted that a respondent in a declaratory action should have asserted some right against which an applicant could seek relief: But in the present case, she argued that BTL has not taken any position against the PUC.

5. *Secondly*, Ms. Lois Young Barrow S.C., deployed another arrow in her bow aimed at shooting down the PUC's case before it could start. She argued and submitted that one of the Acts under which the PUC has sought to move the Court, namely, the Public Utilities Commissions Act – Chapter 223 of the 2000 Revised Edition of the Laws of Belize, has provisions for dealing with the complaints the PUC is seeking to ventilate by these proceedings. Therefore, she argued, the PUC was obliged to follow the specific investigative and resolutionary process set out in this Act which in fact governs the PUC, instead of coming to Court. BTL is complaining therefore that the PUC has failed to follow the provisions of this Act and to utilize procedures granted it by statute; it should not therefore be allowed to maintain the present proceedings.

The Parties to these proceedings

6. I believe that for a resolution of the objections taken by the respondent an outline of the status of the parties might be of some assistance.

First the Applicant - PUC

The Public Utilities Commission (PUC) is established by section 3 of Chapter 223 as an autonomous institution comprising of a Chairman and six others known as “Commissioners” who should be at least 35 years of age, of good moral character and recognized competence in any of the following fields, namely, law, public utilities management, economics, finance, banking, commerce, industry, electrical or mechanical engineering, telecommunications managements, or business management. The Commissioners are appointed by the Governor General acting on the advice of the Prime Minister given after consultation with the Leader of the Opposition.

The Minister responsible for public utilities appoints one of the Commissioners to be Chairman and he is charged with the daily administration of the affairs of the Commission. The Commissioners are

appointed for a period not exceeding six years although they are eligible for reappointment.

7. In order to ensure the independence or autonomy of the Commissioners their salaries are paid out of the Consolidated Revenue, and by section 10 of the Act the Commissioners, employees or members of the administrative staff of the Commission, have certain disqualifications and prohibitions enjoined upon them.
8. However, it is the general functions of the Commission provided for in **Part V** of the Act, that, I think, are particularly germane to these proceedings.

Section 22(1) in **Part V** of the Act as far is material, provides:

“22(1). It shall be the duty of the Commission to ensure that the services rendered by a public utility undertaking operated by a public utility provider (hereinafter referred to as “utility services”) are satisfactory and that the charges imposed in respect of those services are reasonable, and for this purpose, notwithstanding anything to the contrary in any law, the Commission shall have the power

(a) ...

(b) to determine and prescribe in accordance with the provisions of this Act, the Electricity Act, the Telecommunications Act, the Water and Sewage Act, and other subsidiary legislation made under these Acts, the rates which may be charged in respect of utility services.” (emphasis added)

Subsection (2) goes on to provide that in the exercise of the functions assigned to it, the Commission shall do so in a manner which it considers is best calculated to, as far as it is material here: (a) secure that all reasonable demands for utility services are satisfied; (b) secure that licence holders are able to finance the carrying on of the activities which they are authorized by their licences to carry on and (c) protect the interest of consumers in respect of (i) the tariffs charged and other terms of supply, (ii) the continuity of supply, and (iii) the quality of the utility services supplied.

9. **Part III** of the Act on Provisions as to Rates charged by public utility providers is crucial to these proceedings.
10. Section 11 provides that rates charged by any public utility provider shall be **fair and reasonable** and in any case shall be in conformity with and use the rate setting methodologies specified in any Regulations, By-laws, Orders, directions or other subsidiary legislation or administrative orders made under ... the Telecommunications Act ... or any license authorizing the provision of such services.
11. Section 12(1) makes it mandatory for every public utility provider to file with the Commission, within such time and in such form as the Commission may from time to time by Regulations prescribe, tariffs showing all rates which such public utility provider is by law authorized to establish or charge for the provision of its services. The utility provider shall keep copies of such tariffs open for public inspection.
12. At the time of writing this Ruling, I have not had the benefit of the assistance of any Regulations made by the Commission as to the form or timing of filing of tariffs showing all the rates chargeable by public utility providers (including the respondent).
13. However, crucially, subsection (2) of section 12 stipulates that:

“(2) The rates submitted to the Commission under subsection (1) above shall be the authorized rates for such public utility provider until changed according to the law, in which case such changed rates shall be submitted to the Commission pursuant to subsection (1) above.”
14. Again of special importance is section 13 of the Act which stipulates adherence to tariffs filed by public utility providers. It provides:

“13. Subject to any provision in the Electricity Act, the Telecommunications Act, the Water and Sewage Act or any other law or subsidiary legislation made thereunder, no public utility provider shall, directly or indirectly, demand or receive a greater or lesser rate for any service rendered than that specified in the tariffs of such public utility provider applicable thereto and filed in the manner provided in section 12 above.” (emphasis added)

The gravamen of the applicant's case

15. It is manifestly clear that the case for PUC is based entirely on the rates charged by BTL for its services and complaints or demands for refunds supposedly due on those rates to consumers.

The Act expressly provides for complaints in respect of rates of public utility providers. Section 15 provides in terms, as far as is material, as follows:

“(1) Whenever any person in Belize has a complaint in respect of electricity, telecommunication and radio communication, water and sewage rates ... then such person shall make a complaint to the Commission which shall thereafter proceed to deal with such complaint as provides in subsections (2) and (3).

(2) Whenever the Commission, after receiving a complaint under subsection (1) above and holding a hearing in respect of that complaint, finds that any existing rates of a public utility complained of are unjust or unreasonable or contrary to the law, the Commission shall determine the fair and reasonable rates (including maximum and minimum rates) to be thereafter observed by the public utility provider and shall fix and declare the same by Order to be served on the public utility provider and such rates shall constitute the legal rates of the public utility in substitution of rates submitted to the Commission under section 12.” (which I had earlier set out)

(3) Where the public utility provider does not himself produce or generate that which he distributes, transmits, supplies or sells to the public but obtains it from another source, it shall be lawful for the Commission when exercising its powers under subsection (2) above to investigate the cost of production, generation, distribution, transmission or supply and based on such investigation to determine the

reasonableness of the rates of such public utility provider.”
(emphasis added)

Complaints received by the Applicant

16. I must say that from the evidence in this case, as is manifest from the affidavit of the Chairman of PUC dated 27 October 2003, the PUC did receive complaints from users of the respondent services (although the complaints were couched in the form of entitlement to refund of charges which BTL had demanded and collected contrary to a Stop Order promulgated by the Minister then responsible for telecommunications). There is no evidence however, that PUC utilized or followed the provisions of section 15 in respect of these complaints regarding the rates of BTL, although it wrote to the Chairman of BTL - see paragraphs 19 to 24 of the applicant's Chairman Canton's affidavit. That however was the end of the matter, there does not seem to have been any follow through either in terms of section 15 or **Part VI** of the Act, concerning Proceedings before the PUC regarding complaints relating to public utility providers, including of course, BTL.
17. I should point out that by virtue of Statutory Instrument No. 74 of 2000, the Act establishing the PUC became operational on 1st September 2000 and granted it jurisdiction in terms of the Public Utilities Act over telecommunication services. Mr. Derek Courtenay S.C. correctly submitted that at the time BTL published its notice of increasing its rates effective 1st December 2001 (which rates are the subject of these proceedings) the PUC already had responsibility, in line with S.I. No. 74 of 2000, for rates.

The Respondent

18. I now turn to the respondent BTL in these proceedings. BTL was up until 28 December 2002, substantially the only provider of telecommunications services both national and international for Belize under a licence granted by the Government of Belize for a fifteen year term from 1st January 1987. It is a limited liability company. It was granted a new licence this time by the PUC under the new Telecommunications Act – No, 16 of 2002, with effect from 30 December 2002 for another fifteen year term.

19. In November 2001, BTL published notices to the public in various newspapers in Belize intimating revised and altered tariffs for its telephony services to become effective on 1st December 2001. The Minister then responsible for telecommunication issued a Stop Order contained in S.I. 11 of 2002 ordering BTL to (a) stop the implementation of the new tariffs and to revert to the position immediately before 1st December 2001, and (b) not issue or serve bills to consumers for the month of December 2001 or thereafter based on BTL's published tariff effective from 1st December 2001. The Minister issued the Stop Order pursuant to section 23 of the then extant Telecommunication Act – Chapter 229 of the 2000 Rev. Ed. of the Laws of Belize alleging breaches by BTL of conditions 5.5 and 10 of its old licence. This resulted in a round of litigation between BTL and the Minister then responsible for Telecommunications and the Attorney General in Civil Actions Nos. 47 and 261 of 2001.
20. Both the Supreme Court and the Court of Appeal found in favour of the Minister's Stop Order in S.I. No. 11 of 2001, with some modifications by the Supreme Court. But the validity of the Stop Order as amended by the Supreme Court, was upheld by the Court of Appeal.
21. At the conclusion of its judgment, on appeal by BTL, the Court of Appeal while noting the request of BTL, that the Court should enter an order that the Statutory Instrument take effect on 24 March 2003, the date of the court's decision, however declined the request pursuant to section 21(h) of the Interpretation Act – Chapter 1 of the 2000 Rev. Ed. of the Laws of Belize which provides that a Statutory Instrument takes effect from the date it is published in The Gazette or the date of commencement stated in the instrument itself. And while appreciating the administrative difficulties that could arise for BTL and the public at large from an order that S.I. No. 11 of 2001 ought to take effect according to its terms, the Court however stated that it had no power to make an order fixing the date of commencing of a Statutory Instrument and declined to be persuaded by the decision in R v Secretary of State ex parte Avon County Council (1991) 1 WLR 282 as that decision did not address the straightforward situation found in respondent's case and therefore that decision could not avail it – see para. 34 of the decision of the Court of Appeal in Civil Appeal No. 28 of 2002 (unreported).
22. It is, I believe, the premonitory words of the President of the Court of Appeal in the judgment on BTL's appeal in Civil Appeal No. 28 of 2002, about the administrative difficulties that could arise for BTL and the public

at large that, in substance, the operative date of the Minister's Stop Order in S.I. No. 11 of 2001, freezing or rolling back the respondent's rates for its services at the level they were immediately before 1st December 2001, could not be changed, that have come to haunt these proceedings and of course the parties themselves as well.

Determination of the Respondent's Objections

23. I will now turn to the determination of BTL's objections.

First, on the **locus standi** of PUC as the applicant in the motion. I must confess, in the circumstance of this case and the issues sought to be litigated and the principal relief sought by the PUC, to sharing with respect, the dilemma expressed by Zamir and Woolf in their work, **The Declaratory Judgment** 3rd ed. (2002) by Lord Woolf and Jeremy Woolf, (London, Sweet and Maxwell). They write at page 227:

"In declaratory proceedings the answer to the question as to who is entitled to bring proceeding is by no means straightforward."

24. I should remind myself however that these proceedings are not judicial review proper where the requirement of standing is perhaps more materially relevant. Although there has, over the years, been some progressive loosening of the rules or requirements as to standing – see Lord Diplock in **R v Inland Revenue Commissioners, ex parte National Federation of Self-Employed and Small Businesses Ltd.** (1992) A.C. 617 at p. 638; **R v Secretary of State for Foreign and Commonwealth Affairs, ex parte World Development Movement** (1995) 1 WLR 386; however, meddlesome busybodies with no interest in the substance or outcome of the proceedings will still have some difficulties persuading the Court of their entitlement to bring proceedings or be heard.
25. In fact the motion is about what rates BTL should charge and was entitled to collect for its telephony services to the public, at least since 1st December 2001. And the PUC's remit as a statutory body under the Public Utilities Act, includes oversight of rates charged by public utility providers such as BTL. Ordinarily therefore, the issue of standing would not arise against the PUC: the question of rates is by statute, part and parcel of its business.

26. But there is an undeniable paradox in the motion that raises the question of standing. The paradox is this: the applicant, the PUC, is a public statutory body charged with, among other things, to ensure that rates charged by entities such as BTL are reasonable and fair. BTL is on the other hand, a non-public entity, a private entity if you will. Here it is the public entity the PUC that has brought the private entity BTL to Court. But by statute, the PUC is invested with jurisdiction over the rates of BTL and if there are complaints about these what procedures to utilize.
27. I must confess therefore to some considerable doubt whether, given the status and statutory responsibilities of the PUC, in the area of rates chargeable by public utility providers, such as the respondent BTL, it should be allowed to maintain or pursue the motion – see Gouriet v Union of Post Office Workers (1978) A.C. 435.
28. I had outlined above the statutory role and functions of the PUC in the field of rates fixing and determination if there are complaints about these: see in particular, section 15 of the Public Utilities Commission Act. The PUC received complaints about the rates BTL had been charging after 1st December 2001 (see paras. 19 and 20 of the affidavit of the Chairman of applicant) but did not bring into play section 15 of the Act. The PUC instead, chose to promulgate the Telecommunications (Transitional Tariffs) Regulation 2002, S.I. No. 151 of 2002 and continued these by the Telecommunications (Transitional Tariffs) (Amendment) Regulations 2003, S.I. No. 92 of 2003. What I think the PUC should have done, was to have deployed the mechanism provided for in the Act creating it. This Act provides a complete code for the filing and inspection of tariffs of public utility providers and the resolution of complaints by consumers regarding the rates charged by these providers, including BTL.
29. In argument, Mr. Derek Courtenay S.C. for PUC told the Court that upon the publication of BTL's notice intimating of the changes in its rates to be effective 1st December 2001, the PUC sought to have a hearing pursuant to Chapter 223 after receipt of complaints from consumers that the rates were excessive. Supreme Court Action No. 632 of 2001 was then commenced by BTL applying for leave for Judicial Review for certiorari to quash the notices of the PUC hearings and for an injunction to restrain the PUC from holding such hearing and prohibition against the PUC from hearing the complaints and an order of mandamus to the Commissioners of PUC to recuse themselves from hearing the complaints against BTL.

30. I have had the benefit of reading the judgment of Awich J. in Action No. 632 of 2001, entitled **IN THE MATTER OF AN APPLICATION BY BTL FOR LEAVE TO APPLY FOR JUDICIAL REVIEW AND IN THE MATTER OF THE BIAS SHOWN BY THE PUC AGAINST BTL IN RESPECT OF COMPLAINTS ALLEGEDLY RECEIVED.**

The judgment (unreported) was delivered on 3 January 2002. The learned judge clearly dismissed BTL's application which was clearly a legal stratagem to scuttle any meeting the PUC would hold on the complaints it had received relating to BTL's rates when he said: "Accordingly the question of stay of future proceeding including a future meeting of the PUC does not arise and application for the prospective stay is dismissed" at page 21 of the judgment.

This, anyone would have thought, was the green light for the PUC to have proceeded in accordance with its statutory duties and in accordance with the procedure stated in the Public Utilities Commission Act relating to complaints on rates. For some inexplicable reason, no meeting of the PUC on this issue involving BTL and its rates was ever held.

31. However, Dr. Gilbert Canton, Chairman of PUC, in a supplemental affidavit filed on 2 March 2004, after the hearing of the objections to its motion, makes the point that it was because the Minister of Budget Management, Investment and Public Utilities issued a Stop Order against implementing the tariffs BTL had proposed to become effective as from 1st December 2001, that the PUC did not hold any hearing in respect of the complaints it had received in respect of the BTL rates. This is a fair and understandable point of view. But the short answer to it is this: the Minister in his Stop Order was trying to ensure compliance by BTL with the conditions of its licence, whereas the PUC on receipts of complaints about BTL rates, had a statutory duty to perform. The Minister's Stop Order and a hearing by PUC of complaints on the same rates were not, in my view, necessarily mutually exclusive. These two may perhaps overlap and possibly be complimentary. But the function of receiving and hearing complaints about the rates of public utility providers and fixing and declaring what are fair and reasonable rates, is a statutory function for the PUC (section 15 of the Public Utilities Commission Act). No Minister can in law, set rates for public utility providers under the Public Utilities Commission Act, nor for that matter, can this Court. Moreover, it was to be expected that PUC should have continued to carry out its statutory

responsibilities on BTL's rates especially after what is in my view, the clear judgment of Awich J. on 23 January 2002. But PUC evidently did not.

32. But what the PUC now by this motion wants the Court to do is, I think, to discharge duties that the PUC itself is clearly by law charged with. This should not be allowed. A court of law is not in the business of setting rates for utility providers and their consumers; and I don't think it is the appropriate forum for this.
33. I should also point out that by section 16 of the Public Utilities Commission Act, in any proceedings relating to complaints about the rates of a public utility provider in terms of section 15, the burden of proof to show that the rate complained of is fair and reasonable is upon the public utility provider. Further after a hearing by the PUC on the complaint about the rates, and it finds that rates in question are unjust or unreasonable or contrary to law, the PUC itself shall then determine what is the fair and reasonable rate (including maximum and minimum rates) and declare this by an Order to be served on the public utility provider. The rate so declared in the Order, after the hearing, shall be the legal rate for the services provided by the public utility provider – section 15 of the Act.
34. Under Part IX of the Public Utilities Commission Act, section 42 stipulates the consequences to be visited on a public utility provider who fails or refuses to obey an Order of the PUC, including of course, an Order made after the hearing of complaint about the rates of a public utility provider.
35. In my view, what the PUC is seeking by this motion before me is to exercise its statutory powers relating to the determination of rates, but contingently through the Court. I don't think it should be allowed to do this. The rate determination powers of the PUC are public duties statutorily granted to it. It cannot refrain or shy away from executing those duties or exercising those functions and seek instead recourse to the courts for that purpose. If this is allowed, it will render nugatory the statutory powers of the PUC in the area of the determination of rates for services of public utility providers following complaints by consumers.
36. It would be invidious to involve the Court in the business of setting rates for public utilities in the face of a clear statutory scheme provided by law for this purpose with ample provisions for handling and resolving complaints regarding these rates.

37. It is for all these reasons I think the applicant for now lacks standing to bring this motion, which is clearly about rate determination resulting from complaints about the proper rates BTL should charge for its services.
38. I am also not unmindful of the considerations the Chairman of the PUC says in paragraph 7 of his supplemental affidavit that influenced the PUC in issuing S.I. Nos. 151 of 2002 and 92 of 2003. The expression “prevailing charges” in the Schedule to these Statutory Instruments gave rise to some arguments and submissions during the course of hearing of the objections to the motion, as to whether they referred to the BTL’s rates or charges for its services before 1st December 2001 (as was contended for by Mr. Courtenay S.C.) or the rates it had specified in its notice to be effective as from 1st December 2001 (as contended for by Ms. Lois Young Barrow S.C.). I do not think it makes any difference. The plain fact of the matter is that whatever was meant or intended to be the rates that BTL could charge as expressed in the Statutory Instruments as “Transitional Tariffs”, these were evidently set outside of the rates complaints hearing and fixing provisions of the Public Utilities Commission Act. In fact, these Statutory Instruments were made under section 56 of the new Telecommunications Act – No. 16 of 2002 with an eye on section 26 thereof on Rates and Tariffs. I do not in any event, feel it is necessary in the circumstances of the complaints about BTL’s rates, which complaints in turn spurred the PUC to issue the Transitional Tariffs Statutory Instruments, to determine which Act is really applicable or what rates BTL should in fact charge.
39. On the second objection raised by Ms. Young Barrow S.C. to the motion, it follows from what I have said above that the Act under which the motion itself is brought has ample provisions for dealing with the issues the PUC seeks to litigate. The PUC should therefore in my view first follow the statutory scheme before coming to court, if necessary.
40. Whatever BTL’s licences, whether under the old one that expired on 28 December 2002 or the new licence granted it by the PUC in December 2002 under the new Telecommunication Act in No. 16 of 2002, might say on rates chargeable by BTL, if there are complaints about these rates from consumers, the PUC was and is, in my view, bound in law, to implement the statutory provisions contained in the Public Utilities Act – Chapter 223 of the Laws of Belize for the determination of and resolution of those complaints.

Moreover, BTL's licence whether under its old licence or the new one, does not I think, exclude the express statutory provisions in Chapter 223 relating to the determination of rates charged by BTL where there are complaints by consumers regarding those rates. There is nothing in my view in either conditions 5 and 10 of BTL's old licence or condition 10 in its new licence that would make inoperative section 15 of the Public Utilities Commission Act on complaints about rates that BTL charges for its services.

The statutory provisions for rate determination in case of complaints were not, I find, an alternative or optional route for the PUC: they were and still remain the governing regime for the determination of rates of public utility providers upon complaints by consumers.

41. **Part VII** of the Public Utilities Commission (sections 32 to 36) contains provisions for review and appeal of a decision or Order of the PUC with provision for the right of appeal to this Court from a decision or Order of the PUC.

Conclusion

42. The conclusion which I am forced to reach in the face of BTL's objections to the motion and after weighing carefully the arguments and submissions of Ms. Lois Young Barrow S.C. for BTL and Mr. Derek Courtenay S.C. for the PUUC, is that the objections are well founded. For what PUC is seeking by the motion does not in my judgment, justify proceedings for a declaration relating to a matter that is clearly within its province.
43. Let me say this in closing, it is understandable that this case has attracted wide public interest as many people may feel strongly about the rates BTL has charged and continues to charge for its telephony services after 1st December 2001, if the very long list of complainants/and potential claimants referred to in paragraph 7 of the affidavit of the Chairman of PUC and annexed thereto, is anything to go by. But I must say also that the PUC is not a medium for the collection of refund, which I take to mean the excess of rates that BTL might have collected in rates following the publication of its notice on rates effective from 1st December 2001. The PUC's statutory function in relation to rates for utility services, is to ensure that any complaints regarding these rates are handled and resolved as provided for in its Act, especially section 15.

44. I would also like to add that the PUC may have been well-intentioned in commencing these proceedings given the feeling of the public on the issue of BTL's rates. But in law, the issue of the determination of rates of public utility providers, where there is consumer dissatisfaction or complaints, is one of the functions of the PUC. So long as the correct procedures are followed and relevant considerations are taken into account, except on a question of law, the issue is not one even for this Court. I apprehend that the motion was triggered by what is in all probability, a lack of appreciation or insufficient appreciation of the statutory role, function and powers of the PUC in relation to complaints about the rates of a public utility provider. But the motion as it stands is not the appropriate medium to address these through this Court.
45. The pregnant and inarticulate premise of the motion by the PUC is that this Court should determine and declare the rates BTL should charge for its services. This court, I find, is not responsible for that pregnancy, but it can terminate it as stated in the motion.
46. It is for all these reasons that, ineluctably, I agree with Ms. Young Barrow S.C. for BTL, that the motion should be dismissed. However, I will order no costs, each side will bear its own costs.

A. O. CONTEH
Chief Justice

DATED: 5th March, 2004.