



BELIZE

**PUBLIC UTILITIES COMMISSION ACT
CHAPTER 223**

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CHAPTER 223

PUBLIC UTILITIES COMMISSION

ARRANGEMENT OF SECTIONS

PART I

Preliminary

1. Short title.
2. Interpretation.

PART II

*Establishment and Constitution of the
Commission*

3. Establishment of the Commission.
4. Appointment of Commissioners.
5. Salaries of Commissioners.
6. Temporary membership.
7. Appointment of experts.
8. Appointment of staff.
9. Obtaining services of public officers.
10. Disqualifications to be a Commissioner and prohibition of Commissioners from engaging in certain activities.

PART III

Provisions as to Rates

11. Rates to be just and reasonable.
12. Tariffs, filing and inspection.
13. Adherence to tariffs.
14. Discrimination in rates.
15. Complaints, etc., as to rates.
16. Burden of proof.

PART IV

Service and Facilities

17. Duty to provide adequate service.
18. Proper service established on complaint.
19. Powers of the Commission with respect to complaints.
20. Restrictions on ceasing operations of service.
21. Power to prescribe conditions to service to be contained in agreement.

PART V

General Functions of the Commission

22. General functions of the Commission.
- 22A Entrenched rights

- 23. Performance by the Commission of its functions.
- 23A Appointment of Inspector to investigate the affairs of a public utility provider

PART VI

Proceeding before the Commission

- 24. Complaint.
- 25. Service of complaint on parties.
- 26. Fixing of hearing.
- 27. Hearing to be public.
- 28. Decisions by the Commission.
- 29. Oaths and *subpoenas*.
- 30. Notice.
- 31. Other general rules.

PART VII

Review and Appeal

- 32. Review by Commission of its own decisions.
- 33. Appeal.
- 34. Stay of proceedings pending appeal.
- 35. Determination of question by the Supreme Court.
- 36. Case stated upon a question of law.

PART VIII

Financial Provisions, Accounts and Reports

37. Funds of the Commission.
38. Expenses of the Commission.
39. Submission of budget estimates.
40. Accounts and audit.
41. Annual report.

PART IX

Miscellaneous

42. Disobedience of Order of the Commission.
43. Failure of public utility provider to furnish information.
44. Making false returns.
45. Wilful default by employee of public utility provider in furnishing information.
46. Obstruction of officer or Commissioner in discharge of duties.
47. In case of inconsistency, this Act to take precedence.
48. Provisions for joint use of equipment.
49. Power of Commission to order keeping of accounts, etc.
50. Duty to furnish information.
51. Appraisal of property of utility provider.

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- 52. Evidence of documents.
 - 53. Costs in discretion of Commission.
 - 54. Fees.
 - 55. Regulations.
 - 56. Certain Acts amended by implication.
 - 57. Commencement.

CHAPTER 223**PUBLIC UTILITIES COMMISSION**

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[24th August, 1999]

PART I*Preliminary*

Short title

1. This Act may be cited as the Public Utilities Commission Act.

Interpretation

2.—(1) In this Act, unless the context otherwise requires,

“Chairperson” means the Chairperson of the Public Utilities Commission appointed under section 4(2) of this Act;

“Commission” means the Public Utilities Commission established under section 3 of this Act;

“Commissioner” means a member of the Commission and includes the Chairperson;

“interested person” means a person that may be materially affected by a decision, Order or Regulation;

“Minister” means the Minister for the time being responsible for Public Utilities;

“public utility provider” means any person or company (including the lessee, trustee, receiver or liquidator of such person or company) who owns or operates equipment or facilities for,

- (a) the production, generation, storage, transmission, sale, delivery, furnishing or supplying, directly or indirectly to or for the public, of electricity;
- (b) the provision of a service consisting of emitting, transmitting, switching, conveying, or receiving signs, signals, writing, images, sounds, or intelligence of any nature within, into, or from Belize by means of any system that uses any electric, electro-magnetic, electro-optical, or optic-electronic means;
- (c) the provision, storage, purification, delivery, sale, furnishing or supplying, directly or indirectly to or for the public, of water, or the provision of sewerage facilities through a system of pipes connected to households in any area or community,

but shall not include any person or company not otherwise a public utility provider who furnishes the service or commodity only to himself, his employees or tenants, when such service or commodity is not resold to or used by others, and for the purposes of this definition “public utility” shall be construed to mean the service provided in the supply by such a person or company of electricity, telecommunication and radio communication services and water and sewerage services;

“rate” includes every rate, fare, toll, charge, rental or other compensation whatsoever of any public utility, and every Rule, Regulation, practice, measurement, classification or contract of the public utility provider relating thereto;

“service” includes the accommodation afforded to consumers, and any product or commodity furnished or supplied by a public utility provider, and the plant, equipment, apparatus, appliances, property and facilities employed by or in connection with any public utility provider in performing any service or in furnishing or supplying any product or commodity and devoted to the purpose in which the public utility provider is engaged and to the use and accommodation of the public;

“unjust” and “unreasonable” as applied to,

- (a) water and sewerage, and telecommunication or radio communication rates, shall be construed to include respectively injustice and unreasonableness, whether arising from the fact that the rates are excessive as being more than a fair and reasonable charge for service of the nature and quality furnished by the public utility provider or from the fact that the rates are insufficient to yield a fair compensation for the service rendered or arising in any other manner; and
- (b) electricity rates, shall be construed to include rates which are contrary to the Electricity Act, Cap. 221, and any subsidiary legislation made thereunder, and for the purposes of this definition “just” and “reasonable” electricity rates shall be construed to mean rates which are in conformity with the Electricity Act, Cap. 221 and any subsidiary legislation made thereunder.

(2) The Minister may, by Order published in the *Gazette*, declare any person or company to be “a public utility provider” within the meaning of this Act, and from the date of such declaration, the services, activities or commodities produced, processed, furnished, supplied, generated, transmitted, delivered or sold by such person or company to the public shall be construed as “a public utility” within the meaning of this Act.

PART II

Establishment and Constitution

of the Commission

3.—(1) There shall be and is hereby established a body to be known as the Public Utilities Commission (hereinafter “the Commission”) which shall be a body corporate with perpetual succession and a common seal.

Establishment of
the Commission

(2) The Commission shall be an autonomous institution governed by the provisions of this Act and any other law, and may exercise any powers and functions entrusted to or conferred upon it by or in accordance with the provisions of this Act or any other law, and such other duties incidental or ancillary to, or consequential upon, the performance of its functions.

4.-(1) The Commission shall be composed of seven members to be known as “Commissioners,” who shall,

Appointment of
Commissioners

- (a) be persons of good moral character, at least thirty-five years of age, and of recognised competence in any of the following fields, namely law, public utilities management, economics, finance, banking, commerce, industry, electrical or mechanical engineering, telecommunications management, or business management; and
- (b) be appointed by the Governor-General acting on the advice of the Prime Minister given after consultation with the Leader of the Opposition.

(2) The Minister shall appoint one of the Commissioners to be the Chairman of the Commission, and such Chairman shall, subject to the provisions of this Act, be responsible for the day-to-day administration of the affairs of the Commission.

(3) The Commissioners shall be appointed for a period not exceeding six years,

Provided that any Commissioner retiring on the expiration of his term of office shall be eligible for reappointment.

(4) The periods of appointment of the Commissioners shall be staggered, with the terms of the initial appointees being for periods of two, four and six years respectively.

(5) In the absence of the Chairperson or in case of his inability to act, or if there is a vacancy in his office, the Minister shall temporarily appoint one of the Commissioners to act as Chairperson.

(6) Whenever it appears that a Commissioner has acted for and in the place of the Chairperson, it shall be conclusively presumed that he so acted for one of the reasons specified in subsection (5) of this section.

(7) Four Commissioners, including the Chairperson, shall constitute a quorum for any meeting of the Commission and in the event of an equality of votes, the person presiding at that meeting shall have a second or casting vote.

Salaries of Commissioners.

5. The Commissioners shall be paid out of the Consolidated Revenue Fund such remuneration, including gratuities, pensions and other benefits and allowances, as may be determined by the Minister, with the approval of the Minister of Finance.

Temporary membership.

6. Where a Commissioner is interested in any matter before the Commission, or is unable to act because of an infirmity of body or mind, or because of absence or any other cause, the Minister may temporarily appoint a person to act as a Commissioner in the place of the substantive Commissioner for that occasion or until the termination of the disability.

Appointment of experts.

7. The Commission may from time to time, appoint or engage experts or persons having technical or special knowledge necessary for the purpose of assisting the Commission to carry out its functions under this Act.

Appointment of staff.

8. The Commission shall have the power to appoint and suspend or dismiss its staff and to exercise disciplinary control over such staff.

Obtaining services of public officers.

9. For the purposes of any enquiry or examination conducted by it or in the performance of any of the other duties assigned to it by this or any other Act or law, the Commission may, with the consent of either the Public Services Commission or the Governor-General, utilise the services of any public officer.

10.—(1) No Commissioner, employee or member of the administrative staff of the Commission shall, directly or indirectly,

Disqualifications to be a Commissioner and prohibition of Commissioners from engaging in certain activities.

- (a) hold, acquire or become interested in any share, stock, debenture or other security of any public utility provider;
- (b) have any interest in any contract or agreement for the construction of any works or the furnishing of any service for or by any public utility provider;
- (c) have any interest in any device, appliance, machine, article, patent or patented process, or any part thereof, which is required or used by any public utility provider for the purpose of its equipment or service.

(2) A Commissioner or a member of the administrative staff of the Commission shall not be deemed to have any interest in a public utility provider by reason of the fact that he is the user or subscriber of any telecommunication or radio communication services, or the user or purchaser of electric current or water and sewerage services from any public utility provider.

(3) No person shall be appointed or remain a Commissioner who is a member of the National Assembly.

(4) The Chairperson or any other Commissioner may resign his office by writing under his hand addressed to the Governor-General.

(5) The Governor-General may, acting on the advice of the Prime Minister, given after consultation with the Leader of the Opposition, terminate the appointment of the Chairperson or any other Commissioner, if the Chairperson or such other Commissioner, as the case may be,

- (a) engages in any of the activities specified in subsection (1) of this section;
- (b) becomes subject to the disqualification specified in subsection (3) of this section;

- (c) becomes bankrupt or insolvent, compounds with his creditors or benefits under the law for the relief of a bankrupt or makes any assignment in whole or in part of his income for the benefit of such creditors;
- (d) is convicted of an offence involving dishonesty, or of any other offence punishable with not less than three years imprisonment (whether or not the convicted person is awarded such sentence);
- (e) becomes totally or permanently incapable of performing his duties;
- (f) is guilty of gross misconduct in the performance of his duties under this Act.

PART III

Provisions as to Rates

Rates to be just and reasonable.

11.—(1) Every rate made, demanded or received by any public utility provider shall be fair and reasonable and in any case shall be in conformity with and shall use the rate setting methodologies specified in any Regulations, By-laws, Orders, directions or other subsidiary legislation or administrative orders made under the Electricity Act, Cap. 221, the Telecommunications Act, Cap. 229 or the Water and Sewerage Act, Cap. 222, as the case may be, or any licence authorising the provision of such services.

(2) Subsection (1) of this section, shall *mutatis mutandis* apply where the Minister makes an Order declaring any person or company to be a public utility provider.

Tariffs, filing and inspection.

12.—(1) Without prejudice to any provision under the Electricity Act, Cap. 221, the Telecommunications Act, Cap. 229, the Water and Sewerage Act, Cap. 222 or any other law or licence requiring a public utility provider to file returns in accordance with that Act, law or licence,

every public utility provider shall 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 authorised to establish or charge for the provision of the public utility, and shall keep copies of such tariffs open to public inspection.

(2) The rates submitted to the Commission under subsection (1) of this section, shall be the authorised 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) of this section.

13. Subject to any provision in the Electricity Act, Cap. 221, the Telecommunications Act, Cap. 229, the Water and Sewerage Act, Cap. 222 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 applicable thereto and filed in the manner provided in section 12 of this Act.

Adherence to tariffs.

14. Subject to any provision in the Electricity Act, Cap. 221, the Telecommunications Act, Cap. 229, the Water and Sewerage Act, Cap. 222 or any other law or subsidiary legislation made thereunder, no public utility provider shall supply or furnish to any person any service at a rate or at rates which is or are unduly preferential or discriminatory.

Discrimination in rates.

15.—(1) Whenever any person in Belize has a complaint in respect of electricity, telecommunication and radio communication, water and sewerage rates, or the rates of any other public utility declared to be a public utility hereafter by the Minister by Order published in the *Gazette*, then such person shall make a complaint to the Commission which shall thereafter proceed to deal with such complaint as provided in subsections (2) and (3) of this section.

Complaints, etc., as to rates.

(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 of this Act.

(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) of this section to investigate the cost of such production, generation, distribution, transmission or supply and based on such investigation to determine the reasonableness of the rates of such public utility provider.

Burden of proof.

16. In any proceedings under section 15 of this Act, the burden of proof to show that the rate complained of is fair and reasonable shall be upon the public utility provider.

PART IV

Service and Facilities

Duty to provide adequate service.

17. Notwithstanding the provisions of any other law to the contrary, every public utility provider shall maintain his property and equipment in such condition as to enable him to provide service to the public in all respects which is safe, adequate, efficient and reasonable and shall make all such repairs, changes, alterations, substitutions, extensions and improvements in or to such service as shall be necessary or proper for the accommodation and convenience of the public.

Proper service established on complaint.

18.—(1) Any person desirous of making a complaint against a public utility provider shall make the complaint in the same manner provided under subsection (1) of section 15 of this Act, and where the Commission hears such complaint, it shall proceed in the manner provided under subsection (2) of that section.

(2) The provisions of section 16 of this Act, shall, *mutatis mutandis*, apply in respect of the burden of proof applicable in showing that the service complained of is fair and reasonable.

19. Whenever the Commission after receiving a complaint and holding a hearing in respect of that complaint finds that the service or facilities of any public utility provider are unsafe, inadequate, or unreasonable, or unreasonably discriminatory, the Commission shall determine and prescribe the adequate, reasonable service and facilities to be provided, including all such repairs, changes, alterations, extensions, substitutions, or improvements and facilities as should be reasonably necessary and proper for the accommodation and convenience of the public and shall fix the same by its Order.

Powers of the Commission with respect to complaints.

20. Notwithstanding any other law, no public utility provider shall cease from his operations or any part of his operations without first obtaining the permission of the Commission.

Restrictions on ceasing operations of service.

21.—(1) Notwithstanding any other law, the Commission may make Regulations prescribing the conditions to be contained in and to become part of all agreements entered into by public utility providers in respect of any class of service.

Power to prescribe conditions to service to be contained in agreement.

(2) Regulations made by the Commission under subsection (1) of this section, shall be subject to negative resolution.

PART V

General Functions of the Commission

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,

General functions of the Commission.

- (a) to enquire into the nature and extent of utility services and to determine and prescribe in accordance with the provisions of this Act, the Electricity Act, Cap. 221,

the Telecommunications Act, Cap. 229, the Water and Sewerage Act, Cap. 222, and other subsidiary legislation made under these Acts, the standards which must be maintained in relation to such services;

- (b) to determine and prescribe in accordance with the provisions of this Act, the Electricity Act, Cap. 221, the Telecommunications Act, Cap. 229, the Water and Sewerage Act, Cap. 222, and other subsidiary legislation made under these Acts, the rates which may be charged in respect of utility services.

(2) The Commission shall exercise the functions assigned or transferred to it under this Act and other laws in a manner which it considers is best calculated to,

- (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;
- (c) protect the interest of consumers in respect of,
 - (i) the tariffs charged and the other terms of supply;
 - (ii) the continuity of supply; and
 - (iii) the quality of the utility services supplied;
- (d) promote efficiency and economy on the part of persons authorized by licences to supply utility services to consumers;
- (e) promote research into and the development and use of new techniques by or on behalf of persons authorized by a licence to supply utility services;

- (f) protect the public from dangers arising from the supply of utility services; and
- (g) secure the establishment and maintenance of machinery for promoting the health and safety of persons employed in the supplying of utility services,

and the Commission has a duty to take into account, in exercising those functions, the effect on the physical environment of activities connected with the supply of utility services.

22A.-(1) It shall be the duty of the Minister after consultation with the Commission, Minister of Finance and the Governor of the Central Bank, to ensure that in relation to any public utility provider engaged in the provision of utility services to consumers, there is free movement of capital and open investment, and for this purpose the Minister shall have the power,

Entrenched rights
30 of 2005

- (a) to identify and inquire into any entrenched rights in the constitution of such public utility provider;
- (b) unless satisfied that any entrenched rights identify under paragraph (a) of this subsection,
 - (i) are justified that any overriding requirement of public policy or public security; and
 - (ii) the use of that entrenched right is necessary in order to meet the objectives of that overriding requirement,

to declare the entrenched rights to be unlawful and of no effect and to enquire into and confirm all matters relating to the constitution of a public utility provider arising out of such declaration, including but without limitation matters arising out of the Memorandum of Association, Article of Association, byelaws, charter or other instrument.

Performance by the Commission of its functions.

23.—(1) In performing its duty under subsection (2) (c) (i) of section 22 of this Act, the Commission shall take into account, in particular, the protection of the interests of consumers in rural areas.

(2) In performing its duty under subsection (2) (c) (iii) of section 22 of this Act, the Commission shall take into account, in particular, the interests of those consumers who are disabled or of pensionable age.

(3) In this Part, “licence” means a licence granted under the Electricity Act, Cap.221, the Telecommunications Act, Cap.229, and Water and Sewerage Act, Cap.222 and “licence holder” shall be construed accordingly.

Appointment of inspector to investigate the affairs of a public utility provider. 30 of 2005.

23A. Notwithstanding anything contained in the Companies Act, Cap.250, where an order to investigate the affairs of a company is sought in respect of a public utility provider, the order to appoint a competent inspector shall be made and the terms of such appointment shall be decided by the Minister acting on his own application after consultation with the Commission, or following an order of the Court to appoint an inspector under section 110(1) of the Companies Act, Cap.250, the appointment of the inspector shall be made and the terms of such appointment shall be decided by the Minister, and every appointment and the terms of every such appointment so made by the Minister shall be as valid and effectual as if made by the Court itself.

PART VI

Proceedings before the Commission

Complaint.

24.—(1) The Commission, or any person or company having an interest in the subject-matter, or any public utility provider concerned, may complain in writing, setting forth any act or thing done or omitted to be done by any public utility provider in breach, or alleged breach, of any law which the Commission has jurisdiction to administer or of any Regulation or Order of the Commission.

(2) The Commission may prescribe the form of the complaint filed under this section.

(3) The Commission may require any person or company or public utility provider making any complaint to give security for the costs of the hearing and investigation of the said complaint.

25. Upon the filing of a complaint against any person or company, the Commission shall cause a copy thereof to be served upon such person or company, accompanied by a notice from the Commission requiring such person or company to satisfy the complaint or to answer the same in writing within such reasonable time as may be specified by the Commission in such notice.

Service of complaint on parties.

26.-(1) Where any person or company within the time specified by the Commission satisfies the complaint, the Commission by its Order shall dismiss the complaint.

Fixing of hearing.

(2) Where such person or company does not satisfy the complaint within the time specified and it appears to the Commission from consideration of the complaint and answer, or otherwise, that reasonable grounds exist for investigating such complaint, it shall be the duty of the Commission to fix a time and place for hearing the complaint,

Provided that the Commission may dismiss any complaint without a hearing if in the opinion of the Commission a hearing is not necessary in the public interest, or if the complaint appears to the Commission to be frivolous and vexatious.

27. Subject to section 31 (6) of this Act, all hearings before the Commission shall be in public and the parties shall be entitled to be heard in person or by counsel.

Hearing to be public.

28.-(1) After the conclusion of the hearing, the Commission shall make an Order which shall state a time within which the Order is to be complied with.

Decisions by the Commission.

(2) A certified copy of such Order shall be served upon the person or company against whom it is made, and notice thereof shall be given to the other parties to the proceedings.

Oaths and subpoenas.

29. The Commission shall have power to *subpoena* witnesses, to administer oaths, to examine witnesses, to compel the production of such books, records, papers and documents as it may deem necessary or proper for any proceeding, investigation or hearing held by it, and to do all necessary and proper acts in the lawful exercise of its powers or the performance of its duties.

Notice.

30. Notice of all hearings, investigations and proceedings before the Commission shall be given in such manner as the Commission may prescribe by Order published in the *Gazette*.

Other general rules.

31.—(1) The Commission shall manage and conduct its hearings in a manner that affords interested persons a reasonable opportunity to be heard, taking into account the need for an efficient and expeditious process to resolve matters before the Commission. The Commission shall not be bound by formal rules of evidence applicable to judicial proceedings.

(2) The Commission, in making an Order, may impose such conditions as it considers proper, and an Order may be general or particular in its application.

(3) Decisions of the Commission, including a decision to dispose of a proceeding without a hearing, shall be based on the record of the facts presented before the Commission, shall be in writing and shall detail the supporting facts, methodology, rationale and policy. All written decisions of the Commission shall be made available to the general public, within no more than one day after their issuance, at the Commission's main office.

(4) While a matter is pending before the Commission, both the Commissioners and the Commission's staff shall not consult with a person or entity substantially affected by the matter, without giving notice and an opportunity to be present to all persons interested in the matter.

(5) The Commission may enact procedural Regulations, including Regulations relating to admissible evidence in proceedings before the Commission, to implement the requirements of this Part.

(6) The word “hearing” as used in sections 27 of this Act, means an oral or a written hearing, as the case may be, and nothing in the said sections shall be construed as precluding the Commission to hold a written hearing.

PART VII

Review and Appeal

32. The Commission may review, vary and rescind any decision or Order made by it and where under this Act a hearing is required before any decision or Order is made, such decision or Order shall not be altered, suspended or revoked without a hearing.

Review by Commission of its own decisions.

33.—(1) An appeal shall lie on a question of law to the Supreme Court from a decision or Order of the Commission.

Appeal.

(2) The appellant shall give notice of appeal within thirty days of the decision or Order of the Commission to the Commission and to the adverse party interested, and the parties shall be entitled to be heard by counsel upon the hearing of the appeal.

(3) The Chief Justice may make Rules under the Supreme Court of Judicature Act Cap. 91, regulating the practice, procedure and hearing of appeals under this Act.

(4) All costs incidental to the hearing of an appeal shall be defrayed by the parties to the appeal in such manner and proportions as the Supreme Court determines. Costs shall be in accordance with the scale of fees in force in respect of civil proceedings in the Supreme Court, and all costs shall be taxed and recovered in the same manner as costs are taxed and recovered in that Court.

Stay of proceeding pending appeal.

34. No appeal shall of itself stay or suspend the operation of any decision or Order of the Commission but the Supreme Court may stay or suspend, in whole or in part, the operation of the decision or Order of the Commission during the pendency of the appeal, upon such terms as the Supreme Court may think fit.

Determination of question by the Supreme Court.

35. On the hearing of an appeal and the determination of the question involved in the appeal, the Supreme Court shall certify its decision to the Commission and the Commission shall make an Order in accordance with that decision.

Case stated upon a question of law.

36.—(1) The Commission may, upon the application of any party or may, of its own motion, state a case in writing for the opinion of the Supreme Court upon any question which in the opinion of the Commission is a question of law.

(2) The Supreme Court shall hear and determine all questions of law arising in any case stated for its opinion by the Commission and shall remit the matter to the Commission with the opinion of the Supreme Court thereon, which opinion shall be binding on the Commission and on all parties.

PART VIII

Financial Provisions, Accounts and

Reports

Funds of the Commission.

37. The funds of the Commission shall consist of,

- (a) such sums as may from time to time be appropriated by the National Assembly for the purposes of the Commission; and
- (b) such sums as may in any manner become payable to or vested in the Commission from any lawful source whatsoever.

38. The expenses of the Commission, including the remuneration of Commissioners and staff thereof, shall be paid out of its annual approved budget.

Expenses of the Commission.

39.—(1) The Commission may, in such form and by such dates as may be prescribed by the Financial Secretary, prepare and submit to the Minister of Finance, through the Minister, estimates of revenue and expenditure (including any supplementary estimates) for each financial year, and the Minister of Finance shall present the said estimates to the National Assembly with such amendments, if any, as he may consider necessary.

Submission of budget estimates.

(2) Except with the approval of the Minister of Finance, no further sum shall be expended in any financial year other than that provided in the budget relating to such financial year.

40.—(1) The Commission shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in accordance with generally accepted accounting principles.

Accounts and audit.

(2) The Commission shall, with the approval of the Minister of Finance, open and maintain, at such bank or banks as it may from time to time determine, accounts for the funds of the Commission.

(3) All accounts of the Commission shall be audited annually by the Auditor-General and his staff.

41.—(1) Within three months after the end of each financial year, the Commission shall cause to be made and shall submit to the Minister,

Annual report.

- (a) a statement of its accounts audited in accordance with section 40(3) of this Act;
- (b) a report dealing generally with the proceedings, policies, activities, and performances of the Commission during that financial year and in particular with,

- (i) all applications and complaints to the Commission under this Act, and summaries of the findings of the Commission thereon;
- (ii) summaries of the findings of the Commission in regard to any matter in respect of which the Commission has acted of its own motion;
- (iii) such other matters as appear to the Commission to be of public interest in connection with the public utilities subject to this Act; and
- (iv) such matters as the Minister directs.

(2) Every report made under subsection (1) (b) of this section, shall include a general survey of developments during that financial year, in respect of any other matters falling within the scope of the Commission's functions.

(3) The Minister shall cause a copy of such report, within three months of receiving it, together with the annual statement of accounts and the auditor's report thereon, to be tabled in the National Assembly.

PART IX

Miscellaneous

42.—(1) Every public utility provider who fails or refuses to obey an Order of the Commission made under this Act shall be liable, on summary conviction, to a fine of ten thousand dollars, and if the failure or refusal continues after the first conviction, to a fine of one thousand dollars for each day such failure or refusal continues.

(2) Whenever it is proved that a public utility provider has failed to obey any Order of the Commission made under this Act, every director and manager of such company shall be liable, on summary conviction, to a fine of five hundred dollars unless he proves that, according to his

Disobedience of
Order of the Com-
mission.

position and authority, he took all necessary and proper means in his power to obey and carry out and secure obedience to the Order of the Commission and that he was not at fault for the failure to obey the Order.

(3) Where a public utility provider has been convicted under subsection (1) above, the court which makes the conviction may, when passing sentence, recommend to the person or competent authority who or which issued the licence of the public utility provider to cancel such licence.

43. Every public utility provider who fails to prepare and furnish to the Commission within the time and the manner and form and with such particulars and verifications as by or under this Act are required,

Failure of public utility provider to furnish information.

- (a) any return of information required in the forms of returns to be furnished to the Commission;
- (b) any answer to any question submitted by the Commission; or
- (c) any information required by the Commission under this Act, shall be liable, on summary conviction, to a penalty of one thousand dollars.

44. Every public utility provider who makes any false returns or furnishes any information to the Commission which is false in any material particular shall be liable on summary conviction to a fine of two thousand dollars.

Making false returns.

45. Where the Commission at any time by notice served on any officer, employee, or agent of any public utility provider directs him to furnish to the Commission any information or return which the company under this Act may be required to furnish, and the officer, employee or agent wilfully refuses or fails to furnish the information or return to the best of his knowledge or means of knowledge, in the manner directed by the Commission at or within the time stated in the notice, every officer, employee or agent so in default shall be liable, on summary conviction, to a fine of five thousand dollars.

Wilful default by employee of public provider in furnishing information.

Obstruction of officer or Commissioner in discharge of duties.

46. Every person who obstructs or interferes with any Commissioner, officer or person in the exercise of the rights conferred or duties imposed by or under this Act shall be liable, on summary conviction, to a fine of five hundred dollars.

In case of inconsistency this Act to take precedence.

47.—(1) Subject to the provisions of this Act, the powers vested in the Commission by this Act shall apply notwithstanding that the subject-matter in respect of which the powers are exercisable is the subject-matter of any other Act or agreement and shall apply in respect of rates and services, whether fixed by or the subject of any other Act or agreement or otherwise and, where the rates and service are fixed by or are the subject of an agreement, shall apply whether the agreement is incorporated in or ratified or made binding by any general or special Act or otherwise.

(2) For the avoidance of any doubt, where there is any inconsistency between the provisions of this Act and any other law, the provisions of this Act shall prevail unless the Commission unanimously resolves to let that other law prevail.

Provisions for joint use of equipment.

48. Whenever the Commission, after enquiry, finds that public convenience or necessity requires the use by one public utility provider of the conduits, subways, poles, wires or other equipment belonging to another public utility provider, and that such use will not prevent the owner or other users thereof from performing their duties or result in any substantial detriment to the service, and if the public utility providers fail to agree upon such use or conditions or compensation therefor, the Commission may make such Order as it deems reasonable directing that the use or joint use of the conduits, subways, poles, wires or other equipment be permitted and prescribing the conditions to be observed and the compensation to be paid in respect of the use so permitted.

Power of Commission to order keeping of accounts, etc.

49. The Commission may by Order require every public utility provider,

- (a) to keep such books, records and accounts of the conduct of his business as the Commission may prescribe;

- (b) to furnish periodically, and at such other time as the Commission may require, a detailed report of finances and operations in such form and containing such particulars and verified in such manner as the Commission may require.

50.—(1) Every public utility provider shall furnish to the Commission all information required by it and shall provide specific answers to all questions submitted by the Commission.

Duty to furnish information.

(2) Whenever required by the Commission, every public utility provider shall deliver to the Commission all contracts, reports of engineers, documents, books, accounts, papers and records in the possession or control of the company in any way relating to his property or service or affecting his business, or verified copies of the same.

51.—(1) The Commission may by appraisal from time to time ascertain the value of the property of any public utility provider and may enquire into every fact which in its judgment has any bearing on that value, including the amount of money actually and reasonably expended in that undertaking in order to furnish service reasonably adequate to the requirements of the public served by the company.

Appraisal of property of public utility provider.

(2) All expenses in connection with any appraisal ordered by the Commission, including all expenses incurred in connection therewith by the public utility provider whose property is the subject of such appraisal, may, when the Commission so directs, be charged to capital account and added to the rate base of the public utility provider.

52. A copy of any Rule, Regulation, Order or other document in the custody of the Chairperson, certified by the Chairperson to be a true copy and sealed with the seal of the Commission, shall be conclusive evidence of the existence of such Rule, Regulation, Order or document without proof of the signature of the Chairperson.

Evidence of documents.

53.—(1) The costs of or incidental to any proceedings before the Commission shall be in the sole discretion of the Commission and may be fixed at a sum certain or may be taxed.

Costs in discretion of Commission.

(2) The Commission may prescribe a scale under which costs shall be taxed and may order by whom the costs in any proceedings are to be taxed.

Fees.

54. The Commission may, with the approval of the Minister, make Regulations prescribing fees to be paid in respect of any matter within the jurisdiction of the Commission.

Regulations.

55.—(1) The Commission may, with the approval of the Minister, make Regulations for giving effect to the provisions of this Act.

(2) Any Regulations made under this section shall be subject to negative resolution.

Certain Acts amended by im-
plication.

56.—(1) Subject to section 57 of this Act, the Electricity Act, Cap. 221, the Telecommunications Act, Cap.229 and the Water and Sewerage Act, Cap.222 shall, from the 24th day of August, 1999, be read and construed in such a manner as to give effect to the provisions of this Act.

(2) The Minister may by Order add an Act to the list of Acts specified in subsection (1) of this section where he declares by an Order published in the *Gazette* that any person is a public utility provider, and if at the commencement of that declaration there is in force an Act regulating the provision of the public utility by such person.

Commencement.

57. This Act comes into force on the 24th day of August, 1999.