



A FORTIS COMPANY

Monday, September 1, 2008

BEL's Statement on PUC's Clarification

BEL has reviewed the Public Utilities Commission's (PUC) clarification of its decision delivered on June 26, 2008 by which the PUC approved Capital Investments of \$25 million for 2008 and 2009 and sets specific targets for Operating Expenses in 2008 and 2009. There are inconsistencies between the Final Decision and the Clarification.

1. In the Final Decision under **"Comments relating to Decision (5)"** the PUC stated that ***"The Commission has increased the target Opex for Annual Review Periods 2008 and 2009, and in the interest of all stakeholders, requires that the Utility stay within this increased value for target Opex"***. Similarly, in item 51 of the Amended Rate Setting Methodology issued on May 2, 2008, the PUC stated that ***"If the Utility exceeds this specific target Opex, the variance in excess of target will be applied as a penalty..."***
2. Now in its clarification, the PUC is saying that it ***"has never placed any limit on spending or expenditure (capital or otherwise) for BEL."***
3. The Commission, in **Decision 9 of the Final Decision**, stated that ***"The Commission hereby approves allowed capital investments for c/y 2008 at \$25 million, and allowed capital investments for c/y 2009 at \$25 million."*** The PUC further stated that ***"the Commission also requires the Utility to submit an explanation of the expected impact of each capital investment that is now expected to be delayed"***, indicating that the PUC fully expects BEL to remain within the \$25 million limit and that anything in excess of the \$25 million would have to be delayed.
4. In its Final Decision the PUC treated, as capital investment, items which the clarification is now saying should be routine maintenance.
5. These items have been consistently classified as capital investments in accordance with General Accounting Principles and this classification has been accepted by the PUC as recently as in the 2008 Annual Rate Proceeding. This classification has also been consistently accepted by Independent Auditors appointed by BEL and Independent Experts appointed by the PUC.

6. In discussions with representatives of the PUC, BEL was further informed that the Company would be penalized if it exceeded the capital and operating expenses allowed in the Final Decision.
7. In its decision, the PUC confirmed the limit on capital investment but in its clarification stated that there is no limit on capital expenditure or operating expenses. If the PUC's clarification, that capital investment only refers to assets brought into commission during the year, is correct, then BEL has already exceeded the \$25 million limit, as there remains over \$31 million Work in Progress most of which will be commissioned in 2008.
8. BEL projects its capital expenditure on a five year basis; however adjustments have to be made in response to changes in customer demand, PUC directives and inflation. Consequently, the Company, as required by the PUC, submits its capital budget annually. BEL has not received any response from the PUC, approving or denying, its annual submissions of its Capital Investment Program.
9. The PUC was also inconsistent in its Final Decision, when it disallowed costs such as the Hurricane Cost Recovery, depreciation and interest expenses that had previously been approved.
10. At the end of the second quarter, BEL recorded a loss of over \$20 million. The Company is now in default of several loan covenants, and consequently, cannot access new capital until the defaults are cured or the lenders waive the conditions. The Company's overdraft facilities are fully utilized and it continues to function only because several creditors including CFE have agreed to temporarily extend credit. Consequently, even if the PUC were to increase the Capital Investments limit, BEL has no funds to invest and new services can only be undertaken where customers pay the full cost of the new service upfront.
11. BEL will continue to work with the PUC to try to resolve these issues as quickly as possible to be able to maintain service to customers.

END