



**A FORTIS COMPANY**

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## **Supreme Court Approves Injunction against the PUC's Amendment to the Final Decision**

Yesterday, the Supreme Court of Belize approved an injunction against the Public Utilities Commission's (PUC) Amendment to the June 2008 Final Decision. In its Amendment, the PUC, on February 6, 2009, reduced the Mean Electricity Rate to 37.5 cents per kilowatt hour (kWh) from 44.1 cents per kWh.

### **BEL is not Reluctant to Lower Electricity Rates**

The opportunity to lower rates is a direct result of the work and the investments that BEL has made over the past five years. Even at current oil prices, cost of power would have been significantly higher than the current costs, if BEL had not done the things it has done over the last five years [including sourcing power from hydroelectricity]. If the Commission had not [contrary to the clear recommendation of the Independent Expert appointed by the Commission] refused to grant an increase in the rates in June 2008, BEL would have maintained financial health and would itself have initiated an application to the Commission to reduce the rates because of falling oil prices.

In December 2008, BEL submitted a proposal to Government, which would have led to the restoration of the Company's financial health, thereby allowing it to meet the service needs of Belize, as well as a reduction in electricity rates. It is important to remember that this took place before the Commission made steps to reduce the rates.

Instead, the PUC proceeded to unilaterally amend the 2008 Final Decision and while they lowered the Mean Electricity Rate, the Commission maintained the \$36.2 million retroactive correction and also lowered the Company's asset base on which it earns its Return. By

imposing this correction on the Company, the PUC effectively refused to allow the Company to recover the \$37 million built up in the Rate Stabilization Account as a result of high oil prices, which skyrocketed in the first half of 2008.

As a direct result of the PUC's Final Decision, BEL booked a loss of \$10.8 million in 2008.

### **Why BEL Filed for an Injunction on the Amendment**

Had the PUC been allowed to proceed with this Amendment at this point in time, BEL would have soon experienced cash flow problems once again. With this Amendment, BEL would have been returned to the position it was in July 2008, whereby the Government of Belize had to pay the Company's loans and the Company could not pay Comisión Federal de Electricidad (CFE) and other suppliers.

The Company also remains without a sufficient Value Added of Delivery (VAD) and without a sufficient VAD, the Company's ability to secure good credit and meet the service needs of Belize is at risk. In fact, FirstCaribbean International Bank has already cut off credit from BEL and Scotiabank Belize Limited has advised that it may have to revisit its credit facilities with the Company. If BEL's overall financial standing is not restored, the Company will continue to be in serious insolvency risk.

BEL's request to the courts for an injunction was therefore in an effort to maintain service and sort out the regulatory problems that presently exist. **The Company is not making any profit from the current cash flow resulting from the lower oil prices; and it is not interest free. The Company is only getting a lifeline**, since it is now able to pay loans and meet other commitments that it was unable to meet in 2008, when the PUC refused to adjust rates in spite of extremely high oil prices.

It is for these and other reasons that the Supreme Court granted the Injunction.

BEL submitted to the court that any adjustment to the 2008 Final Decision should only be made after the outcome of court cases relating to the Final Decision and the repeal of the 2007 Tariff Setting Methodology has been determined.

**With all the regulatory issues resolved, there should be no reason why customers cannot benefit from both lower electricity rates and high quality service.** BEL simply submits that the adjustment to the rates should be done properly, in full accordance with the law and in a manner that is fair to both consumers and BEL.

### **Efforts to Resolve the Current Problems**

BEL is concerned not simply with the current electricity rates and environment but in the medium and long term interests of the industry, consumers and the nation. In that regard, it has repeatedly proposed to the PUC that this whole matter be settled by reference to an Independent Expert or panel of experts who would provide impartial and independent evaluation, assessment and advice.

This approach was reiterated by BEL's attorney to the PUC's attorney as recently as Friday, February 20, 2009. It was rejected out of hand [by the Commission].

In these circumstances, BEL has to do what it can do in law to seek to maintain the strength and capacity of the Company to carry out its duties. BEL has enjoyed the recognition of being assessed in a 2006 CARILEC independent study as one of the leading utilities in a group of similar sized Caribbean electric companies especially in terms of productivity and efficiency.

BEL's objective in all of this is to have this whole matter determined or resolved so that it can give Belize the kind of service it needs at reasonable rates and in lock-step with the country's development potential and goals.

END