

August 27, 2008

Clarification of Decision 9 of the June 26, 2008 Final Decision for the 2008 Annual Rate Proceeding for Belize Electricity Limited

It has come to the attention of the Public Utilities Commission (PUC) that the Belize Electricity Limited (BEL) has been denying reasonable requests made by consumers for the supply of electricity services, and that BEL has cited its interpretation of Decision 9 of the June 26, 2008 Final Decision issued by the PUC as the reason for denying such requests.

The PUC therefore issues this clarification of Decision 9 of the Final Decision to address the abovementioned issue and any purported misunderstanding of Decision 9.

Clarification – Decision 9 of Final Decision

(For ease of reference, Decision 9 is included as Annex 1 to this document.)

Background:

BEL claims that in Decision 9 of the Final Decision, the PUC placed a \$25.0 million per annum limit on capital spending/expenditure for 2008 and 2009, and that because it has already exceeded this limit it cannot incur any more capital expenses, under which it classifies spending/expenditure related to service installations.

In Decision 9, the PUC placed a \$25.0 million per annum limit on “capital investments” for 2008 and 2009. The PUC also instructed that BEL justify all “capital expenditure” it has made or intends to make for 2008 and 2009. BEL has provided the PUC with a report in an attempt to justify its intended capital expenditure programme and relating any expected consequences for delaying such expenditure.

Clarification:

- 1) The PUC has never placed any limit on spending or expenditure (capital or otherwise) for BEL.

During a rate review, as was the case with the Final Decision, the Rate Setting Methodology (RSM) employed by the PUC does not take spending or

expenditure into consideration when allocating costs to be recovered from consumers by BEL.

Costs associated with the assets or capital investments that BEL employs are recovered from allowances in the approved rates for Depreciation and Return on the Regulated Asset Value (RAV). The RAV is described as the current book value of the assets directly employed in providing service or value to consumers and which are not considered Contributed Capital (have not been paid for directly by such consumers or other parties).

Assets are not included in the RAV until they have been commissioned and put in service. Prior to assets being put in service, BEL has been allowed to capitalize Interest During Construction (IDC) and the general expenses associated with such assets.

In the context of the Final Decision and the 2008 ARP, capital investments are considered assets that are put in service during the relevant periods.

The required spending/expenditure on capital investments may not coincide with the periods they are put in service and BEL is free to incur as much capital spending/expenditure in any given period that it can accommodate in order to execute any capital programme that has been approved by the PUC.

- 2) In the July 14, 2005 Final Decision of the PUC in relation to the 2005 Full Tariff Review Proceeding (FTRP), the PUC approved a capital programme for BEL for the 2005 – 2009 Full Tariff Period (FTP). Some \$152.0 million in capital investments was approved in the First Schedule of that Final Decision.

(For ease of reference, a table detailing the investments associated with the approved capital programme is included as Annex 2 to this document.)

Again in the First Schedule of the June 26, 2008 Final Decision for the 2008 ARP, the PUC provided the same details for the approved capital programme.

According to various reports provided to the PUC by BEL, it has diverted considerably from the approved capital programme to the extent that during the 2008 ARP it projected some \$72.0 million more in capital investments over the FTP than was approved by the PUC. BEL never solicited the approval of the PUC before diverting from the approved capital programme.

- 3) In the First Schedule of both Final Decisions for the 2005 FTRP and the 2008 ARP, the PUC provided an explanation of expenses that may be capitalized.

(For ease of reference, the relevant explanation from the First Schedule is included in Annex 3 to this document, under the heading “Capitalisation”.)

Based on the report provided by BEL, the PUC has determined that BEL classifies as “capital spending/expenditure”, a substantial amount of expenditure that qualifies as “routine maintenance” under the provisions of the First Schedule of the Final Decisions for the 2005 FTRP and the 2008 ARP.

For example:

BEL has classified some \$2.15 million in spending to replace cross arms, poles and anchors for the 115KV transmission line from Mollejon to Belize City. This spending is not intended to increase the capacity of the line or extend its life, but rather to maintain its design capacity and utility. This is routine maintenance that is not considered a capital investment.

- 4) The claim made by BEL that it has exceeded its “allowed capital spending/expenditure” is not accurate, based on the report provided to the PUC by BEL.

In addition to routine maintenance being recorded as capital investments, BEL’s report has many contradictions.

For example:

Items 150, 151, 152, 153 and 154 in the report describe capital investments to be made in partnership with other funding parties, including GOB. BEL states that its total expected contribution for these 5 items is \$7.3 million. However, in calculating its total intended capital spending/expenditure, BEL uses the total estimate of \$23.59 million. This is an overstatement of some \$16.29 million in this example alone.

- 5) BEL is a licensed supplier of electricity for direct consumption by the public. Consequently, it is a public utility provider that is subject to the provisions of the Public Utilities Commission Act, the Electricity Act and Electricity (Tariffs, Charges and Quality of Service Standards) Byelaws, and to the conditions imposed under its license issued by the PUC with the authority provided it under the said Acts.

The PUC now reminds BEL of the following conditions of its license:

PART II, Condition 2 (1 & 2):

1. The Licensee shall conduct its Generation Business, Transmission Business and Supply Business in the manner which it reasonably considers to be best calculated to achieve the standards of performance, including quality of service standards, as may be (i) prescribed by regulations, By-laws, Orders, directions or other subsidiary legislation or administrative orders of the Commission promulgated or issued in writing or served upon the Licensee pursuant to any powers contained in the Act or this license; and (ii)

set out in the codes of practice required to be prepared by the Licensee pursuant to the Conditions 5 and 6 below.

2. In addition to paragraphs 1 above, in connection with its Supply Business:

(a) The Licensee shall conduct its Supply Business in the manner which it reasonably considers to be best calculated to achieve any standards of performance in connection with the promotion of the efficient use of electricity by customers; and

(b) Subject to Condition 20, the licensee shall take all reasonable steps to supply electricity to such persons who shall request supply of the same to the extent necessary to satisfy all reasonable demands for such supply by such persons.

PART II, Condition 20:

1. Unless the context otherwise requires the Licensee's obligations under these Conditions have effect subject to the following exceptions and limitations.

2. The Licensee shall not be held to have failed to comply with an obligation imposed upon it by or under these Conditions if and to the extent that the Licensee is prevented from complying with that obligation by an act of God (such as hurricanes, earthquakes, floods, fires or riots) or of the public enemy, actions or inaction of regulatory authority, shortages of fuel supply, or actions of others (including but not limited to strikes, lockouts or other industrial disturbance), not within the control or arising from the fault of the Licensee and sufficiently serious or material to prevent fulfillment of its obligations and performance by the Licensee of its functions hereunder.

3. In so far as this license imposes any obligation upon Licensee to provide a service it shall not apply:-

(a) where provision of the service requested would expose any person engaged in its provision to undue risk to health or safety; or

(b) where in the opinion of the Commission it is not economical or reasonably practicable in all the circumstances for the Licensee to provide the service requested at the time or place demanded; or

(c) where, it is the reasonable opinion of the Licensee, and the Commission concurs, that:

(i) the person to whom the Licensee would otherwise be under an obligation to provide any service requests a service at a

place in which the demand or the prospective demand for the service is not sufficient, having regard to the revenue likely to be earned from the provision of the service in that area and the revenue required to meet all the costs reasonably to be incurred by the Licensee in providing the service there, and

(ii) the Licensee cannot otherwise reasonably expect to recover the costs of serving the person requesting the service through an authorized connection fee, revenue guarantee, or other mechanism.

4. The Licensee shall not be obliged to provide the services of all or any of the Licensed Businesses or to supply, connect, or to keep connected to any of the Transmission System or the Supply System, or to permit to be so connected or kept so connected any other system, if the person to or for whom that is or is to be done:

(a) has not entered or will not enter into a contract for the purpose with the Licensee for reasons other than the unreasonable refusal of the Licensee to agree terms for the purpose; or

(b) is, or in the opinion of the Commission has given reasonable cause to believe that he may become:

(i) in breach of a contract with the Licensee for the provision of any services of all or any of the Licensed Businesses supplied by the Licensee; or

(ii) in default in regard to any debt or liability owed to the Licensee in respect of any such contract;

(c) is using, or permitting the use of, electricity so supplied for any illegal purpose or has done so in the past and is likely to so again; or

(d) has obtained, or attempted to obtain, any electricity service from the Licensee by corrupt, dishonest or illegal means at any time.

5. Nothing in these Conditions shall prevent the Licensee from withdrawing from, or declining to provide to, any person any service from any Licensed Business which the Licensee has notified the Commission, and the Commission so approved, that it is providing in a limited area, or to a limited class of customers, for the purpose of evaluating the technical feasibility of, or the commercial prospects for, that service.

6. This Condition shall apply without prejudice to any limitation or qualification of the requirements imposed by or under any other Condition and shall not in itself give rise to any implied obligations.

7. Nothing in these Conditions shall prevent the Licensee from withdrawing or restricting services requiring the attendance of any of its employees:-

(a) on a day on which the Commission determines it is unreasonable to require the relevant employees of the Licensee to attend for the purpose of providing those services.

Conclusion:

The PUC intends to continue to engage BEL with regards to its capital investment programme as we both seek efficient means of providing improved electricity services at reasonable rates for BEL's consumers.

The PUC reiterates that it has not placed a limit on spending or expenditure (capital or otherwise) for BEL for 2008 and 2009.

BEL is expected to manage its financial resources and its approved capital programme in a manner that is conducive to satisfying all reasonable requests for electricity services within the country of Belize.

BEL is expected to adhere to all the conditions of its license granted under the Electricity Act and to refrain from refusing to satisfy any reasonable requests for the supply of electricity services, unless with the concurrence or approval of the PUC in accordance with Condition 2 and Condition 20 of its license.

There is nothing in the June 26, 2008 Final Decision that restricts or limits BEL from meeting its obligation to satisfy all reasonable requests for electricity service within the country of Belize.

Consequently, BEL is expected to continue to satisfy all reasonable requests for electricity services subject to approved rates and fees and any established and approved practice, methodology or process for the delivery of such services.

Annex 1

Decision 9 Capital Investments 2008 and 2009

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 Commission hereby requires the Utility to submit to the Commission a listing of all capital expenditures in progress and all other capital expenditures that will proceed in year 2008. The Commission also requires the Utility to submit a reasonable explanation of the need for each capital expenditure in year 2008, including the benefits to be received by Consumers from these capital expenditures. The Commission also requires the Utility to submit an explanation of the expected impact of each capital investment that may be delayed.

The Commission hereby requires the Utility to submit to the Commission a listing of all capital expenditures expected to proceed in year 2009. The Commission also requires the Utility to submit a reasonable explanation of the need for each expected capital expenditure in year 2009 including the benefits to be received by Consumers from these capital expenditures. 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.

Comments relating to Decision 9

In FTRP 2005 the Commission approved \$152 million for capital investments for the calendar years 2005 to 2009. In a recent review, the Commission was informed that the Utility was now forecasting \$223 million for capital investments for years 2005 to years 2009.

Capital investments have the potential to have an impact on efficiency, electricity rates, as well as on quality of service to Consumers. The Commission requires that capital investments be supported by reasonable explanations as to how consumers will benefit.

Annex 2

TABLE 4: ALLOWED INVESTMENTS

| | | 2005 | 2006 | 2007 | 2008 | 2009 |
|--|-------------|-------|--------|--------|--------|--------|
| Transmission | | | | | | |
| Hydro Lines | thousand \$ | 3,153 | 1,404 | - | - | - |
| Mexican Line(150KV Lines) | thousand \$ | - | - | 70 | - | - |
| Substations: Belize | thousand \$ | - | - | 1,493 | - | - |
| Substations: Corozal | thousand \$ | - | - | - | - | - |
| Substations: Dangriga | thousand \$ | 3,957 | 2,251 | - | - | - |
| Substations: Ladyville | thousand \$ | - | 1,817 | - | - | - |
| Substations: Orange Walk | thousand \$ | 144 | 54 | 646 | - | - |
| Substations: San Pedro | thousand \$ | 20 | - | - | - | - |
| Others - specify (major Line maintenance) | thousand \$ | 605 | 647 | 350 | 350 | 350 |
| Others - (Bmp Sub, Chall Sub, Prj Eng ...) | thousand \$ | 3,797 | 466 | 415 | 188 | 188 |
| Distribution | | | | | | |
| Poles | thousand \$ | 8,133 | 10,061 | 12,276 | 11,913 | 13,525 |
| Transformers: Belize | thousand \$ | 658 | 814 | 994 | 964 | 1,095 |
| Transformers: Belmopan | thousand \$ | 206 | 255 | 311 | 301 | 342 |
| Transformers: Caye Caulker | thousand \$ | 10 | 12 | 15 | 15 | 17 |
| Transformers: Corozal | thousand \$ | 323 | 399 | 487 | 473 | 536 |
| Transformers: Dangriga | thousand \$ | 307 | 379 | 463 | 449 | 510 |
| Transformers: Independence | thousand \$ | 43 | 54 | 66 | 64 | 72 |
| Transformers: Mango Creek | thousand \$ | 5 | 6 | 7 | 7 | 8 |
| Transformers: Orange Walk | thousand \$ | 399 | 493 | 602 | 584 | 663 |
| Transformers: Punta Gorda | thousand \$ | 145 | 180 | 220 | 213 | 242 |
| Transformers: San Ignacio | thousand \$ | 283 | 350 | 427 | 415 | 471 |
| Transformers: San Pedro | thousand \$ | 117 | 145 | 177 | 172 | 195 |
| Transformers: Sarteneja | thousand \$ | 5 | 6 | 8 | 7 | 8 |
| Meters Belize | thousand \$ | 281 | 348 | 424 | 412 | 467 |
| Meters Belmopan | thousand \$ | 130 | 161 | 197 | 191 | 217 |
| Meters Caye Caulker | thousand \$ | 10 | 12 | 14 | 14 | 16 |
| Meters Corozal | thousand \$ | 186 | 230 | 280 | 272 | 309 |
| Meters Dangriga | thousand \$ | 112 | 139 | 170 | 165 | 187 |
| Meters Mango Creek | thousand \$ | 32 | 39 | 48 | 46 | 53 |
| Meters Orange Walk | thousand \$ | 91 | 112 | 137 | 133 | 151 |
| Meters PuntaGorda | thousand \$ | 59 | 73 | 90 | 87 | 99 |
| Meters San Ignacio | thousand \$ | 154 | 191 | 233 | 226 | 256 |
| Meters San Pedro | thousand \$ | 61 | 76 | 93 | 90 | 102 |
| Meters Sarteneja | thousand \$ | 4 | 6 | 7 | 7 | 7 |
| Others Cables and Conductors | thousand \$ | 3,285 | 4,063 | 4,958 | 4,811 | 5,462 |
| Others Underground cables | thousand \$ | 208 | 257 | 314 | 305 | 346 |
| Others Street lights | thousand \$ | 501 | 619 | 756 | 733 | 832 |
| Others | | | | | | |
| Land | thousand \$ | 90 | 265 | 15 | - | - |
| Building | thousand \$ | 448 | 1,205 | 615 | 4,070 | 570 |
| Communication Equipment | thousand \$ | 30 | 30 | 30 | 30 | 20 |
| Computer equipment | thousand \$ | 1,914 | 713 | 783 | 500 | 490 |
| Office Equipment | thousand \$ | 161 | 145 | 135 | 110 | 90 |
| Accessory Electrical Equipment [Substn] | thousand \$ | 347 | 230 | 209 | 159 | 171 |
| Vehicles | thousand \$ | 800 | 1,730 | 860 | 860 | 860 |
| Tools & Garage Equipment (&spclzd equip) | thousand \$ | 341 | 1,200 | 600 | 330 | 400 |

Annex 3

Capitalisation

Routine maintenance to maintain an asset's capacity and asset life should not be capitalized. The gross value of a fixed asset may only be modified to reflect subsequent expenditure intended to enhance the asset, and where that expenditure results in one of the following:

- a) A significant extension of the life of the asset, beyond the life assumed in the depreciation rate that is applied to the asset, in which case the appropriate adjustment should also be made to the asset life of the asset; or
- b) A significant improvement in the capacity of the asset, beyond the recorded rated capacity of the asset at the time that it was acquired.

Assets under Construction

Capital assets under construction shall be adjusted annually to take account of interest costs, at the average cost of debt incurred by the licensee. When such assets are commissioned the value included in the RAV for the purposes of this Schedule shall be their construction cost plus the accumulated interest costs.