The background is a light green gradient with several white butterfly silhouettes scattered across it. The butterflies are of various sizes and orientations, some appearing to fly towards the right and others towards the left. The overall aesthetic is clean and serene.

In the name of God

The Beneficent The Merciful



PUBLIC UTILITIES
COMMISSION

Our Purpose

To present

a Case Study of

The Final Decision

for the Annual Review Proceedings 2008

(for Belize Electricity Limited)

Objectives

Facilitate any possible discussion;

seek to extract one or more lessons;

Action Sequence

- # 1) present some background to Final Decision;
- # 2) present some details to Final Decision;
- # 3) present major component/s of Final Decision;
- # 4) points from BEL's application to the Court;
- # 5) present Justice Minette Hafiz's Findings;
- # 6) discussion and conclusions (if possible);

Action Sequence # 1)

present some background to Final Decision



Forecast Tariff Basket Revenue

forecast for ATP 2008/2009 included:

- 1] **Cost of Power (*COP*);**
- 2] **Value Added of Delivery (*VAD*);**
- 3] **Rate Stabilisation Accounts (*RSA*);**
- 4] **Corrections;**

Value Added of Delivery included

Operational expenditures (OPEX);

Depreciation expenses;

Return (RAV multiplied by ROR);

Taxes and license fees;

Less Other revenue;

Criteria for Regulated Asset Value (RAV)

- 1) Capital Asset paid for by the Company;
- 2) Not a Contributed Capital Asset;
- 3) Useful in providing service;
- 4) Used in providing service;
- 5) The Company has “property rights”;

Action Sequence # 2)

present some **details** to the Final Decision;

detail # 1

1991/1992 Mollejon Generating Facility ... BECOL

Mollejon Transmission Facility, **US\$1.00**, was conveyed;

GOB to build a Dam, due on CSD, not completed;

PPA 1992, 120 gigawatt-hours annually;

Amendment 1993, 110 gWh, 115, 115, 120;

Amendment 1996, 85 gWh including capacity charge;

c/y 1999 GOB ... FDI ... c/y 2000 Fundamental plank

c/y 2001 FDI ... majority shareholder BECOL

BEL, loan from BECOL, purchased un-amortised value of

Mollejon Transmission Facility;

Detail # 2

Insurance of TD&S plant discontinued 1994;

Approval of Self insurance scheme 1995;

set aside \$500,000 per year;

Keith 2000, Iris 2001;

Hurricane Cost Rate Stabilization Account;

detail # 3

Review of BEL's Assets Register 2008;

Review Assets Register 2005, 2006, 2007;

Regulated Asset Value Affected;

Action Sequence # 3)

Present major component/s of Final Decision;

Corrections

PUC concluded, BEL had previously collected monies from customers that were not due to BEL,

In the rates for the ATP 2008/09, the PUC included a correction to allow customers to recover such monies;

Decision 3

Corrections continued

Mollejon Transmission Facility Interest

- 1) Built by BECOL conveyed to BEL \$US1.00;
- 2) BEL borrowed \$29.646 million from BECOL;
- 3) The \$29.646 million attracted APR 10%;
- 4) by 2004 BEL paid \$10.333 million interest;

Correction 1: \$10.333 million

The PUC argued:

Decision 3 Corrections continued

Hurricane Cost Rate Stabilization Account

- 1) Discontinued Insurance, TD&S in 1994;
- 2) Hurricane self insurance 1995;
- 3) Hurricanes Keith 2000 Iris 2001;
- 3) HCRSA account established July 2002;
- 4) Direct recovery expense \$4.485 million;
- 5) Interest \$1.553 million, total of \$6.037.

Correction 2: HCRSA \$1.553 million

The PUC argued:

Decision 3
continued

Corrections

Table 1 **Depreciation Expense**

for the years shown

<u>Year</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>Total</u>
	\$000	\$000	\$000	\$000
Initial expense	11,475	12,708	13,714	37,897
Recalculated expense	8,529	9,115	10,626	28,269
Difference in expense	2,946	3,593	3,089	9,628

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Correction 3: Depreciation expense \$9.628 million

Decision 3 continued

Corrections

Table 2

Return for the years shown

<u>Year</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>Total</u>
	\$000	\$000	\$000	\$000
Initial Return	28,056	30,336	32,327	90,718
Recalculated Return	23,295	24,946	27,791	76,032
Difference in Return	4,761	5,389	4,535	14,686

Correction 4: Return \$14.686 million

Decision 6

MER

Regulated Values

	ARP 2007	ARP 2008	ARP 2008
	Final D	Adjust	Final D

Regulated Parameters

COP (sales) kWh	0.253	+0.059	0.312
VAD kWh	0.168	-0.033	0.135
CPRSA rec. kWh	0.020	+0.060	0.080
Correction kWh	0.000	-0.086	-0.086
MER kWh	0.441	0.000	0.441

Action Sequence # 4)

some items from BEL's application to the Court;

BEL showed:

1. Transition into Regulation, Byelaws in 2001.
2. First FTRP 2005, New Byelaws, Annual Reviews;
3. Next FTRP was due 2009;
4. 2005, 2006, 2007, BEL and PUC had difficulties;
5. SI & New Byelaws, December 07, Minister took over;
6. New GOB March 2008, Byelaws repealed, kept SI;
5. PUC Final D June 26, 2008, Correction \$-36.2 million;
6. June Financials booked Excess Revenue, \$-36.2 million;
7. 2008 Financial loss \$-10.8 million;
8. July 2008 BEL filed claim, judicial review and appeal;

BEL argued:

- 1) 2nd April 2008 BEL submitted ARP application;
- 2) claimed not consulted, not aware of repeal;
- 3) requested increase in MER \$0.441 to \$0.50 per kWh;
- 4) increases, Wholesale Cost of Power, world oil prices;
- 5) PUC used improper means of “corrections”;
- 6) Claimed BEL was wrongly paid monies 2001 to 2007;
- 7) PUC directed such sums be refunded to customers;
- 8) Artificially reduced BEL’s revenue requirements;
- 9) To achieve a nil increase in rates for ATP 2008/09;

BEL argued,

continued:

1) “corrections” are:

contrary to the Electricity Act;

a breach of section 17, Belize Constitution;

2) the amounts are considerable;

3) have profound effect on BEL’s financial position;

4) decision has financially destabilized BEL;

5) destabilized BEL’s ability to carry out its duties;

6) the 2008 Final Decision fundamentally flawed;

7) the 2008 decision ought to be quashed;

Action Sequence # 5)

present Justice Minette Hafiz's Findings;

March 15, 2011 Justice Minnet Hafiz's findings:

PUC has power or authority in law to make and issue the 2008 RSM;

2008 RSM is not *ultra vires* the Electricity Act;

RSM does not seek to retrospectively or retroactively set rates.

The 2008 RSM

fulfills the requirements of section 7 and Section 6(2) (a) & (b) of the Electricity Act and Section 22(2) of the Public Utilities Act;

rightly made reasonable projections of BEL's cost, set rates to cover operating cost, and provided an opportunity to earn a reasonable rate of return;

The PUC's decision

to change the Regulated Asset Value for the years 2005, 2006 and 2007 was not *ultra vires* its statutory powers;

to apply a depreciation correction is not *ultra vires* and unreasonable in the Wednesbury sense as the depreciation forecasted was in excess of actual depreciation and stem from the reduction in RAV;

to apply a return correction is also not *ultra vires* and unreasonable in the Wednesbury sense.

The PUC's decision

to review its prior decision to approve Hurricane Cost Stabilization Account (HCRSA) related interest charges and approve a similar amount as a correction to be recovered from BEL is not unlawful and void;

requiring BEL to re-establish from its own funds the deposit of \$5 million as the Insurance Reserve Fund is not *ultra vires* and unreasonable because the Insurance Reserve Fund was previously funded by Customers.

The PUC's decision to approve a rate of return of 10 % for July 1st 2008 to 30th June 2009 is not *ultra vires* and unreasonable, it afforded the Utility the opportunity to realize a reasonable rate of return in accordance with the Electricity Act and Byelaws.

In light of the court's findings on RAV, Depreciation Correction and Return Correction, there was no retroactive ratemaking and that adjustments were made only for the purpose of fixing rates for the current review period, the decision to approve a VAD for ATP July 01, 2008 to June 30, 2009 of \$56.917 million is reasonable and thus not unlawful and void.

the approval of the Tariff Basket Revenue and the Mean Electricity Rate for the ARP for 1st July 2008 to 30th June 2009 is not wrongful, unlawful and void.

BEL had a reasonable rate of return and was adequately compensated under the current tariff structure, PUC's decision to **disapprove** changes to the electricity tariffs is not wrongful, unlawful and void.

The Mollejon Transmission Line is contributed capital and as such the PUC's decision that the MTL is not part of the Regulated Asset Value is not wrongful, erroneous and unreasonable.

the MTL is not part of RAV, the PUC never approved the further payment for the transmission facilities, they could not have approved any interest charges.

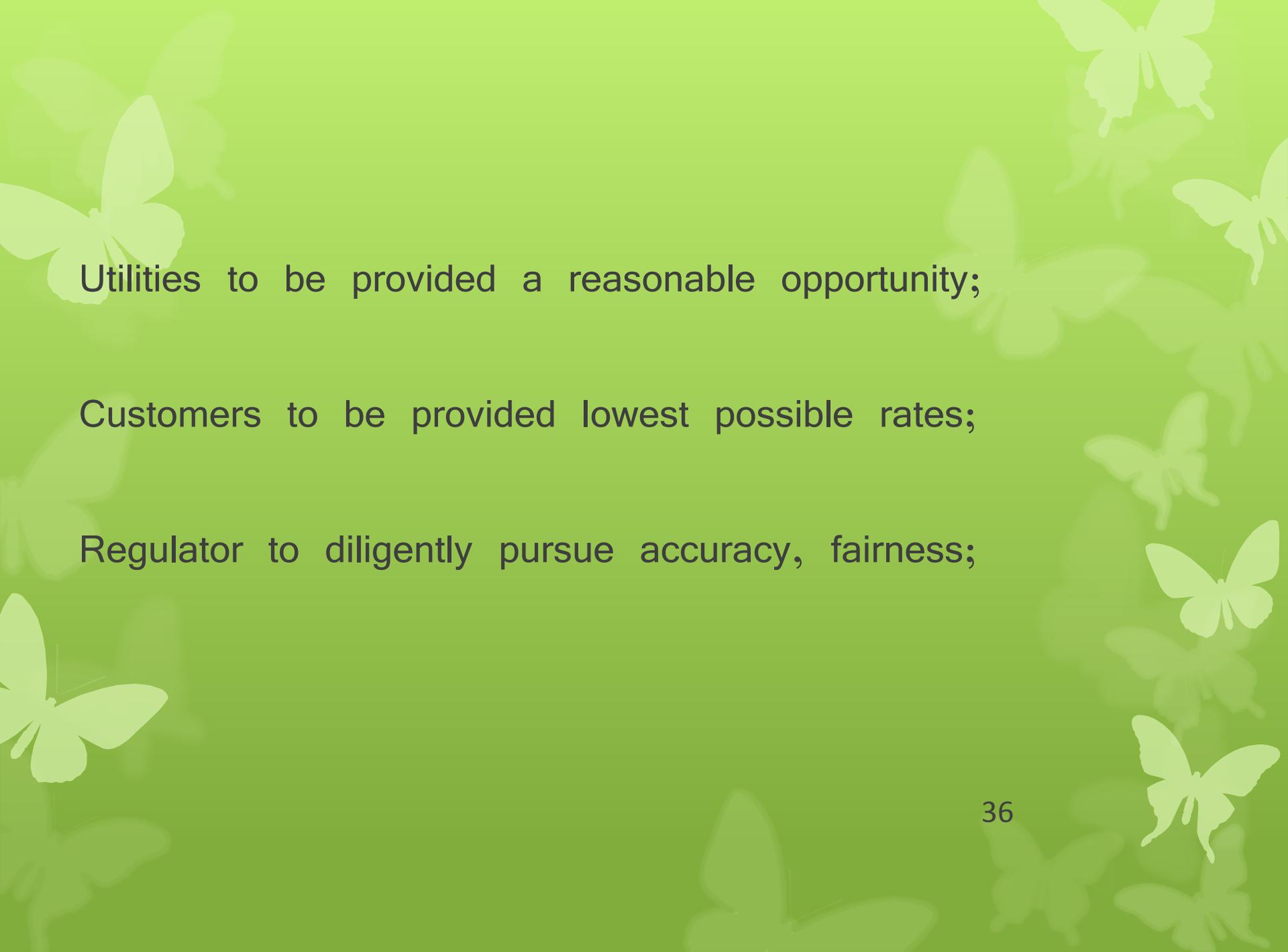
GOB takes majority ownership in BEL

After the court's findings in March of c/y 2011, BEL stated its intent to appeal;

BEL restated, it was not able to meet payments for wholesale power and asked GOB to make payments to one supplier or it would likely be going into rolling black-outs;

GOB made the payments and after careful review GOB took over majority ownership of BEL in June of 2011.

Discussion and conclusion if possible



Utilities to be provided a reasonable opportunity;

Customers to be provided lowest possible rates;

Regulator to diligently pursue accuracy, fairness;

