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FORTIS Insists GOB Must Pay $108m

Stan Marshall looks on as Fonseca sign's BEL away to foreigners

A report last week in the local press about a BEL/BECOL confrontation, is serious news. The fight, it appears, is over the Mollejon Hydro agreement signed in 1991 by then Minister of State Ralph Fonseca.

Under that agreement, which is to last for 40 years, the then government-owned BEL committed to pay for 120 gigawatt hours [GWh] of energy from BECOL, the owners and operators of the Mollejon dam. The cost was $21 million per year, and the infamous "take or pay" clause in the contract, said BEL was to pay the full amount whether it received the 120 GWh or not. Now at the time it was well known that BEL did not have the capacity to absorb 120 GWh as it could only handle a little over half that quantity.

As soon as government changed in 1993, new BEL chairman Net Vasquez and the UDP set about trying to renegotiate the agreement. After a bruising battle, they succeeded in lowering the 120 GWh to 85 GWh at a purchase price of $15 million as opposed to the original $21 million. This was a saving of 6 million dollars a year for the 40-year life of the agreement, or 240 million dollars saved to taxpayers.

BEL has been sold by Fonseca and the PUP government to the Canadian multinational company FORTIS. And BECOL has itself been sold by its previous owner to Duke Energy Ltd., a US company. The FORTIS-owned BEL has also improved its transmission capacity to the point where it is now able to take the entire 85 GWh for which it has to pay under the arrangement with BECOL.

The Mollejon dam cannot produce the optimum 85 GWh which the agreement stipulates. In the past, BEL's annual requirements hovered around the 65 GWh thus Mollejon's

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ability to provide full power under the contract was never tested. Its failure now is bad news for BEL, and worse for Belize. It also blows gaping new holes in the already reviled Fonseca agreement.

In any case, the FORTIS-owned BEL has flung down the gauntlet to BECOL. It has told the Mollejon operators that it will not pay for anything more than it has received over this last season, which is 67.8 GWh of energy. In other words, FORTIS is saying that its interpretation of take or pay is different from BECOL's; and that it is only required to pay for the full 85 GWh if BECOL can produce it but BEL can't take it. The current position is that BEL can take it but BECOL can't produce it, BECOL's default means that BEL does not pay for what it doesn't get through no fault of its own.

The press report last week suggests the matter may now end up in court. But the report missed the bigger and far more frightening picture for Belize. For what Fonseca also did at the time he signed the original Mollejon agreement, was to put up a guarantee which said that if ever BEL didn't pay BECOL, the government and people of Belize would pay. So now Duke and BECOL need not bother about taking BEL to court. All they have to do is invoke the guarantee, and government must pay.

The difference between the 15 million that BECOL is claiming and what BEL is prepared to pay, is about 3.5 million dollars. But that is only for this operating year which ended March 31, 2000. It appears that the Mollejon capacity will never exceed 70 GWh under present circumstances, so that every year there will be a shortfall of at least 3 million dollars worth of energy to BEL. And once BEL continues to refuse to pay for what it doesn't get, taxpayers will have to pay. The Mollejon agreement has another 36 years to run, since although it was signed in 1991 the plant only became operational in 1996. So Fonseca's guarantee could end up costing Belize as much as 108 million dollars.

When government controlled BEL, it could make sure that the company would do nothing to trigger the guarantee and expose GOB to the liability. "But always needing more cash to finance its expensive and corrupt schemes, the PUP sold BEL as it sold BTL and as it will sell WASA, BAA, and the Port Authority. It got into trouble with the foreign buyers of BTL, it is in even bigger trouble now because of the foreign buyers of BEL, yet the mad stampede to sell off national assets continues unabated," commented Opposition Leader Dean Barrow.

Fonseca's 40-year 'take-or-pay' agreement would have cost BEL 840 Million dollars. Even more amazing was his failure to get out from under the government guarantee when he sold BEL to FORTIS, leaving government in the ridiculous position of guaranteeing huge financial obligations in a totally private sector arrangement.

The guarantee has been triggered, BEL is refusing to pay, and as the following quote from the company's just released 2000 annual report makes clear, it will not budge:

"In December 1999, the company became aware that the Mollejon hydro facility is incapable of producing the base energy of 85 GWh in an operating year. Acting on legal advice, the company has taken the position that it will not pay for power the plant cannot produce and BECOL must upgrade the plant so that it is able to produce the minimum take amount. The company has notified BECOL that it is not subject to and will not pay a capacity charge for the operating year ending March 31, 2000. The company is also claiming a refund of the capacity charge paid in respect of the prior operating years ending March 31, 1997, 1998, and 1999."

Fonseca's monumental stupidity, then, will immediately cost the government and people of Belize not only what BEL has refused to pay BECOL this year, but all that it is demanding back. That total is between 9 and 11 million dollars.

Once again, Ralph Fonseca aided and abetted by Said Musa has saddled Belize with mind-boggling financial losses and burdens, and all as a result of unpardonable wheeling and dealing with the country's precious national assets.