

## **THE PUBLIC UTILITIES COMMISSION**

### **IN THE MATTER Of The Final Approval of The Tariffs and Other Specific Terms & Conditions Issued by the Public Utilities Commission (the “Commission” or “PUC”) in respect of the Power Purchase Agreement (“PPA”) between Santander Sugar Energy Limited (“SSEL”) and Belize Electricity Limited (“BEL”)**

1. SSEL and BEL, by way of joint letter dated September 6, 2022, submitted a revised Draft PPA for review and approval by the PUC (the “Amended PPA”).
2. This Amended PPA is to supersede the PPA that had been executed by the parties on December 16, 2016 (the “Original PPA”) and came about after fifteen (15) months of negotiations between SSEL and BEL.
3. As a matter of record, such negotiations were subsequent to the Discontinuance of Claim No. 466 of 2020 between BEL and the PUC on 17<sup>th</sup> June, 2021. In the said Claim, BEL sought relief from the Supreme Court of Belize for, among other things, a Declaration that the PUC acted *ultra vires* when it purported to take a Decision to amend the Original PPA, after both parties had failed to come to an agreement on the terms. Notably, the Amended PPA and proposed tariffs deviate little from the purported Decision under challenge in Claim 466 of 2020, save and except for the introduction of additional performance standards.
4. Through agreed arrangements, the parties propose to increase the minimum annual production from 18.4 GWh, to 25.3 GWh in 2022 and to 32.9 GWh by 2032. Projected maximum annual production is to increase from 36.2 GWh to 47 GWh.
5. In relation to performance, the parties also agreed to introduce performance measures that are geared to improving SSEL’s availability. To that end, it is proposed that SSEL will declare availability two days in advance which shall be no less than 8 MW. Where SSEL fails to meet 90% of the daily declared availability, BEL would impose a penalty that result in the reduction of the per KWh charge for that period. Additionally, the parties agreed to the introduction of a True Availability Factor of 88% annually. Where SSEL fails to meet this True Availability Factor for two consecutive years, the Company would be in default of its obligations under the Amended PPA.
6. Between November 10, 2022 and November 25, 2022, the Commission held publicly advertised consultation in an effort to generate commentary on the proposed PPA. The Commission did not receive any comments from the public despite all efforts to do so.



7. The Commission considered the request from both parties for final approval of the Amended PPA and decided as follows:

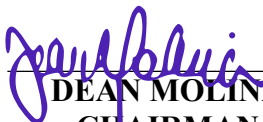
**ORDER**

1. The Public Utilities Commission, in exercise of the powers conferred upon it by the Public Utilities Commission Act, Chapter 223 of the Laws of Belize, the Electricity Act, Chapter 221 of the Laws of Belize and all other powers thereunto enabling, hereby grant final approval for SSEL and BEL to enter into the Amended PPA, subject to the following conditions:
  - a) The Term of the Amended PPA shall continue in force for twelve (12) years and thereafter it may be extended at the option of parties for up to an additional ten (10) years, provided that both parties must have delivered a notice of their election to exercise the option at least one hundred and eighty (180) days prior to the end of the Term.
  - b) The rate fixed in the Amended PPA allows for the SSEL to recover its investment, inclusive of a reasonable return over a period of 20 years retroactive to January 1, 2020. Consequently, where the PUC approves an extension of the Term, the capital recovery in the approved rate will automatically continue for a period not exceeding eight (8) years during the ten (10) year extension period. Thereafter SSEL cannot recover its investments unless it has made substantial improvement that are prudent and useful.
  - c) Notice of Termination for convenience shall be given at least one (1) year prior to exit by SSEL from Belize's electricity market. Notwithstanding that Notice, the approval or concurrence of the PUC is required.
  - d) SSEL shall consult with BEL in respect of technical modifications to existing plant designs and arrangements before undertaking any extension of its power plant as had been contemplated in the Original PPA as Phase 2. SSEL and BEL shall seek to ensure that investments proposed for any such second phase will result in higher service levels and lower unit cost of supply.
  - e) The Parties shall seek the PUC's approval prior to the implementation of any such second phase and where the parties pursue the second phase of the generation project, the PUC shall hold a proper rate proceeding, in accordance with applicable subsidiary legislation. Consequently, it is imprudent to fix the applicable tariffs before consideration of the facts of that rate case.
  - f) The PUC may review the performance of the Amended PPA after three (3) years and make any such modifications to the PPA that it deems warranted after due notice and consultation with the Parties.



- g) Subject to any Government Policy with respect to the sugarcane industry or for creating a market for organic waste-streams, and notwithstanding (f) above, the PUC may commence rate proceedings at any time for the purpose of bringing the rate-setting methodology into compliance with such Policy.
  - h) Notwithstanding (f) and (g) above, the PUC has a statutory obligation under Sections 6-(2)(b) and 7-(4)(a) of the Electricity Act to ensure that Licensees who are operating efficiently remain viable and recover all their reasonable costs.
2. The Parties shall modify the Amended PPA to the extent as indicated in Order 1 above and be guided by a marked up version of the suggested changes which is attached for reference. The duly signed Amended PPA, inclusive of all relevant documents, exhibits and attachments, shall then be filed before the Commission within a period of 30 days from the date of this Order.

**BY ORDER** dated this 29th day of November, 2022

  
DEAN MOLINA  
CHAIRMAN  
PUBLIC UTILITIES COMMISSION