



The Manager
Company Announcements Office
Australian Stock Exchange

SICC delivers judgement in tranche 3

8 February 2022 - White Energy Company Limited (ASX: WEC; OTCQX:WECFY) (“White Energy” or “the Company”) refers to its previous announcements in relation to the proceedings brought by its subsidiaries, BCBC Singapore Pte Ltd (“**BCBCS**”) and Binderless Coal Briquetting Company Pty Limited against PT Bayan Resources Tbk (“**BR**”) and Bayan International Pte Ltd (collectively, “**Bayan**”) in connection with the KSC joint venture.

As shareholders would be aware, the Court in the first two tranches of the proceedings and subsequent appeals conclusively determined that Bayan had both breached and repudiated the joint venture.

The trial for the third tranche of the proceedings concluded in January 2021 with the only issues remaining to be determined by the SICC in the third tranche relating to the damages which may be payable to BCBCS. BCBCS’ claim for damages comprised of the following:

- (i) BCBCS claimed approximately USD91 million in wasted expenditure, being expenses incurred by BCBCS which were rendered futile by reason of BR’s breach and repudiation of the joint venture.
- (ii) Further, BCBCS claimed for loss of the chance of expanding the capacity of the joint venture to at least 3 million tonnes per annum estimated at around USD 23 to 30 million.
- (iii) Interest on any damages award and costs.

The Singapore International Commercial Court (“**SICC**”) yesterday evening released its decision in relation to the third tranche of the proceedings. The SICC found in favour of BCBCS on the majority of the issues for determination. The SICC found in BCBCS’ favour on all of the preliminary legal issues including in relation to remoteness and reflective loss.

The SICC also concluded that the technology underlying the BCB process would have worked and that the Tabang Plant would have achieved nameplate capacity of 1mtpa by June 2012, and that the upgraded coal produced at Tabang would have been a saleable product.

Notwithstanding this, the SICC has surprisingly dismissed BCBCS’ claim for damages for wasted expenditure. The SICC concluded that Bayan would have been able to take steps to put KSC into liquidation, thereby bringing the joint venture to an end before the joint venture had sufficient cash flows from which BCBCS could recoup its wasted expenditure.

In relation to BCBCS’ claim for loss of chance to expand the project, the SICC took the view that there did not exist a real and substantial chance that BR would have agreed to expand the capacity of the Tabang project.

The SICC has indicated that it will hear parties in relation to the costs of the proceedings.

The Company is extremely surprised and bitterly disappointed with the outcome of the decision in circumstances where the Court has previously concluded that Bayan had clearly breached its obligations under the joint venture.



The Company is currently considering the judgement with its legal advisors and its options, including in relation to an appeal and will advise shareholders further.

A copy of the judgement of the SICC can be found on the SICC website <https://www.sicc.gov.sg/>

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Forward Looking Statements

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