

ASX RELEASE

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The Manager
Company Announcements Office
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Singapore Court of Appeal delivers judgement

25 October 2023 - White Energy Company Limited (ASX: WEC, OTC: WECFF) ("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 ("**BCBC**") against PT Bayan Resources Tbk ("**BR**") and Bayan International Pte Ltd ("**BI**") (collectively, "**Bayan**") in connection with the KSC joint venture.

On 19 December 2022, the SICC issued its judgement in relation to the costs to be awarded following the three tranches of the proceedings. The SICC noted that the Plaintiffs had succeeded on nearly all issues of liability while Bayan only prevailed at the end due to narrow points of causation of loss and quantum. The SICC held that Bayan are entitled to recover from the Plaintiffs costs of S\$2,761,787 and disbursements of S\$1,932,846, totaling S\$4,694,633.

On 3 January 2023, BCBCS and BCBC filed an application for leave to appeal the decision of the SICC in relation to the costs determination for the three tranches of the proceedings. On 17 January 2023, Bayan filed its reply submissions. BCBCS and BCBC filed further submissions on 17 February 2023 and Bayan filed its response on 24 February 2023. On 14 March 2023, the Court made its decision in relation to the application for leave and granted leave to BCBCS and BCBC to appeal against the SICC's costs order. BCBCS and BCBC filed a notice to appeal on 28 March 2023. The Appellants' case was filed on 20 June 2023, the Respondents' case was filed on 18 July 2023, the Appellants' reply on 1 August 2023 with the appeal being heard by the Court of Appeal (the "Court") on 4 September 2023.

On 23 October 2023, the Court delivered its judgement in relation to the appeal of the SICC's costs determination. Whilst the Court allowed the appeal, it did not agree with the Appellants' argument that BCBCS be awarded costs up to the late stage of the proceedings at which Bayan first raised the narrow point of causation which ultimately prevented BCBCS from recovering any damages. That said, the Court found that the discount of 40% awarded to the Respondents was insufficient and instead awarded a greater discount of 70%. The Court also held that BCBC should not be jointly and severally liable for costs. The Court made the following orders:

- (a) BCBCS is liable to BR for certain costs subject to a 10% discount for the Respondents' lack of particularisation, and a further 70% discount, with the amount determined in (b) below to also be deducted. BCBCS estimates the cost order to be approximately SGD3.3 million.



- (b) BCBC is liable to BI for certain limited costs, in so far as these are solely attributable to BCBC's withdrawn claim in the proceedings, subject to a discount of 10%. The Court has ordered the parties to attempt to agree the quantum of such costs and if unable to do so, to write to Court within 14 days of the Judgment to indicate their respective positions in relation to quantum. BCBC estimates such costs to be approximately SGD20,000.

The Company is disappointed with the outcome of the appeal and that Bayan has not been held to account for its blatant breaches of contract and that BCBCS has not been properly compensated for such breaches.

As a result of the judgement, the directors of BCBCS have yesterday resolved to appoint KPMG Singapore as the provisional liquidator to BCBCS.

BCBCS estimates it has assets of approximately SGD1.7 million and unsecured liabilities of approximately SGD160.4 million. The intercompany loan from BCBC to BCBCS represents approximately SGD157 million, with the unsecured liability to Bayan as a result of the judgement being approximately SGD3.35 million.

In regards to the proceedings in Western Australia, the Court has ordered that special costs be awarded to Bayan from BCBCS, with the quantum to be determined by taxation if not agreed.

The intercompany loan from BCBC to BCBCS is fully eliminated on consolidation and therefore there would be no impact from any further write down of the loan on the financial results of the WEC group resulting from the liquidation.

The Company is not presently aware of any claims for recourse to the Company or other subsidiaries as a result of the appointment of the provisional liquidator to BCBCS.

The information provided above are BCBCS estimates only, and are subject to quantification and finalisation by the liquidator. It is further noted that the above estimates do not include liquidation costs, such as liquidator fees, which are unknown.

The Company will provide further updates to shareholders in due course.

This release has been authorised by Brian Flannery, Chairman and Chief Executive Officer, on behalf of the Board of Directors.

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Forward Looking Statements

This press release contains forward-looking statements that are subject to risks and uncertainties. These forward-looking statements include information about possible or assumed future results of our business, financial condition, liquidity, results of operations, plans and objectives. In some cases, you may identify forward-looking statements by words such as "may," "should," "plan," "intend," "potential," "continue," "believe," "expect," "predict," "anticipate" and "estimate," the negative of these words or other comparable words. These statements are only predictions. One should not place undue reliance on these forward-looking statements. The forward-looking statements are qualified by their terms and/or important factors, many of which are outside the Company's control, involve a number of risks, uncertainties and other factors that could cause actual results and events to differ materially from the statements made. The forward-looking statements are based on the Company's beliefs, assumptions and expectations of our future performance, taking into account information currently available to the Company. These beliefs, assumptions and expectations can change as a result of many possible events or factors, not all of which are known to the Company. Neither the Company nor any other person assumes responsibility for the accuracy or completeness of these statements. The Company will update the information in this press release only to the extent required under applicable securities laws. If a change occurs, the Company's business, financial condition, liquidity and results of operations may vary materially from those expressed in the aforementioned forward-looking statements.