

# Corporate Attacks: Essential Services

## Case Study: Water

Investor-State Dispute Settlement (ISDS) grants corporations shocking powers to attack the laws we rely on for a clean environment, financial stability, affordable medicines, safe food and decent jobs. ISDS empowers multinational corporations to sue our governments before panels of three corporate lawyers. The corporate lawyers can award the corporations unlimited sums to be paid by America's taxpayers, including for the loss of expected future profits the corporations claim they would have earned if the domestic law was never enacted. The corporate lawyers' decisions are not subject to appeal and the amount they can order taxpayers to give corporations has no limit.

### Azurix v. Argentina

*Investor Win (awarded \$165 million plus interest)*

U.S. water company Azurix Corp. (an Enron subsidiary) [filed a claim against Argentina under the U.S.-Argentina BIT](#) in 2001 over a dispute related to its controversial water services contract in the province of Buenos Aires. During a 1999 water privatization deal, the company [won a 30-year concession](#) to provide water and sewage treatment to 2.5 million people. Within a few months, residents [complained of foul odors](#) coming from the water. Local governments [advised against](#) drinking or paying for tap water and street protests against the water service were held. After the problem was identified as algae contamination of a reservoir, Azurix alleged the algae was the government's responsibility and [demanded compensation for associated costs](#). The government argued that Azurix had a [contractual responsibility to ensure clean drinking water](#). In the following year, residents [experienced a series of water outages](#) and were repeatedly over-billed by Azurix for water, resulting in government fines. Azurix [withdrew from its contract](#) in 2001.

Azurix then launched its claim under the BIT, claiming that [the government had expropriated its investment](#) and denied the firm "fair and equitable treatment" by not allowing rate increases and not investing sufficient public funds in the water infrastructure. In its deliberations, the tribunal weighed whether legitimate public interest policies could constitute BIT violations. The three tribunalists decided, ["the issue is not so much whether the measure concerned is legitimate and serves a public purpose, but whether it is a measure that, being legitimate and serving a public purpose, should give rise to a compensation claim"](#) (emphasis added). The Tribunal ruled that Argentina violated Azurix's right to "fair and equitable treatment," among other breaches, and [ordered the government to pay](#) the Enron subsidiary \$165 million plus interest, in addition to covering almost all of the tribunal's costs.