Corporate Attacks: Essential Services
Case Study: Electricity

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.

TCW v. Dominican Republic
Case Settled (investor paid $26.5 million)

In 2007 TCW Group, a U.S. investment management corporation that jointly owned with the government one of the Dominican Republic's three electricity distribution firms, claimed that the government violated CAFTA by failing to raise electricity rates and failing to prevent electricity theft by poor residents. The French multinational Société Générale (SG), which owned the TCW Group, filed a parallel claim under the France-Dominican Republic BIT.

TCW launched its claim two weeks after CAFTA's enactment, arguing that decisions taken before the treaty's implementation violated the treaty. TCW took issue with the government's unwillingness to raise electricity rates, a decision undertaken in response to a nationwide energy crisis. TCW also protested that the government did not subsidize electricity rates, which would have diminished electricity theft by poor residents. *The New York Times* noted that such subsidization was not feasible for the government after having just spent large sums to rectify a banking crisis. TCW alleged expropriation and violation of CAFTA's guarantee of fair and equitable treatment.

TCW demanded $606 million from the government for the alleged CAFTA violations, despite having spent just $2 to purchase the business from another U.S. investor. The company also admitted to having "not independently committed additional capital" to the electricity distribution firm after its $2 purchase in 2004. After a tribunal constituted under the France-Dominican Republic BIT issued a jurisdictional ruling in favor of SG, allowing the case to move forward, the government decided to settle with SG and TCW. The government paid the foreign firms $26.5 million to drop the cases, reasoning that it was cheaper than continuing to pay legal fees.