

PUBLIC SERVICE COMMISSION
Reclamation Division

Memorandum

TO: Commissioners Clark, Kalk and Cramer
Darrell Nitschke
Illona Jeffcoat-Sacco

FROM: Jim Deutsch, Dean Moos, and Michael Berg

DATE: February 9, 2012

SUBJECT: Increase to self-bond SB-9503-1 covering permits NAFK-9503, NAFK-8705, and NAFK-8405 held by Falkirk, Case No. RC-12-67

Summary – The Falkirk Mining Company filed the application for Revision No. 29 to Permit No. NAFK-8405 that included an update to the worst-case reclamation cost estimate for determining the minimum bond amount for a consolidated bond area. The consolidated bond area includes Permits NAFK-8405, NAFK-8705, and NAFK-9503. The updated reclamation cost estimate used the 2011 variable costs that were detailed under Policy Memo No. 16 to Mine Operators. We have completed a review of the reclamation cost estimate and the bond amount for the consolidated bond area needs to be increased. Falkirk filed a rider to increase the amount of the self-bond and a new surety bond to cover the increased liability. We respectfully recommend that the Commission approve the rider that increases the self-bond.

Discussion – The total bond amount for the consolidated bond area covering Permits NAFK-8405, NAFK-8705, and NAFK-9503 had been \$60,215,000. The total bond amount needed to be increased as a result of an adjusted reclamation cost estimate and updates to the 2011 variable costs. The new minimum bond amount was determined to be \$74,407,608. Falkirk has filed a rider to increase the amount of the self-bond and a new surety bond to increase the total bond amount to \$74,450,000.

Existing collateral bond CB-9503-4 in the amount of \$6,021,500 and the new surety bond in the amount of \$1,423,500 represent 10% of the total bond amount. The other 90% is in the form of a self-bond that is guaranteed by Great River Energy (GRE) and that bond, SB-9503-1 is being increased to \$67,005,000. Mining companies are allowed to provide up to 90% of the total bond amount in the form of a self-bond. The other 10% must be in the form of a collateral or surety bond. Funds from collateral or surety bonds would be more readily available than funds from a self bond to begin reclamation work in the unlikely event of bond forfeiture.

We have reviewed the self-bond instruments and found that they have been properly executed. Falkirk and GRE meet the applicable self-bond requirements. Certain financial criteria must be also met in order to guarantee a self-bond. GRE meets the criteria by having an "A" bond rating. GRE currently has an "A-" rating from Standard and Poor's, an "A3" from Moody's Investor's Service and "A-" from the Fitch Ratings.

Also, the maximum amount of self-bonds that a company may guarantee is 25% of its tangible net worth. The self-bond amount now being guaranteed by GRE is about 21% of its tangible net worth.

With regard to the new surety bond, Falkirk obtained Surety Bond Number 105624532 from Travelers Casualty and Surety Company of America in the amount of \$1,423,500. This bond document is also properly executed.

Attached for your consideration at the February 15, 2012 Commission meeting is a proposed motion to approve the increase of Falkirk's self-bond.

Attachment

caselib\120067\memo