

PUBLIC SERVICE COMMISSION
Reclamation Division

Memorandum

TO: Commissioners Fedorchak, Christmann, Haugen-Hoffart
Steven Kahl
John Schuh

FROM: ZAB MP
Zanna Brinkman and Matt Fischer

DATE: May 2, 2022

SUBJECT: Approval of collateral bond CB-9601-1 for Permit NAFK-9601 held by The Falkirk Mining Company, Case No. RC-22-171, and

Approval of collateral bond CB-9503-5 for Permits NAFK-8405, NAFK-8705, and NAFK-9503 held by The Falkirk Mining Company, Case No. RC-22-172

Summary – Coal Creek Station is North Dakota’s largest power plant. The plant features two units with a total generation capacity of more than 1,100 megawatts. It is located about 50 miles north of Bismarck, N.D., near the city of Underwood. Coal Creek Station is owned by Great River Energy (GRE).

Coal Creek Station is one of the most reliable and cost-efficient power plants in the country. The plant started generating electricity from Unit 1 in 1979 and from Unit 2 in 1980. The electricity generated from Coal Creek Station is delivered to member owners over a high voltage direct current (HVDC) transmission system that runs a distance of 436 miles from Underwood, North Dakota to Minnesota. Coal Creek Station uses roughly 22,000 tons of lignite coal per day, or about 7.5 to 8.0 million tons per year. Great River Energy is selling the Coal Creek Station and the high-voltage direct current transmission line to Rainbow Energy Center, LLC.

The Falkirk Mining Company provides lignite coal to the Coal Creek Station and they have historically passed on the cost of the reclamation bonds to their customer, Great River Energy. Due to the sale of the Coal Creek Station, Falkirk must replace their current reclamation bonds backed by Great River Energy with new reclamation bonds backed by Rainbow Energy Center, LLC.

North Dakota Administrative Code 69-05.2-12-06 allows permittees to replace one form of bond with another, if the liability is transferred to the replacement bonds and bonds must remain in effect until the commission has approved the replacement bonds.

Discussion – Approval of collateral bond CB-9601-1 for Permit NAFK-9601 held by The Falkirk Mining Company, Case No. RC-22-171

Mining and reclamation activities are complete in Permit NAFK-9601, and the Falkirk mine is acquiring the vegetation productivity data required for bond release. This permit is covered by a surety bond, backed by GRE, in the amount of Three Million Four Hundred Ninety-Five Thousand Four Hundred Thirty Seven dollars (\$3,495,437.00).

The Reclamation Division has determined that the minimum bond amount required for Permit NAFK-9601 is \$2,831,808.00. The current bond acreage and bond amount were adjusted to account for Bond Releases 4 and 5 to Permit NAFK-9601 that were approved in 2017 and 2019 respectively. In addition, Falkirk has historically padded their bond amount to allow operational flexibility; however, no mining or active reclamation activities are occurring in the permit therefore no bond cushion is necessary. The minimum bond amount of \$2,831,808.00 is consistent with the calculated minimum bond required that was approved with Bond Release 5.

Falkirk Mining Company submitted collateral bond CB-9601-1 in the amount of Two Million Eight Hundred Thirty-One Thousand Eight Hundred Eight dollars (\$2,831,808) to replace the current surety bond for Permit NAFK-9601. Collateral bond CB-9601-1 is backed by Irrevocable Standby Letter of Credit No. 00629 issued by BNC National Bank on behalf of Rainbow Energy Center, LLC for the Falkirk Mining Company. The collateral bond documents were properly executed, and the standby letter of credit meets the reclamation laws and rules. The Reclamation Division recommends approval of collateral bond CB-9601-1.

Discussion – Approval of collateral bond CB-9503-5 for Permits NAFK-8405, NAFK-8705, and NAFK-9503 held by The Falkirk Mining Company, Case No. RC-22-172

Mining and reclamation activities are occurring in Permits NAFK-8405 and NAFK-9503, and mining is expected to resume in Permit NAFK-8705 in the future. The total bond amount currently covering Permits NAFK-8405, NAFK-8705, and NAFK-9503 is Ninety-Nine Million Four Hundred Fifty Thousand dollars (\$99,450,000). The bond amount is divided between three bonds guaranteed by GRE and include a surety bond (\$3,923,500), a cash collateral bond (\$6,021,500), and a self-bond (\$89,505,000).

Falkirk submitted Revision 42 to Permit NAFK-8405 on March 4, 2022. Although this revision is still in the completeness review phase, the Reclamation Division conducted a technical review of the updated consolidated worst-case bond estimate for Permits NAFK-8405, NAFK-8705, and NAFK-9503 that was submitted with Revision 42 and determined the worst-case bond estimate needed to be increased to (\$103,320,515).

Falkirk Mining Company submitted collateral bond CB-9503-5 in the amount of One Hundred Three Million Three Hundred Fifty Thousand dollars (\$103,350,000) to replace the current surety, collateral and self-bonds currently covering Permits NAFK-8405, NAFK-8705, and NAFK-9503. Collateral bond CB-9503-5 is backed by Irrevocable Standby Letter of Credit No. 00626 issued by BNC National Bank on behalf of Rainbow Energy Center, LLC for the Falkirk Mining Company. The collateral bond documents

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were properly executed, and the standby letter of credit meets the reclamation laws and rules. The Reclamation Division recommends approval of collateral bond CB-9503-5.

Discussion –Riders to cancel GRE backed surety, collateral, and self-bonds

Falkirk has submitted four riders to effectively cancel all GRE backed bonds. The riders do not require Commission action, but they do require the portfolio holder's signature.

In addition to the rider, the Bank of North Dakota requires a letter instructing the Bank of North Dakota to release the cash collateral bond that all Commissioners must sign.

Attached for your consideration at the May 2, 2022 Commission meeting are the proposed motions and the letter instructing the Bank of North Dakota to release the GRE backed cash collateral bond that needs to be signed by all three Commissioners.

Attachments

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