

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

VERIFIED APPLICATION OF ROCKY MOUNTAIN POWER FOR APPROVAL OF SIGNIFICANT ENERGY RESOURCE DECISION AND FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY)	DOCKET NO. 10-035-126
)	Exhibit No. Utah-IE 2.0
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)	Surrebuttal Testimony of
)	Wayne J. Oliver
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**FOR THE PUBLIC SERVICE COMMISSION OF UTAH
STATE OF UTAH**

Surrebuttal Testimony of

Wayne J. Oliver

~~CONFIDENTIAL VERSION~~

March 24, 2011

I. INTRODUCTION

Q. WOULD YOU PLEASE STATE YOUR NAME, EMPLOYER, AND BUSINESS ADDRESS?

A. My name is Wayne J. Oliver. I am Principal and Founder of Merrimack Energy Group, Inc. (Merrimack Energy), 155 Borthwick Avenue, Suite 101, Portsmouth, New Hampshire, 03801.

Q. ARE YOU THE SAME WAYNE OLIVER WHO SUBMITTED DIRECT TESTIMONY IN THIS CASE?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. I wish to address a few points raised by Mr. Bird and Mr. Duval in their Rebuttal Testimony, notably their critique of my position that PacifiCorp terminated negotiations and due diligence for the acquisition of the Apex project prematurely. I also wish to correct a statement made by Mr. Bird with regard to the involvement of the IE in the due diligence process.

Q. PLEASE ADDRESS MR. BIRD'S AND MR. DUVALL'S CRITICISM OF YOUR CONCLUSION THAT PACIFICORP TERMINATED NEGOTIATIONS AND DUE DILIGENCE FOR THE ACQUISITION OF THE APEX PROJECT PREMATURELY?

A. Mr. Bird's position as stated on page 5 of his rebuttal testimony is that the Ceompany completed a thorough due diligence effort in which lead roles were assigned to ten subject matter experts throughout the Company. As a result, he refutes my conclusion that the Company terminated negotiations and due diligence prematurely since PacifiCorp had conducted a thorough due diligence effort. In the conclusions and Executive Summary sections of my report on the solicitation process I concluded that "PacifiCorp undertook detailed due diligence in assessing the potential acquisition of the Apex project as should be expected of such a resource acquisition process. PacifiCorp organized a due diligence team with expertise in a range of disciplines associated with power generation project ownership and operations." While I recognize that PacifiCorp undertook detailed due diligence, my position is that there was still a significant amount of uncertainty with regard to certain cost and risk factors associated with the economic analysis of Apex, notably transmission costs, transmission availability, and options for securing the necessary transmission capacity, at the time that PacifiCorp terminated due diligence and negotiations, to warrant continuation of the due diligence process. I also raised issues in my report with regard to potentially incorrect cost and operating assumptions associated with the Currant Creek 2 project that were later addressed in PacifiCorp's updated analysis.

Q. CAN YOU PROVIDE AN EXAMPLE?

A. Yes. Mr. Duvall's Rebuttal Testimony provides several examples that support my conclusions. On page 11 of his testimony, Mr. Duvall states that "Apex is dependent on transmission yet to be built in order to deliver the output to load, which has a risk of

never being built leaving the Apex plant stranded from retail loads. It also has a risk that the transmission costs may be hundreds of millions of dollars higher than currently estimated in the analyses presented in this docket even if it were to be built. These are significant differences that should be part of any decision to purchase or not purchase a resource.” This is exactly my point with regard to my conclusion that PacifiCorp terminated due diligence prematurely. In my view, due diligence should have been extended until such time as these highly uncertain cost factors could have been better defined and addressed in the economic analysis. A reasonable decision would have been to step back and reassess the results of the due diligence exercise at that time rather than making an immediate decision to terminate negotiations two days after indicating the Company would proceed with the project based on the due diligence and economic analysis at that time. Furthermore, I see no reason, and PacifiCorp has provided no justification, why the Company needed to make a definitive decision regarding the acquisition of the Apex project on December 12, 2010 when PacifiCorp did not plan to close on the plant until late 2011.

Q. DO YOU HAVE ANY OTHER COMMENTS?

A. Yes. I wish to respond to a statement made on page 6 of Mr. Bird’s testimony in which he states that “Mr. Oliver was invited to participate in the weekly due diligence calls and site visit. He was aware of the due diligence process and the population, completion and documentation in the data room. He was made aware of all the updates to the inputs used in the evaluation model and was aware that assumptions were changing based on due diligence findings.” While I agree that the IEs were invited to the site visit, were aware of

the due diligence process and the number of documents, were invited to participate in contract negotiation sessions with both counterparties, and were aware of updates to the inputs and changing assumptions, I have no recollection of being informed or invited to attend the weekly due diligence calls. Based on Mr. Bird's testimony, I checked my notes and emails from PacifiCorp representatives and could find no reference in my notes during the process or in emails from PacifiCorp in which the IEs were notified or invited to participate in weekly due diligence calls. In fact, I initiated a request to PacifiCorp to provide me with the memorandum associated with due diligence findings from the due diligence team members after being notified of PacifiCorp's decision to terminate negotiations and due diligence for the Apex plant and only because I was familiar with PacifiCorp's due diligence process in my role as IE for the Chehalis acquisition.

Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

A. Yes.