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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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DIVISION OF OIL, GAS AND MINING
FACSIMILE COVER SHEET

DATE: September 19, 2003

FAX #: 801-489-6779

ATTN: Patrick

COMPANY:

DEPARTMENT:

NUMBER OF PAGES: (INCLUDING THIS ONE) 2

FROM: Pam Grubaugh-Littig

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filing, Pepco and FERC said that resolving Mirant's motion will require the consideration of non-bankruptcy federal laws over which FERC has jurisdiction under the Federal Power Act."

Pepco CEO Dennis Wraase called Mirant's move an attempt to "to enrich Mirant's banks and bondholders at the expense of Pepco and its customers."

The dispute centers around the four coal plants — Chalk Point, Morgantown, Potomac River and Dickerson — that Mirant purchased from Pepco in 2000. Combined, the plants burn roughly 15 million tons of coal annually. Under terms of the sale, Mirant agreed to sell power back to Pepco and had a "commitment to honor power purchase agreements."

It is this latter commitment that Mirant wants to abrogate. The bankrupt company argues that the power purchase agreements are above-market deals that will cost Mirant "hundreds-of-millions of dollars over the duration if this agreement were to remain in effect," said Mirant in making the request. "The obligations under this agreement will run out over time and end in 2021."

Pepco argues that, not only is Mirant bound by contract to honor the agreement, but also the actions are not in the best interest of customers and could lead to significantly higher rates.

Mirant is not the first bankrupt energy merchant to seek to cancel a power contract. **NRG Energy** is also seeking to cancel a contract with **Northeast Utilities** subsidiary **Connecticut Power & Light**, a move that FERC opposed but that NRG's bankruptcy judge approved. The contrary decisions cast doubt over legal jurisdiction.

Sale of Wellington plant delayed in Utah

Diversified Financial Resources said Sept. 10 that its wholly owned subsidiary, **MT&C Diversified Land and Natural Resources**, has gotten an extension on closing a deal to buy the old Wellington prep plant in Utah owned by **Headwaters Inc.**

Headwaters, then known as **Covol Technologies**, bought the plant from **Nevada Electric Investment** in the late 1990s as one of its first steps in the coal synfuel business. The plant is located near the town of Price.

Diversified said that on Aug. 29, the two sides agreed to delay the closing for up to 30 days to allow "further evaluation of certain environmental concerns respecting anticipated reclamation costs. Specifically, the existing plant must be removed to restore the property to its original condition upon completion of MT&C's anticipated coal reclamation activities. Consequently, [NEIC], the current owner of the underlying real estate and lessor of certain mineral rights to MT&C, is seeking further assurances that MT&C will have the financial ability to remove the plant and reclaim the site in compliance with the applicable environmental regulations."

Diversified is a holding company that is currently in the real estate business and wants to get into coal reclamation through MT&C. ~~Its Web site is *http://www.dfrc.net*.~~

FAX

To: Patrick 801-489-6779
From: PAM

NEW PLANTS

LG&E allowed into Thoroughbred case; Peabody responds to Big Rivers

On Sept. 11, the Kentucky State **Board on Electric Generation and Transmission Siting** approved three **LG&E Energy** subsidiaries as interveners in a review of **Peabody Energy's Thoroughbred Energy** project in Muhlenberg County.

Thoroughbred has applied for a site certification on a 1,500-MW, minemouth power plant. It remains to be seen whether the three LG&E subsidiaries — **Louisville Gas & Electric, Kentucky Utilities** and **Western Kentucky Energy** — will raise the kind of serious objections that **Big Rivers Electric** has *(CO 9/8)*. WKE operates all of the Big Rivers power plants, including the Wilson plant, under a 25-year lease.

Big Rivers said in a Sept. 4 filing that Thoroughbred failed in its board filings to thoroughly look at alternate sites for the project. Big Rivers has said that Wilson, a few miles away from Peabody's preferred location, is an ideal site. Big Rivers also said Thoroughbred failed to talk about how its plant would take up a high percentage of emissions allowances in the region, which might limit future industrial growth there.

On Sept. 10, Peabody responded. It said it had not mentioned to the board in the past the talks it had Big Rivers about locating the project at Wilson due to confidentiality agreements with Big Rivers. It said that in 2001, it had discussed with Big Rivers locating the project at Wilson. Ultimately, Peabody said, it decided against locating Thoroughbred there because Big Rivers only wanted one new unit instead of Thoroughbred's two units, there were unnamed restrictions on "operator choices" at Wilson, concerns were raised about the ability of Big Rivers to help with project financing, and there were "difficulties that had arisen in prior business dealings between [Big Rivers] and Peabody management."

As for air emissions possibly limiting future economic growth in the region, the answer from Peabody is complex due to the various air regulation programs the plant would fall under. But generally, the company objected to submitting information in this area because air emissions are under the jurisdiction of the state **Division for Air Quality**. It noted that Big Rivers never challenged its permitting work at that agency.

OPPD: Partners almost in place for new coal plant

Omaha Public Power District is in the final stages of negotiations with eight potential utility partners to build a 600-MW, coal-fired power plant adjacent to its 632-MW Nebraska City coal-fired plant, a utility spokesman said Thursday.

The utility has been considering building 300 MW or 600

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