

Utah high court revives PacifiCorp trade secrets case

Business » Suit could cost utility \$500 million.

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The Utah Supreme Court has given new life to a lawsuit by a Texas company that claims PacifiCorp pilfered its trade secrets and used them to concoct its own winning bid for the Currant Creek power plant near Mona.

Dallas-based USA Power filed a lawsuit in late 2005 seeking up to \$500 million in damages from PacifiCorp., only to have 3rd District Court Judge Tyrone Medley rule in PacifiCorp's favor prior to the case going to trial.

Utah's highest court, though, overturned the lower court's decision. And that means USA Power's lawsuit is back on.

"Thankfully, the Utah Supreme Court decided to give my client's claims new life," said Salt Lake City attorney Peggy Tomsic. "The goal is to get the case back before Judge Medley and presented to a jury as soon as his calendar allows."

PacifiCorp does business in Utah under the Rocky Mountain Power name. Spokesman Jeff Hymas said the company continues to believe that USA Power's allegations are without merit. "We respect the Utah Supreme Court's decision, and the lawsuit will now go back to the trial court. Beyond that, company policy doesn't permit me to comment on ongoing litigation."

USA Power, through its Spring Canyon Energy subsidiary, in 2002 approached PacifiCorp about building a natural gas-fired power plant in Juab County and sell it to PacifiCorp once construction was completed.

As part of the negotiations, USA Power contends it required PacifiCorp to sign a nondisclosure pact before it would allow the utility to review the inside design and engineering details for its proposed Spring Canyon plant.

Six months later, PacifiCorp purportedly cut off talks with USA Power, indicating it wanted to put the project out for bid. And on Nov. 3, 2003, PacifiCorp awarded the project to itself and received the go-ahead from state utility regulators at the Public Service Commission.

PacifiCorp built its Currant Creek plant less than one mile away from the site proposed by USA Power.

"The public should be concerned with the conduct of PacifiCorp at issue in the case," Tomsic said.

USA Power believes PacifiCorp misused the (bid) process and misled state utility regulators at the Public Service Commission into rubber stamping PacifiCorp's self dealing, she said. And that in turn allowed PacifiCorp to pass unnecessary power-generation costs onto its Utah customers.

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