



Texas company wins \$134M from Utah utility owner PacifiCorp

By Steven Oberbeck | The Salt Lake Tribune
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A Salt Lake City jury has awarded a Texas company a \$134 million judgment against PacifiCorp, which does business in Utah as Rocky Mountain Power, for pilfering trades secrets that it used to concoct its own winning bid for the Currant Creek power plant near Mona.

USA Power of Dallas was awarded \$21.3 million in damages against PacifiCorp for stealing the company's trade secrets and breaching a confidentiality agreement. The jury also awarded another \$112.5 million in damages due to PacifiCorp unjustly profiting from the theft.



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The verdict came late Monday evening after a five-week trial, said Peggy Tomsic, a Salt Lake City attorney who represented USA Power. "It was a grueling process but the jury was attentive throughout. They took notes and paid close attention to the evidence."

Michele Beck, who oversees the Committee of Consumer Services that serves as the voice for residential and small-business owners in utility rate cases, doubts that PacifiCorp will be able to pass on the cost of the judgment to customers.

"I don't believe it would be allowed [by Utah's utility regulators]," Beck said. "And even if they were to try, it is something that we would vigorously oppose."

In 2002, USA Power, through its Spring Canyon Energy subsidiary, approached PacifiCorp about building a natural gas-fired power plant in Juab County. Once the plant was built, USA planned to sell it to PacifiCorp.

As part of the negotiations, USA Power 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.

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Six months later, though, PacifiCorp cut off talks, indicating it wanted to put the project out to bid. And on Nov. 3, 2003, PacifiCorp awarded the project to itself and received the go-ahead from the Public Service Commission.

PacifiCorp built its Currant Creek plant less than one mile away from the site proposed by USA Power. The Texas company said that the Currant Creek facility had characteristics that were virtually identical to those of its own proposed plant.

In a prepared statement, PacifiCorp termed its dispute with USA as "longstanding," noting that the events surrounding the case took place from 2002 to 2004, prior to the PacifiCorp being taken over by billionaire Warren Buffett's MidAmerican Energy Holding Co.

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"Clearly, the company disagrees with the verdict and we will aggressively pursue all avenues of appeal," PacifiCorp said. "As such, we can provide no further comment at this time."

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