

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION**

SMRD DOCKET NOS. C14-0013-SC-26-E AND C14-0014-SC-38-E, TEXAS MUNICIPAL POWER AGENCY, APPLICATION FOR ACCEPTANCE OF SUPPLEMENTAL SECURITY FOR RECLAMATION PERFORMANCE BONDS FOR PERMIT NOS. 26D AND 38D, GIBBONS CREEK LIGNITE MINE AND GIBBONS CREEK LIGNITE MINE V, RESPECTIVELY, GRIMES COUNTY, TEXAS

ORDER ACCEPTING ESCROW ACCOUNTS AS SUPPLEMENTAL SECURITY

Statement of the Case

It has come to the Commission's attention that amendments to the letters of credit that provide collateral for Texas Municipal Power Agency's current collateral bonds for Permit No. 26D and Permit No. 38D went into effect on April 14, 2014 and have resulted in shortfalls in the bond amounts for the permits based on current bond estimates. Texas Municipal Power Agency timely submitted replacement reclamation bonds for the permits consisting of a replacement collateral bond and amended letter of credit for Permit No. 26D and a replacement self-bond and replacement collateral bond with amended letter of credit for Permit No. 38D that are currently under consideration by the Commission. Texas Municipal Power Agency has determined to provide the Commission with additional security until the Commission has accepted these proffered replacement bonds and amended letters of credit or other replacement bonds. The Commission has determined to accept the additional security in the form of two escrow account agreements in the amount of \$350,000 for Permit No. 26D and \$600,000 for Permit No. 38D becoming effective upon the date of this Commission Order and will be in effect from the effective date until the date of Commission approval of the replacement bonds submitted by TMPA or upon Commission approval of other replacement bonds as the Commission may deem acceptable. During this time, the Commission will be authorized to withdraw funds from the escrow account pursuant to and under the conditions set for in 16 TEX. ADMIN. CODE §12.314 forfeiture provisions. Permit No. 26D's bond is a collateral bond secured by a letter of credit that was amended in amount to \$11,800,000 effective on April 14, 2014 from

\$12,800,000, resulting in a shortfall of security for the collateral bond in the amount of \$309,562.50 based on the difference between \$11,800,000 and a reclamation cost estimate prepared for Permit No. 26D. The bonds for Permit No. 38D are a self-bond in the amount of \$12,700,000 and a collateral bond secured with a letter of credit that was amended in amount effective April 14, 2014 from \$13,500,000 to \$6,600,000, resulting in a shortfall of security for the permit in the amount of \$573,359 based on a reclamation cost estimate prepared for Permit No. 38D.

Based on the above, the Commission determines to accept the escrow account agreements submitted by TMPA in accordance with supplemental security provisions set out in §12.309(i) of the "Coal Mining Regulations."

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS that the Escrow Account Agreements submitted by TMPA are hereby accepted.

SIGNED IN AUSTIN, TEXAS, on May 6, 2014.

RAILROAD COMMISSION OF TEXAS


CHAIRMAN BARRY T. SMITHERMAN


COMMISSIONER DAVID PORTER


COMMISSIONER CHRISTI CRADDICK

ATTEST:


Secretary
Railroad Commission of Texas

ESCROW ACCOUNT AGREEMENT

This Agreement is made between the Railroad Commission of Texas (the "Commission") and the Texas Municipal Power Agency ("TMPA"), effective as of May 6, 2014 (the "Effective Date").

RECITALS

TMPA owns in Grimes County, Texas, the Gibbons Creek Lignite Mine which is undergoing reclamation operations pursuant to, among other authorizations, surface mining permit 26D granted by the Commission. To ensure compliance with its regulatory responsibilities in relation to permit 26D, the Agency filed, and the Commission approved on May 7, 2013, a collateral bond (the "2013 Collateral Bond").

The 2013 Collateral Bond is secured by a letter of credit issued by Wells Fargo Bank, National Association. On April 14, 2014, the letter of credit was reduced in anticipation of the Commission's approval of a replacement collateral bond (the "2014 Collateral Bond") filed by TMPA with the Commission on December 27, 2013. As of the Effective Date, additional time is required for Commission review.

The Commission Staff has calculated the reclamation costs associated with completion of reclamation operations for permit 26D (the "Reclamation Cost Estimate"). The Reclamation Cost Estimate exceeds the 2014 Collateral Bond by \$310,000.00.

16 TAC Sec. 12.309(i) provides that the Commission may authorize the permittee to supplement a bond through the establishment of an escrow account with the Commission. TMPA desires to establish such an account pursuant to this Agreement.

TERMS AND CONDITIONS

1. To function as supplemental security for the 2013 Collateral Bond and the 2014 Collateral Bond, TMPA hereby deposits \$350,000.00 (the "Supplemental Security") directly with the Railroad Commission as authorized by 16 TAC Sec. 12.309(i).

2. Subject to paragraph 3, the Supplemental Security, including, if any, interest paid thereon, shall be returned to TMPA (i) upon approval by the Commission of a replacement for the 2014 Collateral Bond (ii) upon approval by the Commission of a supplement to the 2014 Collateral Bond or (iii) as otherwise ordered by the Commission.

3. Between the Effective Date and the date of Commission approval contemplated in paragraph 2, the Commission may withdraw funds from the Supplemental Security pursuant to and under the conditions set forth in 16 TAC Sec. 12.314.

Executed as of the Effective Date. *May 1, 2014*

TEXAS MUNICIPAL POWER AGENCY

CJS By: *Bob Kahn*

Name: Bob Kahn

Title: General Manager

Accepted: May 6, 2014

Boyd T. Smith
CHAIRMAN, Railroad Commission of Texas

David Porter
COMMISSIONER, Railroad Commission of Texas

Christi Craddick
COMMISSIONER, Railroad Commission of Texas

ATTEST: *Kathy Way*



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ESCROW ACCOUNT AGREEMENT

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RECITALS

TMPA owns in Grimes County, Texas, the Gibbons Creek Lignite Mine which is undergoing reclamation operations pursuant to, among other authorizations, surface mining permit 38D granted by the Commission. To ensure compliance with its regulatory responsibilities in relation to permit 38D, the Agency filed, and the Commission approved on May 7, 2013, a self bond (the "2013 Self Bond") and a collateral bond (the "2013 Collateral Bond").

The 2013 Collateral Bond is secured by a letter of credit issued by Wells Fargo Bank, National Association. On April 14, 2014, the letter of credit was reduced in anticipation of the Commission's approval of a replacement self bond and a replacement collateral bond (the "2014 Bonds") filed by TMPA with the Commission on December 27, 2013. As of the Effective Date, additional time is required for Commission review.

The Commission Staff has calculated the reclamation costs associated with completion of reclamation operations for permit 38D (the "Reclamation Cost Estimate"). Between this date, and the date of Commission approval of the 2014 Bonds, the Commission desires for TMPA to supplement the security supporting the 2013 Collateral Bond, so that the sum of the supplemental security and the letter of credit, as reduced on April 14, 2014, will equal or exceed the Reclamation Cost Estimate.

16 TAC Sec. 12.309(i) provides that the Commission may authorize the permittee to supplement a bond through the establishment of an escrow account with the Commission. TMPA desires to establish such an account pursuant to this Agreement.

TERMS AND CONDITIONS

1. To function as supplemental security for the 2013 Collateral Bond, TMPA hereby deposits \$600,000.00 (the "Supplemental Security") directly with the Railroad Commission as authorized by 16 TAC Sec. 12.309(i).
2. Subject to paragraph 3, the Supplemental Security, including, if any, interest paid thereon, shall be returned to TMPA upon approval of the 2014 Bonds by the Commission, or upon approval of such other replacement bonds as the Commission may deem acceptable.
3. Between the Effective Date and the date of Commission approval contemplated in paragraph 2, the Commission may withdraw funds from the Supplemental Security pursuant to and under the conditions set forth in 16 TAC Sec. 12.314.

Executed as of the Effective Date. *May 1, 2014*

TEXAS MUNICIPAL POWER AGENCY

CGS By: *Bob Kahn*

Name: Bob Kahn

Title: General Manager

Accepted: *May 6, 2014*
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