

**BEFORE THE WYOMING PUBLIC SERVICE COMMISSION**

IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. 10014-168-CR-16  
POWDER RIVER ENERGY CORPORATION ) (Record No. 14314)  
FOR AUTHORITY TO IMPLEMENT A )  
GENERAL RATE INCREASE OF \$11,506,749 )  
PER ANNUM AND REVISE TARIFFS )

**AFFIDAVIT, OATH AND VERIFICATION**

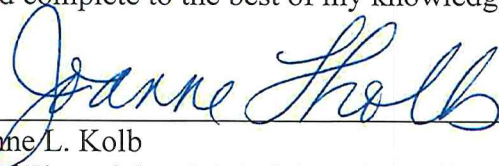
STATE OF WYOMING )  
 ) SS  
COUNTY OF CROOK )

I, Joanne L. Kolb, being of lawful age and being first duly sworn, hereby state:

1. I am the Chief Financial and Administration Officer of Powder River Energy Corporation ("PRECorp"), a party in this matter pursuant to its Application for Authority for a General Rate Increase filed on January 27, 2016.

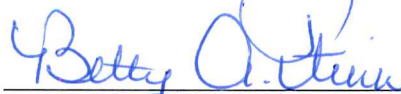
2. Filed with the Wyoming Public Service Commission in the above-captioned proceeding and made a part hereof for all purposes are my rebuttal testimony and exhibit, which have been prepared in written form for introduction into evidence in Docket No. 10014-168-CR-16. I have, by all necessary action, been duly authorized to file this testimony and make this Oath and Verification.

3. I hereby verify that all statements and information contained within the rebuttal testimony and its attachments are true and complete to the best of my knowledge.

  
\_\_\_\_\_  
Joanne L. Kolb  
Chief Financial and Administration Officer  
Powder River Energy Corporation  
221 Main Street  
Sundance, WY 82729

The foregoing was acknowledged before me by Joanne L. Kolb on this 8<sup>th</sup> day of JULY 2016. Witness my hand and official seal. My commission expires: JAN. 11, 2018

SEAL

  
\_\_\_\_\_  
Notary Public

**BEFORE THE  
WYOMING PUBLIC SERVICE COMMISSION  
REBUTTAL TESTIMONY  
OF  
JOANNE L. KOLB  
POWDER RIVER ENERGY CORPORATION  
Docket No. 10014-168-CR-16**

1 **Q. Please state your name and address.**

2 A. My name is Joanne L. Kolb, and my business address is Powder River  
3 Energy Corporation, P.O. Box 930, Sundance, WY 82729-0930.

4 **Q. What is your present occupation?**

5 A. I am employed as the Chief Financial and Administration Officer of Powder  
6 River Energy Corporation (PRECorp).

7 **Q. Please state your educational background and professional  
8 qualifications.**

9 A. My educational background and professional qualifications are detailed in  
10 my curriculum vitae, attached as Exhibit CM-5 to the Affidavit of Joanne  
11 Kolb filed with PRECorp's Notice of Substitution of Witness filed April 15,  
12 2016.

13 **Q. What is the purpose of your testimony?**

14 A. The purpose of my testimony is to provide information on three main  
15 subjects: (1) PRECorp's loan provisions with RUS, including the requisite  
16 RUS OTIER PRECorp is required to maintain; (2) PRECorp's revenue and  
17 expenses, especially in regards to 2016 actuals and 2017 forecasts; and (3)  
18 the accounting for the Revenue Deferral Fund.

19 **Q. Please explain how financial measurements are used to determine**  
20 **whether PRECorp's rates and margins are adequate.**

21 A. The federal government, through the Rural Utility Service (RUS) and the  
22 Federal Financing Bank (FFB), is PRECorp's principle source of borrowing  
23 for capital expenditures. There are several provisions in the loan contracts  
24 PRECorp executes with the government that impose minimum financial  
25 conditions. The relevant provisions of PRECorp's most recent RUS loan  
26 contract are attached as Exhibit CM-2, which was previously included as an  
27 attachment to the direct testimony of Curtis Mock.

28 **Q. Is there a provision of the loan contracts that PRECorp executes that**  
29 **is of particular relevance to this rate filing?**

30 A. Yes, the loan provision most relevant to this rate filing and the margin  
31 requirement of PRECorp is the "Prospective Requirement," which directly  
32 relates to PRECorp designing and implementing rates to, among other  
33 things, maintain the requisite coverage ratios on an annual basis (see  
34 Exhibit CM-2, section 5.4 for discussion of the coverage ratios PRECorp is  
35 required to maintain). The coverage ratio driving the revenue requirement

36 in this case is the RUS Operating Times Interest Earned Ratio (RUS  
37 OTIER).

38 **Q. Will you be discussing the RUS OTIER in your testimony?**

39 A. Yes. I will be discussing: (1) the significance and calculation of the RUS  
40 OTIER, including discussing the financial items that impact the calculation  
41 of the RUS OTIER; and (2) I will rebut Mr. Higgins's testimony in regards to  
42 the appropriate level of the RUS OTIER, and more specifically, explain why  
43 a RUS OTIER of 1.5 is more appropriate than the RUS OTIER  
44 recommended by Mr. Higgins.

45 **Q. What financial items are included in the RUS OTIER?**

46 A. The RUS OTIER is a measurement of PRECorp's ability to pay interest  
47 expense with operating margins (shown as Patronage Capital & Operating  
48 Margins on Line 21 of PRECorp's RUS financial and operating report) and  
49 cash capital credit retirements PRECorp receives from Basin Electric Power  
50 Cooperative (Basin Electric) and PRECorp's cooperative lenders. The cash  
51 received by PRECorp as a result of capital credit retirements from Basin  
52 Electric and others are included in this calculation, as these funds are  
53 available to pay interest expense.

54 **Q. How is the RUS OTIER calculated?**

55 A. The calculation is performed by adding interest expense on long term debt  
56 to current year operating margins (or patronage capital) and to cash  
57 received by PRECorp from capital credit retirements from power suppliers  
58 and lenders and to then divide that sum by interest expense on long term

59 debt. The minimum result required by RUS loan covenants is 1.10,  
60 meaning that operating margins and cash capital credit retirements must  
61 equal .10 times interest expense.

62 **Q. Using PRECorp's most recent financials please provide an example of**  
63 **the impact of changes in operating margins (or patronage capital) on**  
64 **the calculation of the RUS OTIER.**

65 A. Based on the 2015 interest expense on long term debt of \$6,221,198 and  
66 taking into account the limited cash receipts from capital credit retirements  
67 PRECorp is receiving of \$312,952, for each increase of .1 in RUS OTIER,  
68 PRECorp required approximately \$622,000 in margins. In 2015, PRECorp  
69 needed operating margins of \$310,000 for an RUS OTIER of 1.1, operating  
70 margins of \$1,243,000 for a 1.25 RUS OTIER, and operating margins of  
71 \$2,798,000 for a 1.50 RUS OTIER.

72 **Q. What are the financial items to consider when determining the RUS**  
73 **OTIER?**

74 A. With Basin Electric capital credit retirements limited, the main consideration  
75 is operating margins. Operating margins are composed of revenue and  
76 expenses. Continuing sales declines in our current operating environment  
77 are significantly impacting PRECorp's revenue and, as a result, PRECorp's  
78 operating margins.

79 **Q. Please provide an overview of the decline in sales PRECorp has**  
80 **experienced since the adjusted test year.**

81 A. In this filing, the 2014 test year was adjusted to account for reductions in  
 82 sales PRECorp was starting to experience in 2015. The adjusted test year  
 83 includes actual sales for August 2014 through December 2014 and actual  
 84 sales for January 2015 through July 2015. Unfortunately, the reductions in  
 85 sales PRECorp experienced in late 2015 and has experienced thus far in  
 86 2016 are far greater than anyone predicted. In the table below is a  
 87 comparison between 2014 Actual Sales and 2015 Actual Sales.

Total or Class	2014 Actual Sales	2015 Actual Sales	Growth Rate
Total	2,748,339,105	2,623,869,888	-4.53%
CBM	612,035,627	536,323,686	-12.37%
LPT-Coal	1,244,870,031	1,192,107,472	-4.24%

88 In the table below is a comparison between 2015 Actual Sales and 2016  
 89 Actual Sales, all for May Year to Date.

Total or Class	2015 Actual Sales (YTD May)	2016 Actual Sales (YTD May)	Growth Rate
Total	1,157,800,704	945,062,036	-18.37%
CBM	251,500,480	182,346,425	-27.50%
LPT-Coal	518,953,670	402,114,229	-22.51%

90 PRECorp is experiencing declines across all classes; however, the most  
 91 significant declines are for the CBM and LPT-Coal classes, with 27.5% and  
 92 22.5% declines respectively for May 2016 year to date.

93 **Q. How does this decline in sales translate to revenue?**

94 A. When comparing year to date May 2016 to the same period in 2015,  
95 PRECorp has experienced a \$9.7 million decline in revenue.

96 **Q. During this time of declining sales, what actions is PRECorp taking to**  
97 **manage its financial condition?**

98 A. PRECorp is undertaking many programs and initiatives to manage its  
99 financial condition. For instance, PRECorp has a program where  
100 employees contribute ideas for cost reduction and revenue generation. This  
101 program is called Case For Excellence. Additionally, all departments  
102 recently reviewed the 2016 Operating and Capital Budgets, with a “1Q2016”  
103 budget (2016 budget with January through April actuals) presented to the  
104 PRECorp Board of Directors in June 2016. This budget is part of a strategic  
105 initiative in progress for 2016 for all departments to create a rolling 12-month  
106 budget, whereby the current calendar year budget is revised quarterly. The  
107 rolling budget allows PRECorp to be more responsive to the changing  
108 conditions in our current environment. During quarterly revisions, each  
109 department forecasts the future 12 months. In addition to the rolling budget  
110 efforts, PRECorp is revising its sales forecasts monthly to better evaluate  
111 the current environment.

112 **Q. In addition to these actions, has PRECorp also sought to reduce**  
113 **expenses?**

114 A. Yes, all expense and capital expenditures were reviewed during the budget  
115 revision process. PRECorp revised employee counts and labor expenses

116 due to staff reductions, reduced training expenses, reduced contract work  
117 by accomplishing the work with PRECorp employees when possible, and  
118 reduced capital expenditures to reduce depreciation expense. Expense  
119 reductions are discussed in further detail in the rebuttal testimony of Michael  
120 E. Easley.

121 **Q. What does the current calendar 2016 budget project for operating**  
122 **margin?**

123 A. The 1Q2016 budget shows an operating margin loss of \$7.9M.

124 **Q. Based on the 1Q2016 budget, what is the projection for the 2016 RUS**  
125 **OTIER?**

126 A. The projection in the 1Q2016 budget for the RUS OTIER is a negative .21.

127 **Q. Based on that, how will PRECorp meet the RUS OTIER in 2016?**

128 A. Based on our current 1Q2016 budget, PRECorp will need to use \$8.6M from  
129 the Revenue Deferral Fund to meet the RUS OTIER of 1.10.

130 **Q. Can you please provide an accounting of the Revenue Deferral Fund**  
131 **since 2013?**

132 A. The Revenue Deferral Fund had a balance of \$3,020,000 at the end of the  
133 calendar year 2013. In 2014, PRECorp added \$4,200,000 to the Revenue  
134 Deferral Fund, and in 2015, PRECorp added \$2,050,000.

135 **Q. Were these additions planned or foreseeable during the calendar year**  
136 **budget process in these years?**

137 A. No, they were not.

138 **Q. What circumstances led to the recording of the 2014 revenue deferral?**



139 A. PRECorp made a one-time accounting change related to unbilled revenue  
140 of \$6,858,217.82 in 2014, which allowed a deferral of \$4,200,000. Without  
141 this accounting change, PRECorp would have recorded an operating loss  
142 and would have needed to use the Revenue Deferral Fund to meet the  
143 required RUS OTIER.

144 **Q. Please describe this one-time accounting change.**

145 A. This accounting change required revenues to be recorded in the month  
146 earned, as opposed to billed. Historically, PRECorp followed the RUS  
147 regulatory base of accounting for the treatment of unbilled revenue, which  
148 is contained within USDA Rural Utilities Service Bulletin 1767B-1. This  
149 bulletin delineated the use of Account 173 – Accrued Utility Revenues as  
150 follows: “*At the option of the utility, the estimated amount accrued for service*  
151 *rendered, but not billed at the end of any accounting period, may be*  
152 *included herein.*” PRECorp did not use Account 173 in its accounting  
153 practices prior to 2014. A Financial Accounting Standards Board (FASB)  
154 Accounting Standards Update #2014-09, released in 2014, outlined a  
155 required change to this accounting practice, which resulted in PRECorp  
156 being required to record unbilled revenue in Account 173.  
157 As a result of this change, PRECorp was required to record in December  
158 2014 revenues earned in December 2014, which historically would have  
159 been recorded in January 2015.  
160 Revenues for kWh used in each month are now estimated and accrued  
161 through the end of the month vs. being recorded in the month the meter was

162 read. This change has allowed for a better matching of revenues and  
163 expenses, since power purchases have always been accrued through the  
164 end of the month.

165 **Q. What circumstances led to recording the 2015 revenue deferral?**

166 A. Late in 2015, Basin Electric announced a Bill Credit related to 2004-2009  
167 power bills. PRECorp recognized the Bill Credit in its 2015 financials and  
168 also made the following financial decisions: (1) PRECorp created a  
169 provision for bad debt for specific known defaults that occurred in 2015; (2)  
170 PRECorp deferred revenue in excess of that required to maintain the RUS  
171 OTIER minimum of 1.10 in the amount of \$2,050,000; and (3) PRECorp  
172 planned to retire the balance of the Bill Credit after bad debt provision as a  
173 2017 G&T Capital Credit to those members of record in 2004-2009.

174 **Q. Please provide an update on the plan for the balance of the Revenue  
175 Deferral Fund.**

176 A. With the assumption of using \$8.6M in 2016, the Revenue Deferral Fund  
177 will have a balance of \$670,000.

178 **Q. What are the current financial projections for 2017?**

179 A. Making projections for 2017 is extremely difficult due to: (1) the steep  
180 decline in sales, particularly to the CBM and LPT-Coal classes; and (2) the  
181 unpredictable nature of the decline in sales, including for how long the  
182 decline will continue and at what rate. With this being the environment  
183 PRECorp is currently operating in, even if PRECorp is awarded the entire

184           \$11.5 million increase in revenue, it is very unlikely that PRECorp will attain  
185           a RUS OTIER of 1.5, and it may not attain a RUS OTIER of 1.10.

186   **Q.    Does this conclude your testimony?**

187   **A.    Yes, it does.**

RUS Project Designation:

WYOMING 25-AC8 CROOK

RUS LOAN CONTRACT

An Agreement Made By And Between

POWDER RIVER ENERGY CORPORATION,

as Borrower

and

UNITED STATES OF AMERICA,

as Lender

Dated as of February 1, 2010

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

No. \_\_\_\_\_

Generated: January 15, 2010

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General Manager, stating that during such year the Borrower has fulfilled all of its obligations under the Loan Documents throughout such year in all material respects or, if there has been a default in the fulfillment of any such obligations, specifying each such default known to said person and the nature and status thereof.

**Section 5.3. Simultaneous Prepayment of Contemporaneous Loans.**

If the Borrower shall at any time prepay in whole or in part the Contemporaneous Loan described on Schedule 1, the Borrower shall prepay the RUS Note correspondingly in order to maintain the ratio that the Contemporaneous Loan bears to the RUS Commitment. If the RUS Note calls for a prepayment penalty or premium, such amount shall be paid but shall not be used in computing the amount needed to be paid to RUS under this section to maintain such ratio. In the case of Contemporaneous Loans and RUS Notes existing prior to the date of this Agreement under previous agreements, prepayments shall be treated as if governed by this section. Provided, however, in all cases prepayments associated with refinancing or refunding a Contemporaneous Loan pursuant to Article II of the Mortgage are not considered to be prepayments for purposes of this Agreement if they satisfy each of the following requirements:

- (a) Principal. The principal amount of such refinancing or refunding loan is not less than the amount of loan principal being refinanced; and
- (b) Weighted Average Life. The weighted average life of the refinancing or refunding loan is not less than the weighted average remaining life of the loan being refinanced.

**Section 5.4. Rates to Provide Revenue Sufficient to Meet Coverage Ratios Requirements.**

- (a) Prospective Requirement. The Borrower shall design and implement rates for utility service furnished by it to provide sufficient revenue (along with other revenue available to the Borrower in the case of TIER and DSC) (i) to pay all fixed and variable expenses when and as due, (ii) to provide and maintain reasonable working capital, and (iii) to maintain, on an annual basis, the Coverage Ratios. In designing and implementing rates under this paragraph, such rates should be capable of producing at least enough revenue to meet the requirements of this paragraph under the assumption that average weather conditions in the Borrower's service territory shall prevail in the future, including average Utility System damage and outages due to weather and the related costs.
- (b) Retrospective Requirement. The average Coverage Ratios achieved by the Borrower in the 2 best years out of the 3 most recent calendar years must be not less than any of the following:

TIER =	1.25
DSC =	1.25
OTIER =	1.1
ODSC =	1.1

- (c) Prospective Notice of Change in Rates. The Borrower shall give thirty (30) days prior written notice of any proposed change in its general rate structure to RUS if RUS has requested in writing that it be notified in advance of such changes.
- (d) Routine Reporting of Coverage Ratios. Promptly following the end of each calendar year, the Borrower shall report, in writing, to RUS the TIER, Operating TIER, DSC and Operating DSC levels which were achieved during that calendar year.

- (e) Reporting Non-achievement of Retrospective Requirement. If the Borrower fails to achieve the average levels required by paragraph (b) of this section, it must promptly notify RUS in writing to that effect.
- (f) Corrective Plans. Within 30 days of sending a notice to RUS under paragraph (e) of this section, or of being notified by RUS, whichever is earlier, the Borrower in consultation with RUS, shall provide a written plan satisfactory to RUS setting forth the actions that shall be taken to achieve the required Coverage Ratios on a timely basis.
- (g) Noncompliance. Failure to design and implement rates pursuant to paragraph (a) of this section and failure to develop and implement the plan called for in paragraph (f) of this section shall constitute an Event of Default under this Agreement in the event that RUS so notifies the Borrower to that effect under section 7.1(d) of this Agreement.

**Section 5.5. Depreciation Rates.**

The Borrower shall adopt as its depreciation rates only those which have been previously approved for the Borrower by RUS.

**Section 5.6. Property Maintenance.**

The Borrower shall maintain and preserve its Utility System in compliance in all material respects with the provisions of the Mortgage, RUS Regulations and all applicable laws.

**Section 5.7. Financial Books.**

The Borrower shall at all times keep, and safely preserve, proper books, records and accounts in which full and true entries shall be made of all of the dealings, business and affairs of the Borrower and its Subsidiaries, in accordance with any applicable RUS Accounting Requirements.

**Section 5.8. Rights of Inspection.**

The Borrower shall afford RUS, through its representatives, reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect the Utility System, any other property encumbered by the Mortgage, and any or all books, records, accounts, invoices, contracts, leases, payrolls, canceled checks, statements and other documents and papers of every kind belonging to or in the possession of the Borrower or in anyway pertaining to its property or business, including its Subsidiaries, if any, and to make copies or extracts therefrom.

**Section 5.9. Area Coverage.**

- (a) The Borrower shall make diligent effort to extend electric service to all unserved persons within the service area of the Borrower who (i) desire such service and (ii) meet all reasonable requirements established by the Borrower as a condition of such service.
- (b) If economically feasible and reasonable considering the cost of providing such service and/or the effects on consumers' rates, such service shall be provided, to the maximum extent practicable, at the rates and minimum charges established in the Borrower's rate schedules, without the payment of such persons, other than seasonal or temporary consumers, of a contribution in aid of construction. A seasonal consumer is one that demands electric service only during certain seasons of the year. A temporary consumer is a seasonal or year-round consumer that demands electric service over a period of less than five years.