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September 8, 2003

Thomas M. Dorman
Executive Director
Kentucky State Board on Electric
Generation and Transmission Siting
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602

Re: Thoroughbred Generating Company, LLC
Case No. 2002-00150
Response to Board's Data Request

Dear Mr. Dorman:

Thoroughbred Generating Company, LLC is submitting its response to the Board's Data Request, dated August 28, 2003. Please note that the response includes an updated map for insertion in Section 8.2.2 of the application. Ten copies of the documents are provided. An electronically filed copy will be submitted as well.

If you have any questions, please contact me or Dianna Tickner of Thoroughbred Generating Company at (314) 342-7613.

Very truly yours,

A handwritten signature in black ink that reads "Carl W. Breeding".

Carl W. Breeding

CWB/cab
Enclosure

cc: Dianna Tickner
Holland N. McTyeire, V
Carolyn M. Brown
Service List

Lex.627135.1

COMMONWEALTH OF KENTUCKY

RECEIVED

BEFORE THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING

SEP 08 2003

PUBLIC SERVICE
COMMISSION

In the Matter of:

THE APPLICATION OF THOROUGHBRED)
GENERATING COMPANY, LLC FOR A MERCHANT)
POWER PLANT CONSTRUCTION CERTIFICATE)
IN MUHLENBERG, COUNTY, KY)

CASE NO.
2002-00150

**THOROUGHBRED'S RESPONSE TO
BOARD'S DATA REQUEST TO APPLICANT**

Applicant, Thoroughbred Generating Company, LLC ("Thoroughbred"), submits this response to the Board's Data Request, dated August 28, 2003.

Data Request: Thoroughbred's Application, Section 2.1, contains a list of the owners of property that border the generating site and a copy of the public notice given to them pursuant to KRS 21778.706(2)(c)1. However, the map included in Section 8.2.2 appears to indicate that the owners of property that border the generating site on the northwest side, adjacent to the river, were neither identified nor given the requisite public notice. Were the owners of property that border the generating site on the northwest side given public notice pursuant to KRS 278.702(2)(c)1?

- a. If yes, provide a list of their names and documentation that public notice was given to them.
- b. If no, explain in detail why they were not given public notice and why the requisite notice should not now be given to them as required by KRS 278.706(2)(c)1.

Response: Notice was given to the property owner whose property borders the Thoroughbred Generating Station Site (the "Site") to the northwest in accordance with KRS

278.706(2)(c)1. The map provided in Section 8.2.2. of the Application has been revised to more accurately show the property lines to the northwest of the Site, and the revised map is provided with this Response for insertion in Section 8.2.2. The property that borders the Site to the northwest consists of the northernmost edge of the tracts identified by Map Index Nos. 2218, 2941, 2936, 2938, and 1849, as shown on the revised Section 8.2.2 map. Under Kentucky law, with respect to navigable waterways within and bordering Kentucky, the landowner owns property to the “thread of the stream”; that is, to the centerline of the river measured to the mid-point of the low-water marks on each side, unless there has been a specific and definite attempt to except, reserve, or restrict a portion of the waterway (which is not the case here). *See Berry v. Snyder*, 66 Ky. 266, 3 Bush 266, 1868 WL 6565 (Ky.), 96 Am. Dec. 219 (1867); *City of Covington v. State Tax Comm.*, 231 Ky. 606, 21 S.W.2d 1010 (1929). *See also Mid-America Terminal of Kentucky, Inc. v. Owensboro River Sand and Gravel Co.*, Ky., 532 S.W.2d 437, 441 (1975). Since the northernmost property line of the enumerated tracts extends to the centerline of the Green River, notice to the owner of these tracts satisfied the requirement of KRS 278.706(2)(c)1 to provide notice to the owners of property bordering the Site. (Company contact – Dianna Tickner)

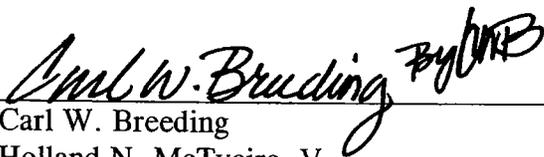
a. If yes, provide a list of their names and documentation that public notice was given to them.

Response: Peabody Energy is the owner of Tract Nos. 2218, 2941, 2936, and 1849, as shown in Section 2.1 of the Application. Notice was given to Peabody Energy in accordance with the statute. Copies of the pertinent certified mail receipts were provided in Section 2 of the Application and are attached with this Response for the Board’s convenience.

b. If no, explain in detail why they were not given public notice and why the requisite notice should not now be given to them as required by KRS 278.706(2)(c)1.

Response: Not applicable. See preceding response.

Respectfully submitted,



Carl W. Breeding
Holland N. McTyeire, V

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COUNSEL FOR THOROUGHBRED
GENERATING COMPANY, LLC

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the Motion Of Thoroughbred For An Extension Of Time was sent by United States First Class Mail, sufficient postage prepaid, to the following this the 8th day of September, 2003.

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