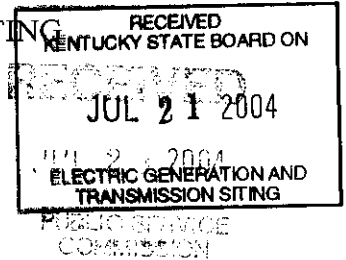


COMMONWEALTH OF KENTUCKY  
BEFORE THE KENTUCKY STATE BOARD  
ON ELECTRIC GENERATION AND TRANSMISSION SITING  
211 SOWER BOULEVARD  
FRANKFORT, KENTUCKY 40601



In the Matter of:

THE APPLICATION OF ESTILL COUNTY )  
ENERGY PARTNERS, LLC. FOR A )  
CERTIFICATE TO CONSTRUCT A COAL ) CASE NO. 2002-00172  
COMBUSTION/ELECTRIC GENERATING )  
FACILITY )

INTERVENOR WILL HERRICK'S FIRST DATA REQUEST  
TO ESTILL COUNTY ENERGY PARTNERS, LLC

Intervenor Will Herrick requests that Estill County Energy Partners, LLC (ECEP) provide the Intervenor, the Board and all parties of record, the following information. Please include with each response the name of the person who has provided the information in the response. If the information requested has been provided in response to another data request by a party, reference may be made to the specific location of that information in responding to this information request.

Please provide, within the time period provided in the Procedural Schedule adopted by the Board in this case, the following information:

1. Page 6 of the Application submitted on June 11, 2004 ("the Application") indicates that the proposed merchant electric generating facility will be fueled "primarily" by waste coal.

a. Please indicate any other fuels that will be used during start-up and operating condition for the proposed facility, and the range of fuel mixes that will be used.

b. Does the facility intend to utilize fuels derived from solid wastes, including but not limited to refuse-derived fuel?

c. The former Calla proposal included the proposed use of biomass for gasification. Does ECEP intend to pursue the use of biomass as a fuel?

2. Page 7 of the Application indicates that the proposed facility will be constructed on a 28 acre portion of the "Site", which is a 505-acre site of a former coal processing plant. That same page indicates that the "Site" is to be leased to ECEP prior to the start of construction. Fox Trot Properties, LLC (Fox Trot) is identified as the owner of the site and "an affiliate" of ECEP.

a. Please indicate and provide documentation concerning the extent of the ownership of the "site" by Fox Trot. Does Fox Trot own the entire 505-acre property or merely the 28-acre tract.

b. Who are the principals, officers or other participants in Fox Trot LLC?

c. What is the nature of the "affiliation" of Fox Trot with ECEP?

d. Please provide a copy of any proposed lease with Fox Trot, and in the absence of such a lease, describe the term of the lease, and other material lease terms including who will be responsible for any injury to persons or property arising from the proposed facility operation and removal and handling of coal wastes on the 505-acre site.

e. Please list any entities that hold any tax or other liens, mortgages or other claims on the site, any portion of the site, or structures on the site, and the amount of each such claim?

f. Is the site or any portion thereof currently subject to bankruptcy proceedings?

3. Is any of the 28-acre or 505-acre site currently under a surface coal mining permit issued by the Kentucky Department for Surface Mining? If so:

a. Please identify the permit number, permittee, operator, and current status (active, inactive).

b. Please list any pending enforcement actions, bond forfeiture, or other pending administrative actions related to that mining permit.

c. Please indicate whether and to what extent the 505-acre site or any portion thereof is under a reclamation bond.

d. For any areas currently under permit, please indicate the post-mining land use indicated under the permit.

4. Are any of the areas within the 505-acre site eligible for reclamation under the Abandoned Mine Land (AML) Program? If so, please indicate which areas, and whether there has been a determination by the state or federal mining regulatory agencies as to the eligibility of the land for AML expenditures and the priority status under the AML program.

5. Please provide any sampling in your possession of the composition of the coal processing wastes on the site, including the location of the samples and date of sampling.

6. Please provide any sampling in your possession that has been conducted on the water quality of runoff from areas on the site where coal processing wastes are currently located.

7. The application proposes the disposal of the resulting coal combustion ash in an on-site landfill. Please describe the location of the proposed disposal facility, and the construction and operation details for the proposed facility, including the procedures for

material handling, surface and groundwater monitoring, liner, and proposed post-closure monitoring duration.

8. Page 9 of the application notes that there are two residential properties on the site that are owned by Fox Trot.

a. Are those residences occupied?

b. Does ECEP believe that the ownership of the structures is relevant to the determination to extend or withhold the protections afforded by the statute to residential properties and neighborhoods? If so, please provide the statutory basis for such a distinction.

c. Does ECEP believe that those two residential structures qualify as a neighborhood, and if not, why not?

d. Was notice of the application served on the occupants of those two residential structures?

9. Page 12 of the application indicates that there are no ordinances concerning noise control. Does Estill County have any ordinances prohibiting nuisances?

10. Page 15 of the application is not responsive to the question posed by KRS 278.706(2)(g). Please indicate the efforts made by the applicant to locate the proposed facility on a site where existing electric generating facilities are located.

a. If no other locations were considered, please indicate so.

b. If location at a site with existing electric generating facilities was evaluated, please indicate which plant(s) were considered and the basis for rejecting such options.

11. Why was the proposed transmission line not included in this application?

12. The application indicates that the facility will connect with KU; however there is indicated a transmission or service line owned by the Jackson Energy Co-op traversing the site.

a. Will that Jackson Energy line be removed or relocated, and if so, at whose expense?

b. Will there be a connection with the Jackson Energy line?

13. Has ECEP made application for any necessary environmental permits, including air, waste, water withdrawal, or mining permits?

a. If so, please identify by agency, date of submittal, and application number each such application or permit held.

b. If not, please identify each environmental permit or authorization anticipated to be required in order to construct and operate the proposed facility.

c. Concerning the emission of air pollutants, please provide any reports or studies commissioned by or conducted for the ECEP facility indicating the air quality impacts of the proposed facility, including whether the facility will consume any increment of air quality for any air contaminant or pollutant.

d. Please provide any fate or transport study that has been conducted regarding the dispersion and fate of emissions from the proposed facility?

e. Please provide any study or report that has been conducted concerning the impacts of air emissions on Class I areas, including the Great Smoky Mountains National Park.

14. Please provide any documents identifying the effect on property values for all residential properties located within 2 miles of the plant? Is it the position of ECEP that

no residential properties will suffer adverse values due to plant construction and operation?

15. Has ECEP commissioned or produced any report or study identifying the economic impact of the emission of criteria and toxic air pollutants from the proposed facility on the region and state?

16. The noise study uses the operation of the former coal washer as a baseline for comparison.

a. Is the coal washing equipment currently in use?

b. How long as the equipment been idle?

c. What are the current peak and average noise levels at the property boundary, and at the residences identified in the application, from current site activities?

d. What will be the average and peak noise levels from site operations, including construction, facility operation, coal waste handling and processing, and other site activities, at each residence identified in the application as being within the distances required to be considered?

17. Please explain why all interior roads in the site will not be paved, and the basis for determining which roads to pave.

18. Please identify the measures to be taken to control adverse effects of lighting on residential properties, and to prevent light pollution. The application states only that lighting will be controlled to industry standards.

a. What measures will be taken to control and direct lighting on the property?

b. What is the anticipated lighting intensity at the site boundary, in footcandles?

c. Please identify the “industry standards” to which reference is made?

19. Please identify the scope and amount of liability insurance that will be carried by ECEP related to personal and real property damage related to operation of the facility.

20. Please describe the relationship of ECEP and any of its owners, principals or agents and:

- a. Calla Energy Partners
- b. The Institute of Gas Technology
- c. Charles (Chuck) Yates
- d. Donnie LaViers
- e. Kentucky Processing
- f. DLX, Inc.

21. Do any of the individuals or entities identified in Question 20 have an ownership, operating or equity interest in either Fox Trot or ECEP?

22. Please identify the individuals and business entities who will operate the proposed facility?

23. Is any of the 505-acre site located within the 100-year or 500-year floodplain? If so, what water management measures are proposed?

24. Please describe in quantitative and qualitative terms how run-on and run-off will be managed, and what impacts the development and redisturbance of the site will have on flood peaks and flood heights, and water quality.

25. The Calla Energy Partners project proposed the use of federal money to support the development of a biomass gasification project.

- a. How does ECEP propose to finance the proposed facility?

b. Will ECEP seek federal, state, county or other public monies (including loans, grants or other support) to support the construction, permitting or operation of the proposed facility? If so, please identify each such source of support and the nature and extent of the support?

26. What are the current assets of ECEP, and how will the performance of the obligations imposed by the construction certificate, and by any environmental permits, be guaranteed?

27. The former Calla Energy Partners project proposed the power plant as an anchor of a proposed industrial park that would use waste steam and the produced electricity.

a. Does the current ECEP project propose such an industrial park?

b. Will waste steam be utilized or released?

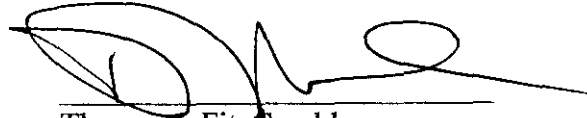
28. Please provide any report or study conducted or commissioned by ECEP concerning the qualitative and quantitative emissions from the operation of the proposed facility.

29. Please provide any report or study conducted or commissioned by ECEP concerning the concentration of pollutants of concern in the resulting coal combustion ash, including but not limited to mercury.

30. Please provide any report or study conducted or commissioned by ECEP quantifying or analyzing the cumulative impact of air emissions, water withdrawals and water discharges, on the environment and/or the economy of the region and state.



Respectfully submitted,



Thomas J. Fitzgerald  
P.O. Box 1070  
Frankfort, KY 40602  
(502) 875-2428

Date: July 21, 2004

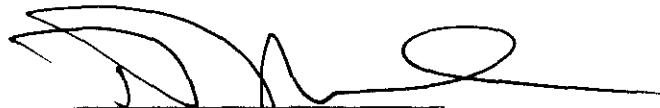
Certificate of Service

I hereby certify that a true and correct copy of the forgoing was served this 21<sup>st</sup> day of July, 2004 by first-class mail to each person listed on the service list for this case, including:

Ms. Lisa Underwood, Esq.  
314 Holiday Road  
Lexington, Kentucky 40502

Gerard B. Mack, Project Manager  
Estill County Energy Partners, LLC  
121 Hermitage Road  
Charlotte, N Car 28207

and that the original was lodged by hand-delivery this 21<sup>st</sup> day of July, 2004, with the offices of the Board, 211 Sower Boulevard, Frankfort, Kentucky 40601.



Thomas J. Fitzgerald