

COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING

In the Matter of:

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

O R D E R

This matter is before the Kentucky State Board on Electric Generation and Transmission Siting ("the Board") upon the motion filed June 13, 2007 by Applicant, Estill County Energy Partners, LLC ("ECEP"), requesting an extension of time to file its supplemental site assessment report and to pay the \$30,000.00 supplemental application fee assessed by the Board's July 12, 2005 Order.

In its July 12, 2005 Order, the Board found that its initial decision on ECEP's construction certificate "requires a later filing on the property title issue and authorizes another hearing." So, based on Commission Staff's estimate of probable expenses of further hearings on the supplemental site assessment report, the Board assessed an additional application fee of \$30,000.00 to be paid by June 15, 2007. However, the July 12, 2005 Order also provided that ECEP could "request a change in the amount or due date for any substantial change of circumstances."

According to ECEP's motion, the company has been engaged in ongoing negotiations to resolve its property title issues and believes that resolution is "probable"

in the near future. ECEP further states that it has also been involved in lengthy discussions regarding "necessary additional financing for the project," which it asserts are near to a positive resolution.

ECEP served a copy of its motion on the other parties of record on June 13, 2007. None of the parties has filed any response to the motion or has otherwise raised any objection to ECEP's motion.

ECEP has demonstrated to the Board that it has encountered substantial changes in circumstances since the issuance of the July 12, 2005 Order which prevent it from complying with the June 15, 2007 deadline at this time. First, the issue regarding ownership of the property remains unresolved, despite the Board's prediction that the issue would be resolved by now, as evidenced from the prior June 15, 2007 deadline to file the revised site plan and additional filing fee. Second, it is apparent that, as a consequence of the delay and expenses caused by the ongoing property dispute, the company's funding for the project has become depleted, as shown by their need to acquire "necessary additional financing for the project."

The Board notes that, according to its records, the balance of the application fee account in this case is currently \$6,284.70, which does not include 5.75 hours of time yet to be billed against the account for legal fees incurred since June 11, 2007, for work related to this motion and another matter in this case. Therefore, if the balance of the application fee account drops below \$1,000.00 during the interim between the date of this Order and September 15, 2007, the Board may require ECEP to file its supplemental filing fee sooner than September 15, 2007, in order to avoid an account deficit.

Therefore, given these changed circumstances, absent any opposition by the parties to the case, and the Board being otherwise sufficiently advised,


IT IS HEREBY ORDERED that:

1. The motion of ECEP for an extension of time to September 15, 2007 to comply with the Board's July 12, 2005 Order is granted.
2. ECEP shall remit the supplemental application fee of \$30,000.00, assessed by the July 12, 2005 Order, along with its supplemental site assessment report, to the Board no later than September 15, 2007, except as modified by ¶ 3 below.
3. If the balance of the application fee account drops below \$1,000.00 prior to September 15, 2007, ECEP shall remit the \$30,000.00 supplemental application fee to the Board within 10 days of the Board's written notice thereof.

Done at Frankfort, Kentucky, this 2nd day of July, 2007.

By the Board

ATTEST:



Executive Director
Public Service Commission
on behalf of The Kentucky State Board on
Electric Generation and Transmission Siting