

COOK LAW OFFICE

178 Main Street - Suite 5
P.O. Box 910
Whitesburg, Kentucky 41858

—
(606) 633-1315
fcCook@bellsouth.net

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NOV 02 2006

PUBLIC SERVICE
COMMISSION

November 1, 2006

Ms. Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

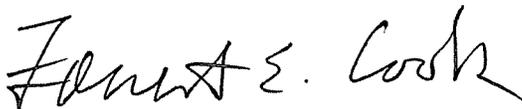
Re: In the Matter of Cumberland Valley Electric, Inc. versus Kentucky Utilities Company, Case No. 2006-00148

Dear Ms. O'Donnell:

Enclosed please find and accept for filing the original and eight (8) copies of the Response of Black Mountain Resources LLC and Stillhouse Mining LLC to Cumberland Valley Electric, Inc.'s Initial Request for Information.

This filing is made on behalf of Black Mountain Resources LLC and Stillhouse Mining LLC (granted full intervention status by September 13, 2006, Order of the Commission).

Sincerely,



Forrest E. Cook

FEC/fc

Enclosures

cc: Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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NOV 02 2006

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

CUMBERLAND VALLEY ELECTRIC, INC.)

COMPLAINANT)

v.)

KENTUCKY UTILITIES COMPANY)

DEFENDANT)

CASE NO. 2006-00148

RESPONSE OF
BLACK MOUNTAIN RESOURCES LLC AND
STILLHOUSE MINING LLC TO
CUMBERLAND VALLEY ELECTRIC, INC.'S
INITIAL REQUEST FOR INFORMATION
DATED OCTOBER 18, 2006

Filed: November 1, 2006

OBJECTION(S) TO INSTRUCTIONS

BLACK MOUNTAIN RESOURCES LLC ("BMR") AND STILLHOUSE MINING LLC ("SM") object to instruction (5) given by Cumberland Valley Electric, Inc. ("CVE") on grounds that it is over broad, unduly burdensome and inconsistent with controlling practice and procedure. BMR and SM also object to the number and nature of the requests made by CVE, which are, cumulatively and individually, burdensome and oppressive. BMR and SM further object on the grounds set forth in subsequent specific responses. Without waiver of any objections, however, and subject to these and further specific objections as may be set out below, BMR and SM respond to the requests for information propounded by CVE as follows. All objections set forth above or below are made by counsel and not by any BMR or SHM witness.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
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**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 1

Witness: Richard Matda

Q-1. Provide a list of all affiliates or associated companies of Stillhouse Mining, LLC and Black Mountain Resources ("BMR") and describe in detail their location relative to the U. S. Steel Property and the nature of their operations.

A-1. Objection: The request, as phrased is vague and ambiguous to the extent it requires the respondents to subjectively determine the meaning of "associated," "nature of their operations," assign a location to legal entities, and describe the "nature of their operations" of non-parties to this proceeding. Further, the request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. To the extent that the question or request seeks information not pertaining to the U.S. Steel Property, south of Looney Creek, within Harlan County, Kentucky and affiliates with operations on that property, -- BMR and SM object that the request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

However, without waiver of and subject to the foregoing objections, BMR and SM answer as follows. BMR, which has a sublease for coal reserves within the U.S. Steel Property, south of Looney Creek, in Harlan County, Kentucky, typically enters into a sublease, contract or arrangement with its affiliates for coal reserves to be mined. BMR's rights in the property are derived from subleases, contracts or arrangements with Resource Development LLC ("RDL"). RDL is the sole member of BMR. RDL also owns the Power System (sometimes referred to as the electric distribution system), which it purchased in 1998. A copy of the Bill of Sale to RDL for the Power System is annexed to this response as EXHIBIT 1. The electric distribution system is used by BMR and its affiliates. All three entities are Virginia limited liability companies that are duly authorized to do business in Kentucky. RDL leases the 43,000 acre property (sometimes referred to as the U. S. Steel Property) from ACIN, LLC, its lessor (a non-affiliated entity).

Affiliates of BMR and SM, not all of which have current operations on the subject property, include RDL, Panther Mining LLC, Cave Spur Coal LLC, Cloverlick Coal Company LLC, Cloverlick Management LLC, High Splint Coal LLC, Maggard Branch Coal LLC, Resource Land Company LLC, Harlan Reclamation Services LLC, Roda Resources LLC, Cumberland Land Corporation, Winifrede Coal Corporation, Meadow Branch Mining Corporation, North Fork Coal Corporation.

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Question No. 2

Witness: Richard Matda

Q-2. Please provide a description of the relationship of Stillhouse Mining, LLC and Black Mountain Resources to all of these affiliates. Provide a Corporate Organization Chart.

A-2. See the response to Q-1, above. The organizations are not corporate (limited liability companies) and the witness has no organizational chart in his possession or control. It is a relatively flat organizational structure with RDL typically making arrangements with BMR, which then, in turn, makes arrangements with affiliates or others to mine and remove coal from the subject property.

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Question No. 3

Witness: Richard Matda

Q-3. Provide copies of any contracts or arrangements that exist between Stillhouse and BMR or any other affiliate which set forth the relationships and arrangements to share services or acquire and supply materials and services such as electric energy.

A-3. The witness is not aware of any contract between Stillhouse and BMR to acquire and supply materials and services such as electric energy. RDL owns the electrical distribution system. It is the custom or practice that BMR or its affiliates utilize the distribution system and allocate the costs in proportion to the usage.

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Question No. 4

Witness: Richard Matda

Q-4. What is meant by the term "sole member" as used in Matda Testimony at page 2, line 16.?

A-4. The witness understands the term to mean that the sole member is the sole owner of the entity. ["Member" is defined by the laws of Virginia and Kentucky.]

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Question No. 5

Witness: Richard Matda

Q-5. Please describe the relationship between BMR and/or Stillhouse Mining LLC and each of the operations identified on LEB No. 1.

A-5. Stillhouse #1 and Stillhouse #2 are operations of Stillhouse Mining LLC; Cave Spur Coal, LLC is an affiliate mining reserves by agreement with BMR; Panther Mining, LLC is an affiliate mining reserves by agreement with BMR; Cloverlick Coal, LLC is an affiliate mining reserves by agreement with BMR/Winifrede Coal Corporation, North Fork #4 and #5 are operations of North Fork Coal Corporation, an affiliate mining reserves by agreement with BMR; Highlands Mining, a non-affiliated company is mining reserves by agreement with BMR; Jarissa, Inc., a non-affiliated company is mining reserves by agreement with BMR; Parton Brother's Contracting, a non-affiliated company is mining reserves by agreement with BMR; H & D Mining is non-affiliated company mining reserves by agreement with BMR; "Benham Spur Kellioka" identifies an idle mine with no current operations; Timbertree Mining, a non-affiliated company is mining BMR reserves; Maggard Branch Harlan (site where Stillhouse Mine No. 1 will punch out); Collier's Creek #3 Portal – no operation underway at this time; Simpson Mining Company Mine #9 (closed); Collier's Creek Surface Mine (Nally & Hamilton, a non-affiliated company with an agreement from BMR/RDL); Timbertree Surface Mine (Nally & Hamilton, a non-affiliated company with an agreement with BMR/RDL);

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Question No. 6

Witness: Richard Matda

Q-6. Please describe the operations performed by each of the entities identified on LEB No. 1, ex. Parton Brothers, Cave Spur, etc.

A-6. Objection: This request seeks the production of information that is irrelevant to the issues in this proceeding, is redundant of other requests made herein and not reasonably calculated to lead to the discovery of admissible evidence.

However, without waiver of and subject to the foregoing objections, BMR and SM incorporate their answers to 1, 2, 3 and 5, above.

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Question No. 7

Witness: Richard Matda

Q-7. Please provide a list of and describe all areas in the "U. S. Steel Property" of 43,000 acres that are not wholly owned by BMR or affiliates. Provide a copy of all "fee" deeds and leases.

A-7. Objection. The request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. To the extent that the question or request seeks information not pertaining to the U.S. Steel Property, south of Looney Creek, within Harlan County, Kentucky and affiliates with operations on that property, -- BMR and SM object that the request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, it seeks proprietary and confidential information that can serve no useful purpose in this proceeding.

However, without waiver of and subject to that objection, BMR states that neither it nor its affiliates purport to wholly own the U.S. Steel Property

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Question No. 8

Witness: Richard Matda

Q-8. What is meant by "contiguous boundary of quality coal" as used in Matda Testimony at page 3, line 19 ?

A-8. Contiguous is used in the sense of adjoining or adjacent. Quality is used in the sense of mineable and merchantable coal.

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Question No. 9

Witness: Richard Matda

Q-9. Provide a complete description and copies of permit and/or other maps for any other mines owned, operated or otherwise controlled by BMR, Stillhouse Mining, LLC or affiliates whose permitted reserves are in KU's territory outside of the U. S. Steel Property.

A-9. Objection: The request, as phrased is vague and ambiguous to the extent it requires the respondents to subjectively locate K.U.'s territory "outside of the U.S. Steel Property" (whatever is meant by that description). Further, the request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. It seeks information not pertaining to the U.S. Steel Property, south of Looney Creek, within Harlan County, Kentucky and seeks voluminous documents, permits, maps, etc., with no time or context reference. The request seeks production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

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Question No. 10

Witness: Richard Matda

Q-10. Please provide the map entitled Reserve Summary Map – Harlan Seam – Cumberland Valley KU areas dated March 2006 that delineates coal reserves in the KU and CVE service territories. Please explain the purpose and use of this map.

A-10. Objection. The requested map was prepared at the request of K.U., which in turn provided a copy of that map to Cumberland Valley. As of this time, neither BMR nor SM has determined to use the map in this proceeding. In seeking clarification of request number 10, the witness contacted Ronald Wilhite (CVE representative), who admitted that he (Wilhite) had, in his possession, a copy of the subject map. Since CVE and KU have copies, it is burdensome for BMR and SM to reproduce the subject map to minimize the expense of CVE or to ensure that CVE has multiple copies.

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Question No. 11

Witness: Richard Matda

Q-11. Provide any documents, phone logs or memorandum in the possession of BMR, Stillhouse Mining, LLC or affiliates relative to the planning, opening and operation of Stillhouse Mine No. 2.

A-11. Objection: The request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. It is vague and ambiguous to the extent that it uses the phrase "relative to" and seeks to have the respondents speculative on the meaning of what could or could not be covered by the request. E.g., Any documents relative to the phrases used in the question would extend to every piece of paper that has ever been created relative to Stillhouse Mine No. 2. To the extent that the question or request seeks information not pertaining to the U.S. Steel Property, south of Looney Creek, within Harlan County, Kentucky and affiliates with operations on that property, -- BMR and SM object that the request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

However, without waiver of and subject to the foregoing objections, there are, as such, no phone logs or memorandums that are responsive to the request.

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Question No. 12

Witness: Richard Matda

Q-12. When did BMR decide that the Stillhouse Mine No. 2 portal was to be located in CVE's territory?

A-12. Objection. As phrased, this request is argumentative. There was no decision to open Stillhouse Mine No. 2 in CVE's territory. There was a decision to open a mine portal. That decision was reached sometime during January or February of 2005.

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Question No. 13

Witness: Richard Matda

Q-13. Please provide a list of all individuals, agencies, or companies with whom BMR discussed opening the Stillhouse Mine No. 2 portal in CVE territory?

A-13. Objection. As phrased, this request is argumentative, vague and ambiguous. Without time references, the answer is unduly burdensome. Moreover, there was no decision to open Stillhouse Mine No. 2 in CVE's territory. There was a decision to open a mine portal. The face-up for the deep mine was contracted with Rifle Coal Company (Steve Blevins, West Liberty, Kentucky) sometime in the first quarter of 2005. Additionally, discussions would have taken place among employees and management of BMR and SM; agency personnel of the Mine Safety and Health Administration (MSHA), Kentucky Mine Safety and Licensing (OMSL), Kentucky Surface Coal Mining and Reclamation Department, and the local telephone company.

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Question No. 14

Witness: Richard Matda

Q-14. If BMR, prior to making its decision to extend its distribution line to the Stillhouse No. 2 portal, had confirmed that CVE would extend service to Stillhouse Mine No. 2 at no cost to BMR or Stillhouse, would BMR have expended the money to extend and rebuild its existing 12 kv line? Please explain.

A-14. Objection. This request seeks the production of information that is irrelevant to the issues in this proceeding. As phrased, this request is hypothetical, argumentative, vague and ambiguous. It seeks to have BMR and SM assume the truth of a statement that experience suggests is not true, namely that CVE would not make a charge for extending service.

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Question No. 15

Witness: Richard Matda

Q-15. Provide copies and/or knowledge of any plans in BMR's possession or that BMR is aware of that previous owners ARCH and U. S. Steel had to open Stillhouse Mine No. 2.

A-15. Objection. This request seeks the production of information that is irrelevant to the issues in this proceeding. As phrased, this request is hypothetical, argumentative, vague and ambiguous and without references of time. However, without waiver of and subject to the foregoing objections, BMR and SM are not aware of any documents responsive to this request.

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Question No. 16

Witness: Richard Matda

Q-16. Provide copies and/or knowledge of any plans in BMR's possession or that BMR is aware of that previous owners ARCH and U. S. Steel had to mine the Stillhouse Mine No. 2 permitted reserves.

A-16. Objection. This request seeks the production of information that is irrelevant to the issues in this proceeding. As phrased, this request is hypothetical, argumentative, vague and ambiguous and without references of time. However, without waiver of and subject to the foregoing objections, BMR and SM are not aware of any documents responsive to this request.

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Question No. 17

Witness: Richard Matda

Q-17. Is the Stillhouse Mine No. 2 water pump served by CVE just south of US 119 an integral part of the Stillhouse Mine No. 2 operation? If no, please explain.

A-17. While a water pump is needed for Stillhouse Mine No. 2, there were (and are) alternatives insofar as the location and the power source.

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Question No. 18

Witness: Richard Matda

Q-18. Did BMR contact either KU or CVE prior to opening Stillhouse Mine No. 2? Please explain when and who was contacted. If no, please explain.

A-18. Objection. As phrased, the question does not provide a period. However, without waiver of and subject to the foregoing objection, BMR did not contact either KU or CVE relative to providing electrical service to Stillhouse Mine No. 2 prior to opening the mine.

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Question No. 19

Witness: Richard Matda

Q-19. Please state whether the reserves now being mined at Stillhouse Mine No. 2 were included in the reserves to be mined on Arch Mine No. 37, and whether a permit had ever been issued to Arch to mine those reserves. If so, please provide a copy of such permit and mining plan. If so, why did ARCH not extract the reserves being now mined by Stillhouse Mine No. 2 prior to Mine No. 37 being closed in 1998?

A-19. Objection: The request is over broad, unduly burdensome and inconsistent with practice and procedure. It is remote as to time and calls for BMR to speculate on the motives or intent of a former owner. However, without waiver of and subject to the foregoing objections, there was no permit, as such, issued in the name of Arch Minerals. It is believed that Mine No. 37 was originally permitted by U.S. Steel, and then the permit was assigned to an affiliate of Arch Coal Company.

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Question No. 20

Witness: Richard Matda

Q-20. Why did ARCH close Mine No. 37?

A-20. Objection. The request is over broad, unduly burdensome and inconsistent with practice and procedure. It is remote as to time and calls for BMR to speculate on the motives or intent of a former owner.

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Question No. 21

Witness: Richard Matda

Q-21. Please describe the difference between "permitted reserves" as used in the Matda Testimony and "permit boundary" as used on Exhibit Matda 1.

A-21. "Permitted reserves" are the coal reserves located within the "permit boundary" lines.

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Question No. 22

Witness: Richard Matda

Q-22. Confirm the reserves permitted by the Kentucky Department of Mines and Minerals Mine License Map are those area denoted by the legend on Matda 3.

A-22. The statement is correct.

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Question No. 23

Witness: Richard Matda

Q-23. Confirm the other areas shown on Matda 3 were mined out by the ARCH Mine 37 operation that was closed in 1998.

A-23. BMR and SM do not agree that the other areas shown on Matda 3 have been "mined out." There are reserves remaining.

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**Response to Cumberland Valley Electric, Inc.'s
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Question No. 24

Witness: Richard Matda

Q-24. Provide a copy of the agreement of sale and related documents for BMR/Stillhouse's purchase of the distribution system from ARCH that was extended to serve Stillhouse Mine No. 2.

A-24. Objection. This request is overbroad, seeks the production of information which is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence, and the requested documents are proprietary and confidential.

However, without waiver of and subject to that objection, BMR and SM incorporate the response to Question No. 1, above. Neither BMR nor SM purchased the mining interests of Arch Coal Company.

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**Response to Cumberland Valley Electric, Inc.'s
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Question No. 25

Witness: Richard Matda

Q-25. Provide a copy of the agreement of sale and related documents for BMR/Stillhouse's purchase of the mining interests of Arch Coal Company that includes the interests now referred to as Stillhouse Mine No. 2

A-25. Objection. This request is overbroad, seeks the production of information which is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence, and the requested documents are proprietary and confidential.

However, without waiver of and subject to that objection, BMR and SM incorporate the response to Question No. 1, above. Neither BMR nor SM purchased the mining interests of Arch Coal Company.

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**Response to Cumberland Valley Electric, Inc.'s
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Question No. 26

Witness: Richard Matda

Q-26. Please identify and describe any existing BMR or affiliate electric facilities not identified on LEB 1 including those located in the territory of companies other than KU.

A-26. Objection: The request, as phrased is vague and ambiguous. Further, the request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. To the extent that the question or request seeks information not pertaining to the U.S. Steel Property, south of Looney Creek, within Harlan County, Kentucky and affiliates with operations on that property, -- BMR and SM object that the request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

However, without waiver of and subject to the foregoing objections, BMR and SM are unaware of any such facilities not identified on LEB 1.

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Question No. 27

Witness: Richard Matda

Q-27. Provide a description of the eight underground and one surface mining operations identified at Matda Testimony page 2, lines 17 - 20 including the date electric devices were first energized, seam(s) being mined, delivered voltage at the portal, relationship to BMR and Stillhouse Mining, LLC or any other affiliates.

A-27. Objection: The request, as phrased is vague and ambiguous. Further, the request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

However, without waiver of and subject to the foregoing objections, BMR and SM incorporate their answers to 1, 2, 3 and 5, above. Additionally, respondents state that the Matda testimony refers to active Harlan County operations that take power from K.U. Neither BMR nor SM maintains records of the date electric devices were first energized at the subject mine operations.

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Question No. 28

Witness: Richard Matda

Q-28. LEB 1 appears to show sixteen separate mines: Stillhouse No.2, Parton Brothers Contracting # 1, Cave Spur Coal # 1, Highlands Mining #1, Panther Mining # 1, Stillhouse Mining # 1, R & D Mining # 1, R & D Mining # 2, Kellioka Contract Mine, Maggard Branch, Cloverlick # 1, North Fork Coal # 3, North Fork Coal # 4, Simpson Mining # 9, Jarissa Inc, Colliers Creek # 3 and Timbertree Surface. Why does LEB 1 differ from Mr. Matda's testimony that states there are eight underground and one surface mines?

A-28. The Matda testimony refers to active Harlan County operations that take power from K.U.

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Question No. 29

Witness: Richard Matda

Q-29. Provide a description of the other mining operations identified on LEB 1 and not identified at Matda page 2, lines 17 - 20 including the date electric devices were first energized, seam(s) being mined, delivered voltage at the portal, relationship to BMR and Stillhouse Mining, LLC or any other affiliates.

A-29. Objection: The request, as phrased is vague and ambiguous. Further, the request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

However, without waiver of and subject to the foregoing objections, BMR and SM incorporate their answers to 1, 2, 3 and 5, above. Neither BMR or SM maintain records of the date electric devices were first energized at the subject mine operations.

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Question No. 30

Witness: Richard Matda

Q-30. Provide a list of all electric devices, including but not limited to transformers, motors and lighting, utilized in the operation of Stillhouse Mine No. 2 along with all nameplate information, including but not limited to rated capacity, normal expected loading, voltage, starting and running amps, and the date such device was first energized in the operation of Stillhouse Mine No. 2.

A-30. Objection: The request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

However, without waiver of and subject to the foregoing objections, BMR and SM state that electricity was first energized in the operation of Stillhouse Mine No. 2 on or about June 6, 2005.

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Question No. 31

Witness: Richard Matda

Q-31. Provide the date Stillhouse Mining LLC, or any party on their behalf, requested telephone service for the Stillhouse Mine No. 2 portal location and the date service was first provided.

A-31. The only information available is the date telephone service was first provided: July 19, 2005.

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Question No. 32

Witness: Richard Matda

Q-32. Does BMR agree that other mining companies have extracted coal from the Harlan Seam outside of the U.S. Steel Property over the years?

A-32. BMR agrees that other mining companies have mined and removed coal from the Harlan Seam in other areas of Harlan County.

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Question No. 33

Witness: Richard Matda

Q-33. Provide a complete description of all BMR circuits, whether or not included on LEB 1, including, but not limited to, distance, location, load currently served, voltage, phases, conductor size and pole sizes.

A-33. Objection: The request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

However, without waiver of and subject to the foregoing objections, BMR and SM, for response, refer to the Bill of Sale filed with this response.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 34

Witness: Richard Matda

Q-34. Provide a complete description of all other BMR electric facilities, whether or not included on LEB 1, extending from the U. S. Steel Station including, but not limited to, a list of transformers, capacitors, regulators, and switches.

A-34. Objection: The request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

However, without waiver of and subject to the foregoing objections, BMR and SM, for response, refer to the Bill of Sale filed with this response.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 35

Witness: Richard Matda

Q-35. Provide the exact length of the "approximately 500 feet" distribution line extension referred to at Matda page 4, lines 18-20 constructed by BMR from its existing 12 kv line to the Stillhouse Mine No. 2 portal.

A-35. The actual measurement is 1048.2 feet.

**BLACK MOUNTAIN RESOURCES LLC
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CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
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Dated 10/18/06**

Question No. 36

Witness: Richard Matda

Q-36. Provide the cost to BMR to extend the 12 kv line from the BMR existing 12 kv line to the Stillhouse Mine No. 2 portal and any documents such as work orders, invoices, etc. that itemize the costs by components.

Q-36. There were multiple jobs performed concurrently so precise costs are not known. The cost is estimated at less than \$10,000.

**BLACK MOUNTAIN RESOURCES LLC
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CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
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Dated 10/18/06**

Question No. 37

Witness: Richard Matda

Q-37. Has BMR or affiliates upgraded, repaired, or modified in any manner any portions of the 12 kv line acquired from ARCH extending to Stillhouse Mine No. 2 from the Cloverlick Station at any time prior to or concurrent with the opening of the new mine. If yes, please describe the changes, why they were made and provide the costs incurred by BMR of such changes.

A-37. The right of way has been cleared or cut. There were multiple jobs performed concurrently so precise costs are not known and no estimate is available.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 38

Witness: Richard Matda

Q-38. Please describe and provide all documents including but not limited to work orders, invoices, authorizations relating to any upgrades, reconstruction or maintenance performed since BMR's acquisition from ARCH on the 12 kv line extending from the Cloverlick Station toward Stillhouse Mine No. 2 "as it existed when purchased from ARCH" including dates, costs and reasons for modification.

A-38. Objection: The request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
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Dated 10/18/06**

Question No. 39

Witness: Richard Matda

Q-39. What is the unlabelled blue dashed line shown on LEB No. 1 in the center of the map just above the southern boundary line and the tap off of the Lynch to Pocket 69 KV line?

A-39. It is believed to be an indication of de-energized distribution line in that area.

**BLACK MOUNTAIN RESOURCES LLC
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CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
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Question No. 40

Witness: Richard Matda

Q-40. What is the function of the unlabelled line section located on the east-side of the map that extends south westerly from the node of the 266.8 ACSR 12 kv line from Cloverlick and the 4/0 ACSR line segment to Cave Spur?

A-40. It is believed to be an indication of de-energized distribution line in that area.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
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Question No. 41

Witness: Richard Matda

Q-41. Provide any engineering studies and other documents related to extending service from the Stillhouse Mine No. 2 portal to the water pump south of U. S. 119.

A-41. BMR and SM are not aware of engineering studies or other documents responsive to this request.

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**Response to Cumberland Valley Electric, Inc.'s
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Question No. 42

Witness: Richard Matda

Q-42. When was the 12 kv 266.8 ACSR line segment toward the Stillhouse Mine No. 2 last energized to serve load prior to July 2005 and prior to being extended to the Mine # 2 portal? Describe the load and the dates of service.

A-42. It was last energized in 1998, at which time it served the fan for Mine 37.

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**Response to Cumberland Valley Electric, Inc.'s
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Question No. 43

Witness: Richard Matda

Q-43. Why did BMR not extend their 12 kV line to the water pump located south of US 119?

A-43. BMR and SM elected to place the water pump at that location and to contract with CVE in the hopes of improving the business relationship with CVE.

**BLACK MOUNTAIN RESOURCES LLC
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**Response to Cumberland Valley Electric, Inc.'s
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Dated 10/18/06**

Question No. 44

Witness: Richard Matda

Q-44. Please describe the location of the "points of entry used by Arch Minerals" as stated in Matda Testimony at page 4, line 19.

A-44. Portals on Cloverlick Creek.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
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Dated 10/18/06**

Question No. 45

Witness: Richard Matda

Q-45. Please describe and provide the date and location of any load that was being served by the 336 MCM segment of the 12 kV distribution line extending westerly from the Cloverlick Station prior to 2005?

A-45. Cave Spur Coal and Parton Brothers mining operations were being served by the 336 MCM segment of the 12 kV distribution line extending westerly from the Cloverlick Station prior to 2005. Prior to that time, it would have served the underground fan for Mine 37.

**BLACK MOUNTAIN RESOURCES LLC
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**Response to Cumberland Valley Electric, Inc.'s
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Dated 10/18/06**

Question No. 46

Witness: Richard Matda

Q-46. Please describe and provide the date and location of any load that was being served by the 266.8 ACSR segment of the 12 kV distribution line extending north westerly toward Stillhouse Mine # 2 from the tap point off the 336 MCM segment prior to 2005?

A-46. See response to Q-45, above.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 47

Witness: Richard Matda

Q-47. What sections of the BMR distribution network were used to supply power by ARCH when mining reserves between 1981 and 1998 referred to at Matda Testimony at page 4, lines 10-12? Please identify the section and the electrical devices serviced.

A-47. See Map LB1 for details --- 266.8 MCM 69 Kv line Lynch to Cloverlick; 566 MCM (parallel to Cloverlick line); 336 MCM line (out of Cloverlick); 266.8 MCM line to Perkins Branch

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
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Dated 10/18/06**

Question No. 48

Witness: Richard Matda

Q-48. Provide a copy of BMR's bills or a tabulation of monthly billing determinants and billed amounts for service from KU for the five years preceding the Stillhouse Mine No. 2 being energized.

A-48. Objection. The request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. It seeks information related to damages that the Commission, by Order entered in this case on September 13, 2006, has said is "not an issue arising under the Act."

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 49

Witness: Richard Matda

Q-49. Provide a copy of BMR's bills for service from KU since the Stillhouse Mine No. 2 was energized.

A-49. Objection. The request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. It seeks information related to damages that the Commission, by Order entered in this case on September 13, 2006, has said is "not an issue arising under the Act."

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 50

Witness: Richard Matda

Q-50. Provide monthly estimates or actual energy consumption (Kwh and KW) for the Stillhouse Mine No. 2 and each other mine served from the US Steel Station since June 2005.

A-50. Objection. The request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. It seeks information related to damages that the Commission, by Order entered in this case on September 13, 2006, has said is "not an issue arising under the Act."

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 51

Witness: Richard Matda

Q-51. Provide the monthly tons of coal produced by Stillhouse Mine No. 2 since July 2005.

A-51. Objection. The request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. It seeks information related to damages that the Commission, by Order entered in this case on September 13, 2006, has said is "not an issue arising under the Act."

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 52

Witness: Richard Matda

Q-52. Provide the date[s] of construction of the entire 12 kv distribution line from the BMR Cloverlick Station to its terminus that was extended from one point on the line to provide service to Stillhouse Mine No. 2. If the line was constructed in segments, provide the date of construction for each segment, with a description of the location and length of each segment.

A-52. Objection. The request is over broad, unduly burdensome and inconsistent with controlling practice and procedure. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

However, without waiver of and subject to the foregoing objections, BMR and SM state that they are unaware of the existence of documents that are responsive to this request.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 53

Witness: Richard Matda

Q-53. Please state whether any other load, either associated with a BMR/Stillhouse affiliate or with any other operation by any other entity, is being served off of any of the following: the 2.75 miles of 12kv distribution line that Mr. Matda states is currently used to serve Stillhouse Mine No. 2; or, the extension of that line shown on LEB-1 and running southwest from the tap line to Stillhouse Mine No. 2; or from any other segment of the 12 kv line that extends from the Cloverlick Station and that feeds Stillhouse Mine No. 2. If so, please describe any such loads with particularity as to their ownership, location, the use for the load, and the date that such use commenced.

A-53. For response, BMR and SM incorporate the prior answers to Q 45 and Q 46.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 54

Witness: Richard Matda

Q-54. Please provide the version of the map entitled Electrical Installation Map provided by BMR to KU that includes all topographical details and all electrical facilities owned by BMR / Stillhouse.

A-54. Objection. The requested map was prepared at the request of K.U., which in turn provided a copy of that map to Cumberland Valley. As of this time, neither BMR nor SM has determined to use the map in this proceeding. In seeking clarification of request number 10, the witness contacted Ronald Wilhite (CVE representative), who admitted that he (Wilhite) had, in his possession, a copy of the subject map. Since CVE and KU have copies, it is burdensome for BMR and SM to reproduce the subject map to minimize the expense of CVE or to ensure that CVE has multiple copies.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
Initial Request for Information
Dated 10/18/06**

Question No. 55

Witness: Richard Matda

Q-55. Is BMR aware of any other underground mining activity in the permitted boundary of Stillhouse Mine No. 2 that occurred prior to the mining activity by Arch Minerals beginning in about 1981 that is described in Matda Testimony at page 4? If so, please provide details as to such activity.

A-55. Other than pre-law mining (old works indicated on various maps), BMR and SM have no detailed knowledge of this prior mining.

**BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC
CASE NO. 2006-00148**

**Response to Cumberland Valley Electric, Inc.'s
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Dated 10/18/06**

Question No. 56

Witness: Richard Matda

Q-56. Please state whether BMR concurs with the Agreed Statement of Facts attached to CVE's Complaint. In the event that BMR disagrees with any item in the Agreed Statement of Facts, or any part of such item, please state with particularity the nature of the disagreement, and if applicable provide information that BMR believes to be correct with documentation supporting the correction.

A-56. Objection. The request seeks the production of information that is irrelevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. As phrased, this request is argumentative, vague and ambiguous.

**EXHIBIT 1
TO
RESPONSE OF
BLACK MOUNTAIN RESOURCES LLC
AND STILLHOUSE MINING LLC

SEPTEMBER 29, 1998, BILL OF SALE
APOGEE COAL COMPANY,
D/B/A ARCH OF KENTUCKY (SELLER)
AND RESOURCE DEVELOPMENT LLC ("PURCHASER")**

BILL OF SALE

THIS BILL OF SALE, made and effective this 29th day of September, 1998, between APOGEE COAL COMPANY, d/b/a ARCH OF KENTUCKY, a Delaware corporation ("Seller") and Resource Development LLC, a Virginia limited liability company ("Purchaser").

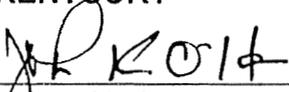
WITNESSETH:

For and in consideration of the sum of ten dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller does hereby grant, sell, transfer, convey and deliver to Purchaser the Equipment and Facilities and Records identified on Schedule 2.01(b)(i) annexed hereto and incorporated by this reference (the "Acquired Assets") and Purchaser accepts the same subject to the terms and conditions hereof.

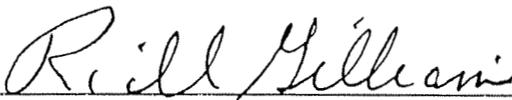
EXCEPT FOR AND SUBJECT TO THE REPRESENTATIONS AND WARRANTIES OF SELLER IN THE ASSET PURCHASE AGREEMENT (WHICH AGREEMENT CONTAINS PURCHASER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY BREACH OF SUCH REPRESENTATIONS OR WARRANTIES NOTWITHSTANDING THE REFERENCE TO SUCH REPRESENTATIONS AND WARRANTIES IN THIS BILL OF SALE), THE ACQUIRED ASSETS ARE BEING SOLD AND CONVEYED TO PURCHASER AS IS AND WITH ALL FAULTS AND PURCHASER, BY ACCEPTANCE HEREOF, WAIVES, RELEASES AND RENOUNCES ANY AND ALL WARRANTIES, OBLIGATIONS AND LIABILITIES, EXPRESS OR IMPLIED, OF SELLER, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO THE ACQUIRED ASSETS AND WITH RESPECT TO ANY OTHER MATTER ARISING UNDER OR BY VIRTUE OF THIS BILL OF SALE, INCLUDING BUT NOT LIMITED TO (i) ANY WARRANTY AS TO THE CONDITION OF ANY ITEM OF EQUIPMENT OR FACILITY INCLUDED IN THE ACQUIRED ASSETS; (ii) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; (iii) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE; (iv) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM STRICT LIABILITY OR THE ACTUAL OR IMPUTED NEGLIGENCE OF SELLER; AND (v) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY FOR LOSS OF OR DAMAGE TO ANY TANGIBLE OR INTANGIBLE THING, FOR LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY OTHER DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES.

WITNESS the following signature, duly authorized:

**APOGEE COAL COMPANY, d/b/a ARCH
OF KENTUCKY**

By: 
John K. O'Hare
Its: Special Agent in Fact

RESOURCE DEVELOPMENT LLC

By: 
Richard Gilliam
Its: Member/Manager

Schedule 2.01(b)(i)
EQUIPMENT AND FACILITIES

The complete electrical power system owned by Seller as it now exists upon the properties depicted upon Exhibit 2.01, more particularly described as follows:

POWER SYSTEM

Lynch Substation:

Primary metering-79 kv -PT's, CT's, fuses, meters
69 kv, 3 pole gang disconnect switch
(4) 69 kv Oil circuit breakers
(3) single phase, 69-7.2 kv, - 1667 kva, transformers
(1) three phase voltage regulating transformer, 7.2 kv, 500 kva
(1) single phase, 69 kv-120/240 v, 100 kva control transformer
The substation structure including steelwork, busswork, foundations, fencing, ground bed, various disconnect/isolation gang switches, lightning arrestors and lighting.

37 Substation:

Primary metering-69 kv-PT's, CT's, fuses, switches, control transformer, meters
69 kv Oil circuit breaker
(2) three phase, 7.5 mva, 69-12.47 kv transformers
(3) three phase, 750 kva, 12.47 kv, voltage regulating transformers
(5) 12.47 kv oil circuit breakers and secondary metering
(2) grounding resistors, 25 ampere
(3) capacitor banks with switches, rates 1800, 600 and 300 kvars
(1) battery cabinet for 48 vdc control on some 12.47 kv circuit breakers
The substance structure including steelwork, busswork, ground bed, fused and unfused disconnect switches, lightning arrestors, fencing and lighting.

C Heading Distribution Station-(off line):

69 kv oil circuit breaker station structure including steelwork, conductors, disconnect switches, ground bed, lightning arrestors, fencing and lighting

Cave Branch Prep Plant Distribution Station:

(2) Oil circuit breakers, 12.47 kv with metering
The substation structure including buss work, wood/metal structure, foundations, ground bed, disconnect switches, and fencing

5 South Tunnel Substation-(off line):

69 kv Oil circuit breaker

(1) Control transformer, 100 kva, 69 kv-120/240 v

(1) three phase, 5 mva, 69-7.2 kv transformer

(1) 7.2 kv oil circuit breaker

The substation structure including superstructure, busswork, grounding resistor, fencing, lightning arrestors, metering, disconnect switches and fuses. Note: The ground bed has been stolen by vandals.

Major powerlines:

Lynch to 37 Substation, 69 kv, 267 MCM, ACSR, approx. 31,000' long

Lynch to 5 South Tunnel Substation, 69 kv, 267 MCM, ACSR, approx. 22,000' long

Lynch to north Winifrede bench, 69 kv, 267 MCM, ACSR, approx. 11,000' long

Lynch load out property line to north Winifrede bench, 7.2 kv, 4/0, ACSR, approx. 2,200' long

37 Substation to Pounding Mill then to C-Heading, 69 kv, 336 MCM and 267 MCM, ACSR, approx. 15,500' long

Pounding Mill to High Splint bench, 69 kv, 267 MCM and 4/0, ACSR, approx. 17,500' long

37 Substation to Cave Branch distribution station, 12.47 kv, 550MCM and 477 MCM, ACSR, approx. 4,400' long

37 Substation to 37 yard and Loadout No. 3 and Stillhouse Deep mine, 12.47 kv, 267 MCM & 4/0, ACSR, approx. 2,000' long

Cave Branch Prep Plant area:

(8) pad mounted, outside transformers, 12470-480/277 v, of the listed capacities; 2-500 kva, 4-1000 kva, 2-1500 kva

Overland Conveyor area:

(3) pad mounted, outside transformers and motor control centers, 12470-480/277 v of the listed capacities; 2-750 KVA, 1-500 kva

Miscellaneous electrical equipment:

Approximately 60 various pole or platform mounted transformers and associated hardware at mine 37 yard, Loadout No. 3, Cave House Prep Plant and Stillhouse areas

NOTE: ALL POWERLINE DISTANCES ARE ESTIMATED

CERTIFICATE OF SERVICE

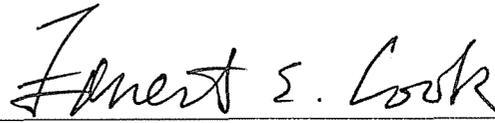
I hereby certify that a copy of the foregoing Response (with Exhibit 1) was served by first-class mail, postage pre-paid, upon the following, November 1, 2006:

Hon. Anthony G. Martin
PO Box 1812
Lexington, KY 40588

Hon. W. Patrick Hauser
200 Knox St.
Box 1900
Barboursville, KY 40906

Hon. J. Gregory Cornett
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202-2828

Hon. Allyson K. Sturgeon
Attorney for E.ON U.S. LLC
220 West Main Street
Louisville, KY 40202



Counsel for Black Mountain Resources LLC and
Stillhouse Mining LLC