



Paul E. Patton  
Governor

**Kentucky State Board on Electric  
Generation and Transmission Siting**  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602  
(502) 564-3940

Chmn. Martin J. Huebsmann, *ex officio*  
Chairman, Kentucky Public Service  
Commission

Gary W. Gillis, *ex officio*  
Kentucky Public Service Commission

Robert E. Spurlin, *ex officio*  
Kentucky Public Service Commission

James E. Bickford, *ex officio*  
Secretary, Kentucky Natural Resources  
and Environmental Protection Cabinet

Marvin E. Strong, Jr., *ex officio*  
Secretary, Kentucky Economic  
Development Cabinet

May 23, 2002

Mr. Fred Jones  
Westlake Energy  
2801 Post Oak Boulevard  
Houston, TX 77056

RE: Case No. 2002-00171

Dear Mr. Jones:

The Board staff has reviewed your application in the above case. This filing is rejected pursuant to 807 KAR 5:110E, Section 2(f), for the reason set forth below. This information must be filed with the Notice of Intent.

1. Filing deficiency pursuant to 807 KAR 5:110E, Section 2(f):

A Notice of Intent to File Application shall include:

- (f) If the planning commission's setback requirements are less stringent than those prescribed by statute, or if the planning commission with jurisdiction, if any, has not established setbacks, a statement as to whether a deviation from the *statutory* setback requirements will be requested in the application. (Emphasis added)

SB 257, Section 3(2) provides that no person shall construct a merchant electric generating facility unless the exhaust stack of the proposed facility is at least 1,000 feet from any property boundary and 2,000 feet from any residential neighborhood, school, hospital, or nursing home facility. You cite in your notice no planning commission setbacks that are more stringent than these requirements. Your letter, in fact, indicates that no planning commission setbacks regarding distance from property boundaries, residential neighborhoods, schools, hospitals, or nursing homes exist. Moreover, it is unclear whether the proposed facility is in compliance with the statutory setbacks or



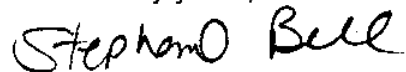
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whether a deviation will be necessary before the Board may consider the facility as proposed.

The regulatory time period preceding the date upon which an application may be filed will not commence until the above-mentioned information is filed with the Board. You are requested to file this information within 15 days of this letter. If you need further information, please contact Angela Curry, Staff Attorney, at 502-564-3940, extension 270.

Sincerely yours,



Stephanie Bell  
Secretary



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