

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 CERTIFICATE TO CONSTRUCT)	CASE NO. 2002-00172
A COAL COMBUSTION/ELECTRIC)	
GENERATING FACILITY)	

RESPONSE OF ESTILL COUNTY ENERGY PARTNERS, LLC
TO MOTION OF WILL HERRICK FOR FULL INTERVENTION

Estill County Energy Partners, LLC ("ECEP") hereby submits its response to the Motion of Will Herrick for Full Intervention (the "Motion") filed July 14, 2004 in order to clarify an aspect of the Motion.

1. ECEP filed an application with the Board on June 14, 2004 ("Application") for a construction certificate authorizing ECEP to build a coal waste-fired, 110 MW merchant electric generating facility (the "Facility") on 28 acres of a site exceeding 500 acres in Estill County (the "Site"). Application, at 6. On July 14, 2004, Will Herrick ("Herrick") filed the Motion seeking intervention in this proceeding.

2. The Motion states that Herrick lives and works in Campton, Wolfe County, Kentucky, that the water supply for his residence and business "comes from a pond located on the property" and that Herrick's property, health and economic interests may be adversely affected to the extent air emissions from the Facility will contribute certain pollutants into "the Wolfe County airshed."

Motion, at 1. The Motion states further that Herrick intends to visit the Great Smoky Mountains National Park within the next year and that his enjoyment of that trip will be affected to the extent air emissions from the Facility will affect visibility or air quality in the park. Finally, the Motion states that Herrick "has a number of questions and concerns regarding the potential impact of air emissions from" the Facility on the economy of the region and on his use and enjoyment of "his water resource on his property." Motion, at 2. ECEP takes no position on whether the Motion should be granted but files this response to clarify an aspect of the Motion, which otherwise may be a source of confusion, and to request that Herrick's participation be limited to issues within the Board's jurisdiction.


3. When the Motion states, on page 1, that the water supply for Herrick's residence and business "comes from a pond located on the property," ECEP understands "the property" to be referring to the property in Campton, in Wolfe County, on which Herrick's residence and business are located, and not to the Site in Estill County on which the Facility will be located. ECEP wishes to make it clear that Herrick owns no property on the Site, that there is no pond on the Site from which Herrick receives any water for his residence and business (which are both located in another county) and that Herrick is not an adjoining landowner with respect to the Site.

4. Herrick's participation in this proceeding should be limited to matters that have been identified in his Motion and that are within the Board's jurisdiction. The only subject matter identified in the Motion as his reason for

intervention is the potential air emission impacts of the proposed Facility, which will be specifically considered and addressed in the process for obtaining any permits, including air permits, required to construct and operate the Facility. See Application, Appendix F. This Board is not responsible for issuing these permits to be obtained from other governmental bodies or for enforcing the terms and conditions of those permits. Indeed, KRS 278.704(1) provides that construction certificates issued by this Board are conditioned upon the applicant obtaining such other permits and allows the applicant a period of time after a construction certificate has been issued to obtain them. Herrick will be free to participate in the process in which the air and other permits for the proposed Facility will be obtained but should not attempt to litigate here the issues that are within the jurisdiction of these other agencies.

Respectfully submitted,

ESTILL COUNTY ENERGY PARTNERS, LLC

BY: 
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Dated: July 20, 2004

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was sent by United States First Class Mail, sufficient postage prepaid, to the following this the 20th day of July, 2004.

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