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July 28, 2004

Beth O'Donnell, Executive Director
Kentucky State Board on Electric Generation and Transmission Siting
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

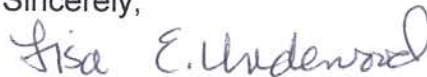
RE: Estill County Energy Partners, LLC
Case No. 2002-00172
Objections and Responses of ECEP to DLX's and Maxie Laviers Trust's
Data Requests

Dear Ms. O'Donnell:

Estill County Energy Partners, LLC ("ECEP") is submitting its Objections and Responses to DLX's and the Maxie Laviers Trust's Data Requests dated July 21, 2004.

ECEP is submitting with this letter an original and six (6) paper copies of ECEP's response. ECEP will also file the response electronically on this date and provide a copy to all parties of record.

Sincerely,



Lisa E. Underwood
Attorney for Estill County Energy Partners, LLC

cc: Gerard B. Mack
Joseph Tirone, Esq.
Parties of Record

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 28th day of July, 2004.

Darrell D. Brock, Jr.
Commissioner/Assistant to Governor
Office of Local Government
1024 Capital Center Drive
Suite 340
Frankfort, KY 40601

Danny P. Woods
Brighton A&E
201 Brighton Park Boulevard
Frankfort, KY 40601

John St. Claire
Citizens Guaranty Bank
Riverdrive
Irvine, KY 40336

Judge Wallace Taylor
Estill County Judge Executive
130 Main Street
Room 101
Irvine, KY 40336

Gene Strong
Secretary
Economic Development Cabinet
2300 Capital Plaza Tower
500 Mero Street
Frankfort, KY 40601

Wayne F. Collier
Kinkead & Stilz, PLLC
National City Plaza 301 East Main
Street
Suite 800
Lexington, KY 40507-1520

Honorable LaJuana S. Wilcher
Secretary
Environmental and Public Protection
Ky Division of Energy
Fifth Floor
Capital Plaza Tower
Frankfort, KY 40601

Will Herrick
4859 Flat Mary Road
Campton, KY 41301-9509

Thomas J. FitzGerald
Kentucky Resources Council, Inc.
P.O. Box 1070
Frankfort, KY 40602



Lisa E. Underwood

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)	

OBJECTIONS AND RESPONSES OF
ESTILL COUNTY ENERGY PARTNERS, LLC
TO DLX'S AND THE MAXIE LAVIERS TRUST'S
DATA REQUESTS

July 28, 2004

**Kentucky State Board on Electric Generation and Transmission Siting
Case No. 2002-00172**

**Estill County Energy Partners, LLC's Responses
to DLX's and The Maxie Laviers Trust's Data Requests**

Data Request No. 1

- Q. If any exhaust stack of the proposed facility merchant electric generating facility is within at least one thousand (1,000) feet from the property boundary of any adjoining property owner, including the Refuse Pile Tract, the Calla Subdivision or the Sand Hill Property, or is within two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility, including the Calla Subdivision or the Sand Hill Property, please identify the stack and structure, and refer to any maps or surveys that are attached to the Application that show their location.**

Responding Witness: Dell Jagers

- A. The Facility exhaust stack meets the applicable setback requirements of KRS 278.704(5) and KRS 278.706(2)(e). Please refer to the Site Assessment Report included with the Estill County Energy Partners, LLC ("ECEP") Application for Certificate to Construct a Merchant Electric Generating Facility. Please also refer to Section 1.7 of the Review and Evaluation of Estill County Energy Partners, LLC Site Assessment Report dated July 22, 2004 by Brighton A & E, Inc. for the Kentucky State Board on Electric Generation and Transmission Siting ("Siting Board").**

**Kentucky State Board on Electric Generation and Transmission Siting
Case No. 2002-00172**

**Estill County Energy Partners, LLC's Responses
to DLX's and The Maxie Laviers Trust's Data Requests**

DATA REQUEST NO. 2

- Q. Are any of the residences in the Calla Subdivision or on the Sand Hill Property in a residential neighborhood as defined in KRS § 278.700(6)? If not, explain why not. If so, amend Appendix C to show approximate neighborhood limits in this area and the previously identified residential neighborhood and add to the map.**

Responding Witness: Dell Jagers

- A. Please refer to ECEP's response to Question No. 8 of the Siting Board Staff's First Data Request.**

**Kentucky State Board on Electric Generation and Transmission Siting
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**Estill County Energy Partners, LLC's Responses
to DLX's and The Maxie Laviers Trust's Data Requests**

DATA REQUEST NO. 3

- Q. Please describe ECEP's plans to improve, dedicate, restrict or acquire all or part of the rights-of-way, roads and easements appurtenant or adjacent to the Refuse Pile Tract and the Calla Subdivision, or which connect said properties to a public road (the "Rights-Of-Way"). If ECEP or its predecessors in title claim that neither DLX, the Trust nor their heirs, successors or assigns have any right to use the Rights-Of-Way, please explain why and include copies of all documents supporting that opinion or opinions.**

Responding Witness: Gerard Mack

- A. With respect to the first sentence, please refer to ECEP's response to Question No. 24 of the Siting Board Staff's First Data Request.**

With respect to the second sentence, ECEP objects to this request on the grounds that:

- (1) With respect to the property that ECEP understands to be referenced as the "Sand Hill Property" by DLX and the Maxie LaViers Trust (the "Trust") in their Motions To Intervene, the requested materials and information are irrelevant to, and in any event beyond the scope of those Motions to Intervene and this proceeding because such property is not located within the boundaries of the Site and was conveyed by Trust to Joyce Marcum by deed dated September 15, 2000, and recorded in the Estill County Clerk's Office in Deed Book 237, page 745. ECEP notes that Joyce Marcum, and not DLX or the Trust, is listed as the owner of such property in the Estill County Property Valuation Administrator ("PVA") records, as shown in ECEP's response to Question No. 1 of the Siting Board Staff's First Data Request.
- (2) As stated in Section 2.2 of the Application, p.7, ECEP proposes to lease the Site from Fox Trot Properties LLC before the beginning of construction of the Facility. ECEP does not claim that it owns the property that ECEP understands to be referenced as the "Refuse Pile Tract", the "Calla Subdivision" or the "Sand Hill Property" and appurtenances by DLX and the Trust in their Motions To Intervene.
- (3) The requested materials and information are irrelevant to, and in any event beyond the scope of, this proceeding because they are being

requested to litigate in this proceeding the real estate claims made by DLX and the Trust in their Motions To Intervene or to develop information for use in such litigation in other forums. The Siting Board has ruled in its July 23, 2004 Order that such litigation is beyond its jurisdiction.

- (1) With respect to the property that ECEP understands to be referenced as the "Sand Hill Property" by DLX and the Maxie LaViers Trust (the "Trust") in their Motions To Intervene, the requested materials and information are irrelevant to, and in any event beyond the scope of those Motions to Intervene and this proceeding because such property is not located within the boundaries of the Site and was conveyed by Trust to Joyce Marcum by deed dated September 15, 2000, and recorded in the Estill County Clerk's Office in Deed Book 237, page 745. ECEP notes that Joyce Marcum, and not DLX or the Trust, is listed as the owner of such property in the Estill County Property Valuation Administrator ("PVA") records, as shown in ECEP's response to Question No. 1 of the Siting Board Staff's First Data Request.
- (2) As stated in Section 2.2 of the Application, p.7, ECEP proposes to lease the Site from Fox Trot Properties LLC before the beginning of construction of the Facility. ECEP does not claim that it owns the property that ECEP understands to be referenced as the "Refuse Pile Tract", the "Calla Subdivision" or the "Sand Hill Property" and appurtenances by DLX and the Trust in their Motions To Intervene.
- (3) The requested materials and information are irrelevant to, and in any event beyond the scope of, this proceeding because they are being requested to litigate in this proceeding the real estate claims made by DLX and the Trust in their Motions To Intervene or to develop information for use in such litigation in other forums. The Siting Board has ruled in its July 23, 2004 Order that such litigation is beyond its jurisdiction.

Without waiving its objections, ECEP states that its response to Question No. 10 of the Siting Board Staff's First Data Request contains information regarding deeds and other documents underlying the properties included within the Site and that its response to No. 11 of the Siting Board Staff's First Data Request contains copies of such deeds and other documents.

**Kentucky State Board on Electric Generation and Transmission Siting
Case No. 2002-00172**

**Estill County Energy Partners, LLC's Responses
to DLX's and The Maxie Laviers Trust's Data Requests**

DATA REQUEST NO. 4

- Q. Provide copies of all deeds, leases or other instruments for each interest that ECEP or its predecessors in title claim in either the Refuse Pile Tract, the Calla Subdivision or in the Sand Hill Property and all appurtenances thereto and explain what ECEP's claim is in these properties and why these instruments support ECEP's claim or claims.**

Responding Witness: Gerard Mack/Counsel as to objections

- A. ECEP objects to this request on the grounds that:**

- (1) With respect to the property that ECEP understands to be referenced as the "Sand Hill Property" by DLX and the Maxie LaViers Trust (the "Trust") in their Motions To Intervene, the requested materials and information are irrelevant to, and in any event beyond the scope of those Motions to Intervene and this proceeding because such property is not located within the boundaries of the Site and was conveyed by Trust to Joyce Marcum by deed dated September 15, 2000, and recorded in the Estill County Clerk's Office in Deed Book 237, page 745. ECEP notes that Joyce Marcum, and not DLX or the Trust, is listed as the owner of such property in the Estill County Property Valuation Administrator ("PVA") records, as shown in ECEP's response to Question No. 1 of the Siting Board Staff's First Data Request.
- (2) As stated in Section 2.2 of the Application, p.7, ECEP proposes to lease the Site from Fox Trot Properties LLC before the beginning of construction of the Facility. ECEP does not claim that it owns the property that ECEP understands to be referenced as the "Refuse Pile Tract", the "Calla Subdivision" or the "Sand Hill Property" and appurtenances by DLX and the Trust in their Motions To Intervene.
- (3) The requested materials and information are irrelevant to, and in any event beyond the scope of, this proceeding because they are being requested to litigate in this proceeding the real estate claims made by DLX and the Trust in their Motions To Intervene or to develop information for use in such litigation in other forums. The Siting Board has ruled in its July 23, 2004 Order that such litigation is beyond its jurisdiction.

Without waiving its objections, ECEP states that its response to Question No. 10 of the Siting Board Staff's First Data Request contains information regarding

deeds and other documents underlying the properties included within the Site and that its response to No. 11 of the Siting Board Staff's First Data Request contains copies of such deeds and other documents.

**Kentucky State Board on Electric Generation and Transmission Siting
Case No. 2002-00172**

**Estill County Energy Partners, LLC's Responses
to DLX's and The Maxie Laviers Trust's Data Requests**

DATA REQUEST NO. 5

Q. Provide copies of all surveys of any interest that ECEP or its predecessors in title claim in either the Refuse Pile Tract, the Calla Subdivision or in the Sand Hill Property.

Responding Witness: Gerard Mack/Counsel as to objections

A. ECEP objects to this request on the grounds that:

- (1) With respect to the property that ECEP understands to be referenced as the "Sand Hill Property" by DLX and the Maxie LaViers Trust (the "Trust") in their Motions To Intervene, the requested materials and information are irrelevant to, and in any event beyond the scope of those Motions to Intervene and this proceeding because such property is not located within the boundaries of the Site and was conveyed by Trust to Joyce Marcum by deed dated September 15, 2000, and recorded in the Estill County Clerk's Office in Deed Book 237, page 745. ECEP notes that Joyce Marcum, and not DLX or the Trust, is listed as the owner of such property in the Estill County Property Valuation Administrator ("PVA") records, as shown in ECEP's response to Question No. 1 of the Siting Board Staff's First Data Request.
- (2) As stated in Section 2.2 of the Application, p.7, ECEP proposes to lease the Site from Fox Trot Properties LLC before the beginning of construction of the Facility. ECEP does not claim that it owns the property that ECEP understands to be referenced as the "Refuse Pile Tract", the "Calla Subdivision" or the "Sand Hill Property" and appurtenances by DLX and the Trust in their Motions To Intervene.
- (3) The requested materials are irrelevant to, and in any event beyond the scope of, this proceeding because they are being requested to litigate in this proceeding the real estate claims made by DLX and the Trust in their Motions To Intervene or to develop information for use in such litigation in other forums. The Siting Board has ruled in its July 23, 2004 Order that such litigation is beyond its jurisdiction.

Without waiving its objections, ECEP states that its response to Question No. 10 of the Siting Board Staff's First Data Request contains information regarding deeds and other documents underlying the properties included within the Site

and that its response to No. 11 of the Siting Board Staff's First Data Request contains copies of such deeds and other documents.

**Kentucky State Board on Electric Generation and Transmission Siting
Case No. 2002-00172**

**Estill County Energy Partners, LLC's Responses
to DLX's and The Maxie Laviers Trust's Data Requests**

DATA REQUEST NO. 6

- Q. Provide the names, addresses and telephone numbers of persons having knowledge that supports ECEP's claim or claims to any interest in either the Refuse Pile Tract, the Calla Subdivision or in the Sand Hill Property, providing for each a summary of their knowledge.**

Responding Witness: Gerard Mack/Counsel as to objections

- A. ECEP objects to this request on the grounds that:**

- (1) With respect to the property that ECEP understands to be referenced as the "Sand Hill Property" by DLX and the Maxie LaViers Trust (the "Trust") in their Motions To Intervene, the requested materials and information are irrelevant to, and in any event beyond the scope of, those Motions to Intervene and this proceeding because such property is not located within the boundaries of the Site and was conveyed by Trust to Joyce Marcum by deed dated September 15, 2000 and recorded in the Estill County Clerk's Office in Deed Book 237, page 745. ECEP notes that Joyce Marcum, and not DLX or the Trust, is listed as the owner of such property in the Estill County Property Valuation Administrator ("PVA") records, as shown in ECEP's response to Question No. 1 of the Siting Board Staff's First Data Request.
- (2) As stated in Section 2.2 of the Application, p.7, ECEP proposes to lease the Site from Fox Trot Properties LLC before the beginning of construction of the Facility. ECEP does not claim that it owns the property that ECEP understands to be referenced as the "Refuse Pile Tract", the "Calla Subdivision" or the "Sand Hill Property" and appurtenances by DLX and the Trust in their Motions To Intervene.
- (3) The requested information is irrelevant to, and in any event beyond the scope of, this proceeding because it is being requested to litigate in this proceeding the real estate claims made by DLX and the Trust in their Motions To Intervene or to develop information for use in such litigation in other forums. The Siting Board has ruled in its July 23, 2004 Order that such litigation is beyond its jurisdiction.