

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)	

DIRECT TESTIMONY OF DELL JAGGERS
ON BEHALF OF
ESTILL COUNTY ENERGY PARTNERS, LLC

- 1 Q. Please state your name, position of employment and business address.
- 2 A. My name is Dell Jagers. I am Vice President and General Manager of CBC
- 3 Engineers and Affiliates, LLC and my business address is 112 Dennis Drive,
- 4 Lexington, Kentucky 40503.

- 5 Q. What is your educational and professional background?
- 6 A. I hold a Civil Engineering Degree from the University of Kentucky and an
- 7 Engineering Arts Degree from Georgetown College, Georgetown, Kentucky. I
- 8 have worked in the mining and engineering industry for 25 years with particular
- 9 emphasis in business development and environmental. As VP and General
- 10 Manager for CBC, I am responsible for administration, marketing and project
- 11 development for the Lexington and Hazard, Kentucky offices. My experience
- 12 crosses the US although Kentucky has been home throughout my career. I have

1 served as Chair for UK's Mining Engineering Foundation Board and I am a
2 Registered Professional Engineer in Kentucky.

3 Q. Please describe your participation in the merchant power generation project
4 purposed by the Estill County Energy partners LLC ("ECEP") for construction in
5 Estill County, Kentucky.

6 A. CBC has been retained by ECEP to assist in various aspects of ECEP's Estill
7 County merchant power generation project, and I lead CBC's work on that
8 project. CBC has prepared mapping for the Siting Application and is responsible
9 for the "Traffic Report," the "Noise Report," "Setback Requirements," and
10 "Viewsheds" all of which are contained in the application. CBC is also involved in
11 other permitting actions and engineering projects for ECEP, and represents
12 ECEP at public meetings and hearings.

13 Q. Have you read the Review and Evaluation of Estill County Energy Partners, LLC
14 Site Assessment Report dated July 22, 2004 ("Report") as prepared by Brighton
15 A&E, Inc. ("Brighton") for the Kentucky State Board on Electric Generation and
16 Transmission Siting ("Board")?

17 A. Yes, I have, and I wish to offer comments on and responses to certain aspects of
18 the Report.

19 Q. Do you have a response to Brighton's Recommendation Number 11?

20 A. Yes. The Board has developed an Appendix A to its prior orders containing
21 standardized monitoring program and reporting requirements, as well as specific
22 conditions for approval of applications. The Appendix A conditions address

1 compliance and reporting during the period of construction of a merchant
2 generation facility, which is consistent with the Siting Board's jurisdiction to
3 approve the construction of such facilities. In its prior orders, the Siting Board
4 has required the developer to file an annual report through the duration of the
5 construction of its facility. Brighton's Recommendation No. 11 would require
6 ECEP to submit annual reports after construction is completed and also would
7 require ECEP to implement unspecified, post-construction operation and
8 maintenance procedures. Such a condition would exceed the Board's jurisdiction
9 and would be inconsistent with the conditions established for prior developers
10 without any supporting rationale for different treatment of ECEP.

11 ECEP has no objection to Brighton's Recommendation Numbers 9 and 10
12 regarding steam blows, which are consistent with the Board's prior orders, but
13 recommends that Recommendation Number 11 not be adopted.

14 Q. Do you have any comments on Brighton's Recommendation Number 12?

15 A. The Board has included in Appendix A to its most recent orders (Pioneer Energy
16 and Thoroughbred Generation) a condition requiring the developer "to instruct its
17 contractors to design relevant facilities to meet established noise criteria and
18 minimize offsite noise impacts to the extent practicable, following industry
19 standards." This is a reasonable and appropriate condition, which ECEP has
20 shown that it will satisfy and which the Board should adopt for the ECEP project.
21 No basis has been shown for adopting an arbitrary and unsupported noise
22 standard, and an open-ended monitoring requirement, as suggested by Brighton.

1 To the extent this recommendation would extend past the completion of
2 construction, it also would be beyond the Board's jurisdiction.

3 ECEP urges the Board not to adopt Brighton Recommendation Number 12.

4 Q. Do you have a response to Brighton's first Recommendation Number 13?

5 A. Yes. Brighton concludes in Section C 5.1 that the "proposed facility will have
6 minimal impact on the existing road network" and "the proposed facility will have
7 a minimal impact on intersections in the area". These conclusions were made
8 after evaluating the highest potential rate of coal, lime and limestone truck
9 deliveries. Brighton's conclusions do not support a recommendation that ECEP's
10 truck deliveries be subject to a limitation not imposed on other area businesses,
11 such as the solid waste disposal facility located across Hwy 89 from the Estill
12 County Middle School. Such a restriction would unnecessarily burden ECEP's
13 operation and local transporters and suppliers without remedying any expected
14 impacts. This recommendation, like Recommendation Number 11, would extend
15 past the Completion of Construction and would exceed the Board's jurisdiction.
16 Appropriate conditions on local truck deliveries, if any are necessary, could be
17 developed by ECEP with Estill County officials.

18 ECEP therefore recommends that the Board not accept Brighton's first
19 Recommendation Number 13.

20 Q. Do you have any comments on Brighton's second Recommendation Number 13?

21 A. Yes. As previously discussed, ECEP does not plan to dispose of ash off-Site but
22 could provide granular bottom ash for local road construction and maintenance if

1 such granular bottom ash meets applicable standards for such use. ECEP
2 believes that if Estill County wishes to use some of this granular bottom ash then
3 Estill County would be best suited at that time to determine any limitations on
4 their transportation of the material and that such a condition is not appropriate for
5 ECEP's certificate.

6 ECEP therefore recommends that the Board not accept Brighton's second
7 Recommendation Number 13.

8 Q. Do you have any comments on Brighton's first Recommendation Number 15?

9 A. Yes. Brighton states in Section C 1.5 that "evaluation of temporary haul roads
10 within the site boundaries is outside the scope of this review because it does not
11 directly pertain to the facility and will be regulated under the Kentucky Natural
12 Resources and Environmental Protection Cabinet – Department for Surface
13 Mining, Reclamation and Enforcement".

14 If an evaluation of temporary haul roads is outside the scope of Brighton's
15 review, then any corresponding recommendation is also outside the scope of
16 their review. ECEP also notes that there is no engineering standard requiring a
17 gravel surface on temporary haul roads built on coal.

18 ECEP therefore recommends that the Board not accept Brighton's first
19 Recommendation Number 15.

20 Q. Do you have any comments on Brighton's second Recommendation Number 15?

1 A. Yes. Limiting deliveries to rail would unnecessarily burden ECEP's operation
2 and would preclude most local suppliers, who are limited to truck deliveries, from
3 selling to ECEP.

4 Brighton concludes in Section C 5.1 that the "proposed facility will have minimal
5 impact on the existing road network" and "the proposed facility will have a
6 minimal impact on intersections in the area". These conclusions were made after
7 evaluating the highest potential rate of coal, lime and limestone truck deliveries.
8 Brighton's conclusions do not support a recommendation that ECEP bear
9 additional cost to replace truck deliveries with rail or that local suppliers be
10 prevented from serving ECEP.

11 Even if Brighton defines the term "financially feasible" to mean "at the same
12 delivered cost", ECEP believes that such a restriction would harm local suppliers.

13 ECEP therefore recommends that the Board not accept Brighton's second
14 Recommendation Number 15.

15 Q. Does this complete your direct testimony?

16 A. Yes, it does.

VERIFICATION

I, Dell Jagers, do solemnly swear that the facts stated in the foregoing Direct Testimony of Dell Jagers on Behalf of Estill County Energy Partners, LLC, are true and correct to the best of my knowledge and belief.



Subscribed and sworn to before me this 4TH day of August, 2004.



Notary Public
FAYETTE COUNTY, KENTUCKY

My Commission expires: 11/25/06

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 4th day of August, 2004.

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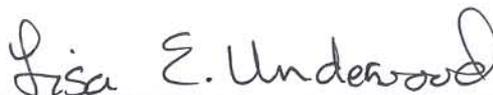
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