

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 GERARD B. MACK
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 Gerard B. Mack. I am Project Manager of Estill County Energy
- 3 Partners, LLC, and my business address is 121 Hermitage Road, Charlotte,
- 4 North Carolina 28207.
- 5 Q. What is your educational and professional background.
- 6 A. I have a BS and MS in Mechanical Engineering from the University of Michigan.
- 7 I have been in the power generation field for 25 years. My professional
- 8 experience includes 10 years with the Detroit Edison Company in power plant
- 9 operation, engineering and fuel supply and 15 years in independent power
- 10 generation development with responsibilities for fuel supply development and
- 11 overall project management and development. During the past 15 years, I was
- 12 responsible for, or involved in, various aspects of the successful development of
- 13 twelve (12) power generation facilities totaling 4,200 MW, including facilities

1 fueled by coal, natural gas and biomass. I have been an independent power
2 project development consultant since 2002.

3 Q. What is your role with Estill County Energy Partners, LLC ("ECEP")?

4 A. I have been Project Manager of ECEP since May, 2003. I am responsible for
5 development of ECEP's merchant power generation project in Estill County,
6 Kentucky (the "Project").

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

11 A. Yes I have, and I have some comments and responses to certain aspects of the
12 Report.

13 Q. Are there any statements made in the Report which should be clarified?

14 A. Yes.

15 Section B 1.2 on page B-2 states that "The ownership of the proposed site is
16 currently in dispute...". Although the Board has confirmed that it will not
17 adjudicate the merits of real estate claims, it should be noted that only a small
18 portion of the Site, only a refuse pile tract, is subject to an adversary proceeding
19 before the United States Bankruptcy Court for the Eastern District of Kentucky
20 ("Bankruptcy Court").

21 Section B 1.4 on page B-2 states that "The electric line will be located in existing
22 easements owned by Kentucky Utilities." ECEP has requested KU to allow such

1 location under the terms of the Interconnection and Operating Agreement. ECEP
2 and KU are discussing an arrangement whereby KU would own the upgraded
3 electric line to be located in the existing easements.

4 Section B 5.1 on page B-4 states that the KYTC has proposed a new road from
5 KY 499 to “provide improved access to the proposed power plant”. KYTC has
6 proposed this new road to improve access to the Estill County Industrial Park.

7 Section C 1.2 on page C-8 characterizes several claims made by DLX, Inc. and
8 the LaViers Trust. Although the Board has confirmed that it will not adjudicate
9 the merits of real estate claims, it should be noted that only a small portion of the
10 Site, only a refuse pile tract, is subject to an adversary proceeding before the
11 Bankruptcy Court.

12 Section C 1.6 on page C-14 incorrectly states that ECEP has applied for and
13 received conditional approval for the withdrawal of water from the Kentucky
14 River. The Water Availability Letter attached as Exhibit S to the ECEP
15 application provides assurances that the water required by ECEP is available but
16 does not constitute approval for withdrawal under current agency practice.
17 ECEP will be applying for all permits required to make the necessary withdrawal.

18 Section C 2 on page C-21 incorrectly states that the site has not been in active
19 use since the early 1990’s and that any impacts for scenic comparisons should
20 be considered minimal, if at all, due to the passage of time. Section C3 on page
21 C-27 repeats this statement. The site was last used for coal processing in 1998
22 and 1999. The coal washing plant structures remain today and the passage of 5

1 years has not minimized their appearance for purposes of a scenic comparison,
2 as evidenced by the photograph of those existing structures on Section C, page
3 20.

4 Section C 2 on page C-24 states that "The exhaust stack will not require lighting
5 by the FAA." While it is true that FAA regulations do not require that the exhaust
6 stack be illuminated, the FAA may require installation of indicator lights similar to
7 those found on radio towers.

8 Section C 5.1 on page C-35 states that ECEP has "alluded" to off-site ash
9 disposal if economically feasible. ECEP has no plans to dispose of ash off-site.
10 ECEP could provide granular bottom ash for local road construction and
11 maintenance if such granular bottom ash meets applicable standards for such
12 use.

13 Q. Do you have any comments on Brighton's Recommendation Number 3?

14 A. Yes. Brighton's recommendation that "[a] boundary survey should be obtained
15 and recorded in the Estill County Courthouse for the proposed site of 620 acres"
16 does not recognize the fact that the project can be constructed and operated,
17 utilizing on-Site waste coal without the disputed tract. Any requirement with
18 respect to a recorded boundary survey should not be required to include all 620
19 acres of the proposed Site.

20 Q. What response do you have to Brighton's Recommendation Number 4?

21 A. Brighton's recommendations for on-Site practices generally represent industry
22 standards but are not appropriate or necessary as a Certificate condition under

1 KRS 278.708(3)(a)(3) which requires the Site Assessment Plan to describe
2 “Proposed access control to the site”.

3 Brighton has not presented any evidence or analysis to support its
4 recommendation that the Facility incorporate only two controlled access points,
5 and, in any event, this recommendation should not limit the number or location of
6 locked perimeter gates.

7 ECEP therefore recommends that the Board not accept Brighton’s
8 Recommendation Number 4.

9 Q. Do you have any comments on Brighton’s Recommendation Number 6?

10 A. Yes. Brighton’s review of the Jackson Electric Cooperative (“JEC”) 7.2-kV line in
11 Section C 1.6 describes two alternatives for relocating the JEC line. A small
12 portion of the line is planned to be relocated at ECEP’s expense.

13 Brighton has presented no evidence or analysis to support its recommendation
14 that the JEC line must be entirely relocated outside the secured area of the
15 Facility. ECEP will work out with JEC an acceptable and economical solution
16 which will provide JEC the ability to enter the secured area of the Facility to
17 maintain this line. There is no engineering or safety rationale for ECEP to incur
18 the expense of unnecessary relocation of the JEC line.

19 ECEP notes that the existing or proposed utilities described in Section C 1.6 will
20 necessarily cross into the secured area of the Facility and will require utility

1 access to the secured area of the Facility to maintain their wires, pipes and
2 meters.

3 ECEP therefore recommends that the Board not accept Brighton's
4 Recommendation Number 6.

5 Q. Does this complete your direct testimony?

6 A. Yes, it does.

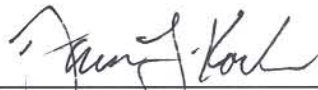
VERIFICATION

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



A handwritten signature in black ink, appearing to read 'G B Mack', is written over a solid horizontal line.

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



Notary Public
FAYETTE COUNTY, KENTUCKY

A handwritten signature in black ink is written over a solid horizontal line. Below the line, the text 'Notary Public' and 'FAYETTE COUNTY, KENTUCKY' is printed in a sans-serif font.

My Commission expires: 11/25/04

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.

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

J.R. Wilhite
Commissioner
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