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KENTUCKY STATE BOARD ON
SEP 10 2007
ELECTRIC GENERATION AND
TRANSMISSION SITING

COMMONWEALTH OF KENTUCKY

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SEP 10 2007

BEFORE THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING

PUBLIC SERVICE
COMMISSION

In the Matter of:

ESTILL COUNTY ENERGY PARTNERS, LLC,)
FOR A CERTIFICATE OF CONVENIENCE AND)
NECESSITY TO CONSTRUCT A COAL) CASE NO. 2002-00172
COMBUSTION FACILITY IN ESTILL COUNTY,)
KENTUCKY)

DLX'S AND HARRY LAVIERS, JR., TRUSTEE'S
RESPONSE TO ECEP'S ANNUAL REPORTS

* * * * *

Come DLX, Inc. ("DLX"), and Harry LaViers, Jr., as Trustee of a Trust established for the benefit of Donald G. LaViers, Stephen D. LaViers, Henry LaViers, IV, and Elizabeth LaViers Owen, all under the Will of Maxie LaViers, deceased (the "Trust")¹, by counsel, and respond to correct certain statements found in the annual reports that ECEP filed on September 4, 2007.

RESPONSE

The annual reports that ECEP filed for 2004, 2005 and 2006 contain statements as to the status of an appeal involving DLX and Fox Trot Properties, LLC, and the size of the property that is in dispute, which DLX wishes to clarify.

As the PSC is aware, Fox Trot Properties, LLC, appealed a decision in favor of DLX, Inc., with respect to the ownership of the property which is the subject of that action to the United States Court of Appeals for the Sixth Circuit, Case No. 06-6060. The property that DLX owns, according to the

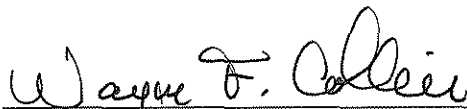
¹ The Trust was created under the will of Maxie LaViers, deceased, which is of record in Will Book J, Page 375, in the Estill County Clerk's Office.

decisions of Judge Lee in the United States Bankruptcy Court for the Eastern District of Kentucky and of Judge Hood for the United States District Court for the Eastern District of Kentucky, are known to the PSC, as is the nature and description of the property that is affected thereby.

During most of the early part of 2007, DLX and Fox Trot engaged in settlement discussions while the appeal pended before the Sixth Circuit. On June 26, 2007, those discussions terminated and the Sixth Circuit issued a briefing schedule that is currently in effect. Since that time, both parties have prepared and filed their proof briefs and Fox Trot's proof rely brief is due next week, as per the schedule, as revised, copies thereof being attached hereto.

Yesterday, Fox Trot's counsel in that appeal called DLX's counsel and requested that the parties resume negotiations and that DLX consent to a thirty day moratorium with respect to the Sixth Circuit's timetable. DLX, having negotiated extensively with Fox Trot and having undergone the cost of preparing its brief, has not agreed thereto, and does not foresee that negotiations will be renewed at any time.

Respectfully submitted,



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Counsel for DLX and the Trust

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via first class mail or by hand delivery on this the 7th day of September, 2007, to the following:

D. Duane Cook, Esq.
General Counsel
Estill County Energy Partners, LLC
6000 Sulphur Well Road
Lexington, Kentucky 40509

The Kentucky State Board on Electric
Generation and Transmission Siting
c/o Mr. Michael F. Burford
Director of Filings Division
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602-0615

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

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

J. R. Wilhite, Commissioner
Economic Development Cabinet
2300 Capital Plaza Tower
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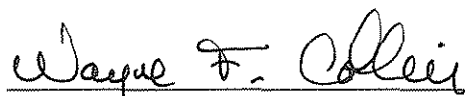
Hon. Teresa J. Hill, Secretary
Environmental and Public Protection Cabinet
Department for Natural Resources
Division of Energy
500 Mero Street, Fifth Floor
Capital Plaza Tower
Frankfort, Kentucky 40601

Hon. Gene Strong, Secretary
Economic Development Cabinet
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Counsel for Will Herrick


Counsel for DLX and the Trust

OFFICE OF THE CIRCUIT MEDIATORS
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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June 26, 2007

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Lexington, KY 40588-1598

RE: DLX Inc. V. Fox Trot Properties
CA No. 06-6060

Dear Counsel:

Pursuant to Rule 33, Rules of the Sixth Circuit, the deadlines for briefing in this/these appeal(s) are extended by seven (7) days. The modified briefing schedule is as follows:

APPELLANT'S PROOF BRIEF must be filed by 7/17/07 ;
(one copy)

APPELLEE'S PROOF BRIEF must be filed by 8/20/07 ;
(one copy)

OPTIONAL PROOF REPLY BRIEF must be filed by 9/6/07 ;
(one copy)

JOINT APPENDIX must be filed by 9/13/07 ;
(signed original and 4 copies)

FINAL BRIEFS must be filed by 10/4/07 ;
(for all parties; signed original and 6 copies)

Failure of the Appellant to make timely filings as directed above may result in the dismissal of their appeal for want of prosecution without further notice.

Very truly yours,


Robert W. Rack, Jr.

wjr

cc: Audrey Crockett, Case Manager

OFFICE OF THE CIRCUIT MEDIATORS
UNITED STATES COURT OF APPEALS
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July 3, 2007

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CA No. 06-6060

Dear Counsel:

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(one copy)

APPELLEE'S PROOF BRIEF must be filed by *8/27/07 ;
(one copy)

OPTIONAL PROOF REPLY BRIEF must be filed by 9/13/07 ;
(one copy)

JOINT APPENDIX must be filed by 9/20/07 ;
(signed original and 4 copies)

FINAL BRIEFS must be filed by 10/11/07 ;
(for all parties; signed original and 6 copies)

Failure of the Appellant to make timely filings as directed above may result in the dismissal of their appeal for want of prosecution without further notice.

Very truly yours,


Robert W. Rack, Jr.

wjr
cc: Audrey Crockett, Case Manager