



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

VIA FACSIMILE
AND FEDERAL EXPRESS

September 14, 2007

Mr. Gregory H. Boyce
President and Chief Executive Officer
Peabody Energy
701 Market Street
St. Louis, Missouri 63101

Dear Mr. Boyce:

We are aware that Peabody Energy has plans to build new coal-fired electric generating units that would generate 3,100 megawatts of electricity using largely conventional technology without current plans to capture and sequester the resulting carbon dioxide (CO₂) emissions. The increase in CO₂ emissions from the operation of these units, in combination with Peabody Energy's other coal-fired power plants, will subject Peabody Energy to increased financial, regulatory, and litigation risks. We are concerned that Peabody Energy has not adequately disclosed these risks to its shareholders, including the New York State Common Retirement Fund, which is a significant holder of Peabody Energy stock. Pursuant to the Attorney General's investigatory authority under New York General Business Law § 352, and New York Executive Law § 63(12), accompanying this letter is a subpoena seeking information regarding Peabody Energy's analyses of its climate risks and its disclosures of such risks to investors.

Climate change is one of the most pressing environmental challenges facing the world today. Emissions from U.S. power plants currently constitute 30% of total U.S. carbon emissions. As a result, many power companies are taking steps to reduce CO₂ emissions from their power plant fleets. In contrast, however, the annual emissions from Peabody Energy's proposed new coal-fired power plant will exacerbate global warming harms and undermine the concerted efforts being undertaken by New York and other states to address global warming.

As you are aware, a public company must disclose information material to a shareholder's investment decision. We are concerned that Peabody Energy has failed to disclose material information about the increased climate risks Peabody Energy's business faces. For example, any one of the several new or likely regulatory initiatives for CO₂ emissions from power plants –

including state carbon controls, EPA's regulations under the Clean Air Act, or the enactment of federal global warming legislation – would add a significant cost to carbon-intensive coal generation, such as the new conventional coal plants planned by Peabody Energy.

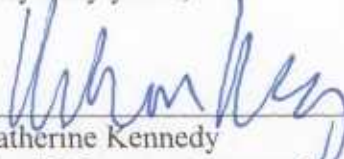
In its 2006 Form 10-K, Peabody Energy made no disclosure of projected CO₂ emissions from the proposed plant or its current plants. Further, Peabody Energy did not attempt to evaluate or quantify the possible effects of future greenhouse gas regulations, or discuss their impact on the company. Peabody Energy also did not present any strategies to reduce CO₂ emissions, as new regulations likely would require. These omissions make it difficult for investors to make informed decisions.

Under federal and state laws and regulations, Peabody Energy's disclosures to investors must be complete and not misleading. Selective disclosure of favorable information or omission of unfavorable information concerning climate change is misleading. Peabody Energy cannot excuse its failure to provide disclosure and analysis by claiming there is insufficient information concerning known climate change trends and uncertainties.


The enclosed subpoena requires your response by October 9, 2007.

We are available to discuss these issues with you further. Please feel free to contact Katherine Kennedy at (212) 416-8540 or Matthew Gaul at (212) 416-8198 with any questions.

Very truly yours,



Katherine Kennedy
Special Deputy Attorney General
Environmental Protection Bureau
Office of the New York Attorney General



Matthew Gaul
Chief
Investor Protection Bureau
Office of the New York Attorney General

Attachment