

PEABODY'S ANSWER AND AFFIRMATIVE DEFENSES

Peabody Energy Corporation, Peabody Energy, hereby answers and defends the claims of the Plaintiff and the Defendant in the proposed consent decree between the Plaintiff and the Defendant in the captioned matter as set forth in the attached exhibits.

Any attachment to the Complaint that is not expressly identified below is denied.

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency's ("EPA") recent findings that the Nation's existing coal-fired power plants are not meeting the air quality requirements of the Clean Air Act ("CAA") are a significant threat to public health and the environment. The Nation's coal-fired power plants are the largest source of air pollution in the United States. The Nation's coal-fired power plants are the largest source of air pollution in the United States. The Nation's coal-fired power plants are the largest source of air pollution in the United States. The Nation's coal-fired power plants are the largest source of air pollution in the United States. The Nation's coal-fired power plants are the largest source of air pollution in the United States.

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¹ The Complaint contains statements and/or allegations that are not responsive to the claims of the Plaintiff and the Defendant. The Plaintiff and the Defendant agree to stipulate that the Plaintiff and the Defendant are not responsible for the claims of the Plaintiff and the Defendant.

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The FTC does not dispute these dynamics; in fact, stunningly, it ignores them. It asks this court to put blinders on and join the FTC in a “SPRB coal-only” world to block the Joint Venture. If the FTC prevails, it will prevent the Joint Venture from achieving those efficiencies and guarantee that SPRB coal will continue losing to natural gas and renewables. Delaying this decision will ultimately harm the public interest.

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III. RESPONDENTS

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IV. THE JOINT VENTURE

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V. RELEVANT MARKETS

A. Relevant Product Market

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IX. LACK OF COUNTERVAILING FACTORS.

A. Barriers to Entry and Expansion

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B. Efficiencies

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X. VIOLATION

Count I – Illegal Agreement

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CERTIFICATE OF SERVICE

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CERTIFICATE FOR ELECTRONIC FILING

Notice of Electronic Service

I hereby certify that on March 11, 2020, I filed an electronic copy of the foregoing Peabody Energy Corporation's Answer and Affirmative Defenses , with:

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I hereby certify that on March 11, 2020, I served via E-Service an electronic copy of the foregoing Peabody Energy Corporation's Answer and Affirmative Defenses , upon:

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