



October 28, 2008

Public Records Officer
Office of the Governor
200 W. Washington Street, Room 206
Indianapolis, IN 46204

Dear Sir/Madam:

I write under the Indiana Access to Public Records Act to request certain records in connection with a critical energy and environmental policy decision currently facing our state: whether to proceed with construction of Duke Energy's proposed new power plant at Edwardsport. These records could shed new light on the actions, public or non-public, Governor Daniels and his Administration may have taken on this and related matters.

First, I am requesting materials relative to possible contacts and communications between the Governor's Office and officials of Duke Energy or the Indiana Energy Association and/or their lobbyists which may have occurred since Duke's interest in such a plant first became known. Specifically, I request copies of:

- (a.) Any communication, whether by letter, fax, electronic mail or other means, between any official of Duke Energy or the Indiana Energy Association, or persons registered to lobby on behalf of either organization, and the Office of the Governor, or vice versa, occurring during the period January 2007 to present. (Please see Attachment A for a list of the specific officials and lobbyists covered by this request.)
- (b.) Any daily schedule, phone log, official diary, or similar record documenting the occurrence and date of any meetings, planned or actual, whether in person or by teleconference or other electronic means, between the Governor or any member of the staff of the Office of Governor and any official or lobbyist of Duke Energy or the Indiana Energy Association (as set out in Attachment A), occurring during the period January 2007 to present.
- (c.) Any agenda, minutes, memorandum or other record speaking to the issues and matters to be addressed during any meeting or conference as described in paragraph (b) above, and/or to opinions or facts presented at them.

Second, I am requesting materials relative to any contacts and communications since last year between the Governor's Office and the Indiana Utility Regulatory Commission ("IURC") regarding Duke Energy, including, but not limited to, Duke's formal petition for regulatory approval of the proposed plant at Edwardsport. Specifically, I request copies of:

Sierra Club, Hoosier Chapter
1915 W 18th St., Suite D
Indianapolis, IN 46202
(317) 822-3750

Valley Watch
800 Adams Avenue
Evansville, IN 47713
(812) 464-5663

Citizens Action Coalition
603 E Washington St., Suite 502
Indianapolis, IN 46204
(317) 205-3535

(d.) Any communication, whether by letter, fax, electronic mail or other means, between the Governor or any member of the staff of the Office of the Governor and any IURC Commissioner or staff member regarding any concern or request of any kind relative to Duke Energy, including, but not limited to, its petition for regulatory approval Duke Energy, during the period January 2007 to present.

(e.) Any daily schedule, phone log, official diary, or similar record documenting the occurrence and date of any meetings, planned or actual, whether in person or by teleconference or other electronic means, between the Governor or any member of the staff of the Office of Governor and any IURC Commissioner or staff member regarding Duke Energy during the period January 2007 to present.

(f.) Any agenda, minutes, memorandum or other record speaking to the issues and matters to be addressed during any meeting or conference as described in paragraph (e.) above, and/or to opinions or facts presented in them.

In making these requests I note that certain records I request relative to communications with IURC, if they exist, may be contrary to Indiana law. Indiana Code 8-1-1-5 specifically prohibits backchannel “ex parte” communications with IURC and further requires that the “commission shall in no such proceeding, during the hearing, act in the role either of a proponent or opponent on any issue to be decided by it.”

Third, I am requesting materials relative to any contacts and communications since last year between the Governor’s Office and the Indiana Office of Utility Consumer Counselor (“OUCC”) regarding Duke Energy, including, but not limited to, Duke’s formal petition for regulatory approval of the proposed plant at Edwardsport. Specifically, I request copies of:

(g.) Any communication, whether by letter, fax, electronic mail or other means, between the Governor or any member of the staff of the Office of the Governor and the Utility Consumer Counselor or any OUCC staff member regarding any concern or request of any kind relative to Duke Energy, including, but not limited to, its petition for regulatory approval Duke Energy, during the period January 2007 to present.

(h.) Any daily schedule, phone log, official diary, or similar record documenting the occurrence and date of any meetings, planned or actual, whether in person or by teleconference or other electronic means, between the Governor or any member of the staff of the Office of Governor and the Utility Consumer Counselor or any OUCC staff member regarding Duke Energy during the period January 2007 to present.

(i.) Any agenda, minutes, memorandum or other record speaking to the issues and matters to be addressed during any meeting or conference as described in paragraph (e.) above, and/or to opinions or facts presented in them.

Finally, I am requesting materials relative to the design, execution and funding of Governor Daniels’s energy summit, so-called, staged in Indianapolis on September 3rd and 4th 2008 to promote alleged “carbon capture and sequestration” technology claimed to limit the environmental costs of coal-based energy production. Specifically, I request copies of:

(j.) Any communication between the Office of Governor and any state agency, whether by letter, fax, electronic mail or other means, concerning this “summit,” or between the Office of Governor and any private corporation or trade association relative to their participation in the summit, including, but not limited to Duke Energy, Inc. and the Indiana Energy Association. Additionally, copies of any report, recommendation, letter, email, or promotional product submitted by Duke Energy or the Indiana Energy Association in connection with the summit.

(k.) Any invoices and receipts for the costs of planning and staging the “summit,” including, but not limited to, facilities rentals, food and beverage, audio/visual technology, professional services, and labor. Copies of any records stating when and by whom these receipts and invoices have been paid ,or are to be paid.

(l.) Any agreements or arrangements, whether actual or proposed, under which any private party (i.e. other than the State of Indiana) would pay for, “sponsor,” underwrite, or contribute as an in-kind donation, the cost of any product or program offered at the “summit,” or any good or service involved in its production. Copies of any agreements or proposals, actual or proposed, under which any third party was authorized to provide or edit content to be presented at the summit, or to receive any promotional consideration, or any other benefit in exchange for its support or participation.

If the Governor’s Office claims that any document (or any portion of a document) responsive to this request is privileged, the nature of the privilege shall be stated in writing and shall be supported by a privilege log setting forth the following information:

- (a.) the author(s) of the document(s);
- (b.) the name of the person(s) to whom the document(s) was (were) delivered or addressed, including indicated or blind copy recipients, and that person’s (those persons’) relationship to the author(s);
- (c.) the date of the document(s); d. the present location and custodian of the document(s); and,
- (e.) a description of the subject matter of the document, and any attachment or appendices, and the number of pages.

We look forward to your prompt reply. Please forward all records responsive to this request to Polk and Associates (101 W. Ohio St, Suite 2000; Indianapolis, IN 46204) or electronically to jpolk@polk-law.com and contact Mr. Polk with any questions at 317-636-5165. Thank you.

Sincerely,

Bill Hayden
Chair of Executive Committee
Sierra Club, Hoosier Chapter

John Blair
President
Valley Watch

Grant Smith
Executive Director
Citizens Action Coalition

cc. Indiana Utility Regulatory Commission, Indiana Office of the Utility Consumer Counselor

Attachment A

Individuals covered by paragraphs (a) and (b) of this public records request:

1. James E. Rogers. Mr. Rogers is CEO of Duke Energy, Inc.
2. Jim Turner. Mr. Turner is Group Executive; President and Chief Operating Officer — U.S. Franchised Electric and Gas for Duke Energy.
3. Kay Pashos. Ms. Pashos was until this month Vice President for Regulatory Strategy for Duke Energy.
4. Jim Stanley. Mr. Stanley is President of Duke Energy Indiana.
5. Angeline Protopgere Ms. Protopgere is Indiana Media Relations manager for Duke Energy.
6. Julie K. Griffith. Ms. Griffith is Vice President of Government Affairs for Duke Energy and is registered to lobby on its behalf in Indiana.
7. Lisa H. Kobe. Ms. Kobe is a Duke Energy employee registered to lobby on its behalf in Indiana.
8. John L. Stowell. Mr. Stowell is/was Vice President, Environmental, Health and Safety Policy for Duke Energy Shared Services, Inc.
9. Gregory E. Scott. Mr. Scott is a Duke Energy employee registered to lobby on its behalf in Indiana.
10. Edward Simcox. Mr. Simcox is President of the Indiana Energy Association and is registered to lobby on its behalf in Indiana.
11. Stanley Pinegar. Mr. Pinegar is Vice President of the Indiana Energy Association and is registered to lobby on its behalf on Indiana.
12. Kipper T. Tew. Mr. Tew is a principal and registered lobbyist with the firm Krieg DeVault, which is registered to lobby on behalf of Duke Energy in Indiana.
13. Any person known to the Governor's Office as an executive of, or registered lobbyist for, Duke Energy, Inc. or the Indiana Energy Association who is not named above.