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Ms. Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: *Comments on Release No. 34-56160; IC-27913; File No. S7-16-07 and
Release No. 34-56161; IC-27914; File No. S7-17-07*

Dear Secretary Morris,

I am the Executive Vice President and Chief Legal Officer of Peabody Energy Corporation, a Delaware corporation with over \$5.2 billion in annual revenues and approximately 9,200 employees. Peabody Energy appreciates this opportunity to submit comments to the Securities and Exchange Commission (the "SEC") pursuant to the SEC's July 27, 2007 releases: "Proposed Rule: Shareholder Proposals" (Release No. 34-56160; IC-27913; File No. S7-16-07) ("S7-16-07") and Proposed Rule: Shareholder Proposals Relating to the Election of Directors (Release No. 34-56161; IC-27914; File No. S7-17-07) ("S7-17-07").

Peabody Energy supports S7-17-07

We commend the SEC for providing guidance to eliminate the uncertainty and confusion resulting from the Second Circuit Court of Appeals decision in *AFSCME v. AIG*, 462 F.3d at 128 (2d Cir. 2006) and clarifying the SEC's long-standing position that shareholder proposals on proxy statement access for board nominations are excludable under Exchange Act Rule 14a-8(i)(8).

Peabody Energy believes that it is timely for the SEC to codify this position by amending Rule 14a-8(i)(8) to clarify that, if a shareholder proposal relates to a procedure for nomination or election for membership on a company's board of directors or analogous governing body, the shareholder proposal may be excluded under the current requirements of Rule 14a-8. For sake of clarity and administrative efficiency, we believe that the proposed amendments should specify those procedures that the SEC historically has found to fall within the exclusion, including specific reference to the SEC's interpretation of the exclusion with respect to procedures that could not result in a contested election (along the lines of the example included in S7-17-07.)

Peabody Energy opposes S7-16-07

As noted above, Peabody Energy believes that shareholder proposals relating to a procedure for nomination or election for membership on a company's board of directors or analogous governing body should be excludable. Accordingly, Rule 14a-8(i)(8) should not be amended to enable shareholders to have proposals for bylaw amendments regarding the procedures for nominating directors included in a company's proxy materials, and the concomitant

amendments to Schedule 13G and the proposed addition of Rule 14a-17, Item 24 and Item 25 of Regulation 14A should not be implemented.

Peabody Energy believes that corporate boards must hold themselves to the highest standards of corporate governance, and that giving shareholders a meaningful voice in the director election process is conducive to the maintenance of those standards. However, we believe that recent reforms that directly impact the election of directors already give shareholders a meaningful voice and promise to do so to an even greater degree, neutralizing the proposal to give shareholder access to the proxy statement for director nominations.

In particular:

- The advent of the electronic dissemination of proxy materials ("E-proxy") will eliminate the concern that proxy contests are prohibitively expensive due to the costs of printing and mailing competing proxy materials.
- The proliferation of majority voting now enables shareholders to have influence on the composition of corporate boards in the context of routine director elections.
- The New York Stock Exchange's impending elimination of broker voting in uncontested director elections will be conducive to shareholder influence and buttress the effects of majority voting.

We believe that the SEC should allow these reforms to take their course, and fully assess their impact, without further complicating the director election process.

We are concerned that permitting shareholders to place nominees in company proxy materials will transform routine director elections into proxy contests, with the consequence of disrupting corporate affairs, causing significant costs to the company and its shareholders, and dissuading from board service qualified individuals who do not want to routinely stand for election in a contested situation. In addition, proxy access would undercut the role of the corporate board and its nominating committee in the vital process of nominating director candidates.

In sum, in view of E-proxy and other recent developments, we believe that this shareholder access proposal is unnecessary, and that in fact the detriments will outweigh any practical benefit.

Thank you for considering our comments on the proposed rules. If you would like to discuss these comments or any other issue, please do not hesitate to contact me at 314-342-3485.

Very truly yours,

