

Daniels/Duke Energy: Indiana Governor “Hiding” Ties with Duke by Failing to Respond to Public Records Request

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10 Weeks After Formal Request is Made, Internal Files Still Not Released on Duke-Subsidized “Energy Summit” for Daniels Two Months Before Election

Indianapolis, Indiana – January 12, 2009 – Governor Mitch Daniels has failed to respond in a timely way to a public record disclosure request lawfully filed under Indiana law fully two and a half months ago (October 29, 2008), according to Hoosier Chapter Sierra Club, Citizens Action Coalition (Indiana CAC), Valley Watch, and Common Cause.

In the October 29th filing, the three groups sought the production of all documents and other records detailing “actions, public or non-public, that Governor Daniels and his Administration may have taken” to promote Duke Energy’s proposed new power plant at Edwardsport. Filed under the Indiana Access to Public Records Act, the Sierra Club, Indiana CAC, and Valley Watch public information request also seeks to expose the extent of Duke Energy’s financial support for Governor Daniels’s so-called “energy summit,” which held two months before the election on September 3-4, 2008 in Indianapolis.

Additionally, the groups are seeking evidence of any improper communications between Duke and the Indiana Utility Regulatory Commission (IURC). Indiana Code 8-1-1-5 specifically prohibits backchannel “ex parte” communications between IURC and any entity with a pending request (e.g., the Duke Edwardsport plant application). State law

further requires that the IURC “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.”

Grant Smith, executive director, Citizens Action Coalition, said: “State law requires a timely response and we believe that 10 weeks is more than ample for the production of meeting notes, emails, scheduling calendars and the like. At this point, we are forced to conclude that Governor Daniels and IURC are hiding the facts about their inappropriately close relationship to Duke Energy. This is not some academic exercise. Public statements make it appear the IURC may be acting as an advocate for the Governor’s energy plan which itself appears to be tied to advancing Duke’s business plan. Instead of an objective decision-making process conducted at arm’s length, we have the appearance here of the Edwardsport plant proposal being ‘hard-wired’ for Duke by the Daniels Administration.”

David Maidenbergl, chapter director of the Sierra Club Hoosier Chapter, said: "The lack of response to this request from the Governor's office by itself is a cause for concern to those who value open government. When coupled with recent news from IDEM concerning the closing of its enforcement office, its cancellation of air quality contracts with local governments, and its cutoff of pollution prevention grants, our concern for what is happening in Indiana state government on energy and environmental matters grows even more profound."

John Blair, president, Valley Watch, said: "Secrecy is the antithesis of democratic government. That is why we have laws requiring public disclosure of public records and actions. We have heard directly, pronouncements from at least one commissioner of the IURC of his intention to "get this thing built," referring to the new Edwardsport facility. The IURC is supposed to be an independent deliberative body that protects the interests of consumers against the monopolistic practices of public utilities. It is clear, in this case, that they have forgotten their statutory role and opted to advance the interests of the utility they are supposed to regulate."

Julia Vaughn, policy director for Common Cause Indiana, said: “We are concerned by the Daniels administration's failure to respond to this public records request. Four years ago this Governor pledged to run the most transparent and open executive branch in our state's history, a laudable goal for which Common Cause/IN had much praise. We are still waiting, though, for the walk to match the talk. This is not the first time we have heard from organizations who have filed valid information requests being stonewalled or ignored by the Daniels administration. Silence only breeds suspicion, so we call on the Governor's office to release these records immediately."

The Sierra Club-CAC-Valley Watch public information request all letters, FAX communications, emails, daily schedules, phone logs, official diaries, agenda, minutes, memos, tape recordings and other records involving “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, ... occurring during the period January 2007 to present.”

In connection with the Daniels/Duke “energy summit,” the groups are seeking “(a) 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.” The groups also are seeking “(a)ny 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.”

In a separate fact sheet released on October 29, 2008, “The Mitch Daniels Record: Too Cozy With Coal,” the three groups detailed their concerns about the relationship between Daniels and Duke Energy.

About the Groups

Common Cause is a nonpartisan, nonprofit advocacy organization founded in 1970 by John Gardner as a vehicle for citizens to make their voices heard in the political process and to hold their elected leaders accountable to the public interest.

The mission of the Citizens Action Coalition of Indiana (<http://www.citact.org>) is to initiate, facilitate and coordinate citizen action directed to improving the quality of life of all inhabitants of the State of Indiana through principled advocacy of public policies to preserve democracy, conserve natural resources, protect the environment, and provide affordable access to essential human services.

The Sierra Club's mission is to: (1) explore, enjoy and protect the wild places of the earth; (2) practice and promote responsible use of the earth's ecosystems and resources; and (3) educate and enlist humanity to protect and restore the quality of the natural and human environment. For more information, go to <http://www.Indiana.sierraclub.org>.

Valley Watch is an Evansville-based environmental health group and its purpose is to “protect the public health and environment of the lower Ohio River Valley.” It is on the web at <http://valleywatch.net>.

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Background Information: Reason for the Public Information Request

In October 2008, Sierra Club Indiana Chapter, Valley Watch and the Citizens Action Coalition submitted a public records disclosure request to the Daniels Administration to compel the production of all documents and other records detailing “actions, public or non-public, that Governor Daniels and his Administration may have taken” to promote Duke Energy’s proposed new power plant at Edwardsport.

The Governor’s statements, actions and appointments prompted the request.

1. His energy policy document (The Hoosier Homegrown Energy Plan) demonstrates a clear preference for using Indiana coal and the construction of coal gasification plants;
2. All critical positions relative to utility/energy policy and regulation at the time were filled with former utility employees;
3. His most recent conference on energy issues (the carbon capture and sequestration summit) was, at least, in large part funded by Duke Energy;
4. Public statements by the Governor prior to approval by regulators of the Edwardsport plant clearly indicated that, in his mind, the proposed plant was a done deal;
5. The Indiana Utility Regulatory Commission (IURC), in an unprecedented manner prior to approval by the Commission and contrary to the spirit if not letter of the law, sent letters to ratepayers concerned about the Edwardsport plant clearly indicating a preference for coal gasification technology;
6. The Governor, in an unprecedented move, had the head of his Office of Energy and Defense submit testimony on behalf of a coal gasification plant proposed for Rockport, Indiana to the Utility Regulatory Commission in a clear effort to influence the decision of his appointees.

7. The Governor has failed to respond to the public record disclosure request in ANY substantive way DESPITE A LEGAL MANDATE TO DO SO. There was only a PRO FORMA acknowledgement that the request was received.

In light of these actions and statements, the conclusion to be drawn is that there is a high correlation between the interests of the coal and utility industries and the Daniels Administration's energy policy.