

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In The Matter of the Application of Aquila,)	
Inc. for Permission and Approval and a)	
Certificate of)	
Public Convenience and Necessity)	
Authorizing it to Acquire, Construct,)	Case No. EA – 2006 - 0309
Install, Own, Operate, Maintain, and)	
otherwise Control and Manage Electrical)	
Production and Related Facilities in)	
Unincorporated Areas of Cass County,)	
Missouri Near the Town of Peculiar.)	
)	

**NEARBY RESIDENTS' PROPOSED REPORT AND ORDER INCLUDING
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

COMES NOW Frank Dillon, Kimberly Miller and James E. Doll (hereinafter collectively as "Nearby Residents"), and hereby submits its concurrence in "Cass County's Proposed Report and Order including Findings of Fact and Conclusions of Law" with one exception.

It is the preference of the Nearby Residents that the Commission adopt Cass County's Alternative One for its Report and Order in this matter. However, and without waiving any of their legal positions previously taken in this case, the Nearby Resident's also concur in the alternatively proposed Cass County Report

and Order “Alternative Two”, except with regard to proposed condition (h), for which the Nearby Residents propose the following substitute language:

- h. Aquila shall place in escrow cash in the amount of \$15 Million which sum can be drawn upon by any aggrieved person or entity toward satisfaction of a final non-appealable judgment against Aquila relating to personal or property damages occasioned by the Plant and/or Substation to any person or entity located near these facilities, with the proviso that the posting of said sum will not control or limit the civil rights of any person or entity, the amount of any judgment that may be secured, or the sources for seeking satisfaction of any judgment. This condition shall remain in force for five years or until the fund is drawn down by valid judgments against Aquila.**

Although the Commission does not have the statutory authority to administer such a fund itself or to issue damages like a court of law, this requirement to create and set aside such a fund is entirely reasonable given Aquila's past actions and its current financial situation. Such a fund will provide assurance to local property owners that valid civil court actions against Aquila would have some source of funds available for recovery through a tribunal of

appropriate jurisdiction.

Respectfully submitted,

/s/ John B. Coffman

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to the following counsel on this 15th day of May, 2006:

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