

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

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

**PREHEARING BRIEF OF  
SOUTHWEST POWER POOL, INC.**

Comes Now Southwest Power Pool, Inc. ("SPP") and files its Prehearing Brief:

At the hearing in this case, SPP will submit the testimony of Mr. P. Jay Caspary. This testimony will help to demonstrate to the Commission that the facilities, namely the South Harper power plant and the associated transmission facilities, and related service promotes the public interest.

This case is before the Commission under Section 393.170.1, RSMo. Section 393.170.3, RSMo, sets forth the standard by which the Commission must make its judgment in this case. "The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service." As Aquila has presented in its List of Issues, the Commission may consider a number of factors in making its determination of whether the exercise of a right is necessary or convenient for the public service, including:

- Whether there is a need for the involved facilities and related service;

- Whether Aquila is qualified to own, operate, control and manage the involved facilities and provide the related service;
- Whether Aquila has the financial ability for this undertaking;
- Whether Aquila's proposal is economically feasible; and
- Whether the involved facilities and related service promotes the public interest.

(State ex rel. Intercon Gas, Inc. v. Public Service Commission of Missouri, 848 S.W.2d 593, 597-598 (Mo. App. W.D. 1993)). More generally, it can be said that, "it is within the discretion of the Public Service Commission to determine when the evidence indicates the public interest would be served in the award of the certificate." State ex rel. Intercon Gas, Inc. v. Public Serv. Comm'n. 848 S.W.2d 593, 597-598 (Mo.App. W.D. 1993).

SPP's testimony is very limited in that it relates to whether the transmission facilities (and the generating plant, to the extent it supports the transmission system) promote the public interest of the state in facilitating a reliable transmission grid. Much has already been written in this case regarding the relative import of local land use concerns. SPP recognizes those concerns and does not intend to dispute them in this case. However, the Commission is aware and the record should reflect its cognizance of the regional and national concerns involved with the siting and use of the regional transmission system. Mr. Caspary's testimony addresses these matters.

Mr. Caspary's testimony generally describes for the Commission the policies of the Federal Energy Regulatory Commission ("FERC") Order No. 2000,<sup>1</sup> regarding the

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<sup>1</sup> *Regional Transmission Organizations Order No. 2000*, III FERC Stats & Regs., Regs. Preambles ¶ 31,089 (1999), order on reh'g, *Order No. 2000-A*, III FERC Stats. & Regs., Regs. Preambles ¶ 31,092 (2000).

benefits of a regional transmission perspective, including congestion management, parallel path flows, system planning and expansion, interregional coordination, etc. (pgs. 7, 8)

Mr. Caspary's testimony does strongly support the conclusion that maintaining these or equivalent transmission facilities is in the public interest. Mr. Caspary's testimony shows that Aquila is a member of SPP. (p. 3, lines 6, 7.) Of particular significance in this case is that SPP, as a Regional Transmission Organization ("RTO"), has developed a regional transmission planning process which benefits Missouri and the region by providing a coordinated, regional transmission plan. (p. 9, line 16 – p. 10, line 8) As Mr. Caspary's testimony points out, the South Harper generating facilities and associated transmission facilities have been incorporated into SPP's Expansion Plan. (p. 10, lines 9-18.) Those facilities will:

- Provide the local loads with greater access to generation resources in the region. (p. 11, lines 2-4)
  - Improve the reliability of the bulk power transmission system. (p. 11, line 10)
  - Improve overall efficiency and economics of transmission operations. (p. 11, line 11)
  - Provide reactive (or voltage) support to the local loads and the overall system. (p. 12, lines 1-3)
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And these benefits have already been realized in that service has already been secured across these facilities. Removing them now may subject the system to potential mitigation plans. (p. 12, line 21 – p. 13, line 2)

Respectfully submitted,

/s/ **David C. Linton**

David C. Linton                      MoBar 32198  
David C. Linton, L.L.C.  
424 Summer Top Lane  
Fenton, Missouri 63026  
(636) 349-9028  
djlinton@earthlink.net

Attorney for Southwest Power Pool, Inc.

Dated: April 20, 2006

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the above was e-mailed, on the **20th** day of April, 2006, to the following:

General Counsel Office  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P. O. Box 360  
Jefferson City, MO 65102  
573-751-1248  
[GenCounsel@psc.mo.gov](mailto:GenCounsel@psc.mo.gov)

James C. Swearengen  
BRYDON, SWEARENGEN &  
ENGLAND, P.C.

Lewis Mills  
Office of the Public Counsel  
P.O. Box 2230  
Jefferson City, MO 65102  
lewis.mills@ded.mo.gov

Lera Shemwell  
Missouri Public Service Commission  
200 Madison Street, Suite 800

312 E. Capitol Avenue  
P. O. Box 456  
Jefferson City, MO 65102  
(573) 635-7166  
[LRackers@brydonlaw.com](mailto:LRackers@brydonlaw.com)

Mark W. Comley  
Cass County Commission  
601 Monroe Street  
Suite 301  
Jefferson City, MO 65102  
Phone: 573-634-4226  
[comleym@ncrpc.com](mailto:comleym@ncrpc.com)

Stuart W. Conrad, Esq.  
Finnegan, Conrad & Peterson, L.C.  
1209 Penntower Office Center  
3100 Broadway  
Kansas City, Missouri 64111  
Phone: 816-753-1122  
[stucon@fcplaw.com](mailto:stucon@fcplaw.com)

E. Sid Douglas  
Gilmore & Bell  
2405 Grand Blvd., Suite 1100  
Kansas City, MO 64108  
[sdouglas@gilmorebell.com](mailto:sdouglas@gilmorebell.com)

Elivin S. Douglas, Jr.  
117 South Lexington – P.O. Box 280  
Harrisonville, MO 64701  
[edouglas@cSDLaw.net](mailto:edouglas@cSDLaw.net)

P.O. Box 360  
Jefferson City, MO 65102  
[Lera.Shemwell@psc.mo.gov](mailto:Lera.Shemwell@psc.mo.gov)

Gerard Eftink  
STOPAQUILA.ORG  
704 West Foxwood Drive  
P. O. Box 1280  
Raymore, MO 64083  
Phone: 816-322-2800  
[geftink@comcast.net](mailto:geftink@comcast.net)

John B. Coffman  
Attorney at Law  
871 Tuxedo Blvd.  
St. Louis, MO 63119-2044  
Ph: (573) 424-6779  
E-mail: [john@johncoffman.net](mailto:john@johncoffman.net)

Matthew Uhrig  
Lake Law Firm  
3401 Truman Blvd.  
Jefferson City, MO 65109  
Ph: (573) 761-4795  
E-mail: [muhrig\\_lakelaw@earthlink.net](mailto:muhrig_lakelaw@earthlink.net)

**/s/ David C. Linton**  
David C. Linton