

**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, Install, Own, Operate, Maintain, and otherwise Control and Manage Electrical Transmission Substation And Related Facilities in Benton County, Missouri (Near the City Of Cole Camp).)))))) Case No. EA-2007-0245)))))
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APPLICATION FOR REHEARING

COMES NOW Aquila, Inc. (“Aquila” or the “Company”), by and through counsel, pursuant to RSMo. § 386.500, 4 CSR 240-2.080, and 4 CSR 240-2.160, and for its Application for Rehearing to the Public Service Commission of the State of Missouri (the “Commission”), with regard to its Report and Order issued in the above-captioned case on August 28, 2007, to be effective September 7, 2007 (the “Order”), respectfully states as follows:

1. On December 28, 2006, Aquila filed with the Commission an application for site-specific permission and approval, and a certificate of public convenience and necessity authorizing Aquila to acquire, construct, install, own, operate, maintain, and otherwise control and manage an electrical transmission substation and related facilities located within Benton County, Missouri near the City of Cole Camp, Missouri (the “Cole Camp Substation”) (the “Application”). The Application was docketed as Case No. EA-2007-0245.

2. The Application, among other things, described the tract of land on which the Cole Camp Substation would be situated, outlined the site plan and facility specifications, and stated the purpose of the substation.

3. On August 28, 2007, the Commission dismissed the Application finding that under a previous report and order issued by the Commission on January 18, 1938, Case No. 9470 (the “9470 Certificate”), Aquila’s predecessor in interest had been provided the appropriate authority and permission to construct transmission lines and distribution systems, which included constructing, maintaining, and operating electric substations in counties within its service territory, including Benton County, and therefore, Aquila did not need specific authority or permission to construct, maintain, and operate the Cole Camp Substation.

4. The *Order* is unlawful, unjust, unreasonable, and is unsupported by competent and substantial evidence upon the whole record, all in material matters of fact and law, individually or cumulatively, or both, as stated more fully herein.

5. The Missouri Court of Appeals--Western District recently opined in *StopAquila.org v. Aquila, Inc.*, 180 S.W.3d 24 (Mo. App. W.D. 2005), that Aquila did not have the authority under its 9470 Certificate to lawfully construct and operate an electric plant, including an electrical transmission substation, in Cass County, Missouri, without first obtaining from the Commission a certificate of convenience and necessity pursuant to § 393.170.1 RSMo., that specifically authorized Aquila to construct, maintain, and operate that particular substation at that particular location.

6. Aquila, therefore, asserts that it cannot lawfully construct, maintain or operate transmission substations, including the Cole Camp Substation and all

associated fixtures, buildings, transformers, breakers, lines, systems, and other equipment and all other facilities to be constructed in conjunction with the Cole Camp Substation project on the tract of land more fully described in the Application, within the geographic area encompassed by the 9470 Certificate except pursuant to a contemporaneously-issued certificate of convenience and necessity granted by the Commission expressly and specifically authorizing Aquila to do so.

7. The Order fails to take into account the holding in the *StopAquila.org* case. In fact, the Order makes no mention of it and, consequently, fails to take into account the implications of the court's decision as it may be applicable to the facts concerning the Cole Camp Substation.

8. For the reasons stated above, the Order is unlawful, unjust, unreasonable, and is unsupported by competent and substantial evidence upon the whole record, all in material matters of fact and law.

WHEREFORE, Aquila, Inc. respectfully requests that the Missouri Public Service Commission rehear this matter and, upon rehearing, reconsider, set aside and abrogate its August 28, 2007 Report and Order, and issue a new report and order consistent with the evidence and applicable law as more fully set forth above in this pleading.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by electronic mail, on this 6th day of September, 2007 to the following:

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