

1 STATE OF MISSOURI

2 PUBLIC SERVICE COMMISSION

3
4 TRANSCRIPT OF PROCEEDINGS

5 Public Hearing

6
7 March 20, 2006

8 Harrisonville, Missouri

9 Volume 1

10
11 In the matter of the Application)
12 of Aquila, Inc., for permission)
13 and Approval and a Certificate)
14 of Public Convenience and)CASE NUMBER
15 Necessity Authorizing it to)EA-2006-0309
16 Acquire, Construct, Install,)
17 Own, Operate, Maintain, and)
18 otherwise Control and Manage)
19 Electrical Production and)
20 Related Facilities in)
21 Unincorporated Areas of Cass)
22 County, Missouri near the town)
23 of Peculiar.)

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1 A-P-P-E-A-R-A-N-C-E-S

2 For Cass County: MR. MARK W. COMLEY

3 Newman, Comley & Ruth

4 601 Monroe, Suite 301

5 Jefferson City, MO 65102

6 and

7 MS. DEBRA L. MOORE-SETTLE

8 Cass County Counselor

9 102 E. Wall

10 Harrisonville, MO 64701

11 and

12 MS. CINDY REAMS-MARTIN

13 Cass County

14 408 SE Douglas

15 Lee's Summit, MO 64086

16

17 For Cass County MR. GARY MALLORY

18 Commission: 519 Limit Way

19 Belton, Missouri 64012

20

21 For Stopaquila: MR. GERALD D. EFTINK

22 VanHooser, Olsen & Eftink

23 704 W Foxwood Drive

24 Raymore, MO 64083

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A P P E A R A N C E S Continued

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For Aquila: MR. JAMES C. SWEARENGEN
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312 E. Capitol Avenue
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and
MS. JANET E. WHEELER
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Jefferson City, MO 65109

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 A P P E A R A N C E S Continued

2

3 For Sedalia MR. DAVID WOODSMALL

4 Industrial 5817 N. Hardesty

5 Energy Users: Kansas City, MO 64119

6

7 For the office of MR. LEWIS R. MILLS, JR.

8 Public Counsel: Office of Public Counsel

9 200 Madison Street

10 Jefferson City, MO 65102

11

12 For the Staff of MS. LERA SHEMWELL

13 the PSC: MO. Public Service

14 Commission

15 200 Madison Street

16 Jefferson City, MO 65102

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1 P R O C E E D I N G S

2 (Hearing commenced at 12:10 p.m.)

3

4 JUDGE PRIDGIN: We are on the
5 record. Good afternoon, the Missouri Public
6 Service Commission has set this time for a
7 local public hearing in case number
8 EA-2006-0309 in which Aquila, Incorporated,
9 seeks Commission approval for its South
10 Harper plant.

11 The Missouri Public Service regulates
12 the rates charged by investor owned utility
13 companies in Missouri to ensure that those
14 rates are just and reasonable. The
15 Commission also regulates the quality of
16 service and safety of the operations of
17 investor owned utilities.

18 The Commission is made up of five
19 commissioners, four of whom are here today.
20 They are appointed by the Governor to fixed
21 terms and confirmed by the Senate.

22 The Commissioners employ a staff of
23 engineers, accountants, attorneys, financial
24 analysts and other specialists in the field
25 of utility regulation.

1 I'm Ron Pridgin, I'm a regulatory law
2 judge for the Missouri Public Service
3 Commission and I will preside over today's
4 hearing. With me today are commissioners
5 going from my left, the chairman of the
6 Commission, Jeff Davis, Commissioner Robert
7 Clayton, Commissioner Steve Gaw and
8 Commissioner Lin Appling.

9 This is an official hearing of the
10 Missouri Public Service Commission and the
11 statements and testimony of witnesses will be
12 recorded by the court reporter and must be
13 given under oath.

14 All of the commissioners will have the
15 chance to read all of your remarks.

16 In addition to this hearing there is a
17 local public hearing set for this evening at
18 six o'clock in the same courtroom and also a
19 trial type hearing is scheduled for April
20 26th through 28th and May 1st through 5th
21 starting at eight thirty in the morning at
22 the commission's offices at the Governor
23 office building in Jefferson City, Missouri.
24 At that hearing the parties will present
25 their cases for and against the application.

1 The purpose of the hearing today is to
2 hear from you, the company will not present
3 witnesses and will not answer questions.
4 This is your chance to testify. Your remarks
5 will become a part of the official record of
6 this case.

7 I will call the name of each witness who
8 has signed up to speak, when I call your name
9 please come forward to the lectern and please
10 spell your name for the court reporter so he
11 can put it in the record correctly.

12 I will ask you a few preliminary
13 questions such as your name and your address
14 and you can then make your statements. There
15 then may be questions from the Commissioners
16 or perhaps from me, but please do not leave
17 the witness area until you are excused.

18 To get as many of you on the record as
19 possible I will ask that you be brief,
20 because of the number of witnesses that we
21 have I will probably remind you once I
22 believe your time has run, because we have
23 about two dozen witnesses and we've scheduled
24 about three hours that would allot roughly
25 five to seven minutes per witness. I will

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1 not shut you down, but I will simply gently
2 remind you that the time has run and ask you
3 to wind down your remarks.

4 If a previous speaker has already made a
5 point that you wanted to make you may simply
6 state that you agree with what somebody else
7 said. If there is someone who wishes to
8 testify, but for religious reasons cannot
9 take an oath, please let me know and I will
10 ask that you affirm your testimony.

11 Does anyone have any questions about the
12 procedure?

13 (No response.)

14 All right. This is the local public
15 hearing in case number EA-2006-0309. Are
16 there any counsel here to make entries of
17 appearance, please, beginning with staff?

18 MS. SHEMWELL: Lera Shemwell
19 representing the Staff of the Missouri Public
20 Service Commission, Post Office Box 360,
21 Jefferson City, Missouri 65102. Thank you.

22 JUDGE PRIDGIN: Miss Shemwell,
23 thank you. On behalf of Aquila,
24 Incorporated, please.

25 MR. SWEARENGEN: James C.

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1 Swearengen and Janet Wheeler, Brydon,
2 Swearengen & England, 312 East Capitol
3 Avenue, Jefferson City, Missouri appearing on
4 behalf Aquila, Inc. And with the Commission's
5 permission, we have several representatives
6 of the company here, I'd just ask them to
7 stand and identify themselves.

8 JUDGE PRIDGIN: All right, Mr.
9 Swearengen, thank you.

10 MR. GREEN: Rick Green, CEO of
11 the company.

12 MR. STAMM: Keith Stamm, Chief
13 Operating Officer.

14 MS. DUNN: Norma Dunn, Senior
15 Vice-president of Communications.

16 JUDGE PRIDGIN: All right, thank
17 you very much.

18 Counsel on behalf of the Office of
19 Public Counsel, please.

20 MR. MILLS: On behalf of the
21 Office of the Public Counsel my name is Lewis
22 Mills, my address is Post Office Box 2230,
23 Jefferson City, Missouri 65102.

24 JUDGE PRIDGIN: Mr. Mills, thank
25 you. On behalf of Stopaquila.org, please.

1 MR. EFTINK: Gerry Eftink. The
2 address is 704 West Foxwood Drive, Raymore,
3 Missouri 64083.

4 JUDGE PRIDGIN: Mr. Eftink,
5 thank you. On behalf of Cass county, please.

6 MR. COMLEY: Thank you, Judge.
7 Let the record reflect the entry of Mark W.
8 Comley of Newman, Comley & Ruth, Post Office
9 Box 537, Jefferson City, Missouri 65102. Also
10 let me introduce the Commission to Miss Cindy
11 Reams Martin and Miss Debra Moore-Settle who
12 will give you their business address.

13 JUDGE PRIDGIN: Mr. Comley,
14 thank you. Any other counsel wishing to
15 enter an appearance?

16 MR. COMLEY: You want them to
17 give business addresses?

18 JUDGE PRIDGIN: You bet.

19 MR. COMLEY: It's free
20 advertising.

21 JUDGE PRIDGIN: Free advertising.

22 MS. MARTIN: Thank you, Mark.
23 Cindy Reams Martin representing the county of
24 Cass, my address is 408 southeast Douglas,
25 Lee's Summit, Missouri 64086. Debbie

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1 Moore-Settle, County Counselor for Cass
2 county, Missouri, address 102 East Wall,
3 Harrisonville, Missouri 64701.

4 And if it pleases the Commission there's
5 a representative of Cass county that I would
6 like to introduce himself.

7 MR. MALLORY: Gary Mallory,
8 Presiding Commissioner of Cass County. I
9 live at 519 Limit Way in Belton, Missouri.

10 JUDGE PRIDGIN: Thank you very
11 much. Any other counsel wishing to enter an
12 appearance?

13 MR. WOODSMALL: David Woodsmall
14 on behalf of the Sedalia Industrial Energy
15 Users Association of the firm of Finnegan,
16 Conrad and Peterson, 3100 Broadway, Kansas
17 City, Missouri 64111.

18 JUDGE PRIDGIN: Mr. Woodsmall,
19 thank you. Any other counsel?

20 MR. COFFMAN: My name is John B.
21 Coffman entering an appearance on behalf of
22 the nearby residents of Frank Dillon,
23 Kimberly Miller and James Dall. My address
24 is 871 Tuxedo Boulevard, St. Louis, Missouri
25 63119. My co-counsel in this case is also

1 here, Matt Uhrig of the Lake Law Firm.

2 MR. UHRIG: Good afternoon. Matt
3 Uhrig of the Lake Law Firm, my address is
4 3401 West Truman Boulevard, Jefferson City,
5 Missouri with 65109.

6 JUDGE PRIDGIN: Mr. Coffman and
7 Mr. Uhrig, thank you. Any other counsel?

8 All right, let's then proceed to the
9 first witness. I apologize I'm not sure I
10 read this name correctly. I believe the
11 first name is Emmett if I'm reading it
12 correctly, and I'm not sure about the last
13 name.

14 MR. SMITH: Smith.

15 JUDGE PRIDGIN: Smith. I'm
16 terribly sorry. Please come forward and be
17 sworn.

18 MR. SMITH: And I didn't play
19 for Dallas.

20 MR. COFFMAN: Your Honor.

21 JUDGE PRIDGIN: Sir.

22 MR. COFFMAN: John Coffman. I
23 notice that there are two large exhibits or
24 placards here and I did not recognize it
25 before, and I don't think any foundation has

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1 been laid, perhaps they could be introduced
2 for the record, but I thought I might raise a
3 question about it first in case someone
4 refers to it or points to it thought it ought
5 to be clear in the record what they are. I'd
6 like to, perhaps, since I've not seen them
7 preserve the right to cross-examine on those
8 before they're entered into the record,
9 perhaps at the evidentiary hearing, I thought
10 maybe for the record, the record's sake maybe
11 they could be identified and perhaps entered
12 into and offered into this record.

13 JUDGE PRIDGIN: Mr. Coffman,
14 thank you. If somebody wants to refer to
15 that I will certainly, you know, count on you
16 or any other counsel to alert me as to any
17 type of potential objection if somebody is
18 going to refer to the photograph here, have
19 them lay a foundation.

20 Anything further?

21 (No response.)

22 JUDGE PRIDGIN: All right, Mr.
23 Smith if you would come forward and be sworn,
24 sir.

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1 EMMETT SMITH

2 a witness herein, being first duly sworn by
3 the Judge, testified on his oath as follows:

4

5 JUDGE PRIDGIN: Thank you very
6 much, sir. If you would please state your
7 name for the record and spell your last name.

8 MR. SMITH: Emmett Smith,
9 E-m-m-e-t-t, Smith, S-m-i-t-h.

10 Like I said, I don't play for Dallas
11 play for the Cardinals. Didn't even get on
12 the commercial.

13 JUDGE PRIDGIN: Mr. Smith, could
14 you give your address, please.

15 MR. SMITH: 21503 Y Highway,
16 Belton, Missouri 64012.

17 JUDGE PRIDGIN: Are you a
18 customer of Aquila?

19 MR. SMITH: I am, Kansas City
20 Power and Light.

21 JUDGE PRIDGIN: Any statement you
22 have for the Commission, sir?

23 MR. SMITH: Yes. The statement,
24 I'm a business owner my wife and I in Cass
25 county. We own an RV park in Peculiar,

1 Missouri.

2 I think I can stand for just about quite
3 a few business people that didn't make it up
4 here to the fact that they don't want to hurt
5 their business to speak out for Aquila, but
6 any business we like to see growth. We can't
7 have growth without a power plant. We need
8 the power, everybody knows that. Right now.

9 It was an article in the paper, the
10 Kansas City Star three or four days ago Cass
11 county is the fastest growing county in the
12 Kansas City area if not the State of Missouri
13 at 14 percent in the last five years and it's
14 growing faster.

15 And my comments are, if there was any
16 city or county had a 140 million dollar
17 business come to town they would give them
18 every tax incentive they could to get them
19 here and they're trying to run these people
20 out of county. I don't understand it. We
21 need the plant.

22 I could go into detail how it all
23 started, you guys know where it came from and
24 how it got there, I don't need to waste your
25 time on that.

1 There is a lot of people in this county
2 that's behind this plant. You're going to
3 hear all afternoon a handful of people that's
4 against the plant. I can feel for them and
5 whole nine yards but it's the only place to
6 have the plant. They built it right next to
7 a gas pumping station, which people went out
8 and built their houses by the pumping station
9 that didn't seem to bother them there doing
10 that.

11 Aquila comes out, I don't know what
12 people would expect to go around this gas
13 pumping station other than a power plant or
14 industrial or anything like this. It's
15 there. They built their homes there. I think
16 people have to get their minds what they're
17 doing when they build, where they are
18 building and what can happen down the line.

19 This is progress. This is what happens,
20 it affects a few people and it's going to
21 affect many people, but it is a very -- we
22 need this in Cass county now, that's all
23 there is to it. It's time.

24 I think common sense has to start
25 prevailing now. I think what is the law,

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1 who's right, who's wrong, we've got to put
2 that aside. We've got to put these attorneys
3 at rest pardon my expression, but it's got to
4 get into a little common sense. I'm not
5 going waste your time any longer, but we do
6 need a plant.

7 JUDGE PRIDGIN: Mr. Smith, thank
8 you. If that concludes your remarks let me
9 see if we have any questions from
10 commissioners.

11 Mr. Chairman.

12 CHAIRMAN DAVIS: No questions.

13 JUDGE PRIDGIN: All right, thank
14 you. Commissioner Gaw.

15 COMMISSIONER GAW: No questions.

16 JUDGE PRIDGIN: Commissioner
17 Clayton.

18 COMMISSIONER CLAYTON: Just a
19 few questions.

20 Mr. Smith, you're resident of Belton,
21 Missouri; is that correct?

22 THE WITNESS: Yes.

23
24 Q (BY COMMISSIONER CLAYTON:) Your business is
25 in Peculiar or outside of Peculiar?

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1 A In Peculiar, City of Peculiar.

2 Q And how close in proximity is it to the power
3 plant?

4 A I'm going to refer to this map one attorney
5 thought ought to be on the record, but if
6 that's the City of -- 71 Highway, doesn't
7 really show there, we couldn't be probably
8 four miles from the plant by the way the crow
9 flies.

10 Q Can you see it from your --

11 A No, can't see it off that map.

12 Q Okay. Now, I mean, can you see the power
13 plant from where you are?

14 A No.

15 Q You cannot?

16 A Absolutely not.

17

18 JUDGE PRIDGIN: Mr. Clayton,
19 thank you. Commissioner Appling.

20

21 Q (BY COMMISSIONER APPLING:) Mr. Smith, how
22 long have you run a business in Peculiar?

23 A Six years. We're starting our sixth year.

24 Q Where did you come to from -- where did you
25 come to from -- where were you at before you

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1 came to Peculiar?

2 A I was raised in south end of Kansas City.
3 Started the first grade, graduated from
4 Center school districts. My wife has been in
5 Peculiar for 43 years on Y Highway at this
6 address. The address I gave you, she's been
7 there for 44 years.

8 Q Okay. Thank you very much.

9

10 JUDGE PRIDGIN: Mr. Smith, thank
11 you for your comments and your time.

12 The next witness I have is Allan Dancy.
13 Mr. Dancy, would you come forward, please.

14 Mr. Mills.

15 MR. MILLS: In the event that we
16 have questions for these witnesses will we be
17 allowed to ask them?

18 JUDGE PRIDGIN: Just because of
19 the amount of witnesses I would prefer not.
20 I mean, I can allow perhaps a few clarifying
21 questions, but I'm afraid with this many
22 attorneys if we start having cross and
23 recross. Did you have a question for Mr.
24 Smith?

25 MR. MILLS: I didn't, but you

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1 didn't offer the opportunity so I wondered if
2 I did have questions for some of the other
3 witnesses I'd have the chance.

4 JUDGE PRIDGIN: Please jump in
5 if you have questions.

6 MR. MILLS: Thank you.

7 JUDGE PRIDGIN: Mr. Dancy, if
8 you would raise your right hand and be sworn,
9 please.

10

11 ALLAN DANCY
12 a witness herein, being first duly sworn by
13 the Judge, testified on his oath as follows:

14

15 JUDGE PRIDGIN: Thank you very
16 much, sir. If you would, please state your
17 name for the record and spell your last name.

18 THE WITNESS: My name is Allan
19 Dancy. That's A-l-l-a-n D-a-n-c-y.

20 JUDGE PRIDGIN: And your address,
21 please, sir?

22 THE WITNESS: 5149 Southwest
23 Raintree Parkway, Lee's Summit, Missouri
24 64082.

25 JUDGE PRIDGIN: And are you a

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1 customer of Aquila?

2 THE WITNESS: Yes, I am.

3 JUDGE PRIDGIN: All right. Do you
4 have a statement for the Commission, sir?

5 THE WITNESS: Yes, I do. Thank
6 you for allowing me to speak in support of
7 Aquila and the decision to build the South
8 Harper combustion turbine installation. I've
9 retired after over 40 years of service in
10 Aquila's power generation group. The
11 perspective I bring today is based upon my
12 direct experience and that of other retired
13 Aquila employees who are residents of Cass
14 county.

15 I'd like to make three specific points
16 today; why we need to build South Harper in
17 the first place, why we located at South
18 Harper and why it needs to stay right where
19 it is.

20 Point number one, why did we need to
21 build it. Electricity provided to our
22 customers comes from two sources either we
23 generate it ourselves or we buy it from other
24 utilities and run it across the high voltage
25 transmission lines.

1 In the spring and fall and most of the
2 winter economics plays the greatest role in
3 which source we use. If we can buy power for
4 less than we can produce it, we keep our cost
5 and rates down.

6 The summer months are altogether
7 different, usage increases all over the
8 country and many utilities no longer have
9 excess power for sale because their own
10 customers use it. The high voltage
11 transmission lines are loaded down and even
12 if the far away plant has excess power we
13 can't ship it in. If we're lucky and can get
14 power in we're entirely at the mercy of
15 conditions at the moment. The power can be
16 shut down instantaneously, and we have to
17 scramble to replace it. Economics are no
18 longer a major factor. We must keep the
19 lights on.

20 This is where combustion turbine
21 installations fill a vital role. They're
22 designed to start and come within minutes, be
23 kept on line as long as needed and then shut
24 back down.

25 Aquila has eight other combustion

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1 turbines and the newest one was built in
2 1981. On days when the thermometer climbs up
3 past 90 degrees these generators are
4 straining at the seams. Machine temperatures
5 and pressures are pushed to their design
6 limits. If a problem develops it has to be
7 corrected immediately even if it takes all
8 night long because tomorrow is going to be
9 more of the same.

10 The situation is similar to owning an
11 old car, you can overhaul an engine and the
12 transmission goes bad. You fix the
13 transmission and the radiator springs a leak.
14 At some point in time you realize that you
15 have to have transportation and it's time for
16 a new car.

17 This is where we were about two years
18 ago with combustion turbines. Newer
19 generation was desperately needed inside the
20 metro loop in order to maintain vital service
21 to our customers. These are facts, and I
22 don't think anyone disputes it.

23 Point number two, why did we pick South
24 Harper? Let me share some of the criteria
25 that is used to determine the location of a

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1 peaking power plant. It needs to be near the
2 customer base. It needs to be close to a
3 fuel source. It needs to be close to the
4 high voltage transmission system. You need
5 to have an environmental study to ascertain
6 the problems concerning air and water
7 pollution and proximity to residences.

8 These are all tangible hard rock facts
9 that can be gathered. Aquila employs
10 consultants to help identify sites such as
11 South Harper and the previously debated site
12 off Highway 7 north of Harrisonville.

13 Shortly after we began our search we
14 were contacted by officials from the City of
15 Peculiar who suggested a site near their city
16 for consideration. After we investigated it,
17 it was deemed that not only did this land
18 have the hard rock facts that were necessary
19 we thought that we were welcome.

20 We bought the property. We began making
21 plans to build and invited the local
22 residents, our state representative and
23 officials from the City of Peculiar to
24 Greenwood energy center where we had a
25 peaking turbine site so that they could see

1 it, hear it, smell it.

2 We ran the turbines, toured the ground
3 with them. We had a Q and A session so we
4 could answer their questions and disseminate
5 as much information as possible. There were
6 a few sharp questions there and a few people
7 who voiced outright dissent, but overall
8 those present seemed to have a favorable
9 impression. One of them said that he went
10 out and interviewed some of the neighbors
11 around us and one of those people said, we
12 love those guys.

13 On that note we proceeded. Not out of
14 arrogance or mean spirit, but from a
15 desperate need for a new generation. Time
16 was of the essence if we were to have the
17 units on line in the summer of 2005.

18 Our attorneys assured us we had legal
19 authority granted by an old certificate of
20 deed. Later it was decided by a court of
21 appeals that we didn't. But we knew for
22 certain then and we know for certain now that
23 we needed generation capacity.

24 Point Number 3. Why this plant needs to
25 stay right where it is. These are some other

1 hard rock facts that we found out through
2 experience. People live everywhere. Where
3 there used to be forest, farmland, now there
4 are five and ten acre tracts and residential
5 developments. All of these people want and
6 need electricity, but many of them do not
7 want a power plant, high voltage transmission
8 lines or a gas pipeline anywhere near their
9 property. On the other hand the electric
10 utilities are legally and ethically obligated
11 to furnish reliable service to the public and
12 do to it at a reasonable cost, which is
13 regulated by the state.

14 We need new generation capability and
15 South Harper is a solid state of the art
16 installation that is in the right place at
17 the right time. It is a clean, safe, well
18 maintained facility and will be an asset to
19 the community.

20 We want to be good neighbors and will do
21 everything in our power to be a catalyst for
22 progress in the neighborhood. It would be a
23 travesty to dismantle this fine plant and go
24 through all of this turmoil again in a
25 different location. There would be no gain

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1 for anyone only losers.

2 We ask you, the members of Missouri
3 Public Service Commission, to look at this
4 situation in the context of what is best for
5 the greater good of the whole population not
6 only in the short term but in the years ahead
7 as the population continues to grow and the
8 demand for electricity becomes increasingly
9 greater.

10 This concludes my presentation. I will
11 answer any questions within my area of
12 expertise, and I thank you very much for
13 hearing me.

14 JUDGE PRIDGIN: Mr. Dancy, thank
15 you very much. Any questions from bench?
16 Mr. Chairman.

17 CHAIRMAN DAVIS: Mr. Dancy, are
18 you a paid employee of Aquila?

19 THE WITNESS: I'm a retired
20 employee. I was a paid employee for 40
21 years.

22

23 Q (BY CHAIRMAN DAVIS:) Did you receive any
24 compensation for your appearance or your
25 testimony here today?

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1 A No, sir.

2 Q Were you involved in the siting of this South
3 Harper peaking facility? Were you personally
4 involved in any of that?

5 A No, sir. I was aware of it but I didn't make
6 any decisions concerning the site.

7 Q Is it fair to say that you were reading from
8 a script when you were giving your testimony,
9 that your remarks were type written and
10 prepared?

11 A Yes. I wrote it, I prepared it.

12 Q Did anyone look over it?

13 A No, sir. Yes, sir, I had one person look
14 over it just to double check my facts.

15 Q And who was that person?

16 A Terry Hedrick.

17 Q Who?

18 A Terry Hedrick.

19 Q Who is that?

20 A He's the project manager of South Harper.

21

22 CHAIRMAN DAVIS: No further
23 questions.

24 JUDGE PRIDGIN: Mr. Chairman,
25 thank you. Commissioner Gaw.

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1 COMMISSIONER GAW: Just to
2 follow-up a bit. Mr. Dancy, when did you
3 retire from Aquila?

4 THE WITNESS: October 31st,
5 2005.

6

7 Q (BY COMMISSIONER GAW:) And how long did you
8 work there?

9 A 40 years.

10 Q And what was your position?

11 A Plant manager industrial equipment.

12 Q What does that mean?

13 A That means you run the gas turbines.

14 Q All of them?

15 A All of them.

16 Q And did you have that position for a long
17 period of time?

18 A Since about 1992 I believe, something like
19 that.

20 Q Okay. You made several references in your
21 statement to we, quote unquote we. Who is
22 that when you say that in your statement?

23 A We the people of Aquila.

24 Q So you're still referring to yourself as a
25 part of Aquila when you say we in your

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1 statement?

2 A I'm referring to my past experience with
3 Aquila during my 40 years that I worked
4 there, so I used the word we, I guess I could
5 say I did or something like that but it's
6 easier to say we.

7 Q Okay. That's all right. Did you ever work for
8 any of the unregulated entities that are
9 affiliated with Aquila?

10 A No, sir.

11 Q So you have always been on the regulated
12 side?

13 A Yes, sir.

14 Q Were you involved in the planning of future
15 generation at anytime while you were at
16 Aquila?

17 A Only in an informal way. I was usually the
18 one that was screaming for future generation
19 because I had to generate with what we had.

20 Q So you would not have been involved in making
21 the decisions that were made in regards to
22 what type of generation was built by Aquila?

23 A No, sir. My opinion might have been asked,
24 but I had no authority.

25 COMMISSIONER GAW: That's all I

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1 have, thank you.

2 JUDGE PRIDGIN: Mr. Gaw, thank
3 you. Commissioner Clayton.

4 COMMISSIONER CLAYTON: Just a
5 few questions, Judge.

6

7 Q (BY COMMISSIONER CLAYTON:) Mr. Dancy, you're
8 a resident of Lee's Summit, Missouri; is that
9 correct?

10 A Yes, sir.

11 Q Have you worked at the South Harper facility?

12 A Yes, sir.

13 Q So you had an office there?

14 A Wasn't really much of an office when I was
15 there, it was a trailer we were building it
16 and I retired before we got the service
17 building finished. I walked through the
18 trailer that was used as an office, I didn't
19 have a desk or anything there.

20 Q And you just retired in October of last year?

21 A October 31st of 2005.

22

23 COMMISSIONER CLAYTON: I don't
24 have any other questions, thank you.

25 JUDGE PRIDGIN: Mr. Clayton,

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1 thank you. Mr. Appling.

2 (No response).

3 JUDGE PRIDGIN: Thank you.

4 Questions from counsel? Mr. Eftink. Briefly,
5 please.

6 REPORTER: What was your name
7 again?

8 MR. EFTINK: Gerry Eftink, I
9 represent stopaquila.

10 How many miles is it from your residence
11 to the South Harper facility?

12 THE WITNESS: Approximately I
13 would say fifteen.

14 JUDGE PRIDGIN: Anything else?
15 Miss Martin?

16 MS. MARTIN: Brief point of
17 clarification. You indicated, sir, that you
18 were not involved in the siting of this plant
19 at South Harper; is that correct?

20 THE WITNESS: Right.

21 MS. MARTIN: So any comments that
22 you made in your testimony to this Commission
23 would have been based on information provided
24 to you by others; is that correct?

25 THE WITNESS: Yeah. I'm trying

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1 to clarify it, almost everybody knew we were
2 looking at South Harper, but as far as I
3 saying, okay, we're going to build at South
4 Harper and build there that wasn't
5 particularly my realm of authority.

6 MS. MARTIN: And you weren't
7 within the circle of folks that worked for
8 Aquila who would have been having the
9 communications with the City of Peculiar
10 about this site of location; is that correct?

11 A That wasn't part of my job. I just generate
12 electricity.

13 JUDGE PRIDGIN: Mr. Dancy, thank
14 you. The next witness I have is Leonard
15 Whiting, I don't know if I'm pronouncing that
16 correctly.

17
18 LEONARD WHITING
19 a witness herein, being first duly sworn by
20 the Judge, testified on his oath as follows:

21
22 JUDGE PRIDGIN: Thank you very
23 much, sir. If you would please state your
24 name for the record and spell your last name.

25 THE WITNESS: Leonard

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1 W-h-i-t-i-n-g.

2 JUDGE PRIDGIN: And your
3 address, please.

4 THE WITNESS: 26400 East 200
5 27th Street, Harrisonville, Missouri.

6 JUDGE PRIDGIN: Are you a
7 customer of Aquila?

8 THE WITNESS: Yes, I am.

9 JUDGE PRIDGIN: All right. And
10 do you have a statement for the Commission,
11 sir?

12 THE WITNESS: Yes, I do. If it
13 please the Commission I have some documents
14 for evidence if it's agreeable.

15 JUDGE PRIDGIN: Mr. Whiting, if
16 you have something for the Commission that's
17 fine.

18 THE WITNESS: Can I bring it up?

19 JUDGE PRIDGIN: That's fine.

20 THE WITNESS: (Witness
21 complying.)

22 JUDGE PRIDGIN: If you will
23 identify what you have handed, sir.

24 THE WITNESS: Sure. What I've
25 handed is actually -- towards the rear of

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1 that is the actual testimony that I gave and
2 it's noted as copies at the March, 2005
3 hearing. Behind the cover sheet there's a
4 couple of maps, I had that enlarged from in
5 2005. The first map is actually the close up
6 of scale size of our water district which
7 entails approximately 95 square miles. Then
8 the second map is actually a blow up if you
9 will of the near and around the Aquila
10 facility regarding some of the improvements
11 and fire hydrants that Aquila has installed.

12 MR. COFFMAN: Your Honor.

13 JUDGE PRIDGIN: Yes.

14 MR. COFFMAN: If I could make a
15 note that there's other counsel that have not
16 been handed a copy of this and to the extent
17 that this is at least marked as an exhibit I
18 would ask that other counsel be given the
19 opportunity to cross-examine based on it
20 perhaps at the evidentiary hearing later
21 before it would actually be made part of the
22 record.

23 JUDGE PRIDGIN: Certainly. I
24 mean I'll label this as Exhibit Number 1 for
25 identification purposes, and obviously

1 counsel is free to look at it.

2

3 (A certain document was marked Exhibit
4 Number 1 for identification by the
5 Judge.)

6

7 MR. MILLS: If this witness is
8 testifying on his own behalf that's fine. If
9 he's purporting to testify on behalf of the
10 water district can we inquire as to his
11 qualifications to testify on behalf of the
12 water district?

13 JUDGE PRIDGIN: I'm going to let
14 Mr. Whiting simply give his statement. If we
15 start letting this go into more of an
16 evidentiary hearing with cross-examination I
17 mean, I'm afraid this will have no end. You
18 can certainly make -- if you want to ask him
19 brief questions after his statement about his
20 qualifications or whatever I will let you do
21 that.

22 MR. MILLS: I think he's trying
23 to testify on behalf of the water district
24 and I'm not sure he's qualified to testify as
25 a representative of the water district. I'd

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1 like to voir dire before he begins if I may.

2 JUDGE PRIDGIN: I'm going to let
3 him tell me what he wants to tell me, and
4 you're free to point out any type of
5 weaknesses that you think his testimony has
6 or why the Commission should disregard it. I
7 want to let -- I want this hearing to be for
8 the witnesses and not turn it into counsel
9 just asking questions all the time. I want
10 people to be able to speak. If you have
11 follow-up questions afterwards you may
12 certainly ask. Mr. Whiting.

13 MR. MILLS: Thank you.

14 JUDGE PRIDGIN: Thank you. Mr.
15 Whiting.

16 MR. WHITING: Thank you, Judge.
17 Today as in 2005 I'm testifying as the
18 manager of the Public Water Supply District
19 Number 7.

20 Previously at the 2005 testimony, and I
21 want to reaffirm some of that, we talked
22 about or I testified to the fact that Aquila
23 through a contract had agreed to install
24 approximately 61 hundred feet of six inch
25 main, which was a second north feed loop for

1 us. Since that time they have agreed to
2 install an additional three fire hydrants in
3 and around their facility, which includes a
4 total of 23 fire hydrants.

5 The actual installation and cost through
6 a contract with Aquila began, the actual
7 negotiations on that contract began in about
8 October of 2004. We are still actively
9 engaged in completing that contract. The
10 total cost of that is approximately \$134,000.

11 More to the point and even of more
12 benefit to our system is the possible revenue
13 stream that Aquila brings to us as a
14 business, which benefits not only our bottom
15 line but also benefits each customer and each
16 water -- individual within the boundaries of
17 our district.

18 And basically that does that because in
19 today's day and age everybody in this room
20 understands that the actual cost of expenses
21 of just staying alive, let alone operating a
22 business increases and is increasing almost
23 every minute. So what this does, it actually
24 brings about a stabilization of rates for
25 every customer within our 95 square mile

1 boundary.

2 More important to that and to speak to
3 the second north loop, this loop actually
4 runs along and near some areas that are
5 vacant of water mains at this particular
6 time. And then also not financially being
7 able to construct a loop on our own, this was
8 an opportunity to through negotiations with
9 Aquila to bring about a stabilization for
10 water to their peaking facility which would
11 allow their plant to produce at peak during
12 the requirements that they did need water.

13 What this stabilization does, it allows
14 us to acquire approximately \$100,000 through
15 revenue just with one customer on board.
16 Typically our revenue stream runs about a 2
17 percent increase annually or approximately 25
18 customers, which generates approximately
19 \$18,000 for us annually.

20 So this gives us an approximate 7
21 percent increase across the board stable,
22 basically a five year growth factor when
23 they're on line.

24 In 2005 it was difficult to testify and
25 confirm exactly what those actual dollar

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1 figures might be for the benefit of our
2 district and our customers, but as Aquila ran
3 their peaking facility in the fall of 2005 we
4 were able to reaffirm what we had anticipated
5 and that affirmation brought about the point
6 that it was easily I believe conservatively
7 they were going to generate approximately
8 \$100,00 for us.

9 In closing I'd like to read a statement,
10 please, to confirm my testimony. Cass Number
11 7's relationship with Aquila, their
12 engineers, consultants and their managers as
13 it relates to benefiting Public Water Supply
14 District Number 7 of Cass county, Missouri
15 has been and continues to be professional and
16 true to their commitment.

17 Aquila agreed in the fall of 2004 that
18 they wanted to participate in a significant
19 water main improvement and also encompass a
20 huge hydrant installation program on existing
21 mains and along the new mains, both of these
22 projects were paid for one hundred percent by
23 Aquila.

24 Cass Number 7 supports what Aquila has
25 done and is doing for our water district and

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1 what these benefits bring to our entire
2 customer base through increased revenues
3 whereby through water sales alone to Aquila's
4 peaking facility, Cass Number 7 will realize
5 a seven percent increase in our annual
6 revenue stream.

7 The total agreed investment by Aquila to
8 date is \$133,796. And more importantly yet is
9 the path that these water main improvements
10 are taking. They border huge parcels of land
11 in our district that were void of any water
12 mains or of mains of significant size which
13 now are ripe for developments current and in
14 the future.

15 Public Water Supply District Number 7
16 operating as a crucial public utility within
17 Cass county, Missouri will forever benefit,
18 which in turn will benefit all of our
19 customers current and in the future. For
20 Cass Number 7 to state that we are okay with
21 losing one customer let alone one customer
22 that will generate 7 percent of our annual
23 revenue would truly and surely be a lie.

24 JUDGE PRIDGIN: Mr. Whiting,
25 thank you. Let me see if we have any

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1 questions from the Commission. Mr. Davis.

2

3 Q (BY CHAIRMAN DAVIS:) Mr. Whiting, what is
4 your relationship to Public Water Supply
5 District Number 7?

6 A I'm systems manager of the system.

7 Q You're the systems manager?

8 A Yes, sir.

9 Q You provide water to the South Harper peaking
10 facility; is that correct?

11 A That's correct, yes, sir.

12 Q And Aquila at their own expense is providing
13 for additional upgrades that don't have any
14 relevance to the service of their plant; is
15 that fair to say?

16 A No, that is not correct, sir.

17 Q How does Aquila benefit from installing new
18 mains?

19 A Okay. Originally in approximately September
20 of 2004 through the original negotiations
21 with seeing Segal, Incorporated their
22 engineering group, we were approached and
23 they wanted to know if we could provide water
24 to their facility. Through our engineering
25 studies it was determined that we had

1 adequate water and part of my duty is to
2 provide guidance and counseling to anyone
3 that comes into our system that, along any
4 place within our mains, to advise them of
5 water availability and where water outages
6 might be prevalent.

7 In this particular case we have
8 approximately a three mile stretch that is --
9 has been prone since 1982 if there were any
10 leaks, and as growth has incurred along that
11 three mile line that it could affect about
12 five hundred homes in that particular area.

13 It is not something we liked, it's not
14 something that we wanted to remain that way,
15 but we just financially weren't able to do
16 anything about that.

17 So consequently, when -- Aquila is
18 approximately in the middle of this three
19 mile stretch and I suggested that if they
20 truly needed water to maintain peak capacity
21 for their peaking facility that they needed
22 to be very aware that not necessarily
23 routine, but on occasions when we have breaks
24 in that particular area their system, their
25 peaking facility would be totally out of

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1 water as well as many of our other customers.
2 So this second loop that they chose to
3 provide that comes in from the east, comes up
4 C Highway, comes back along 243rd street and
5 then comes back in and ties in right adjacent
6 to their facility.

7 What that does is that allows us to feed
8 water. Our tower is about two miles north of
9 that. With this loop it allows us to feed
10 water from the north, the south, the east and
11 the west at two different junctions. And
12 also Aquila agreed to put in two line valves
13 adjacent to their facility which would narrow
14 the area down unless it was catastrophic to
15 very short duration.

16

17 CHAIRMAN DAVIS: Thank you, Mr.
18 Whiting. No further questions, Judge.

19 JUDGE PRIDGIN: Thank you, Mr.
20 Chairman. Commissioner Gaw.

21

22 Q (BY COMMISSIONER GAW:) Mr. Whiting, I assume
23 that your board approved you coming here and
24 testifying?

25 A Yes, sir.

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1 Q Was that a unanimous approval?

2 A Yes, it was. Actually in the last sheet --

3 Q That's okay.

4 A We actually did -- the president of the board
5 did actually sign, that is correct.

6

7 COMMISSIONER GAW: Thank you,
8 that's all I have.

9 JUDGE PRIDGIN: Mr. Clayton.

10 MR. CLAYTON: I don't think I
11 have any questions.

12 JUDGE PRIDGIN: Mr. Appling.

13 COMMISSIONER APPLING: No
14 questions.

15 JUDGE PRIDGIN: Follow-up from
16 the counsel.

17 (No response.)

18 JUDGE PRIDGIN: Mr. Whiting,
19 thank you very much.

20 The next witness I have signed up is
21 Vernon Everly.

22 MR. EVERLY: Your Honor, this
23 gentleman needs to go back to work and he
24 asked if I would trade spots with him.

25 JUDGE PRIDGIN: Yes, sir. And

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1 your name, sir?

2 THE WITNESS: Timothy Brodrick.

3 JUDGE PRIDGIN: If you would
4 come forward, please, Mr. Brodrick and be
5 sworn.

6

7 TIMOTHY BRODRICK
8 a witness herein, being first duly sworn by
9 the Judge, testified on his oath as follows:

10

11 JUDGE PRIDGIN: If you would
12 please state your name for the record and
13 spell your last name for the court reporter.

14 THE WITNESS: Tim Brodrick,
15 B-r-o-d-r-i-c-k.

16 JUDGE PRIDGIN: And your
17 address, please, sir.

18 THE WITNESS: 23401 south Knight
19 road Peculiar, Missouri.

20 JUDGE PRIDGIN: Are you a
21 customer of Aquila?

22 THE WITNESS: No.

23 JUDGE PRIDGIN: Do you have a
24 statement for the Commission, sir?

25 THE WITNESS: Yes, sir. We live

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1 about two miles, a mile and a half north of
2 the plant, and I have a real problem with the
3 way that Aquila has gone about shoving this
4 down our throat. I don't understand the
5 relevancy and the Commission's documentation
6 here and the consistent referral to the
7 plant's cost. I don't see its relevance how
8 much they spent on building this plant. It
9 was their decision, they rolled the dice,
10 that is irrelevant. If the plant costs \$2.00
11 I don't care. It's not about the cost of the
12 plant.

13 I know that the Commission knows about
14 the way that the City of Peculiar has acted
15 the way that Aquila has alienated the
16 neighbors of South Harper peaking plant.
17 Basically I could go on and tell you all the
18 things that you already know. I will tell
19 you about my life.

20 In May of 2005 my wife gave birth to
21 three children that were the weight of one
22 pound thirteen ounces, two pounds two ounces
23 and three pounds. They were in St. Luke's
24 Children's Hospital for almost three months
25 constantly with catheters and oxygen, and we

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1 took comfort in the fact when we brought
2 those kids home in July that we were giving
3 them an environment to grow up in that wasn't
4 full of pollutants. Then Aquila came in and
5 didn't even ask, didn't follow the rules,
6 didn't follow the laws.

7 I don't have -- I could argue Mr. Emmett
8 Smith's common sense rule that yes there was
9 a gas plant there, but the land around the
10 gas plant was zoned residential agricultural.
11 Common sense would be that you could build
12 your dream house in that area and not have to
13 worry about a corporation coming in and
14 ruining your dream home.

15 I find the fact that they put in another
16 combustion turbine plant idiotic in my
17 opinion. It is a heavy dependency on natural
18 gases. I think that you'll see pretty much
19 anyone who speaks on behalf of Aquila is in
20 their pocket, even though Mr. Dancy says he's
21 not he has a direct relation, a stake in the
22 company of Aquila and we all know Aquila's
23 financial pearls. The water district
24 again -- anyway we are against this. We
25 don't think it's the right thing. I wish you

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1 would consider my family and my neighbors.

2 That's all I have.

3 JUDGE PRIDGIN: Mr. Brodrick,
4 thank you. Let me see if we have any
5 questions from the Commissioners. Chairman
6 Davis.

7

8 Q (BY CHAIRMAN DAVIS:) So real quick, Mr.
9 Brodrick, thank you for coming today. Tear it
10 down because they didn't follow the law is
11 that what -- to sum up your testimony?

12 A They should be required to follow the same
13 rules and laws that I am required to follow.

14 Q Go through county planning and zoning or city
15 zoning?

16 A Yes, sir.

17 Q Just like everyone else?

18 A If it was going in and it was built according
19 to law I could sleep at night. I can't sleep
20 at night when their turbines are running
21 because it wakes me up. I live over a mile
22 away. I live on a hill, so all their berms
23 and trees that they planted that doesn't help
24 me. They should have to follow the law.
25 They're just a corporation. Because they

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1 have millions and millions of dollars they
2 should have to follow the law.

3 CHAIRMAN DAVIS: Thank you, Mr.
4 Brodrick.

5 JUDGE PRIDGIN: Mr. Chairman,
6 thank you. Commissioner Gaw.

7 COMMISSIONER GAW: Thank you for
8 coming.

9 THE WITNESS: Yes, sir.

10

11 Q (BY COMMISSIONER GAW:) How are your kids?

12 A They're doing fine.

13 Q How old are they?

14 A They're a year almost two.

15 Q Congratulations.

16 A Thank you.

17 Q Can you give me little bit more information
18 on how this -- when the turbine was running,
19 give me a little more information about the
20 noise and other things that you would like to
21 tell us about.

22 A My wife and I have been living in this
23 residency for about five years and we have
24 never heard any sounds like we hear or have
25 heard once the plant started running. I

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1 could -- I can't tell you what the sound is,
2 but logically it makes sense that it's the
3 turbines. We have been sleeping in bed in a
4 dead sleep and we have heard this noise and
5 it's woken us up from sleep. So we hear it.
6 That's not my main concern. My main
7 concerning is the pollutants that are going
8 up, and although they'll tell you they're
9 well within the regulations it's still
10 pollutants that's being pushed into the
11 atmosphere that's falling down on my house,
12 falling down on my kids, that we're
13 breathing. That was not there prior to them
14 selecting the site.

15 They could have selected a site anywhere
16 in Missouri. They could have gone to Richards
17 Gebauer where there is natural gas lines and
18 it's zoned industrial and they could have
19 built there, but it would have been less
20 expensive. Well, maybe not now. In their
21 infinite wisdom they chose to build out in
22 Peculiar in and around where people live.
23 And where people built out there for the
24 reasons other than -- we built out there
25 because we liked to be in the country. We

1 built out there because we liked to be away
2 from the city lights, from the noise, from
3 the pollutants. That's why we built out
4 there, that's why we moved out there.

5 There are plenty of other places where
6 Aquila could build these power plants. They
7 were warned and they were warned and they
8 were told, and they had court rulings against
9 them and they just kept on going. I have
10 no -- I feel absolutely no pity towards
11 Aquila. They have managed this poorly. I
12 mean, I could have done a better job and I
13 know absolutely nothing about -- I mean, they
14 should go back to class and they should take
15 an ethics class. They should go back to
16 college and take an ethics class or something
17 because they way -- the way they went about
18 shoving this down our throats is ridiculous.

19 Q Mr. Brodrick, when did you move out to your
20 residence?

21 A 2001. 2002, I'm sorry.

22 Q And you made some reference to a document
23 that had been handed out by Commission staff
24 perhaps?

25 A Right.

1 Q Would you mind providing us with a copy of
2 that because that's not something that I know
3 of that's in the record.

4 A That facility was constructed at a cost of
5 approximately 155 million dollars, which I
6 wonder if that 155 million dollars included
7 the fire hydrants that they so graciously
8 provided or if it was included with the
9 lights in the ball park that they so
10 graciously provided.

11 This number is outlandish. 155 million
12 dollars. Maybe if the fact they didn't try
13 to build it in two months and pay people
14 outlandish overtime fees to get it done.

15 We had trucks going up and down our
16 road. At one point in time we had a stop
17 sign at the end of our road and I had four or
18 five trucks full of gravel or whatever,
19 aggregates stopped, and they tore up our
20 roads and we complained about it and they
21 denied it.

22 They lied about every single thing I can
23 think about they've lied about it. The
24 Commission has asked them for financial
25 information and told them they're in trouble

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1 that they might be going into bankruptcy and
2 they'll argue with you that they're not going
3 bankruptcy. Everything that's ever been
4 presented to them toward Aquila we don't know
5 anything. You guys don't know anything.
6 Everything that you ask them about they'll
7 argue with you. They have no considerations,
8 no regards for the laws. They have no
9 consideration or regards for this Commission
10 as far as I can see from every filing that
11 I've read.

12 The way they went about the bond issue
13 with Peculiar, the way they -- I don't want
14 to waste your time, you have known everything
15 that they have done. They should have to
16 follow the law.

17
18 COMMISSIONER GAW: Thank you, Mr.
19 Brodrick.

20 JUDGE PRIDGIN: Mr. Clayton.

21
22 Q (BY COMMISSIONER CLAYTON:) Mr. Brodrick, you
23 say you don't have any pity for the applicant
24 in this case. I think if I hear the
25 testimony right you have three babies under

1 the age of one at home?

2 A Under the age of two.

3 Q Under the age of two.

4 A That were brought home on oxygen.

5 Q My goodness, you have got your hands full, I
6 certainly appreciate the circumstances you're
7 in.

8 I wanted to be clear on your testimony
9 and you just concluded or you just made a
10 statement about lies and misrepresentations
11 that were made to you.

12 A Not necessarily to me, to the public.

13 Q Could you identify just a few of those
14 misrepresentations. I know you've identified
15 pollution, noise, failure to follow zoning
16 laws, but I would like to know the things
17 that have either been misrepresented to you
18 or been outright lies or when you made those
19 statements what you're talking about.

20 A We were misled about what the property was
21 going to look like, the construction
22 property. We were misled about what --

23 Q What was it supposed to going to look like?

24 A They were going to have berms all around it
25 and they were going to have trees planted

1 real pretty. They took these pictures and
2 they put them up on these big boards and said
3 this is what it's going to look like and not
4 until everything started going bad for them
5 that they finally thought that maybe they
6 could do that kind of stuff. Maybe they
7 could plant some trees, maybe they could
8 plant trees in people's yards and try to help
9 block the view or deaden the sound a little
10 bit. Specifically they lied about --

11 Q Did they not do the berms and the trees?

12 A I think they finally have, but they said they
13 were going to do it but I don't think they
14 had any intention. Maybe that's my fault for
15 making an assumption.

16 Q What else do you have?

17 A The biggest one I can remember is when these
18 trucks were going down the roads and Aquila
19 in one of the filings to the Commission said
20 the traffic on the streets there was not -- I
21 can't remember word for word, but basically
22 that the trucks that were going up and down
23 our streets were not for the construction of
24 the power plant. Well, that's a total --
25 that's a lie. That's a total lie. Anyone

1 that lived there for longer than two weeks
2 could have told you that before that project
3 started we didn't have trucks going up and
4 down our road. We had huge dump trucks going
5 up and down our road, flying up and down our
6 road over the speed limits tearing up our
7 roads. We asked Aquila about that, oh, no we
8 don't do that.

9 Q Anything else that comes to mind?

10 A I'm a little nervous so.

11 Q That's all right. How loud is the noise when
12 the unit is running? How loud is it inside
13 your house with the windows and doors closed?

14 A It's loud enough to wake me up from sleep.
15 It's a hum maybe a little bit louder than
16 dishwasher going or something, but I'm a
17 fairly light sleeper.

18 Q Does it wake the babies up?

19 A No, they're used to loud noises.

20 Q My children in Columbia will probably wake up
21 they wake up if anything goes off, they wake
22 up to anything.

23 How about pollution, what have you
24 noticed since the plant runs? Have you
25 noticed anything?

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1 A I haven't noticed any smells or anything like
2 that. I just know when they burn those fuels
3 that's going up what goes up is going to come
4 down depending on which way the wind is
5 blowing it's going to come down --

6 Q But you haven't noticed anything. You
7 haven't noticed anything on your car or
8 anything?

9 A No.

10 Q In your garden?

11 A No. I wasn't able to have much of a garden.
12 I haven't had whole lot of time to spend
13 outside. I know a lot of our neighbors have
14 taken the time to have readings done, testing
15 done on their ponds for -- they want to know
16 what the values of the levels of their ponds
17 were, the chemical values in the ponds were
18 before the plant started running.

19 Q Well, maybe we'll hear from them today, I
20 won't ask you to testify about that.

21

22 COMMISSIONER CLAYTON: I don't
23 have any further questions, thank you.

24 JUDGE PRIDGIN: Thank you. Any
25 follow up from counsel?

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1 (No response.)

2 JUDGE PRIDGIN: Mr. Brodrick,
3 thank you very much for your time and your
4 testimony.

5 CHAIRMAN DAVIS: Can I ask one
6 more question?

7 JUDGE PRIDGIN: Mr. Chairman. Mr.
8 Brodrick.

9

10 Q (BY CHAIRMAN DAVIS:) You testified that the
11 plant wakes you up when you're sleeping, is
12 that during the day or at night?

13 A It hasn't always woken us up it has at least
14 once and I think --

15 Q Was that during the day or night?

16 A I can't remember. I think it was in the
17 early morning, but I'm not one hundred
18 percent sure.

19 Q When they were running the plant were they
20 predominately running it during the day or at
21 night?

22 A I think it was just as needed. I believe it
23 was running more in the wintertime towards
24 the morning hours.

25 Q Okay. All right. Thank you.

1 JUDGE PRIDGIN: Mr. Chairman,
2 thank you. Mr. Brodrick, thank you very
3 much, sir.

4 All right. Mr. Everly. Mr. Everly, would
5 you raise your right hand and be sworn,
6 please.

7
8 VERNON EVERLY
9 called as a witness herein, being first duly
10 sworn by the Reporter, testified on his oath
11 as follows:

12
13 JUDGE PRIDGIN: If you would,
14 please state your name for the record and
15 spell your last name.

16 THE WITNESS: Vernon Everly,
17 last name is spelled E-v-e-r-l-y.

18 JUDGE PRIDGIN: And your address,
19 please.

20 THE WITNESS: 25808 south Route
21 C, Peculiar, Missouri 64087.

22 JUDGE PRIDGIN: Are you a
23 customer of Aquila?

24 THE WITNESS: No, sir.

25 JUDGE PRIDGIN: Do you have a

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1 statement for the Commission, sir?

2 THE WITNESS: Yes, sir. Probably
3 I sat down and tried to think of the probably
4 the three or four maybe most important things
5 to me. The first quick one that comes to mind
6 is, as I understand it the tax benefit where
7 my kids go to school is zero and this
8 situation is effecting my family and myself
9 and us and in our community, but yet my kids
10 go to Midway school and they don't receive
11 any benefit from the taxation of it as I
12 understand it.

13 Probably the next thing that's important
14 to me is there has been apparently some
15 affect of the value of our property, some of
16 our property is within a half a mile of
17 Aquila. And I guess this is just something
18 that we have worked a lot of years, it's our
19 future. It affects the value of it as far as
20 our retirement for our future and our
21 family's future goes. Maybe more importantly
22 the way I see it is that this kind of sets a
23 precedent the way I see it, that's if
24 money -- if enough money can cause something
25 like this to happen so it doesn't matter

1 whether you have a hundred acres or three
2 acres somewhere in Missouri if you have
3 enough money you can make something like this
4 situation happen. If a precedent is set it
5 might not just be a gas fired electrical
6 plant, it might be another type of utility
7 that would be even less desirable and it
8 probably disturbs me somewhat.

9 The next thing that I guess I don't
10 totally understand is the reason for it being
11 there.

12 Let me start by saying, as I understand
13 it Aquila had access to the facility, the
14 large plant at Pleasant Hill where
15 electricity was produced in some great
16 quantity and they chose -- or maybe that's a
17 bad choice of words. No longer do they have
18 access to that. That plant now sits idle as
19 I understand it not producing any electricity
20 over there.

21 Then we talk about the peaking facility
22 in Greenwood that Aquila has. And I guess the
23 three generators that are at the South Harper
24 plant sat at that facility for some time
25 maybe or maybe not to be installed on that

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1 site where proper zoning was in place and
2 access, and had they installed those there I
3 question if it would have been as expensive
4 as coming over here and building another one.
5 I don't think it would have cost that much to
6 have transported the electricity from
7 Greenwood over to Peculiar or wherever.

8 My last point I'd like to make, my
9 little story, start with a little story. Once
10 upon a time there was a company called
11 Utilicorp. It was old old company that paid
12 dividends very well. I bought -- I bought
13 for my mother in her retirement accounts some
14 Utilicorp stock that at that time was about
15 32 bucks, in that neighborhood paid a nice
16 six, seven, eight percent dividend. And then
17 it changed to Aquila. I think it's that same
18 stock apparently that's what the paper says.
19 That same stock is called Aquila and it's
20 worth about three bucks you know now and no
21 income off of it. So we shucked that. Mom's
22 not getting any income off of it so we
23 shucked it out take what few dollars there
24 are and buy her something else so she can get
25 some income.

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1 I think that says something -- that is a
2 public traded stock nationwide and I think
3 that the financial world of this country says
4 that they don't have faith in the management
5 of Aquila apparently. So it goes from thirty
6 two to three bucks.

7 I'm a customer of Osage Valley, which
8 I've got great respect for and the decisions
9 that they make, and I guess I would just -- I
10 compare the two companies together and the
11 situation and that's just the way that I
12 don't have faith in the management. My point
13 is, I don't really understand why this type
14 of management should be rewarded. That's the
15 end of my presentation.

16 JUDGE PRIDGIN: Mr. Everly,
17 thank you. Let me see if we have any
18 questions from the Commissioners. Chairman
19 Davis.

20

21 Q (BY CHAIRMAN DAVIS:) Mr. Everly, you're a
22 customer of Osage Valley is that an electric
23 cooperative?

24 A Yes, it is.

25 Q Do you know if Osage Valley is part of the

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1 consortium of rural electric cooperatives in
2 Missouri that's building a coal plant near
3 Carrollton, Missouri?

4 A I don't know.

5 Q If you did know would that change your
6 opinion of Osage Valley?

7 A I'm not sure what you're referring to.

8 Q You said you think they have good management,
9 would that change your opinion if you knew
10 they were building another coal plant?

11 A I will be for coal I will say it like that.
12 So no, I don't think it would change my
13 opinion.

14 Q Okay. To the best of your knowledge Aquila's
15 not paying any taxes to any of the local
16 school districts; is that correct?

17 A As I understand it all the taxation that the
18 deal that was made all the money went to the
19 Ray-Pec School District and was not
20 distributed among the somewhat 14 other -- in
21 other words ordinarily Aquila services 14
22 other school districts, I may be wrong there,
23 but something like that. So if it were taxed
24 evenly and properly all those school
25 districts would share in the taxation out of

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1 normal revenue taxation.

2 Q Did any of your property or do you know
3 anyone whose property values were devalued at
4 reassessment this year or is that coming up
5 or this past year or is that coming up next
6 year?

7 A As far as taxable value?

8 Q Uh-huh. As far as taxable value for being
9 near the plant or anything of that nature?

10 A They haven't lowered my taxes I will say it
11 like that.

12 Q That was my question.

13

14 CHAIRMAN DAVIS: Thank you.

15 JUDGE PRIDGIN: Mr. Chairman,
16 thank you. Mr. Gaw.

17 COMMISSIONER GAW: No questions,
18 thank you for coming.

19 COMMISSIONER CLAYTON: Just a
20 few.

21

22 Q (BY COMMISSIONER CLAYTON:) I was confused at
23 the beginning of your testimony; did you say,
24 do you live close to the plant?

25 A I live close to the plant. Some of our farm

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1 is within one half mile of it. I actually
2 live, I guess it would be a mile south of the
3 road that Aquila has built on.

4 Q So your house is one mile south of the
5 facility?

6 A Yes. I can see the stacks from my house.

7 Q Okay. Does that cause you a problem seeing
8 the stacks from your property?

9 A I can't say that the sight of the stacks
10 causes me a problem.

11 Q Can you hear the machine running from your
12 place?

13 A I can't say that I have. We heard the
14 construction equipment over there, you know,
15 but it was machinery, whatever.

16 Q How about any pollution that you have
17 noticed.

18 A I didn't see it my wife was -- my wife went
19 out the other -- in the morning time about
20 midmorning here, I can't tell you if it was a
21 week ago or two weeks ago and if you will
22 allow me I will turn around and ask her when
23 she saw this and I will tell you the story.
24 Was it a week ago or two weeks ago? About a
25 week ago in mid morning she went out and

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1 looked over in that direction. I know
2 they're not suppose to be running but she
3 thought she saw a big plume of steam or
4 something, you know, that had come up out of
5 there and was starting to drift to the north.
6 That's all I have ever saw.

7 Q Has it caused you any problems any of those
8 plumes of steam?

9 A No.

10 Q No problems?

11 A No.

12 Q Can you tell me how often you can tell when
13 the facility is running?

14 A I don't pay any attention to it I really
15 don't.

16 Q Do you think the existence of facility has
17 changed your property values?

18 A Yes, I do.

19 Q What would you say that change would be?
20 What was your property values before versus
21 after by the acre?

22 A I don't know. I just wouldn't hazard a guess
23 to you, okay. The situation being is that
24 the property probably that is most affected
25 is directly north of that which had a home

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1 sales, property sales, real estate sales in
2 that area were going pretty good, chugging
3 along at a pretty good little pace. And as I
4 understand it now they've come to a dead
5 still. Our place wasn't for sale. We're a
6 sod farm and we're in accumulation process.
7 So it wasn't for sale. I go home at night
8 and think well, you know, it's gotten more
9 valuable so when we retire some day it will
10 be, you know, but I wouldn't want to be
11 trying to sell it now is my thought.
12 Numbers, no, I don't know.

13
14 COMMISSIONER CLAYTON: Thank you.

15 JUDGE PRIDGIN: Mr. Clayton,
16 thank you. Commissioner Appling.

17 COMMISSIONER APPLING: Mr.
18 Everly, how are you doing?

19 THE WITNESS: Good.
20

21 Q (BY COMMISSIONER APPLING:) Just one question.
22 Are you telling me today that you think that
23 Aquila should just tear this plant down and
24 haul it away, is that what you're saying to
25 me?

1 A I think I'm here to tell you just what my
2 feelings are. I feel very threatened. I
3 guess I've lived long enough to see some
4 things in the world that I never thought I
5 would see usually involves money. I think
6 that money apparently can buy a lot of
7 things. I think these people -- I think they
8 made a mistake but not the mistake that they
9 admit to. They're saying that they thought
10 they had proper authorization to do that, I
11 find that a little hard to believe.

12 My real thought once again is that if a
13 few dollars of bribe, I hope that's not too
14 strong a word, if a few dollars of bribe is
15 enough to buy, make a big mistake like this
16 okay then once again what other circumstances
17 might I or somebody else in Missouri have to
18 expect. So I don't think I want to answer you
19 whether exactly-- somebody smarter than me
20 needs to decide what's right. It makes me
21 awfully uncomfortable when money and bribes
22 can buy off a huge mistake like this I think.
23 The disregard for county rules if you will,
24 codes, that's what bothers me I think.

25 COMMISSIONER APPLING: Thank you

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1 for coming.

2 JUDGE PRIDGIN: Any --

3 COMMISSIONER GAW: Just one
4 quick question. Mr. Everly, I think everyone
5 is clear about this, just to be crystal
6 clear, your property value you believe that's
7 been impacted downward.

8 THE WITNESS: Downwards.

9 COMMISSIONER GAW: It's worth
10 less than what it was before, is that what
11 you're saying?

12 THE WITNESS: That's what I
13 believe.

14 COMMISSIONER GAW: That's all I
15 have, thanks.

16 JUDGE PRIDGIN: Follow-up from
17 counsel.

18 (No response.)

19 JUDGE PRIDGIN: Mr. Everly, thank
20 you for your time and your remarks, sir.

21 I hope I'm reading the next name
22 correctly, Chuck Cress.

23 Good afternoon, sir.

24 THE WITNESS: Good afternoon.

25 CHUCK CRESS

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1 a witness herein, being first duly sworn by
2 the Judge, testified on his oath as follows:

3

4 JUDGE PRIDGIN: If you would,
5 please state your name for the record and
6 spell your last name.

7 THE WITNESS: Chuck Cress,
8 C-r-e-s-s.

9 JUDGE PRIDGIN: And your address,
10 please, sir.

11 THE WITNESS: 24124 Chadwick
12 Drive. I live approximately seven tenths of a
13 mile by road, as the crow flies I live a half
14 mile from this plant.

15 JUDGE PRIDGIN: Okay. Are you a
16 customer of Aquila?

17 THE WITNESS: No, I'm not.

18 JUDGE PRIDGIN: Any statement for
19 the Commission, sir?

20 THE WITNESS: Yes. I can tell
21 you verbally that whenever that plant runs
22 over there and two weeks ago Friday or a week
23 ago last Friday they had it running. I had my
24 windows open, they woke me and my wife both
25 up, that hum coming from over there. My wife

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1 gets up at four o'clock in the morning. I go
2 in and make coffee for her. I smelled the
3 water it smells like somebody crapped in it.
4 They put so much chlorine in that water when
5 that plant is running to keep everything else
6 down. I don't know what they do with the
7 water that comes off of those turbines, but
8 it must be coming back in to our drinking
9 water. I've never had that problem before
10 they put that plant in there until now.

11 I can tell you that that plant works
12 almost daily at night.

13 Another little item here, the only
14 people that benefitted from Aquila was the
15 town of Peculiar, their fire department and
16 the mayor. The school district got money,
17 everybody else got their hand smacked,
18 Peculiar can take a tax cut.

19 When they started building this thing
20 they tore up 241st north of C Highway so bad.
21 Their concrete trucks come in there eight to
22 ten yards of concrete on fourdized (phonetic)
23 trucks. There was holes in there I could
24 bury my pickup in. They keep talking about
25 how much money they spent on our roads, but

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1 they don't tell you how much they tore them
2 up. It is a shame it really is.

3 Mr. Everly said it right, whenever
4 you've got money you can bribe people, you
5 can pay them off, you can do just about what
6 you want to do.

7 Pollution. I'd like to have Aquila tell
8 me why there's a lawsuit in the State of
9 Nebraska for pollution up in Beatrice, a
10 million dollar lawsuit against these people.
11 Do we expect the same thing out here? I
12 think so. They have already stated that if
13 this thing gets okayed we're in bad shape
14 because they're going to put four more of
15 them on the northeast corner of town. They
16 have got two pieces of property out there
17 that farm looped around that gas station they
18 have already told us that. They told us that
19 in the first meeting that they had up there.

20 They also told us in the second meeting
21 that they had up there that's what they were
22 going to do. Are we at the mercy of these
23 people?

24 I bought my property 15 years ago, built
25 a house on it in '96. I never had a problem

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1 other than just dust on the road. This man
2 over here we got it straightened out. It
3 killed almost all my trees, the dust off the
4 road. When they were coming in doing the
5 construction on that they would start in
6 there at six o'clock in the morning sometimes
7 five. It was just like 241st raceway. It was
8 racing getting in and about six o'clock at
9 night it was racing getting out.

10 I don't know about the contaminations or
11 the smog that comes out of there, I do know
12 that they put off smog. I do know the coal
13 put off smog. You were talking to Mr. Everly
14 about the coal plant, I just want to say
15 something to this Court. I know where 90
16 percent of the coal comes from for these coal
17 plants comes from, Wyoming. It's suppose to
18 be the best coal there is in the world. And
19 for a plant to come in and put in a coal
20 burning plant with Wyoming coal in it I think
21 is feasible to get it done. I don't know who
22 KCP&L on their Westin plant does, but if they
23 have got Wyoming coal they have got a pretty
24 good system.

25 I would also like to see nuclear. I've

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1 seen the plant down east of Jeff City. I
2 don't know for sure whether the steam comes
3 out -- and the fact of the matter is I would
4 almost stake my life on it that it's not
5 radioactive the steam that comes off of it.
6 They're good looking structures and per se
7 it's people that are operating it keeps their
8 mind on what they're doing, on the gauges, on
9 these things. We should never have a problem
10 like they had in Three Mile Island, never.

11 I'd like to see more sufficient nuclear
12 plants set up.

13 That's all I've got to say.

14 JUDGE PRIDGIN: All right, Mr.
15 Cress, thank you very much. Let's see if we
16 have any questions from the Commissioners.
17 Mr. Chairman.

18

19 Q (BY CHAIRMAN DAVIS:) Really quick, Mr. Cress,
20 are you on a public water district or well
21 water?

22 A I'm on Number 7.

23 Q You're on public water district?

24 A If they keep the system up I'm going to put
25 my own well in. I will do that.

1 Q So you're saying that -- let me make sure
2 that my impression of your previous remarks
3 is correct, that it seemed like to you when
4 they were running the power plant your water
5 had an odor?

6 A Whenever they run that water plant they
7 saturate the water plant with chlorine. You
8 can smell it.

9 Q When they run the water plant?

10 A When they run that power plant.

11 Q When they run the power plant, okay.

12 A The water plant saturates water with
13 chlorine, you can smell it in the house. I
14 get to where I shut it off. I had to go out
15 and buy a filtration system so that we could
16 have halfway decent drinking water.

17 Q Is it your impression that there's a court
18 order out there that they're not suppose to
19 be running that plant? Have you heard that?

20 A I thought that was so, but undoubtedly it
21 must not be. Like I said, I'm up at four
22 o'clock in the morning and I walk outdoors
23 and I hear it going. I hear it going. This is
24 one company that just has no principal to
25 what they're suppose to be doing.

1 Q Would you like us to get somebody to come out
2 and test your water?

3 A Yes, I would. If you can get them out there
4 four o'clock in the morning, yes I would.

5 Q I will have to see what I can do with those
6 state workers, but I will see if we can't get
7 somebody out there at four o'clock in the
8 morning or give you call and talk to you
9 about when would be a good time to get a
10 sample.

11 A Another thing, you know, I'm not really
12 against Aquila. Aquila would make a good --
13 they would make a good enemy. They would
14 really make a good enemy. If they would have
15 gone through the county the same way as I did
16 when I built my home in '96, the same way
17 that I did when I had to build my other
18 garage and come down here and got the permits
19 and the okay from the county. I have to live
20 in this county. I pay taxes in this county.
21 I have people that head up the law, including
22 this man up here, if I don't do that they're
23 going to throw me so far back in jail I'm
24 going to have to have sunlight piped to me.
25 That's not funny, but that's just exactly how

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1 it would be. It's just exactly how it would
2 be. But they can come out here and they can
3 tell lies and they can do everything shady.

4 The mayor of Peculiar and his seven
5 little imps that he had there, and I can't
6 say anything more about them than seven imps
7 to try to push this in under the floor. I
8 lost my brother in 2004, when I got back I
9 found this. If you think that I'm angry just
10 under the skin just a little bit.

11 CHAIRMAN DAVIS: Thank you, Mr.
12 Cress.

13 JUDGE PRIDGIN: Thank you. Mr.
14 Gaw.

15

16 Q (BY COMMISSIONER GAW:) Mr. Cress, how often
17 have you heard this plant running in the last
18 few weeks?

19 A Like I said, I'm up in the morning outdoors.
20 I've heard it run at least three to four days
21 out of the week. I don't have to go outdoors
22 to hear it. I know when I turn on my water
23 and run it because I have to run the water
24 for a certain time for a certain amount of
25 time. But the chlorine in that water is

1 atrocious.

2 Q Can you give me a time perspective on the
3 last time that you heard the plant running,
4 that you believed it was running?

5 A A week ago Friday it woke me up at about two
6 thirty in the morning.

7 Q Okay. And do you know how long you heard
8 something?

9 A It was running at four o'clock and I didn't
10 pay any attention to it after that. I can
11 walk out on my screened in porch and I can
12 look over there and see three of the most
13 beautiful towers you ever seen. Pieces of
14 junk. I've seen junk look better than they
15 do, I really have.

16 Q I'm sorry, Mr. Cress, can you tell me prior
17 to that time in the last month or so, two
18 months even have you heard that same noise
19 coming from that area?

20 A Like I said, I've heard it week in and week
21 out. At least one or two days a week because
22 I step outdoors and listen to it. I can't
23 have my windows open. My walls are six inch
24 walls insulated. I don't hear -- if I opened
25 up my windows -- I'm not going to open them

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1 up because I don't want to wake up frozen.

2 Q Okay.

3 A But I can hear them running out there, and
4 whenever that happens I've got it right down
5 to the nitty-gritty, whenever that machine is
6 running those machines running that water is
7 chlorined so bad. You couldn't get an animal
8 to drink that water.

9 Q As far as the water is concerned, if you
10 experience that again would you mind saving
11 some of it?

12 A I certainly will.

13 Q Thank you.

14

15 COMMISSIONER GAW: That's all I
16 have. Thank you, Mr. Crest.

17 JUDGE PRIDGIN: Thank you. Mr.
18 Clayton.

19

20 Q (BY COMMISSIONER CLAYTON:) You said you live
21 seven tenths of mile?

22 A By road.

23 Q From what side of the plant is it north,
24 south, east, west?

25 A I live to the southeast. This map right here.

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1 I can't see.

2 Q That's all right I get the point.

3 A I live maybe an eighth of a mile off of 241st
4 on Chadwick. Chadwick is the first street
5 that you come to when you go back northwest
6 off of C Highway.

7 Q That's all I was going to ask just which
8 direction. Thank you.

9

10 JUDGE PRIDGIN: Thank you.

11 Commissioner Appling.

12 COMMISSIONER APPLING: How are
13 you doing?

14 THE WITNESS: Fine, sir. How are
15 you?

16 COMMISSIONER APPLING: I'm doing
17 great.

18

19 Q (BY COMMISSIONER APPLING:) I don't want to
20 get further under your skin than we have
21 already done here today.

22 A You guys, you people up here are not
23 agitating me. I want you to ask me any
24 questions you want, I will answer it for you.

25 Q Prior to the plant started operating as a gas

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1 plant I think it's Seldom Star (phonetic) I
2 believe that pushes the gas through. Was
3 there any noise from those turbines or any
4 noise from that plant? You say you've lived
5 there a long time.

6 A Before everybody got up in arms about the
7 noise it was making? When they were building
8 it there was atrocious amount of noise that
9 come from over there. Tailgates on rock
10 trucks slamming, pneumatic hammers over there
11 on track vehicles beating all the time. This
12 was -- like I said, this is from seven
13 o'clock in the mornings until the wee hours
14 of the night.

15 Q I'm talking about Seldom Star now not Aquila.

16 A You're talking about --

17 Q Seldom Star's plant there.

18 A Yeah, I had have nothing to say about the gas
19 company, they were there before I was.

20 Q So you knew --

21 A They changed an engine out there. I've
22 walked out several times and I've heard this
23 ungodly rumble. I'm not a person that's
24 going to pick a person apart, they have to
25 have those diesel engines to pull that

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1 petroleum through those pipes, I understand
2 that. I can live with that. Like I said
3 they were there long before I ever was, and
4 I'm not going to say a thing about them.

5 Q Thank you.

6 A If they would have done -- if they would have
7 done what they should have I wouldn't be up
8 here talking about this. I would not be up
9 here talking about this.

10 Q Thank you very much, sir.

11

12 JUDGE PRIDGIN: Clarifying
13 questions from counsel.

14 (No response.)

15 JUDGE PRIDGIN: Mr. Cress, thank
16 you for your time and your testimony, sir.

17 THE WITNESS: Thank you.

18 JUDGE PRIDGIN: I hope I'm
19 pronouncing this next name correctly. I have
20 Rick Manfredi. And after this witness I will
21 probably want to take a quick recess for the
22 court reporter.

23

24

25 RICK MANFREDI

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 a witness herein, being first duly sworn by
2 the Judge, testified on his oath as follows:

3
4 JUDGE PRIDGIN: Thank you very
5 much, sir. If you would, please state your
6 name for the record and spell your last name.

7 THE WITNESS: Rick Manfredi,
8 M-a-n-f-r-e-d-i.

9 JUDGE PRIDGIN: And your
10 address, please, sir?

11 THE WITNESS: 23719 South
12 Greenridge, Peculiar, Missouri.

13 JUDGE PRIDGIN: And are you a
14 customer of Aquila?

15 THE WITNESS: No.

16 JUDGE PRIDGIN: All right. Do you
17 have a statement for the Commission?

18 THE WITNESS: Yes, I do. I
19 purchased 5.4 acres in 1986 and I don't --
20 general contracted and built my own house in
21 1989. Since that this area around the Harper
22 plant and the county in general has seen
23 tremendous growth. You can't stop progress.
24 Progress is upon us. However, in this
25 particular circumstance the county nor the

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1 citizens were allowed to design or control
2 that progress. Aquila forced this upon us
3 with the help of the City of Peculiar. We as
4 citizens of the county demand that we do have
5 control in designing and in shaping the
6 community which we live in.

7 We were not allowed to take part in any
8 forum of whether or not this plant should be
9 built there. Neither was the county. Aquila
10 attempted to pass proper zoning for one plant
11 in another section of the county which you
12 are all well aware of. It was not passed.

13 So then I think Aquila, it is my
14 perception that Aquila used a different
15 strategy to build this plant at the detriment
16 of the citizens that live around it. Their
17 strategy was to come in with a ruling that
18 this was an existing extension of their lines
19 which you know, which we don't agree with.
20 The sad thing is that the real losers in this
21 if the plant is made to be torn down are the
22 customers of Aquila, because through your
23 regulatory body they will attempt to pass
24 that 20 million dollars on to their
25 customers. I don't think that's right

1 either.

2 But it is not right for the county not
3 to have a say in what duties and what place
4 in the county and at the detriment of the
5 citizens such as me.

6 I can hear it in the summer when it ran
7 within -- I live between a mile and a half
8 mile of the plant, I could hear it. If
9 there's additional turbines it's going to be
10 twice as loud. I don't relish the thought of
11 going on my wood deck some morning drinking
12 my morning cup of coffee and seeing a glowing
13 light in the southeast, which is really not
14 the sunset but the plant.

15 With progress, you know, you have to
16 make certain decisions and if Osage Electric,
17 who is our provider, had come to us and
18 wanted to work out a site for us, the users,
19 I think a lot of us would have made
20 compromises, but we're not users of Aquila.
21 It goes elsewhere in the State of Missouri.
22 It's got to effect our property values. I
23 don't have any figures but it's got to.

24 So I say Mr. Commissioners, please tear
25 this plant down.

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1 JUDGE PRIDGIN: Mr. Manfredi,
2 thank you. Let me see if we have any
3 questions from the Commissioners. Chairman
4 Davis.

5 CHAIRMAN DAVIS: No questions.
6 Thank you, Mr. Manfredi.

7 JUDGE PRIDGIN: Mr. Gaw.

8 COMMISSIONER GAW: I don't
9 believe I have any questions, thank you, sir.

10 JUDGE PRIDGIN: Mr. Clayton.

11 COMMISSIONER CLAYTON: Thank you.

12

13 Q (BY COMMISSIONER CLAYTON:) Mr. Manfredi, I'm
14 sorry, I'm not letting you off the hook that
15 easy. I saw you kind of run to the back. I
16 just have a couple questions.

17 Your comment in the middle of your
18 testimony was the community was never
19 involved in the planning of this project; is
20 that an accurate recitation?

21 A That's correct.

22 Q And you believe there would be a role for the
23 neighbors of the plant or the community or
24 both to play some sort of role in that
25 planning?

1 A Absolutely.

2 Q Can you identify for us today any suggestions
3 for how the plant could be improved in terms
4 of design?

5 A It could be --

6 Q In terms of the plant.

7 A It could be improved mainly if they went
8 through the proper zoning and planning. That
9 may not be where we wanted to -- that may not
10 be where the county wanted it. Certainly
11 there's a place in Cass county where it would
12 have been accepted it is not here. It's not
13 here. It is not the community we wanted for
14 ourselves or for our future generations.

15 Q You say there is a place for it to be?

16 A I'm sure if there was through -- that there
17 probably is a place in the county that would
18 be more acceptable, but that was not sought
19 out or looked into as far as I know.

20 Q Can you hear the plant inside your house?

21 A Yes.

22 Q And have you noticed any pollution or any --

23 A No, I don't believe it's run that much
24 because that hasn't manifest itself yet.

25 Q How often would you say that it runs?

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1 A Well, I have not heard it since this summer
2 when I know it was running, it was just a
3 hum. My fear is that they're holding back and
4 once that the plant is approved that it will
5 be much louder without disregard for the
6 community that they'll add all kinds of
7 lights.

8 Q Are you north, south, east or west of the
9 plant?

10 A I'm about three quarters of a mile northeast.
11 I could show you on a map.

12 Q That's all right. I'm just trying to get an
13 idea where everyone is located. Thank you.

14

15 JUDGE PRIDGIN: Mr. Clayton,
16 thank you. Commissioner Appling.

17 COMMISSIONER APPLING: No
18 questions.

19 JUDGE PRIDGIN: Clarifying
20 questions from counsel.

21 (No response.)

22 JUDGE PRIDGIN: All right. Mr.
23 Manfredi thank you very much for your time
24 and your testimony. At this time I'd like to
25 take a brief recess. I see as the next

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1 witness after we go back on the record will
2 be Natalie Stephenson, so if she will be
3 ready. Commissioner Clayton.

4 COMMISSIONER CLAYTON: Judge,
5 can I ask a question. You still have quite a
6 few numbers left on that list, people to
7 testify, is it fair to say we will continue
8 taking testimony beyond three o'clock today?

9 JUDGE PRIDGIN: I would say
10 that's fair to say.

11 COMMISSIONER CLAYTON: Do we have
12 the room through?

13 JUDGE PRIDGIN: All night. If
14 there is nothing further we will be off the
15 record until two o'clock.

16

17 (Recess taken at 1:50 p.m., and
18 reconvened at 2:07 p.m.)

19

20 JUDGE PRIDGIN: We're back on
21 the record. Before I go on to the next
22 witness I do want to again remind folks that
23 if you would rather not testify but instead
24 want to submit written comments the
25 Commission will be glad to look at those. We

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1 have sheets for you to fill out. We certainly
2 want to give the folks the chance to testify
3 if they want to do so, but if you would like
4 you're welcome to send written comments
5 instead.

6 The next witness I have signed up is
7 Natalie Stephenson.

8 If I could remind witnesses, I'll try to
9 remind one, I know some folks are having a
10 hard time hearing so if you will try to speak
11 directly into the microphone and try to
12 project out a little bit so the audience can
13 hear you I would appreciate it.

14
15 NATALIE STEPHENSON
16 a witness herein, being first duly sworn by
17 the Judge, testified on her oath as follows:

18
19 JUDGE PRIDGIN: If you would,
20 please state your name for the record and
21 spell your last name.

22 THE WITNESS: Natalie
23 Stephenson, S-t-e-p-h-e-n-s-o-n.

24 JUDGE PRIDGIN: And your address,
25 please.

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1 THE WITNESS: 24215 South
2 Chadwick Drive.

3 JUDGE PRIDGIN: Is that in
4 Peculiar?

5 THE WITNESS: That is in
6 Peculiar.

7 JUDGE PRIDGIN: And are you a
8 customer of Aquila?

9 THE WITNESS: No, I'm not.

10 JUDGE PRIDGIN: Do you have a
11 statement for the Commission, ma'am?

12 THE WITNESS: I do. I want to
13 say good afternoon. Before I start reading
14 what I wrote down here I did want to mention
15 with regard to siting. If there are any
16 questions about that rule you need to look no
17 further than Aquila's own comprehensive site
18 evaluation and summary table that's in its
19 application in this case. It essentially
20 points out that every other site they looked
21 at had some good features but that there
22 would be a delay and their potential
23 litigation they expected to avoid by having
24 the South Harper annexed thereby avoid
25 zoning.

1 I'm sure they will have a field day with
2 that later. I want to go ahead and point
3 that out now.

4 It seems I find myself here with you
5 again here today because of some concern that
6 tearing down -- tearing down an illegal power
7 plant might be wasteful or that somehow an
8 illegal power plant may serve the greater
9 general good. I'm here to say I could not
10 disagree more.

11 There's nothing about the South Harper
12 peak power plant that serves the general good
13 unless the general good is thought to be
14 Aquila's pocketbook.

15 I believe, as I hope you do, too, that
16 the general welfare is best served by
17 following the guidelines set forth by our
18 founding fathers and our Missouri State law.

19 Aquila's not above the law and this
20 Commission, however far reaching it may or
21 may not deem its powers to be, should not
22 exalt a utility to a level beyond the
23 accountability of the municipal authorities.

24 I'm not convinced the PSC is qualified
25 to make an informed decision on the proper

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1 location for a power plant, and I'm not
2 certain you should be. I don't believe the
3 PSC has previously claimed that siting fell
4 under your jurisdiction. Leave emissions to
5 the DNR and zoning to the county. I know you
6 have already got your hands full with
7 applications from Aquila requesting approval
8 to receive bonds that have already been
9 issued and approval to transfer turbines that
10 have already been transferred, and weeding
11 out trees and litigation fees from Aquila's
12 rate cases. I don't envy your job.

13 But make no mistake, if you're seriously
14 considering saying that the people
15 surrounding South Harper should sacrifice our
16 civil rights, sacrifice our health and
17 happiness and sacrifice our property wherein
18 lies our property values -- that was supposed
19 to be prosperity, wherein lies our property
20 values, if you honestly believe that setting
21 this dangerous precedent whereby utilities
22 reign supreme serves the greater good, if you
23 feel that creating a relatively small amount
24 of peak capacity power outweighs the numerous
25 violations of law that have been committed in

1 doing so serves a greater good then I can
2 only conclude that you're missing the boat on
3 the concept of the greater general good.

4 The neighbors of South Harper have
5 already sacrificed so much time and money and
6 general well-being, please I beg of you don't
7 saddle us with a power plant that is the end
8 result of so many mistakes.

9 Aquila has lost the advantage of
10 annexation which made South Harper so
11 attractive in that it would have precluded
12 the fatal flaw of litigation. As it stands
13 now the advantage of the Chapter 100 bond
14 financing is void, so Aquila may have to
15 assume 17 million dollars in tax debt, which
16 it will then pass on to its consumers.

17 The recent rate case proves this plant
18 is not the best solution for Aquila's
19 customers or its shareholders. The best
20 option for the greater general good is for
21 Aquila to remove this facility and explore
22 more thoughtful alternatives.

23 I don't know how it escaped me before,
24 but I recently realized that Aquila has
25 repeatedly stated its intent to add at least

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1 two or three more turbines to this facility.
2 If someone doesn't put a stop to this now I
3 fear Peculiar, Missouri will wind up vying
4 with Gilbert, Arizona for bragging rights to
5 the largest industrial park in the middle of
6 a residential neighborhood in the United
7 States.

8 Please do the right thing. I thank you
9 for your careful consideration.

10 JUDGE PRIDGIN: Thank you very
11 much. Let me see if we have any questions
12 from the Commission. Chairman Davis.

13 CHAIRMAN DAVIS: No questions,
14 thank you, Miss Stephenson.

15 JUDGE PRIDGIN: Commissioner
16 Gaw.

17 COMMISSIONER GAW: Thank you
18 ma'am, very much.

19 JUDGE PRIDGIN: Commissioner
20 Clayton.

21 COMMISSIONER CLAYTON: Thank for
22 your testimony, no questions.

23 COMMISSIONER APPLING: No
24 questions, thank you for coming in.

25 JUDGE PRIDGIN: Clarifying

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1 questions from counsel?

2 MS. SHEMWELL: Where do you live
3 in relation to the plant?

4 THE WITNESS: I believe it is
5 half a mile east.

6 MS. SHEMWELL: Over in --

7 THE WITNESS: I'm not entirely
8 sure that's quite right.

9 MS. SHEMWELL: That's okay.
10 Thank you.

11 THE WITNESS: Thank you.

12 JUDGE PRIDGIN: Miss Stephenson,
13 thank you for your time and your remarks.

14 The next witness is Charles Jackson.

15

16 CHARLES JACKSON

17 a witness herein, being first duly sworn by
18 the Judge, testified on his oath as follows:

19

20 JUDGE PRIDGIN: Sir, if you
21 would, please state your name for the record
22 and spell your last name.

23 THE WITNESS: Charles Jackson,
24 J-a-c-k-s-o-n.

25 JUDGE PRIDGIN: And your address,

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1 please, sir.

2 THE WITNESS: 24215 South
3 Chadwick, Peculiar.

4 JUDGE PRIDGIN: And are you a
5 customer of Aquila?

6 THE WITNESS: No.

7 JUDGE PRIDGIN: And your
8 statement for the Commission, sir.

9 WITNESS: First of all I'd like
10 to thank you gentlemen for being here today.
11 I stood up here a little over a year ago
12 before you and spoke, back then I didn't know
13 a lot about how the whole process worked,
14 about how all these things worked together.
15 My friends and I have gotten ourselves quite
16 an education over the last year in a lot of
17 different areas.

18 I'm with a group, stopaquila. We have a
19 large membership that will be presenting
20 things to you throughout the day I'm sure.

21 Some of the things I wanted to speak
22 about are the need for power. I am an Osage
23 Valley customer and they have told us they
24 expect their reserves to be sufficient well
25 until the year 2025. If you look at the

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1 website for southwest power pool they show
2 daily excesses in the range of seven, eight,
3 nine thousand megawatts per day. This is
4 their excess capacity. This is at a time
5 when Aries an almost 700 megawatt plant is
6 setting idle. We have 300 megawatts at South
7 Harper that are not being allowed on to the
8 grid because they're not allowed to operate
9 it by court order, and there must be
10 something, some conjecture about whether that
11 court order has been violated. Myself I
12 don't have proof of that, I wish I did.

13 Some of the things -- it seems like this
14 company is acting like a small child, they go
15 to one parent for permission and that parent
16 says no, so they turn around and go to the
17 other parent for permission and that parent
18 says no. So they go back to the first one.
19 They change their story a little bit hoping
20 the first one is going to say yes.

21 Finally, they have been doing this back
22 and forth with Cass County, with the PSC,
23 with the people that live in this area.

24 It seems to me they were selling off the
25 regulated site of equipment -- I'm sorry the

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1 nonregulatory side of their business because
2 of poor management and they were losing their
3 butt. It seems to me that they want the
4 regulated side now so they can pass those on
5 to the ratepayers and pass the excess costs
6 on to the rest of us.

7 You know I know there's been a great
8 study lately on the feasibility of gas
9 generated versus longer term solutions such
10 as coal generation. I know Commissioner Gaw's
11 recent dissent talked a lot about that and
12 how their base load is what is in need. These
13 simple cycle plants like South Harper are a
14 short term fix for a long term problem.

15 I'm curious, I don't know the answers.
16 I know Aries was formerly a joint venture
17 between Aquila and Calpine. I know Calpine's
18 in bankruptcy, so I'm not sure how that
19 affects the Aries plant. I don't know why
20 that plant is sitting idle. It makes no sense
21 to me if there's a great need for power why
22 some power company is not looking into
23 purchasing the Aries facility or finding an
24 agreement where they can operate the Aries
25 facility if we have such a drastic need for

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1 all of this power.

2 We have been told that they were in such
3 a rush to build South Harper because of an
4 expiring contract and a purchase agreement.
5 Well, just as recently as February of this
6 year they have now said well that contract is
7 not really expired it's still continuing.
8 They have some availability there, of what we
9 were told at first was an expiring contract.

10 I don't know all the ins and out about
11 how these companies do business with each
12 other and their subsidiaries. I'm not a
13 legal analyst. I'm not a corporate analyst.
14 I'm a person that lives in the neighborhood.

15 One thing I would like to say in
16 closing, I do not believe this map is
17 correct, is to scale. I believe that map is
18 very flawed. I believe their one mile marker
19 is actually a half mile marker and their two
20 mile marker is actually a one mile marker.
21 And although I'm not sure, the maps I've seen
22 put my house approximately one mile from the
23 plant. According to that map I'm closer to
24 the two mile mark. There seems to be some
25 problem with that. I don't know who supplied

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1 the map or who drew the gradient on there,
2 but I don't believe it is correct.

3 That's all I have for you gentlemen.

4 JUDGE PRIDGIN: Mr. Jackson,
5 thank you. Let me see if we have any
6 questions from the Commissioners. Chairman
7 Davis.

8 CHAIRMAN DAVIS: No questions.
9 Thank you, Mr. Jackson.

10 JUDGE PRIDGIN: Thank you.
11 Commissioner Gaw.

12 COMMISSIONER GAW: Thank you,
13 Mr. Jackson. That's all.

14 JUDGE PRIDGIN: Do you have any
15 questions?

16 COMMISSIONER CLAYTON: No
17 questions.

18 JUDGE PRIDGIN: Commissioner
19 Appling.

20 COMMISSIONER APPLING: Thank you,
21 sir, for coming in.

22 JUDGE PRIDGIN: Clarifying from
23 counsel. Mr. Mills.

24 MR. MILLS: I had the same
25 problem with the map as you did earlier. I

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1 think what's going on there is that the
2 circle that's labeled one mile, you would
3 think that would be a one mile radius it is
4 actually a one mile diameter. It is a half
5 mile radius. So if you're on that circle you
6 would be a half a mile from the plant. So it
7 may not be inaccurate, it is a little bit
8 misleading. You think you're farther just by
9 the cursory reading. I just wanted to say if
10 you understood a little better.

11 THE WITNESS: I do understand
12 that. I also know there's a lot of talk
13 about property values. It seems to be
14 something with two miles distant from the
15 plant is one not main constraint that they're
16 considering lowering property values if you
17 live within two miles of the plant you are
18 susceptible to having your values lowered.
19 That's my concern on that map is according to
20 that you don't have two hundred homes within
21 two miles of the plant, but if you measure
22 two miles out from that plant you're going to
23 find two hundred homes in there.

24 COMMISSIONER GAW: Who supplied
25 that map? Where did that map come from?

1 MS. DUNN: It's ours. It's
2 Aquila's map. It's an aerial photo.

3 COMMISSIONER GAW: Thank you.

4 JUDGE PRIDGIN: Further
5 clarifying from counsel?

6 (No response.)

7 JUDGE PRIDGIN: All right. Mr.
8 Jackson, thank you for your time and remarks.
9 Julie Noonan.

10

11 JULIE NOONAN
12 a witness herein, being first duly sworn by
13 the Judge, testified on her oath as follows:

14

15 JUDGE PRIDGIN: Ma'am, if you
16 would please state your name for the record
17 and spell your last name for the court
18 reporter.

19 THE WITNESS: Julie Noonan,
20 N-o-o-n-a-n.

21 JUDGE PRIDGIN: And your
22 address, please.

23 THE WITNESS: 23719 Lucille
24 Lane, Peculiar, Missouri.

25 JUDGE PRIDGIN: Are you a

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1 customer of Aquila?

2 THE WITNESS: No, I'm not.

3 JUDGE PRIDGIN: All right. A
4 statement for the Commission?

5 THE WITNESS: If it please the
6 Commission, I have prepared on my own with no
7 one else's input some testimony I'd like
8 to --

9 JUDGE PRIDGIN: Miss Noonan,
10 could you just briefly describe what you have
11 handed to the Commissioners.

12 THE WITNESS: Yes. I have
13 handed the Commissioners a power point
14 presentation of approximately twenty one,
15 twenty two pages written by myself, Julie
16 Noonan, to outline some of the concerns that
17 I have as a person who lives approximately in
18 between a half and one mile away from the
19 power plant on the north, directly north of
20 it in the Millers Point subdivision. I'm
21 also very active and a member of
22 stopaquila.org.

23 JUDGE PRIDGIN: Okay. Just very
24 briefly, I want to label that as Exhibit
25 Number 2 and enter that into the record.

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1 (A certain document was marked Exhibit
2 Number 2 for identification by the
3 Judge.)

4
5 JUDGE PRIDGIN: Miss Noonan, you
6 may continue.

7 THE WITNESS: Before I enter
8 into my prepared testimony I do want to thank
9 the Commissioners for making the effort to be
10 here today to hear the public and to consider
11 our concerns as well as other testimony that
12 will come before you surely before this case
13 has completed.

14 I also want to express to you my
15 gratitude for your service to the public.
16 Although it is a very different position I
17 served a couple of terms on Boards of
18 Education and I know you enter into an awful
19 lot of things that are awfully detailed, so I
20 will try to make this a little bit shorter
21 than I had originally intended out of respect
22 for you.

23 I wanted to start out with something
24 that the Commissioners, you all are very
25 familiar with, it's the oath of office that's

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1 taken by each Commissioner prior to being
2 seated as a Commissioner.

3 I blank do solemnly swear that I will
4 support the Constitution of the United States
5 and the Constitution of the State of
6 Missouri, and that I will faithfully and
7 honestly discharge duties as Commissioner of
8 the Public Service Commission of the State of
9 Missouri.

10 This is the oath that we pray you will
11 uphold as you consider stopaquila.org's
12 motion to dismiss or deny permission and
13 approval of the Certificate of Public
14 Convenience and Necessity authorizing Aquila
15 to acquire, construct, install, own, operate
16 maintain and otherwise control and manage
17 electrical production and related facilities
18 in unincorporated areas of Cass county,
19 Missouri near the town of Peculiar.

20 The oath is obviously a commitment that
21 insures public trust and needed oversight for
22 a myriad of public corporations, not the
23 least of which are utility companies that are
24 granted monopolies to fulfill obligations to
25 serve the public.

1 In these United States and in the State
2 of Missouri, monopolies are not granted
3 without ensuring regulation and oversight by
4 the government to protect the rights of
5 individuals, local governments and those who
6 rely on the holder of a monopoly for goods
7 and services.

8 It isn't inconsequential that within the
9 oath that was sworn by each of you as you
10 assumed your duties as Commissioners that you
11 swore first to support the Constitution of
12 the United States and the Constitution of the
13 State of Missouri.

14 The members of stopaquila.org believe
15 wholeheartedly that during this ordeal the
16 constitutional rights of individuals, of our
17 group, and of the local government, Cass
18 county, were denied.

19 We pray you will ensure that Aquila and
20 all other companies that seek to do business
21 in the State of Missouri will know by your
22 order regarding our Motion to Dismiss or Deny
23 that they must not and cannot ignore the laws
24 of the United States, the State of Missouri
25 or the local areas in which they operate.

1 On Page 4 I've inserted part of the
2 membership form that every member of
3 stopaquila.org completed. I just wanted to
4 read to you what statements they make.

5 As a member of stopaquila.org I believe
6 that utility companies be required to seek
7 and obtain the zoning and permitting from the
8 appropriate local authority set forth in the
9 Missouri Constitution prior to building
10 facilities specified in the Constitution.

11 Utility companies must abide by the
12 rules and regulations of the Missouri Public
13 Service Commission. Ratepayers should not be
14 asked or required to subsidize facilities
15 that are not truly needed to ensure power.

16 A utility that purposefully divests
17 itself of facilities and contracts for power
18 is not justified in claiming need for a new
19 facility if the need appears to be associated
20 with divestiture from existing resources.

21 Ratepayers should not be required to
22 subsidize the South Harper plant that was
23 built without adherence to the applicable
24 Missouri laws, county zoning and permitting
25 and rules and regulations of the Missouri

1 Public Service Commission.

2 The order of Judge Dandurand that Aquila
3 originally agreed to requiring the South
4 Harper plant be dismantled should appeals
5 fail to overturn his judgment should be
6 enforced.

7 Aquila management should be held
8 accountable for knowingly failing to abide by
9 applicable laws set forth in the Missouri
10 Constitution, the County of Cass and the
11 rules and regulations of the Missouri Public
12 Service Commission.

13 Within the membership form it also
14 invited anyone who did not agree with any of
15 those statements or any part of those
16 statements to cross them out and to so state.
17 Not one of the members of stopaquila.org did
18 so.

19 One of the first parts of the oath that
20 you took as Commissioners was about the
21 United States Constitution, and we certainly
22 find information in the Constitution about
23 due process and properties, specifically
24 within Amendment 14, Section 1.

25 All persons born or naturalized in the

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1 United States and subject to the jurisdiction
2 thereof are citizens of the United States and
3 of the state wherein they reside. No state
4 shall make or enforce any law which shall
5 abridge the privileges or immunities of
6 citizens of the United States; nor shall any
7 state deprive any person of life, liberty or
8 property without due process of law; nor
9 deny to any person within its jurisdiction
10 equal protection of the laws.

11 In Aquila's haste to transfer three old
12 technology turbines purchased on the
13 unregulated side of their business where they
14 could and did request that ratepayers help
15 subsidize their past poor management
16 decisions and take advantage of tax shelters
17 and debt service rates not otherwise
18 available to them, I believe that Aquila in
19 collusion with officials of the City of
20 Peculiar deprived the citizens of property
21 without due process of law.

22 While stopaquila.org has previously
23 prepared and submitted testimony that
24 outlines statistics regarding loss of
25 property value that occurs within specified

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1 distances from a power plant, my husband and
2 I and others have real life concrete
3 experience in loss of property without due
4 process associated with South Harper plant.

5 Also I will note that there will be
6 testimony later this evening in regards to
7 some specifics about property values and
8 statistics, and I will probably be submitting
9 as well some testimony from last year and DNR
10 and I believe also before you that gave --
11 that were prepared by a real estate
12 professional in regards to property loss.

13 Having previously owned a home in
14 Grandview where an industrial area was
15 established nearby that severely impacted the
16 value of our property, Dave and I spent
17 years, literally, looking for the perfect
18 home that would provide a peaceful, natural
19 environment yet ensure a wise investment that
20 would maintain or appreciate in value over
21 time.

22 We thought that the purchase of our home
23 in Miller's Point met all of those
24 requirements. The atmosphere was peaceful,
25 nature plentiful, subdivision restrictions

1 and county zoning in the area would ensure
2 that the value of our property would be
3 protected.

4 In December of 2001 we invested
5 approximately a quarter million dollars, that
6 may not be a lot to Rick Green but that's a
7 lot to Dave and Julie Noonan.

8 We trusted that the peace we sought on
9 our seven hundred square foot wraparound
10 porch would be money well spent and for the
11 first several years we were certain we had
12 made the right and perfect choice not only
13 from an environmental standpoint, but also
14 from an investment standpoint.

15 We both experienced many significant
16 mental and physical benefits associated
17 directly with our choice to invest in our
18 home that is now approximately one mile south
19 or one mile from the South Harper plant.

20 Even though the move to our home
21 required each one of us to commute about
22 fifty miles each day to get to and from work
23 we thought it was an investment of time and
24 money well worth it.

25 Late in 2004 it became clear that our

1 peace and well-being and property were
2 threatened. Alerted by the article in the
3 Kansas City Star regarding the public forum
4 that Aquila would host about the proposed
5 power plant, I frantically sought to alert
6 other neighbors and encourage their
7 attendance. We sought desperately for a
8 resource that would tell us how and when we
9 could participate in and influence the
10 process.

11 My neighbors and I have spent thousands
12 of hours and thousands of dollars and many
13 sleepless nights ever since that day
14 requesting that our rights as citizens and
15 property owners be protected.

16 The members of stopaquila.org, formerly
17 known as Neighbors Against Annexation were
18 exhilarated when the City of Peculiar dropped
19 plans to proceed with what we were counseled
20 was a plan to illegally annex Harper Road and
21 the site for South Harper. We were confident
22 that Cass county would allow us due process
23 in the proceedings that we believed would
24 follow surrounding zoning and/or special use
25 permit request for the plant.

1 At that time we had no reason to believe
2 that Aquila would thumb its nose at the law
3 and at standard practice within the State of
4 Missouri and probably within the United
5 States. We believed that Aquila would apply
6 to Cass county, the appropriate municipality,
7 for zoning or a special use permit since the
8 parcel is in an agricultural and residential
9 area.

10 My real life example that follows is
11 proof that my husband and I have indeed been
12 deprived of property without due process.

13 He's worked hard his whole life. He's
14 worked for 37 years at his current employer.
15 He suffers from chronic allergies, Crohn's
16 disease and had to undergo open heart surgery
17 last summer. Heart patients are told there's
18 really three things you really have to watch
19 out for, your diet or your exercise and
20 eliminate stress.

21 Now more than ever it's imperative that
22 we seek to minimize stress in our lives.

23 One way to reduce stress is to retire.
24 As we discussed retirement my husband
25 indicated that to retire in our current

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1 situation we would not be able to. He argued
2 that all of the reasons we chose to move to
3 our home and why we valued our home are now
4 gone.

5 Aquila, in building South Harper plant
6 took that from us. Aquila, in building South
7 Harper plant has added incredible stress to
8 our lives. In robbing us of due process they
9 have ruined the peaceful harmonious
10 atmosphere we treasured. We decided to look
11 for a new oasis away from the pollution that
12 exacerbated allergies and away from the
13 stress that inflames Crohn's and encourages
14 further progression of heart disease.

15 When we weren't engaged in battle over
16 the power plant we began to spend much of our
17 time actively searching for a new home. We
18 found Dave's dream farm, put our house on the
19 market and put in an offer to purchase the
20 farm contingent on the sale of our home.

21 The contract on the 80 acre farm outside
22 of Adrian was presented to the sellers. And
23 we were told by the sellers real estate agent
24 that the seller had seen it and they
25 anticipated making a counteroffer.

1 The sellers drove by our home the night
2 before, and he gave as his reason for not
3 countering our offer, walking away from it,
4 that he did not believe we would be able to
5 sell our house in a reasonable period of time
6 due to how close we are to that power plant.

7 If South Harper was not there or if I
8 was 100 percent certain that the order to
9 deconstruct would be followed on May 31st of
10 this year I would have consented to my
11 husband's request to present another offer,
12 one that was not contingent on the sale of
13 our home. Given the grueling ups and downs of
14 this 16 month struggle and surprising turns
15 that keep us in peril I could not consent to
16 that risk. I just couldn't do it.

17 As the struggle with Aquila has evolved
18 our rights, our lives, our relationships and
19 my husband's health has been compromised.
20 The stress over the failed attempt to
21 purchase the farm has been unreal. David
22 suffered unprecedented and severely
23 debilitating Crohn's attacks and has been
24 unable to focus on little except how to get
25 that farm.

1 We decided to keep our house on the
2 market in hopes of a quick offer. Our
3 realtor received a call from a potential
4 buyer. They had numerous questions about the
5 power plant, and when the realtor answered
6 the questions the potential buyer had no
7 interest in pursuing.

8 In the second instance our realtor was
9 contacted by a buyer's agent. She answered
10 many questions about the home. After
11 conferring with the potential buyer the agent
12 scheduled an appointment to see our home.
13 Prior to that appointment they asked us, they
14 asked the realtors to fax the seller's
15 disclosure. Dave and I are honest, we're law
16 abiding citizens, we responded honestly to
17 the portion of the disclosure requiring us to
18 state any conditions in the surrounding area
19 that may impact property value.

20 I stated in as positive a light as
21 possible to Item 13B, power plant
22 approximately one mile away to be removed May
23 31st, 2006. After review of the disclosure
24 and response to the litany of questions
25 regarding specifically the power plant the

1 potential buyer canceled the appointment.

2 The farm that we wanted to purchase was
3 not available to us because of South Harper.
4 Potential buyers have declined to pursue
5 interest in our property because we were
6 honest about south Harper. Now I'm going to
7 have to tell my husband once again his dreams
8 have been dashed. Someone else has a contract
9 to purchase our farm, his dream farm.

10 That doesn't give you a dollar amount
11 for my property loss, but it is real. If you
12 ask any of the neighbors in this room that
13 have seen my house you know everybody thinks
14 their stuff is great, but it's beautiful.
15 It's on a beautiful lot and has this
16 incredible wraparound porch. I may not be
17 able to sell it not for any amount of money
18 that's reasonable or not within a time frame
19 that is appropriate for my family and for our
20 needs.

21 I've been deprived of property without
22 due process.

23 In the State of Missouri Constitution we
24 also find additional support for the concepts
25 set forth in the United States Constitution

1 about people not being deprived of property
2 without due process.

3 In Section 2 it says that all
4 constitutional government is intended to
5 promote the general welfare of the people,
6 that all persons have the right to life,
7 liberty, the pursuit of happiness and the
8 enjoyment of the gains of their own industry,
9 that all persons are created equal and are
10 entitled to equal rights and opportunity
11 under the law, that to give security to these
12 things is the principal office of government
13 and that government when government does not
14 concern that security it fails in its chief
15 design.

16 Section 10 also states that no person
17 shall be deprived of life, liberty or
18 property without due process of law.

19 I think it really speaks for itself
20 specially after what I've already talked to
21 you about. I'm just going to skip through a
22 little bit to page 14.

23 If Aquila had abided by the law and
24 sought zoning or a special use permit from
25 Cass county, I'm confident that the county

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1 would have provided all of us the opportunity
2 to be heard and would have considered our
3 testimony in the matter prior to making a
4 decision.

5 Certainly there remains the possibility
6 that in such a situation Cass County could
7 have allowed the zoning change or may have
8 authorized a special use permit. Had that
9 transpired I wouldn't have been happier. I
10 obviously wouldn't have been deprived of
11 property without due process. There's a big
12 difference.

13 Members of stopaquila.org are also very
14 appreciative that the courts of this state
15 have confirmed their contentions and support
16 the laws of the State of Missouri. The
17 Appellate Court confirmed that the City of
18 Peculiar denied citizens' rights in entering
19 the 100 bond agreement without a vote of the
20 qualified electorate.

21 The Circuit and Appellate courts have
22 confirmed twice each that Aquila constructed
23 a plant without the legal authority to do so.
24 The Appellate Court did not overturn the
25 decision or permanent injunction issued by

1 the Circuit Court.

2 Aquila has been ordered to deconstruct
3 the plant beginning May 31st. Some of our
4 stopaquila.org members may not even be aware
5 of that, but we are appreciative or at least
6 I'm appreciative personally of the motion
7 filed by Mr. Mills of the Office of the
8 Public Counsel last week to initiate a
9 management audit of Aquila management.

10 We are counting on you not to force us
11 back into court to prove what has already
12 been proven. We are counting on you to
13 support the intent and the letter of the law
14 pertaining to the Bill of Rights within the
15 Constitution of the State of Missouri.

16 I'm just going to summarize and say I
17 know you all have a lot coming at you. I
18 know that the motions are just never ending
19 every day. They just keep pouring through.
20 I can't even fathom because I'm only
21 primarily looking at the Aquila ones. I
22 can't imagine what must flood into your
23 purview.

24 So I'm sure that you must rely heavily
25 on recommendations from the staff, the Office

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1 of the Public Counsel, filings of the
2 testimony of the monopolies that you're
3 charged with regulating. I know that you
4 also have at your disposal for like today
5 case law regarding the oversight of
6 utilities, recent court decisions in regards
7 to this very matter at hand, historical PSC
8 practices and special certificates of need
9 that were granted in the State of Missouri
10 and at least some practices elsewhere, and
11 I'm sure that you possess the reasoning and
12 judgment to come to appropriate decisions.

13 I do want to point out that although I
14 am certainly not a lawyer, I'm certainly not
15 a professional in the utility industry nor do
16 I ever plan to become either, I have tried to
17 understand what role the Public Service
18 Commission would have in this proceeding and
19 what by the statutes that I was able to see
20 might come within your jurisdiction.

21 I hope that you have the same issue that
22 I have on my own copy, I fail to find -- I've
23 read through Chapter 386 several times and
24 all the various sections specified in that
25 that also constitutes the Public Service

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1 Commission. I can't even remember what the
2 term is, law, and several of the other things
3 noted here. I don't profess to know
4 everything but it doesn't appear to me that
5 the Commission has the authority to approve a
6 request for 100 bond financing when the
7 request was made after the agreement was
8 completed.

9 The law clearly states that the order
10 must be secured from the PSC prior to
11 entering such an agreement. In my mind that
12 would also require the request for such an
13 order would have to be made prior to entering
14 the agreement.

15 I don't see that the PSC would have the
16 authority to condone a utility to proceed
17 with 100 bond financing when the
18 municipality, the City of Peculiar, denied
19 citizens the right to vote on the issue. The
20 statute is very clear about the requirement
21 for 100 bond financing to be submitted to a
22 vote of the people. The statute even
23 specifies the ballot language.

24 Additionally those most impacted by the
25 South Harper plant were denied the right to

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1 educate voters and influence the outcome of
2 the vote.

3 I didn't see where the PSC had the
4 authority to approve an affiliate transaction
5 for the transfer of turbines if evidentiary
6 standards were not met and/or if the value of
7 the turbines didn't comply with fair market
8 value. Although I don't have personal
9 knowledge of all circumstances regarding the
10 transaction, I would certainly encourage
11 scrutiny.

12 I didn't see in my review where the PSC
13 could approve the owning, construction,
14 operation and maintenance of a power plant
15 after it was constructed. The language in
16 the statute specifies that the permission and
17 approval of the Commission must be approved
18 first prior to beginning construction.
19 Asking now doesn't satisfy the law.

20 I didn't see where the PSC could approve
21 the owning, construction, operation and
22 maintenance without the required consent of
23 the appropriate municipality. Although the
24 City of Peculiar officials and Aquila
25 intended that the city would provide zoning

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1 consent, and there are letters and other
2 documents that actually prove this, their
3 plan to illegally annex the property failed.
4 Therefore, the appropriate municipality
5 became Cass County.

6 I didn't see the ability to approve a
7 rate increase that's going to include
8 generation before it is in service labeled by
9 Commissioner Gaw as phantom and fictional in
10 his dissent of the recent rate case.

11 I didn't see authorization to ignore
12 instances in which a public utility provides
13 misrepresentation to the public or the PSC.
14 Members of stopaquila.org could write a book
15 on all of the misrepresentations Aquila has
16 made to the public and other entities
17 surrounding the planning, owning, building
18 and operating of South Harper.

19 Given the instability of Aquila you may
20 be concerned that if the request is denied it
21 could conceivably trigger a chain of events
22 that culminates in insolvency. I know that
23 you don't want to subject the rate payers to
24 additional risk. However, I suspect that if
25 Aquila were to crumble under the weight of

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1 their own poor management decisions and
2 disregard of the law that a more responsible
3 and responsive company would gladly accept
4 the challenge.

5 While it wouldn't be pretty such a
6 scenario might prove a much more stable and
7 rate payer friendly environment in the
8 future.

9 In previous cases and in the case before
10 you now you have heard and will hear
11 testimony regarding pollution, noise,
12 misrepresentations and Aquila's claim for the
13 need for power while divesting themselves of
14 generation facilities and contracts. Let me
15 state that I find all of those issues
16 troubling and also worthy of the Commission's
17 careful consideration.

18 As a member of Stopaquila.org and as a
19 citizen who has exhausted entirely too much
20 time, energy and money in an attempt to cause
21 authorities to make Aquila follow the law and
22 reap the consequences of their own actions
23 and decisions, I implore you to dismiss or
24 deny Aquila's motion.

25 We have all heard Aquila attempt to

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1 blame the PSC for their actions by
2 reiterating their belief that the 1938 or
3 1917 -- I always forget -- certificate
4 granting them the authority to string power
5 lines also gave them unrestricted authority
6 to build anything they want anywhere they
7 want.

8 Funny how beliefs change so quickly.
9 Aquila believed that they entered into Cass
10 County zoning when they built Aries in 2001
11 and did so. Aquila believed that they could
12 enter into Cass County zoning in 2004 when
13 they were planning to build Camp Branch in
14 Harrisonville. They requested it and, yes,
15 Aquila even believed that they needed to
16 obtain zoning from the City of Peculiar when
17 they thought Peculiar would annex the South
18 Harper site.

19 When the PSC was regularly granting
20 special certificates of need and necessity
21 back in the 80s or before the PSC practice it
22 appears to me to have required the utility to
23 provide the utility the special use permits
24 from the appropriate local authority prior to
25 granting a certificate. If you will be

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1 reviving the practice of granting special
2 certificates of need and necessity for the
3 purposes of constructing power plants, please
4 please, please utilize the same guidelines
5 you followed previously and unless or until
6 the laws are changed to require differences
7 in the process.

8 JUDGE PRIDGIN: Miss Noonan, I'm
9 terribly sorry to interrupt, but if I could
10 trouble you to maybe wrap up your remarks,
11 I'm sorry, but we still have several
12 witnesses.

13 THE WITNESS: I'm very close.

14 JUDGE PRIDGIN: Thank you.

15 THE WITNESS: Slide 21, not even
16 my backyard. Yes, to be sure that is one of
17 our arguments, not in my backyard or my front
18 yard. Our argument is much more than that,
19 though, our argument is not while trampling
20 on the 14th Amendment rights acknowledged in
21 the United States Constitution. Not while
22 deselecting the Missouri Constitution Article
23 1 Bill of Rights, Sections 2 and 10.

24 Not while ignoring various revised
25 statutes of the State of Missouri.

1 Not while acting in collusion with a
2 government entity to illegally annex.

3 Not while misrepresenting the status of
4 bond financing to the Public Service
5 Commission.

6 Not while repeatedly misrepresenting
7 issues and actualities to the public.

8 Not while ignoring a permanent
9 injunction by the Circuit Court confirmed by
10 the Appellate Court knowingly placing an
11 already unstable company, its shareholders,
12 and ratepayers in additional, unnecessary and
13 unjustifiable risk.

14 Not while Aries sits virtually idle 20
15 miles away.

16 If Aquila is allowed a special
17 certificate of need and necessity after it
18 has already built South Harper then a
19 dangerous precedent will have been set. Any
20 regulated company could build anything they
21 wanted anywhere they wanted without consent
22 for siting.

23 Corporations are in business to make
24 money. Corporations care about what enriches
25 the bottom line and individual executives'

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1 financial interests. Corporations abide by
2 the law if compliance enriches the bottom
3 line or if they fear enforcement with
4 penalties for noncompliance are sufficiently
5 severe to negatively impact the bottom line
6 or risk criminal liability.

7 Aquila is a corporation that struggles
8 financially even though they've been granted
9 a monopoly and profit that should be
10 sufficient to ensure their solvency.

11 Although we believe that the laws Aquila
12 ignored in this case are clear, following the
13 laws might not have produced the results that
14 Aquila wanted in the time frame they wanted.
15 Why follow the laws if you don't fear
16 enforcement or severe enforcement or severe
17 penalties for failure to follow the laws.

18 Thank you very much for your time and
19 for your consideration and for helping to
20 uphold our rights.

21 JUDGE PRIDGIN: Miss Noonan,
22 thank you very much, if you will keep your
23 place we might have some questions from the
24 Commissioners.

25 CHAIRMAN DAVIS: Thank you. It is

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1 obvious you spent a lot of time on your
2 testimony, and I would certainly try to read
3 it carefully, thank you.

4 JUDGE PRIDGIN: Commissioner
5 Gaw.

6 COMMISSIONER GAW: No. Thank
7 you very much. I would ask, just for
8 clarification, the document that you handed
9 us to the best of your knowledge and belief
10 is accurate and you're supporting it here as
11 your testimony?

12 THE WITNESS: To the best of my
13 knowledge, yes, but I have also done a
14 disclaimer that I am not a lawyer and I'm not
15 a utility expert.

16 COMMISSIONER GAW: Other than
17 the legal things that you have in here the
18 quotes and other things from a legal
19 standpoint, are the representations that you
20 have made in here the same as your testimony?

21 THE WITNESS: Yes.

22 COMMISSIONER GAW: Thank you.

23 JUDGE PRIDGIN: Commissioner
24 Clayton.

25 COMMISSIONER CLAYTON: I don't

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1 have any questions.

2 JUDGE PRIDGIN: Commissioner

3 Appling.

4 THE WITNESS: No questions.

5 JUDGE PRIDGIN: Follow-up from
6 counsel?

7 (No response.)

8 JUDGE PRIDGIN: Miss Noonan,
9 thank you for your time and remarks.

10 THE WITNESS: Thank you.

11 JUDGE PRIDGIN: I see as the
12 next witness Don Eberle.

13 THE WITNESS: This is going to be
14 shorter. I'm going to give you one sheet
15 here.

16 JUDGE PRIDGIN: Mr. Eberle,
17 could I trouble you to raise your right hand
18 and be sworn, please.

19

20 DON EBERLE

21 a witness herein, being first duly sworn by
22 the Judge, testified on his oath as follows:

23

24 JUDGE PRIDGIN: Sir, would you
25 please state your name for the record.

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1 THE WITNESS: Don A. Eberle,
2 E-b-e-r-l-e.

3 JUDGE PRIDGIN: And your address,
4 sir.

5 THE WITNESS: 7007 East 271st
6 street, Freeman, Missouri 64746.

7 JUDGE PRIDGIN: And are you a
8 customer of Aquila?

9 THE WITNESS: Yes.

10 JUDGE PRIDGIN: And could you
11 tell me what this document is that you just
12 handed to me, please.

13 THE WITNESS: Just some thoughts
14 I had that I think might help going on the
15 record.

16 JUDGE PRIDGIN: I'm going to
17 label that as Exhibit Number 3 for the record
18 and Mr. Eberle you can continue, sir.

19
20 (A certain document was marked Exhibit
21 Number 3 for identification by the
22 Judge.)

23
24 THE WITNESS: Okay. Well, first
25 I'm a registered professional engineer who

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1 has worked on the design of base loads as
2 well as peaking plants for 30 years. Few
3 people know the complexity and design of a
4 power plant. Plans and specifications for a
5 plant takes months or even years, then
6 purchase and delivery of equipment takes many
7 more months, most of this before any
8 construction starts.

9 I'm here today to support the operation
10 of the South Harper plant. I can't believe
11 any logically minded person would suggest
12 tearing down a brand new 315 million dollar
13 plant when we hear Cass county is the fastest
14 growing county in the area. Except for
15 readiness testing this plant might not be
16 cranked up for months. In July or August, air
17 conditioning season this could cause sporadic
18 operation as needed.

19 No one knows when an accident,
20 malfunction or natural disaster might affect
21 a nearby base unit. It would be nice to know
22 that a backup plant could be on line in a few
23 minutes compared to the hours it takes to
24 take a base load plant on line. I'm hoping
25 that the PSC can see through the local

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1 politics and authorize the use of this
2 facility.

3 JUDGE PRIDGIN: Thank you very
4 much, let me see if we have any questions
5 from the Commission. Chairman Davis.

6 CHAIRMAN DAVIS: No questions,
7 Judge.

8 JUDGE PRIDGIN: Thank you.
9 Commissioner Gaw.

10 COMMISSIONER GAW: Mr. Eberle,
11 just very briefly. Are you retired or
12 working?

13 THE WITNESS: Retired. I've
14 been retired ten, twelve years.

15

16 Q (BY COMMISSIONER GAW:) Did you work for
17 yourself or did you work for someone else?

18 A I worked for Black and Veach in Kansas City.

19 Q Black and Veach, okay. And how close do you
20 live to this plant?

21 A It must be three, four miles southwest.

22 Q Thank you very much, sir.

23

24 JUDGE PRIDGIN: Commissioner
25 Clayton.

1 COMMISSIONER CLAYTON: I'm not
2 letting you off the hook yet.

3 Q (BY COMMISSIONER CLAYTON:) You say three to
4 four miles southwest from the plant is where
5 your residence is?

6 A Yes.

7 Q Can you see the plant from your residence?

8 A No.

9 Q Can you smell it?

10 A No.

11 Q Hear it?

12 A No.

13 Q Would it make a difference in your testimony
14 if you did?

15 A Well, not a lot. I've even considered, asked
16 my wife I would be glad to see them put a
17 plant on the edge of my -- corner of my
18 property. I've worked with these plants for
19 several years and right up close they're
20 noisy, but say a quarter of a mile away you
21 will hear them but they're not that noisy.

22 Q What type of work did you do for Black and
23 Veatch?

24 A Structural. Structural engineering where we
25 had to review shop drawings of all the

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1 equipment and design the structure and
2 foundations for them.

3 Q For what?

4 A Power plants.

5 Q For power plants?

6 A Yes.

7

8 COMMISSIONER CLAYTON: Thank you.

9 JUDGE PRIDGIN: Commissioner

10 Appling.

11 COMMISSIONER APPLING: No

12 questions.

13 JUDGE PRIDGIN: Any follow-up

14 from counsel?

15 (No response.)

16 JUDGE PRIDGIN: Mr. Eberle,

17 thank you very much for your time and your

18 testimony. Toni Wiseman.

19 THE WITNESS: I first need to

20 give you Darla Bremer's statement. I was

21 going to read both and you said you preferred

22 to give hers to hand in.

23 JUDGE PRIDGIN: That's perfectly

24 fine. May I ask you to go back and be sworn

25 in and I'll ask you some questions about

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1 this.

2

3 TONI WISEMAN

4 a witness herein, being first duly sworn by
5 the Judge, testified on her oath as follows:

6

7 JUDGE PRIDGIN: If you would,
8 please state your name for the record and
9 spell your last name.

10 THE WITNESS: Toni Wiseman,
11 W-i-s-e-m-a-n.

12 JUDGE PRIDGIN: And your address,
13 please.

14 THE WITNESS: 122 Jamar,
15 Peculiar, Missouri.

16 JUDGE PRIDGIN: And are you a
17 customer of Aquila?

18 THE WITNESS: Yes.

19 JUDGE PRIDGIN: You just handed
20 me a document, could you tell me what you
21 have just handed me, please.

22 THE WITNESS: That is a statement
23 from Darla Bremer, and she had a broken leg
24 so I was going to present her statement but
25 they said you would prefer that I just hand

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1 it to you. She lives directly across the
2 street from me and the South Harper facility.

3 JUDGE PRIDGIN: I will mark Miss
4 Bremer's written statement as Exhibit Number
5 4 for the record. Thank you, Miss Wiseman,
6 you can continue.

7
8 (A certain document was marked Exhibit
9 Number 4 for identification by the
10 Judge.)

11
12 WITNESS: My husband and I are in
13 support of the Aquila South Harper facility
14 for selfish reasons, we like our electric.
15 After checking utility bills we found
16 electricity is the cheapest thing we have
17 going. My water bill runs approximately \$72 a
18 month and my light bill runs about 65, that
19 gives you an idea. By dismantling the South
20 Harper facility it's the little guy that
21 ultimately will suffer, and the little guy
22 being the general public, those suffering
23 most will be people on fixed incomes.

24 As it stands to reason rates will have
25 to be increased to recoup the money to build

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1 and the X number of dollars to dismantle. We
2 will still need the electricity. We moved to
3 Peculiar in 1993 after long years of
4 searching for a community we wanted to settle
5 in for our retirement years. We looked at a
6 lot of communities in Lafayette county, Clay,
7 Platte and Johnson. Picked Cass county
8 because we not only had friends in the area,
9 but it seemed like Cass would be the up and
10 coming community.

11 Cass county is growing at a rate of 17
12 percent and the next highest county growth is
13 8 percent. With this type of growth it
14 stands to reason you have to have progress,
15 which means additional businesses, improved
16 infrastructures and services.

17 Services not only include the police and
18 the fire but water, sewer, gas and lights.
19 Aquila serves not only Cass county but also
20 all of Missouri and part of Kansas when you
21 consider not only direct services but power
22 cooperatives as well.

23 Two weeks ago should have been a good
24 example of the needs when the tornados hit
25 Cass, Henry and Johnson counties with all the

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1 power interruptions the South Harper station
2 could not start up. Many were without power
3 for many unnecessary hours. Talk about
4 needing peak hour that was the time. Power
5 could have been restored and furnished much
6 quicker were the plant able to operate.

7 I'm involved in a lot of community
8 activities including the Cancer Society Relay
9 for Life, the Cass county Council on Aging,
10 the Cass county Fair Board and Cass county
11 Park Board, and I believe in the community
12 and that's why I involve myself in community
13 activities. And I think the Commission or I
14 hope the Commission will seriously consider
15 the needs of the people and grant the Aquila
16 South Harper peaking facility whatever
17 permission is needed to remain in the present
18 location.

19 Aquila has become a good neighbor and
20 sometimes good neighbors are kind of hard to
21 find.

22 JUDGE PRIDGIN: Thank you very
23 much for your testimony. Let me see if we
24 have any questions. Chairman Davis.

25

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1 Q (BY CHAIRMAN DAVIS:) Miss Wiseman, did anyone
2 ask you to come testify today?

3 A No.

4 Q Did you -- I notice you're testifying from a
5 type written statement, did anyone review
6 that statement other than yourself?

7 A Yes.

8 Q May I ask who?

9 A My husband.

10 Q Okay.

11 A I wasn't asked to testify but I was told if I
12 wanted to testify the best way to do that
13 would be to do it with a prepared statement.

14 Q May I ask who told you that?

15 A The Aquila staff.

16 Q Okay.

17 A I've been out to tour the plant.

18 Q Hypothetically speaking, would it make a
19 difference in your testimony if -- I mean I
20 guess your testimony presumes that ratepayers
21 will automatically have to pay if this plant
22 has to be torn down; is that correct?

23 A I don't necessarily presume that, I probably
24 estimate and maybe I shouldn't do that, but
25 it would seem reasonable that if something

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1 cost that much money to put up and to take
2 down it has to be paid for someplace.

3 Q So if it had to be torn down you think it
4 should be the shareholders or the management
5 that should have to be responsible for
6 shouldering that burden?

7 A Unfortunately I think it has to be spread
8 across the board, but the shareholder is the
9 little guy, too.

10 Q But the shareholders hire management, don't
11 they?

12 A As a general rule.

13

14 CHAIRMAN DAVIS: No further
15 questions, Judge.

16 JUDGE PRIDGIN: Thank you.
17 Commissioner Gaw.

18

19 Q (BY COMMISSIONER GAW:) Judge, just a few.
20 Miss Wiseman, refresh my memory, where did
21 you say you live from the plant?

22 A We live in town which is probably four and a
23 half miles.

24 Q Okay. So you don't live out in the area where
25 the plant is?

1 A No. I have friends that live out in that
2 area.

3 Q You said earlier, you testified that you
4 thought that during the recent outages that
5 if the South Harper plant had been running
6 that the power would have been restored
7 sooner; can you tell me what you base that
8 on?

9 A My father has worked on power plants all over
10 the country and I probably go from the
11 production side of it that if the power goes
12 out the quicker you can up other facilities
13 the quicker you can get back on line.

14 Q Do you know whether those storms caused
15 generation facilities to be out as opposed to
16 having lines or transmission or distribution
17 lines that were down?

18 A I think there were a lot of distribution
19 lines down. But I also believe that there
20 was one transformer that was knocked out.

21 Q But as far as generating facilities are
22 concerned, do you know of any of them that
23 were down?

24 A No, because we have generating facilities
25 that aren't allowed to be used.

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1 Q Other than the South Harper facility, are you
2 referring to some others?

3 A Well, from what I've been hearing hear today
4 apparently there are other facilities that
5 aren't able to be fired up and used when
6 necessary.

7 Q Are you talking about the Aries plant?

8 A Um-hum.

9 Q Do you know anything about the circumstances
10 of why the Aries plant is not currently being
11 used?

12 A No. But with electronics being what they are
13 we think we would need all the electricity we
14 could get.

15 Q So if the Aries plant was shut down or not
16 being utilized you think that might be an
17 issue as well?

18 A I would have to see why it was shut down or
19 why it is not being used to make that
20 decision.

21 Q Okay. You say your father worked on
22 generating facilities around the country?

23 A He worked on power plants.

24 Q Who did he work for?

25 A He worked for a couple of different

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1 companies, the last one was Owens-Corning.

2 COMMISSIONER GAW: That's all I
3 have I think. Thank you, ma'am.

4 JUDGE PRIDGIN: Commissioner
5 Appling.

6 COMMISSIONER APPLING: No
7 questions.

8 JUDGE PRIDGIN: Follow-up from
9 counsel. Mr. Mills.

10 MR. MILLS: Are you an Aquila
11 customer now?

12 THE WITNESS: Yes.

13 JUDGE PRIDGIN: Mr. Chairman.

14

15 Q (BY CHAIRMAN DAVIS:) Miss Wiseman, you
16 testified earlier that you're a member of a
17 number of civic organizations in the area.
18 To the best of your knowledge has Aquila made
19 financial contributions or contributions to
20 those organizations or made commitments to
21 make financial or other contributions to any
22 of those organizations?

23 A I'm a former member of the Park Board of
24 Peculiar and I believe that they approached
25 them to put lights at Ray-Pec Park, but

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1 whether that has been done or whether it is
2 going to be done I don't know.

3 CHAIRMAN DAVIS: Thank you, no
4 further questions.

5 COMMISSIONER GAW: Just one more
6 real quick. Miss Wiseman, what do you do
7 currently?

8 THE WITNESS: I'm a retired part
9 time temporary person. I'm retired as --
10 we're retired but after spending so many
11 hours in the house with my husband I get a
12 little bit of cabin fever so I work on a
13 temporary service and I work part-time, but I
14 keep busy with all these activities also.

15 COMMISSIONER GAW: That's all
16 right, thank you very much.

17 JUDGE PRIDGIN: If there's
18 nothing further, Mrs. Wiseman thank you very
19 much for your time and your testimony.

20 THE WITNESS: Thank you.

21 JUDGE PRIDGIN: Tricia
22 Hazelrigg.

23

24

25

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 TRICIA HAZELRIGG

2 called as a witness herein, being first duly
3 sworn by the Judge, testified on her oath as
4 follows:

5 JUDGE PRIDGIN: If you would,
6 please state your name for the record and
7 spell your last name.

8 THE WITNESS: Tricia Hazelrigg,
9 H-a-z-e-l-r-i-g-g.

10 JUDGE PRIDGIN: And your address,
11 please.

12 THE WITNESS: 9502 East Seville
13 Circle, Peculiar.

14 JUDGE PRIDGIN: And are you a
15 customer of Aquila?

16 THE WITNESS: No, I'm not.

17 JUDGE PRIDGIN: Do you have a
18 statement for the Commission?

19 THE WITNESS: I took notes so I
20 would try not to be too repetitive. From
21 what I can tell this turns out to be a
22 discussion on the issue of balance and issues
23 of authority. Balance is supposed to be what
24 you are looking for. I can assure you right
25 now balance is not being served, and I don't

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1 believe that allowing the plant to stay will
2 serve the issue of balance either. I think
3 it will actually throw things out of balance
4 if the plant is allowed to stay.

5 And a lot of this has to do with the
6 authority issue. Who is really in charge?
7 I've lived at my address a little less than
8 two years. When we were looking at property
9 in the area no one ever anywhere said
10 anything about the potential of a power
11 plant. Never.

12 Mr. Dancy mentioned earlier, oh, we
13 invited local residents to visit a power
14 plant, I never got an invitation. I found
15 out about it because some of my neighbors
16 posted notices in my neighborhood saying
17 there was a meeting and I should be there. So
18 I went.

19 Balance in my life means that I drive 80
20 miles a day so that I can work where I work
21 where I have a good job and live where I live
22 and keep track of a son who is a senior in
23 high school and aging parents who now live
24 with me. Now, that's balance sort of.

25 So my home is an investment, too. We

1 did, in order to support my aging parents, we
2 did some remodeling on our home just last
3 summer, we added probably about 600 square
4 feet in finished basement and we built a new
5 garage so that we could have single level
6 space for my mother. Afterwards we had our
7 home appraised, and we had spoken to a few
8 realtors about potential house values and
9 things like that and were really shocked to
10 find out that because of the real estate
11 activity in the area that they really didn't
12 feel that the home would come close to what
13 would normally have been a retail value for
14 it, about 20 thousand below actually what the
15 realtor thought it should go to is what the
16 appraiser thought it would go for.

17 Which means that basically we tried --
18 we did a lot of work ourselves with the
19 supervision of a friend who is a professional
20 so we could do a good development. Nothing
21 really extravagant, a good development, you
22 know, that would increase the value of our
23 house and make it comfortable for us while we
24 were there and appealing to buyers.
25 Basically we even did a lot of the work

1 ourselves. He's telling me that the money we
2 spent does not really contribute to the value
3 of my home. It was really disappointing.

4 I don't have time to be an authority on
5 utilities. I don't have time to go to law
6 school and learn about the legal
7 ramifications of it. I barely have time -- I
8 am a member of stopaquila.org, but I'm not as
9 active as I'd like to be. Now I'm a member
10 of a co-op that -- I haven't been reading all
11 my material obviously because they're looking
12 at building a coal plant in Carrollton. And
13 obviously now I need to be more involved in
14 that.

15 I'm a firm believer that if things
16 aren't going the way you should you either
17 need to learn to deal with it or take steps
18 to change it. So here I am trying to take
19 steps to change it.

20 Who is in charge here? I thought the
21 county was in charge. The City of
22 Peculiar -- we live outside the city limits.
23 I am insulted that they felt like what they
24 were doing would not affect us. I moved to
25 Peculiar thinking this would be my community

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1 only to find out within the first few months
2 my community sold me down the river.

3 I'm not against progress. I am not
4 against progress. I'm very proud of the fact
5 that Cass county is growing quickly. However,
6 I do believe there are rules for a reason. I
7 do believe that you have to follow the rules
8 or you have to take the consequences.

9 People say, oh, it would be a terrible
10 thing to have to tear this plant down now
11 that we have spent so much money on it. I
12 don't know that leaving that plant in place
13 is going to save Aquila or the people that
14 work for Aquila, because the company is not
15 stable even if the plant stays in place. So
16 it might be a short term stay, but I don't
17 see it as being a long term solution to the
18 problem, the area or the problems of the
19 company.

20 I think the county should be the
21 authority in this case and the county has
22 made it clear how they feel about the issue
23 and I would ask you to support that
24 authority.

25 JUDGE PRIDGIN: Ms. Hazelrigg,

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 thank you. If you will stay there and see if
2 we have any questions from the Commissioners.
3 Chairman Davis.

4 CHAIRMAN DAVIS: No questions.

5 JUDGE PRIDGIN: Thank you.
6 Commissioner Gaw.

7 COMMISSIONER GAW: Thank you
8 very much and I appreciate it.

9 JUDGE PRIDGIN: Commissioner
10 Clayton.

11 COMMISSIONER CLAYTON: Ms.
12 Hazelrigg, just a few questions.

13

14 Q (BY COMMISSIONER CLAYTON:) Can you tell me
15 where Seville is or where -- how far is
16 your --

17 A I'm about a mile and a quarter northwest of
18 the Harper plant.

19 Q Can you see it from your house?

20 A I do not see it from my house, however, I do
21 walk extensively, I walk my dogs around that
22 area down Lucille and down 241st street.

23 Q So you can't see any part it from your house?

24 A I cannot.

25 Q Can you hear it when it runs?

1 A Sometimes.

2 Q Can you smell it or anything?

3 A I have not noticed anything as far as that.

4 Q Are there any other aspects that cause you to
5 notice that it's there other than walking?

6 A Other than the high voltage transmission
7 lines that cut right through my neighborhood
8 now that weren't there before. The big
9 potholes in my road. They repaired a few
10 roads but they didn't do anything about 235th
11 street.

12 Q How far are the transmission lines from your
13 home?

14 A Oh, gosh.

15 Q Approximation, I don't need it down to the
16 inch.

17 A I'm not very good. I would say that there are
18 probably maybe two tenths of a mile from my
19 home. Maybe a tenth of a mile, somewhere in
20 there. I mean, if I walk down to where the
21 transmission lines are it's about a five
22 minute walk from my house.

23 Q Thank you very much.

24

25 COMMISSIONER APPLING: No

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1 questions.

2 JUDGE PRIDGIN: Thank you. Any
3 follow-up? I see none. Thank you very much
4 for your time and your testimony. I'm sorry,
5 Mr. Gaw, do you have a question for Miss
6 Hazelrigg?

7 COMMISSIONER GAW: No, of
8 counsel.

9 JUDGE PRIDGIN: Thank you, ma'am.

10 COMMISSIONER GAW: I want a
11 clarification because it's relevant to this
12 siting question to me, and I hadn't asked it
13 before and I was looking in the petition.
14 Does the petitioner believe that they are
15 requesting siting authority to construct
16 generation facilities on the place known as
17 South Harper for more than three gas turbines
18 with this particular petition that is in
19 front of us?

20 MR. SWEARENGEN: I do not believe
21 so.

22 COMMISSIONER GAW: I can't tell
23 that it's clear here. There's a statement
24 about requesting permission for -- to
25 construct, install, own, operate, maintain

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1 and otherwise control and manage electrical
2 power production and related facilities at a
3 site now comprising three 105 megawatt
4 natural gas fired combustion turbines. Then
5 it goes on. But it is not clear to me whether
6 that's all that's -- if you're just
7 requesting the authority for those three
8 units or not.

9 MR. SWEARENGEN: We're just
10 asking for the three units. I think in the
11 future if the decision was made to come back
12 and locate additional units at that site then
13 application for that authority would be filed
14 with the Commission.

15 COMMISSIONER GAW: Okay. That's
16 what I needed, thank you.

17 JUDGE PRIDGIN: Thank you. I see
18 as the next witness Roberta Klein, and after
19 this next witness I plan on taking a quick
20 break.

21 Good afternoon, ma'am, if you would
22 raise your right hand and be sworn.

23
24 ROBERTA KLEIN
25 a witness herein, being first duly sworn by

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 the Judge, testified on her oath as follows:

2

3 JUDGE PRIDGIN: If you would,
4 please state your name for the record and
5 spell your last name.

6 THE WITNESS: Roberta Klein,
7 K-l-e-i-n.

8 JUDGE PRIDGIN: And your address,
9 please.

10 THE WITNESS: 1105 Lexington
11 Road, Pleasant Hill, Missouri 64080.

12 JUDGE PRIDGIN: And are you a
13 customer of Aquila?

14 THE WITNESS: Yes, I am.

15 JUDGE PRIDGIN: All right. Do you
16 have a statement for the Commission, ma'am?

17 THE WITNESS: Yes, I do. Now this
18 statement was prepared only by me and it is
19 typewritten.

20 On behalf of my husband Ralph and I, I
21 am happy to be here to express our thoughts
22 and feelings on Aquila's South Harper peaking
23 facility. We are Cass county residents and
24 have been for 43 years. We resided in
25 Sedalia, Missouri prior to moving to Pleasant

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1 Hill. My husband, Ralph, started working for
2 Missouri Public Service Company in 1954 as a
3 laborer on a gas crew. He worked his way up
4 to be an operator at the Sedalia power plant
5 and retired in 1991 as an operator in the
6 Ralph Green power plant in Pleasant Hill.

7 He worked 36 and one half years for the
8 company. With over a 30 year relationship
9 with the company, as Cass county residents we
10 are one hundred percent in support of keeping
11 Aquila's South Harper peaking facility at the
12 current location in rural Cass county. We
13 have given this a lot of thought and our
14 decision is that this facility is needed
15 during peak periods or when other Aquila
16 facilities cannot generate enough electricity
17 for various reasons to provide adequate power
18 to all the communities served by Aquila.

19 This is part of progress. I hope all of
20 us here are in favor of progress. All of the
21 communities served by Aquila is seeing a
22 surge in the building of new subdivisions as
23 well as new businesses and industries. To
24 provide adequate electric power, not only for
25 Aquila, for Aquila's customers, but for

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1 surrounding electric companies Aquila serves,
2 this facility is needed to prevent brown
3 outs.

4 As an electric power producing plant --
5 an electric power producing plant cannot be
6 built in a matter of days or weeks it takes a
7 considerable amount of planning. As an
8 electric power producing company it is
9 mandatory for Aquila to keep up with and
10 ahead of the fast growth and expected growth
11 in all the communities it serves.

12 I grew up in the days with no
13 electricity. I remember vividly the hot days
14 and nights during the coal oil lamp times.
15 It was miserable with no fans or
16 refrigeration. I don't think anyone who works
17 in an office, a grocery store, fast food
18 business, convenience store, Wal-Mart or
19 other businesses want to experience a brown
20 out. It would affect doctors and dentists'
21 offices as well. It will be a big waste and
22 not feasible for anyone involved to spend a
23 considerable amount of money to tear down
24 this plant.

25 In the long term it is not a win or lose

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 situation. If this facility is torn down
2 everyone loses. The customers lose by not
3 having adequate power to run all of their
4 electrical conveniences and it will keep new
5 businesses and industry from locating in an
6 area which cannot supply adequate electrical
7 power for their particular needs.

8 Electricity is the more feasible way to
9 heat homes and businesses. With the
10 increased number of heat pumps being
11 installed in subdivisions the right decision
12 to make is to keep the present plant and
13 assure all customers and future customers
14 they will have adequate power to serve their
15 needs.

16 Everyone should look at this in a long
17 term perspective. If a neighbor or a friend
18 disagree with your decision don't follow the
19 leader. Act as a mature adult and look at
20 the pros and cons of the situation and make
21 your own decision. Do what your conscience
22 tells you and let us not let politics
23 dominate our decision making.

24 Thank you for your time and presence.

25 JUDGE PRIDGIN: Thank you,

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 ma'am, for your comments. Let me see if we
2 have any questions from the Commissioners.
3 Chairman Davis.

4 CHAIRMAN DAVIS: No questions.
5 Thank you, Mrs. Klein.

6 JUDGE PRIDGIN: Thank you.
7 Commissioner Gaw.

8 COMMISSIONER GAW: No questions.

9 JUDGE PRIDGIN: Commissioner
10 Appling.

11 COMMISSIONER APPLING: Mrs.
12 Klein, how are you doing?

13 THE WITNESS: I'm doing fine.

14

15 Q (BY COMMISSIONER APPLING:) How far do you
16 live away from plant, ma'am?

17 A I live about 19 miles northeast. I live in
18 Pleasant Hill.

19 Q You have been in this community for 40 years
20 you said?

21 A For 43 years.

22 Q Forty three years. Your husband worked for
23 the plant at Pleasant Hill?

24 A Yes. As well as Sedalia.

25 Q Have you heard everything that the people in

1 this audience have said this morning?

2 A I have.

3 Q What do you say to those people?

4 A Well, my thoughts on the statements that I
5 have heard this morning is most of them are
6 not Aquila customers, but do they know that
7 Aquila supplies power to Osage Valley? You
8 and I think that a lot of the testimony here
9 today has been to try and get even with the
10 company. My understanding of what I read in
11 the paper and everything was the company
12 thought they were going by a law that was
13 established in the books in 1938 and for some
14 reason the Judge will not honor that law. I
15 don't know why. If the law is on the books
16 and it won't be honored my feeling is the law
17 should be taken out of the books.

18 Q Thank you very much, ma'am, for coming. I
19 appreciate your testimony.

20 A You're welcome.

21

22 JUDGE PRIDGIN: Any follow-up
23 from counsel? Seeing none, let's take a
24 brief recess. Be back on the record in about
25 ten minutes.

(Recess taken at 3:25 p.m., and
reconvened at 3:45 p.m.)

JUDGE PRIDGIN: We're back on
the record. Let me just remind folks I've
still got quite a few witnesses and more
people signing up. I certainly want to give
everybody a chance to speak who is interested
in testifying, but a couple of reminders, is
number one if you are reading from a written
statement if you would at least consider
paraphrasing that or in lieu of that simply
submitting that. I've already received some
written comments, and I'm sure we'll get
others later. Again, I don't want to keep
you from testifying if you're intent on doing
so, but if you're just reading from a written
statement if you will just consider
submitting that instead.

Also, I plan on giving very gentle
reminders to folks as they testify. I'm
going to try to give people a little over
five minutes, and I'm not going to cut you
off, but I am going to remind you that, you

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1 know, five minutes is up. The reason I'm
2 going to do that is I still have about ten
3 people and we're already well over time and
4 at the rate we're going we're going to be
5 here, I'm sure will have plenty of testimony
6 this evening. So when you get my reminder,
7 please kindly consider winding your remarks
8 down I would appreciate it.

9 The next witness I have on the list is
10 Eric Yatsook. I hope I'm pronouncing that
11 name correctly.

12
13 ERIC YATSOOK
14 a witness herein, being first duly sworn by
15 the Judge, testified on his oath as follows:

16
17 JUDGE PRIDGIN: Sir, if you
18 would please state your name for the record
19 and spell your last name.

20 THE WITNESS: My name is Eric
21 Yatsook, Y-a-t-s-o-o-k.

22 JUDGE PRIDGIN: Your address,
23 please.

24 THE WITNESS: 22919 South Y
25 Highway.

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 JUDGE PRIDGIN: Is that in
2 Peculiar?

3 THE WITNESS: Yes, that's a
4 Peculiar address, yes.

5 JUDGE PRIDGIN: And are you an
6 Aquila customer?

7 THE WITNESS: No, I'm not.

8 JUDGE PRIDGIN: Do you have a
9 statement for the Commission, sir?

10 THE WITNESS: Yes, I do. First I
11 want to thank you for giving us this
12 opportunity to speak. There's a gentleman
13 that spoke that used to work for Aquila
14 earlier, and he said when they came in to do
15 this power plant that they felt welcome.
16 Well first of all, they didn't get the
17 annexation that they needed. The county has
18 not given them a permit for the work and I
19 don't really see where he was getting his
20 warm welcome feeling from.

21 If this power plant was in an industrial
22 zoned area and everything was done the way it
23 should be we wouldn't be here right now. As
24 far as I'm concerned this power plant was
25 built in a residential neighborhood and at

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1 the last meeting we had here with the PSC
2 last year, the same place, I heard a gal get
3 up and speak of the pollutants that were
4 emitted by this gas turbine power plant.

5 Now I think all of us know that power
6 plants produce pollution. Let's not kid
7 ourselves. Let's take, for example, the
8 Hawthorne power plant down in Kansas City.
9 That's a really good place for a power plant.
10 It's in an industrial area, that's where all
11 the industry is and that's where a power
12 plant belongs not in a residential
13 neighborhood.

14 I mean, I live approximately 2.9 miles
15 away to the northwest of the power plant.
16 From my back deck I can see a glow at night
17 from the lights, I can hear it hum. Now as
18 far as getting acid rain or any kind of
19 pollution like that on my car that I didn't,
20 but we all know it emits pollution.

21 At the last meeting the gal had a list
22 of all the stuff it emitted that's unhealthy
23 for us. I understand that Cass county is a
24 big booming community and we need power,
25 okay. I am totally in agreement with that.

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 If this power plant was placed in the proper
2 spot, if they had gone through the county
3 like they should have, if they weren't above
4 the law then we wouldn't have a problem right
5 now.

6 I've heard a lot of stories about how
7 they have come in here and strong armed their
8 way in when the plant was being built. They
9 had security driving around harassing
10 neighbors and stop Aquila signs getting
11 removed from yards and the truck traffic on
12 the roads and all that stuff, but I think
13 what we have here is a big misunderstanding,
14 because at this last meeting we had last year
15 with the PSC here prior to the meeting we
16 were given a chance to ask Aquila questions
17 and I asked the question, where is the power
18 going from this plant? And the gentleman for
19 Aquila stood up and told me that most of the
20 power was going to Wyandotte county.

21 Now, I think some people are
22 misunderstood. They think that the power is
23 going for Cass county here and that's not
24 what they told me when I asked them. The man
25 stood up, he had a chart here and he started

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1 flipping some pages and showing me some
2 pictures of transmission lines. I'm an
3 electrician and I know a little bit about
4 transmission. I know transmission. There's
5 loss in power. I asked him that question.
6 Well, he went on with some mumbo jumbo I
7 didn't understand, but basically I told him,
8 why not build the plant at the source and
9 save yourself the cost of building all these
10 transmission lines for one thing let alone
11 the power lost in the transmission. Well, he
12 didn't answer me on that. He told me
13 something and it really meant nothing, you
14 know.

15 If Wyandotte county needs the power why
16 not build the plant in Wyandotte county.

17 You have got people in the neighborhood
18 complaining about the noise that live real
19 close. Now this is the first I have heard
20 they're planning on building three or four
21 more on the same site, so basically once they
22 get their foot in the door then what's
23 stopping them from building three or four
24 more.

25 And if there's a problem with the

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1 pollution now and the noise what's going to
2 happen when they get three or four more
3 plants in here.

4 I understand businesses need power,
5 everybody needs power. I've never heard of a
6 business coming into a town and a power
7 company telling them, well sorry we just
8 can't give you what you need. Let's not kid
9 ourselves, if anybody needs the power the
10 power company is going to supply them with
11 power. I never heard anybody say that they
12 didn't have the power to supply.

13 I think that this power plant could have
14 been built in Cass county like I heard
15 earlier in the proper spot in an industrial
16 area where a power plant belongs.

17 JUDGE PRIDGIN: That's five
18 minutes, if you would please consider, you
19 don't have to stop, but if you can --

20 THE WITNESS: There's a plant
21 over in Pleasant Hill, the Aries plant, it is
22 not running. It makes no sense why it is not
23 running, it was only built a few years ago.
24 It is a gas fired with steam turbine as a
25 secondary. If we need power, and somebody

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1 said something about it takes hours for it to
2 fire up this that and the other, as far as
3 I'm concerned it should be running 24/7. If
4 they need power they should be generating the
5 power at that plant and utilize the existing
6 plant instead of coming in here strong arming
7 them, above the law, not following the codes
8 and building this plant. They should be held
9 accountable. This plant should be removed to
10 set an example, that's the bottom line.

11 I heard some people speak that were for
12 this power plant. Most everyone that spoke
13 up here today and in the last meeting it was
14 the gas company, it was the water company, it
15 was the fire and the city and they're all for
16 it. Anyone else who is for it doesn't live
17 in the area.

18 The reason they're for it is because
19 they're making money off of it. Somehow
20 there's a greed factor involved. They're
21 making money off of it and that's why they're
22 for it. That's only reason they're for it.
23 Anybody else lives in the neighborhood,
24 because if you were living right next door to
25 it you wouldn't want it. That's why they put

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1 it in industrial areas, because that's where
2 they belong not in the communities with
3 people who have children and we have to deal
4 with pollutants involved and the noise.

5 A few more things. Property values. I
6 mean come on, this is bringing down the
7 property values across the street. How are
8 they going to sell their houses, nobody wants
9 to live next door to this place. I guess
10 that's good enough.

11 JUDGE PRIDGIN: Thank you very
12 much. Let me see if we have any questions.
13 Chairman Davis.

14 CHAIRMAN DAVIS: No questions.

15 JUDGE PRIDGIN: Thank you.
16 Commissioner Clayton.

17 COMMISSIONER CLAYTON: No
18 questions.

19 JUDGE PRIDGIN: Any follow-up
20 from counsel?

21 (No response.)

22 COMMISSIONER GAW: No questions
23 from me.

24 JUDGE PRIDGIN: Thank you very
25 much for your time and your remarks. Carolyn

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 Yatsook.

2

3 CAROLYN YATSOOK

4 a witness herein, being first duly sworn by
5 the Judge, testified on her oath as follows:

6

7 JUDGE PRIDGIN: If you would,
8 please state your name for the record and
9 spell your last name.

10 THE WITNESS: Carolyn Yatsook,
11 Y-a-t-s-o-o-k.

12 JUDGE PRIDGIN: And your address,
13 please.

14 THE WITNESS: 22919 South Y
15 Highway in Peculiar.

16 JUDGE PRIDGIN: Are you an Aquila
17 customer?

18 THE WITNESS: No, I'm not.

19 JUDGE PRIDGIN: Do you have a
20 statement for the Commission?

21 THE WITNESS: Yeah. It's just a
22 brief statement. Like my husband just stated
23 we live about 2.9 miles from the South Harper
24 facility with our two children and we have
25 lived there for nine years, and since the

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 facility has been running when I drive home
2 at night where we live we're high up on a
3 hill we can see the horizon especially
4 looking towards Peculiar. And there is a
5 noticeable haze at sunset, that is smog that I
6 have never seen before and it is there. It's
7 hard for the people who live right across the
8 street to see smog, it's something that I
9 think you always see on the horizon. It's
10 there. That's just one comment I wanted to
11 make.

12 At the last hearing the PSC hearing the
13 Aquila people said that the pollutants that
14 are coming from this power plant that all the
15 guidelines as far as the pollutants that are
16 being put out by this facility they meet the
17 Kansas City guidelines. Well, we're not
18 Kansas City, we're Peculiar and we're
19 residential, and I hope that you guys will
20 take that into consideration.

21 I hope that Aquila is held accountable
22 for their decisions, and I'm against it. I'd
23 like for it to be torn down. Thank you.

24 JUDGE PRIDGIN: Thank you very
25 much, Mrs. Yatsook. Let's see if we have any

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 questions from the Commissioners. Chairman
2 Davis.

3 CHAIRMAN DAVIS: No questions.
4 Thank you, Mrs. Yatsook.

5 JUDGE PRIDGIN: Commissioner
6 Gaw.

7 COMMISSIONER GAW: No questions.

8 JUDGE PRIDGIN: Thank you.

9 COMMISSIONER APPLING: No
10 questions.

11 JUDGE PRIDGIN: Thank you. Any
12 follow-up from counsel? (No response.) Mrs.
13 Yatsook, thank you for your time and your
14 testimony.

15 I hope I am pronouncing this next name
16 correctly, James Toone.

17

18 JAMES TOONE

19 a witness herein, being first duly sworn by
20 the Judge, testified on his oath as follows:

21

22 JUDGE PRIDGIN: If you would,
23 please state your name for the record and
24 spell your last name.

25 THE WITNESS: James, common

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 spelling. Last name is Toone, T-o-o-n-e.

2 JUDGE PRIDGIN: And your address,
3 please.

4 THE WITNESS: 12711 East 211,
5 Peculiar.

6 JUDGE PRIDGIN: And are you an
7 Aquila customer?

8 THE WITNESS: No, I'm not.

9 JUDGE PRIDGIN: All right. Do you
10 have a statement for the Commission, sir?

11 THE WITNESS: Yes, I do. I'm the
12 fire chief of West Peculiar Fire Protection
13 District and I represent them. I've had board
14 approval to be here. That put us in a unique
15 position, because we represent people that
16 are for this, and we also represent people
17 that are against it and try to provide public
18 safety for those people. But we thought it
19 only fair that we at least talk about what
20 Aquila has done as far as enhancement to
21 public safety within Peculiar and within the
22 general area.

23 We don't work for the city, we're not a
24 part of the city, we're like a school
25 district, we're a special taxing district.

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 Through the agreement with Water District
2 Number 7 they did put in 23 fire hydrants.
3 There's a couple there on the site and
4 several throughout the area. The benefit in
5 those is that if you have got a fire hydrant
6 within a thousand feet of your house your ISO
7 or your insurance grading should see at least
8 well five steps up. So it would go from a
9 nine to a four, currently that would affect
10 insurance rates dramatically on residents. It
11 also, of course, enhances our ability to
12 fight a fire.

13 We also are in the process of installing
14 five storm sirens throughout the whole fire
15 district. So there will be one of those five
16 in that general area, the area of the Aquila
17 plant, basically 241st and Harper where one
18 is going to go. That's going to enhance as
19 well. Right now I think probably not being
20 effective range of those existing sirens.

21 We also received about \$6,000 worth of
22 confined space rescue equipment from that.
23 Part of that is to provide base services to
24 the plant and part of that we would use that
25 anywhere else in the district where an

1 emergency existed.

2 The other thing is that they were fairly
3 easy to work with for us, and this is the
4 same basic statement that I gave at the last
5 PSC hearing. When it came to plan review and
6 plant impact and things like that and they're
7 impact fee things like that they were fairly
8 responsive and usually responds to us in
9 twenty four hours for a request.

10 We have done some pre-planning and
11 training with them, I guess our statement is
12 if Aquila stays we're going to be a partner
13 with them just like we are with all the
14 citizens that we serve and all the
15 businesses. That being said the fire
16 district we're supported by tax dollars and
17 we're not going to take a stance either way.
18 We are not going to support or oppose any
19 growth that comes into our district. We did
20 feel it's fair to at least let you know what
21 they have done for public safety.

22

23 JUDGE PRIDGIN: Mr. Toone, thank
24 you very much. Let's see if we have any
25 questions from the Commission. Chairman

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 Davis.

2 CHAIRMAN DAVIS: No questions,
3 thank you very much.

4 JUDGE PRIDGIN: Commissioner
5 Gaw.

6

7 Q (BY COMMISSIONER GAW:) Mr. Toone, what is the
8 total amount of money that has been
9 contributed to the fire district by Aquila if
10 that counts services and products and other
11 things?

12 A Exactly to the fire district we receive six
13 thousand in confined space rescue equipment.
14 We also received 82,500 for the tornado
15 sirens, storm sirens. They do also agree to
16 put solar panels on those to make it more
17 aesthetically pleasing so there's no wires to
18 them. Then of course we did benefit from the
19 funding they did give Water District 7 for
20 the hydrants.

21 Q All right. And when did you receive the money
22 for those things, do you know?

23 A The confined space rescue equipment I believe
24 was between the two hearings. It's been six
25 months to a year ago. The tornado sirens,

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 storm sirens was probably December or January
2 off the top of my head.

3 Q Of?

4 A Of December '05 and January of '06.

5 Q Thank you.

6 A I do know it was prior to the application for
7 this second PSC.

8 Q And in regard to tax impact of this plant on
9 the fire district, do you know how the plant
10 impacts the fire district, and I assume that
11 would depend upon the treatment that is
12 eventually accorded to the facility on the
13 court case that's in front of the Supreme
14 Court. But if you have both scenarios that
15 would be helpful?

16 A The best I know off the top of my head, and
17 these numbers could be plus or minus 30
18 percent probably. If the final one hundred
19 statement stays in place we received about
20 \$70,000 off pilot payments. So we would be
21 scheduled if it were to go four to receive
22 about \$35,000 per year for next 19 years.

23 The tax revenue, if it were tax
24 traditional I believe is between three and
25 four thousand a year on that. So it's ten

1 fold.

2 Q You receive a lot more money if the Chapter
3 100 financing goes through than if it does
4 not?

5 A Absolutely.

6 Q And when you say it's about three or four
7 thousand a year, is that with the plant built
8 or is that without the plant there?

9 A That would be with the plant built. If the
10 plant would go away we go back, I guess we
11 would revert to the traditional property
12 taxes on that empty land.

13 Q Is Aquila not paying a total amount less
14 under the Chapter 100 financing than they
15 would have otherwise paid in total, not just
16 the fire district but to everybody?

17 A I believe they're paying less in total, but I
18 think the key is that under traditional
19 taxing they'd be taxed over the land miles
20 that this land serves. Under this plan that
21 the City of Peculiar had developed we receive
22 all the money, it stays internally under the
23 tax agreement they have with Aquila. We
24 basically were approached about power plants
25 coming and they're doing Chapter 100

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 financing. We said, great that's more money.

2 Q More money to your particular entity?

3 A Absolutely.

4 Q Okay. But less to pay overall to taxing
5 authorities?

6 A I'm almost positive of that, yes.

7 Q Okay. That's all I have, thank you.

8 JUDGE PRIDGIN: Mr. Clayton.

9

10 Q (BY COMMISSIONER CLAYTON:) Chief Toone?

11 A Yes.

12 Q You're speaking in favor of the application?

13 A We're not speaking either one. We're trying
14 to maintain a neutral stance on this because
15 we don't want to get into that. We work in
16 the entire community. We represent the
17 people that don't live anywhere near that
18 plant and we represent people that were
19 speaking today. We did feel it fair that we
20 talked about these improvements. We weren't
21 involved in the politics of the plant coming,
22 it just came. You know, we're going to work
23 with them as a partner just like we do any
24 other business and we did that.

25 Q Well, I think, Chief, when you first started

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 off you said the Board had authorized you to
2 be here, and I wasn't sure what the Board had
3 authorized you to say. Is it just purely
4 informational?

5 A Right, it's informational. You know, we've
6 talked, but what I did was discussed with
7 Aquila. We talked about we need tornado
8 sirens, can you state that Aquila will
9 provide these, I wasn't sure. And we
10 discussed hydrants, too. But the fire
11 district has and continues to maintain that
12 we're not for or against any improvement or
13 development or growth.

14 Q Thank you.

15 JUDGE PRIDGIN: Commissioner
16 Appling.

17 COMMISSIONER APPLING: No
18 questions.

19 JUDGE PRIDGIN: Follow-up? All
20 right, Chief, thank you very much for your
21 time.

22 I see the next witness is Dan Doerhoff.

23

24 DAN DOERHOFF

25 a witness herein, being first duly sworn by

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 the Judge, testified on his oath as follows:

2

3 JUDGE PRIDGIN: Sir, if you
4 would, please state your name for the record
5 and spell your last name.

6 THE WITNESS: Dan Doerhoff,
7 D-o-e-r-h-o-f-f.

8 JUDGE PRIDGIN: And your address,
9 please.

10 THE WITNESS: 11921 South Brown
11 Road at Lone Jack. I'm also superintendent
12 of the East Lynne school, and we're both
13 Aquila customers.

14 JUDGE PRIDGIN: Okay. And do you
15 have a statement for the Commission, sir?

16 THE WITNESS: Yes, sir.
17 Representing schools and school students,
18 education, public education depends on tax
19 revenue. Tax revenue is the fuel that runs
20 education. Commercial enterprise such as
21 utilities are a major contributor to the
22 taxes that schools use. They're commercial
23 properties are taxed at 33 and a third
24 percent or assessed at 33 and a third percent
25 and pay a large part of the taxes.

1 Aquila's Harper road power plant, I
2 calculated the numbers when I thought the
3 value was 140 million and I realized today
4 when I saw it was 155 million figure so it
5 will be slightly different. But at 140
6 million dollars for that power plant assessed
7 at a third, that's an average tax levy in the
8 county that will make \$2,167,433 a year that
9 plant would pay in taxes.

10 Those taxes would be distributed to all
11 the schools in Cass county including my
12 school district. My school district, small
13 as it is, probably one of the smallest in
14 Cass County, would receive probably, thirty
15 five, \$36,000 a year in taxes, most of the
16 cost of a teacher.

17 The taxes won't be paid, there's an
18 arrangement with the governmental entity for
19 Aquila not to pay taxes on that power plant.
20 That a loss to education and the students in
21 Cass county. There are 14 school districts
22 in Cass County, 18 thousand students. No
23 taxes, no money to support the education of
24 those students.

25 Missouri law specifies, Missouri Statute

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1 153.030 specifies in Section 1 all property
2 real and tangible personal owned, used,
3 leased or otherwise controlled by telegraph,
4 telephone, electric power and light
5 companies, electric transmission lines,
6 pipeline companies and express companies
7 shall be subject to taxation for state,
8 county, municipal and other local purposes.
9 Pretty clear on that. The Aquila power
10 plant, the Harper road power plant must not
11 avoid taxation. Property taxation is a
12 mechanism established to provide the basic
13 governmental services of public education,
14 approval of that power plant avoids the
15 property taxation and should not be allowed.
16 Any questions?

17 JUDGE PRIDGIN: Mr. Doerhoff,
18 thank you. Chairman Davis.

19 CHAIRMAN DAVIS: Okay, Mr.
20 Doerhoff. I know you're not an attorney,
21 okay, but I'm probably going to ask you some
22 questions that if you don't feel comfortable
23 answering them that's fine.

24 THE WITNESS: I will do my best.
25

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1 Q (BY CHAIRMAN DAVIS:) You're aware that I
2 guess there's a case that's currently going
3 up on appeal that invalidates their Chapter
4 100 financing, correct? A court case, are
5 you aware of that?

6 A I'm not.

7 Q All right. Are you aware that they're not in
8 the city limits -- the plant is physically
9 not located within the city limits of
10 Peculiar?

11 A I know it was not, and I knew there was an
12 effort to bring it in, but I haven't followed
13 up on that either.

14 Q As of today you believe it is a fair
15 statement that they are not located within
16 the city limits of Peculiar?

17 A Based on information I heard here today I
18 think that's correct, but I don't have the
19 independent information to support that.

20 Q Right. So how could they contract really --
21 well, I guess if it is the county's position
22 that the plant should be torn down then
23 there's no sense in attempting to collect
24 property taxes on it?

25 A We just heard from the fire district that

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1 they're getting what they call a pilot paper,
2 payment in lieu of taxes. That suggests that
3 they're not paying the taxes. They would not
4 pay a payment in lieu of taxes much higher
5 than the taxes the entity would have received
6 and also pay the taxes. So that's kind of
7 verification that the tax stream, the revenue
8 stream from taxes has been subverted. We
9 haven't received any money from it in our
10 school district.

11 Q So maybe this is calling for conclusions that
12 are outside of your purview, did they pay
13 taxes to the county on farmland last year or
14 did they pay taxes on a power plant or some
15 concrete and a field?

16 A No. The taxes on utility property are in two
17 parts, the locally assessed part, which would
18 be the ground before something is constructed
19 on it, the fence around it and the trucks
20 that they own and things of that nature. And
21 then the State assessed part, which is the
22 distributed property, the generation
23 capacity, the transmission lines and the
24 transformers and things of that nature.
25 Basically most of the dollar value. And

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1 that, the value placed on it by the state,
2 the average tax levy of all the school
3 districts in the county is supplied, the
4 money is collected and then distributed back
5 to the all the school districts in the county
6 by kind of a complicated ratio. Part of it
7 is distributed back by a ratio of students.
8 Say if you've got the ten percent of the
9 students in your county in your school
10 district you get ten percent of that part.

11 The other part is not distributed by a
12 ratio of students but a ratio of your own
13 local tax levy in your own district compared
14 to the tax levies in the other districts
15 some.

16 Q Okay.

17 A So -- but we got no state assessed utility
18 money from it last year.

19 Q Okay. So do you say tear it down or do you
20 say if you're going to allow this thing to be
21 built the property taxes should be shared by
22 everyone? What is your message here to us
23 today, Mr. Doerhoff?

24 A Number one, don't allow this entity or any
25 other to subvert the law and avoid property

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1 taxation.

2 Q Okay.

3 A Number two is, if it pays taxes I like it.

4 My reason for being here is to represent
5 education and the tax stream that comes in
6 support of education. There's more money
7 from a power plant than there is from no
8 power plant if it's taxed.

9 Q Right.

10 A So if it is taxed then that's exactly what I
11 would want. Would I say tear it down or not,
12 that's probably not my decision. If it
13 doesn't, if it's not taxed then I think the
14 judge's order is probably legitimate in that
15 it was built with the knowledge that it was
16 outside of what was deemed to be the
17 requirements and needed to be tore down. But
18 that's not my purpose at all. I'm looking
19 out for the schools and the tax revenue that
20 supports schools and this is a big part of
21 it.

22 When the power plant was built at
23 Pleasant Hill, the Aries power plant, the
24 value of that power plant exceeded all the
25 utility property in Cass county. That power

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1 plant alone doubled the value. That was
2 about 250 million or somewhere in that
3 neighborhood. This one's not quite that big.
4 The reason I mention that is, this is a
5 significant impact on education of the
6 students in Cass county. Small as our
7 district is, we've got 19 teachers, we're
8 very small.

9 Q That's small.

10 A That's very small, you bet. But on the other
11 hand we can ill afford the loss of 30 some
12 thousand dollars.

13 Q That's another teacher.

14 A That's right. And that is probably more
15 significant to us than several hundred
16 thousand dollars to a much larger school
17 district. We got to have it.

18 Q I think that's all I've got, Mr. Doerhoff,
19 thank you.

20 JUDGE PRIDGIN: Commissioner
21 Gaw.

22

23 Q (BY COMMISSIONER GAW:) It's Doctor Doerhoff?

24 A It is.

25 Q Doctor Doerhoff, I was trying to remember,

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1 can you tell me what it is that -- do you
2 know if any of the school districts have
3 received payments in lieu of taxes on this
4 plant?

5 A From this power plant?

6 Q That are in Cass county?

7 A I don't have first hand information. I think
8 none of them have except the possibility of
9 Ray-Pec School District, but I don't have
10 firsthand information about that would have
11 to be confirmed by somebody associated there.

12 Q That's all right. You know you have not?

13 A That's right.

14 Q Did you receive any -- was the Aries plant a
15 Chapter 100 facility?

16 A Yes.

17 Q Did you receive any money on that?

18 A No.

19 Q So you have had two power plants at some
20 point in time been up and running in the last
21 few years and you haven't gotten any benefit
22 out of it at all?

23 A That's why I'm here, yes, you're exactly
24 right.

25 Q Thank you, sir.

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1 JUDGE PRIDGIN: Commissioner

2 Clayton.

3 COMMISSIONER CLAYTON: Doctor

4 Doerhoff, assuming, hypothetically speaking,
5 assuming that you receive the increase in the
6 amount of property taxes that would be
7 assessed against this property you received
8 the extra thirty seven thousand or 2.1
9 million or whichever the number was across
10 all the school districts in Cass county,
11 would you be here in speaking favor of the
12 plant?

13 A I probably wouldn't be here at all. That's a
14 utility concern then and I'm not involved in
15 utilities. That wouldn't be an issue for me
16 at all.

17 Q Thank you.

18 JUDGE PRIDGIN: Commissioner

19 Appling.

20 COMMISSIONER APPLING: No
21 questions.

22 JUDGE PRIDGIN: Follow-up.

23 (No response.)

24 JUDGE PRIDGIN: Thank you very
25 much, sir, for your time and your remarks.

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1 THE WITNESS: Here's a copy and
2 a summary of my remarks and related statutes.

3 JUDGE PRIDGIN: I will mark as
4 Exhibit Number 5, it's simply a Missouri
5 statute of Chapter 153.030 and Chapter
6 151.150 and also some Chapter 100 provisions.
7 That's Exhibit Number 5. Exhibit Number 6 is
8 what Doctor Doerhoff just handed me, a one
9 page document that summarizes his remarks.

10

11 (Certain documents were marked Exhibit
12 Numbers 5 and 6 for identification by
13 the Judge.)

14

15 JUDGE PRIDGIN: I see as the next
16 witness Mark Brewster.

17

18 MARK BREWSTER
19 a witness herein, being first duly sworn by
20 the Judge, testified on his oath as follows:

21

22 JUDGE PRIDGIN: If you would,
23 please state your name for the record and
24 spell your last name.

25 THE WITNESS: Mark Brewster,

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1 B-r-e-w-s-t-e-r.

2 JUDGE PRIDGIN: And your address,
3 please.

4 THE WITNESS: 23504 Lucille Lane.

5 JUDGE PRIDGIN: Is that Peculiar
6 or a Peculiar mailing address?

7 THE WITNESS: Peculiar. Actually
8 it is Cass county, but it is a Peculiar
9 mailing address.

10 JUDGE PRIDGIN: And are you an
11 Aquila customer?

12 THE WITNESS: No, I'm not.

13 JUDGE PRIDGIN: Okay. Do you have
14 a statement for the Commission?

15 THE WITNESS: Yes, I do. I live
16 about a mile as the crow flies from this
17 power plant. Originally I was dead against
18 this. I was adamant. I was mad at the
19 mayor, was mad at Aquila. I didn't like the
20 way they came in the back door. I didn't
21 like inviting anybody into my town, but the
22 power plant is there. It's up and it could
23 be operational.

24 I have some concerns. They have been a
25 good neighbor. This is post, after it

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1 happened, and they have been a good neighbor.

2 We're going to have tornado sirens we're
3 going to be able to hear. There's a water
4 hydrant directly across from my house which
5 made my insurance a lot cheaper. They have
6 been a good neighbor.

7 So that's the reason I'd like to see it
8 stay in its present form, not any other form,
9 no more turbines, nothing else, but it's
10 there let it stay.

11 Originally I took a tour. When I was
12 against it I took a tour of the Greenwood
13 facility. I'm the guy that went and talked
14 to the neighbors. I got nothing but good
15 reports about Aquila being a good neighbor.
16 I toured the plant, I listened for it. Of
17 course, its trees and its berms were more
18 mature. There were bigger trees, because
19 they were older trees and berms, and I
20 couldn't hear it. I was pretty well impressed
21 with it. And the information they were
22 giving me on the pollution I was pretty
23 impressed. That plant up there on Harper is
24 more attractive, it is more quiet and more
25 safe than that gas pumping station that's

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1 sitting right next to it. We have had a fire
2 on 71 Highway about three or four years ago
3 from that gas pumping station and it's louder
4 than the power plant when it purges its
5 lines. When it purges its lines it's like a
6 jet going off. It will wake you up.

7 My wife and I go for walks up Lucille
8 Lane in the summertime. She walks more than
9 I do as you can tell, but we get to the top
10 of the street in the summertime and I swear
11 to you that I have to concentrate to hear
12 this plant operating. And when the air
13 conditioner, central air units on those
14 houses at the top of the street kick in I
15 can't hear it. So I don't see where everybody
16 is saying that it's waking them up at four
17 o'clock in morning. I can't see where people
18 are hearing them unless the acoustics of
19 where I live and where they live is different
20 and that's possible. I can't hear it.

21 One of my concerns is if this is torn
22 down what is going to replace it. It is
23 zoned agricultural, what is to stop Aquila
24 from selling it to a hog farm and making a
25 hog lot out of it or a feed lot, which is way

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1 less desirable than what's there now.

2 I would like to see something, if you
3 don't let me them say and you make them tear
4 it down there's got to be something to
5 protect us from feed lots and hog lots or
6 anything else that's undesirable that we
7 don't want to be there.

8 We need the power for new construction.
9 I would also like to say that if you do let
10 it stay I would like to see set up a
11 regulation that would keep them from building
12 these other three or four power turbines that
13 everybody has been talking about. If it's
14 going to stay I want it to stay in the
15 present form no more. They want three more
16 turbines, build them someplace else.

17 I know for a fact, and you're going to
18 hear this in testimony later tonight from a
19 mortgage agent that our property values are
20 going up they're not going down. I bought my
21 house for \$264,000 a year ago and it's
22 appraising for over 375 now. So I don't see
23 where -- I don't see how my property values
24 are suffering. I just want to make sure
25 nothing goes in there other than the power

1 plants if it's tore down.

2 And those transmission lines. I heard a
3 lady say a while ago -- I been living here
4 for nine years. I lived over across C
5 Highway for the first eight, those
6 transmission lines have been there for as
7 long as I've been there. They have been --
8 they just haven't -- all they did was came in
9 and put bigger poles maybe a couple more
10 transmission lines on the existing poles.

11 I have a friend that he has them run
12 right through his property.

13 And this is my final comment. This is a
14 peaking pant. It is not operating 24 hours a
15 day 7 days a week, it's operating when the
16 demand in the summertime when the demand up
17 in the city and in the county is so high that
18 it's taxed too much. So they have to kick
19 on. Every time I've ever heard it operating
20 it's been during whatever hours they said
21 it's going to be operated on. That was four
22 to two in the afternoon until ten at night
23 and shut it down.

24 I never heard it fire up when they shut
25 it down or fire it back up. I never heard

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1 that. That's all I got.

2 JUDGE PRIDGIN: Thank you. Let
3 me see if we have any questions. Chairman
4 Davis.

5 CHAIRMAN DAVIS: No questions.
6 Thank you, Mr. Brewster.

7 JUDGE PRIDGIN: Commissioner
8 Gaw.

9 COMMISSIONER GAW: No questions,
10 thank you.

11 JUDGE PRIDGIN: Commissioner
12 Appling.

13 COMMISSIONER APPLING: No
14 questions.

15 JUDGE PRIDGIN: Any follow-up
16 from counsel? (No response.) Mr. Brewster,
17 thank you very much for your time and your
18 remarks. Gary Mallory.

19
20 GARY MALLORY
21 a witness herein, being first duly sworn by
22 the Judge, testified on his oath as follows:

23
24 JUDGE PRIDGIN: Thank you very
25 much, sir. If you would, please state your

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 name for the record and spell your last name.

2 THE WITNESS: Gary Mallory,

3 M-a-l-l-o-r-y. I'm an Aquila customer.

4 JUDGE PRIDGIN: I'm sorry. And
5 your address, sir.

6 THE WITNESS: 509 Linden Way,
7 Belton, Missouri 64013.

8 JUDGE PRIDGIN: And do you have a
9 statement for the commission, sir?

10 THE WITNESS: Yes. I'd just like
11 to talk to the Commission a bit as
12 representing the County Commission. We have
13 been, I guess reluctant to really say much
14 about this situation primarily because it
15 might be an indication of us being
16 pre-disposed as to how we would handle it if
17 it did come through the normal channels,
18 coming through the planning and zoning
19 process, planning and zoning adjustment.

20 It's at a point now that I want to make
21 clear to this Commission that the county is
22 not anti growth, anti power plant, we're very
23 pro development as long as it's done the
24 right way. As a matter of fact the county
25 back when the Aries plant came into being the

1 county was very proactive in working with
2 Aquila at that time to make that plant a
3 reality. We worked with the people in the
4 area, and as in most situations not everybody
5 is happy with it, but you go through the
6 process, you take the public input and find
7 out what they think and try to work around
8 it.

9 I personally testified on behalf of
10 Aquila before the planning and zoning board
11 as a member of the Cass county Corporation
12 for Economic Development at the time. I have
13 no regrets about that. I thought it was a
14 good thing they were doing. So I tell you
15 that so that you know and understand that the
16 Cass County Commission has not made up its
17 mind about Aquila, the plant, where it is,
18 how it's located and so forth. It's never
19 came before us to fulfill that role, which I
20 think is our role according to the state
21 statutes.

22 I think it's our role to go through the
23 process if it's Aquila or whomever, I won't
24 even say Aquila, whomever is coming in to
25 provide a plant in the county. If it's be

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1 located in a place that's not zoned properly
2 for that particular plant it should come
3 before the county planning and zoning board
4 to have public hearings. We have people we
5 hire that are experts in land use planning
6 that come and talk to us about issues like
7 this and help make sure that we're not doing
8 something that's out of line that could be
9 inconceivably taken to be something
10 detrimental to what the company is wanting to
11 do.

12 If I said we're pro development and pro
13 growth it's more than most people that's a
14 fact. We do believe there's a definite
15 process that should be followed and that's
16 our role. And I'm concerned that this
17 situation has got to the point where you as
18 the Missouri Public Service Commission may be
19 considering that that's your role.

20 I believe that your role is to determine
21 that yes, we do need power and we do need a
22 power plant in Cass county, but I think
23 that's your role then it's our role to decide
24 and work with the company whether it is going
25 to be a power plant or hog slaughtering plant

1 or whatever. It's up to us to work through
2 our system to make sure it's located where
3 it's beneficial to the county and is not
4 detrimental to the residents that live there.

5 I guess that's the point I wanted to try
6 to make to you today. A couple of things
7 that we're not anti growth, we're not anti
8 power plant, but we are pro going through the
9 process and doing it the way it should be
10 done. We think that's our responsibility and
11 in your case when it comes to utilities your
12 responsibility is to say yes we need more
13 power plants in Cass county and then let us
14 help work with the utility companies to find
15 a place to put it.

16 JUDGE PRIDGIN: Mr. Mallory,
17 thank you. Let me see if we have any
18 questions. Chairman Davis.

19
20 Q (BY CHAIRMAN DAVIS:) So Mr. Mallory, I just
21 to paraphrase your testimony, you're pro
22 local control?

23 A Yes, sir.

24 Q And there's been some testimony maybe
25 referenced here earlier today about Aquila

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 would have wanted to site a power plant in
2 your county if they'd have just come to the
3 county and you could have probably worked
4 something out, helped them find a location,
5 is that fair assessment?

6 A A fair assessment would be that if they would
7 have come to the county to put a power plant
8 in as they did several years ago we would
9 have worked with them to try to go through
10 the zoning process, but that's the key to go
11 through the zoning process. We're committed
12 to do that. There's been some people come up
13 here and say well it only affects eighteen or
14 nineteen people. That's wrong. The county
15 zoning law affects 92,000 people in Cass
16 county. It's the law for everybody not just
17 the eighteen or nineteen that happen to live
18 where a facility is located, and that's my
19 job.

20 CHAIRMAN DAVIS: Thank you. No
21 further questions.

22 JUDGE PRIDGIN: Commissioner
23 Gaw.

24

25 Q (BY COMMISSIONER GAW:) Mr. Mallory, are you

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1 going to be a witness in this case later at
2 the hearing in Jefferson City?

3 A If counsel instructs me so, yes.

4 Q The reason I'm asking is because I don't know
5 how far to go in asking you questions today.
6 So if -- and it's not necessary --

7 MR. COMLEY: You may go as far as
8 you wish, Commissioner Gaw.

9

10 Q (BY COMMISSIONER GAW:) I want to make sure I
11 understand certain things about the process
12 in Cass county. First of all, tell me how
13 long you been a Commissioner?

14 A Three years.

15 Q Before that you mentioned some other --

16 A The county clerk for twelve years.

17 Q Have you been involved with the Planning and
18 Zoning Commission in some capacity?

19 A I'm a member of the Board of Zoning
20 Adjustment since we're a first class county.

21 Q And that particular board, is that the board
22 that would hear a request for variance in
23 zoning?

24 A No, the first step would be to go through the
25 planning board.

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1 Q All right. Just give a concept how the
2 process works?

3 A They come down to our planning department and
4 come in and say, okay, I want to put a, I
5 don't care what you call it, a pig
6 slaughtering place here down on route Y.

7 Q Okay.

8 A The planning department would then determine
9 if that zoning was proper or not and if it's
10 not proper and you still want to continue
11 then you apply for a rezoning and go before
12 the planning board.

13 Q All right. Then what would happen?

14 A Then the planning board once they make their
15 decision it comes to the Board of Zoning and
16 Adjustment, which is myself and the other two
17 Commissioners.

18 Q All right. And that -- is there a
19 recommendation given to you generally?

20 A Yes, from planning board.

21 Q Okay. And that recommendation would be --
22 what kind of range would you have and
23 possible recommendations?

24 A They would approve the rezoning request with
25 maybe with stipulations, for example, a

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1 subdivision an excess be allowed between lots
2 seven and eight or something like that or
3 they would recommend it be denied.

4 Q All right. So when we hear discussions about
5 variances granted, is that something that
6 would be a part of the discussion in an
7 application for something like this in the
8 South Harper facility?

9 A Yes. This would be a special use permit --

10 Q All right.

11 A -- and that would require a great deal of
12 discussion regarding what can be done. You
13 would address things like some of the people
14 brought up here today, noise level, odor,
15 traffic, those kinds of things.

16 Q Okay. And could there be some conditions
17 placed --

18 A Yes.

19 Q -- on the applicant before they'd be granted
20 that special use permit if that indeed was
21 the decision?

22 A Yes, that's correct. The special use permit
23 would list out every recommendation they
24 would have to follow, yes, sir.

25 Q All right. And what's the purpose for those

1 conditions, generally? What's the reason to
2 do conditions, generally?

3 A To make sure that the facility and the
4 business is going in is not detrimental to
5 the folks that live next to it or to the
6 county's general welfare or the good of the
7 county.

8 Also like they were talking about
9 earlier they've got noise and odor and roads
10 and those kinds of things would be
11 stipulated.

12 Q Okay. The zoning itself that's been done for
13 Cass county, how did that come about?

14 A Well, planning and zoning was adopted in Cass
15 county back in 1959, and we went through
16 numerous changes when we reviewed the
17 comprehensive plan and land use plan. Most
18 recently about probably two years ago. When
19 we do that the planning board actually does
20 that, they carry the process out and have
21 public hearings, take input from people,
22 which provides us the kind of input we need
23 from folks that want to know, well if you're
24 within two miles of the city we want only
25 this kind of development and on out past that

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1 tier we want something else.

2 Q So that's been a process that's been around
3 for Cass county for, as you said, a number of
4 years?

5 A Yes.

6 Q When the Aries plant was first brought to
7 your attention what was your role in that in
8 regard to that plant?

9 A I was part of the Cass county Corporation for
10 Economic Development. And we got the
11 certificate that was for the good of the
12 county and we supported it.

13 Q Do you know what process Aquila followed or
14 Calpine followed whoever was involved with
15 it?

16 A They went through the zoning process pretty
17 similar to what I outlined.

18 Q That particular location at the time, do you
19 know what it was zoned?

20 A Agricultural I think.

21 Q Do you recall what occurred in regard to
22 getting permission to place that Aries plant
23 there in what was an agricultural area?

24 A Well, they went through the zoning process to
25 get the zoning changed and it was in an area

1 that we felt was conducive to that type of
2 operation. As a matter of fact, I think it
3 was 2002 that the Aries people came back and
4 wanted to add two more generators I think it
5 was to that plant, and we had no objection to
6 it.

7 Again I want to use that as an
8 illustration that we can work with people,
9 and we had no objection to that being done
10 without going through zoning again because we
11 already went through the zoning process.

12 Q Okay. And how long did that process take, do
13 you recall?

14 A No, I -- two months at the most. I may be
15 wrong on that. Close to that.

16 Q You have probably already said that, what
17 year was that approximately?

18 A 1999 I think.

19 Q All right. Was Aquila and Calpine both
20 involved in that initially in discussion?

21 A It was Aquila at that time.

22 Q It was Aquila?

23 A Um-hum. In between Aries and so forth.

24 Q All right. Did you have any opposition to
25 that rezoning at the time, do you recall?

1 A Yes.

2 Q And how was that opposition -- what kind of
3 an opportunity did that have to voice their
4 concerns?

5 A They came to the planning board meetings and
6 they met with representatives of Aquila.
7 Aquila had folks that went and worked with
8 them and tried to aswage any problems they
9 had. Almost all the problems were taken care
10 of. A lot of them ended up being planting
11 trees and doing this kind of thing.

12 Q Okay. I think this is already clear at this
13 point but just from your perspective there
14 has been no action by Aquila to initiate in a
15 formal way any kind of rezoning or special
16 use for the area that's known as South
17 Harper?

18 A Yes. They came to give, present us an
19 application for rezoning.

20 Q All right. When was that?

21 A I'm saying probably a week before Judge
22 Dandurand was to make his decision regarding
23 for their request for him to stay this
24 execution of the order to dismantle the
25 plant.

1 Q Do you know approximately when that was?

2

3 MS. REAMS-MARTIN: Around January
4 the 20th. The decision of the trial court
5 was around January the 27th.

6 THE WITNESS: It was one week.

7 Q (BY COMMISSIONER GAW:) Okay. What is the
8 status of that request?

9 A We refused to accept the application because
10 it was still pending litigation.

11 Q Okay. And has anything happened subsequent to
12 that?

13 A No. We did send a letter letting Aquila know
14 we would accept it if the wanted to resubmit
15 it now that the decision has been made.

16 Q And has there been any additional submission
17 from Aquila?

18 A No.

19 Q We talked over one another. Your answer to
20 it question is no?

21 A No.

22 Q Normally what kind of zoning would be
23 appropriate for a generation facility?

24 A Industrial of some kind or special use permit
25 allowing it on other property.

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 Q All right.

2

3 COMMISSIONER GAW: I think that's
4 all I have. Thank you very much,
5 Commissioner.

6 JUDGE PRIDGIN: Commissioner
7 Clayton.

8 COMMISSIONER CLAYTON: Thank you
9 for coming, Judge.

10 JUDGE PRIDGIN: Commissioner
11 Appling.

12 COMMISSIONER APPLING: Nothing.

13 JUDGE PRIDGIN: Is there any
14 follow-up from counsel? (No response.) Mr.
15 Mallory, thank you very much, sir.

16 THE WITNESS: I would like to
17 make one final comment. Throughout this
18 entire process I received a call from
19 gentleman who lived out there where the plant
20 is and his comment was, you know, Gary, he
21 said if they would have went through the
22 process and you guys voted to let them have
23 it I'd been mad at you forever, but I would
24 have still felt good because I got to have my
25 say.

1 JUDGE PRIDGIN: Thank you, Mr.
2 Mallory. I hope I am pronouncing this next
3 name correctly, Myron Snuder.

4
5
6

7 MYRON SNUDER
8 a witness herein, being first duly sworn by
9 the Judge, testified on his oath as follows:

10

11 JUDGE PRIDGIN: Thank you very
12 much, sir. If you would, please state your
13 name for the record and spell your last name.

14 THE WITNESS: My Myron Snuder,
15 S-n-u-d-e-r.

16 JUDGE PRIDGIN: Your address,
17 please.

18 THE WITNESS: 20721 South State,
19 Route J, Peculiar, Missouri.

20 JUDGE PRIDGIN: And are you an
21 Aquila customer?

22 THE WITNESS: No, I'm not.

23 JUDGE PRIDGIN: Okay. And what is
24 your statement for the Commission, sir?

25 THE WITNESS: I just feel that

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1 I've been over to several people's houses
2 where their power lines run over, you take
3 your arm and put it on the side of your
4 pickup and it feels like mosquito bites. I
5 had electricians tell me that's not true. I
6 know for a fact it's true. You can see those
7 lines glow sometimes at nighttime, the power
8 lines when they're putting out a lot of
9 power.

10 Then I also sort of believed, and I'd go
11 along with it if they would have turned
12 around -- if I built a house, and I know a
13 house in Peculiar that was built without a
14 building permit and it will not be ever
15 occupied because they won't give it to them.

16 So if you're going to sidestep all these
17 other sidesteps, if I want to build a barn on
18 my property I've got to have a building
19 permit or the county will come down there and
20 tell me tear the son of a gun down. That's
21 basically all of got to say, sir.

22 JUDGE PRIDGIN: Mr. Snuder,
23 thank you very much. Let me see if we have
24 any questions from the Commissioners.
25 Chairman Davis.

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1 CHAIRMAN DAVIS: No questions.

2 COMMISSIONER GAW: No questions,
3 thank you.

4 JUDGE PRIDGIN: Commissioner
5 Clayton.

6 COMMISSIONER CLAYTON: Mr.
7 Snuder, you're opposed to plant; is that
8 correct?

9 THE WITNESS: Yes, sir. For the
10 simple reason no rules or regulations, and
11 I'm retired military and in the military if
12 you did something wrong you got --

13 COMMISSIONER CLAYTON: You don't
14 live close to the plant?

15 THE WITNESS: No, I don't, I live
16 probably about four and a half miles from it.

17 COMMISSIONER CLAYTON: You can't
18 see it or hear it?

19 THE WITNESS: No, sir.

20 COMMISSIONER CLAYTON: Thank you.

21 JUDGE PRIDGIN: Commissioner
22 Applling.

23 COMMISSIONER APPLING: No
24 questions.

25 JUDGE PRIDGIN: Any follow-up

ROBERTS & ASSOCIATES BY THOMAS ROBERTS, RPR, CCR

1 from counsel? (No response.) All right.

2 The next witness I see is Craig McNeil.

3

4 CRAIG MCNEIL

5 a witness herein, being first duly sworn by
6 the Judge, testified on his oath as follows:

7 JUDGE PRIDGIN: Thank you very
8 much, sir, if you would, please state your
9 name for record and spell your last name.

10 THE WITNESS: Greg McNeil,
11 M-c-N-e-i-l.

12 JUDGE PRIDGIN: Okay. And your
13 address, please.

14 THE WITNESS: 23817 Desoto,
15 Peculiar, Missouri 64278.

16 JUDGE PRIDGIN: And are you a
17 customer of Aquila.

18 THE WITNESS: No.

19 JUDGE PRIDGIN: Okay. And if I
20 could have your statement, and also ask you
21 to speak into the microphone so the folks
22 back behind you can hear.

23 THE WITNESS: We live, me and my
24 wife and daughter lived there for little over
25 two years now. We was in search of a house

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1 somewhere in that area for two, three years
2 probably before we found that one. We
3 thought it was a place we wanted to settle
4 down and stay. Then the power plant came in.
5 We wasn't expecting that. When the power
6 plant came in it was like I said it was
7 unexpected, we didn't know it was coming in.

8 We've been to just about every meeting
9 there's been. I've been to one in Jeff City.
10 I been to several of them. After one of the
11 meetings we had a neighborhood meeting with
12 Aquila we was approached by several of the
13 people, and they were saying that they wanted
14 to help out the community in any way they
15 could to make things right they have done,
16 just try to make it better for what they have
17 done in the past.

18 They have done several things I give
19 that to them. I was one of the neighbors
20 that I did call Norma Dunn and she come out
21 to my house. Basically when she drove up she
22 got out introduced herself and we talked, and
23 she asked what would I like to see done here.
24 And I told her I said, well Norma what I'd
25 like to see done is the plant tore down. I

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1 mean that's what I want done. I live maybe a
2 half mile north of it, I see it very clearly
3 from my house from the front, back side
4 wherever you can see the plant. It has --
5 when it's on line and running it has a loud
6 whining noise to it. I can hear it with one
7 turbine. I hear it even better with three.
8 They say they're going to make it quieter,
9 maybe they will I don't know. They did put
10 trees, landscaping, they have done work to my
11 house. Basically what we're hoping for, our
12 first instinct was we don't want nothing from
13 them. After we talked it over we was more
14 of, if we can get something there to get us
15 more out of the house value wise let's do it,
16 because we know we're going to lose value.

17 I since then have built a shop there. I
18 always wanted a shop, I built one. I got
19 probably \$25,000 in it or better. We bought
20 the house two and a half years ago, the
21 appraised value then compared to about six
22 months ago when we refinanced was 2,000 more
23 than what we paid for the house, what the
24 house appraised for at the time. So in two
25 and a half years we have gained \$2,000 value.

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1 That's after putting about \$25,000 in the
2 shop, and I don't know how much they spent on
3 landscaping, a lot.

4 We hear the plant. I mean you can hear
5 the humming of the fans running during the
6 day and stuff. I mean it's there, you hear
7 it. It bugs us. It drives us crazy. I go
8 outside during the summertime and we have
9 friends come over to cook on the deck and
10 stuff, I turn my -- if I go outside in the
11 back to enjoy company and relaxing
12 conversation I turn my switch right off so
13 it's quieter. My central air when it comes
14 on I can't hear the plant running, but my
15 central air unit is ten feet from my deck.
16 It's a big difference. I hear people saying
17 when their air conditioning comes on you
18 can't hear the plant. That's true I agree
19 with that. I'm ten feet from our air
20 conditioning, I turn it off I don't hear it
21 no more. I can't turn the plant off. That's
22 about all I have.

23 JUDGE PRIDGIN: Mr. McNeil,
24 thank you. Let me see if we have any
25 questions. Commissioner Gaw.

1 COMMISSIONER GAW: No. Thank
2 you.

3 JUDGE PRIDGIN: Mr. Clayton.

4 COMMISSIONER CLAYTON: I don't
5 think I have any questions.

6 JUDGE PRIDGIN: Any follow-up
7 from counsel? (No response.) Thank you very
8 much for your time and your testimony.

9 I have as the last witness signed down
10 Mike Whaley.

11
12 MICHAEL WHALEY
13 a witness herein, being first duly sworn by
14 the Judge, testified on his oath as follows:

15
16 JUDGE PRIDGIN: Thank you very
17 much, sir, now would you please state your
18 name for the record and spell your last name.

19 THE WITNESS: Michael Whaley,
20 W-h-a-l-e-y.

21 JUDGE PRIDGIN: And your
22 address, sir.

23 THE WITNESS: 24520 Shaddow
24 Court, two d's in Shaddow, Peculiar, Missouri
25 640078.

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1 JUDGE PRIDGIN: And are you an
2 Aquila customer?

3 THE WITNESS: Yes, I am.

4 JUDGE PRIDGIN: Okay. What is
5 your statement for the Commission, sir?

6 THE WITNESS: I do not have any
7 prepared statement although I understand
8 that's supposed to have a little more bearing
9 with the group here, but you have a reporter
10 here and his transcript should bear the same
11 amount of weight I would think.

12 First of all I support the power plant.
13 I don't have any problem with it being there.
14 I live in Shaddow Hill subdivision
15 approximately one mile from the plant. From
16 Harper road over to C Highway is one mile and
17 Shaddow Hills is immediately on the east side
18 of C Highway. There's 31 homes in the
19 subdivision and those 31 homes are all
20 electric. They're all served by Aquila. We
21 heat, we cool, our lights, everything comes
22 from Aquila.

23 As far as the power plant goes, I'm
24 retired. I live on fixed income. My next
25 door neighbor is retired from Hallmark and

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1 lives on a fixed income. My neighbor across
2 the street is retired from the United States
3 Marine Corps and lives on a fixed income and
4 his next door neighbor is also retired from
5 the IRS in Kansas City and lives on a fixed
6 income. This going to effect our electric
7 rates. Regardless what anybody says it comes
8 down to the guy that pays the bills and
9 that's me. And that's where they get their
10 money.

11 I don't think anyone is going to say the
12 management of this corporation is going to
13 dig into their pocket personally to pay
14 anything back. Never seen that happen yet.
15 It's going to come down to me and the folks
16 that are served by this corporation.

17 One other thing I would like to say, I
18 would whole heartedly support a comprehensive
19 audit of Aquila. I think that's something
20 that needs to happen. It might reveal some
21 things there that need to be changed; I'm
22 sure it probably will, and hopefully generate
23 those changes. But to tear down a plant
24 that's already sitting there functional just
25 doesn't make good sense to me.

1 My neighbors and I have spoken to each
2 other about this plant, and we don't have
3 any -- we do not see the plant because of the
4 trees between us in the plant. There's
5 wooded areas. We don't hear the plant. It
6 hasn't caused us any problems.

7 Property value wise, I bought my home
8 eleven years ago moved from Stillwell, Kansas
9 over to the Peculiar area just to get away
10 from the taxes in Kansas mostly. My property
11 value has appreciated approximately \$100,000
12 on my property since I've been there and it
13 continues to appreciate. The subdivision I
14 live in is probably one of the nicest out
15 there in the area and the neighbors all feel
16 the same way. So I'm not saying I speak 100
17 percent for my neighbors, although the ones
18 I've talked to this is the opinion I got from
19 them. One of my other neighbors was here
20 earlier but he had to leave.

21 Other than that, pollution wise this a
22 natural gas plant very low pollution. This
23 is not a coal fired plant. The folks who are
24 against this plant and the neighborhood over
25 there around the plant get their power from

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1 Osage Valley Electric, that power comes from
2 coal fired plants. Osage Valley is a
3 distributor of electric power, they buy that
4 power from Associated Electric down in
5 Springfield that power comes from coal fired
6 plants. They do burn low sulphur coal from
7 the Powder River Basin. They still emit a
8 lot of pollutants, it does not directly
9 affect the areas where it's burned, it
10 affects the northeast United States and is
11 carried by the jet stream up that way.

12 Basically that's pretty much what I've
13 got to say.

14 JUDGE PRIDGIN: Mr. Whaley, thank
15 you very much. Let me see if we have got any
16 questions from the Commissioners.
17 Commissioner Gaw.

18

19 Q (BY COMMISSIONER GAW:) Just a few. Mr.
20 Whaley, you say you are retired, correct?

21 A Yes.

22 Q What did you do before you retired?

23 A I was with Burlington Northern Santa Fe
24 Railroad for 36 years.

25 Q Okay. And when you say you're concerned about

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1 the cost of tearing the plant down, is
2 that -- does part of that concern have to do
3 with whether or not ratepayers are going to
4 have to pay for that?

5 A Absolutely. I personally feel Cass county
6 could have stopped that plant if they wanted
7 to. I think Cass county has grown really
8 quickly, they just became a first class
9 county not too long ago. They've get a lot
10 of growing pains right now. I don't think
11 they maybe realized what they could do if the
12 wanted to. I think they are coming out of the
13 dark ages.

14 Q In regards -- you are concerned about having
15 ratepayers pay for the cost for the tearing
16 this plant down; is that a significant
17 concern?

18 A Yes, it is.

19 Q Okay. In regard to where you live, you said
20 you lived east of the power plant?

21 A Right.

22 Q Is that correct?

23 A Directly east.

24 Q Directly east. I don't like referring to this
25 map very well because I'm not sure how to

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1 gauge its accuracy, but by looking east
2 across the map can you see can you see your
3 house on that map?

4 A Right. This is north. That would be C
5 Highway north and south there, this is
6 Shaddow Hills subdivision right here.

7 Q Okay. You're pointing over on to the very --

8 A Right here.

9 Q -- eastern most side of the map, correct?

10 A Right.

11 Q Okay. Thank you.

12

13 COMMISSIONER GAW: And I believe
14 that's all, thank you, sir.

15 COMMISSIONER CLAYTON: No
16 questions, Mr. Whaley.

17 JUDGE PRIDGIN: Commissioner
18 Appling.

19 COMMISSIONER APPLING: No
20 questions.

21 JUDGE PRIDGIN: Follow-up from
22 counsel? (No response) Mr. Whaley, thank you
23 very much.

24 Mr. Whaley is the last witness I have
25 signed up. Is there anyone else who wishes

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1 to testify before we adjourn?

2

3 LINDA DOLL

4 a witness herein, being first duly sworn by
5 the Judge, testified on her oath as follows:

6

7 JUDGE PRIDGIN: Would you please
8 state your name for the record and spell your
9 last name.

10 THE WITNESS: My name's Linda
11 Doll and I live at 10312 East 243rd street.

12 JUDGE PRIDGIN: Is that a
13 Peculiar address?

14 THE WITNESS: Uh-huh.

15 JUDGE PRIDGIN: Is that yes?

16 THE WITNESS: Yes.

17 JUDGE PRIDGIN: And are you an
18 Aquila customer?

19 THE WITNESS: No.

20 JUDGE PRIDGIN: What is your
21 statement for the Commission?

22 THE WITNESS: I've heard all the
23 facts and the figures and the pros and the
24 cons. This is an ugly plant sitting in the
25 middle of a rural setting that emits stinky

1 air that my five year old granddaughter
2 doesn't like. I raised my granddaughter
3 here. I want them to have fun. So we go
4 inside in the summer. It is not hurtful to
5 your ears but it's offensive.

6 Another thing, down the road when all
7 this is over and done and we all go home and
8 people are going to have to for whatever
9 reason sell their houses whether they be
10 transferred or can't afford it or just want
11 to move, if this plant and other big industry
12 comes in, which a power plant is big industry
13 even if it's on a smaller scale than KCP&L,
14 how much is it going to impact what we get
15 out of our homes. We're retired. There is no
16 way for us to make that up.

17 In turn at some point a lot of these
18 what are considered pretty nice homes will
19 become rentals. And the most expensive
20 rental does not have the care of personally
21 owned homes. You don't have the pride.

22 And I just -- I wasn't going to say
23 anything until the man that was two and a
24 half miles away, you know -- it's just
25 personal. It's real personal when it's in

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1 your yard. I mean it's a quarter of a mile
2 maybe that way. Smoke stacks, they're not
3 what we moved out there for 20 years ago.
4 And I know if there's one thing for sure
5 something is going to change. Thanks.

6

7 JUDGE PRIDGIN: All right. Thank
8 you. If you will stay at the witness stand
9 and see if we have any questions.

10 Commissioner Gaw.

11 COMMISSIONER GAW: No. Thank
12 you very much, ma'am.

13 JUDGE PRIDGIN: Commissioner
14 Clayton.

15 COMMISSIONER CLAYTON: Ms. Doll,
16 how far did you say you live to the power
17 plant? I haven't figured out where 243rd
18 Street is, I should know it by now.

19 THE WITNESS: There's Harper,
20 there's 243rd Street and I'm the first house
21 on the north side of 243rd off of Harper.

22 COMMISSIONER CLAYTON: How far
23 would you say you're from plant?

24 THE WITNESS: Quarter of a mile.

25 COMMISSIONER CLAYTON: And you

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1 are on the east, north, south or west did you
2 say?

3 THE WITNESS: North side. I
4 think there is only one or two houses that
5 are footage wise closer, never been
6 approached by Aquila nor have I contacted
7 them. They didn't go about it the same way
8 we had to build our house and had they done
9 that, like it or not, whatever the county
10 ruled is how we would have had to gone. If
11 we didn't like that then we would have moved.

12 COMMISSIONER CLAYTON: Thank you,
13 Ms. Doll.

14 JUDGE PRIDGIN: Commissioner
15 Appling.

16 COMMISSIONER APPLING: No
17 questions.

18 JUDGE PRIDGIN: Follow-up from
19 counsel? (No response.) All right. I'm going
20 to wrap up this session of the hearing. We
21 have another hearing that's scheduled to
22 begin at six o'clock with an information
23 session at five thirty, because it is just
24 now almost five o'clock that may get late
25 started because I want to give folks time to

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1 get out and try to grab some dinner, but we
2 will try to resume as close to six o'clock as
3 we are able. Thank you very much for your
4 attendance, for your testimony. We are off
5 the record.

6 (Hearing adjourned at 4:56 p.m.)

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