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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
TRANSCRIPT OF PROCEEDINGS
Public Hearing
March 20, 2006
Harrisonville, Missouri
Volume II

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

RONALD D. PRIDGIN, Presiding
Regulatory Law Judge
JEFF DAVIS, Chairman
STEVE GAW,
ROBERT M. CLAYTON III,
LINWARD "LIN" APPLING,
Commissioners

REPORTED BY: Melanie K. Williams, CCR

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

2

3 For Cass County: MR. MARK W. COMLEY
4 Newman, Comley & Ruth
5 601 Monroe, Suite 301
6 Jefferson City, MO 65102

7 and

8 MS. DEBRA L. MOORE-SETTLE
9 Cass County Counselor
10 102 East Wall Street
11 Harrisonville, MO 64701

12 and

13 MS. CINDY REAMS-MARTIN
14 408 Southeast Douglas
15 Lee's Summit, MO 64063

16

17 For StopAquila: MR. GERALD D. EFTINK
18 VanHooser, Olsen & Eftink
19 704 West Foxwood Drive
20 Raymore, MO 64083

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22

23

24

25

1 A-P-P-E-A-R-A-N-C-E-S (CONTINUED)

2

3 For Aquila: MR. JAMES C. SWEARENGEN
4 Brydon, Swearngen & England
5 312 East Capitol Avenue
6 Jefferson City, MO 65102

7 and

8 MS. JANET E. WHEELER

9

10 For the Office of MR. LEWIS R. MILLS, JR.
11 Public Counsel: Office of Public Counsel
12 200 Madison Street
13 Jefferson City, MO 65102

14

15 For the Staff of MS. LERA SHEMWELL
16 the PSC: Missouri Public Service Commission
17 200 Madison Street
18 Jefferson City, MO 65102

19

20 For Neighbors: MR. JOHN B. COFFMAN
21 1871 Tuxedo Boulevard
22 St. Louis, MO 63119

23 and

24 MR. MATTHEW URICK

25

1 A-P-P-E-A-R-A-N-C-E-S (CONTINUED)

2

3 For Sedalia MR. DAVID WOODSMALL
4 Industrial Finnegan, Conrad & Peterson
5 Energy Users: 3100 Broadway Avenue
6 Kansas City, MO 64111

7

8 Also Present MR. RICK GREEN, CEO
9 for Aquila: MR. KEITH STAMM
10 MS. NORMA DUNN
11 and
12 DR. KARL K. ROZMAN, Toxicologist
13 MR. DON GLOVER, ATCO

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

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JUDGE PRIDGIN: Good evening. The Missouri Public Service Commission has set this time for a local hearing in Case Number EA-2006-0309, in which Aquila, Incorporated seeks Commission approval for its South Harper plant.

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The Commission regulates the rates charged by investor-owned utility companies in Missouri to ensure that those rates are just and reasonable. The Commission also regulates the quality of service and the safety of the operations of investor-owned utilities.

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The Commission is made up of five Commissioners, four of whom are here this evening. They are appointed by the Governor to fixed terms and confirmed by the Senate. The Commissioners employ a staff of engineers, accountants, attorneys, financial analysts and other specialists in the field of utility regulation.

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I am Ron Pridgin. I'm a Regulatory Law Judge for the Commission and will preside over this evening's hearing. With me this evening, from my left to right, the Chairman of the Commission Jeff

1 Davis, Commissioner Robert Clayton, Commissioner
2 Steve Gaw and Commissioner Lin Appling.

3 This is an official hearing of the Commission,
4 and the statements and testimony will be recorded by
5 the court reporter and must be given under oath.
6 All of the Commissioners will have the chance to
7 read all of your remarks.

8 In addition to this hearing this evening, a
9 trial-type hearing is set for April 26th through
10 28th and May the 1st through the 5th, beginning at
11 8:30 each morning, at the Commission's offices at
12 the Governor Office Building in Jefferson City,
13 Missouri. At that time, the parties will present
14 their evidence for and against the application.

15 Tonight's hearing is to hear from you. The
16 Company will not present witnesses. It will not
17 answer your questions. This is your chance to
18 testify. Your remarks will be made an official part
19 of the record of this case.

20 I'll call the name of each witness who has
21 signed up to speak. I'll ask you to come forward to
22 the lectern, and I'll ask you a few questions, such
23 as your name and your address and whether you're a
24 customer of Aquila, but you may then make your
25 statement to the Commission.

1 Again, as I stated before we went on the
2 record, I would ask you to be brief because of the
3 number of folks who have signed up to testify and
4 because of the weather. If a previous speaker has
5 already made the points that you want to make, you
6 may waive your testimony or you may simply briefly
7 state that you agree with what somebody else said.

8 There may be someone here this evening who
9 wishes to testify, but, for religious reasons,
10 cannot take an oath. If so, please let me know when
11 I ask you to be sworn so that you may affirm your
12 testimony instead.

13 Does anyone have any questions about the
14 procedure?

15 All right. We will begin the public hearing on
16 Case Number EA-2006-0309. I would like to get
17 entries of appearance from Counsel, beginning with
18 Staff, please.

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

22 JUDGE PRIDGIN: Ms. Shemwell, thank you.

23 On behalf of Aquila, please.

24 MR. SWEARENGEN: Thank you, your Honor. Let
25 the record show the appearance of James C.

1 Swaengen and Janet Wheeler with the firm of
2 Brydon, Swaengen & England, Jefferson City,
3 Missouri, on behalf of Aquila.

4 I'd also like to take this opportunity to
5 introduce two Aquila consultants that were here for
6 the afternoon hearing. I neglected to introduce
7 them. They were present. Mr. Don Glover of ATCO
8 Noise Management and Doctor Karl Rozman, a
9 toxicologist with the University of Kansas. And in
10 addition, we have three Aquila senior management
11 officials here. I would ask them to stand up and
12 introduce themselves, please.

13 MR. GREEN: Rick Green, CEO of Aquila.

14 MR. STAMM: Keith Stamm, COO.

15 MS. DUNN: Norma Dunn, Senior Vice President of
16 Communications.

17 JUDGE PRIDGIN: Thank you, Mr. Swaengen.

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

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

23 JUDGE PRIDGIN: Mr. Mills, thank you.

24 On behalf of StopAquila.org, please.

25 MR. EFTINK: Gerry Eftink for StopAquila.org,

1 704 West Foxwood Drive, Raymore, Missouri.

2 JUDGE PRIDGIN: Mr. Eftink, thank you.

3 On behalf of Cass County, please.

4 MR. COMLEY: Thank you, your Honor. On behalf
5 of Cass County, let the record reflect the entry of
6 Mark W. Comley of Comley and Ruth, Post Office Box
7 537, Jefferson City, Missouri.

8 Also, to my right, let me introduce Cindy
9 Reams-Martin and Debra Moore-Settle. And I'll
10 let them tell you their business addresses.

11 MS. REAMS-MARTIN: Cindy Reams-Martin, 408
12 Southeast Douglas, Lee's Summit, Missouri.

13 MS. MOORE-SETTLE: Debra Moore-Settle, County
14 Counselor, 102 East Wall, Harrisonville, Missouri
15 64701.

16 JUDGE PRIDGIN: Ms. Moore, Ms. Martin and Mr.
17 Comley, thank you.

18 On behalf of Sedalia Industrial Energy Users
19 Association, please.

20 MR. WOODSMALL: Thank you, your Honor. David
21 Woodsmall with the firm of Finnegan, Conrad and
22 Peterson, 3100 Broadway, Kansas City, Missouri
23 64111, on behalf of the Sedalia Industrial Energy
24 Users Association.

25 JUDGE PRIDGIN: Mr. Woodsmall, thank you.

1 On behalf of intervenors Dillon, Miller and
2 Doll, please.

3 MR. COFFMAN: I'm appearing on behalf of Frank
4 Dillon, Kimberly Miller and James Doll. My name is
5 John B. Coffman. Address is 1871 Tuxedo Boulevard,
6 St. Louis, Missouri, 63119. Also appearing on
7 behalf of Missouri residents is Matthew Urick.

8 JUDGE PRIDGIN: Mr. Coffman, thank you. Any
9 other Counsel wishing to enter appearance?

10 All right. We'll then proceed to the first
11 witness. I will apologize in advance if I misread
12 or mispronounce any of your names.

13 The first witness I have signed up is Jennifer
14 Bailey.

15

16 JENNIFER BAILEY, having been first duly sworn, was examined
17 and testified as follows:

18

19 JUDGE PRIDGIN: All right. Thank you very
20 much. If you would, please state your name, for the
21 record, and spell your last name.

22 MS. BAILEY: My name is Jennifer. And the last
23 name is Bailey. B-a-i-l-e-y.

24 JUDGE PRIDGIN: And your address, please?

25 MS. BAILEY: 23505 South Lucille Lane.

1 JUDGE PRIDGIN: And is that a Peculiar address?

2 MS. BAILEY: Yes, it is.

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

5 MS. BAILEY: No, I am not.

6 JUDGE PRIDGIN: All right. Do you have a
7 statement for the Commission?

8 MS. BAILEY: I do. And I also have
9 approximately 192 letters of support that the
10 residents of Cass county and the city of Peculiar
11 have prepared that I would like to present to you at
12 this time.

13 JUDGE PRIDGIN: You may. And I don't know if
14 you had talked with any of the parties beforehand
15 about submitting the letters. I mean, I'm most
16 certainly glad to take them and look at them. I'm
17 just trying to think of the cleanest way to take
18 them. I can mark them all as one exhibit or -- and
19 I don't know if you're with StopAquila.org?

20 MS. BAILEY: No, I am not.

21 JUDGE PRIDGIN: All right. That's fine if you
22 want to present those letters. And could you just
23 briefly describe what you've handed me, please?

24 MS. BAILEY: They're approximately 192 letters
25 from Cass county and Peculiar residents in support

1 of keeping the Aquila plant.

2 JUDGE PRIDGIN: Let me go ahead and mark this
3 as Exhibit Number 1 in the evening hearing.

4

5 (Whereupon Exhibit Number 1 was marked
6 for identification.)

7

8 JUDGE PRIDGIN: I'm sorry, you may continue.

9 MS. BAILEY: Okay. Thank you, your Honor.

10 Honorable Commissioners, my name is Jennifer Bailey,
11 as I just recently stated. I've been a resident of
12 Peculiar, Missouri for thirty years. I've been
13 involved in community service for the last fifteen
14 years. I served a three-year term on the Raymore
15 School Board, was president of the City of Peculiar
16 Park Board, and a member of the Baseball Board in
17 Peculiar at Ray-Pec Park. I've been a member of the
18 Raymore Booster Club since I graduated in 1985 from
19 Raymore-Peculiar. I currently live in Miller's
20 Point, which is a subdivision that connects to
21 Harris Place. I am approximately a mile and a half
22 to a mile and a fourth, depending on if you drive or
23 just look, from the plant.

24 I am here today to speak on behalf of my family
25 and some of my neighbors. I've had several

1 conversations and meetings with my neighbors in
2 reference to the Aquila plant. I feel as though
3 many others would be willing to step forward and
4 speak their mind. However, the intimidation, at
5 times, has been overwhelming. As you can tell in my
6 voice right now, I'm pretty nervous.

7 At one of the community improvement meetings, I
8 was thanking the employees of Aquila for their
9 support and a member of the StopAquila.org actually
10 stood up behind me and said, "Jenny, just sit down
11 and shut up. I've been trying to get you involved
12 and asked you to attend our meetings and you have
13 refused."

14 I thanked her for her opinion and I asked her
15 to let me continue voicing mine without
16 interruption, as I had done when she was speaking.

17 I later explained to her, in a phone
18 conversation, that I had not attended her meetings
19 because I was not against Aquila being here.

20 This very same person, I believe, has placed
21 StopAquila signs in my yard, which I have removed on
22 several occasions. I've also received phone calls
23 to me at home, asking me to explain why I was in
24 support of Aquila when all I was doing was hurting
25 my neighbors and their lawsuit. I have been stopped

1 at the grocery store, at my children's sporting
2 events and, recently, at a visitation for one of my
3 very close friends, asking me not to support Aquila
4 and to stop making comments of encouragement on the
5 Aquila website. On that website, all I did was
6 thank Aquila for their generous donation to the fire
7 department.

8 If any of my neighbors are here and would like
9 to stand at this time and let you know which are in
10 support of Aquila staying here, I would ask them to
11 just raise their hand or stand at that point. I
12 think several could not make it because of the
13 weather.

14 The neighbors that have contacted me and asked
15 me to speak on their behalf were the Troxells, two
16 Bruster families, the Knights, the Emerys, the
17 Robinsons and the Bremers.

18 Let me now, please, in my own words, tell you
19 why I support Aquila and the peaking facility.

20 First and foremost, I do believe there is a
21 true need for this facility. In the last twenty
22 years, we've been trying to promote growth in our
23 community. Recently, there has been a building boom
24 not only in new businesses to the community, but in
25 new residential construction. I am not sure if any

1 of you have driven through Peculiar or Cass county
2 recently, but everywhere you turn, there is a new
3 subdivision. How are we going to supply energy to
4 all of these homes and businesses without the
5 peaking facility?

6 I didn't get involved with anything to do with
7 Aquila until I was notified that there would be a
8 community meeting to improve things in our
9 community. At that point, being on the school
10 board, the park board and the baseball board, I
11 decided to get involved. They have been very
12 generous, more so than any company that has moved
13 into our community.

14 We had our first community meeting and made a
15 list of improvements and took a vote on the most to
16 least important to complete. Even some of the
17 StopAquila people were in attendance and voted.

18 Our list consisted of many projects. First and
19 foremost were the tornado warning sirens for the
20 city of Peculiar and surrounding areas. Aquila,
21 within several weeks, had presented a check to the
22 fire department for approximately \$83,000 to
23 complete this request. Several other projects have
24 also been completed and lights for the Ray-Pec Park
25 are just awaiting park board approval, not to

1 mention that they have paved 241st Street.

2 My friends and I walk almost every evening.
3 And when the plant was running, it was very
4 difficult to determine if the sounds we were hearing
5 were from the plant or the air conditioners from the
6 surrounding homes. Honestly, we had a hard time
7 distinguishing the two sounds. And we stood at the
8 end of the street directly across from the plant for
9 at least thirty to thirty-five minutes to try and
10 figure it out.

11 I do realize, in the beginning, things could
12 have been done differently. The City of Peculiar
13 could have made everyone more aware of what was
14 going on. I do believe that our neighbors were
15 scared and intimidated, thinking we were about to be
16 annexed into the city of Peculiar with no gain
17 except for higher taxes. We would not receive paved
18 streets, street lights or police protection. Aquila
19 is here now. And to tear down this plant would
20 waist time, effort and major dollars. I would think
21 we could use some common sense and make this work
22 for everyone. Everyone I have spoken with needs and
23 wants electricity. And the current location
24 actually makes sense, as there was already a natural
25 gas plant in the area, which, in my opinion, is more

1 of an eyesore and a hazard to our health.

2 Aquila has made several improvements to the
3 properties facing the plant. They've added trees at
4 their expense. They have raised the berm and
5 planted more trees on the Aquila property to make it
6 aesthetically pleasing.

7 Many of the people who live in and around this
8 area were concerned with their property values
9 declining. I am the branch operations manager of a
10 Fortune 250 mortgage company, and I can tell you,
11 personally and professionally, that the property
12 values are increasing dramatically.

13 I have a copy of my recent appraisal, which I
14 would like to submit to the Commission. We bought
15 our home, in 2003, for \$260,000. January of '03.
16 We have made no significant improvements to that
17 property, other than we have made some landscaping,
18 which was approximately \$2,000. My recent
19 appraisal, which is dated January 31st of '06, just
20 appraised for \$375,000. Within the last two months,
21 I have personally closed, at our mortgage company,
22 two homes that closed and sold for over \$330,000.
23 So when people say that their property values are
24 declining, I would have to say that, in my
25 professional opinion, that that is not true.

1 People were scared about the pollution and the
2 emissions from the plant. However, tests have shown
3 that the emissions are within guidelines and Aquila
4 still continues at this day to try to improve those
5 emissions even further.

6 In closing, I'd like everyone to think about
7 the consequences of what could be on the property if
8 Aquila is forced to tear down and move. If the land
9 is returned to agricultural, there could be a hog
10 farm or a chicken farm. I know, from living down
11 wind growing up, that this is not a pleasant sight
12 or smell, nor is it aesthetically pleasing to the
13 onlooker.

14 Also, what if the school were to purchase that
15 property? Have you ever lived in an area that has a
16 community school? You could ask any resident of the
17 Stonegate community in Raymore, Cumberland Hills,
18 which are two of the schools I helped build when I
19 was on the school board, or even the residents that
20 live across from the high school, how pleasant the
21 noise, pollution and traffic is in that area. The
22 buses are in and out at least two times a day, and a
23 multitude of parents who choose to take their
24 children to school drive in and out on numerous
25 occasions.

1 We are all reasoning adults. Please consider
2 all the options and know that just a few protesters
3 and all of the politics are behind us. Let's keep a
4 good neighbor that is willing to contribute to our
5 community in very generous ways.

6 I personally, no kidding, would take my home,
7 which is at 235th and Lucille Lane, and move it to
8 241st and Lucille Lane, only because -- and I would
9 face the plant and would look at it every day --
10 because the traffic and the noise on 235th Street,
11 with the multitude of cars that drive down it at
12 sixty to seventy miles an hour is much worse as a
13 hazard and noise.

14 When all of this is done, I hope we can all be
15 friends and neighbors once again and not look over
16 our shoulders to see who is there ready to chastise
17 you for your opinion. If I understand our rights,
18 we do have the freedom of speech in our country.

19 I thank you for your time. I appreciate your
20 willingness to hear from the public on this matter.

21 JUDGE PRIDGIN: Ms. Bailey, thank you. Let me
22 see if we have any questions from the Commission.

23 Chairman Davis?

24 CHAIRMAN DAVIS: No questions. Thank you.

25 JUDGE PRIDGIN: Commissioner Gaw?

1 COMMISSIONER GAW: Just curious, do you know
2 about how much money Aquila has donated to those
3 entities that you mentioned earlier?

4 MS. BAILEY: The only figure that I personally
5 have is the approximately \$83,000 to the fire
6 department.

7 COMMISSIONER GAW: Okay.

8 MS. BAILEY: The lights, we don't even have a
9 quote yet in Ray-Pec Park.

10 COMMISSIONER GAW: What are those lights for?

11 MS. BAILEY: They're actually lights to light
12 the ball field, which we have being trying to do for
13 approximately seventeen years. We raised the money
14 at one time, but one of the board members took it
15 and disappeared with it.

16 I do know that they have set poles at the Lions
17 Park football field, but I don't know the cost of
18 that, if there was any. I do believe those poles
19 were theirs.

20 COMMISSIONER GAW: Where is that ball field
21 located?

22 MS. BAILEY: The Ray-Pec ball field?

23 COMMISSIONER GAW: The one that's getting the
24 lights.

25 MS. BAILEY: It is just south of the RV plant

1 that -- oh, we call him "Frosty." I'm not -- Emmett
2 Smith. Not for Dallas. Just south of his RV park,
3 on the outer road, south of Flying J.

4 COMMISSIONER GAW: Did you say Emmett Smith?

5 MS. BAILEY: Yes, the gentleman that testified
6 earlier today.

7 COMMISSIONER GAW: I see. It's close to his
8 property, or his business?

9 MS. BAILEY: It is approximately, I would say,
10 three-quarters to a mile south of his property. It
11 is a youth baseball park.

12 COMMISSIONER GAW: Is it in the city of
13 Peculiar?

14 MS. BAILEY: Yes. The City of Peculiar owns
15 that.

16 COMMISSIONER GAW: So the City of Peculiar owns
17 the ball field?

18 MS. BAILEY: Yes.

19 COMMISSIONER GAW: So they'll be getting the
20 donation for the lights?

21 MS. BAILEY: Actually, the park board, it's my
22 understanding --

23 COMMISSIONER GAW: Okay.

24 MS. BAILEY: -- is who has to approve it and
25 will be receiving the donation.

1 COMMISSIONER GAW: When was that promised; do
2 you know?

3 MS. BAILEY: I don't remember. Our actual
4 first community meeting, I believe, may have been in
5 September. I would have to check my notes.

6 COMMISSIONER GAW: Of '05?

7 MS. BAILEY: Of '05.

8 COMMISSIONER GAW: Okay. And do you know of
9 anything else that Aquila has done in regard to
10 contributions?

11 MS. BAILEY: No. And I would like to state,
12 earlier, Mr. Broderick testified, and he spoke in
13 reference to anybody that is speaking on behalf of
14 Aquila are only doing that because they have
15 received monetary gifts or value. I've received
16 nothing. I'm only in this to help improve the
17 community.

18 COMMISSIONER GAW: Sure. And did you say you
19 used to be on -- what boards, can you tell me?

20 MS. BAILEY: I served a three-year term on the
21 Raymore-Peculiar School Board. I was also president
22 of the City of Peculiar Park Board.

23 COMMISSIONER GAW: Okay.

24 MS. BAILEY: And a member of the Baseball Board
25 at Ray-Pec Park. I served a short term on the city

1 council in Peculiar. I can no longer do those
2 things because I live in the county.

3 COMMISSIONER GAW: Okay.

4 MS. BAILEY: So when I saw a community activist
5 session, I jumped right in.

6 COMMISSIONER GAW: That's all I have. Thank
7 you.

8 COMMISSIONER CLAYTON: Thank you, ma'am. No
9 questions.

10 JUDGE PRIDGIN: Commissioner Appling, any
11 questions?

12 COMMISSIONER APPLING: Thank you for coming in.

13 JUDGE PRIDGIN: Any clarifying questions from
14 Counsel?

15 All right. Ms. Bailey, thank you very much for
16 your time and your remarks.

17 MS. BAILEY: Thank you.

18 JUDGE PRIDGIN: You're quite welcome.

19 MS. BAILEY: I appreciate it.

20 JUDGE PRIDGIN: The next witness is Doug Link,
21 if I'm reading that correctly.

22 MS. BAILEY: I did want to hand you my
23 appraisal.

24 JUDGE PRIDGIN: Thank you very much.

25 COMMISSIONER CLAYTON: What is the Exhibit

1 Number?

2 JUDGE PRIDGIN: That's Number 1. And let me
3 label as Exhibit 2 that appraisal that Ms. Bailey
4 just handed to me.

5

6 (Whereupon Exhibit Number 2 was marked
7 for identification.)

8

9 DOUG LINK, having been first duly sworn, was examined and
10 testified as follows:

11

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

15 MR. LINK: Doug Link, L-i-n-k.

16 JUDGE PRIDGIN: And your address, please, sir?

17 MR. LINK: 4305 Southeast Willow Tree Court,
18 Blue Springs, Missouri.

19 JUDGE PRIDGIN: And are you an Aquila customer?

20 MR. LINK: Yes, I am.

21 JUDGE PRIDGIN: Okay. And if I could get your
22 statement from the Commission, and ask you to speak
23 into the microphone so the folks towards the back
24 can hear you.

25 MR. LINK: As I say, my name is Doug Link. I'm

1 a senior vice president with Parr Electric,
2 Incorporated based in Kansas City, Missouri.

3 I agree with the young lady that spoke
4 previously about the phenomenal growth that Cass
5 county has experienced. Unfortunately, when you
6 have growth like that, you have to keep up with
7 infrastructure needs. When it becomes electrical,
8 there's really only three options. You can build a
9 peaking plant, you can bring in transmission lines
10 from out of state or you can build new coal fired
11 base units. I don't pretend to be an expert, but,
12 financially, I think we'll all agree that coal fired
13 units are prohibitive when it comes to peaking
14 units, what it cost to get them up and running.

15 When you talk about bringing transmission in
16 from out of state, you're talking about
17 significantly higher voltages than what are
18 available right now in the area.

19 And it takes jobs, if you will, out of the
20 state. Our company happened to be the one that
21 built the facilities out there, as far as
22 transmission. I can tell you that all those
23 construction jobs were local people. Those dollars
24 stayed in the local economy.

25 It's also my opinion that where that plant is

1 built is at the confluence of the transmission
2 connecting points, as well as the natural gas, which
3 is required to run a peaking unit.

4 So I guess, really, that's what I have to say
5 in a nutshell.

6 JUDGE PRIDGIN: Mr. Link, thank you very much.
7 Let me see if we have any questions from the
8 Commission.

9 Chairman Davis?

10 CHAIRMAN DAVIS: No questions.

11 JUDGE PRIDGIN: Thank you. Commissioner Gaw?

12 COMMISSIONER GAW: What was the name of your
13 company again?

14 MR. LINK: Parr Electrical Contractors, Inc.

15 COMMISSIONER GAW: And your company does what
16 again?

17 MR. LINK: We're the largest electrical outside
18 contractor in the United States. We build
19 transmissions, substations. We do not build power
20 plants.

21 COMMISSIONER GAW: Okay. Have you ever done
22 any work -- that company, has it ever done any work
23 for Aquila?

24 MR. LINK: Yes. We build facilities for Aquila
25 every day.

1 COMMISSIONER GAW: Thank you. That's all I
2 have.

3 COMMISSIONER CLAYTON: Mr. Link, I think I
4 understand the testimony that you've offered today
5 regarding growth and with regard to a number of the
6 reasons behind the construction of this power plant.
7 I wanted to ask you the question that seems to have
8 come up among a number of other people that have
9 testified here today about the fact that Aquila
10 didn't seek county approval through the regular
11 zoning process, and I was wondering if that bears at
12 all on your opinion of this case?

13 MR. LINK: I'm afraid I can't comment on that.
14 I've just commented on the technical aspect of what
15 needed to be done. I really did not stay abreast of
16 what Aquila was doing as far as how they got it
17 approved. I wouldn't be qualified to comment.

18 COMMISSIONER CLAYTON: Are you a citizen of
19 this country?

20 MR. LINK: Yes, I am.

21 COMMISSIONER CLAYTON: You certainly are able
22 to comment on anything you'd like here today. Don't
23 feel that your skills restrict you in any particular
24 way.

25 MR. LINK: I appreciate that, sir.

1 COMMISSIONER CLAYTON: Thank you.

2 JUDGE PRIDGIN: Commissioner Appling?

3 COMMISSIONER APPLING: No questions.

4 JUDGE PRIDGIN: Follow up from Counsel?

5 Mr. Eftink.

6 MR. EFTINK: Mr. Link, do you live in Cass
7 county?

8 MR. LINK: No, sir, I do not.

9 MR. EFTINK: You said you lived in Blue
10 Springs. How far away do you live from the power
11 plant?

12 MR. LINK: Oh, gosh, from this power plant?

13 MR. EFTINK: From South Harper.

14 MR. LINK: Oh, I'm going to guess --

15 COMMISSIONER CLAYTON: No, the other power
16 plant.

17 MR. LINK: I thought you were referring to the
18 substation by my house.

19 MR. EFTINK: No. I was referring to the South
20 Harper.

21 MR. LINK: Oh, I'm going to guess thirty miles.

22 MR. EFTINK: Thank you.

23 JUDGE PRIDGIN: Any further questions?

24 All right. Mr. Link, thank you very much for
25 your time and your testimony.

1 MR. LINK: Thank you.

2 JUDGE PRIDGIN: The next witness is Ellen
3 Berry.

4

5 ELLEN BERRY, having been first duly sworn, was examined and
6 testified as follows:

7

8 JUDGE PRIDGIN: All right. Thank you very
9 much. If you would, please, state your name, for
10 the record, and spell your last name.

11 MS. BERRY: My name is Ellen Berry, B-e-r-r-y,
12 and my address is 408 Shoreview Drive, Raymore,
13 Missouri.

14 JUDGE PRIDGIN: And are you an Aquila customer?

15 MS. BERRY: Yes, I am.

16 JUDGE PRIDGIN: What is your statement for the
17 Commission, ma'am?

18 MS. BERRY: I actually have a written statement
19 that I'd like to turn in, too, and then a few
20 comments.

21 JUDGE PRIDGIN: Certainly. Thank you. And if
22 you could briefly describe, by using the microphone,
23 what you've handed me.

24 MS. BERRY: Sure. What I've handed you is a
25 letter to the Commission actually expressing

1 comments that I'm getting ready to express now, too.

2 JUDGE PRIDGIN: All right. Thank you. I'll
3 label that as Exhibit Number 3.

4
5 (Whereupon Exhibit Number 3 was marked
6 for identification.)

7
8 JUDGE PRIDGIN: Whenever you're ready.

9 MS. BERRY: First of all, thank you all for
10 allowing me the opportunity to express my concerns.
11 I am a Cass county resident, and I am in support of
12 keeping Aquila's South Harper peaking facility at
13 its current location.

14 I have been an Aquila customer for many years.
15 Living in northern Cass county, I'm proud to say
16 that we receive excellent service from Aquila.

17 Recently, in the past few years, when we had
18 the severe ice storm here, our electricity was not
19 out at all. And that's the kind of service I've
20 come to expect and want to expect and need to expect
21 from Aquila.

22 I would also like to concur with Jennifer
23 Bailey and Doug Link on their comments about the
24 growth in Cass county, as I understand that there's
25 been nearly a fifteen percent growth between 2000

1 and 2005 in Cass county. And I know, as I drive
2 home every night, I see different housing areas
3 springing up all over the area. So there is the
4 added peaking that is needed for the electricity.

5 I am also an employee at Aquila. I enjoy
6 working for Aquila. I believe that Aquila acted in
7 good faith and completely in building this facility.
8 I also totally understand that there needs to be
9 clarification on the site's specific permission.
10 With the continued growth in Cass county and the
11 need to cover the peaking times, I would like to ask
12 that the Missouri Public Service Commission
13 reconfirm the approval that was my understanding
14 that was given on April 17th, 2005, allowing Aquila
15 specific authority to build this peaking facility.

16 Just on a real personal note, I would like to
17 tell you about working at Aquila and some of the
18 individuals and the folks that work at Aquila. The
19 people that work there -- we have a lot of integrity
20 and heart. And some of the things that have been
21 said, we do take personally. And there's -- no one
22 in Aquila has ever wished to cause ill will or
23 hardship for anyone else whatsoever, completely.
24 And it's the Aquila spirit. You'll always tell when
25 -- I've been a customer of Aquila and a resident of

1 Cass county much longer than I've worked for Aquila,
2 so you know that, too. But it's the spirit that we
3 volunteer and want to support and help our
4 neighbors. And I personally work on several
5 organizations. I'm proud to represent Aquila, on my
6 own time, volunteering for such organizations as
7 Youth Friends, Christmas in October, the Minority
8 Supplier Council. And the list goes on. And like
9 when the Katrina -- Hurricane Katrina came by, we
10 all gave many dollars in support of individuals.
11 And this was all individual employees giving
12 support. It is a caring group that works at Aquila,
13 and I am proud to work there.

14 Again, I would like to thank you for allowing
15 me to express my support of Aquila.

16 JUDGE PRIDGIN: All right. Ms. Berry, thank
17 you. Let me see if we have any questions from the
18 Commissioners.

19 Chairman Davis?

20 CHAIRMAN DAVIS: Ms. Berry, you're an Aquila
21 employee; is that correct?

22 MS. BERRY: Yes, I am.

23 CHAIRMAN DAVIS: How long have you been
24 employed by Aquila?

25 MS. BERRY: I've been employed by Aquila for

1 five years.

2 CHAIRMAN DAVIS: Okay. Not to put you on the
3 spot, but --

4 MS. BERRY: Go ahead.

5 CHAIRMAN DAVIS: -- have you ever seen or read
6 anything in the newspapers in the last, oh, say five
7 years that would make you scratch your head and
8 wonder what Aquila's management is doing?

9 MS. BERRY: Yeah. And actually, you know, I
10 didn't necessarily feel comfortable about coming and
11 testifying here, but, this morning, because of
12 something I heard on a newscast, really sealed me in
13 coming and making a testimony to you this morning.
14 Because I really don't appreciate the way not all
15 the facts are given or there's just leading bites
16 and lines to what the story is. It leads you to
17 believe something else, possibly, than what I
18 understand as being correct and truthful.

19 CHAIRMAN DAVIS: And did you feel that that
20 news story was misleading?

21 MS. BERRY: Yes, I did.

22 CHAIRMAN DAVIS: And how did you feel -- how
23 did you feel it was misleading?

24 MS. BERRY: I felt like it led into saying that
25 Aquila had not received government authority to

1 build the plant. And it seemed misleading, like,
2 yes, Cass County is a governing body, but the way it
3 led into it was like the federal government.

4 CHAIRMAN DAVIS: Well, had they received
5 government authority to build a plant?

6 MS. BERRY: Well, they have received quite a
7 few permits and building authority to build that
8 plant. And it's my understanding that they had --
9 that the Commission was supporting the building of
10 that plant, too, or I should say the site approval.

11 CHAIRMAN DAVIS: Isn't that why we're here
12 tonight?

13 MS. BERRY: Correct. Because it has come back
14 up, yes. That's -- that is another reason why I
15 scratch my head when I see some of the stories and
16 read the stories, very truly.

17 CHAIRMAN DAVIS: No further questions.

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

20 COMMISSIONER GAW: At great risk here, where do
21 you get most of your information in regard to this
22 particular issue of the plant?

23 MS. BERRY: Yes, I get most of my information.
24 And I really read up. I do receive the paper in
25 Belton, the Belton Star Herald. And, also, I read

1 quite a bit out of the Kansas City Star, which, at
2 times, I don't feel like it is completely accurate.

3 COMMISSIONER GAW: Well, when you say that some
4 of the stories have not been accurate, what
5 information do you have and what source of
6 information do you have that indicates to you that
7 it isn't accurate?

8 MS. BERRY: Sure. Okay. On the information,
9 specifically, this morning that I heard --

10 COMMISSIONER GAW: Yes.

11 MS. BERRY: -- just the sound bite going into
12 that sounds like the federal government, and,
13 specifically, on everything I've kept up with on
14 this story is Cass County government. And it's
15 leaving out little bits of the complete information.

16 COMMISSIONER GAW: But does anyone give you
17 information at Aquila about the status of this case?

18 MS. BERRY: I can read any public statements
19 that are put out. And they're actually put out to
20 the public, too. And, actually, I do try to keep
21 very informed. I actually may go out on the Stop
22 website and read up there, too. So I'm not just
23 getting opinions from one place.

24 COMMISSIONER GAW: Do you get any opinions from
25 your workplace about this issue? Does anybody talk

1 to you about --

2 MS. BERRY: I can read printed material on it,
3 but --

4 COMMISSIONER GAW: So no one talks to you about
5 this issue at work?

6 MS. BERRY: Not unless I bring it up and
7 initiate the conversation.

8 COMMISSIONER GAW: So have you done that?

9 MS. BERRY: I have to a few co-workers, but not
10 -- I have to a few co-workers, yes.

11 COMMISSIONER GAW: Okay. What is your position
12 with Aquila again?

13 MS. BERRY: I am a buyer. Or a negotiator.

14 COMMISSIONER GAW: And what does that mean?
15 Tell me what that does.

16 MS. BERRY: Sure. I work on contracts in the
17 procurement department in purchasing -- purchasing
18 service contracts.

19 COMMISSIONER GAW: Give me an example of
20 something you would purchase.

21 MS. BERRY: Sure. Office supplies.

22 COMMISSIONER GAW: Okay.

23 MS. BERRY: Set up a contract for purchasing of
24 office supplies.

25 COMMISSIONER GAW: Okay. Thank you. Earlier,

1 you said you thought that -- I think you said
2 something about, in April of 2005, that approval was
3 given to Aquila to construct this plant. Did I
4 misunderstand you?

5 MS. BERRY: I believe specific authority is the
6 way I had stated it.

7 COMMISSIONER GAW: Well, tell me -- can you
8 give me more detail? Who was it that gave authority
9 in April of '05, according to your information?

10 MS. BERRY: It's my understanding that the
11 Commission gave authority.

12 COMMISSIONER GAW: And where did you get --

13 MS. BERRY: In 2005.

14 COMMISSIONER GAW: How did you come to that
15 belief?

16 MS. BERRY: I had gone out on the website, and
17 I believe there was an article -- I've been out
18 there searching quite a bit on this. I believe it
19 was from the Kansas City Journal.

20 COMMISSIONER GAW: Okay.

21 MS. BERRY: I'd be happy to look that up for
22 you.

23 COMMISSIONER GAW: No. That's all right.

24 Thank you very much, ma'am.

25 COMMISSIONER CLAYTON: No questions. Thank you

1 for coming.

2 JUDGE PRIDGIN: Commissioner Appling?

3 COMMISSIONER APPLING: No questions.

4 JUDGE PRIDGIN: Any follow-up from Counsel?

5 Ms. Berry, thank you very much for your time
6 and your remarks.

7 MS. BERRY: Thank you.

8 JUDGE PRIDGIN: I hope I'm reading the next
9 name correctly. Is it Bobbi Cumpton?

10

11 BOBBI CUMPTON, having been first duly sworn, was examined
12 and testified as follows:

13

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

17 MS. CUMPTON: My name is Bobbi Cumpton,
18 C-u-m-p-t-o-n.

19 JUDGE PRIDGIN: And your address, please,
20 ma'am?

21 MS. CUMPTON: 705 Patton Street, Harrisonville,
22 Missouri.

23 JUDGE PRIDGIN: And are you an Aquila customer?

24 MS. CUMPTON: No, I am not.

25 JUDGE PRIDGIN: And your remarks for the

1 Commission.

2 MS. CUMPTON: Thank you. Thank you for
3 allowing me to speak with you tonight. I am a Cass
4 county resident. However, I do live in
5 Harrisonville. I am not an Aquila customer, but,
6 however, I am a very proud Aquila employee. The
7 company I work for, I believe, is a very upstanding,
8 well-known company within the community.

9 Something I would like to read to you. The
10 critical success factors for Aquila include: Make
11 it easy and efficient for customers to do business
12 with us; provide an environment for an engaged
13 well-informed workforce; fix problems and
14 continually improve; be recognized as a respected
15 corporate citizen by all stakeholders; provide
16 investors with competitive, predictable returns.
17 That is the Aquila values. That is how we do
18 business.

19 I'm taking a little bit different approach to
20 this. I'd like to bring some things to light that
21 nobody seems to bother to think about Aquila.
22 Aquila has been in this community for over a hundred
23 years. During this one hundred years, Aquila has
24 been very involved in the community. They have
25 given much back to the community. They've been very

1 involved in local not-for-profit organizations,
2 civic organizations, chambers. They've sponsored
3 many youth and educational programs. But these are
4 the things that are being forgotten about. Nobody's
5 remembering that these are the types of things that
6 Aquila values and puts it to the forefront.

7 Aquila also has teamed up with many local
8 charities, chambers, parks and recreations, Cass
9 County Junior Athletic Association, Athletic
10 Association of Peculiar, Incorporated, National
11 Night Out, boys clubs, Boy Scouts, prom night,
12 United Ways, local town festivals, carnivals and
13 fairs. All of these things are things that Aquila
14 has either sponsored, co-sponsored or donated funds
15 to. And in a hundred years, that's a lot of giving
16 back to a community.

17 Aquila has also done a lot of other things to
18 help their customers. They've spearheaded efforts
19 to help customers with their utility bills through a
20 program called Aquila Cares. I'm not sure if anyone
21 is aware of the program. However, it is to help
22 customers that are not able to pay their bills. The
23 anticipated impact to customers will be one million
24 dollars. Of that, approximately six hundred --
25 excuse me, \$325,000 of that was donations from

1 customers, employees and company-matching
2 contributions, which was dollar to dollar. And
3 Aquila, additionally, will donate \$250,000. I don't
4 have the sales figures for the other seven states.
5 This is strictly -- Aquila Cares will be in all
6 seven of the states that Aquila does business.
7 Right now, the only figure that I do have for
8 Missouri is that there will be \$110,534 that will be
9 coming back to the state of Missouri.

10 Aquila also donated to the Aquila -- to the
11 Katrina Relief Fund to the tune of \$640,000.

12 The Christmas in October program. Aquila has
13 sponsored a team for the past seven years. This
14 last year, they did five different houses. The
15 first year, they only had 21 employees. Last year,
16 through volunteered employees, there was 150
17 employees involved in this venture.

18 My understanding is, Aquila has also donated
19 \$220,000 to the fire protection tornado warning
20 systems, as well as 21 fire hydrants and 6,100 feet
21 of water lines in the Peculiar area.

22 There was also four roads that were paved at
23 Aquila's expense. They paid to have those roads
24 paved around the South Harper plant.

25 You know, I can go on and on. Caring for

1 Children is a program that Aquila has that helps
2 children at Christmas time. Not just children, but
3 adults, also. During the last Christmas season,
4 there were a total of 601 children and grown
5 individuals that were impacted. Of those 601, 200
6 of those were in Cass county alone.

7 There's also a scholarship program that Aquila
8 sponsors each year. Last year, there were thirty
9 scholarships awarded in the state of Missouri. They
10 are a thousand dollar scholarship.

11 The Aquila focus still remains on youth,
12 educational programs, community building,
13 environment, economic development and human
14 services.

15 I agree with what other people have said, that
16 Cass county has grown at a rate of fifteen percent
17 over the last five years. That is just one county
18 within the Aquila service territory. There's
19 numerous other counties within that territories that
20 have also grown. Maybe not as fast or as big, but
21 we are still seeing increases. That need must be
22 met. The Aquila South Harper peaking plant is a
23 necessity to provide that need.

24 Again, I would like to thank you for taking a
25 few minutes to listen to me. But I feel that the

1 other side of Aquila also needs to be looked at.
2 They've given much back to the community.

3 JUDGE PRIDGIN: Ms. Cumpton, thank you very
4 much. Let me see if we have any questions from the
5 Commission.

6 Mr. Chairman?

7 CHAIRMAN DAVIS: No questions. Thank you.

8 JUDGE PRIDGIN: Commissioner Gaw?

9 COMMISSIONER GAW: Now, what is your position
10 with Aquila, ma'am?

11 MS. CUMPTON: I'm a supervisor in the call
12 center.

13 COMMISSIONER GAW: And how long have you been
14 with Aquila again?

15 MS. CUMPTON: Five years.

16 COMMISSIONER GAW: And how long have you been a
17 supervisor?

18 MS. CUMPTON: Two years.

19 COMMISSIONER GAW: Okay. Did anyone discuss
20 this hearing with you at the office or from your
21 workplace?

22 MS. CUMPTON: No. I was told they could not
23 discuss it with me. That if I wanted to make a
24 statement, I must do it on my own. That it had to
25 be my opinions, my thoughts.

1 COMMISSIONER GAW: And who told you that?

2 MS. CUMPTON: When I first -- the email came
3 out to anyone that was in Cass county. And it said
4 that if you would like to attend the meeting or make
5 a speech, feel free. I responded to that and said I
6 would like to make a speech, do you have any ideas
7 what would be a good topic. That's when I was told
8 by Lynn Wilson that they could not help me. I would
9 have to do it myself.

10 COMMISSIONER GAW: Okay. And do you have
11 copies of those emails?

12 MS. CUMPTON: I could provide you a copy. I
13 don't have it with me. I do have a copy of what I
14 have here.

15 COMMISSIONER GAW: Thank you. I'm sure that
16 someone will let you know if we need copies of them.

17 MS. CUMPTON: That will be fine.

18 COMMISSIONER GAW: Thank you.

19 JUDGE PRIDGIN: Commissioner Appling?

20 COMMISSIONER APPLING: No questions.

21 JUDGE PRIDGIN: All right. Any clarifying from
22 Counsel?

23 Thank you very much.

24 MS. CUMPTON: Thank you.

25 JUDGE PRIDGIN: The next witness on the list is

1 Don Fidlar, if I'm pronouncing that name correctly.

2

3 DON FIDLAR, having been first duly sworn, was examined and
4 testified as follows:

5

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

9 MR. FIDLAR: Don, F-i-d-l-a-r, Fidlar.

10 JUDGE PRIDGIN: All right. And your address,
11 please?

12 MR. FIDLAR: 24412 Myers Court in Peculiar.
13 And I am an Aquila customer.

14 JUDGE PRIDGIN: All right. And would you be
15 reading from a written statement this evening?

16 MR. FIDLAR: I have a written statement. I'll
17 be glad to submit it and save the Commission time,
18 if that would be good for you.

19 JUDGE PRIDGIN: That would be great. Thank
20 you. Could you just briefly describe what your
21 statement is?

22 MR. FIDLAR: Thank you. I'm pretty much in
23 agreement with what everybody else has said. The
24 only other thing is, it makes no economic sense to
25 me to tear down this plant or to disassemble this

1 plant, only later, to meet the demand, have it
2 reassembled again in another location. And if they
3 have to do it in another location, if it's not in
4 this area, the school district and the community
5 will lose out on the tax dollars that would be
6 generated from the plant.

7 JUDGE PRIDGIN: Okay. Mr. Fidler, thank you.
8 I'm going to label that as Exhibit Number 4. That's
9 a one-page letter from Mr. Fidler.

10

11 (Whereupon Exhibit Number 4 was marked
12 for identification.)

13

14 JUDGE PRIDGIN: Let me see if we have any
15 questions from -- if the Commission wants to scan
16 this letter real quickly.

17 Commissioner Davis?

18 CHAIRMAN DAVIS: No questions. Thank you.

19 JUDGE PRIDGIN: Thank you.

20 Commissioner Gaw?

21 COMMISSIONER GAW: I don't think so. Go ahead
22 to someone else.

23 COMMISSIONER CLAYTON: I have no questions.
24 Thank you, Mr. Fidler.

25 COMMISSIONER APPLING: No questions.

1 COMMISSIONER GAW: That's all right.

2 JUDGE PRIDGIN: Thank you very much.

3 Anything from Counsel?

4 MR. MILLS: Mr. Fidler, do you work for Aquila?

5 MR. FIDLAR: No, I do not.

6 MR. MILLS: Have you spoken to anyone from
7 Aquila about your testimony here tonight?

8 MR. FIDLAR: I have not spoken -- they've not
9 seen this, no. We talked about maybe me saying some
10 comments, but nobody told me what to say.

11 MR. MILLS: Who did you talk with at Aquila?

12 MR. FIDLAR: Well, at a meeting they had for
13 support.

14 MR. MILLS: When was this meeting?

15 MR. FIDLAR: It was Saturday.

16 MR. MILLS: Just a couple of days ago?

17 MR. FIDLAR: Yes.

18 MR. MILLS: Did they tell you about what was
19 going to go on at this public hearing?

20 MR. FIDLAR: They gave me an indication, yes.

21 MR. MILLS: Did they suggest that you should
22 sign up to speak --

23 MR. FIDLAR: They --

24 MR. MILLS: -- if you were so inclined?

25 MR. FIDLAR: They said if I wanted to, I could.

1 MR. MILLS: That's all I have. Thank you.

2 JUDGE PRIDGIN: Any follow-up?

3 COMMISSIONER GAW: Real quick.

4 JUDGE PRIDGIN: Commissioner Gaw.

5 COMMISSIONER GAW: How did you find out about
6 that meeting, sir?

7 MR. FIDLAR: The Aquila meeting?

8 COMMISSIONER GAW: Yes.

9 MR. FIDLAR: I believe I received a phone call.

10 COMMISSIONER GAW: Who did you receive it from;
11 do you know?

12 MR. FIDLAR: A gentleman at Aquila. Jason. I
13 can't think of his last name. I'm sorry.

14 COMMISSIONER GAW: Okay. And do you recall
15 about when you received that phone call?

16 MR. FIDLAR: Last Thursday.

17 COMMISSIONER GAW: Okay. Do you know how they
18 got your name?

19 MR. FIDLAR: Well, from the support Aquila
20 meetings we've had.

21 COMMISSIONER GAW: You've had some meetings
22 like that before?

23 MR. FIDLAR: Yes, uh-huh.

24 COMMISSIONER GAW: Okay. And who organizes
25 those meetings?

1 MR. FIDLAR: Some of the people at Aquila. I
2 don't know if I know everybody's name. Norma Dunn
3 is one of them. There's several others there.

4 COMMISSIONER GAW: Okay. The first time that
5 you attended one of those meetings, how did you find
6 out about it?

7 MR. FIDLAR: Well, the meetings were for the
8 public.

9 COMMISSIONER GAW: I see.

10 MR. FIDLAR: And then they asked, you know,
11 people who might be willing to support, and we
12 signed up.

13 COMMISSIONER GAW: When was the first -- do you
14 remember about when you had the first meeting?

15 MR. FIDLAR: It was last September. I can't
16 tell you the date. That was a public meeting.

17 COMMISSIONER GAW: Okay. And the next meeting
18 you had after that?

19 MR. FIDLAR: We were not able to attend. We
20 were out of town.

21 COMMISSIONER GAW: Okay.

22 MR. FIDLAR: The next meeting was November, if
23 I remember right.

24 COMMISSIONER GAW: All right. Thank you very
25 much, sir.

1 JUDGE PRIDGIN: Mr. Fidler, thank you.

2 I see as the next witness Gary Crabtree.

3

4 GARY CRABTREE, having been first duly sworn, was examined
5 and testified as follows:

6

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

10 MR. CRABTREE: My name is Gary Crabtree,
11 C-r-a-b-t-r-e-e.

12 JUDGE PRIDGIN: And your address, please?

13 MR. CRABTREE: 24005 South Harper Road,
14 Peculiar, Missouri.

15 JUDGE PRIDGIN: And are you an Aquila customer?

16 MR. CRABTREE: No, sir.

17 JUDGE PRIDGIN: And did you have a written
18 statement you'd prepared?

19 MR. CRABTREE: No, sir.

20 JUDGE PRIDGIN: Okay. Do you have a statement
21 for the Commission, sir?

22 MR. CRABTREE: First of all, I would like to
23 say thank you for the opportunity to be able to
24 speak to you. I've been involved in this process
25 since its inception and beginning when they began to

1 talk publicly about this process of putting a power
2 plant in. I feel this is the first time I've had an
3 opportunity to talk to a governing body that
4 actually had -- where I was on equal footing to be
5 able to speak. The other processes I've been
6 involved in were an opportunity to maybe speak, but
7 the decisions had already been made, and we either
8 were not listened to sincerely or we were told we
9 had no standing to make comments. And I appreciate
10 the opportunity to be here to be able to say what I
11 think.

12 My residence is about three-tenth's of a mile
13 due north of the power plant on South Harper Road,
14 caddy-corner to the Bremer property. We moved into
15 that Labor Day of 2004. We had no knowledge of this
16 power plant being put in, at that time, even though
17 we had heard some rumors and tried to inquire and
18 could not ascertain that it was in fact going to
19 happen. Four days after we moved in, we found out
20 they were going to place the plant there.

21 I moved -- I grew up in Peculiar and moved
22 away. I recently retired and moved back to that
23 area, moved back to this specific place, because it
24 was near my family. And I had an opportunity to
25 live back in the country, to live the kind of

1 lifestyle that my wife and I prefer. When they
2 placed this plant here, they took most of that away
3 from us. And the fact that it's -- it doesn't
4 belong there. It doesn't belong in the middle of a
5 residential area.

6 And through the whole process, as I said
7 before, I had no opportunity to express myself to
8 these people who made decisions. I feel like, as
9 it's been said in a prior meeting, that this should
10 be at the county level to start with. We've never
11 had that opportunity to do that. We've never had
12 the opportunity to talk with those people that we
13 elect or that answer to us. And I find that very
14 frustrating. And I would much prefer to see that
15 happen. But in that process, as we listen to the
16 City of Peculiar and we listen to Aquila, we were
17 told this is the ideal siting for this particular
18 plant.

19 And they said it was too costly to bring new
20 power lines. It was too costly to bring gas service
21 to this area. And it was already there. One of the
22 things I don't understand, and it's not been talked
23 about, the first thing they did, when they began to
24 put the plant down, was tear all the power lines
25 down they had, from that site clear to Belton, which

1 is about fourteen miles away. I don't understand.
2 If it's too expensive to bring it in, why did they
3 have to do that. And then the gas power that was
4 supposedly on site, why did they find it necessary
5 to go to Panhandle Eastern and run a new pipe line,
6 service line, to operate the power plant, at least
7 two miles across country in order to operate this
8 and the power -- if the gas service was available to
9 Kentucky Star.

10 When all those things began, we all began to
11 ask questions -- is this truly the only site that
12 was available, and the proper site, and I don't
13 think we received satisfactory answers.

14 Some of the questions that have been previously
15 raised today -- I can tell you that, firsthand,
16 living that close to the plant -- and I'm not an
17 aesthetic engineer. I'm not a sound engineer. I'm
18 not a pollution engineer. I can just tell you what
19 I see and what I experience. Aesthetically, I see
20 that power plant. There's three 75-foot towers
21 sitting there. There are some very mature trees
22 between my house and theirs, and they don't come
23 close to hiding that power plant or those towers.
24 The thousands of trees that they have claimed they
25 have planted, I will not be alive when those plants

1 get large enough to cover anything. That's just the
2 nature of it. And I find that humorous that they
3 would say that that's one of the answers.

4 Sound-wise, I can tell you that when I'm on my
5 front porch, it sounds like a vacuum cleaner. And I
6 use that analogy because that was the one thing I
7 was told by a city official from Peculiar, that
8 that's about what it's going to sound like, a vacuum
9 cleaner. And you and I both know that that is not a
10 problem to listen to. But the problem that comes in
11 is, that vacuum cleaner never shuts off, when it's
12 running. It runs for hours and hours and hours. I
13 cannot sit on my front porch and carry on a
14 conversation with my wife because of that power
15 plant, with the noise that's being generated from
16 it. It's incessant. It never quits. And it's more
17 than a nuisance when it goes on the hours that it
18 does.

19 Finally, the pollution. I don't smell or see
20 anything. I do know, when I went to one of their
21 public meetings not very long ago, one of their
22 experts told us that there were -- they explained
23 everything that was there. It wasn't going to be a
24 problem. And they compared it to -- he said we have
25 not reached, and will not reach, the pollution level

1 of Los Angeles or Kansas City or other metropolitan
2 areas. And I found it a little strange to think
3 that that was an acceptable level of pollution to
4 have to live with or to be around if we were ever
5 going to approach that. That was the analysis they
6 used. And I find that disturbing. Now, where it
7 goes, I don't know, but I -- if I have to look
8 forward to that kind of pollution, then there's more
9 than a little bit of a problem.

10 I would like to see this process taken to the
11 county. I would like to see the power plant torn
12 down and placed in an area that is appropriate for
13 this, an industrial site that is determined to be
14 adequate by a group of citizens that have input to
15 it and not to sit down in front of us and say, you
16 know, there it is. If you don't like it, tough.
17 That's just the way it's going to be. And that's --
18 that's how they came off. Thank you.

19 JUDGE PRIDGIN: Mr. Crabtree, thank you. Let
20 me see if we have any questions.

21 CHAIRMAN DAVIS: No questions.

22 JUDGE PRIDGIN: All right. Mr. Chairman, thank
23 you.

24 Commissioner Gaw?

25 COMMISSIONER GAW: No, questions. Thank you,

1 sir.

2 COMMISSIONER CLAYTON: No questions. Thank
3 you.

4 JUDGE PRIDGIN: All right. Thank you.

5 COMMISSIONER APPLING: No questions.

6 JUDGE PRIDGIN: None from Counsel?

7 Mr. Crabtree, thank you very much, sir.

8 I hope I'm not mispronouncing this next name.

9 Linda -- is it Mohn? Is it M-o-h-n? If I'm reading
10 that correctly.

11 How about a David with the same last name.

12 Mike Fisher.

13

14 MIKE FISHER, having been first duly sworn, was examined and
15 testified as follows:

16

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

20 MR. FISHER: My name is Mike Fisher,
21 F-i-s-h-e-r.

22 JUDGE PRIDGIN: And your address, please, sir?

23 MR. FISHER: My personal residence is 10901
24 East 236th Street, Peculiar, Missouri.

25 JUDGE PRIDGIN: And are you an Aquila customer?

1 MR. FISHER: I am not personally, but,
2 professionally, we are, under the City of Peculiar.
3 Aquila is our franchisee.

4 JUDGE PRIDGIN: Do you have a written statement
5 for the Commission?

6 MR. FISHER: No, I don't, just some brief
7 comments. I just wanted to address the need based
8 on the population growth in the county and Peculiar
9 and so on.

10 The paper reported the other day in the Kansas
11 City Star that Cass county is the fastest growing
12 county in the metropolitan area, with a growth rate
13 of 15 percent. I'd like to add to that, that
14 Peculiar, based on our water connections, is now at
15 roughly 5,000, which means we've grown 90 percent
16 since the 2000 census.

17 Last year, Raymore had an increase in building
18 permits of 12 percent. Ours are up 70 percent. It
19 doesn't take into account one large development in
20 Raymore, which is the Creekmore Development, of
21 1,500 units. And Peculiar, we've platted 2,100
22 units in the last two years, which will add to that
23 growth.

24 Additionally, economic development-wise, we all
25 know that Belton has the Home Depot and Kohl's and

1 Target up there and adding other areas. Raymore
2 recently added a Lowe's to the electrical load that
3 they're going to have. Peculiar has a furniture
4 warehouse coming on of like 63,000 square feet.
5 They have a new cabinet company that added another
6 31,500. And Sioux Chief Manufacturing, which is
7 located south of the city is an Aquila customer that
8 has just doubled in size and added 157,000 square
9 feet to their facility. There's a growing need both
10 residential and for economic development in the
11 county, and, particularly, northern Cass county
12 where the power plant is there for utilities.

13 And the schools. Raymore-Peculiar School
14 District is one of fastest growing school districts.
15 They're adding almost a school a year. We estimate
16 probably around 2010 Raymore will build a new \$50
17 million high school. That's certainly going to add
18 to the load. The growth is not coming. It's in
19 Cass county. And there's need for it now. Thank
20 you.

21 JUDGE PRIDGIN: Mr. Fisher, thank you. Let me
22 see if we have any questions from the Commissioners.

23 Mr. Chairman?

24 CHAIRMAN DAVIS: No questions. Thank you.

25 JUDGE PRIDGIN: Commissioner Gaw?

1 COMMISSIONER GAW: Mr. Fisher, what is your
2 position with the City of Peculiar?

3 MR. FISHER: I'm the city administrator.

4 COMMISSIONER GAW: City administrator. Okay.
5 Now, does the City of Peculiar have zoning?

6 MR. FISHER: Yes, we do.

7 COMMISSIONER GAW: I want to know if you can
8 tell me if the City of Peculiar has ever had an
9 instance where any entity has come in and refused to
10 obey your zoning rules or laws?

11 MR. FISHER: Not to my knowledge, no.

12 COMMISSIONER GAW: And if someone came in -- an
13 entity came into the City of Peculiar and said we
14 don't care what you say, we're going to place our
15 facility in a residential area, that is, a power
16 generating facility, and it wasn't zoned for that,
17 and they didn't ask your permission, what would the
18 City of Peculiar do in regard to that situation?

19 MR. FISHER: We had situations in the past
20 where someone's come in and applied for zoning and
21 started building ahead of time, and they would have
22 been stopped until they obtained that building
23 permit.

24 COMMISSIONER GAW: Okay. So you believe that
25 it is -- it should be required that they receive or

1 procure the appropriate zoning authority before they
2 construct in the city of Peculiar?

3 MR. FISHER: Approach the zoning or the
4 appropriate authority in order to do what they need.

5 COMMISSIONER GAW: Do you think that zoning is
6 important to the city of Peculiar?

7 MR. FISHER: Certainly.

8 COMMISSIONER GAW: And does the city guard its
9 authority to zone within its city limits?

10 MR. FISHER: I wouldn't necessarily say we
11 guard it, but, yes, we watch over it. We make sure
12 it's followed.

13 COMMISSIONER GAW: Are you diligent about it?

14 MR. FISHER: Yes.

15 COMMISSIONER GAW: If someone is in violation
16 of your city zoning requirement, do you take action,
17 as a city, to enforce them?

18 MR. FISHER: We try to catch them before
19 there's a violation, but if there was, we would,
20 yes.

21 COMMISSIONER GAW: Thank you, sir. That's all
22 I have.

23 JUDGE PRIDGIN: Thank you.

24 Commissioner Clayton?

25 COMMISSIONER CLAYTON: I don't have any

1 questions.

2 JUDGE PRIDGIN: Thank you.

3 Commissioner Appling?

4 COMMISSIONER APPLING: No questions. Thank
5 you, sir.

6 JUDGE PRIDGIN: I'm sorry, Mr. Fisher.

7 MR. FISHER: Yes.

8 JUDGE PRIDGIN: Do you want to follow up, Ms.
9 Martin?

10 MS. REAMS-MARTIN: Thank you, Commissioner.

11 Mr. Fisher, my name is Cindy Reams-Martin. I
12 represent Cass County.

13 You're the city administrator for the City of
14 Peculiar; that's correct?

15 MR. FISHER: That's correct.

16 MS. REAMS-MARTIN: And you were involved, were
17 you not, in the discussions with Aquila in the
18 potential siting of the South Harper plant; is that
19 correct?

20 MR. FISHER: That's correct.

21 MS. REAMS-MARTIN: In fact, you were the
22 representative for the City of Peculiar who first
23 approached Aquila about the possibility of siting
24 the plant at the South Harper location; is that
25 correct?

1 MR. FISHER: It wasn't initially about locating
2 the plant in Peculiar. The South Harper site was
3 actually the second site.

4 MS. REAMS-MARTIN: And as part of that
5 discussion, you were the one who discussed with
6 Aquila the possibility of annexing land outside the
7 Peculiar city limits with the purpose of placing the
8 plant within the Peculiar city limits; is that
9 correct?

10 MR. FISHER: That's correct.

11 MS. REAMS-MARTIN: And as part of that
12 discussion, you intended that Aquila would procure
13 appropriate zoning for the plant; is that correct?

14 MR. FISHER: Our intent was to go through with
15 all the state statutes, which required that Aquila
16 submit a development plan to the city, which would
17 be approved by the planning and zoning commission.

18 MS. REAMS-MARTIN: And so the answer to that
19 question is yes?

20 MR. FISHER: Actually, for the power plant, the
21 state law didn't require that they rezone it, but it
22 would be designated as for public utility use, but
23 remain the current zoning, which is --

24 MS. REAMS-MARTIN: And maybe a better way to
25 state it is, you would have expected Aquila to

1 follow the state statutes that allowed your city to
2 regulate land use; is that correct?

3 MR. FISHER: That's correct.

4 MS. REAMS-MARTIN: And what happened is, due
5 to public pressure, the City of Peculiar decided not
6 to annex this land; is that correct?

7 MR. FISHER: There was concern about the city
8 annexing South Harper Road. The citizens obviously
9 were concerned with who was going to be annexed in.

10 MS. REAMS-MARTIN: And as a result, the City
11 of Peculiar dropped its plans to annex this land; is
12 that correct?

13 MR. FISHER: Yes.

14 MS. REAMS-MARTIN: And by that time, Aquila
15 had already acquired tracts that it had expected to
16 build the power plant and substation on; is that
17 correct?

18 MR. FISHER: That's my understanding.

19 MS. REAMS-MARTIN: With the expectation that
20 the City of Peculiar was going to let those items,
21 or those tracts, come into the city; is that
22 correct?

23 MR. FISHER: That's correct.

24 MS. REAMS-MARTIN: And prior to the
25 discussions that you had with Aquila about the

1 possibility of this plant being sited in Peculiar or
2 within a mile or two of Peculiar, had anyone from
3 Aquila ever approached you about those locations
4 being the most appropriate site for this plant?

5 MR. FISHER: No, because we'd not open to
6 discussions.

7 JUDGE PRIDGIN: Ms. Martin, thank you.

8 Any further follow-up?

9 Mr. Eftink.

10 MR. EFTINK: Now, Mr. Fisher, you said that
11 this was a second site that you looked at for the
12 power plant; is that what you said?

13 MR. FISHER: Yes.

14 MR. EFTINK: What was the first site that you
15 looked at for locating this power plant?

16 MR. FISHER: It was a 160-acre site to the
17 northwest corner of Harper Road and YY.

18 MR. EFTINK: So that was your first choice for
19 a power plant?

20 MR. FISHER: Yes.

21 MR. EFTINK: How much money has been paid by
22 Aquila to the City of Peculiar?

23 MR. FISHER: They gave the city a \$700,000
24 issuance fee.

25 MR. EFTINK: That hasn't been returned to

1 Aquila, has it?

2 MR. FISHER: It hasn't, no.

3 MR. EFTINK: How far away do you live from the
4 South Harper site?

5 MR. FISHER: It's approximately three-quarters
6 of a mile.

7 MR. EFTINK: Thank you.

8 JUDGE PRIDGIN: Anything further?

9 Mr. Fisher, thank you very much, sir.

10 MR. FISHER: Thank you.

11 JUDGE PRIDGIN: George Lewis.

12

13 GEORGE LEWIS, having been first duly sworn, was examined
14 and testified as follows:

15

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

19 MR. LEWIS: George G. Lewis, L-e-w-i-s.

20 JUDGE PRIDGIN: And your address, please?

21 MR. LEWIS: 812 South Peculiar Drive, Peculiar,
22 Missouri 64078.

23 JUDGE PRIDGIN: And are you a customer of
24 Aquila?

25 MR. LEWIS: Yes, sir, I am.

1 JUDGE PRIDGIN: All right. Did you have a
2 written statement or --

3 MR. LEWIS: No, sir, I don't.

4 JUDGE PRIDGIN: -- remarks for the Commission?

5 MR. LEWIS: I'm also the Mayor of Peculiar.

6 I've supported the power plant from day one.
7 Initially, we were going to put it out on the 160
8 acres. That's where we wanted to put it, close by
9 the city there. The power lines were there. The
10 gas lines were there, even though they're
11 subscribed, but they could have run a gas line down
12 there. And the deal fell through, probably because
13 the gentleman wanted too much money and didn't want
14 to sell.

15 So the next site that was selected was out
16 there at the Bremer property. And I don't know
17 whether you've been out there or not, but if you
18 have been out there, it is a rural area. It has
19 high lines running through it, been there for years.
20 It's got a gas plant that's been there since the
21 early fifties. It bangs and hisses and smokes and
22 blows up, sometimes, and makes all kind of noise.
23 So this was a good location, as far as I am
24 concerned for the line, yes.

25 Southern Star was there. Mr. Crabtree wondered

1 why Panhandle Eastern ran a line up there. I don't
2 know. You'd have to ask Aquila. But I know if you
3 just had one source of gas, obviously, you know,
4 they can charge you probably what they want to. If
5 you have another source in there, then there can be
6 a little -- I'm sure a little negotiation. So
7 that's probably the answer why they ran another line
8 up there.

9 We did do the one hundred for the project. I
10 think it's very important for our community. We are
11 growing. In the last few years, we've added over
12 2,000 platted lots in our town. And not only is our
13 town growing, but Raymore is growing, Lee's Summit
14 is growing, Pleasant Hill, and, of course, Belton.
15 And Aquila does provide service to all of those
16 facilities.

17 I think it's very, very important that this
18 plant stay there and that we need peak power for our
19 community. That is the reason I supported it from
20 day one. Our citizens, who are customers of Aquila,
21 need to have that peak power.

22 Now, I've been a customer of Aquila for
23 approximately 29 years. They were Missouri Public
24 Service back then. Then they were UtiliCorp United.
25 Now they're Aquila. As you all are aware, it is a

1 franchise area. They have no competition. If they
2 don't give us good service, if we don't have peak
3 power, we really don't have a whole lot we can do
4 about it other than complain, and maybe complain to
5 the Commission. But in the 29 years that I've been
6 on the system there, which is what is now Aquila,
7 they have been excellent. I have no complaints.
8 They are putting a lot of lines underground in all
9 the new developments which really helps when we have
10 ice storms or windstorms. I think they've done a
11 great job. I expect them -- I expect and I insist
12 that they provide me with peak power when I need it.
13 And that's why we need that plant, in my opinion.
14 Thank you very much.

15 JUDGE PRIDGIN: Mr. Lewis, thank you. Let me
16 see what kind of questions we have.

17 Chairman Davis?

18 CHAIRMAN DAVIS: No questions.

19 JUDGE PRIDGIN: Commissioner Gaw?

20 COMMISSIONER GAW: No questions.

21 COMMISSIONER CLAYTON: Mayor, I have just a
22 couple of questions. In your testimony, you said
23 that the City of Peculiar needs -- the power that's
24 needed for the city is there, and that's why we need
25 to have the power plant. Why didn't you build it in

1 the city of Peculiar?

2 MR. LEWIS: Well, first off, we don't have
3 pipelines running right through our city where we
4 could. This area we wanted to build was right
5 outside our city, which we would have annexed, and
6 there's pipelines and there's power lines running
7 through there.

8 COMMISSIONER CLAYTON: Were there no other
9 places in the city to locate --

10 MR. LEWIS: Not to my knowledge.

11 COMMISSIONER CLAYTON: Did you --

12 MR. LEWIS: Not where they have gas lines or
13 power lines, no, sir.

14 COMMISSIONER CLAYTON: So those were the only
15 two criteria that were looked at?

16 Are there transmission lines that are in that
17 160-acre tract --

18 MR. LEWIS: Yes, sir.

19 COMMISSIONER CLAYTON: -- in the northern part
20 of the city?

21 MR. LEWIS: Yes, sir.

22 COMMISSIONER CLAYTON: Are there gas lines up
23 there, too?

24 MR. LEWIS: There's gas lines. They're both
25 subscribed.

1 COMMISSIONER CLAYTON: There are no other
2 locations in the city of Peculiar that could have
3 handled this power plant?

4 MR. LEWIS: Not to my knowledge, sir.

5 COMMISSIONER CLAYTON: Okay. Thank you.

6 JUDGE PRIDGIN: Commissioner Appling?

7 COMMISSIONER APPLING: No questions.

8 JUDGE PRIDGIN: Follow-up from Counsel?

9 Commissioner Gaw?

10 COMMISSIONER GAW: That property, the 160 acres
11 that you're referring to, it's owned by one
12 individual?

13 MR. LEWIS: Yes, it is.

14 COMMISSIONER GAW: And what's it utilized for
15 now?

16 MR. LEWIS: Well, there's 16 platted lots on
17 there. But he can't -- I mean, he can only put -- I
18 think there's 16 five-acre plots in that 160 acres.
19 Because of the power lines and the gas lines, you
20 can't build in there. And he's building right in
21 the middle of a very, very large -- I assume it's a
22 horse barn or some kind of barn structure. It's
23 just -- it's huge.

24 COMMISSIONER GAW: What was the status of it at
25 the time that this first came up, when you were

1 talking to Aquila about placing the plant in that
2 location?

3 MR. LEWIS: Well, I think it came down to
4 price.

5 COMMISSIONER GAW: I mean, at that time, what
6 was the -- what was on that property at the time you
7 were --

8 MR. LEWIS: Corn.

9 COMMISSIONER GAW: Corn?

10 MR. LEWIS: Yes, sir.

11 COMMISSIONER GAW: Those buildings were not
12 being constructed at that time?

13 MR. LEWIS: No, sir. There were no buildings
14 other than a home and some outbuildings.

15 COMMISSIONER GAW: Okay.

16 MR. LEWIS: I mean, I wish we could have built
17 it there really. Because they would have taken
18 about forty acres. And then we'd got the hundred
19 acres for the city. We could have put a park. We
20 could have put a school. There's a lot of -- I
21 mean, that's the whole thing. We got involved
22 because we had that land originally. And when that
23 deal, you know, didn't come to fruition, then our
24 next choice was to Aquila, we said, you know, we've
25 got what we think is an ideal location. It's right

1 next to a gas plant, has power lines running through
2 it. I mean, come on, guys. That's the most logical
3 place to put a power plant, peak power plant.

4 Now, people say, well, you put it in a
5 community. Those are on five-acre lots out there.
6 They're spread out. And there's not a power plant
7 in the state of Missouri that doesn't impinge on
8 somebody. And that's sad, and I'm sorry, but, you
9 know, you've got to look at the bigger picture. The
10 bigger picture is, you've got thousands of customers
11 that depend on peak power from that plant.

12 COMMISSIONER GAW: Mr. Mayor, I'll ask you a
13 similar question, to save time here. Do you agree
14 with Mr. Fisher's statement that the City of
15 Peculiar is diligent about guarding its zoning
16 authority?

17 MR. LEWIS: Yes, sir, we do.

18 COMMISSIONER GAW: All right. That's all I
19 have. Thank you.

20 JUDGE PRIDGIN: Ms. Martin?

21 MS. REAMS-MARTIN: Mr. Lewis, I'm Cindy
22 Reams-Martin. I represent Cass County and I'll
23 follow up on Mr. Gaw's last question.

24 You also heard Mr. Fisher's other testimony
25 with respect to the efforts of Peculiar to entice

1 Aquila to your city or near your city to build this
2 plant; is that correct?

3 MR. LEWIS: That's correct.

4 MS. REAMS-MARTIN: And do you recall that that
5 is in fact the way that this came down? In other
6 words, Aquila did not approach you, the City of --

7 MR. LEWIS: We approached them, yes.

8 MS. REAMS-MARTIN: Very good. And so this
9 site that we're talking about, the South Harper
10 site, or the 160-acre site, had not, to your
11 knowledge, ever been on the drawing board as a
12 potential site for a peaking plant for Aquila before
13 the City of Peculiar approached Aquila; is that
14 correct?

15 MR. LEWIS: I don't know about the 160 acres.
16 I'm sure they were aware of the other site. I mean,
17 they had lines running through it and there was a
18 gas line. I'm sure they were aware of the other
19 site out on Harper.

20 MS. REAMS-MARTIN: And you heard Mr. Fisher's
21 testimony that had this plant in fact been built
22 within the city limits of Peculiar, or on land
23 annexed into the city of Peculiar, the City of
24 Peculiar would have expected Aquila to comply with
25 your police powers with respect to land use

1 regulations in your city; is that correct?

2 MR. LEWIS: That is correct.

3 MS. REAMS-MARTIN: And that would have
4 included any zoning requirements; is that correct?

5 MR. LEWIS: That's correct.

6 MS. REAMS-MARTIN: And so with respect to the
7 status of affairs now, when the annexation fell
8 through and the South Harper plant and substation
9 remained on county property, it doesn't surprise
10 you, does it, that the county of Cass would
11 similarly act to protect its land use regulatory
12 authority and have the right to exercise zoning
13 control over this land; is that correct?

14 MR. LEWIS: That is correct. And may I say
15 something?

16 MS. REAMS-MARTIN: Of course you may.

17 MR. LEWIS: As you probably know, since you've
18 talked to the county, originally, we talked to the
19 county about the property out there. And they told
20 us that we could go ahead. If we could get the
21 zoning out there, where it attached to our city,
22 contiguous, they'd be out of it.

23 MS. REAMS-MARTIN: And you're talking about,
24 of course, a circumstance that had this land been
25 annexed into the city of Peculiar, the county of

1 Cass would no longer have land use jurisdiction over
2 that land; is that correct?

3 MR. LEWIS: That's correct.

4 MS. REAMS-MARTIN: But that's not the way this
5 happened, is it?

6 MR. LEWIS: It isn't the way it spelled out.

7 MS. REAMS-MARTIN: And so when the land
8 remained in the county, it does not surprise you
9 that the county of Cass would, just as the City of
10 Peculiar desires to do, guard its land use
11 regulatory authority over the use of land within the
12 county?

13 MR. LEWIS: Well, if that's true, Counsel,
14 maybe you can answer my question. Why did they give
15 them permission to cut the road and --

16 MS. REAMS-MARTIN: Sir, I don't know. And I
17 don't know that that really responds to what I was
18 asking you. But let me ask you another question.

19 Would you explain to me that the fact is -- or
20 would you confirm for me that the fact is, from a
21 financial standpoint, the City of Peculiar retained
22 the Chapter 100 financing for this plan and the
23 substation, though both remain in the county,
24 subject to county land use regulatory control; is
25 that a correct statement?

1 MR. LEWIS: That's correct.

2 MS. REAMS-MARTIN: Thank you.

3 JUDGE PRIDGIN: Mr. Eftink?

4 MR. EFTINK: Yes. Mayor Lewis, before the
5 annexation was stopped, isn't it true that Aquila
6 had said to the City of Peculiar that it would
7 comply with zoning?

8 MR. LEWIS: I don't know whether they said
9 that, but the fact that we were going to zone that
10 as for utility only, yes, I'm sure they would have
11 complied with what we put out there on that
12 property.

13 MR. EFTINK: And of course you expected them to
14 comply with zoning at that time?

15 MR. LEWIS: That's correct.

16 MR. EFTINK: Okay. Thank you.

17 MR. LEWIS: Had we had the property, that's
18 correct.

19 JUDGE PRIDGIN: Mr. Eftink, thank you.
20 Anything further?

21 MS. SHEMWELL: May I ask a question?

22 JUDGE PRIDGIN: Ms. Shemwell.

23 MS. SHEMWELL: Is the city of Peculiar in Cass
24 county?

25 MR. LEWIS: Yes.

1 MS. SHEMWELL: So is the city fighting the
2 county then?

3 MR. LEWIS: I don't know whether we're fighting
4 the county. I don't know whether you're aware of
5 it, but the City of Peculiar owns that property and
6 owns the generators. We took possession of them in
7 '04. And then they sued Aquila in '05. I mean, I'm
8 not a lawyer. I have a daughter that is one, but
9 I'm not. But I don't understand how anyone can make
10 -- how a judge can say Aquila has to pull the plant
11 when the plant doesn't belong to Aquila.

12 MS. SHEMWELL: So you're telling me that you
13 own the property on which the plant is sitting --
14 the city owns it?

15 MR. LEWIS: Yes, ma'am.

16 MS. SHEMWELL: And the city owns the --

17 MR. LEWIS: The title for the generators.

18 MS. SHEMWELL: -- turbines?

19 MR. LEWIS: That's my understanding, yes.

20 MS. SHEMWELL: Thank you, sir.

21 MS. REAMS-MARTIN: I have a follow-up
22 question. Mr. Lewis, if that's the case, if the
23 City of Peculiar took title to the land and to any
24 constructed improvements on that land in '04, do you
25 have an explanation why Aquila would have

1 represented to Judge Dandurand in pleadings filed in
2 this court, in January of '05, that it owned that
3 land and owned the plant that was to be constructed
4 on that land?

5 MR. LEWIS: I don't know. You'll have to talk
6 to Aquila. I can't answer for them.

7 MS. REAMS-MARTIN: And do you have any
8 understanding why Aquila would have represented to
9 the Public Service Commission that it was
10 prospectively seeking approval for Chapter 100
11 financing when in fact that was already in place?

12 MR. LEWIS: You'll have to ask Aquila. I can't
13 answer that either.

14 MR. EFTINK: Just one more question. To the
15 best of your recollection, when was it that you
16 believed Aquila transferred the assets to the city?

17 MR. LEWIS: Well, I think it was the 28th day
18 of December is when the Council took, I guess,
19 possession.

20 MR. EFTINK: In 2004?

21 MR. LEWIS: 2004.

22 JUDGE PRIDGIN: Okay. Thank you.

23 Anything further?

24 MS. MOORE-SETTLE: Mr. Lewis, is the City of
25 Peculiar authorized to be a regulated utility in the

1 state of Missouri?

2 MR. LEWIS: No, the city can't be a regulated
3 utility. I guess they can be. We're not.

4 MS. MOORE-SETTLE: So the City of Peculiar
5 never could have applied to the Public Service
6 Commission for authorization to build a power plant
7 that was going to be a regulated utility in this
8 state; is that correct?

9 MR. LEWIS: No, but I guess we could have
10 applied to the county for zoning. And that --
11 except the county's never required the city,
12 anytime, to build outside their city limits, to get
13 permits.

14 MS. MOORE-SETTLE: That's not the question I
15 asked you. I asked you if the City of Peculiar is
16 authorized to be a regulated --

17 MR. LEWIS: No, we're not.

18 MS. MOORE-SETTLE: -- utility?

19 MR. LEWIS: Not to my knowledge.

20 MS. MOORE-SETTLE: Thank you.

21 MR. LEWIS: Other than our water and what we
22 have, but we're not a regulated utility. My
23 mistake.

24 JUDGE PRIDGIN: Anything further?

25 COMMISSIONER GAW: May I ask if the Mayor is

1 going to be a witness in Jeff City?

2 MR. LEWIS: I don't know, sir.

3 MS. REAMS-MARTIN: We intend to subpoena him.

4 COMMISSIONER GAW: All right. Then I will not
5 ask any more questions.

6 JUDGE PRIDGIN: Mr. Lewis, thank you, sir.

7 MR. LEWIS: Thank you.

8 JUDGE PRIDGIN: The next witness -- and I
9 apologize, I may get this name wrong. I believe the
10 first name is Dawn. And I don't know -- the address
11 is 23900 Southwest Hidden Valley, something to that.
12 And I apologize, I'm not sure I'd get the name
13 correct.

14

15 DANIEL FARREN, having been first duly sworn, was examined
16 and testified as follows:

17

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

21 MR. FARREN: My name is Daniel Farren,
22 F-a-r-r-e-n.

23 JUDGE PRIDGIN: And your address, please?

24 MR. FARREN: 23900 Southwest Hidden Valley
25 Road, Peculiar, Missouri 64078.

1 JUDGE PRIDGIN: And are you a customer of
2 Aquila?

3 MR. FARREN: No, I'm not.

4 JUDGE PRIDGIN: Do you have a written
5 statement?

6 MR. FARREN: No, I do not.

7 JUDGE PRIDGIN: Any remarks for the Commission,
8 sir?

9 MR. FARREN: Please.

10 First of all, I appreciate you coming down to
11 -- especially in this weather -- coming down to give
12 us a chance to be heard. My name is -- like I said,
13 my name is Dan Farren. I'm retired Air Force. I
14 also got an MBA and sequential MA from Webster's
15 University. I've also got a master's for project
16 management at George Washington University.

17 And before we leave off anyone, I want to
18 acknowledge something positive about Aquila. Your
19 employees and your team have an absolutely amazing
20 ability to be able to execute, on a project plan, an
21 extremely aggressive time line. And that is to be
22 commended.

23 But, unfortunately, I'm one of the ones that
24 believe that that power plant needs to come down.

25 And the reason why it needs to come down is very,

1 very simple. One, the facilities at South Harper
2 were not needed in the time lines that were used to
3 justify the construction to make sure --
4 specifically, to make sure that power plant was up
5 on-line by June of 2005. Aquila had an option.
6 They originally -- originally, they said they had
7 three options. Really, they had a fourth. They had
8 Calpine, a power plant, that was completely
9 operational down in Pleasant Hill that had been
10 built with the authority of Cass County and the
11 blessing of the PSC, that was operational, and that
12 they had a contract that could have very easily been
13 renewed. So right off the bat, the -- or the actual
14 time lines that was required to go ahead and meet
15 this, it just plain didn't make sense.

16 Second of all, every step of the way right here
17 -- every step of the way, Aquila doesn't seem like
18 it's been playing by the rules. It almost seems
19 like they made a business decision to go ahead and
20 do this despite the risk, in fact, the risk
21 management strategy it seemed like they were using.
22 But it's easier to go ahead and beg forgiveness than
23 go in there and get permission. And that right
24 there is a pretty risky situation. In fact, it's a
25 \$155 million risk. Basically, the only thing I can

1 think of, from having a little bit of a project
2 management background and the many years that I've
3 been working right here, is the fact that they must
4 have assessed the risk of the legal action and the
5 cost of having to go through all this right now and
6 measured it against what they had to gain to go
7 ahead and build a facility without permission.

8 And make no mistake, they do have things to
9 gain right here. Aquila has tried to go out there
10 and actually get the power plant in Harrisonville,
11 and the citizens brought it back. There's some
12 other cases in Ohio, which, unfortunately, I don't
13 have the names of them, but I do have it at the
14 house, where they have actually tried to go out
15 there and get the citizens, and they've been pushed
16 back.

17 So this case right here -- or, actually,
18 Harrisonville was the straw that broke the camel's
19 back. They decided to go out there and push forward
20 regardless of what anybody had to say. And,
21 frankly, that was a mistake. Aquila had every
22 option to -- the opportunity to go ahead and avoid
23 this situation. When Harrisonville turned them down
24 for the original site they had down there, when they
25 went to Cass County to get approval for those

1 things, they had the option to go ahead and just
2 slow down. When Peculiar failed to annex the
3 property, that effort to annex the property, when
4 that failed, they had the opportunity to slow down.
5 When the citizens next to the -- in the residential
6 area right next to that plant appealed to them and
7 appealed to the City of Peculiar and appealed to
8 just about anybody who possibly would listen, to
9 include this county, to go ahead and please slow
10 down and explain what's going on, they proceeded
11 forward. And, finally, when the legal action
12 started taking place, draining the resources and the
13 time and disrupting the lives of the citizens who
14 are around here, they continued to move forward,
15 even regarding the legal risk.

16 Frankly, Aquila's banking on the PSC to make
17 the decision saying this has been an ugly situation,
18 but the plant's built and they've got to leave it
19 there because we need the power. A large amount of
20 capital has been invested. And let me tell you
21 what, \$155 million is no chump change. I can
22 understand that. But the fact of the matter is, you
23 do have a power plant down in Pleasant Hill that has
24 greater capacity and that uses energy more
25 efficiently that is an option. If we do tear that

1 plant down, the county's not going to be -- and that
2 metropolitan area is not going to be at risk if we
3 lose that. Aquila needs to go out there and win
4 here. They need to go out there and win because, in
5 addition to being able to keep the plant, after all
6 these challenges, it will also set the legal
7 precedence that any utility that's got authority can
8 go out there and do whatever they want to do
9 regardless of who's opposing it right there and then
10 beg their forgiveness because it will be okay.

11 I respectfully ask to end the community
12 disruption to this. The residents have tied up
13 their financial resources. They're trying to fight
14 off an attack to a way of life. And the county's
15 resources could have very easily gone into county
16 improvements, like roads, bridges and what have you.
17 And these resources have been tied up defending our
18 rights and the rights of the county to go out there
19 and make those.

20 I respectfully press that Aquila do not -- does
21 not be granted the special authorization, and the
22 plant be torn down in the time frame like the judge
23 so ordered. Thank you very much.

24 JUDGE PRIDGIN: Thank you, sir, for your
25 remarks. Let me see if we have any questions from

1 the Commissioners.

2 Chairman Davis?

3 CHAIRMAN DAVIS: No questions.

4 JUDGE PRIDGIN: Commissioner Gaw?

5 COMMISSIONER GAW: No. Thank you, sir.

6 COMMISSIONER CLAYTON: No questions. Thank
7 you, sir.

8 JUDGE PRIDGIN: Commissioner Appling?

9 COMMISSIONER APPLING: No questions.

10 JUDGE PRIDGIN: All right. Thank you.

11 Any follow-up?

12 The next witness is Pete Browne.

13

14 PETE BROWNE, having been first duly sworn, was examined and
15 testified as follows:

16

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

20 MR. BROWNE: Pete Browne, B-r-o-w-n-e.

21 JUDGE PRIDGIN: And your address, please?

22 MR. BROWNE: 3711 Jarboe, Kansas City,
23 Missouri.

24 JUDGE PRIDGIN: And are you an Aquila customer?

25 MR. BROWNE: No, I'm not.

1 JUDGE PRIDGIN: Do you have written comments
2 for the Commission?

3 MR. BROWNE: No, just remarks.

4 JUDGE PRIDGIN: Whenever you're ready, sir.

5 MR. BROWNE: My name is Pete Browne, and I am
6 vice president of Kissick Construction Company. Our
7 firm is a heavy civil contractor that is actively
8 engaged in power improvement projects in the
9 Midwest. We completed the site development,
10 underground utilities and the structural foundation
11 for Aquila's South Harper peaking facility for
12 Aquila.

13 Construction of a facility such as the South
14 Harper peaking facility project provides the
15 opportunity for good paying jobs for Cass county,
16 both during the initial construction and for the
17 maintenance work in the future. Many of our
18 employees are Cass county residents and many of them
19 worked on this project.

20 Also, our firm has constructed these peaking
21 facilities in other similar size communities around
22 the area. From our experience, Aquila has done a
23 wonderful job with beautification and landscaping of
24 the facility, more than I've seen any other utility
25 in the area do. We believe that Aquila to be good

1 corporate citizens, and we support this power plant.

2 JUDGE PRIDGIN: Mr. Browne, thank you. Let me
3 see if we have any questions.

4 Mr. Chairman?

5 CHAIRMAN DAVIS: Mr. Browne, hypothetically
6 speaking, if they had to tear the plant down, would
7 that be good jobs for your workers, too?

8 MR. BROWNE: Well, all work is good work, but
9 we're not in the demolition business yet.

10 CHAIRMAN DAVIS: I'm done. Thank you.

11 JUDGE PRIDGIN: Commissioner Gaw?

12 COMMISSIONER GAW: Would it have made any
13 difference in the number of jobs if you had
14 constructed this plant on ground that was adjacent
15 to the city of Peculiar instead of this particular
16 location?

17 MR. BROWNE: I guess it wouldn't make any
18 difference.

19 COMMISSIONER GAW: Thank you. That's all I
20 have.

21 JUDGE PRIDGIN: Commissioner Appling?

22 Follow-up from Counsel?

23 Mr. Browne, thank you, sir, for your remarks.

24 Frank Dillon is the next witness. And after
25 this, we will break. And I think the next witness

1 after that is Mike Tunnicliff. I hope I'm reading
2 that name correctly.

3 Mr. Dillon.

4 MR. DILLON: I'm his son, by the way. He
5 couldn't make it.

6 JUDGE PRIDGIN: Okay. Very well.

7

8 TYLER DILLON, having been first duly sworn, was examined
9 and testified as follows:

10

11 JUDGE PRIDGIN: Thank you very much, sir.
12 Would you please state your name, for the record,
13 and spell your last name?

14 MR. DILLON: Tyler, T-y-l-e-r, Dillon,
15 D-i-l-l-o-n.

16 JUDGE PRIDGIN: And your address, please, sir?

17 MR. DILLON: 24211 South Harper Road.

18 JUDGE PRIDGIN: And are you an Aquila customer?

19 MR. DILLON: No.

20 JUDGE PRIDGIN: Did you have a written
21 statement or any remarks for the Commission?

22 MR. DILLON: Yes. About September of 2004, me
23 and my father were out fixing some fence when the
24 neighbor across the street, George Bremer, walked
25 across the road and informed us that he was talking

1 to Aquila about building a power plant. We naively
2 didn't think anything about it and figured it wasn't
3 a done deal by any means.

4 October 13th, I believe it was, we found -- my
5 dad came home and found a notice stuck in the door
6 that they would be beginning construction the next
7 day from 7:00 a.m. to 7:00 p.m. Again, it did, on
8 October 14th. They would come up and down the road,
9 dust flying everywhere, blowing through stop signs.
10 I've almost been run off the road by a rock truck on
11 more than one occasion. They weren't a good
12 neighbor by any means. They worked all through the
13 night on more than one occasion, jackhammering and
14 whatnot, making it hard to sleep.

15 I believe this month marks the 18th year ago
16 that my father and my grandpa built the house. It's
17 kind of a sentimental issue. It's not so much about
18 the money. It's the peace of living that's been
19 ruined. We can still pull off a piece of trim off
20 the wall and see my grandfather's writing on the
21 back of it, even though he passed away 13 years ago.
22 It's not about the money. It's -- everything's just
23 been ruined. That's all I have to say.

24 JUDGE PRIDGIN: Mr. Dillon, thank you very much
25 for your remarks. Let me see if we have any

1 questions from the Commissioners.

2 Chairman Davis?

3 CHAIRMAN DAVIS: No questions. Thank you.

4 JUDGE PRIDGIN: Commissioner Gaw?

5 COMMISSIONER GAW: How old are you, Tyler?

6 MR. DILLON: Sixteen.

7 COMMISSIONER GAW: Tyler, I appreciate the fact
8 you came up here this evening. It's good to see
9 somebody your age speaking your mind.

10 MR. DILLON: I usually don't do that, but it's
11 something I stand up for.

12 COMMISSIONER GAW: I can see that.

13 COMMISSIONER CLAYTON: The house is older than
14 you are?

15 MR. DILLON: Correct. I've lived there my
16 whole life.

17 COMMISSIONER CLAYTON: Did you say how far it
18 was from the plant?

19 MR. DILLON: I live directly across the street
20 from the Southern Gas Company and Aquila. I live on
21 the corner of 200 and Harper.

22 COMMISSIONER CLAYTON: And how noisy is it?

23 MR. DILLON: Well, this summer --

24 COMMISSIONER CLAYTON: Aside from the
25 jackhammers -- I'm talking about the plant operating

1 -- how noisy is it?

2 MR. DILLON: The loudest they got -- I remember
3 standing outside in the summer and watching a kind
4 of white smoke shooting up in the air. It sounded
5 like a 747 jet in my front yard. Like a vacuum
6 cleaner on steroids, you might say.

7 COMMISSIONER CLAYTON: Some vacuum cleaner.

8 MR. DILLON: Yeah.

9 COMMISSIONER CLAYTON: Thank you.

10 JUDGE PRIDGIN: Commissioner Appling?

11 Any follow-up from Counsel?

12 Thank you very much, sir, for your time and
13 your remarks.

14 We're going to go off the record for a brief
15 recess. The next scheduled witness is Mike
16 Tunnickliff. We plan to resume at eight o'clock.

17

18 (Off the record.)

19 (Short recess.)

20 (Back on the record.)

21

22 JUDGE PRIDGIN: We're back on the record. It's
23 about five minutes after eight o'clock.

24 Is Mr. Tunnickliff available -- Mike?

25

1 MIKE TUNNICLIFF, having been first duly sworn, was examined
2 and testified as follows:

3

4

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

8 MR. TUNNICLIFF: My name is Mike Tunnickliff.
9 My name is spelled T-u-n-n-i-c-l-i-f-f. I live at
10 23707 South Scottsdale Drive, Peculiar. And I'm not
11 an Aquila customer.

12 JUDGE PRIDGIN: Do you have a written statement
13 or any remarks for the Commission?

14 MR. TUNNICLIFF: I have a statement I would
15 like to read.

16 JUDGE PRIDGIN: Okay. Instead of reading it,
17 in the interest of time, could you submit that
18 statement and then make any other additional
19 comments you might have?

20 MR. TUNNICLIFF: Well, it's got a lot of
21 handwritten notes on it, so I just as soon read it.

22 JUDGE PRIDGIN: Okay. In the interest of time,
23 could I interest you in submitting the written
24 statement, but certainly still allow you the time to
25 speak from it or summarize it?

1 MR. TUNNICLIFF: With all due respect, no, sir.

2 JUDGE PRIDGIN: Okay. Go right ahead then.

3 MR. FISHER: Good evening, Judge,
4 Commissioners. Welcome back to Cass county.

5 As I said, my name is Mike Tunnickliff. I've
6 been a registered professional geologist with the
7 state of Missouri since the inception of its
8 registration program. Prior to my current position,
9 I worked in the hazardous waste compliance and
10 cleanup industry with the United States Army Corps
11 of Engineers for 12 years.

12 For the last 14 years, my wife and I have lived
13 about a mile and a quarter, as a crow flies, from
14 the intersection of 243rd and Harper. Last summer,
15 we were subjected to the background noise of three
16 jet turbines, on many occasions, while we worked in
17 our gardens or barbecued with family and friends on
18 our deck. To some folks, that may not be a big
19 deal. That's evidenced by homes constructed along
20 interstates, near airports and by fire stations all
21 across the country. To us, however, it's a deal.

22 We intentionally bought a home with the absence
23 of man-made background noise as one of our
24 priorities. You see, we like listening to crickets,
25 tree frogs, quail and coyotes instead of motors

1 continuously running. If we would have screwed up
2 in selecting our home's location, then I could
3 resign myself to the fact that we made a mistake and
4 didn't cover all the bases in our research.
5 However, we didn't make a mistake. The mistake that
6 is being made is that Aquila is not being forced to
7 abide by the same rules as everyone else. I would
8 be willing to bet that members of the Commission
9 would not approve of me building a chicken coop in
10 the middle of a city subdivision if I lived next to
11 you. There are reasons behind zoning ordinances.

12 The process has been very time consuming and
13 frustrating for many in the neighborhood. We
14 participate during our free time and with our spare
15 money. For the last twenty months, we have lobbied,
16 researched and campaigned for some semblance of
17 fairness to any government entity that would listen,
18 dealt with the greedy civic leaders that manage the
19 town of Peculiar and watched as good friends were
20 bought out of the neighborhood because they couldn't
21 deal with the fear of how the facility would affect
22 their family lives.

23 Unfortunately for us, none of you were at the
24 first two informational meetings with Aquila, to see
25 over two hundred people express opposition, nor were

1 you at any of the meetings with MDNR or the
2 countless city council meetings that members of
3 StopAquila have had to endure with the city mayor in
4 a sarcastic tone. At those venues, you could have
5 seen the opposition plainly. We've lived with the
6 issue for day-to-day for twenty months. Although
7 the fervor may have waned somewhat as a result of a
8 resignation, let me assure you that there are few in
9 the immediate neighborhood that have changed their
10 minds on whether this plant is a good thing or that
11 the process is following a just course.

12 During the previous public hearing in this
13 building, Mr. Appling stated that we should have
14 gotten involved earlier in the process. Sir, we've
15 been involved since September, 2004.

16 The second issue that I would like to address
17 this evening is the stated value or construction
18 cost of the facility and the fact that many sources,
19 including Aquila, have used its value as an argument
20 that the demolition of the facility would be
21 wasteful. Never mind the fact that the construction
22 occurred after Judge Dandurand's injunction, where
23 he stated, "Proceed at your own risk."

24 Aquila continues to use the wastefulness
25 argument. This particular plant didn't cost \$140

1 million. Over half of that sum can be attributed to
2 the overvalued turbines that Aquila transferred from
3 their unregulated subsidiary where they stood as
4 inactive depreciating assets. The stated cost of
5 this plant is largely a financial shell game that
6 can only be termed as a disservice to rate payers if
7 it's allowed to continue. So, please, do everyone a
8 favor when you're making your decision and think of
9 the "waste" in the proper context in dollar amount.

10 In recent testimony, accompanying Aquila's
11 application for specific authority to operate the
12 plant, a Kansas University toxicologist demonstrated
13 that levels of particulate matter less than 10
14 microns in size -- PM-10 as it's called -- were safe
15 for an on-site worker. Levels of this contaminate
16 of concern approach the threshold limit values for
17 that exposure scenario. In my opinion, the included
18 risk assessment incorrectly uses a site worker
19 exposure and does not provide protection for
20 downwind receptors, especially children.

21 A child has a respiration rate four times that
22 of an adult and potentially can be exposed to the
23 contaminate for much more extended periods of time
24 than forty hours per week. With the growing
25 popularity of home schooling, it is conceivable that

1 a child can be exposed to PM-10 every day of the
2 year for 18 years. Significantly more than an
3 on-site worker. That may be extreme speculation,
4 but that is exactly how risk levels are calculated,
5 worse case scenarios.

6 Additionally, Aquila's risk assessment does not
7 take into account the cumulative risk of particulate
8 matter and other non-point sources, plus the South
9 Harper plant's emissions. Nor does it provide
10 protection for the more stringent proposed EPA
11 regulations for the contaminate PM-2.5. The smaller
12 the particle size, the more dangerous it is
13 chronically inhaled. PM-2.5 is not addressed in
14 Aquila's risk assessment.

15 As the others have stated here tonight and
16 previously, Aquila has other options for providing
17 electric to its consumers. The threat of blackouts
18 and discontinued service are only fear tactics
19 purported to advance their plans.

20 Tom Miller, plant manager of both South Harper
21 and Greenwood, stated in a plant meeting that Aquila
22 was using South Harper instead of Greenwood. Mike
23 Joyce of Calpine has provided testimony to the
24 Commission outlining his company's attempts on
25 several occasions to enter into a contractual

1 agreement to provide Aquila with electricity
2 generated at the Aries plant in Pleasant Hill.

3 One of the primary frustrations of mine with
4 this entire process is that no state or federal
5 agency claims responsibility to oversee siting of a
6 power plant in Missouri. Not the MDNR. Not the
7 EPA. Not the Public Service Commission. Not the
8 Federal Energy Regulatory Commission. Federal
9 Energy Regulatory Committee, excuse me. The court
10 now says the PSC is responsible for that task. All
11 along, the PSC has said they make no decisions on
12 location. Now, if the Commission rules in favor of
13 Aquila on specific authority, you have called into
14 question the jurisdiction of the county, also. That
15 is ridiculous. No one in the state of Missouri has
16 the authority over locating a power plant? Does it
17 seem appropriate to leave the decision of that
18 magnitude up to the general good nature of Aquila?
19 This is not some magnanimous company, as they would
20 have us believe, that is in business for the sole
21 purpose of serving society.

22 Additionally, isn't it a pretty telltale set of
23 events that Aquila sought and received county
24 approval to build in areas. And then Aquila also
25 applied to the county's planning and zoning board to

1 build a plant outside of Harrisonville earlier, in
2 2004, but was denied. Then came South Harper. Oh,
3 wait. We forgot. We don't need county approval.
4 We've got a 1917 certificate that says we can do
5 anything we want inside our service territory. How
6 transparent do Aquila's actions need to be before
7 some regulatory entity says enough. Regardless of
8 whether you want to be, your Commission is that
9 entity.

10 Lastly, I would like to talk about what is
11 right and wrong, ethics, and a decision that could
12 impact aspiring political careers. Everyone here
13 knows you can't have a society where anyone can do
14 as they please. It is detrimental, not to mention
15 wrong. Rules need to be followed. A private
16 company has no right to claim eminent domain, as
17 Aquila has so done in their argument to the Western
18 District Court of Appeals, for the sole purpose of
19 increasing its profit margin. To suggest that
20 Aquila has any other motive is only an attempt at
21 rationalizing their behavior and mismanagement.

22 One additional idea to consider during your
23 vote, if the Commission approves specific authority
24 for the South Harper plant, a significant precedent
25 will be set that usurps the county's ability to

1 regulate growth within its own jurisdiction. A
2 ruling of that consequence would not appear to be
3 well received by most elected or appointed
4 officials. That precedent could be used statewide
5 in other similar utility cases, and, potentially,
6 even nationwide. Having your name associated with
7 an accenting vote on a precedent of that nature may
8 not be the best resume builder. Thank you.

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

11 Commissioner Gaw?

12 COMMISSIONER GAW: No. Thank you, sir. Thank
13 you very much.

14 JUDGE PRIDGIN: Commissioner Clayton?

15 Commissioner Appling?

16 Any follow-up from Counsel?

17 All right. Thank you very much for your
18 remarks, sir.

19 I want to clarify, on the next witness, I have
20 a Renee Dresnick. It also says, "Will fax comments
21 in." Does that mean that this person does not wish
22 to testify this evening? Ray Dresnick.

23 All right. Thank you very much.

24 Joe Henry.

25

1 JOE HENRY, having been first duly sworn, was examined and
2 testified as follows:

3

4

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

8 MR. HENRY: Joe Henry. The last name is
9 H-e-n-r-y.

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

11 MR. HENRY: 24112 South Tanaine Lane, Peculiar.

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

14 MR. HENRY: No, I'm not.

15 JUDGE PRIDGIN: All right. Do you have any
16 remarks for the Commission, sir?

17 MR. HENRY: Yes. I'm not going to stand here
18 and I'm not going to talk about how many parts per
19 million of hydrocarbons this thing puts out. I'm
20 not going to talk about the noise, which is
21 horrendous. I'm going to talk about right and
22 wrong. The fact that it exists is wrong. The fact
23 that Aquila thinks that they can come and build what
24 they want, where they want, without any recourse is
25 wrong and arrogant. The fact that my neighbors and

1 myself have to waist our time and resources to come
2 and fight a company like this is wrong. And,
3 frankly, I think it's un-American. We're here
4 trying to chase our American dream, trying to get
5 our piece of the pie. I work hard every day to have
6 what I have. And now I have a multi-million dollar
7 corporation coming in and just walking on it. And
8 they feel as if they're the victims. They've done
9 what they wanted to do. And I feel as if they
10 deserve to get what they get. If that's bankruptcy,
11 so be it. But they don't deserve to come play
12 victim and, since it's already built, be able to
13 have it. That's stupid and childish. That's all I
14 have. Thank you.

15 JUDGE PRIDGIN: Mr. Henry, if you'll stay, we
16 may have some questions from the Commissioners.

17 Commissioner Gaw?

18 COMMISSIONER GAW: No. Thank you very much,
19 sir.

20 JUDGE PRIDGIN: All right. Thank you.

21 And Commissioner Appling?

22 COMMISSIONER APPLING: No questions.

23 JUDGE PRIDGIN: Mr. Henry, thank you very much,
24 sir.

25 Della January.

1 DELLA JANUARY, having been first duly sworn, was examined
2 and testified as follows:

3

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

7 MS. JANUARY: It's Della January. My last name
8 is J-a-n-u-a-r-y.

9 JUDGE PRIDGIN: And your address, please?

10 MS. JANUARY: 23811 South Lucille, Peculiar.

11 JUDGE PRIDGIN: And are you an Aquila customer?

12 MS. JANUARY: No.

13 JUDGE PRIDGIN: Do you have any remarks for the
14 Commission, ma'am?

15 MS. JANUARY: Yes. Thank you. And thanks for
16 staying all day and listening to us. I appreciate
17 it very much.

18 The first thing I have is, after I saw that
19 sign, we went to the county assessor's office and
20 got a new one, and it's off. So, basically, they
21 circled -- the first circle represents a half mile,
22 and the second one, a mile, which a half mile would
23 go on -- if these match, a half mile would go right
24 about here on this map, where this says a mile
25 diameter, according to the county assessor's map.

1 And you guys can have this if you want.

2 They've also given me a list of the names and
3 addresses of 93 people that live within a half mile
4 radius of that. I don't know if this is something
5 that you would want. I am a little concerned
6 because it has addresses on here. I know that this
7 came from the assessor's office. I don't think that
8 these people necessarily want their addresses posted
9 on the internet. So if I do give you this, would
10 you guys maybe mark this out before you do that?

11 That's not at all what I came to talk about
12 here today.

13 COMMISSIONER CLAYTON: Wait a minute. Before
14 we -- Judge, maybe you ought to mark that as an
15 exhibit now. I'd like to have that clarified so the
16 record indicates what we're looking at.

17 JUDGE PRIDGIN: Ms. January, could you describe
18 that map that you discussed? Could you briefly
19 describe what that is?

20 MS. JANUARY: That map was provided by the Cass
21 County Assessor's Office that shows the plats within
22 the area around the South Harper plant. It has two
23 circles. The first represents a half mile radius,
24 and the second represents a one mile radius, from
25 the South Harper plant location.

1 (Whereupon Exhibit Number 5 was marked
2 for identification.)

3

4 JUDGE PRIDGIN: And I've got that labeled as
5 Exhibit Number 5.

6 MS. JANUARY: Did you want the list of --

7 JUDGE PRIDGIN: That's up to you.

8 MS. JANUARY: It's fine with me. I don't mind.

9 JUDGE PRIDGIN: Could you tell me what that is?

10 MS. JANUARY: This is a list also provided by
11 the assessor's office of addresses of property
12 owners that own those parcels that are located
13 within the half mile radius, and there are 93.

14 JUDGE PRIDGIN: I'll label that as Exhibit 6.

15

16 (Whereupon Exhibit Number 6 was marked
17 for identification.)

18

19 MS. BAILEY: Excuse me, I do live within that
20 radius, and I do not want my name on anything for
21 people to --

22 JUDGE PRIDGIN: I understand. I'll certainly be
23 glad to talk with Counsel to see if there's going to
24 be a protective order and see what information, if
25 any, is subject to a protective order. And we'll

1 see how much we can do as to keep that information
2 private.

3 Ms. January.

4 MS. JANUARY: The first thing I wanted to talk
5 about, and probably the most important thing we're
6 here for today, is that you guys are here listening
7 to zoning concerns. That has never been an issue
8 before the Public Service Commission. And no
9 utility has ever built a power plant and then come
10 to you and asked you to determine the site location
11 after the fact. Or before the fact. They've never
12 came to you without going to get local approval and
13 asked for your permission to site a power plant.

14 As the Judge explained when we began this
15 proceeding, it's your responsibility to deal with
16 rate making and the utility -- the regulation of a
17 monopoly and this utility, to ensure quality of
18 service and the adequacy of power to the citizens of
19 this state.

20 I don't think that there's any legal precedent.
21 I know that a lot of people are looking for it. And
22 we've reviewed a lot of different cases, court
23 cases, and a lot of different PSC cases. And I
24 don't know whether anyone's been able to find where
25 a siting of a power plant is a PSC decision. Even

1 prior to 1980, when you guys did issue specific
2 authority for plants, typically, what would happen,
3 as I understand it, when you -- before 1980, when
4 you did engage in that, the utility would come to
5 you and demonstrate a need for capacity, and that
6 you would give that order saying, yes, you're right
7 you do need to build a plant. Then they would go
8 out to within their service area and work with local
9 communities, be it, the county, the city, what have
10 you, and get approval for the plant, and then come
11 back to the PSC and say, "Okay. This is everything
12 that we planned. These are the details," and then
13 you would give your approval. And that would be a
14 process that would typically take a period of years,
15 not a period of weeks; okay?

16 I can't stress to you enough that all of this
17 today -- and thank you for sitting here. But this
18 should be a county zoning hearing and not a PSC
19 hearing. And the fact that Aquila only has until
20 May 31st to tear down their plant is of their own
21 doing. That's their own mistake, the peril that
22 they put themselves in by forcing ahead with this
23 plant. And it's not our burden to relieve them of
24 that deadline, and it's not your burden either. I
25 just can't be clear enough about that.

1 I want to go on to say that Aquila also knew
2 that the zoning was required. They knew that in the
3 spring of '04 when they applied for it for the first
4 South Harper -- or the first Harrisonville plant.
5 They knew that when they were in communication with
6 the city of Peculiar.

7 I've got emails where zoning, specifically, was
8 discussed between Mike Fisher, the city
9 administrator, and Terry Hedrick of Aquila. On July
10 29th, zoning was addressed. On September 15th,
11 zoning was addressed. October 19th -- this is after
12 the city had dropped the annexation -- Aquila asked
13 the City of Peculiar to submit a letter to the
14 county zoning authority indicating their support.
15 And that was discussed on October 19th, the 21st,
16 the 22nd and twice on the 25th, where Aquila wrote
17 the verbiage that they were asking the City of
18 Peculiar to send to the Cass County authority.

19 And it was most evident, even in March 31st of
20 2004, that Aquila acknowledged that they would
21 comply with county zoning authority when they signed
22 their name to the building permit application that
23 states quite clearly that they will comply with all
24 county zoning ordinances when they got a permit.

25 And I'd like to submit some of that, if I could.

1 JUDGE PRIDGIN: It's up to you.

2 MS. JANUARY: I will. The emails, I will kind
3 of go back to, but I definitely would like to submit
4 -- I'm sorry, I've kind of got a mess here. I got
5 thrown off of track. I'll get to it in a minute.

6 JUDGE PRIDGIN: That's all right.

7 MS. JANUARY: But especially the part where
8 Aquila represented -- each time after the judge
9 ruled that there was a permanent injunction in
10 place, they went to the county to get the required
11 building permits, which because of the judge's
12 order, the county was required to issue it, with the
13 statement that they had to -- they were -- they
14 still weren't sacrificing their authority to zone.
15 And Aquila signed the statement at the bottom of the
16 form acknowledging that they wouldn't fight the
17 county zoning, something that Aquila stated over and
18 over publicly throughout this process. I just want
19 to make that -- because that's the most important
20 thing that I want you guys to walk away with.

21 I know some other people have talked about
22 everything that we've gone through in this battle.
23 At first, we fought the annexation. We fought the
24 bond case. We've gone through the zoning case here.
25 We went through the certificate case when you guys

1 were here, a year ago, last March. Then we went
2 through the turbine case, which I still don't
3 understand what that status was. Because, actually,
4 in the turbine case, you guys issued an order saying
5 that you didn't have authority over the regulation
6 of the turbines because they weren't in use and
7 useful. And then I think it was only like a few
8 weeks later, in the rate case, you approved the use
9 of those very same turbines even though they weren't
10 in use and useful.

11 So there's so many things about these various
12 cases that I don't understand, and that's one of
13 them. And I understand right now the motions are
14 before the Commission to open up that case again and
15 both OPC and Staff have concurred. So there's
16 conflicting opinions. At each of these junctures,
17 it's just people like me reading all of this PSC
18 documentation and learning more than we'd ever hoped
19 to about electric utility regulation within the
20 state. But this isn't a confusing issue about how
21 this should go about. But the case in the use and
22 usefulness of the turbines is still -- it baffles me
23 how to reconcile the two orders that came from this
24 Commission in the past year. At first, we've also
25 got the rate case. We've got this case. And now

1 we'll be anxiously watching the motion that the
2 OPC's filed for an audit of Aquila's management.

3 We also went through two hearings with the
4 Department of Natural Resources. Ironically enough,
5 the Department of Natural Resources is the only
6 regulatory agency that Aquila has ceded any
7 authority to regarding the site of this plant.
8 They're the only people that Aquila waited for
9 permission before they did anything, and they waited
10 for their air permit before they started
11 construction of the plant. I just have to tell you,
12 as far as our procedures that we go through and all
13 of the battles and trials and tribulations that
14 we've been through, that agency, they are the only
15 agency that Aquila listened to. Thirteen months
16 after the injunction against the construction of the
17 plant had been issued, that agency wrote me a letter
18 telling me there was no injunction in place, even
19 after I'd given them the case number. I cite the
20 case number of the Cass County injunction and they
21 write me back to tell me that their legal department
22 researched it and determined that WD-64985, which is
23 the number for the county zoning case, is really
24 about bonds. So that's how thorough and adequate
25 all of these processes that we've been through are

1 in the end, 11 months later. And I gave them the
2 case number. Their legal department couldn't figure
3 it out.

4 So we have conflicting orders from you. We
5 have conflicting orders from -- conflicting things
6 from the city about annexations that were illegal
7 and dropped. We have ridiculous letters from the
8 Department of Natural Resources and their legal
9 department, which should have all been fired as soon
10 as they figure that out.

11 And then we sat here tonight and we still
12 listened to people say things that aren't true. We
13 listen to the city administrator Mike Fisher talk
14 about the location for this plant. And I can tell
15 you, again, in these emails -- that's what I wanted
16 to get to -- the city of Peculiar began negotiations
17 with Aquila about bringing this power plant to
18 Peculiar in June of 2004. And they thought about
19 putting it on this 660 acres. No one picked up the
20 phone to call that man to see if he wanted to sell
21 his land until August 4th. The city had already --
22 the support of the mayor, the support of the
23 alderman, the support of everyone, had already been
24 communicated to Aquila. They had discussed zoning.
25 They had gone back and forth. No one ever picked up

1 the phone to call the man to see if he wanted to
2 sell the land. As soon as they did, he said, I'm
3 not going to meet with you. I'm not going to talk
4 to you. It's -- let me see. I think he said --
5 this is an email from Terry Hedrick to Mike Fisher
6 and a bunch of other Aquila people. He stated, "I
7 met with Fisher today." This is dated August 4th.
8 "Steve Sparling did not want to talk to Peculiar and
9 noted that Aquila did not have the resources to
10 purchase."

11 Terry Hedrick called again. "I followed up
12 with a call. He indicated he did not want to
13 participate in the project." And then it goes on to
14 say, "Mike Fisher has other properties identified in
15 the area that he will attempt."

16 Okay. They also talk about zoning in the same
17 email Mike Fisher --

18 JUDGE PRIDGIN: And, Ms. January, I'm sorry,
19 but I'm just trying to keep up with the exhibits.
20 Is that something that wanted the Commission to look
21 at?

22 MS. JANUARY: Sure. Sure.

23 JUDGE PRIDGIN: Could you, again -- I'm sorry,
24 if I could get a copy of that.

25 MS. JANUARY: Yeah. It's an email dated August

1 4th. And it's the first time that anyone called the
2 first gentleman to see if he wanted to sell his
3 land. And they bring up other sites in the area.

4 JUDGE PRIDGIN: I'm going to label that as
5 Exhibit Number 7 for this hearing.

6
7 (Whereupon Exhibit Number 7 was marked
8 for identification.)

9
10 JUDGE PRIDGIN: I'm sorry to interrupt.

11 MS. JANUARY: That's fine. And I'm a mess
12 anyway.

13 Okay. The very next day, Terry Hedrick sent an
14 email to Mike Fisher that said, "To follow up on my
15 conversation with Steve Sparling, it was very clear
16 that he would not sell his property. To stay on
17 this aggressive schedule, an alternate property
18 needs to be identified asap." And he lists them.
19 Jay Wilson, to the south; Evron brothers, to the
20 north; east, adjacent to Y Highway.

21 And then he goes on to say, "We would prefer to
22 stay in the city or in a spot where the city can
23 annex it in a timely manner. Bottom line, we need
24 to identify some properties quickly that will not
25 have an impact on the surrounding property."

1 So by my count, within the city of Peculiar,
2 that makes the fifth site before they got to
3 Bremer, which is completely opposite of what you
4 heard tonight from the Mayor and the city
5 administrator.

6 JUDGE PRIDGIN: Again, is that email something
7 you want the Commission to consider?

8 MS. JANUARY: Sure. You can have it.

9 JUDGE PRIDGIN: Again, could you go back to the
10 microphone and briefly describe what this is.

11 MS. JANUARY: It's an email from Terry Hedrick
12 to Mike Fisher, dated August 5th, in which they
13 discussed four other properties and they need to
14 find something quickly to meet their schedule that
15 won't have an impact to the area.

16 JUDGE PRIDGIN: Okay. Thank you. And I'm
17 sorry to interrupt.

18 MS. JANUARY: And the first mention of the
19 George Bremer property.

20 JUDGE PRIDGIN: Okay. I'll label that as
21 Exhibit Number 8.

22

23 (Whereupon Exhibit Number 8 was marked
24 for identification.)

25

1 JUDGE PRIDGIN: Okay. I'm sorry, you can
2 continue.

3
4 MS. JANUARY: It's important to note that that
5 happened -- the first time George Bremer came up was
6 August 5th, and they had a contract signed and done
7 by September 1st. Twenty-five days is how much time
8 and analysis went into this site selection. Aquila,
9 in their application to you, has submitted that
10 there was a two-year long study. Different
11 properties came and went, that they went through all
12 this due diligence, that they looked at all of the
13 areas of Cass county and could not find a better
14 site than the George Bremer property. When, in
15 fact, Mike Fisher picking up the phone, the city
16 administrator -- with all the analysis that went
17 into that, all they needed was a ready seller.

18 And I have another series of emails, and they
19 go back and forth talking about zoning and the issue
20 that the land is really the linchpin.

21 As part of Aquila's testimony, they go back and
22 forth about this analysis that they had done and all
23 the fatal flaws and things like that. And some of
24 these things, Terry Hedrick says, you know, we've
25 got to talk about zoning and we've got to talk about

1 the -- oh, we need to do a quick fatal flaw
2 analysis. Twenty-five days is the amount of time it
3 took for them to talk to Mr. Bremer about buying his
4 property before they already had a contract signed.
5 That's how much time, effort and thought went into
6 this site.

7 So not only should this site be before you, but
8 this -- all of the things that Aquila's telling you
9 about. The lines, they tore them down and redid
10 them. The gas lines were ran from Panhandle. They
11 were going to annex it, and then that way that they
12 could put it through on zoning. And, again, that
13 was discussed time and time again in a series of
14 emails. But most importantly, the City of Peculiar
15 even went to their outside counsel and got a letter
16 drafted that outlined the legal procedures within
17 the city of Peculiar that would be required to give
18 zoning and how quickly they could get that done. In
19 fact, because they thought the planning and zoning
20 board might turn it down, their attorneys even did
21 an analysis on how the county -- or the city
22 aldermen can overrule the planning and zoning
23 commission. And I'd definitely like to submit that.
24 And this is dated September 15th.

25 JUDGE PRIDGIN: If you could go back and

1 describe what it is you just handed me, please?

2 MS. JANUARY: It's a letter -- it's actually a
3 fax from Mike Fisher to Aquila that includes a
4 letter from Gilmore and Bell that outlines the
5 procedures to -- for the quickest way to get it
6 annexed and zoned into the city. And it even goes
7 so far as what would be required should the planning
8 and zoning board turn it down and how the aldermen
9 could overrule that.

10 JUDGE PRIDGIN: And how many pages is that?

11 MS. JANUARY: I don't know. The first part of
12 that is the letter of intent.

13 JUDGE PRIDGIN: Is that eight pages? Did you
14 want to verify that that's eight pages?

15 MS. JANUARY: No, I believe you.

16 JUDGE PRIDGIN: All right. I'll call that
17 Exhibit Number 9.

18

19 (Whereupon Exhibit Number 9 was marked
20 for identification.)

21

22 JUDGE PRIDGIN: I'm sorry, you can continue.

23 MS. JANUARY: I'm sorry.

24 JUDGE PRIDGIN: You're doing fine.

25 MS. JANUARY: Okay. So, again, the lines were

1 replaced. The gas line was ran from Panhandle.
2 They don't use Southern Star anymore. There's no
3 fatal flaw analysis done in 25 days between the time
4 they had already signed this.

5 They also talk about the need to place peaking
6 planes near their low growth. Well, this plant
7 produces enough power for 300,000 houses from this
8 run; is that right? 315 megawatts, I'm told -- and
9 that's what Aquila's told us from the beginning --
10 is enough to provide power to 300,000 houses. And
11 that's about all the customers Aquila has in the
12 whole state. And there certainly isn't near that
13 number of people in Cass county. There's not -- I
14 think Peculiar's got like 1,700. Yeah, they're
15 growing, but not enough to measure that. And by the
16 theory that a peaking plant has to be set and
17 stationed by their growth, does that mean that this
18 country should be dotted every 25 miles with a
19 peaking plant? Because that's how far away
20 Greenwood and Ralph Green are. So every 25 mile
21 radius throughout this country -- and this is, you
22 know, pretty much rural. I mean, there's houses
23 there, but we're certainly not talking about New
24 York City or something like that where it would even
25 be more dense. So every 25 miles across the United

1 States there needs to be a peaking plant, by that
2 theory, that it needs to be that close to the low
3 growth.

4 Everything else has kind of been talked on.
5 I'm not going to sit here and go through this. I
6 know that what we've learned is that this has
7 nothing -- this case and this plant has nothing to
8 do about the need for power. We've watched all this
9 testimony and all these legal battles go on and
10 we've realized that this plant has more to do with
11 the transfer of these \$75 million turbines from one
12 site of Aquila to another. And it really has to do
13 about greed and their bottom line. You know, at
14 first, we thought it would be a tax advantage, \$17
15 million, but as we learned more, we saw that they're
16 -- and as been testified to before, they're taking
17 these \$75 million turbines and they're moving those
18 from one site of Aquila to another site of Aquila,
19 and they're never going to pay a dime for them, but
20 they include that in the \$150 million cost of this
21 plant. Of course, if they have to tear it down and
22 move it, they'll use those same turbines again. So
23 the real cost of the plant is overstated. And the
24 cost of tearing it down and moving it, as they've
25 reported, is \$20 million. That's the cost to move

1 it. And that most of the equipment can be reused at
2 another site. So you're not asking them to tear
3 down -- or ordering them to tear down a \$150 million
4 asset, as if, poof, \$150 million goes away. That's
5 not the case.

6 It's also not the case that these people who
7 stood up talking about their residential rates and
8 the fear that it's going to go up, that that is --
9 that you're forcing them to abide by the law and
10 holding management accountable for their actions is
11 going to cause people's rates to go up. That's not
12 a foregone conclusion. What is a foregone
13 conclusion, according to Commissioner Gaw's decent,
14 is that the rates that Aquila's charging for
15 residential customers are going up a lot more than
16 they're going up for business customers. The
17 percentages that Commissioner Gaw's decent from the
18 rate case show a substantially higher increase for
19 residential customers than for corporate customers.
20 But what Aquila's tried to convince people is that
21 they're going to run out of power if this doesn't
22 happen and the rates are going to go up. Well,
23 they're already raising their rates more for
24 residential than for business customers. And
25 they're going to do it again in July.

1 It's not about the need for power. In Aquila's
2 filing of this application, they tell you that their
3 peak demand for power was in 2003. Not 2004. Not
4 2005. And it's not going to be 2006 either. And in
5 2003, they met that need using Aries and their
6 existing peaking facilities. And I realize Aries
7 isn't a plant that's subject to your regulations,
8 but the purchase power agreement that Aquila's had
9 has been subject to your regulations.

10 So it's -- you have to consider the fact that
11 that plant sits idle, able to produce the 500
12 megawatts of power. Aquila needs base-load
13 generation, as well as peaking. And it's available
14 for them to use as opposed to going through this,
15 wasting all the money, the time and the energy of
16 both this Commission, myself and their own
17 shareholders. And they're risking their employees'
18 futures. This has nothing to do about a need for
19 power. And it has nothing to do about people
20 getting the best -- the most electricity for their
21 money.

22 Further, this case doesn't belong before you.
23 This belongs before zoning. And then they need to
24 come to you and demonstrate the need for the power
25 and you need to say whether or not it's a management

1 decision. And we hope that you guys will reach
2 those decisions.

3 They're asking you to approve this plant, and
4 the only sound reason to approve this plant is that
5 it already exists. That's the only reason. And
6 that's exactly what they were banking on when they
7 built it. They knew that you guys -- you're
8 challenged to make sure that everybody has power.
9 To ask you to tear down a power plant goes against
10 the grain of everything you're asking to do. And I
11 understand that. It's not a fair question of you,
12 and it's not fair to me, after the fact, to ask you
13 to consider a siting location. It's a very
14 different thing to ask you to order them to tear
15 down a plant. And that's what they were banking on
16 when they built it. It's a tough decision to make,
17 but most important decisions are. And if you let
18 them get by with it, then you set a precedence that
19 any utility in this state can do anything. If you
20 hold them accountable and draw the line, nobody's
21 going to do it again. If you make them tear down
22 this plant, it's not going to happen again. And you
23 will have the respect of the people. And all of
24 the different organizations, counties and everyone
25 else is depending on your leadership and your

1 guidance. That's all I have.

2 JUDGE PRIDGIN: Ms. January, thank you. Let me
3 see if we have any questions.

4 Chairman Davis?

5 CHAIRMAN DAVIS: Ms. January, I don't have any
6 questions, but I just wanted to thank you for some
7 very thought provoking intellectual testimony.
8 Thank you.

9 MS. JANUARY: Thank you.

10 JUDGE PRIDGIN: Commissioner Gaw?

11 COMMISSIONER GAW: Thank you for coming.

12 JUDGE PRIDGIN: Commission Clayton?

13 COMMISSIONER CLAYTON: I always wanted to know
14 who Della January is. I appreciate you coming out
15 tonight. And I appreciate your comments, as well.

16 When you first started your comments, you'd
17 expressed spending considerable amount of time and
18 resources. Can you give me an idea how much money
19 the opposition of this power plant has spent to
20 oppose the various levels of it? And I exclude the
21 county expenses. I'm more talking about the
22 citizens fighting the power plant.

23 MS. JANUARY: StopAquila's legal cost, as of
24 last fall, were around \$50,000, of which Aquila has
25 reimbursed itself as part of their community

1 average. Since that time, we've incurred another
2 probably five or six thousand dollars in legal fees.
3 That doesn't include any of our time, signs, papers,
4 you know, and stamps. I mean, things like that. We
5 raise our funds just by people dropping of checks.

6 COMMISSIONER CLAYTON: How many members of the
7 organization -- among how many people would you say
8 that \$56,000 -- well, one chunk of money was
9 reimbursed. But among how many people are sharing
10 this expense?

11 MS. JANUARY: We have a total of about two
12 hundred members, more than a hundred within a
13 two-mile radius. I can't tell you that each one of
14 those people have contributed money. It's not a
15 requirement to be a member. It's all voluntary.
16 And I get contributions for as little as \$15 and
17 sometimes for \$1,000, but it's -- and each of these
18 families pretty much -- I typically get a check from
19 the same families every month. They've kind of just
20 set aside a hundred bucks a month for StopAquila, as
21 if they were paying a utility bill.

22 COMMISSIONER CLAYTON: No pun intended?

23 MS. JANUARY: Yeah, no pun intended. But,
24 yeah, these -- the number of people that have
25 donated, probably less than fifty, as far as cash

1 donations. We have a lot of people that are unable
2 to make cash donations and work it off instead. So
3 we don't -- you know, we kind of just say give what
4 you can. And if you can't give anything, then we've
5 got work for you to do.

6 COMMISSIONER CLAYTON: Thank you very much.

7 MS. JANUARY: You're welcome.

8 JUDGE PRIDGIN: Commissioner Appling?

9 COMMISSIONER APPLING: No questions.

10 JUDGE PRIDGIN: Follow-up from Counsel?

11 Ms. January, thank you very much.

12 MS. JANUARY: You're welcome.

13 JUDGE PRIDGIN: All right. The next witness is
14 Lynette Han.

15

16 LYNETTE TROUT, having been first duly sworn, was examined
17 and testified as follows:

18

19 CHAIRMAN DAVIS: Thank you very much. If you
20 would, please, state your name, for the record, and
21 spell your last name.

22 MS. TROUT: Legally, it's Lynette Trout,
23 T-r-o-u-t, 10710 East 233rd Street, Peculiar.

24 JUDGE PRIDGIN: And are you an Aquila customer?

25 MS. TROUT: Yes, I am.

1 JUDGE PRIDGIN: Any written statements or
2 remarks for the Commission?

3 MS. TROUT: Actually, I'd like to clean it up
4 and then I'll fax it to you. I scribbled all over
5 it tonight.

6 You've heard a lot, and so I will not take up
7 your time. I just would like to say that basically
8 everything that has been said about -- or from
9 StopAquila.org, I would reiterate at this point.

10 I would like to say to the first person who
11 talked, I apologize for anybody that may have
12 approached her from the opposing side. I do know
13 what that's like. As we left the last hearing here
14 by Judge Dandurand, I was followed by the wife of a
15 prominent citizen to my car. And she continued to
16 hound me about my opinions and how I could possibly
17 feel that way. So I do understand that.

18 Secondly, I'm glad the customer in northern
19 Cass county did not lose her electricity during the
20 ice storm. I, a customer of Aquila, who lives one
21 and a half miles from the center of this plant, did.

22 I'm sorry that she felt that the media was
23 rushing it and not giving a true statement. They
24 don't always give everything that we need to know.

25 They kept me gainfully employed for 15 and a half

1 years with their errors.

2 I do have to add that living approximately one
3 and a half miles from the center of the site -- not
4 from the writ. Not from the rim. But from the
5 center of the site. And I work from home. I have
6 two window units. And several times I have ear
7 pieces in my ears doing dictation. I can tell you
8 that I hear a jet engine running up on the end of a
9 runway. And that is the peak power plant that I
10 hear. Granted, it's not 24-7 that I hear that. A
11 lot of times, it's a more mundane noise, but it's
12 very disturbing. I've lived in Peculiar for 19
13 years. I've lived at my current site for 12. I
14 moved over there for more acreage. I moved over
15 there for peace and quiet. I didn't move over there
16 to hear an engine. If I wanted that, I would have
17 moved to North Kansas City or Downtown Kansas City.
18 You can't tell me that that's not noise pollution,
19 as well as the other pollutants that will emanate
20 from this power plant if it is allowed to stay, and
21 that already have.

22 Regarding the previous comments about the
23 improvements that Aquila has made, they have made
24 some, but it's my opinion they didn't make it until
25 they felt they were losing ground, all pun intended.

1 A good neighbor would not lie to their prospective
2 neighbors. They wouldn't come in after the fact and
3 say, oh, I'm sorry, I really should have told you
4 that. That really wasn't the case. Oh, well.
5 We're here now. You have to accept us.

6 Also, you've heard the cost efficiency, that
7 it's more cost efficient for them to continue with
8 the Calpine instead of producing it here. If it was
9 such an excellent location, why did they have to
10 take down the power lines that already existed and
11 put new overhead lines in that are bigger, larger,
12 more intense and send out more electronic waves?
13 Why did they have to bring another gas line pipe in?

14 Finally, I think Aquila has turned their noses
15 at everyone all the way up the chain. They have
16 told us they were going to build no matter what
17 anyone said. Judge Dandurand gave them an
18 injunction, and they said, tough, we're going to
19 build. That was their risk. That's a risk that
20 they assumed. That is a risk, I agree with
21 previously, they have to pay for. This cannot be
22 allowed. This has to be stopped. If this precedent
23 is allowed, that we didn't follow the rules, but now
24 we're allowed to keep it, it opens a pandora's box
25 for all the other utility companies. And it puts

1 you five people in a very, very precarious
2 situation, more than just on this case that you've
3 now had to hear twice. I hate to see that happen to
4 anybody.

5 I feel you share our concerns. Commissioner
6 Gaw, I applaud you. I applaud the General Counsel's
7 call for an audit of Aquila's management. If it's
8 going to cost them \$20 million or \$150 million, then
9 how can they be giving such large bonuses to upper
10 management, if they're on the verge of bankruptcy.
11 I ask you to take it one step further and deny
12 Aquila's request, deny the South Harper plant, for
13 the reasons that I've shared, as well as those that
14 you've heard and will probably hear throughout the
15 rest of the evening. And thank you very much for
16 your time.

17 JUDGE PRIDGIN: Thank you very much for your
18 testimony. Let me see if we have any questions from
19 the Commission.

20 Chairman Davis?

21 CHAIRMAN DAVIS: No questions. Thank you,
22 ma'am.

23 JUDGE PRIDGIN: Commissioner Gaw?

24 COMMISSIONER GAW: No. Thank you very much.

25 COMMISSIONER CLAYTON: No questions.

1 COMMISSIONER APPLING: No questions.

2 JUDGE PRIDGIN: Follow-up from Counsel?

3 All right. Thank you very much for your time
4 and your remarks this evening.

5 MS. TROUT: Thank you.

6 JUDGE PRIDGIN: Michael Han.

7

8 MICHAEL HAN, having been first duly sworn, was examined and
9 testified as follows:

10

11 JUDGE PRIDGIN: Thank you very much, sir. If
12 you would, please, state your name, for the record,
13 and spell your last name.

14 MR. HAN: Michael Han, H-a-n, 10710 East 233rd
15 Street, Peculiar, Missouri.

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

18 MR. HAN: Yes, I am.

19 JUDGE PRIDGIN: All right. Do you have any
20 written statement or any remarks for the Commission?

21 MR. HAN: Yes, I have a written statement.
22 I'll fax in to you after I clean it up.

23 JUDGE PRIDGIN: All right.

24 MR. HAN: I just want to make a couple of
25 comments on it.

1 JUDGE PRIDGIN: Absolutely.

2 MR. HAN: First of all, I agree with my wife.
3 We've been fighting this battle with Aquila for two
4 or three years now. We were in it just pretty much
5 at the beginning. I never heard anything about any
6 of these trees being planted. I never heard
7 anything about anything from Aquila until all the
8 comments started coming up that there was a chance
9 they were going to lose the power plant. Now, all
10 of sudden, I get flyers in the mail wanting me to
11 come out to the plant and look at it and talk to
12 them and free steak dinners and all that. I don't
13 understand all this. It kind of looks to me like
14 they're trying to bride me.

15 We've been lied to. Everything that they've
16 told all the neighbors from day one has just been
17 one lie right after another. We came in early and
18 looked at their map up here. The average person
19 walking in looking at the map -- I've had about
20 seven or eight people ask me about that map since
21 I've been here today. When you look at it, it looks
22 like that outer ring is three miles from the plant.
23 That outer ring is not three miles from the plant.
24 That is a mile and a half from the plant. Most maps
25 say three mile radius. They've put on theirs, as a

1 little tactic, three mile diameter, so it makes it
2 look better. They did the same thing originally,
3 day one, when they put out the maps on the site and
4 they said that there was -- it was an agricultural
5 area and there was three to four houses in that
6 agricultural area. I went up and took some aerial
7 pictures, and we counted over two hundred houses in
8 that same area. The maps they were using were ten
9 years old. And the maps that I gave Missouri
10 Department of Natural Resources were about two days
11 old.

12 The lady who talked a while ago about not
13 hearing the plant -- I'm a pilot. I've been around
14 loud noises and all. I have a -- it's kind of hard
15 to admit, but I have a hearing problem. I live
16 approximately one and three-quarter miles from that
17 plant right now. I've been out to Sears and two or
18 three different places looking at a hearing aid.
19 Apparently, after tonight, I'm not going to look for
20 a hearing aid no more because at a mile and
21 three-quarter, I can hear that plant just fine.
22 It's not a problem at all.

23 The plant's built on an agricultural area.
24 There's cows in the neighborhood. There's horses.
25 The pollutions that this plant is putting off, it's

1 kind of a little mind game that they're playing.
2 Same game as the map. Same game as everything we've
3 heard in the past. All the pollutions that are
4 coming out of that plant are one hundred percent
5 legal in Cass county. If you go to Kansas City,
6 that plant ain't going to be there, guaranteed.

7 The man talked a while ago about the amount of
8 pollutions that that plant puts out. They base all
9 of that on an eight-hour average, per person, in
10 industry. A lot of the women and children -- my
11 wife, for example, is in the house 24 hours a day,
12 seven days a week. How much is she getting exposed
13 to it? A lot more than a worker is.

14 Lastly, I would like to thank you for coming
15 and talking to us again. I hope you will take all
16 of our opinions and all of our considerations when
17 you make your decision. And I hope that it's turned
18 back over to the county and let the county make the
19 decision that should be made. Thank you very much.

20 JUDGE PRIDGIN: Mr. Han, thank you. Let me see
21 if we have any questions from the Commissioners.

22 Chairman Davis?

23 CHAIRMAN DAVIS: No questions. Thank you.

24 JUDGE PRIDGIN: Thank you.

25 Commissioner Gaw?

1 COMMISSIONER GAW: No questions. Thank you,
2 Mr. Han.

3 COMMISSIONER APPLING: No questions.

4 JUDGE PRIDGIN: Any follow-up from Counsel?

5 Mr. Han, thank you for your time and your
6 remarks, sir.

7 The next witness is Ester Trout.

8

9 ESTER TROUT, having been first duly sworn, was examined and
10 testified as follows:

11

12 JUDGE PRIDGIN: Thank you very much, ma'am. If
13 you would, please, state your name, for the record,
14 and spell your last name.

15 MS. TROUT: My name is Ester Trout, T-r-o-u-t.

16 JUDGE PRIDGIN: All right. And your address,
17 please?

18 MS. TROUT: 10710 East 233rd Street, Peculiar.

19 JUDGE PRIDGIN: And are you an Aquila customer?

20 MS. TROUT: Yes, I am.

21 JUDGE PRIDGIN: All right. Do you have a
22 written statement or any remarks for the Commission?

23 MS. TROUT: I just have some notes that I
24 wanted to say.

25 JUDGE PRIDGIN: That's fine. If you could do

1 your best to speak into the microphone so the folks
2 in the back can hear you.

3 MS. TROUT: Okay.

4 JUDGE PRIDGIN: Thank you.

5 MS. TROUT: Since my home is on the same
6 acreage as Lynette's and Michael's, I have the same
7 concern, SO I'm not going to go into all of that.
8 But I did want to add that, during their
9 construction, until they were ordered to shut down,
10 there were so many gravel trucks and cement trucks
11 and machinery trucks coming from C Highway up to
12 33rd, down Arrow, and over 235th, that you sometimes
13 couldn't hear the television unless you turned it
14 way up. And the gravel and all the dust and
15 everything that accompanied it was certainly not
16 good for most people's health.

17 I'm real proud of Aquila for giving all these
18 donations to everybody. I wish they would lower my
19 rates instead of increasing them so they could do
20 that. I'd like to be on the receiving end. I guess
21 I'm just a little bitter about that. I think
22 they've built a plant that wasn't authorized. And I
23 don't believe it was needed. I have no facts of
24 this, but, as I understand it, the power they're
25 selling is not for our area, but for like Lee's

1 Summit and St. Jo. If they're going to
2 inconvenience us, why not have our power there?

3 As I said, I don't know that for a fact. Thank
4 you for listening. I encourage you to make them
5 take it away.

6 JUDGE PRIDGIN: Thank you very much. Let me
7 see if we have any questions.

8 CHAIRMAN DAVIS: No questions. Thank you, Ms.
9 Trout.

10 COMMISSIONER GAW: No questions. Thank you,
11 ma'am.

12 COMMISSIONER APPLING: No questions.

13 JUDGE PRIDGIN: No follow-up from Counsel.

14 Ms. Trout, thank you very much for your time
15 and your testimony.

16 The next witness is John Rickert.

17

18 JOHN RICKERT, having been first duly sworn, was examined
19 and testified as follows:

20

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

24 MR. RICKERT: John Rickert, R-i-c-k-e-r-t.

25 JUDGE PRIDGIN: And your address, please, sir?

1 MR. RICKERT: 23722 South Lucille Lane,
2 Peculiar, Missouri.

3 JUDGE PRIDGIN: And are you an Aquila customer?

4 MR. RICKERT: No, I am not.

5 JUDGE PRIDGIN: Any remarks for the Commission,
6 sir?

7 MR. RICKERT: Yes, I do. I would like to start
8 off by just saying -- in fact, I'm only going to use
9 two words. The law and integrity. The law has been
10 violated. The county has laws. The state has laws.
11 The city has laws. As a United States Marine Corps
12 Reserve, I fight to protect those laws. I've served
13 my country for over 19 years. I didn't fight for
14 the fact that some big corporation to come in and do
15 whatever they choose, however they choose, stepping
16 on my rights, my rights to be out there as a
17 homeowner. If it had come before the Commission and
18 they'd chosen to put this plant in, after hearing
19 all the arguments, then I'd have nothing to say, but
20 I don't. They may have as well walked in my door
21 and stolen my TV or my car or taken my money.
22 Because that's exactly what they did. They stole my
23 right.

24 Integrity is the other issue. The people of
25 Aquila, the people they've hired, the people they've

1 had running this, from the CEO all the way down,
2 there is no integrity. There is no honor. I pray
3 to God I never have to serve with somebody like that
4 on the battlefield, because I'd probably end up
5 dead. I really wouldn't want those kind of persons
6 serving in our military. That's all I have to say.

7 JUDGE PRIDGIN: Mr. Rickert, thank you very
8 much. Let me see if we have any questions from the
9 Commission.

10 Chairman Davis?

11 CHAIRMAN DAVIS: No questions. Thank you, Mr.
12 Rickert.

13 JUDGE PRIDGIN: Commissioner Gaw?

14 COMMISSIONER GAW: No. Sir, thank you very
15 much.

16 COMMISSIONER CLAYTON: No questions.

17 JUDGE PRIDGIN: None from Counsel.

18 Mr. Rickert, thank you very much for your time
19 and your testimony, sir.

20 MR. RICKERT: Thank you.

21 JUDGE PRIDGIN: The next witness is Gary Kemp.

22

23 GARY KEMP, having been first duly sworn, was examined and
24 testified as follows:

25

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

4 MR. KEMP: Gary Kemp, K-e-m-p.

5 JUDGE PRIDGIN: And your address, please, sir?

6 MR. KEMP: 2514 Winwood Drive, Lee's Summit,
7 Missouri.

8 JUDGE PRIDGIN: And are you an Aquila customer?

9 MR. KEMP: Yes, I am.

10 JUDGE PRIDGIN: All right. Do you have a
11 written statement or remarks for the Commission?

12 MR. KEMP: Remarks, please.

13 JUDGE PRIDGIN: Yes, sir.

14 MR. KEMP: First of all, thank you for your
15 attention and thank you for the process. I'm a
16 business manager for the Greater Kansas City
17 Building and Construction Trade Council. So people
18 that we represent were the good recipients of being
19 able to do the construction in the area. As we are
20 with a number of other area utilities, because of
21 the industry, we work very closely with the utility
22 industry, not only with Aquila, but other area power
23 providers.

24 So I would testify that it is my belief, in
25 terms of need, based upon the inquiries that I have

1 through our office on a very regular basis, as to
2 manpower needs, in the last two years, that there is
3 indeed a need for power throughout our region.
4 Probably not only throughout our region, but
5 throughout our country. It's my belief that we have
6 a power industry that is in need of improvement and
7 expansion.

8 It's also been my experience, in attending many
9 community meetings and public meetings, that it is
10 of the nature that no one is receptive to a power
11 facility being built in their community, let alone
12 their backyard. I understand that. This is not my
13 backyard, so one could say it's easy for me to say.

14 It's additionally been my experience, whether
15 it's an urban city or a very rural city -- be it
16 Norborne, Missouri or Peculiar -- that, again,
17 utility companies are not met with open arms, in
18 terms of building a facility.

19 But I would additionally say, as citizens, we do
20 have the expectation, both as residents, citizens,
21 business, that when we flip the switch, that there
22 be power. So from the standpoint of need, I don't
23 have facts or figures to present to you. I'm not a
24 lawyer. I'm not a contractor. I'm not a
25 consultant. We merely provide the labor pool for

1 these facilities. So based upon the inquiries,
2 again, that we received, we believe that there is a
3 power need.

4 The other thing that I would share with you is
5 that it's been our work experience with this utility
6 that it's been a good labor management relationship.
7 We have performed services for Aquila for many, many
8 years, long before it was Aquila. Missouri Public
9 service. We are the good recipients of being able
10 to do their new construction, their renovation,
11 their updates. So we're pleased to have the
12 relationship that we have with not only Aquila, but
13 many of the other utilities in the area. I would
14 describe it as, in our instance, a good community
15 partnership or a good labor management partnership
16 for the people that I represent. I'll be happy to
17 answer any questions you might have.

18 JUDGE PRIDGIN: Mr. Kemp, thank you. Let me
19 see if we have questions.

20 Chairman Davis?

21 CHAIRMAN DAVIS: No questions. Thank you, sir.

22 JUDGE PRIDGIN: All right. Thank you.

23 Commissioner Gaw?

24 COMMISSIONER GAW: Mr. Kemp, thank you for
25 coming. I might have just one or two quick

1 questions.

2 Your testimony is not intended to tell this
3 Commission that you believe that one particular site
4 is preferential to another in regard to a generation
5 facility for Aquila, is it?

6 MR. KEMP: Commissioner, I don't have that
7 expertise.

8 COMMISSIONER GAW: I understand. I just wanted
9 to make sure that was clarified. Thank you, sir.

10 JUDGE PRIDGIN: Commissioner Appling?

11 MR. APPLING: No questions.

12 JUDGE PRIDGIN: All right. There are none from
13 Counsel.

14 Mr. Kemp, thank you very much for your time and
15 for your testimony, sir.

16 All right. I hope I read the next time
17 correctly. Is it Tony Patlan?

18 MR. PATLAN: I'd like to submit some paperwork
19 and make a statement.

20 JUDGE PRIDGIN: Thank you.

21

22 TONY PATLAN, having been first duly sworn, was examined and
23 testified as follows:

24

25 JUDGE PRIDGIN: Thank you very much, sir. If

1 you would, please, state your name, for the record,
2 and spell your last name.

3 MR. PATLAN: Tony Patlan, P-a-t-l-a-n.

4 JUDGE PRIDGIN: And your address, please, sir?

5 MR. PATLAN: It's 24800 and 24910 South Harper
6 Road. Right up the hill --

7 JUDGE PRIDGIN: Is that in Peculiar?

8 MR. PATLAN: -- from the power plant. Yes. I
9 can see the smokestacks.

10 JUDGE PRIDGIN: Okay. And I would ask you if
11 you have any remarks and, also, if you could just
12 identify the documents that you just handed to me,
13 sir.

14 And I'll label that as Exhibit Number 10.

15
16 (Whereupon Exhibit Number 10 was marked
17 for identification.)

18
19 MR. PATLAN: It's just a letter stating my
20 opinion on what's going on. I live out in that
21 area. And I don't see why all these other people
22 are coming in from out of town making their
23 statements not liking the power plant.

24 Okay. They've got a respect geologist, but he
25 knows progress. The one that made the statements.

1 He knows about progress. I've been doing
2 engineering and construction for over twenty years
3 from Georgia to San Diego, from Texas to up here.
4 And I live right up the hill. I've got no problems
5 with progress for the power plant. That's my
6 statement.

7 And my wife she stays home 24 hours a day. So
8 does my father-in-law. And so we have two houses.
9 They have no problems with nothing.

10 I've worked with the Corps of Engineers. And I
11 was Army, also. And we all know things have to go
12 on. You know, I respect the last gentleman that
13 came up here for his service. I appreciate it. And
14 I shake his hand when he walked out. I have no
15 problem with that.

16 Like I said, I live right in front of the
17 plant. And they know me. I've met with them
18 before. In my opinion, Aquila has gone above and
19 beyond everything. These people who are
20 complaining, they've got paved roads. All I got was
21 chip and seal, you know, and they didn't complete
22 what the county didn't complete. And my drainage --
23 but I'm not bitching. I'm not -- you know, I'm not
24 complaining about that. We'll get that fixed.

25 Like I said, everybody needs to know progress

1 is going to go on. We need that power. As I said,
2 I've done construction across the country. We need
3 it. We need power. You know, I'll tell you what,
4 summertime, someone's going to complain when they
5 blow out the power. If Aquila's not there, it would
6 be about 110 degrees inside their houses. People
7 are going to be dying, you know, older people, like
8 my father-in-law. He would be -- he has no A/C, you
9 know. He's going to have a problem. But, you know,
10 it's one of those things. So what are we going to
11 do? And there's people moving in left and right.
12 And I spoke to my wife about that. You know, we
13 need progress.

14 We hear no noise, no disturbance. Like I said,
15 we can see the three stacks. We can see them. It
16 doesn't bother us any. You know, the wind blows
17 south, so we should get the noise. We should get
18 something. You know, we're not worried about
19 pollution. You know, it's just -- I'm for the
20 plant. I guess I'm done.

21 JUDGE PRIDGIN: Thank you. Let me see if we
22 have any questions.

23 Chairman Davis?

24 CHAIRMAN DAVIS: No questions, your Honor.

25 JUDGE PRIDGIN: Thank you. Commissioner Gaw?

1 COMMISSIONER GAW: Mr. Patlan, did someone tell
2 you that the air conditioning would not work this
3 summer if that plant were not running?

4 MR. PATLAN: No, but I consider it as a reserve
5 just in case. We had an outage, a thirty minute
6 outage, and my father-in-law panicked. You know, our
7 clocks went out. You know, but when Aquila -- when
8 they crank it on, now we have our power. It's the
9 peak season. It might be winter. It might be
10 summer.

11 COMMISSIONER GAW: Sure. Have you attended any
12 meetings with Aquila?

13 MR. PATLAN: One. I believe it was last month.
14 I've been out of town. They had another one, but I
15 was out of town.

16 COMMISSIONER GAW: Okay.

17 MR. PATLAN: I did attend one. It was very
18 informative. And as I said, I've done engineering
19 for over twenty years. And I know construction has
20 to go on. I don't like it, but it's construction.
21 It's progress.

22 COMMISSIONER GAW: I understand.

23 MR. PATLAN: People have to look at that part
24 of it.

25 COMMISSIONER GAW: Did you say you were

1 currently an engineer?

2 MR. PATLAN: I do engineering and construction
3 inspection.

4 COMMISSIONER GAW: Okay.

5 MR. PATLAN: So I can complain about anything I
6 want.

7 COMMISSIONER GAW: YES.

8 MR. PATLAN: And I haven't yet.

9 COMMISSIONER GAW: Yes, sir. And who was at
10 this meeting that you were at; do you recall?

11 MR. PATLAN: Norma Dunn. She was -- she ran
12 the whole thing, for the most part.

13 COMMISSIONER GAW: Where was this meeting?

14 MR. PATLAN: Out there on Harper Road.

15 COMMISSIONER GAW: At the plant facility?

16 MR. PATLAN: Yes. I got the whole place --
17 like I said, I'm an inspector. So I can complain
18 about anything. And I look at everything. If I
19 didn't like something, she would have heard about
20 it. You know, everything looked fine. And I have
21 no problems.

22 COMMISSIONER GAW: All right.

23 MR. PATLAN: I can see those three towers. My
24 wife calls them the three towers when she looks out
25 the window. So that's how close we are. And you

1 have other people from down, you know, I don't know
2 where, complaining about the power plant noise. We
3 don't hear anything.

4 COMMISSIONER GAW: Do you travel quite a bit
5 with your job?

6 MR. PATLAN: Wintertime, sometimes, but every
7 since they built the plant, no, I have not gone --
8 well, I'll go out for a week, maybe. Texas.
9 Florida. California.

10 COMMISSIONER GAW: Yeah.

11 MR. PATLAN: It's only for a week's vacation.

12 COMMISSIONER GAW: Okay. That's all. Thank
13 you.

14 JUDGE PRIDGIN: Commissioner Gaw, thank you.
15 Commissioner Clayton?

16 COMMISSIONER CLAYTON: Mr. Patlan, I didn't
17 write this down when you started your testimony.
18 Are you -- the houses that you referenced, are those
19 customers of Aquila at those addresses?

20 MR. PATLAN: No, they are not.

21 COMMISSIONER CLAYTON: Okay.

22 MR. PATLAN: We haven't -- we've got propane
23 and --

24 COMMISSIONER CLAYTON: Who do you use for
25 electricity at your houses?

1 MR. PATLAN: My father-in-law pays the bill.

2 So I don't know.

3 COMMISSIONER CLAYTON: That's a good plan
4 you've got there. So you don't know who the
5 electricity provider is out there?

6 MR. PATLAN: Cass county something or --

7 COMMISSIONER CLAYTON: Is that Osage Valley,
8 the cooperative?

9 MR. PATLAN: Yeah, the Valley one.

10 COMMISSIONER CLAYTON: Okay. And in your role
11 or your employment -- I'm not sure what it is -- in
12 engineering and construction, it doesn't bother you
13 that Aquila didn't seek local permitting or local
14 zoning before building the plant?

15 MR. PATLAN: They're not the only ones. I've
16 seen construction that's going up with no permits.

17 COMMISSIONER CLAYTON: That doesn't bother you?

18 MR. PATLAN: Not if it's done properly.

19 COMMISSIONER CLAYTON: What do you mean "done
20 properly"?

21 MR. PATLAN: You have an inspector on site. He
22 writes up reports and they're submitted. So
23 everything is on hand. Everything is taken care of.
24 You have a superintendent on site. Then you have
25 inspectors.

1 COMMISSIONER CLAYTON: If you do that, then you
2 don't have to worry about zoning or local
3 permitting?

4 MR. PATLAN: That's their job. Our job is to
5 inspect and verify whatever they do. Observe,
6 inspect and verify.

7 COMMISSIONER CLAYTON: Got it. Thank you.

8 JUDGE PRIDGIN: Commissioner Appling?

9 COMMISSIONER APPLING: No questions.

10 COMMISSIONER GAW: I've got -- you've given us
11 a lot of information here about your inspection
12 qualifications, in general. Can you give me an idea
13 about who you work for currently?

14 MR. PATLAN: You've got my card right there.
15 It's Terracon.

16 COMMISSIONER GAW: Terracon?

17 MR. PATLAN: Correct.

18 COMMISSIONER GAW: Okay.

19 MR. PATLAN: Do you want my engineer? I can
20 give you the name.

21 COMMISSIONER GAW: Construction services
22 technician; is that your --

23 MR. PATLAN: I'm an inspector.

24 COMMISSIONER GAW: Yes, sir. And your
25 expertise -- you say you've got some expertise. Can

1 you give me a little bit about your education?

2 MR. PATLAN: I was trained by the U.S. Army,
3 engineering school, Fort Belvoir, Virginia. I've
4 worked for the Corps of Engineers in Phoenix,
5 Arizona. And like I say, I've been across the
6 country with different construction companies.

7 COMMISSIONER GAW: And you have an engineering
8 degree in --

9 MR. PATLAN: No engineering degree. Just field
10 experience. But I do have soils, concrete and
11 rebar. So I specialize in soils.

12 And I drove on there and got kicked out a few
13 times on site. Just, you know, with my
14 father-in-law. Just to see what the hell is going
15 on.

16 COMMISSIONER GAW: Thank you.

17 JUDGE PRIDGIN: Anything further?

18 Mr. Patlan, thank you very much for your time
19 and your testimony.

20 MR. PATLAN: Thank you.

21 JUDGE PRIDGIN: The next witness is Brad
22 Thomson.

23

24

25

1 BRAD THOMSON, having been first duly sworn, was examined
2 and testified as follows:

3

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

7 MR. THOMSON: Brad Thomson, T-h-o-m-s-o-n.

8 JUDGE PRIDGIN: And your address, please?

9 MR. THOMSON: 24005 South Lucille Lane,
10 Peculiar.

11 JUDGE PRIDGIN: Okay. And are you an Aquila
12 customer?

13 MR. THOMSON: No.

14 JUDGE PRIDGIN: Mr. Thomson, could you identify
15 what you've just brought up to me?

16 MR. THOMSON: That's a prepared statement with
17 a picture on the front of it.

18 JUDGE PRIDGIN: Did you have any remarks for
19 the Commission?

20 MR. THOMSON: Yeah, I'll make some brief
21 remarks.

22 JUDGE PRIDGIN: I'll label this as Exhibit
23 Number 11.

24

25

1 (Whereupon Exhibit Number 11 was marked
2 for identification.)

3

4 MR. THOMSON: I'm a third generation home
5 builder in the Kansas City metropolitan area. I've
6 built homes in the two hundred thousand to two
7 million dollar price range. I have over twenty
8 years experience in the residential building.

9 My wife and I purchased a lot in Harris Place
10 approximately a quarter mile north of the Harper
11 peaking facility where we can plainly see and hear
12 the facility. We began construction of our personal
13 residence in May of 2004, and completed it in
14 October, just in time to learn about the peaking
15 facility. Needless to say, had we known about it,
16 or been informed a power plant was being proposed
17 nearby, we would not have purchased. However, as
18 everything was zoned agricultural, and nothing was
19 pending in the county, we felt the purchase was safe
20 and proceeded in good faith.

21 In December, 2005, after the plant was
22 completed and when Aquila said they were offering to
23 purchase homes from residents who didn't want to
24 live near the plant, we offered to sell to them.

25 They, however, declined and said that we did not

1 meet their criteria. We have since been trying to
2 sell our home, competing with the homes they have
3 purchased from other residents and purchased --
4 excuse me, competing with -- I'll start over with
5 that. We have since been trying to sell our home,
6 competing with the homes which they had purchased
7 and have on the market, which appears to be under
8 value prices.

9 The main concern I have and want to speak about
10 today is what South Harper is doing to property
11 values. Property values are a major concern to
12 every homeowner in our neighborhood, as well as the
13 nation. This is evidenced by the many laws that
14 deal with property rights and zoning laws. As a
15 home is a consumer's single largest investment over
16 time, any loss of that value would be a substantial
17 blow to a family of any means.

18 Research studies such as those by George S.
19 Tolley, from the University of Chicago, and G.C.
20 Blomquist have decided the detrimental effects of
21 power plants on property values. Those studies do
22 not mean as much until you start getting closer to
23 home and in your own pocketbook.

24 I've attached five exhibits of five property
25 values, which Aquila happens to own and bought from

1 customers, and it shows the purchase price, the
2 original customer's bought, and the values that will
3 be lost if they sell at the asking price. In
4 summary, they'll lose anywhere from three to forty
5 thousand dollars.

6 Further property value evaluations will occur
7 since we have an excess supply of homes in our
8 neighborhood ranging from \$200,000 to \$400,000.
9 Aquila is currently offering an excess incentive
10 commission, which is making value shoppers come out,
11 looking for low-ball offers.

12 I'd like to close by saying we're currently in
13 a market appreciating between one and four percent
14 on the modest side. Eventually, our home will sell,
15 but at what cost, we don't know. That's all.

16 JUDGE PRIDGIN: All right. Mr. Thomson, thank
17 you.

18 Do we have any questions from the Commission?

19 Mr. Chairman?

20 CHAIRMAN DAVIS: Pass, Judge.

21 JUDGE PRIDGIN: Commissioner Gaw?

22 COMMISSIONER GAW: Me, too. Thanks.

23 COMMISSIONER CLAYTON: No questions.

24 COMMISSIONER APPLING: No questions.

25 JUDGE PRIDGIN: Mr. Mills. I'm sorry.

1 MR. MILLS: You said that you attempted to sell
2 your property to Aquila and they you said you didn't
3 meet the criteria. In what way did you not meet the
4 criteria?

5 MR. THOMSON: They had a line set up around --
6 (inaudible.)

7 JUDGE PRIDGIN: I'm sorry, Mr. Thomson, if you
8 could speak into the microphone.

9 MR. THOMSON: Norma Dunn said they had a line
10 set up that abutted -- was that 243rd Street? Went
11 down to Overfelt and Harper Road. And we were not
12 within that line. We did not abut that line.

13 MR. MILLS: So you were just too far away to
14 take advantage?

15 MR. THOMSON: We were one mile away.

16 MR. MILLS: Thank you.

17 JUDGE PRIDGIN: Nothing further?

18 All right. Mr. Thomson, thank you for your
19 time and your remarks.

20 The next witness is Lisa McCord.

21

22 LISA MCCORD, having been first duly sworn, was examined and
23 testified as follows:

24

25

1 JUDGE PRIDGIN: Thank you so much. If you
2 would, please, state your name, for the record, and
3 spell your last name.

4 MS. MCCORD: Lisa McCord, M-c-C-o-r-d. My
5 address is 9908 East 241st Street, Peculiar.

6 JUDGE PRIDGIN: And are you an Aquila customer?

7 MS. MCCORD: No, I'm not.

8 JUDGE PRIDGIN: All right. Did you have a
9 written statement to present or any remarks?

10 MS. MCCORD: I just want to make a few brief
11 remarks.

12 JUDGE PRIDGIN: Okay.

13 MS. MCCORD: My husband and I and my son moved
14 to Cass county in July of 2004 with the belief that
15 Cass county was a zoned -- was zoned. And so we
16 felt like we were safe in building our house. I
17 wasn't going to mention it, but my 69-year-old
18 father laid about 19,000 bricks on my home. So we
19 have some substantial emotional attachment to our
20 home.

21 Anyway, but this belief that Cass county was
22 zoned was confirmed. You know, you see these signs
23 that say Cass county is zoned, as you drive into the
24 county, and so it wasn't just us making up our
25 belief. It's posted that it is zoned. So when we

1 moved out there, it's agriculture, and so we assumed
2 it would be housing. Because there's a lot of
3 growth in that area.

4 As I stated, my father bricked our home. We
5 had to follow the zoning rules of Cass county. My
6 builder actually builds mostly in Raymore and they
7 have different zoning rules. But as a result of us
8 having to follow the rules, on my front step, my
9 brick step that my father built, we've had to put a
10 little platform out there to satisfy the rules of
11 Cass county, so that they can keep us safe. And so
12 my father, sometime this spring, will come out and
13 he will redo this brick step on the front of my
14 house. So people coming to my house right now have
15 to step on this wooden platform going into my brick
16 step, which is kind of embarrassing. So Cass county
17 is trying to keep us safe, doesn't want people to
18 fall down as they step out of our houses, but
19 Aquila's coming in and saying it's okay. And you
20 can't see the power plant much here. You can't see
21 the -- because we have the Bremer property. And as
22 long as they lived there, their house is sitting
23 kind of in front of our house, but you can see the
24 turbines there. So basically Aquila's coming in and
25 saying, you know, we don't want to have to follow

1 the rules. Fix -- you know, fix your step,
2 according to Cass County, but -- you know, to keep
3 people safe, but it's okay to build this power plant
4 down the road. It's also okay to set this kind of
5 precedent.

6 So this is vacant land that we've got behind
7 us. We're like a quarter of a mile from the plant,
8 driving distance-wise, but you can see, on this map,
9 even here, there's a big brown spot just right
10 outside that first circle there. My fear is that if
11 Aquila is allowed to keep this plant there and we
12 set this kind of precedent, what am I going to have
13 in my backyard, you know, that's going to come in
14 there? We've got some 1934 law that says they can
15 build, you know, a trash burner or something behind
16 our house. So now we've got an Aquila power plant
17 in our front yard, you know, right across the
18 street, and they can build more turbines, and then
19 I've got the possibility of something behind us. So
20 it really -- you know, Cass County might as well not
21 be zoned. And they probably better take their signs
22 down or they're probably going to have some
23 lawsuits.

24 And my main concern is, I've got a
25 nine-year-old boy that I'm trying to protect. And

1 we're going to probably live there for quite some
2 time. And I just want to protect him. And I want
3 him to know that the laws that are out there, people
4 have to follow. And just because you're a
5 multi-million dollar company doesn't mean that you
6 don't have to follow the laws, the laws that are
7 posted all over the county, and that say that you
8 can kind of know what's going on around you when you
9 decide where you put your home. And Aquila just
10 comes in -- and they just don't think they have to
11 follow the rules. And I don't get it. I don't
12 understand why. I have to. I'm trying to teach my
13 son that he has to. And just because Aquila has
14 some money, they can go ahead and build their plant
15 and then expect us all to feel sorry for them, that
16 they might have to tear it down, when we say, hey,
17 I'm sorry, you have to follow the rules that
18 everybody else has to. So, anyway, that's all I
19 have to say.

20 JUDGE PRIDGIN: Ms. McCord, thank you. Let me
21 see if we have any questions.

22 Chairman Davis?

23 CHAIRMAN DAVIS: No questions.

24 JUDGE PRIDGIN: Commissioner Gaw.

25 COMMISSIONER GAW: Ms. McCord, you had some

1 pictures and things there. And I don't know if you
2 have copies. And I certainly don't want your
3 original of your son, but -- so I'm not going to try
4 to take that from you.

5 MS. MCCORD: You can have my picture of the
6 Cass County sign.

7 COMMISSIONER GAW: Well, you made some
8 reference to some of them. It might be helpful if
9 you could provide them at some point in time.

10 MS. MCCORD: You can have them all.

11 COMMISSIONER GAW: And, again, how close are
12 you to the power plant?

13 MS. MCCORD: We are right there (indicating.)

14 COMMISSIONER GAW: Okay. So --

15 MS. MCCORD: We're a quarter of a mile if you
16 drive down the road.

17 COMMISSIONER GAW: About a quarter of a mile.
18 That would be to the north?

19 MS. MCCORD: Yes.

20 COMMISSIONER GAW: And can you tell me, did you
21 hear the power plant when it was running last year?

22 MS. MCCORD: I honestly have not heard yet
23 engines. To me, it sounds like -- when I'm out in
24 my garden, it sounds like standing by my air
25 conditioner. And, personally, I don't think I

1 should have to listen to my -- you know, like I was
2 sitting right beside my air conditioner. That's
3 what it sounded like to me.

4 And we -- like the man that just spoke, we
5 wouldn't have never bought that land there if we had
6 known.

7 COMMISSIONER GAW: Where did --

8 MS. MCCORD: It's just not right.

9 COMMISSIONER GAW: I didn't mean to interrupt
10 you. What part of -- where did you move from?

11 MS. MCCORD: Grandview, Missouri.

12 COMMISSIONER GAW: And Grandview is in Cass
13 county?

14 MS. MCCORD: It's in Jackson.

15 COMMISSIONER GAW: Jackson. That's right. And
16 that's zoned as well. And were you in the city?

17 MS. MCCORD: Yes. We moved from the city to
18 try to get to the country. And different schools.

19 COMMISSIONER GAW: Sure. And the -- well,
20 that's all I need. Thank you very much.

21 JUDGE PRIDGIN: I'm sorry, Ms. McCord, we're
22 not finished with you.

23 MS. MCCORD: You're just trying to make me cry.

24 COMMISSIONER CLAYTON: I hope I don't make you
25 cry.

1 MS. MCCORD: See what you're causing.

2 COMMISSIONER CLAYTON: I've got to hear more
3 about this step that the County's coming in and
4 causing you a hard time about.

5 MS. MCCORD: Plus, we tried to take it out,
6 when we made the mistake of building a building
7 behind and they were out inspecting, and they said
8 we would go to jail if we didn't fix it.

9 COMMISSIONER CLAYTON: What's the deal with the
10 step? What's the problem?

11 MS. MCCORD: It has to be a three-foot landing
12 if you've got more than one step coming out of the
13 house.

14 COMMISSIONER CLAYTON: You know, we do have
15 people from the County here that could possibly help
16 you with that. If you ask the right people.

17 MS. MCCORD: They did send us a nice little
18 note saying we would be going to jail if we didn't
19 get that fixed. So I would like some of the people
20 of Aquila to go to jail if they don't get this plant
21 out of here.

22 COMMISSIONER CLAYTON: I understand. Thank you
23 very much.

24 JUDGE PRIDGIN: Commissioner Appling?

25 COMMISSIONER APPLING: No questions.

1 JUDGE PRIDGIN: Ms. McCord, I just want to
2 clarify, for the record, what it is you've handed
3 me. You've handed me some pictures?

4 MS. MCCORD: I handed you pictures of --

5 JUDGE PRIDGIN: Could you tell me what this is,
6 please?

7 MS. MCCORD: It's a sign coming into Cass
8 county on 195th and State Line that basically says,
9 "Cass County Zoned."

10

11 (Whereupon Exhibit Numbers 12 and 13 were
12 marked for identification.)

13

14 JUDGE PRIDGIN: Okay. And that's Exhibit
15 Number 12.

16 MS. MCCORD: A picture I took this weekend.

17 JUDGE PRIDGIN: Tell me what this is.

18 MS. MCCORD: That is the view of the land that
19 is right behind our house. So it's the view to the
20 west side of our building that we have out back.

21 JUDGE PRIDGIN: Okay. And did you take these
22 pictures, by the way?

23 MS. MCCORD: Yes.

24 JUDGE PRIDGIN: Okay. It looks like perhaps
25 they were dated yesterday?

1 MS. MCCORD: Yes.

2 JUDGE PRIDGIN: Very good. And this one?

3 MS. MCCORD: That is the view off of our front
4 porch.

5 JUDGE PRIDGIN: And that's Exhibit Number 14.

6

7 (Whereupon Exhibit Numbers 14 and 15 were
8 marked for identification.)

9

10 JUDGE PRIDGIN: And this?

11 MS. MCCORD: That's a view of our front step.
12 Which I have another concrete step that also has a
13 nice little wooden platform too, but I didn't bring
14 my pictures.

15 JUDGE PRIDGIN: Okay. I don't mean to make you
16 cry. I've got a nine-year-old son, too, and they're
17 a lot of fun. And you can --

18 MS. MCCORD: You can't have him.

19 JUDGE PRIDGIN: -- keep that one. All right.
20 Thank you very much.

21 Is there any clarifying questions from Counsel?
22 Okay. Ms. McCord, now you can leave.

23 Let me take one more witness before we take a
24 quick break. The next witness I have is Jim
25 Gabriel.

1 JIM GABRIEL, having been first duly sworn, was examined and
2 testified as follows:

3

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

7 MR. GABRIEL: Jim Gabriel, G-a-b-r-i-e-l.

8 JUDGE PRIDGIN: And your address, please, sir?

9 MR. GABRIEL: 24201 East 235th Street,
10 Harrisonville.

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

13 MR. GABRIEL: My business is.

14 JUDGE PRIDGIN: All right. Did you have a
15 written statement for the Commission?

16 MR. GABRIEL: I do. I'll just gloss over it
17 real quick and I'll be done.

18 JUDGE PRIDGIN: Thank you, sir.

19 MR. GABRIEL: I'm going to kind of go back to
20 the start of this. It started March of 2004 with
21 Aquila selling its interest in the Aries power plant
22 to Calpine. They defaulted on their loan and moved
23 on. Aquila also worked with Cass County getting
24 zoning, bonding and acquiring the money to build
25 this plant. The plant now sits idle. As other

1 people have said, I just question what kind of
2 planning that they used to build this particular
3 type of plant, if the peaking plant was really what
4 was in order. The property's been zoned. The gas
5 lines are there. The transmission lines were there.
6 There was enough property even with the power plant
7 that they built to construct peaking plants on the
8 same property in an area that has already been zoned
9 and taken care of. I've yet to figure out why that
10 -- I understand there's regulated and unregulated,
11 to a certain degree, but, still, it seems like a
12 waste of resource to build something of that
13 magnitude and abandon it. Because I can see it when
14 I come out my driveway from my house. Where I live
15 now, I can see the stacks and stuff from my house.
16 It's amazing to me that every morning I can drive by
17 and that power plant is sitting there.

18 So then after they devested their interest in
19 the power plant, in April, 2004, less than thirty
20 days after they'd abandoned that area, they've since
21 signed a contract on forty acres next to me. And
22 that's why I'm here today. I'm concerned because
23 they still have a contract on that property, as far
24 as I know. They purchased that forty acres to build
25 a power plant there originally. They used the

1 threat of imminent domain to convince the farmer to
2 sell the property to him. I do not have that from
3 the farmer. I have it secondhand from the neighbor.

4 The day I found out about the power plant going
5 in was Easter Sunday. I was on the lawn mower
6 mowing my grass. The neighbor come over and said,
7 "Hey, I want to tell you they're going to build a
8 power plant right there," less than five hundred
9 yards from my front door. I can tell you right now,
10 to this day, I still want to get down and get on the
11 ground and throw up when I heard that.

12 Because I had just built my property. My house
13 -- we moved in, in July of 2001. My wife and I
14 spent two years building the house. I put every
15 dime that I had in it, with the intent to live
16 there. Before I built the house, I did due
17 diligence. I went to the county, made sure there
18 were no wetlands, no industrial setback, no
19 commercial, that it was all future residential. And
20 that's what the county assured me, so that's when I
21 proceeded with my plan. Needless to say, like
22 everybody else, I wouldn't have built it if there
23 was going to be a power plant there.

24 So we progressed on and found out that Aquila
25 had already planned on starting construction in June

1 of 2004, and this was April, 2004. They never once
2 approached any of the people in this area, and
3 there's many homes within a quarter to a half a mile
4 from this. They never came by. Nobody ever said
5 anything. It was like they were trying to slide it
6 under the door. So we started a group much like
7 StopAquila.org, went through all the processes and
8 continued to watch and have meetings and talk with
9 the city.

10 One of the things I'd like to testify about is,
11 they had -- two of their employees had a meeting
12 with the City of Harrisonville, which we attended.
13 During that meeting, one of the gentlemen got up and
14 said the reason for the power plant was that, during
15 the summer, there's a possibility that the air
16 conditioners -- they would not have enough power to
17 power the air conditioners during peak time, and
18 that that was the reason for this being built was.
19 And the question was asked, you know, how long would
20 this power plant be operated, and they said, oh,
21 approximately two or three weeks a year, just to
22 meet peaking demand, so we wouldn't lose our air
23 conditioners.

24 It was pointed out that they didn't provide the
25 power to the area that they were building the power

1 plant at. Really, when I'm talking about us losing
2 power, it was the folks north of us. Because we're
3 served by Osage South.

4 Another gentleman that was there, they
5 questioned him about where the power lines that they
6 were going to tie into came from, or who did they
7 belong to. His statement was that he wasn't sure.
8 He didn't know. This was before the City Council of
9 Harrisonville. And we also spoke. That went on.

10 Then, in August, we went before the zoning
11 commission and Aquila to try to get that plant
12 rezoned. The first thing they did at the rezoning
13 hearing was ask for a variance on the stacks to go
14 from forty foot to seventy foot. I might add that
15 they had pictures like this that did not depict my
16 home. The pictures were probably seven to ten years
17 old. They did not accurately reflect the area they
18 were building in.

19 After the variance, one of the gentlemen got up
20 and spoke about there were two peaking plants in
21 Independence, operated by Independence Power and
22 Light, that had an aerial photo much like that, that
23 he pointed out where they were. You really couldn't
24 see anything. You could see there were a few houses
25 in the general vicinity. Of course, nobody at that

1 meeting could address that. So the next day, I went
2 and found these two peaking plants they addressed.
3 One would probably fit in this room. The tallest
4 piece of apparatus on it was maybe 12 to 14 foot
5 tall.

6 To digress just a little bit, I'm in
7 construction. I've been a carpenter for 35 years.
8 I've owned my own business for 20 years. I did do
9 work for Aquila before April of 2004.

10 The other -- when I went to the peaking plants,
11 the one that would fit in this room was tucked up
12 against an embankment of a railroad track next to
13 the Drum farm, which is now a golf course. Like I
14 said, the highest apparatus on it was approximately
15 12 to 15 feet.

16 The next peaking plant that they showed was one
17 off the square in Independence. That peaking plant
18 is either -- I couldn't figure out if it was an
19 abandoned rock quarry or an old excavation for a
20 building that they sunk it down in. The stacks,
21 again, were about thirty foot tall. It was fenced
22 in. There was a parking lot in front of it. And
23 they were quick to point out that you could notice,
24 on their pictures they had, that there were houses
25 around. Well, it turned out it's Section 8 housing.

1 Section 8 housing is for low income families. Those
2 people have no choice about where to live. And so
3 they were right across the street from it. But in
4 their picture, it was deceiving as to what they were
5 showing, in that they were talking about peaking
6 plants. I went all through everything. I can't
7 find any other peaking plants, in this locale, but
8 on my way to western Kansas, in Dodge City -- which
9 Aquila did own a peaking plant there. It's next to
10 a feed lot, next to a meat processing plant, next to
11 the railroad. Appropriate place for a peaking
12 plant. It's zoned industrial. It's out of the way.

13 Speaking of zoning and stuff, in my years of
14 working with people building projects, doing
15 different things, I have never ever done a project
16 without a permit from a local authority. If you
17 should ever do that and they catch you, the first
18 thing they do is make you tear down the covered up
19 work, so they could inspect it, to make sure it was
20 done per code. I have had to do that before on a
21 job some years before. We built a wall, sheetrocked
22 it, put some two-by-four's that weren't fire treated
23 and had to tear it out and replace it. We did it at
24 my expense. It was our error.

25 In closing, much like everybody else said --

1 oh, one other thing. As a development, we talk
2 about the water lines that Aquila's run to the new
3 South Harper plant. Normally, it's been my
4 experience that when you're developing a property or
5 doing anything on it, that the county makes you
6 upgrade to meet their standards. So that you need
7 to upgrade the water lines to provide the fire
8 protection for your building. I've had to do that
9 many times, build in an area where there weren't any
10 fire hydrants, bring water lines to meet the
11 capacity, increase the size of the water lines.
12 Some of the water line issues and stuff they think
13 is a good graces is nothing more than a code issue
14 that you have to do to meet the requirements. Same
15 things with road improvements. Create turn lanes
16 and many other things to meet an updated code for an
17 outdated project or area.

18 So, in closing, I'm a citizen. I do what has
19 to be done when I build my house. I had to have a
20 permit. I had to. Whenever I represent anybody.
21 And when I did work for Aquila, I had to get
22 permits.

23 So, in closing, you know, what's good for the
24 goose is good for the gander. I thank you very
25 much. This is probably a thankless job. Last year,

1 when I sat her -- and it's the same gentlemen again.
2 And my great appreciation for the service you
3 provide. Thank you.

4 JUDGE PRIDGIN: Thank you so much. Let me see
5 if we have any questions.

6 CHAIRMAN DAVIS: No questions.

7 COMMISSIONER GAW: No questions.

8 COMMISSIONER CLAYTON: Flattery will get you
9 everywhere. And a few questions. Just a couple of
10 questions. Mr. Gabriel, could you clarify what --

11 MR. GABRIEL: I just handed a letter that more
12 fully details what --

13 JUDGE PRIDGIN: Mr. Gabriel, thank you so much.
14 I believe this is Exhibit 16.

15

16 (Whereupon Exhibit Number 16 was marked
17 for identification.)

18

19 (Off the record.)

20 (Short recess.)

21 (Back on the record.)

22

23 JUDGE PRIDGIN: We're back on the record. Is
24 Ms. Mayer available?

25 MS. MAYER: That's me.

1 CINDI MAYER, having been first duly sworn, was examined and
2 testified as follows:

3

4 JUDGE PRIDGIN: All right. Thank you very
5 much. Ms. Mayer, if you would, please, state your
6 name, for the record, and spell your last name.

7 MS. MAYER: It's Cindi Mayer. And it's
8 M-a-y-e-r.

9 JUDGE PRIDGIN: And I apologize for
10 mispronouncing your name.

11 And your address, please?

12 MS. MAYER: 10501 East 235th Street, Peculiar.

13 JUDGE PRIDGIN: And are you an Aquila customer?

14 MS. MAYER: No.

15 JUDGE PRIDGIN: Did you have any written
16 statement or any remarks?

17 MS. MAYER: Well, I do. I would like to -- I
18 actually had two things I wanted to bring up. One
19 was health effects. And I feel that Mike Tunnicliff
20 pretty much covered it. But I do have some
21 background evidence, as well as my gripe, that I
22 wanted to give to you.

23 JUDGE PRIDGIN: Okay. And, Ms. Mayer, if you
24 could please describe what it is you've just handed
25 me.

1 MS. MAYER: I handed you a write-up about --
2 that went through all of -- of several of the
3 chemicals that are to be -- or that are emitted from
4 the power plant, and the health effects that they
5 have on people. In a chronic low level way. You
6 know, people that live there that are exposed to it
7 all the time. Even though these emissions, you
8 know, are supposed to be under regulations.

9 JUDGE PRIDGIN: Could you tell me where you got
10 this information and about how many pages it is?

11 MS. MAYER: My write-up is only a couple of
12 pages. And the information I got off the internet.

13 JUDGE PRIDGIN: Okay. And I mean --

14 MS. MAYER: And that's what I used for
15 research, all that information.

16 JUDGE PRIDGIN: Okay. Do you recall -- if you
17 do recall, do you recall the website you visited to
18 get this information?

19 MS. MAYER: Oh, no. I went to several, several
20 different websites.

21 JUDGE PRIDGIN: Okay. About how many pages
22 have you handed me?

23 MS. MAYER: I have handed you probably fifty
24 pages or more.

25 JUDGE PRIDGIN: Okay. And someone correct me

1 if I'm wrong. Are we up to Exhibit 16?

2 Seventeen. Thank you. Long night.

3

4 (Whereupon Exhibit Number 17 was marked
5 for identification.)

6

7 JUDGE PRIDGIN: All right. Ms. Mayer, please
8 continue.

9 MS. MAYER: I know it has been a long night and
10 this other -- I feel like I need to go through step
11 by step. It could be a little detailed.

12 I do want to clarify a couple of things that
13 were brought up earlier. When Jennifer Bailey was
14 here talking about the lights at Ray-Pec Park, I was
15 at that meeting, and, in all actuality, it was me
16 that brought up getting the lights at Ray-Pec Park.
17 So I asked what they could do in the community. And
18 my husband and I and several of our neighbors are
19 involved with the AAPI, which is the association
20 that runs the children's softball down there. The
21 park is owned by the city. And quite honestly, I
22 felt that the city should have asked Aquila for
23 these. It really bothered me. The park's been down
24 there for twenty years and nobody has put lights up
25 out there. And you know the city had an opportunity

1 to do it. And I felt it was their job. They didn't
2 do it. And I stepped in and asked Aquila, and they
3 were willing to come to the plate. And I have to
4 admit, they've been very good about working with us.
5 They are going to put lights up on one of the
6 fields. And when you have never had lights, one
7 field is a lot. So we are pleased with that.

8 What I want to address is the misconception,
9 the misinformation, that has been put out. There's
10 been a lot of it. And the latest one really, really
11 bothered me. Norma Dunn had a paid advertisement
12 put in several papers, local papers. One was the
13 Journal, and one was the Democrat, that I actually
14 read. I also know there was one in the Cass County
15 Shopper. And she did a time line with the -- you
16 know, for this whole process. And there were just
17 some misconceptions that really, like I said, really
18 bothered me. And I really would like to address
19 some of those.

20 The misconceptions were, to me, lack of
21 information and a little bit of manipulation of the
22 information. She was correct that there are a lot
23 of misperceptions and emotions in this situation. I
24 don't have a problem with that. In her opening
25 statement, she states that when construction began

1 on South Harper, that Aquila believed it had
2 necessary authority from the MPSC to construct the
3 facility. That is conflicting with the fact that
4 when Aquila was attempting to place the plant at the
5 Camp Branch location, Aquila applied to Cass County
6 for zoning. And that is just something, to me, that
7 -- and you've heard this. You've already heard
8 this. How short of time it takes to forget that.

9 Also, in the paragraph, that the City of
10 Peculiar -- she also states, in the same paragraph,
11 that the City of Peculiar did invite Aquila to
12 construct a facility near Peculiar. At that time
13 though, there was no site selected. She indicates
14 there was a site selected before they -- you know,
15 before they went to the City of Peculiar. And that
16 really is not true, as you know from Della January's
17 statement. And they're all in Mike Fisher's emails
18 and Terry Hedrick. And they found it, found the
19 site two miles south of the city limits.

20 In the next paragraph that she has titled
21 "January, 2005," I disagree with Ms. Dunn's
22 statement that Cass County Circuit Court agreed that
23 Aquila was exempt from county land use regulations.
24 In this decision, the Court statement was -- and
25 this is in quotes -- "This Court specifically makes

1 no conclusions of law regarding interpretation of
2 the word such as used in Section 64.235. The Court
3 bases its conclusion of law in this case as follows:
4 Cass County's Franchise of 1917 does not give Aquila
5 specific authority to build a power plant in
6 Aquila's certificated area, or that Aquila must
7 obtain a specific authorization from MPSC." And
8 later on, court cases did state that Aquila was
9 exempt, but at this point, they did not.

10 In June of 2005, the Western Division Court of
11 Appeals issued a ruling on June 21st, 2005 that
12 confirmed the franchise that Aquila had from Cass
13 County only allowed Aquila to place poles and
14 transmission lines. It also said Aquila's
15 Certificate of Convenience and Necessity was not
16 specific permission for Aquila to build the South
17 Harper power plant without permission from Cass
18 County. The decision did not suggest that counties
19 were not allowed by statute to grant utility
20 franchises. It only said Cass County had not
21 voluntarily granted Aquila a franchise to build a
22 power plant. The opinion did not question
23 industry-wise certificates of convenience and
24 necessity or industry-wise county franchises, as
25 suggested by Ms. Dunn. Ms. Dunn was correct that

1 the ruling, dated two -- or June 21st, 2005, was
2 withdrawn.

3 In the paragraph titled "July, 2005," Ms. Dunn
4 suggests that Cass County invite Aquila to file for
5 a special use permit, per a letter written to
6 Christopher Reitz, Aquila's general counsel, on
7 August 15th, 2005, by Cindy Reams-Martin. Ms.
8 Martin reminds Mr. Reitz that in a letter written
9 July 29th, 2005, she advised that the County would
10 and could not make advanced deals with respect to
11 rezoning applications. Ms. Martin also advised of
12 the obvious, that Aquila has the right, as would any
13 applicant, to attempt to secure rezoning for
14 proposed developments. Ms. Martin also advised that
15 her letter certainly did not suggest an agreement to
16 allow Aquila to file a rezoning or special use
17 permit application while Aquila's appeal is pending
18 or as a means of remedying Aquila's current zoning
19 violations, remediation of which is, at this time,
20 controlled by the Court's January 11th, 2005
21 judgment.

22 This letter is dated August 16th, 2005, and it
23 was submitted by Aquila in the MPSC Case
24 EA-2006-0309. In the paragraph titled "December of
25 2005," Ms. Dunn was correct in her statements about

1 the court of appeals ruling, dated December 20th,
2 2005, except for one thing. Ms. Dunn suggested the
3 Court stated that Aquila could retroactively obtain
4 zoning approval from the County or specific MPSC
5 authorization for the South Harper facility. What
6 was actually stated was -- and I have this in
7 quotes.

8 "In so ruling, however, we do not intend to
9 suggest that Aquila is precluded from attempting, at
10 this late date, to secure the necessary authority
11 that would allow the plant and the substation, which
12 have already been built, to continue operating."

13 And I'll bet with whatever conditions were
14 deemed appropriate. This doesn't mean it has to be
15 awarded. It only means Aquila may apply. Ms. Dunn
16 neglected to state that the Court of Appeals
17 affirmed Judge Dandurand's original order, which
18 required Aquila to remove all improvements on the
19 South Harper site that are inconsistent with its
20 agricultural zoning.

21 In the paragraph titled, "January, 2006," Ms.
22 Dunn states that in a letter to Aquila from a
23 presiding Cass County Commissioner, Aquila was
24 advised that the county would only process Aquila's
25 zoning application if the plant was removed.

1 Actually, the letter, dated January 5th, 2006,
2 reminded Ms. Dunn of Judge Dandurand's original
3 order and that there was still pending litigation
4 involving Cass County, the MPSC and Aquila, the writ
5 of review. Mr. Mallory stated -- and this is in
6 quotes -- "Thus, until the writ case is disposed,
7 the County's position with respect to its obligation
8 to process a rezoning and/or special use permit
9 application while it's zoning authority is being
10 challenged remains as described in the attached
11 letter."

12 And this is the letter from August 16th, 2005,
13 which says that the County cannot accept zoning or a
14 special use permit application until litigation is
15 complete.

16 And this letter by Mr. Mallory was submitted as
17 evidence by Aquila in the MPSC Case EA-2006-0309.

18 In February, 2006, Cass County sent Aquila a
19 notification that it would accept an application for
20 rezoning or special use permit from Aquila at this
21 time. I feel that letter was sent because the
22 litigation was complete and it was now appropriate
23 for the County to accept the application. Aquila
24 claims it is continuing its efforts to ensure open,
25 honest, fact-based dialogue on the South Harper

1 issue. With all of the left-out, manipulated
2 information in Ms. Dunn's article, how can Aquila
3 continue to make this claim. How can Aquila
4 continue to make the claim that they want to be a
5 good neighbor when they are constantly giving out
6 incomplete, manipulated information. How can they
7 possibly expect the neighbors in the surrounding
8 area to trust them after everything they put us
9 through. And that's all I have to say.

10 JUDGE PRIDGIN: Thank you very much. Let me
11 see if we have any questions.

12 CHAIRMAN DAVIS: I do. I've got some
13 questions.

14 JUDGE PRIDGIN: Chairman Davis.

15 CHAIRMAN DAVIS: Ms. Mayer, where do you get
16 your electricity from?

17 MS. MAYER: Osage Valley.

18 CHAIRMAN DAVIS: And so you don't have any
19 windmills or solar panels or anything like that, do
20 you?

21 MS. MAYER: No, sir.

22 CHAIRMAN DAVIS: Okay. Do you know where Osage
23 Valley gets their electricity?

24 MS. MAYER: No, I really don't.

25 CHAIRMAN DAVIS: So you would have no reason to

1 doubt then that they might get a substantial portion
2 of their electricity from coal-fired electric
3 plants?

4 MS. MAYER: No, I don't have any reason to
5 doubt. I do know they send out a rural magazine
6 that we get about once a month, and they are -- the
7 group that they belong to are going to build a
8 coal-fired plant. I do know that. And it's -- as I
9 understand, it's going to be over in the Norborne
10 area.

11 CHAIRMAN DAVIS: And those plants put out a lot
12 more emissions than a natural gas-fired plant;
13 correct?

14 MS. MAYER: Well, in some of the studying I'm
15 doing, I have learned that there are ways to keep
16 those emissions down, too. And I really --

17 CHAIRMAN DAVIS: Down, but not --

18 MS. MAYER: Well, I know that there is a
19 possibility of making them very nearly nothing, too.

20 CHAIRMAN DAVIS: And they can't do that with a
21 natural gas peaking plant?

22 MS. MAYER: No. I think they could do that,
23 too.

24 CHAIRMAN DAVIS: And you're saying that they
25 haven't?

1 MS. MAYER: Well, it's obviously put out
2 emissions. We have reports of that. I'm saying
3 they didn't use -- you know, from what you're asking
4 me, which is not what I covered, but --

5 CHAIRMAN DAVIS: I guess what I'm trying to get
6 at, Ms. Mayer, is, are you okay with folks, you
7 know, building power plants as long as they're not
8 in your backyard?

9 MS. MAYER: I am okay with people building
10 power plants as long as they follow the rules, the
11 local law. Go through the steps. Do it the right
12 way.

13 CHAIRMAN DAVIS: Okay. Thank you, Ms. Mayer.

14 JUDGE PRIDGIN: Commissioner Gaw?

15 COMMISSIONER GAW: No. Thank you, ma'am.

16 COMMISSIONER CLAYTON: The only question that I
17 had is on the -- can we get a copy of the ad that
18 was supposedly put in the newspaper?

19 MS. MAYER: This is for you guys.

20 COMMISSIONER CLAYTON: Oh, more material.

21 MS. MAYER: It's the ad. And it's -- this is
22 my write-up. There's the ad. And this is
23 everything that I quoted from.

24 COMMISSIONER CLAYTON: Why don't you -- I don't
25 know if we need our own opinion or the Court of

1 Appeals. We can take administrative notice of that
2 material.

3 MS. MAYER: Actually, those aren't your
4 opinions. Well, this is the Court of Appeals.

5 COMMISSIONER CLAYTON: The Court, I think we
6 can take.

7 MS. MAYER: And this is off your website.

8 JUDGE PRIDGIN: Right.

9 COMMISSIONER CLAYTON: I was interested in the
10 ad that you were referring to that was in the
11 newspaper, and then if you had a write-up on the
12 responses that you had for each one, that's what I
13 was looking for.

14 MS. MAYER: Okay.

15 JUDGE PRIDGIN: Ms. Mayer, if I could get you
16 to step back to the microphone. Let me ask you what
17 it is you brought up here. Could you tell me what
18 this is, please?

19 MS. MAYER: That is an ad from the Cass County
20 Democrat that Norma Dunn had put in there. It is
21 signed with her name.

22 JUDGE PRIDGIN: Do you recall the date?

23 MS. MAYER: March 17th of 2006.

24 JUDGE PRIDGIN: All right. Thank you. And
25 I'll label that as Exhibit Number 18.

1 (Whereupon Exhibit Number 18 was marked
2 for identification.)

3

4 JUDGE PRIDGIN: And then this, please?

5 MS. MAYER: That is my write-up. And it has my
6 name on it. And I wrote it this weekend.

7 JUDGE PRIDGIN: And I'll label it that -- it
8 looks like it is three pages.

9 MS. MAYER: Uh-huh.

10 JUDGE PRIDGIN: I'll label that as Exhibit
11 Number 19.

12

13 (Whereupon Exhibit Number 19 was marked
14 for identification.)

15

16 COMMISSIONER CLAYTON: Thank you for your time.

17 JUDGE PRIDGIN: Anything from Counsel?

18 All right. Thank you very much, ma'am.

19 MS. MAYER: Thank you guys for staying.

20 JUDGE PRIDGIN: Keith Mayer.

21

22 KEITH MAYER, having been first duly sworn, was examined and
23 testified as follows:

24

25

1 JUDGE PRIDGIN: Thank you very much. Sir, if
2 you would, please, state your name, for the record,
3 and spell your last name.

4 MR. MAYER: Keith Mayer, M-a-y-e-r.

5 JUDGE PRIDGIN: And your address, please?

6 MR. MAYER: 10501 East 235th Street, Peculiar,
7 Missouri. And, no, I'm not an Aquila customer.

8 JUDGE PRIDGIN: Okay. Did you have a written
9 document you wanted --

10 MR. MAYER: Yes, I do. I'm going to shorten it
11 for you because I know you guys have had enough.

12 JUDGE PRIDGIN: Mr. Mayer, if you wanted to --
13 and you can wait until you're done. I'll let you
14 summarize and then we'll let you enter that.

15 MR. MAYER: Okay. I thank you for listening to
16 me. The stuff that I've got here, this is bills and
17 some articles from other states where they've gone
18 and looked for local zoning. I could go through
19 them all and show you every one of them in here, but
20 I'm sure you don't want to sit there and go through
21 all the rhetoric for this.

22 I have documentation here that we got from the
23 internet. It's different types of forms and things
24 which will support it. And it's in the stuff on the
25 end of it. What it basically does is, it goes down

1 through here and it tells that in any of the -- in
2 several places -- and one of them was in California.
3 Another one was in Kentucky. And they went through
4 and they looked. And they're telling them they have
5 to be two thousand to three thousand feet back from
6 homes when they put them in there. They also stated
7 in here that they're going to have to get local
8 authorization. Same stuff that's all been covered
9 by everybody else in here. But this is documents to
10 prove that this has happened in other states. And I
11 don't think there's really a lot I can tell you more
12 than that.

13 JUDGE PRIDGIN: And do you have some documents
14 you want the Commission to look at?

15 MR. MAYER: Yes. I can give you this one, the
16 one I was talking off of. And here's all the
17 material that backs it, which is all referenced on
18 the bottom.

19 JUDGE PRIDGIN: Okay. All right. If I could
20 get you to step back to the microphone, I just want
21 to ask you what you've handed me. Could you just
22 briefly describe what it is you've handed me, sir?

23 MR. MAYER: What I handed you was the
24 summarization of the information that's in the
25 envelope -- I mean, in the folder that tells in

1 different places, like I say, in Kentucky and
2 California, they've had the same type of cases and
3 they've gone to have to get local authority, usually
4 from the county, sometimes from the city, depending
5 on where they put it. That's what most of the
6 information is about.

7 JUDGE PRIDGIN: So would it be safe to call
8 this information from other states, as far as
9 putting power plants in?

10 MR. MAYER: Yes.

11 JUDGE PRIDGIN: Okay. Do you know about how
12 many pages you handed me, sir?

13 MR. MAYER: Thirty to forty.

14 JUDGE PRIDGIN: Okay. And I'll call that
15 Exhibit Number 20.

16

17 (Whereupon Exhibit Number 20 was marked
18 for identification.)

19

20 JUDGE PRIDGIN: Let me see if we have any
21 questions from the Commission.

22 Mr. Chairman?

23 CHAIRMAN DAVIS: No questions.

24 MR. MAYER: Before you -- I just have a couple
25 more statements.

1 JUDGE PRIDGIN: Yes, sir. I'm sorry. Go
2 ahead.

3 MR. MAYER: One more thing I was kind of
4 curious about -- we've not talked about it --
5 nobody's talked about the fact that they could
6 expand the power plant over here. We were told
7 early by Aquila that they could expand it as many as
8 three more turbines. You know, we're taking about
9 the effect of what it's going to have on the
10 surrounding community. It's only got three turbines
11 right now. And they're not running at a hundred
12 percent. They put three more in there and they run
13 them at a hundred percent, you know, you can tell me
14 what you want. They can say it sounds like an air
15 conditioner or sounds like a car, but with six
16 turbines running, it's going to sound like a jet.
17 If it doesn't, then something's wrong with them and
18 they're not running. Something we never -- we
19 haven't even touched on is the fact they have plans
20 for expanding. That's pretty much it.

21 JUDGE PRIDGIN: All right. Mr. Mayer, thank
22 you.

23 Mr. Chairman?

24 CHAIRMAN DAVIS: No questions.

25 JUDGE PRIDGIN: Commissioner Gaw?

1 COMMISSIONER GAW: No. Thank you, sir.

2 JUDGE PRIDGIN: All right. Thank you.

3 COMMISSIONER CLAYTON: I just wanted to be
4 clear. I'm way past my bedtime.

5 MR. MAYER: Me, too.

6 COMMISSIONER CLAYTON: You're speaking against
7 the plant, I'm assuming?

8 MR. MAYER: You bet.

9 COMMISSIONER CLAYTON: I just wanted to make
10 sure. We had another Mayer from the same address
11 speak earlier. I just wanted to make sure you were
12 on the same page or not.

13 MR. MAYER: I don't know. It's just one of
14 those -- because I was sitting up here and she's
15 back there, huh?

16 COMMISSIONER CLAYTON: Well, I was going to
17 recommend counseling or something.

18 JUDGE PRIDGIN: Follow-up from Counsel?

19 Mr. Mayer, thank you, sir.

20 MR. MAYER: Thank you.

21 JUDGE PRIDGIN: Mark Andrews.

22

23 MARK ANDREWS, having been first duly affirmed, was examined
24 and testified as follows:

25

1 JUDGE PRIDGIN: Would you please state your
2 name, for the record, and spell your last name?

3 MR. ANDREWS: My name is Mark Andrews. Andrews
4 is spelled A-n-d-r-e-w-s.

5 JUDGE PRIDGIN: And your address, please, sir?

6 MR. ANDREWS: 24407 South Overfelt, Peculiar.

7 JUDGE PRIDGIN: And are you an Aquila customer?

8 MR. ANDREWS: I am not.

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

11 MR. ANDREWS: A short statement. I'm speaking
12 against the plant tonight primarily because I feel
13 like, as has already been stated by quite a few
14 other speakers this evening, that the construction
15 of the plant wasn't done properly. Not in terms of
16 how it was built, but whether or not the proper
17 permits and all of that were obtained first. And as
18 it's already been stated by many people -- I won't
19 belabor the point, but any of us, as citizens of
20 this country and of this county, if we have to build
21 something, we have to go through all of the same
22 regulatory hoops that everybody else has. And I
23 don't see any reason why a corporation, large or
24 small, wouldn't have to, as well. Particularly when
25 the project they're putting in affects the community

1 as much as it does. And I think, obviously, the
2 fact that this is the second time that I've
3 testified in front of this body speaks to that.

4 I've told representatives of Aquila on more
5 than one occasion my feeling about this. And I
6 think that they are well aware of how we feel about
7 it who live close to the plant.

8 In August -- I think it was August. However,
9 if you would ask me to pinpoint an exact date, I
10 would have to pull a Clinton and say, "I'm sorry, I
11 don't recall." But it was sometime in August, I
12 think, before this plant got started in 2004. We
13 got wind of it not because anybody from Aquila or
14 the city told us about it, but because we got wind
15 of it through the neighborhood and made some phone
16 calls ourselves. At that time, my boss and I and my
17 wife and his wife requested a tour of the plant, the
18 peaking plant facility in Greenwood, Missouri, and
19 Aquila accommodated us in that. And the operating
20 engineer, or whatever they -- the plant manager
21 there was very gracious and took us on a tour of
22 that plant. It was not operating at the time, so I
23 had no way to judge the amount of noise that it
24 would emit. As we were finishing up that, he asked
25 me -- on our way out, he said -- he said something

1 along the line of -- and I can't quote him exactly,
2 but he said -- after we had talked about the fact
3 there was a possibility of this plant going in at
4 South Harper, he said, "Would you oppose this
5 plant?"

6 And I said, "Well, I don't know at this point.
7 I don't know anything about these plants. I haven't
8 heard one run. I don't know much about it."

9 But I would oppose it under a couple of
10 conditions. One is, of course, if it would affect my
11 property value. You know, I didn't buy eighty acres
12 in the country to put it by an industrial complex.
13 That's not why I live in the country. And I don't
14 want it to affect my property value.

15 The second thing is, if there's noise or light
16 or stack pollution from the plant, I don't want it
17 next to me, you know, anymore than anybody else
18 does, and I would oppose it from that standpoint, as
19 well.

20 And he pointed to the stacks, which were thirty
21 feet tall, at Greenwood, as he told me, and he said,
22 "Well, these are, you know, thirty foot stacks. I
23 mean, you're not going to see a whole lot," implying
24 that the stacks at South Harper will be thirty feet
25 tall, as well. And we found out subsequent to that,

1 of course, that they were going to be seventy or
2 more feet tall. And I can see them out my kitchen
3 window.

4 We feel like, as neighbors, that we know what
5 good neighbors are like. I know what a bad neighbor
6 is like. I had a neighbor who told me that I needed
7 to build -- or to maintain the fence between me and
8 him in order to keep his cows on his side of the
9 fence. He told us that he wouldn't charge us for
10 the fertilizer that his cattle left behind in our
11 yard as they stomped through on the way to the corn
12 field next to my house. I know what a bad neighbor
13 is like. And I feel like that regardless of the
14 rhetoric that has been issued by Aquila, that good
15 neighbors don't come in and try to sneak in a
16 three-turbine peaking plant into your backyard
17 without notifying you of that, to begin with.

18 I don't feel like that the way that we've been
19 treated as neighbors has really been very
20 neighborly, and I resent that. I also resent the
21 fact that we, as residents of rural Cass county,
22 were basically -- we tried -- the city and Aquila
23 both tried to walk over us and the rights that we
24 have as citizens not only of this country, but of
25 this county, as well, in doing what they were doing.

1 Until we held their feet to the fire. And then the
2 good work started. And I appreciate the good works.
3 No question about that. I've never lived on a --
4 I've lived on a gravel road all my life until the
5 last year. And no doubt that I appreciate those,
6 but I don't feel like any of those good works would
7 have been done had we, as independent citizens, not
8 taken the time and efforts to hold Aquila's feet to
9 the fire over that issue.

10 And, again, our relationship with Aquila and
11 the people of Aquila have been very cordial. I have
12 no complaints about that. My complaints extend only
13 to the way in which this project has been
14 prosecuted. And that's what I have to say.

15 JUDGE PRIDGIN: Mr. Andrews, thank you. Let me
16 see if we have any questions for you.

17 Mr. Chairman?

18 CHAIRMAN DAVIS: No questions. Thank you, Mr.
19 Andrews.

20 JUDGE PRIDGIN: Commissioner Gaw?

21 COMMISSIONER GAW: No, sir. Thank you very
22 much.

23 JUDGE PRIDGIN: Follow-up from Counsel?

24 Mr. Andrews, thank you for your time and your
25 remarks, sir.

1 Theresa Andrews is the last witness I have
2 signed up.

3

4 THERESA ANDREWS, having been first duly affirmed, was
5 examined and testified as follows:

6

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

10 MS. ANDREWS: Theresa Andrews, A-n-d-r-e-w-s.

11 JUDGE PRIDGIN: And your address, please?

12 MS. ANDREWS: 24407 South Overfelt Road.

13 JUDGE PRIDGIN: And are you an Aquila customer?

14 MS. ANDREWS: No, I am not.

15 JUDGE PRIDGIN: Do you have any remarks for the
16 Commission?

17 MS. ANDREWS: I do. I live in America just
18 like you do. And while we live here, we want
19 everybody to follow the laws of the land. You want
20 everybody to follow the laws of the land. I want
21 everybody to follow the laws of the land. You have
22 to. I have to. That's all I'm asking. I want you
23 to follow the laws. And I want Aquila to follow the
24 laws. And all the residents here. And you all know
25 we wouldn't be here if it wasn't illegal. We

1 wouldn't have won court case after court case. The
2 county doesn't win court case after court case if
3 it's legal. It just doesn't happen.

4 They're living on my property line. We live on
5 eighty acres. It's a dream. Every neighbor in here
6 would trade us for our property. It's no longer a
7 dream.

8 Let's settle the noise issue; okay? I live
9 next to the plant. The people who don't hear noise,
10 it's not true. Why do I say that? Why would Tom,
11 the plant manager, say he hears a noise down the
12 valley? Why would Norma Dunn say, "I hear that
13 noise from my back patio, and called the plant to
14 see what that noise is." Do you think there's
15 noise? Why would they hire a multi-million dollar
16 company to come and help stifle that noise if there
17 wasn't any noise? You can answer that for yourself.

18 You all know about the needs. You can figure
19 that out for yourself. I don't have to go there.
20 You all have all that information. I just want to
21 be protected by the American law. I want to have
22 confidence -- I am a Cass county resident, and I
23 want to have confidence that Cass County is going to
24 help follow the laws of the land for me and my
25 children. We have given up so much for this. It's

1 not right. Why should me and my family have to give
2 up to try to make somebody adhere to the laws of the
3 land. We've give up family time, money. My child's
4 trying to get to the nationals for the spelling bee,
5 which he was there last year. We had to give that
6 up for today, to come here and speak. My husband
7 just buried his 93-year-old grandmother four and a
8 half hours from here. We had to get down here to be
9 here for this. Why? Because -- try to make people
10 follow the laws of the land. It's pretty sad.
11 That's all.

12 JUDGE PRIDGIN: Ms. Andrews, thank you. I want
13 to see if we have any questions from the
14 Commissioners.

15 Chairman Davis?

16 CHAIRMAN DAVIS: No questions. Ms. Andrews,
17 thank you for all your efforts to get here.

18 JUDGE PRIDGIN: Commissioner Gaw?

19 COMMISSIONER GAW: Ms. Andrews, thank you very
20 much. Can you tell me, just to clarify, that --
21 give me an idea about the noise issue again, if you
22 could. How close are you, first of all?

23 MS. ANDREWS: They're on my back property line.
24 So there's -- we, thank God, built on the front
25 forty acres. And so there's forty acres between us.

1 But, basically, our back woods is one of their
2 buffers.

3 COMMISSIONER GAW: Okay. And tell me about the
4 noise that you have observed.

5 MS. ANDREWS: It's really hard for me to --
6 it's kind of like a -- (inaudible.)

7 COMMISSIONER GAW: Is that -- from your house,
8 do you hear it about that level?

9 MS. ANDREWS: Yes.

10 COMMISSIONER GAW: Does that noise disturb you?

11 MS. ANDREWS: Of course it does. I wouldn't
12 buy eighty acres and live in the country. And I've
13 already had two appraisers say, "You'll never find
14 anything this close to the city again. Why are you
15 moving?"

16 COMMISSIONER GAW: That's all.

17 MS. ANDREWS: I have one more thing I'd like to
18 add. Property values. If my property values are
19 not affected, then why would my tax collector almost
20 lower my taxes a thousand dollars, and why, coming
21 tomorrow, when I call him, he's lower it again, if
22 my property value is not affected. Thank you.

23 COMMISSIONER CLAYTON: I wanted to thank you
24 and Mr. Andrews for appearing and also thank Hannah
25 for being here, as well.

1 MS. ANDREWS: Thank you.

2 JUDGE PRIDGIN: Commissioner Appling?

3 COMMISSIONER APPLING: No.

4 JUDGE PRIDGIN: Ms. Andrews, thank you very
5 much.

6 And I have no further witnesses.

7 MS. MOORE-SETTLE: Judge.

8 JUDGE PRIDGIN: Yes. Ms. Moore.

9 MS. MOORE-SETTLE: Excuse me, I wanted to
10 clarify something for the people that left in the
11 room and for the Commission in regard to the Camp
12 Branch application near the city of Harrisonville.
13 Again, my name is Debi Moore, and I'm County
14 Counselor for Cass County. There were several
15 statements made tonight by witnesses to the effect
16 that Cass County denied that application. That is
17 not in fact what happened. There was a special use
18 permit application presented to the planning board
19 of Cass County for the approval of the Camp Branch
20 site near Harrisonville, prior to South Harper being
21 constructed. The planning board did have a public
22 hearing and did recommend denial, but that
23 application never got to the County Commission or
24 the Board of Zoning Adjustment because Aquila tabled
25 that application for several months, and then

1 ultimately withdrew it. So there was never a
2 decision made by Cass County in reference to the
3 Camp Branch facility. I just wanted to make that
4 clear. There was no denial by Cass County.

5 JUDGE PRIDGIN: Ms. Moore, thank you for
6 clarifying that.

7 For the record, I have no further witnesses.
8 Before I proceed, do you have any concluding remarks
9 for the Commission? Is there anyone else who wishes
10 to testify? Any concluding remarks?

11 Chairman Davis.

12 CHAIRMAN DAVIS: Thank you all for your
13 participation. We'll take everything into account.

14 JUDGE PRIDGIN: Commissioner Gaw.

15 COMMISSIONER GAW: Thank you all for your
16 patience and for being here today. Some of you have
17 been here all day long and into this evening and we
18 appreciate your participation and your advice.
19 Thank you.

20 COMMISSIONER CLAYTON: No further questions.

21 JUDGE PRIDGIN: Commissioner Appling?

22 COMMISSIONER APPLING: No other comments.

23 JUDGE PRIDGIN: That will conclude the evening
24 local public hearing in Case Number EA-2006-0309.

25 We are off the record.

1 I N D E X

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3 WITNESS: DOUG LINK..... 24

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