

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

In the Matter of the Application by Aquila, Inc.    )  
for Authority to Assign, Transfer, Mortgage or    )  
Encumber Its Franchise, Works or System        )

**Case No. EF-2003-0465**

**CONCURRING OPINION OF COMMISSIONER STEVE GAW**

I cannot agree that *Union Pacific*<sup>1</sup>, which limited the Commission's ability to regulate a foreign railroad corporation, necessarily prevents the Commission from exercising its jurisdiction over Aquila under § 393.180. Questions of the Commission's jurisdiction over utilities should not be decided by looking through blinders at two statutes but by assessing the questions in light of the Commission's overall mission in overseeing such utilities.

I do, however, believe that the Joint Movants are not entitled to summary relief because there are sufficient questions of fact presented to warrant a hearing.

Respectfully submitted,



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Steve Gaw, Commissioner

Dated at Jefferson City, Missouri,  
on this 10<sup>th</sup> day of October, 2003.

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<sup>1</sup> See *Public Service Commission v. Union Pacific Railroad*, 271 Mo. 258, 197 S.W.2d 39, 40 (Mo. 1917).