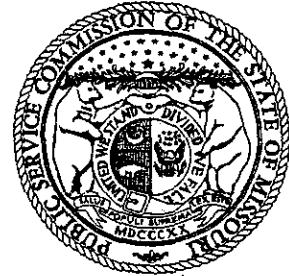
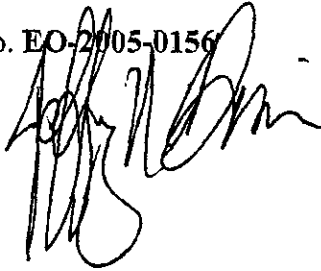


## Notice of *Ex Parte* Contact

TO: Data Center  
All Parties in Case No. EO-2005-0156

FROM: Chairman Jeff Davis

DATE: February 2, 2005



From January 30 through February 1, 2005, I received the attached documents via electronic mail from several individuals regarding Aquila. The Commission is currently considering the issues discussed in these documents in case number EO-2005-0156, a contested case. In contested cases, the Commission is bound by the same *ex parte* rule as a court of law.

Although communications from members of the public and members of the legislature are always welcome, those communications must be made known to all parties to a contested case so that those parties have the opportunity to respond. According to the Commission's rules (4 CSR 240-4.020(8)), when a communication (either oral or written) occurs outside the hearing process, any member of the Commission or Regulatory Law Judge who received the communication shall prepare a written report concerning the communication and submit it each member of the Commission and the parties to the case. The report shall identify the person(s) who participated in the *ex parte* communication, the circumstances which resulted in the communication, the substance of the communication, and the relationship of the communication to a particular matter at issue before the Commission.

Therefore, I submit this report pursuant to the rules cited above. The attachments separately identify the senders of the documents and the intended recipients. In addition, some senders attached copies of pleadings already on file in this matter. This will ensure that any party to this case will have notice of the attached information and a full and fair opportunity to respond to the comments contained therein.

cc: State Senator Chris Koster  
State Representative Rex Rector  
Commissioners  
Executive Director  
Secretary/Chief Regulatory Law Judge  
General Counsel

**Finnell, Kay**

---

**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:26  
**To:** Finnell, Kay  
**Subject:** ex parte contact

---

**From:** Mike Crabtree [mailto:mcrabtree@faganco.com]  
**Sent:** Monday, January 31, 2005 8:12 AM  
**To:** jeff.davis@psc.mo.gov; connie.murray@psc.mo.gov; steve.gaw@psc.mo.gov; robert.clayton@psc.mo.gov; linward.appling@psc.mo.gov  
**Subject:** response to Aquila South Harper Peaking Facility

Dear Commissioners,

I am writing this email in response to this filing. My name is Mike Crabtree and I live at 23816 S. Lucille Lane (less than 1 mile from the proposed Harper peaking facility) and I demand my voice in these hearings. I am offended that the above brief questions about how many people live in this area.

We are a rural area with hundreds of homes on small acreages surrounding the facility. The new power lines have been installed in the front and side yards of homes in the area. I am furious as to the loss in value these homes have suffered.

I invite you to come tour the area.

Your response would be appreciated.

Sincerely,

Mike Crabtree,

2/2/2005

**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:19  
**To:** Finnell, Kay  
**Subject:** Ex parte contact

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**From:** Norma [mailto:ncrabtree@planetkc.com]  
**Sent:** Monday, January 31, 2005 10:47 PM  
**To:** jeff.davis@psc.mo.gov  
**Subject:** response to aquilla

My name is Norma Crabtree. My Husband and I live at 25118 S. St. Rt. C. We feel that we would be adversely affected by the Aquilla plant being built at this location. We think we have a right to be considered in your decision, Sincerely Norma Crabtree

2/2/2005

**Finnell, Kay**

**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:21  
**To:** Finnell, Kay  
**Subject:** Ex parte contact...

**From:** TOMCRAIG7@cs.com [mailto:TOMCRAIG7@cs.com]  
**Sent:** Monday, January 31, 2005 7:53 PM  
**To:** Jeff.davis@psc.mo.gov  
**Cc:** nmanning@casstel.net  
**Subject:** Aquila Thriller

Why would a governing organization give cart blank to any utility co. for whatever reason they may deem, to build wherever & whatever they so desire? This done without consent or prior approval. To do such a thing without regard for the community that it states it has so much concern for! Aquila also felt they had the right to proceed with said project without regard for securing proper county permits required before any construction can proceed. A company that has at the least a shady past when it comes to prior investments & money matters. A co. that is under investigation from the state of Kansas & Missouri for possible misshandling of funds!

We the people of Peculiar would like to see this plant halted. We state that Aquila is not a reputable co. to deal with & should not under these circumstances be allowed to continue. We want to see the PSC hold Aquila accountable. Any co. that would sink 14million into a project they have no permission or proper authority to build, deserves whatever hardships they get including the loss of there investment! Then they fall on the mercy of the PSC to help bail them out because they claim it will hurt

the community. The very community they are hurting and ignoring! Power is important and we all understand the need for it, but not at the expense of the home owners in our area who do not want a plant in thier back yard! If Aquila must consider more costly options, let them move 1 or 2 miles down the road where there are less people, property, & lives to be affected AND where by there own statements the Panhandle Eastern pipe line is capable of handling their fuel needs. They can also use the harper gas lines as back up if needed. Aquila is now afraid of losing in court & to prevent that, they are appealing to the PSC to feel sorry for them & bail them out! Instead, I hope the PSC will ask the real important questions and seek to find the truth & help the real people who will lose in this situation. We need to ask why Aquila refuses to buy the Aries plant in Pleasant Hill which they helped build? It is my understanding that this plant can be used to cover any present power requirments if used. We want to be heard in this matter and ask that you delay this project until the courts & the people have been represented. Thanky ou for your time.

Tom Craig, resident, Peculiar, MO.

2/2/2005

**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:21  
**To:** Finnell, Kay  
**Subject:** Ex parte contact

---

**From:** TOMCRAIG7@cs.com [mailto:TOMCRAIG7@cs.com]  
**Sent:** Monday, January 31, 2005 5:54 PM  
**To:** Jeff.davis@psc.mo.gov  
**Subject:** Aquila thriller!

With all the bad \$\$ deals Aquila has made & with the state of KS & MO investigating them, we feel they are not a co. to do business with. What about the Aries plant? Why do they want to stick the county with it & build something else? There are just too many questions that need answers before we allow them to build in Peculiar or anywhere else for that matter. Lets do this the democratic way & let the people of this area decide?

2/2/2005

**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:25 PM  
**To:** Finnell, Kay  
**Subject:** Ex parte contact...

-----Original Message-----

From: dillon@casstel.net [mailto:dillon@casstel.net]  
Sent: Monday, January 31, 2005 8:55 AM  
To: Jeff.davis@psc.mo.gov; Connie.murray@psc.mo.gov; Steve.gaw.@psc.mo.gov;  
Robert.clayton@psc.mo.gov; Linward.appling@psc.mo.gov  
Subject: EO-2005-0156

Dear Commissioners,  
Re: EO-2005-0156

I am writing this email in response to this filing. My name is Frank Dillon and I live at 24211 S. Harper Rd, Peculiar MO. The corner of my property is directly across Harper Rd. from the proposed Harper peaking facility. There is only one residence closer to the site. I demand a representative voice in these hearings. I am disgusted about Aquila's brief questions concerning how many people live in this area. Aquila knows how many people live in the area. The number of people impacted is what has been stated by stopaquila.org. Let's at least be honest and have all pertinent facts out to the public. I invite you to come tour the area. Your response would be appreciated.  
Sincerely,

Frank Dillon

**Finnell, Kay**

**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:24  
**To:** Finnell, Kay  
**Subject:** Ex parte contact

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**From:** Bennetta Elliott [mailto:belliott@casstel.net]  
**Sent:** Monday, January 31, 2005 1:18 PM  
**To:** Jeff.davis@psc.mo.gov  
**Subject:** Regarding Proposed Aquilia Power Plant South of Peculiar

Dear Commissioners,

My name is Bennetta Elliott. I am writing this email in response to the filing Aquilia has made for the proposed power plant at Harper Road south of Peculiar.

I have lived at 10605 East 243rd Terr, Peculiar, Missouri for over 26 years, which is approximately 1/2 to 3/4 of a mile from the proposed Aquilia power plant. This plant will impact our family. What Aquilia has done so far has been in an under-handed manner. The City of Peculiar had no right to be involved with this in the first place. The site is over three mile south of the city limits and they will not be receiving any power from the facility, only a payoff from Aquilia.

The gas pump station that has been at this site for years is a far cry from the facility that Aquilia proposes to build. The mention in the filing that the people that willingly sold the property will remain on the property helping to maintain the rural appearance of the land is a joke. What is rural about stacks looming out and towering above the surrounding small acreage home sites. This is an area that is within commuting distance from Kansas City. There are very few farmers here. Most work in the city. Much of the land is being bought by developers and homes with 3 acre tract and more are being sold. Many homes already built in the area that will be impacted are valued at \$300,00.00 and up. Why they didn't chose to built this proposed facility in a rural setting is beyond me. This is not a farming community anymore. I also personally know the people that sold the land and I doubt that they were given the truth and the full story of how this facility would impact those living around them or they probably would not have willingly sold the land. As far as I can see, Aquilia has not been forthright in their dealings regarding this issue, dealing in secrecy, stating lies & half-truths in so many areas, I doubt that they were fully truthful in this instant either.

In the filing Aquilia states that they have a large investment involved, yet they have continued with construction, at their own risk I might add, even after the Circuit Court of Cass County issued a permanent injunction against Aquila. I'm sure that they will be pointing out the fact that they have a huge amount of money already invested and use this as another means of pressure to turn the appeal to their

2/2/2005

favor.

**Please give careful consideration and don't just take what this company is saying at face value. Your actions in this will impact many lives for the better or for the worse.**

**Sincerely,  
Bennetta Elliott**

2/2/2005



**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:20  
**To:** Finnell, Kay  
**Subject:** Ex parte contact

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**From:** justin joe [mailto:t\_d\_e\_2000@yahoo.com]  
**Sent:** Monday, January 31, 2005 9:22 PM  
**To:** Jeff.davis@psc.mo.gov; Connie.murray@psc.mo; Steve.gaw.@psc.mo.gov; Robert.clayton@psc.mo.gov; Linward.appling@psc.mo.gov  
**Cc:** nmanning@casstel.net  
**Subject:** Case No. EO-2005-0156 - Aquila Filing

Dear Commissioners,

I, too am writing this email in response to most recent filing wherein the company questions the number that live in the immediate area surrounding their proposed power plant site. An area that is not only zoned "residential" but quite frankly defines the term residential.

This is simply one more preposterous act on the part of a corporation without ethics, dignity or even common respect. I assure all of you that there are more than 350 households within this unincorporated, residential area. also invite you... nay, encourage you to visit the area to ascertain the truth for yourselves. Only then can you ensure that any decisions you make are truly informed, correct and just plain right.

If you wish, I would be most pleased to help coordinate your visit as I live well within site of the proposed smokestacks at 23722 S. Tanaine Lane. Please do not be fooled by Auila. As I referenced above, this is only the latest document packed with untruths from Aquila... a company that has not only lied before court officials, but is thumbing its nose at the county authorities by continuing construction of its plant in violation of county ordinance.

I would venture to guess that if any one of you or myself attempted to construct a simple out building without obtaining the required permits, the county officials would descend quickly upon me with the full blessing of the state legal system. Yet Aquila proceeds!!!

I implore you to please seek the truth of the matter and rule against Aquila in this matter.

Sincerely,

Tim Eshleman

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Do you Yahoo!?  
Yahoo! Search presents - Jib Jab's 'Second Term'

2/2/2005

**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:18  
**To:** Finnell, Kay  
**Subject:** Ex parte contact

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**From:** HENDRICKS, KIM A [mailto:KIMHEN@SAFECO.com]  
**Sent:** Tuesday, February 01, 2005 7:55 AM  
**To:** Jeff.davis@psc.mo.gov; Connie.murray@psc.mo.gov; Steve.gaw.@psc.mo.gov; Robert.clayton@psc.mo.gov; Linward.appling@psc.mo.gov  
**Subject:** RESPONSE TO AQUILA

Dear Commissioners,

I am writing you regarding the filings by Aquila. My husband and I recently moved to Peculiar and live near where Aquila is building. Aquila claims this to be a heavily populated area which is simply not true, in fact my husband and I chose our new home because we wanted to be away from densely populated areas.

We are not serviced by Aquila and it is our understanding that very few, if any, people in our area are serviced by Aquila. However, Aquila seems to have muscled their way into our neighborhoods.

The members of our community certainly invite you to tour our area for yourself; put actual vision to what they are doing. Then decide if what is happening truly serves the community it is happening to. Decide if you would stand for it if it was right outside your front door.

I appreciate your time and consideration.

Sincerely,

Kim Hendricks  
Peculiar, MO

2/2/2005

**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:17  
**To:** Finnell, Kay  
**Subject:** ex parte contact

---

**From:** Dayna Janssens [mailto:adjans@netzero.net]  
**Sent:** Tuesday, February 01, 2005 8:35 AM  
**To:** Jeff.davis@psc.mo.gov  
**Subject:** PSC Filing by Aquila

Dear Mr. Davis,

My family and I live at 8904 E. 241st Street in Cass County, approximately 3/4 of a mile from the proposed Aquila peaking station. I am sending this message so that you know that there are families living within close proximity to this site.

Since Aquila's project could have an effect on our daily quality of life in terms of noise and pollution we would like to have a say in the matter.

Thank you,

Dayna Janssens  
8904 E. 241st Street  
Peculiar, MO 64078

816-779-7316

2/2/2005

**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:21  
**To:** Finnell, Kay  
**Subject:** Ex parte contact

---

**From:** Richard Manfredi [mailto:cheynneautumn@msn.com]  
**Sent:** Monday, January 31, 2005 8:09 PM  
**To:** Jeff.davis@psc.mo.gov  
**Subject:** Aquila

*In response to Aquila's question whether we are as numerous as has been claimed. WE ARE!*

*Do we live close - yes, one half mile from this plant and it is NOT a densely populated area as Aquila would like to have you think. Why not come see for yourself and see if YOU would like to have this in your backyard!!!*

*Suzanne Manfredi  
23719 S. Greenridge Road  
Peculiar, MO*

2/2/2005

**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:27  
**To:** Finnell, Kay  
**Subject:** ex parte contact  
**Attachments:** psc 28.pdf

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**From:** Nancy Manning [mailto:nmanning@casstel.net]  
**Sent:** Sunday, January 30, 2005 10:54 PM  
**To:** jeff.davis@psc.mo.gov; connie.murray@psc.mo.gov; steve.gaw@psc.mo.gov; robert.clayton@psc.mo.gov; linward.appling@psc.mo.gov  
**Subject:** response to Aquila

Dear Commissioners,

I am writing this email in response to this filing. My name is Nancy Manning and I live at 24021 S. Lucille Lane (less than 1/4 mile from the proposed Harper peaking facility) and I demand my voice in these hearings. I am offended that the above brief questions how many people live in this area.

I will gladly ask everyone in the stopaquila group to send you an email stating where they live and that they are impacted by Aquila. Let's at least be honest and have all pertinent facts out to the public.

I invite you to come tour the area.

Your response would be appreciated.

Sincerely,

Nancy Manning

2/2/2005

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

In the Matter of the Application of Aquila, )  
Inc., for Authority to Acquire, Sell and )  
Lease Back Three Natural Gas-Fired )  
Combustion Turbine Power Generation )  
Units and Related Improvements to be )  
Installed and Operated in the City of )  
Peculiar, Missouri. )

**Case No. EO-2005-0156**

**REPLY TO THE RESPONSE OF STOPAQUILA.ORG TO AQUILA'S SUGGESTIONS  
IN OPPOSITION TO APPLICATION OF STOPAQUILA.ORG TO INTERVENE**

COMES NOW Aquila, Inc., (hereinafter "Aquila"), by and through counsel, and offers the following reply to STOPAQUILA.ORG's Response to Aquila's Suggestions Opposing Intervention:

1. On January 21, 2005, STOPAQUILA.ORG filed its Response to Aquila's Suggestions in Opposition to Application of STOPAQUILA.ORG to intervention in the captioned case (hereinafter, the "Response"). The Response of STOPAQUILA.ORG does not contain any additional allegations which state an interest sufficient under the standards of Commission rule 4 CSR 240-2.075 to justify granting its Application to Intervene in this case.

2. The Response does not address the proposed intervenor's failure to comply with that portion of the Commission's intervention rule which would require an association to list all of its members a condition to participation in a Commission proceeding. 4 CSR 240-2.075(3). This is not a matter of mere academic interest, particularly in the case of an unincorporated association like STOPAQUILA.ORG. To allow such an association to intervene in this case without listing all of its members

would prejudice Aquila's ability to pursue effective discovery through data requests, interrogatories or depositions. To whom should data requests be directed? Who would be responsible to compile complete answers? Who would verify their accuracy? What sanction would be available if one of the claimed 350-member association failed to comply with discovery? The bottom line is there is no responsible party that can ensure that discovery requests are fully, correctly and truthfully answered.

3. In that same vein, how many of the claimed 350 individuals comprising STOPAQUILA.ORG actually live in close proximity to the location of the new power station? Aquila questions whether the members of this group are as numerous as has been claimed and, more importantly, whether they all actually reside near the construction site because this is not a densely populated area of Cass County. The requirement to list the names and addresses of members would certainly have shed light on this pertinent fact.

4. The reliance in the Response on the Commission's decision to permit the intervention of certain landowners in Commission Case No. EO-2002-351 is not on point with the circumstances presented in this case. In the Union Electric case, the issue presented was the siting of an electric transmission line through portions of Maries, Osage and Pulaski Counties. That case involved routing considerations and the acquisition of additional right-of-way by condemnation or otherwise. The landowners in that case would retain fee ownership interests in the property over which the transmission line was to be constructed. In this case by way of contrast, Aquila already owns the real estate upon which the South Harper peaking facility is being constructed outright. The same is true of the land for the associated Peculiar

substation. Aquila does not propose to acquire additional right-of-way for new transmission lines in conjunction with the installation of the South Harper peaking facility. To the contrary, the new electric power plant will be tied into an existing electric transmission line that is being upgraded. Unlike the landowners in the Union Electric Company case, the purported members of STOPAQUILA.ORG have no proprietary interest in the real estate upon which the South Harper power station and electric transmission substation are to be constructed. The cases are factually distinguishable. As such, the Commission's intervention ruling in Case No. EO-2002-351 provides no justification for permitting STOPAQUILA.ORG to intervene in this case.

5. The Response contains the statement that "the general public does not have to live within close proximity to a power plant, with the noise and pollutants that emanate therefrom." Response, p. 3. The statement is factually incorrect. There are a number of power peaking facilities like South Harper located in and around the Kansas City in more densely populated areas surrounded by subdivisions of single-family residences. This case presents no unprecedented circumstance in this regard. As to the suggestion that the facility will be a source of noise and pollution, it should be noted that the combustion turbines will be fitted with exhaust silencing to reduce noise. Also, Aquila filed for and received a New Source Review Permit No. 122004-017 from the Air Pollution Control Program of the Missouri Department of Natural Resources evidencing compliance with all applicable clean air emissions standards. In any event, none of these issues are implicated in this case where the only matters to be considered are an affiliate transaction and funding with low cost revenue bonds.



WHEREFORE, Aquila restates its objections to the intervention of STOPAQUILA.ORG in this proceeding for the reasons aforesaid and as previously set forth in its Suggestions in Opposition to Application of STOPAQUILA.ORG to Intervene.

Respectfully submitted,

/s/ Paul A. Boudreau  
Paul A. Boudreau MO#33155  
BRYDON, SWEARENGEN & ENGLAND, P.C.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
(573) 635-7166

Attorneys for Aquila, Inc.

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail or by hand delivery, on this 26<sup>th</sup> day of January 2005 to the following:

Mr. Nathan Williams  
Senior Counsel  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102-0360

Mr. John B. Coffman  
Public Counsel  
Office of the Public Counsel  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102

Mr. Gerard D. Eftink  
Van Hooser, Olsen & Eftink, P.C.  
704 W. Foxwood Drive  
P.O. Box 1280  
Raymore, MO 64083-1280

/s/ Paul A. Boudreau

**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:26  
**To:** Finnell, Kay  
**Subject:** ex parte contact...

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**From:** Keith Mayer [mailto:kmayer@casstel.net]  
**Sent:** Sunday, January 30, 2005 11:37 PM  
**To:** Jeff.davis@psc.mo.gov  
**Subject:** Aquila South Harper Facility

Mr. Davis,

My name is Cindi Mayer. I live at 10501 E. 235th st. Peculiar, Mo. 64078. This letter is in response to Aquila's request for a Specific Certificate of Need for the South Harper facility. If there is such a need why is the electricity generated going to St. Joseph and Lee's Summit. They also admitted in court that they already had customers outside of Cass County lined up to buy the generate power. This sure seems to be a very self serving project. Aquila also knew before they started building that there was strong opposition from the neighbors surrounding the site. There must be more appropriate sites. There are too many people living here. We were here first. Aquila's attitude from the beginning was sneaky and abrasive. Cass County rightly filed and won a law suit due to Aquila's lack of respect to local zoning regulations. Another thing that concerns me is the Aries plant in Pleasant Hill. Aquila built that with a partner then backed out of it. I understand that plant is bigger and more efficient as well as more environmentally friendly. Perhaps Aquila should have invested the money spent here to renegotiate with it's past partners. Aquila is complaining about the money it will lose on this plant if they are forced to abandon it, yet they knew it was an unstable situation when they chose to precede. Perhaps if Aquila had been up front and worked with the people here with respect we may have been able to work something out.

Please come out here and inspect this area before you make a decision. This is a very important decision and you should be completely educated on this situation.

Sincerely,

Cindi L. Mayer

2/2/2005

**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:20  
**To:** Finnell, Kay  
**Subject:** Ex parte contact

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**From:** Bigosfam@aol.com [mailto:Bigosfam@aol.com]  
**Sent:** Monday, January 31, 2005 9:36 PM  
**To:** Jeff.davis@psc.mo.gov; Connie.murray@psc.mo.gov; Steve.gaw@psc.mo.gov; Robert.clayton@psc.mo.gov; Linward.appling@psc.mo.gov  
**Subject:** Response to Aquila - Case EO-2005-0156

Dear Commissioners:

I am writing this email in response to the Case EO-2005-0156 filing by Aquila. My name is Lisa McCord. I live at 9908 E 241st Street (less than 1/8 mile from the proposed South Harper peaking facility). I would like to have a voice in these proceeding, as would my husband Oscar. We are appalled at the questions about the number of people impacted by Aquila's proposed plan and the membership of the StopAquila group. All anyone needs to do is drive through the area now to see how many homes full of people, including children live in this area, not to mention the approximately 10 building sites plus partially built homes in the Harris Place subdivision (directly of the proposed site) that have not sold. There are two partially built houses directly to the west of my home. My house is easy to spot since we now have a bright red building behind our beautiful all brick house that my 70-year-old father spent 6 months bricking while Aquila and Peculiar were making plans to move into the neighborhood without telling anyone. So add three close residents to the list of members of the StopAquila group and concerned citizens against the proposed power plant in our residential neighborhood.

Thank you for your time and consideration.

Sincerely,  
Lisa McCord

2/2/2005

## Finnell, Kay

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:17 PM  
**To:** Finnell, Kay  
**Subject:** Ex parte contact...

-----Original Message-----

From: Rick Prevallet [mailto:rickp@tonewheelgeneral.com]  
Sent: Tuesday, February 01, 2005 8:58 AM  
To: Jeff.davis@psc.mo.gov; Connie.murray@psc.mo.gov; Steve.gaw@psc.mo.gov;  
Robert.clayton@psc.mo.gov; Linward.appling@psc.mo.gov; pscinfo@psc.mo.gov; Nancy Manning  
Subject: Response to Aquila's Reply regarding the proposed South Harper Power Plant

Dear Commissioners,

I have just finished reading Aquila's "Reply to the Response of STOPAQUILA.org to Aquila's Suggestions in Opposition to Application of STOPAQUILA.org to Intervene"..

I have not been involved in a resistance movement before. The sneaky, silent and stealthy attempt by Aquila and the City of Peculiar to drop a power plant in our neighborhood without notice or warning has changed that. This is a rural area, but it is not desolate. A large number of us are recent transplants who fled Kansas City and its suburbs. We deliberately chose a rural location to build our "dream" homes, many of which cost \$250,000 and more to construct. We also are well educated. It is insulting to be told that we have no voice in the matter of a power plant being built in the neighborhood. Perhaps it does meet air quality and noise level standards; what about our standards? We were here first in this fine country environment: big sky, clean air, and silence except for the sounds of nature. What right does Aquila have to take this from us without our permission? They haven't asked for opinions or offered an apology; instead they insult and belittle us.

If you doubt that there are 350 people in this area, come on down and look, or take a look at the two aerial photograph links below. Imagine yourselves in a new home, just moved in, and discovering a power plant is going to be built in view of your living room window. Imagine what you would feel, and what you would do to stop it.

Thank you for the opportunity to express my opinion.

<http://www.stopaquila.org/air2.jpg>

<http://www.stopaquila.org/air5.jpg>

--

Rick Prevallet  
7211 East 229th Street  
Peculiar MO 64030

**Finnell, Kay**

---

**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:19  
**To:** Finnell, Kay  
**Subject:** ex parte contact

---

**From:** VICKSTERRN@aol.com [mailto:VICKSTERRN@aol.com]  
**Sent:** Monday, January 31, 2005 10:23 PM  
**To:** Jeff.davis@psc.mo.gov; Connie.murray@psc.mo.gov; Steve.gaw@psc.mo.gov; Robert.clayton@psc.mo.gov; Linward.appling@psc.mo.gov  
**Cc:** cheynneautumn@msn.com; kwhittak@cisco.com; nmanning@casstel.net; cmartin@casstel.net; lori.brenner@awin.com; kmayer@casstel.net; Bigosfam@aol.com; noonan@casstel.net; Julie.L.Noonan@mail.sprint.com; toocute4@casstel.net; dolarte@planetkc.com; rickp@tonewheelgeneral.com; Rhonda.I.prevallet@mail.sprint.com; spotidog@casstel.net; shauna.rickert@usmc.mil; john.a.rickert@dfas.mil; scottmary1987@netzero.net; Aschmitt519@aol.com; jmscriv@earthlink.net; short3@casstel.net; fsangler@casstel.net; hstanley@casstel.net; Justme@blitz-it.net; Tomlinpec@aol.com; SherylTroxell@goldbanc.com; Mike.Tunncliffe@noaa.gov; vincenk@casstel.net; kbwages@excite.com; 1smwages@excite.com; rpmom@hotmail.com; denise.white@zurichna.com; Msw36418@aol.com; jtwinfeld@att.net; williamhyates@reeceandnichols.com; TOMCRAIG7@cs.com; mjcline400@earthlink.net; Natalie.Stephenson@mail.sprint.com; chuck05jackson@yahoo.com; VICKSTERRN@aol.com; kimhen@safeco.com; yatsook@casstel.net; bellioth@casstel.net; jdivito@casstel.net; mxmancemom2@hotmail.com; mickelly25@yahoo.com  
**Subject:** Re:PSC Response

Contrary to what Aqilla claims, this is not a heavily populated area. It is a rural area with some large parcels of land, some with limited growth potential. Most of us are not even served by Aqilla and do not deserve to have them barge in and ruin the area. Personally, I do not have Aqilla for electrical service and do not live in the Raymore-Peculiar school district which would benefit from the plant. And if the fuel for the plant is coming from natural gas lines near the project site as stated, why does Panhandle Eastern want to dig under my pond to run oil lines? The public convenience will not be served by this plant.

Vicki Roe  
 Peculiar, MO

**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:23  
**To:** Finnell, Kay  
**Subject:** Ex parte letter

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**From:** Harold Stanley [mailto:hstanley@casstel.net]  
**Sent:** Monday, January 31, 2005 3:33 PM  
**To:** Jeff.davis@psc.mo.gov  
**Subject:** Aquila South Harper

Mr. Davis,

I have just finished reading Aquila's application to the PSC for a specific certificate of authority to construct the South Harper peaking facility.

As in my first correspondence with the PSC last October, I continue appalled at the disregard of Aquila for the welfare of the neighbors of the proposed project, and Aquila's persistent attempts to bypass County planning and zoning authorities.

Aquila claims to be constructing the facility in a rural area, yet our census indicates that over 200 homes already exist within 2 miles of the facility. I personally live within 3/4 mile of the facility, and many of my neighbors live much closer than that.

Aquila claims that the facility is consistent with the existing development, citing a small gas compressor station rated a few thousand horsepower. These combustion turbines will have a combined output of nearly 500,000 horsepower. Site plans provided to the City of Peculiar clearly indicate short-range plans to double the capacity of this site.

Aquila claims the plant will be a "good neighbor" to the residents. Yet the sound study prepared by Burns & McDonnell for the site shows noise levels of 67 dBA at the road and 62 dBA at the nearest residence. Ambient sound levels (also documented in the study) range in the mid-40's. Their public presentations cite the proposed noise levels as consistent with highway department standards. We neighbors bought property on acreage lots in a rural area because we did not want to live right next to an interstate highway.

The Aquila-City of Peculiar relationship and dealings are such a festering mess that I will refrain from extensive comment. The Mayor and City Administrator, without the participation of the citizens of the City of Peculiar, concocted this scheme to enrich one farmer (reportedly \$1,000,000 for 74 acres) located almost 3 miles outside the city limits, and provide a few pesos of infrastructure money for some public departments, while saving Aquila something like \$50,000,000, depending on exactly how you perform the financing analysis.

2/2/2005

In summary, let me restate a part of my October 15 e-mail to Mr. Wood of your office. I am sure that your agency does not care for the spectacle of utilities running roughshod over county planning authorities and affected neighbors. Any action of a regulated utility also casts influence on the public's perception of your agency. Colloquially, "if you stir a big enough bucket of garbage, some of it slops on everyone."

Your decision on this certification has far-reaching implications. If your agency issues the requested certification, you effectively bypass local governments' authority to control the nature of developments in their territory. This appears to me to be a dangerous precedent for any state agency.

Thanks for your time,  
Harold R. Stanley, P.E.  
Professional Engineer in Private Practice

## **Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:16 PM  
**To:** Finnell, Kay  
**Subject:** Ex parte contact...

-----Original Message-----

From: vincenkc@casstel.net [mailto:vincenkc@casstel.net]  
Sent: Tuesday, February 01, 2005 11:12 AM  
To: Jeff.davis@psc.mo.gov; Connie.murray@psc.mo.gov; Robert.clayton@psc.mo.gov;  
Linward.appling@psc.mo.gov  
Subject: Peculiar Aquila Power Plant

Hello,

My name is Debbie Vincent and my husband and 2 small children live directly North of where the plant is being built less than a 1/4 mile away from it! Our home would be one of the worst effected by this plant since we are so close, and it sits on the easement where they have upgraded the lines because of the power plant!

We are part of the stopaquila.org group and will continue to fight this as it will negatively effect our property value and the health of our children. Aquila has been lawless and unethical in this whole process doing what they want trying to push this through, as well as the city of Peculiar. Having NO regard for the law or the families this directly effects.

Please let the court decide whether this is legal for them to build or not. Feel free to stop by or contact us.

Thank you,  
Debbie and Steve Vincent  
9804 E. 241st Street  
Peculiar, MO 64078  
816-779-1165



**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:19  
**To:** Finnell, Kay  
**Subject:** Ex parte contact

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**From:** Karen Wages [mailto:kbwages@yahoo.com]  
**Sent:** Tuesday, February 01, 2005 7:34 AM  
**To:** Jeff.davis@psc.mo.gov  
**Subject:** Aquila on Harper

Please visit the area and see how many families this will affect. We did not move into an area with an existing power plant but rather wanted the seclusion we found. We have been deceived by a local government in which we have no voting voice. I spoke casually with members of the Belton commissioners and they explained they had bid for the plant and had an area near their existing switching station. This adds to the aggravation knowing that they were refused while we were fighting to prevent the construction of the power plant.

Thank you for listening to my voice.

Sean M. Wages and Family.

Karen Lynn Wages

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Do You Yahoo!?  
Tired of spam? Yahoo! Mail has the best spam protection around  
<http://mail.yahoo.com>

2/2/2005

**Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Tuesday, February 01, 2005 1:26  
**To:** Finnell, Kay  
**Subject:** ex parte contact  
**Attachments:** psc 28.pdf

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**From:** Kimberly Whittaker (kwhittak) [mailto:kwhittak@cisco.com]  
**Sent:** Monday, January 31, 2005 7:28 AM  
**To:** Jeff.davis@psc.mo.gov  
**Subject:**

I live close to the proposed construction site and I am OPPOSED to the underhanded way in which Aquila is going about business! There are numerous homes in this area, please survey for yourself.

My address:

7303 East 229<sup>th</sup> Street  
Peculiar, MO 64078

Kimberly Whittaker  
Architectural Consulting Engineer  
CCIE #13606  
Cisco Systems  
10895 Grandview Drive  
Suite 100, Bldg 24  
Overland Park, KS 66210 USA  
vox.....913 344.6133  
fax.....913 344.6199  
mobile.....816 769.5467  
pager.....888 650.4612  
e-mail.....kwhittak@cisco.com

2/2/2005

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

In the Matter of the Application of Aquila, )  
Inc., for Authority to Acquire, Sell and )  
Lease Back Three Natural Gas-Fired )  
Combustion Turbine Power Generation )  
Units and Related Improvements to be )  
Installed and Operated in the City of )  
Peculiar, Missouri. )

**Case No. EO-2005-0156**

**REPLY TO THE RESPONSE OF STOPAQUILA.ORG TO AQUILA'S SUGGESTIONS  
IN OPPOSITION TO APPLICATION OF STOPAQUILA.ORG TO INTERVENE**

COMES NOW Aquila, Inc., (hereinafter "Aquila"), by and through counsel, and offers the following reply to STOPAQUILA.ORG's Response to Aquila's Suggestions Opposing Intervention:

1. On January 21, 2005, STOPAQUILA.ORG filed its Response to Aquila's Suggestions in Opposition to Application of STOPAQUILA.ORG to intervention in the captioned case (hereinafter, the "Response"). The Response of STOPAQUILA.ORG does not contain any additional allegations which state an interest sufficient under the standards of Commission rule 4 CSR 240-2.075 to justify granting its Application to Intervene in this case.

2. The Response does not address the proposed intervenor's failure to comply with that portion of the Commission's intervention rule which would require an association to list all of its members a condition to participation in a Commission proceeding. 4 CSR 240-2.075(3). This is not a matter of mere academic interest, particularly in the case of an unincorporated association like STOPAQUILA.ORG. To allow such an association to intervene in this case without listing all of its members

would prejudice Aquila's ability to pursue effective discovery through data requests, interrogatories or depositions. To whom should data requests be directed? Who would be responsible to compile complete answers? Who would verify their accuracy? What sanction would be available if one of the claimed 350-member association failed to comply with discovery? The bottom line is there is no responsible party that can ensure that discovery requests are fully, correctly and truthfully answered.

3. In that same vein, how many of the claimed 350 individuals comprising STOPAQUILA.ORG actually live in close proximity to the location of the new power station? Aquila questions whether the members of this group are as numerous as has been claimed and, more importantly, whether they all actually reside near the construction site because this is not a densely populated area of Cass County. The requirement to list the names and addresses of members would certainly have shed light on this pertinent fact.

4. The reliance in the Response on the Commission's decision to permit the intervention of certain landowners in Commission Case No. EO-2002-351 is not on point with the circumstances presented in this case. In the Union Electric case, the issue presented was the siting of an electric transmission line through portions of Maries, Osage and Pulaski Counties. That case involved routing considerations and the acquisition of additional right-of-way by condemnation or otherwise. The landowners in that case would retain fee ownership interests in the property over which the transmission line was to be constructed. In this case by way of contrast, Aquila already owns the real estate upon which the South Harper peaking facility is being constructed outright. The same is true of the land for the associated Peculiar

substation. Aquila does not propose to acquire additional right-of-way for new transmission lines in conjunction with the installation of the South Harper peaking facility. To the contrary, the new electric power plant will be tied into an existing electric transmission line that is being upgraded. Unlike the landowners in the Union Electric Company case, the purported members of STOPAQUILA.ORG have no proprietary interest in the real estate upon which the South Harper power station and electric transmission substation are to be constructed. The cases are factually distinguishable. As such, the Commission's intervention ruling in Case No. EO-2002-351 provides no justification for permitting STOPAQUILA.ORG to intervene in this case.

5. The Response contains the statement that "the general public does not have to live within close proximity to a power plant, with the noise and pollutants that emanate therefrom." Response, p. 3. The statement is factually incorrect. There are a number of power peaking facilities like South Harper located in and around the Kansas City in more densely populated areas surrounded by subdivisions of single-family residences. This case presents no unprecedented circumstance in this regard. As to the suggestion that the facility will be a source of noise and pollution, it should be noted that the combustion turbines will be fitted with exhaust silencing to reduce noise. Also, Aquila filed for and received a New Source Review Permit No. 122004-017 from the Air Pollution Control Program of the Missouri Department of Natural Resources evidencing compliance with all applicable clean air emissions standards. In any event, none of these issues are implicated in this case where the only matters to be considered are an affiliate transaction and funding with low cost revenue bonds.

WHEREFORE, Aquila restates its objections to the intervention of STOPAQUILA.ORG in this proceeding for the reasons aforesaid and as previously set forth in its Suggestions in Opposition to Application of STOPAQUILA.ORG to Intervene.

Respectfully submitted,

/s/ Paul A. Boudreau  
Paul A. Boudreau MO#33155  
BRYDON, SWEARENGEN & ENGLAND, P.C.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102  
(573) 635-7166

Attorneys for Aquila, Inc.

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail or by hand delivery, on this 26<sup>th</sup> day of January 2005 to the following:

Mr. Nathan Williams  
Senior Counsel  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102-0360

Mr. John B. Coffman  
Public Counsel  
Office of the Public Counsel  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102

Mr. Gerard D. Eftink  
Van Hooser, Olsen & Eftink, P.C.  
704 W. Foxwood Drive  
P.O. Box 1280  
Raymore, MO 64083-1280

/s/ Paul A. Boudreau

## **Finnell, Kay**

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**From:** Davis, Jeff  
**Sent:** Wednesday, February 02, 2005 11:41  
**To:** Finnell, Kay  
**Subject:** FW: Stop Aquila

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**From:** Msw36418@aol.com [mailto:Msw36418@aol.com]  
**Sent:** Tuesday, February 01, 2005 8:12 AM  
**To:** Jeff.davis@psc.mo.gov  
**Cc:** connie.murray@psc.mo.gov; steve.gaw@psc.mo.gov; robert.clayton@psc.mo.gov  
**Subject:** Stop Aquila

I moved to Peculiar in large part to get away from big industry. I don't want to look at a towering smoke stack or hear the noise generated by this plant. If you can imagine, many of the neighbors I've talked to have no idea how to turn on a computer let alone send an E-mail. I can think of five families without a computer at all. They are as outraged as I am by this proposal to ruin the area we have grown to love. I think they deserve to be heard even if they can't write. Mark Willis

2/2/2005