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December 30, 2004

FILED<sup>2</sup>

DEC 30 2004

Missouri Public  
Service Commission

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Re: Case No. EO-2005-0156

Dear Judge Roberts:

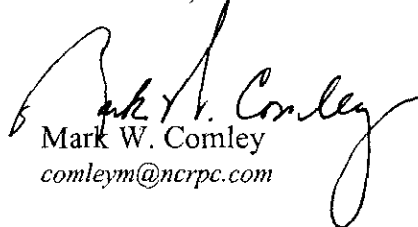
Please find enclosed for filing in the referenced matter the original and five copies of an Application to Intervene.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley  
comleym@ncrpc.com

MWC:ab

Enclosure

cc: Office of Public Counsel  
General Counsel's Office  
Paul A. Boudreau  
Debra L. Moore

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

**FILED<sup>2</sup>**  
DEC 30 2004

**Missouri Public  
Service Commission**

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**

**APPLICATION TO INTERVENE**

COMES NOW the County of Cass, Missouri (hereinafter Cass County), pursuant to 4 CSR 240-2.075 of the Commission's Rules of Practice and Procedure, and for its Application to Intervene respectfully states:

1. Cass County is a First Class County of the State of Missouri under the county classification provisions of Chapter 48, RSMo 2000, and is a political subdivision of the state with powers, duties and obligations as provided by law. Its offices are located in Harrisonville, Missouri, the county seat.

2. Correspondence, communications, orders and the decision in this matter should be addressed to:

Gary L. Mallory  
Presiding Commissioner  
Cass County Commission  
Cass County Courthouse  
102 E. Wall  
Harrisonville, MO 64701  
Telephone No.: 816/380-8155  
Fax No.: 816/380-8156

Mark W. Comley  
NEWMAN, COMLEY & RUTH P.C.  
P.O. Box 537

Jefferson City, MO 65102-0537  
Telephone No.: 573/634-2266  
Fax No.: 573/636-3306

3. This case arose upon Aquila's filing of an application to obtain from the Commission (i) a determination that its acquisition for its regulated Missouri electric utility operations from an affiliated entity of three (3) 105 megawatt natural gas-fired combustion turbines for the purpose of constructing an electric generation station in an area near the City of Peculiar, Cass County, Missouri does not provide a financial advantage to the unregulated affiliate, (ii) authorization to enter into a sale and leaseback arrangement with the City of Peculiar to facilitate the issuance of taxadvantaged Chapter 100 revenue bonds to finance the construction and operation of a power generation station and, (iii) authorization to cause said electric generation station to be subjected to the lien of the Indenture as security for the benefit of the holders of the revenue bonds. On December 10, 2004, the Commission established an intervention deadline in this proceeding of December 30, 2004. This application is therefore timely.

4. Aquila is already in the process of constructing the plant(s) it refers to in its application in an area outside Peculiar, Missouri, which is an unincorporated area within Cass County.

5. Cass County is a plaintiff in a suit now pending against Aquila, Inc. in the Circuit Court of Cass County, Case No. CV104-1443CC. On December 1, 2004, Cass County filed a Petition for Declaratory Judgment, and for Temporary Injunction, Preliminary and Permanent Injunctive Relief in which Cass County seeks to enforce its police power under Section 64.235. This section requires all improvements constructed on area in unincorporated Cass County to be

first approved by the County. Aquila has not acquired Cass County approval for construction of this plant.

6. Continued construction of Aquila's plant in contravention of Cass County's authority to regulate land use within its borders has a direct impact on Cass County and those who reside there. Financing arrangements that encourage such construction are not in the public interest. The Commission's decision in this case will have an effect on Cass County and its constituency entirely unlike that which might be experienced by the public at large; an effect which may be adverse to the County and its citizens. Cass County's interest in this proceeding is different from that of the general public. Cass County desires to participate fully in this proceeding including hearing and the briefing of the issues. Its intervention would be in the public interest.

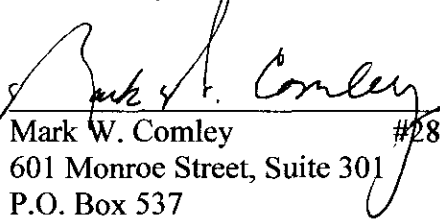
7. Cass County is opposed to the relief requested by Aquila in its application.

WHEREFORE, for the foregoing reasons, the Cass County, Missouri, respectfully requests that the Commission grant its Application to Intervene in this matter, and thereby entitle the County to have notice and to appear at the taking of testimony, to produce and cross-examine witnesses and to be heard on the argument, and in all other respects fully participate in this proceeding.

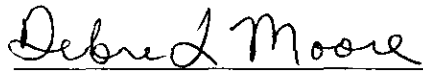
Respectfully submitted,

NEWMAN, COMLEY & RUTH P.C.

By:

  
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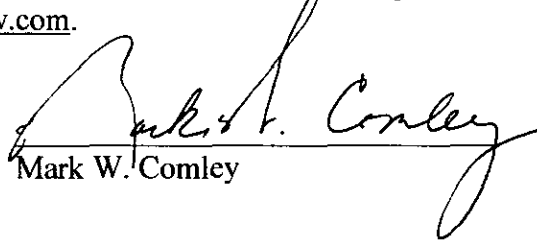
Debra L. Moore #36200  
Cass County Counselor  
Cass County Courthouse  
102 E. Wall  
Harrisonville, MO. 64701

(816) 380-8206  
(816) 380-8156 (FAX)  
dmoore@casscounty.com

ATTORNEYS FOR CASS COUNTY, MISSOURI

Certificate of Service

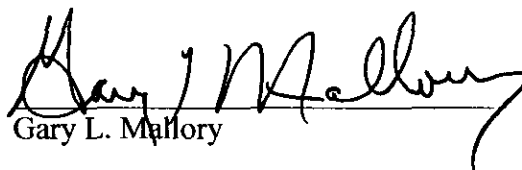
I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 30<sup>th</sup> day of December, 2004, to the Office of General Counsel at gencounsel@psc.state.mo.us; Office of Public Counsel at opcservice@ded.state.mo.us; and Paul A. Boudreau at paulb@brydonloaw.com.

  
Mark W. Comley

VERIFICATION

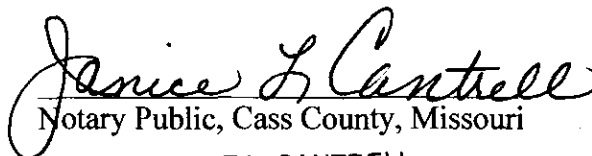
STATE OF MISSOURI     )  
                                  ) ss.  
COUNTY OF CASS        )

I, Gary L. Mallory, being first duly sworn, do hereby certify, depose and state that I am the duly elected Presiding Commissioner of the County Commission for Cass County, Missouri which seeks intervention in the above captioned proceeding before the Missouri Public Service Commission; that I have read the above and foregoing Application to Intervene and the allegations therein contained are true and correct to the best of my knowledge, information and belief.

  
Gary L. Mallory

Subscribed and sworn to before me, a Notary Public, this 30<sup>th</sup> day of December, 2004.

My Commission expires:

  
Notary Public, Cass County, Missouri

JANICE L. CANTRELL  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Cass County

My Commission Expires: June 8, 2008