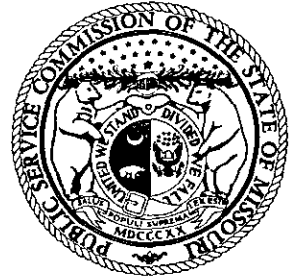


Notice of *Ex Parte* Contact

TO: Data Center
All Parties in Case No. **EO-2005-0156**
EA-2005-0248

FROM: Chairman Jeff Davis
Commissioner Connie Murray *cm*
Commissioner Steve Gaw
Commissioner Robert Clayton
Commissioner Lin Applin *LA*

DATE: September 26, 2005



On September 22, 2005 we received the attached document via electronic mail from Della January regarding Aquila. The Commission is currently considering the issues discussed in this document in cases **EO-2005-0156** and **EA-2005-0248**, both of which are contested cases. 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 to 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, we submit this report pursuant to the rules cited above. 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: Commissioners
Executive Director
Secretary/Chief Regulatory Law Judge
General Counsel

Finnell, Kay

From: Davis, Jeff
Sent: Monday, September 26, 2005 9:05 AM
To: Finnell, Kay
Subject: FW: Case EO-0156 Aquila Financing Package Implemented and Bonds Were Issued Months
 File ex-parte notice...

JND

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

From: Della January [mailto:della.january@uug.com]
Sent: Thursday, September 22, 2005 5:18 PM
To: steve.gaw@psc.mo.gov; robert.clayton@psc.mo.gov; lin.appling@psc.mo.gov; connie.murray@psc.mo.gov;
 jeff.davis@psc.mo.gov; pscinfo@psc.mo.gov
Subject: Case EO-0156 Aquila Financing Package Implemented and Bonds Were Issued Months Ago

I tuned in to the EO-0156 hearing yesterday expecting it to start on the 21st, but just caught the last hour before it concluded. The Commission asked several questions about the status of the bond issue and stated that it would have been illegal for the bonds to have already been issued since the Commission had not yet approved the financial arrangement. I was surprised by the testimony since it's well known that the bonds were issued a long time ago. Aquila held an open house at the plant last night, when I questioned both Norma Dunn, Aquila's Senior Vice President of Corporate Communication and Max Sherman, Aquila's Project Manager, confirmed that the bonds have been issued and were purchased and currently held by Aquila. The also confirmed that the land had been transferred to the City. I have also confirmed this with an Alderman of the City of Peculiar and further that the initial and subsequent PILOT payments have been made by Aquila as scheduled in financial arrangement and Trust Indenture Agreement executed by Aquila and the City in late December 2004.

The financial arrangement was approved by the Peculiar Board of Alderman in late December by having both the 1st and 2nd reading during the same meeting without the opportunity for public comment. You may be aware that neighbors to the plant have a suit against the City in the Western District Court of Appeals asking that the bond issue be subject to a vote of the citizens of Peculiar (Case #WD65000 - StopAquila.Org v City of Peculiar). Oral arguments were held on September 8, 2005 and we are awaiting the courts decision.

Aquila is seeking your approval for a financial plan already implemented, a DNR permit for water pollution procedures that have been occurring since they began operation, and will no doubt seek Cass Count approval to build a plant already in operation. While the neighbors to this plant continue to seek relief in the courts, I recognize that our fate rests largely with the 5 members of the PSC. Please help us in holding this irresponsible company accountable.

***** PLEASE NOTE *****

This message, along with any attachments, may be confidential or legally privileged. It is intended only for the named person(s), who is/are the only authorized recipients. If this message has reached you in error, please notify the sender immediately and promptly destroy it without review. Dissemination, distribution or copying of this communication is strictly prohibited. Thank you for your help.

9/26/2005