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December 28, 2004

**FILED**

JAN 09 2005

VIA FACSIMILE: 573-751-3234 and U.S. Mail

Public Service Commission  
200 Madison Street  
Jefferson City, MO 65101

**Missouri Public  
Service Commission**

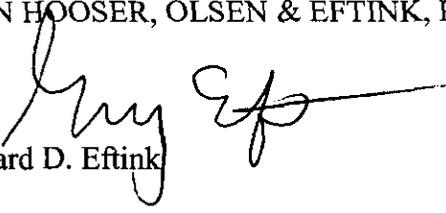
Re Application of Aquila, Inc.  
Case No.: EO-2005-0156  
Application to Intervene

Gentlemen/Ladies:

Enclosed are an original and one copy of the Application to Intervene being filed by StopAquila.org. Please return one file-stamped copy in the envelope provided.

Sincerely,

VAN HOOSER, OLSEN & EFTINK, P.C.

  
Gerard D. Eftink

GDE/alb  
Enclosure

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

**FILED**

JAN 03 2005

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 STOPAQUILA.ORG, 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. STOPAQUILA.ORG is an unincorporated association consisting of residents of Peculiar, Missouri, and the area outside of Peculiar, Missouri, who a.) oppose the financing by the City of Peculiar of bonds for Aquila, Inc., for a power plant without a vote of the people, b.) oppose the building of the power plant in the residential area where Aquila has begun construction, and c.) oppose Aquila ignoring county zoning requirements and other county requirements. This organization consists of Nancy Manning, Gary Crabtree, Mark Andrews, Della January, Steve Vincent, Max January, and other similarly situated, believed to number over 350 adults. The above named individuals are a fair representation of the members of this organization.

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

STOPAQUILA.ORG  
c/o Nancy Manning  
24021 South Lucille Lane  
Peculiar, Mo. 64078

Gerard Eflink, attorney  
P.O. Box 1280  
Raymore Mo 64083  
Telephone No.: 816-322-8000  
Fax No.: 816-322-8030

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 tax advantaged 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. STOPAQUILA.ORG is a plaintiff in two suits now pending against Aquila, Inc. in the Circuit Court of Cass County, Case No. CV104-1355CC and CV104-1380CC. In the former case, STOPAQUILA.ORG will appeal a decision by the Circuit Court which purports to allow Peculiar to issue revenue bonds for construction of a power plant without the required vote

of the electors (See Article 6, Section 27 and 27(a) of the Missouri Constitution). In the latter case, STOPAQUILA.ORG filed a Petition against Aquila for Declaratory Judgment, and for Temporary Injunction, Preliminary and Permanent Injunctive Relief. Among other things, STOPAQUILA.ORG asks that the Court rule that all improvements constructed in an area in unincorporated Cass County be first approved by the County. Aquila is constructing the plant in an area that is not zoned for such and Aquila has indicated it will build the plant despite what the County requires. Aquila has not acquired Cass County approval for construction of this plant. Aquila does not have a franchise that permit it to build said plant.

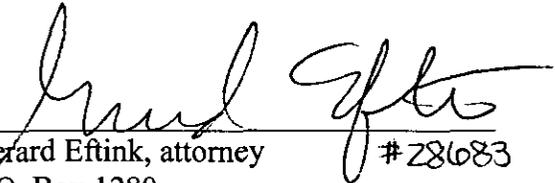
6. Continued construction of Aquila's plant in contravention of Cass County's authority to regulate land use within its borders has a direct impact on those who reside there. Financing arrangements that encourage such construction are not in the public interest. Among other things, the proposal would deprive numerous jurisdictions of an estimated seventeen million dollars in tax revenue. The harm to the people who live nearby due to health risks is substantial. 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. STOPAQUILA.ORG's interest in this proceeding is different from that of the general public. It desires to participate fully in this proceeding including hearing and the briefing of the issues. Its intervention would be in the public interest.

7. STOPAQUILA.ORG is opposed to the relief requested by Aquila in its application.

WHEREFORE, for the foregoing reasons, STOPAQUILA.ORG, respectfully requests that the Commission grant its Application to Intervene in this matter, and thereby entitle it 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,

  
Gerard Eftink, attorney #28683

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ATTORNEYS FOR STOPAQUILA.ORG

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 28<sup>th</sup> day of December, 2004, to the Office of General Counsel at [gencounsel@psc.state.mo.us](mailto:gencounsel@psc.state.mo.us); Office of Public Counsel at [opcservice@ded.state.mo.us](mailto:opcservice@ded.state.mo.us); and Paul A. Boudreau at [paulb@brydonloaw.com](mailto:paulb@brydonloaw.com).

  
Gerard Eftink

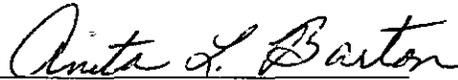
VERIFICATION

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF CASS        )

I, NANCY MANNING, being first duly sworn, do hereby certify, depose and state that I am a representative of STOPAQUILA.ORG, 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.



Subscribed and sworn to before me, a Notary Public, this 28<sup>th</sup> day of December, 2004.



My Commission expires:

Notary Public, Cass County, Missouri



ANITA L. BARTON  
Cass County  
My Commission Expires  
June 22, 2007