

**BEFORE THE PUBLIC SERVICE COMMISSION
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)	Case No. EO-2005-0156
Installed and Operated near the City of Peculiar,)	
Missouri)	

**Staff's Response to the Office of the Public Counsel's
Motion to Suspend Procedural Schedule and Hearing**

COMES NOW the Staff of the Missouri Public Service Commission and for its response to the motion of the Office of the Public Counsel states:

1. On June 28, 2005 the Commission issued an order granting the Public Counsel's motion for expedited treatment and directed: "That the parties shall respond to the Office of the Public Counsel's Motion to Suspend Procedural Schedule and Hearing and Request for Expedited Treatment no later than June 29, 2005."

2. The basis for Public Counsel's motion is that the Missouri Court of Appeals, Western District, issued an opinion affirming the January 11, 2005 judgment of the Cass County Circuit Court enjoining Aquila from constructing the South Harper facility that is the underlying subject of this case.

3. This motion is similar to that filed by the County of Cass on January 13, 2005. The County's motion was based on the Circuit Court Judgment, while Public Counsel's motion is based on the Court of Appeals affirming that judgment.

4. The Commission denied Cass County's motion to suspend the proceedings, in pertinent part, stating:

The Commission will deny Cass County's motion to suspend. Cass County's only argument in favor of suspension is that, by proceeding in light of current court proceedings that may ultimately prevent Aquila from completing the generating station, the Commission risks wasting time and resources determining issues that may be moot. The Commission is aware of that risk, and also aware of the risk that delays in this case could cause delays in the financial arrangements for the generating station. The Commission will proceed with this case, and will schedule a prehearing conference.

5. At this point in time the direct testimony of an Aquila witness, rebuttal testimonies of Staff and Public Counsel witnesses, and surrebuttal testimonies of Staff, Public Counsel and Aquila witnesses have all been prefiled in the case. When the County of Cass filed its motion to suspend the proceedings only direct testimony of an Aquila witness had been prefiled in the case.

6. Based on the prefiled testimony, it appears the only contested ultimate issue Aquila has presented to the Commission for decision in this case now may be the value of the three Siemens Westinghouse 501D5A combustion turbines that Aquila, Inc. acquired from an affiliate and installed at its South Harper facility located near the City of Peculiar in Cass County, Missouri, i.e., it appears there may be no contested issue regarding Aquila's Chapter 100 financing for the South Harper electric generation facility with the City of Peculiar.

WHEREFORE, the Staff respectfully suggests that, other than the fact that the Staff recommends approval of Aquila's Chapter 100 financing with the City of Peculiar with conditions, the circumstances now are not significantly different from those present when the Commission denied the January 13, 2005 motion of Cass County to suspend the proceedings in this case. The Staff recommends that the Commission deny the motion of the Office of the Public Counsel to suspend the procedural schedule and hearing in this case.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ Nathan Williams

Nathan Williams
Senior Counsel
Missouri Bar No. 35512

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8702 (Telephone)
(573) 751-9285 (Fax)
nathan.williams@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 29th day of June 2005.

/s/ Nathan Williams