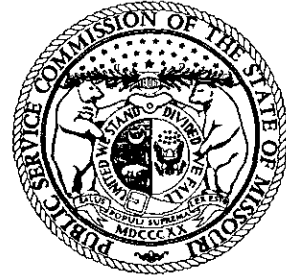


Notice of *Ex Parte* Contact

TO: Data Center
All Parties in Case No. **EA-2006-0309**

FROM: Chairman Jeff Davis
Commissioner Connie Murray
Commissioner Steve Gaw
Commissioner Robert M. Clayton III
Commissioner Lin Appling **(A)**



DATE: March 29, 2006

On March 29, 2006 we received the attached document via electronic mail from Ms. Cindi L. Mayer regarding Aquila. The Commission is currently considering the issues discussed in this document in case **EA-2006-0309** which is 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 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, I 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

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

From: Keith Mayer [mailto:kmayer@casstel.net]

Sent: Wednesday, March 29, 2006 11:02 PM

To: Shannon.Cooper@house.mo.gov

Cc: Davis, Jeff; Murray, Connie; Appling, Linward (Lin); Clayton, Robert; Gaw, Steve

Subject: Ex parte from Representative Cooper- Psc case ea-2006-0309

Representative Shannon Cooper
702 E. Ohio, Suite 16
Clinton, Mo 64735
660-885-3825

Missouri Public Service Commission
Governor Office Building
200 Madison Street
PO Box 360
Jefferson City, Mo 65102

Dear Representative Cooper,

This letter is in regards to your letter to the Public Service Commission showing support of Aquila's South Harper Power Plant. I have to think that you are not very familiar with this situation. I would like to help familiarize you with this situation.

The first issue is Aquila built a power plant in Cass County without proper zoning approval. Without County zoning laws any type of structure can be built anywhere at any time. These laws protect the Citizens and the Citizens' property in the County. These laws help *protect our property values* and *give us the right to speak out about how and where things are built*.

The second issue is the Courts have told Aquila **THREE** times the South Harper facility is illegal. The first time, Aquila was told it could not build without Cass County zoning approval and to return the property to agricultural use, was by Judge Dandurand ,January 5, 2005. At that time Aquila had not built the power plant. Aquila filed for an Appeal. ***While Aquila waited for the Court of Appeals decision, it built the South Harper Power Plant.*** On June 21, 2005, the Appeals Court upheld Judge Dandurand's January 5, 2005 decision. This was the second time Aquila was told the South Harper Facility was illegal. Aquila then decided not to accept that decision and asked the Court of Appeals to revisit the case. The Court of Appeals agreed. ***While Aquila waited for the next decision the South Harper Power Plant went into operation.*** The third decision was handed down December 20, 2005. The Court of Appeals upheld Judge Dandurand's January 5, 2005 decision telling Aquila to remove all improvements that do not comply with the agricultural zoning that is in force at the South Harper Power Plant site. Aquila did not want to accept that, so it applied to Judge Dandurand for another stay while it applied to the Missouri Public Service Commission for a Site Specific Authorization to build the South Harper Plant (***after the fact***), or to Cass County for a Special Use Permit or rezoning of the site(***after the fact***). Judge Dandurand told Aquila it had until May 31, 2006 or it would have to disassemble the South Harper Power Plant. Aquila applied to the Missouri Public Service Commission for Site Specific Authorization. .

If you are in favor of the South Harper Plant remaining are you saying that the local land-use laws in the

4/14/2006

counties you represent do not mean anything? Are you saying that anybody can build anything anywhere they want? Why do counties and cities have land-use commissions and boards? ***Since you are Chairman of the Rules Administration & Accounts Committee don't you think that this way of thinking is an incredible disservice to your constituents in the counties you represent? (Cass, Henry, Bates, Johnson & Pettis)***

Cindi Mayer - Stop Aquila
10501 E. 235th St.
Peculiar, Mo 64078
816-779-0800