

1 In the Matter of the Application of Aquila,)
Inc. for Permission and Approval and a)
2 Certificate of Public Convenience and)
Necessity Authorizing it to Aquire,)
3 Construct, Install, Own, Operate,)
Maintain, and Otherwise Control and)
4 Manage Electrical Production and)
Related Facilities in Unincorporated)
5 Areas of Cass County, Missouri near the)
Town of Peculiar.)

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FILED³

MAY 18 2006

Missouri Public
Service Commission

DEPOSITION OF HAROLD STANLEY

April 24, 2006

1:00 p.m.

At the Tri-State Escalante Station
294 County Road 19
Prewitt, New Mexico

TAKEN BY: DIANA C. CARTER
ATTORNEY FOR THE AQUILA, INC.

REPORTED BY: KAREN RODRIGUEZ, NM CCR #55
KMR Court Reporters, etc., LLC
Post Office Box 16346
Albuquerque, New Mexico 87191-6346

exhibit no. 25
Date Case No. EA-2006-0309
Reporter

Page 2

APPEARANCES

1 For Aquila, Inc.:
 2 DIANA C. CARTER
 3 Brydon, Swearingen & England, P.C.
 4 312 East Capitol Avenue
 5 Jefferson City, Missouri 65102
 6 Also Present: Terry S. Hedrick
 7 For StopAquila.org:
 8 GERARD EFTINK (Telephonically)
 9 Van Hooser, Olsen & Eftink, P.C.
 10 704 W. Foxwood Drive
 11 Raymore, Missouri 64083
 12 For Southwest Power Pool, Inc.:
 13 DAVID LINTON (Telephonically)
 14 Attorney at Law
 15 424 Summer Top Lane
 16 Fenton, Missouri 63026
 17 For Missouri Public Service Commission:
 18 WARREN WOOD (Telephonically)
 19 LEON BENDER (Telephonically)
 20 NATHAN WILLIAMS (Telephonically)
 21 LERA SHEMWELL (Telephonically)
 22 Staff Counsel
 23 P.O. Box 360
 24 Jefferson City, Missouri 65102
 25 INDEX

PAGE

19 EXAMINATION OF HAROLD STANLEY
 20 By Ms. Carter 3, 66
 21 By Mr. Linton 48
 22 By Mr. Eftink 52
 23 By Mr. Williams 65
 24 CERTIFICATE OF COMPLETION OF DEPOSITION 75

EXHIBITS

23 FORMALLY MARKED/IDENTIFIED (Exhibits not submitted)
 24 1. Written Testimony of Harold R. Stanley, P.E. 53
 25 2. Photograph 67
 3. Photograph 67

Page 3

HAROLD STANLEY

2 After having been first duly sworn,
 3 testified as follows:

EXAMINATION

BY MS. CARTER:

6 Q. Would you please state your full name?
 7 A. My name is Harold Stanley.
 8 Q. Have you given your deposition before?
 9 A. I've given depositions before.
 10 Q. You're generally familiar with the process?
 11 A. I am.
 12 Q. There are just a couple of things. If you answer
 13 a question, I'm going to assume you understood the
 14 question. Is that fair?
 15 A. That's fine.
 16 Q. Also it's important that we not talk at the same
 17 time so that the court reporter is able to take everything
 18 down.
 19 A. Fine.
 20 Q. What is the address of your current primary
 21 residence?
 22 A. 10707 East 240th Street. That's in Peculiar,
 23 Missouri 64078.
 24 Q. Are you actually located within the city limits of
 25 Peculiar?

Page 4

1 A. No. That's in unincorporated Cass County.
 2 Q. How long have you resided at that address?
 3 A. Since June of 1999.
 4 Q. Who else resides at that address?
 5 A. My wife, Lorraine.
 6 Q. Have you ever been a plaintiff in a civil lawsuit
 7 where you were the one bringing a civil lawsuit against
 8 another party?
 9 A. I don't recall being one.
 10 Q. You can't think of any time you've brought a
 11 lawsuit against another party; for example, a divorce
 12 proceeding?
 13 A. I apologize. Yes. In the case of a divorce
 14 proceeding, yes, I did.
 15 Q. Is that the only time you've been a plaintiff in
 16 litigation?
 17 A. That's the only one that comes to mind.
 18 Q. It's my understanding that possibly as part of
 19 your divorce proceeding you brought a federal lawsuit, is
 20 that correct?
 21 A. That is correct.
 22 Q. What was the ending result of that lawsuit?
 23 A. I guess I'm trying to figure out the relevance of
 24 that to this proceeding.
 25 Q. Unless your attorney objects and instructs you not

Page 5

1 to answer, you need to go ahead and answer the question.
 2 A. The removed case was dismissed.
 3 Q. Was any part of the lawsuit with regard to your
 4 professional license or your employment?
 5 A. None.
 6 Q. Have you ever been a defendant in a civil or a
 7 criminal lawsuit, civil or criminal proceeding?
 8 A. The only one I can think of is with reference to
 9 the divorce proceedings.
 10 Q. When you moved to Cass County, the address you
 11 gave us with the City of Peculiar, were you aware that that
 12 was near a gas compressor station?
 13 A. Yes, I was.
 14 Q. At the time, were you familiar with the station's
 15 operations in terms of generally when it operated and the
 16 types of emissions that would come from such a facility?
 17 A. Yes, I was.
 18 Q. You chose to move into that address knowing that
 19 the gas compressor station was nearby?
 20 A. Yes, I did.
 21 Q. What is the name of your current employer?
 22 A. I am self-employed.
 23 Q. Would you briefly describe your duties for us for
 24 your self-employment?
 25 A. I'm a registered professional engineer, and I

2 (Pages 2 to 5)

Page 6

1 continue to provide the engineering services to utility and
 2 industrial clients.
 3 Q. Would you say that you work full time still?
 4 A. Yes.
 5 Q. Do you have a company, your own company, or is it
 6 just you as an individual?
 7 A. Doing business as myself.
 8 Q. Are you registered by the Missouri Board of
 9 Architects, Professional Engineers and Professional Land
 10 Surveyors?
 11 A. Yes, I am.
 12 Q. What is your Missouri PE serial number, if you
 13 know it offhand?
 14 A. I don't know it exactly offhand.
 15 Q. Does this sound correct, 019372?
 16 A. That does sound correct.
 17 Q. What is the date of registration of your PE
 18 license in Missouri?
 19 A. It was originally issued either in late 1980 or
 20 early 1981. I'd have to look at the certificate.
 21 Q. Is your registration current in Missouri?
 22 A. It sure is.
 23 Q. Do you recall the expiration or renewal date for
 24 your license?
 25 A. It's in my home office, but I believe it's current

Page 7

1 through '07.
 2 Q. Are you registered or licensed in any other
 3 states?
 4 A. Not actively right now.
 5 Q. Where were you previously licensed in other
 6 states?
 7 A. I have been licensed in Texas, Arkansas, Iowa.
 8 Those are the three that come to mind just off the top of
 9 my head.
 10 Q. Has your license ever been subject to discipline,
 11 any PE license in any state?
 12 A. No.
 13 Q. Would you just describe briefly in your own words
 14 your educational background?
 15 A. Bachelor of science in electrical engineering,
 16 graduated in 1976.
 17 Q. Have you been working in electrical engineering
 18 since that time?
 19 A. Yes, I have.
 20 Q. Would you agree that the field of engineering is
 21 fairly broad, covering everything from civil engineering,
 22 to mechanical, to chemical, to nuclear, to a host of other
 23 specialties?
 24 A. It is broad.
 25 Q. Would you agree that a PE should refrain from

Page 8

1 affixing his or her stamp on a work product that is outside
 2 his or her area of expertise?
 3 A. That is correct.
 4 Q. What is your particular specialty? Is it just
 5 electrical engineering?
 6 A. With 30 years of experience in power plants, there
 7 is a lot of related experience that isn't necessarily
 8 classified as electrical that one develops a certain
 9 expertise in.
 10 Q. Do you have a copy of your direct testimony with
 11 you?
 12 A. I sure do.
 13 Q. I'm going to refer you to a few page numbers, and
 14 that will be easier.
 15 A. Okay.
 16 Q. On page 2, beginning at line 14 of your testimony,
 17 you make the statement that you have designed numerous
 18 power generation installations and upgrades over the past
 19 30 years. I want to make sure that you don't mean that
 20 literally, but that you've mean you designed elements of
 21 power generation facilities. Or do you mean you literally
 22 have designed the entire facility?
 23 A. Yeah, elements of it.
 24 Q. Would you agree that no single individual could
 25 design an entire utility power generation facility?

Page 9

1 A. I don't know of any.
 2 Q. Do you consider yourself professionally qualified
 3 to solicit and practice acoustical engineering services?
 4 A. I do not solicit such services, however my
 5 background and training includes significant education and
 6 experience in sound and noise qualities going clear back to
 7 first semester physics in college.
 8 Q. Do you consider yourself professionally qualified
 9 to practice acoustical engineering services?
 10 A. It depends on what you mean by acoustical
 11 engineering services.
 12 Q. Is there not a common definition within
 13 professional engineering?
 14 A. Acoustics ends up being involved in a lot of
 15 different areas. When I'm specifying a power transformer,
 16 I have to make sure that its emitted noise levels do not
 17 exceed certain levels to be compatible with the rest of the
 18 facility. When I'm specifying a motor, I have to make sure
 19 that its noise output is not excessive in the area where
 20 it's going to be installed, that it's not going to lead to
 21 an excessive problem.
 22 As part of my electrical engineering practice, I
 23 have to be familiar with acoustical terms. When you stay
 24 with things such as decibels of sound pressure and
 25 A-weighted sound pressures and so on and so forth, a

Page 10

1 certain familiarity with that is required to practice
2 electrical engineering accurately.

3 Q. Certainly. And aside from being familiar with
4 terms and familiar with the general area, again, if you
5 can, try to answer for me if you feel you are
6 professionally qualified to practice acoustical engineering
7 services.

8 A. I would not take on an acoustic propagation study
9 like the ones performed by Burns & McDonnell for Aquila in
10 October of 2004. I'll answer it that way. Is that
11 sufficiently --

12 Q. It is.

13 A. -- definite? Okay.

14 Q. So I believe, then, it would be safe to say you
15 would not feel qualified to serve as an expert witness
16 regarding acoustical engineering?

17 A. If you're wanting to talk about propagation and
18 surfaces that the noise is going to bounce off of and so
19 on, I would not attempt that.

20 Q. I would say specifically propagation and
21 mitigation. You would not feel comfortable being an expert
22 in that area?

23 A. No. I would not try to do that in specific finite
24 terms.

25 Q. Would you be comfortable designing and affixing

Page 11

1 your RE stamp to an acoustic remediation plan for a power
2 generation facility?

3 A. No.

4 Q. Do you consider yourself professionally qualified
5 to solicit and practice services related to air exhaust
6 emissions, particularly air exhaust emissions from
7 combustion turbines or motor vehicles?

8 A. Well, that is a pretty broad question. If you
9 want to talk about performing elementary combustion
10 calculations on a mobile basis, that is the type of thing
11 normally done by combustion turbine manufacturers.

12 Now as far as understanding the general concepts
13 of emissions, that is something that virtually every power
14 plant engineer I know of has a familiarity with. As far as
15 pounds per hour of pollution emitted of various types, that
16 is fairly widely known in the power generation profession.

17 Q. Do you believe you would be qualified to serve as
18 an expert witness regarding air exhaust emissions?

19 A. Again, it depends on what types of numbers you're
20 asking me to generate. If you're asking me to do the
21 original calculations normally performed by a combustion
22 turbine manufacturer to guarantee the output, no, I
23 wouldn't do that. But to sit and look at exhaust
24 guarantees and say, "Okay, that number matches up with my
25 air quality permit," I would not be afraid to do that.

Page 12

1 Q. If you could, describe for us briefly what
2 expertise in terms of education, training, experience,
3 certification that you possess that would qualify you to be
4 in charge of or professionally seal investigations and
5 reports pertaining to air exhaust emissions. Or would you
6 be able to?

7 A. Again, it depends on the scope of what I would be
8 being asked to seal.

9 Q. Why don't you define for me what scope you would
10 be comfortable with?

11 A. I would be comfortable with being the project
12 manager on a project where I had specialists working in
13 that specific area and would not be uncomfortable sealing
14 over their work performed under my supervision to make sure
15 that I felt like they had followed the proper procedures on
16 it.

17 Q. Have you ever designed or been involved in the
18 design of power generation emission controls?

19 A. Yes, I have.

20 Q. Could you describe those times for me?

21 A. Well, my second project as a co-op student was the
22 electrical aspects of a precipitator installation for
23 Columbus & Southern Ohio Electric Company. Pollution
24 control is a part of power generation and has been for my
25 entire career. So the list would be quite long.

Page 13

1 Q. Currently would you be comfortable designing or
2 affirming the design of power generation emission controls
3 and affixing your seals to those designs?

4 A. Are we talking about the process itself or a
5 control system to control the process?

6 Q. If those are two separate answers, you can give me
7 two separate answers.

8 A. If you want me to design a scrubber/absorber tank
9 with the appropriate concentrations of constituents to pull
10 the SO₂ out of the gas flow, no, I would not attempt to do
11 that. If you want me to design the control systems, to
12 start and stop the pumps, to monitor the levels and that
13 type of thing, then that is something I've done more than
14 once.

15 Q. And that is something then, in that area that
16 you've just described, you'd be comfortable affixing your
17 seal to?

18 A. Yes.

19 Q. Do you consider yourself professionally qualified
20 to perform ground level air quality investigations?

21 A. No.

22 Q. Then I assume it would be safe to say you would
23 not believe you were qualified to be an expert witness
24 regarding ground level air quality?

25 A. No.

Page 14

1 Q. Do you consider yourself professionally qualified
2 to provide land use planning services?
3 A. No. I don't profess to have any land use planning
4 expertise. I tried to limit my testimony to engineering
5 comparisons of various types of land use in the instant
6 case.
7 Q. Have you had any specific work experience dealing
8 with land use planning?
9 A. I can't say that I have.
10 Q. Your testimony at page 3 indicates that you
11 believe the South Harper facilities are inconsistent with
12 the character and use of the surrounding area. Are you
13 familiar with the multiuse tier designation for land use in
14 Cass County?
15 A. I don't pretend to be an expert on it.
16 Q. Are you generally familiar with that term,
17 multiuse tier?
18 A. I've heard the term used.
19 Q. Are you aware that the designation provides for
20 industrial uses?
21 A. It provides for some industry uses, yes.
22 Q. Are you aware that the subject location where the
23 South Harper facilities are located is within a multiuse
24 tier?
25 MR. EFTINK: Let me object to that just for

Page 15

1 the record because it depends on which plan or which
2 document you're looking at. But go ahead.
3 Q. (By Ms. Carter) Mr. Stanley, if you able to,
4 answer the question for me. Are you aware that currently
5 the South Harper facilities are located within a multiuse
6 tier designation?
7 A. I've heard people attest to that. I won't say
8 that I have independent knowledge of it, but I've heard
9 people attest to it.
10 Q. Including people from Cass County; correct?
11 A. I couldn't tell you who I've heard say that just
12 offhand.
13 Q. Were you aware that the property was designated as
14 a multiuse tier when you moved in?
15 MR. EFTINK: Objection. That is inaccurate,
16 Diana.
17 MS. CARTER: Oh, yes, and I'm sorry.
18 Q. (By Ms. Carter) I'll back up, Mr. Stanley. Were
19 you aware of how the area was zoned when you moved in?
20 A. I examined the area, and it was residential for a
21 significant distance in every direction. So I did not
22 expect this type of a facility to be installed there.
23 Q. When you say you examined it, what do you mean?
24 A. As in drove around the area.
25 Q. Did you actually look up what the zoning

Page 16

1 designation was?
2 A. I don't recall doing that.
3 Q. Were you notified when the County was changing the
4 area to a multiuse tier designation?
5 A. I don't recall that.
6 Q. I'm assuming, then, you didn't object in any way
7 to the change in the designation?
8 A. I don't recall being notified, was the question I
9 was answering.
10 Q. Since you don't recall being notified, then I
11 assume it's correct that you didn't object in any way to
12 the change in the designation?
13 A. No.
14 Q. Are you currently opposed to the designation for
15 that area?
16 A. I don't know if I'm opposed to the designation.
17 I'm opposed to this type of an industrial facility being
18 installed this close to residences.
19 Q. Do you believe other types of industrial
20 facilities should be installed in the area pursuant to the
21 multiuse tier designation?
22 A. There could have been some form of light
23 industrial installation put in there that would not have
24 been so wildly inconsistent with the surrounding area.
25 Q. I don't want to dwell in this area too long, but

Page 17

1 I'd like to ask you a few questions. Are you familiar with
2 the Missouri Code of Professional Conduct for Professional
3 Engineers as embodied by 4 CSR 30.2.010?
4 A. Yes, I am.
5 Q. Do you believe the provision of expert testimony
6 in a proceeding before the Public Service Commission is
7 included in the paragraph 3 definition of professional
8 engineering services?
9 A. I don't know that I have that memorized line for
10 line. I see that you have a copy of it, and I'm assuming
11 you're going to allow me to look at it.
12 Q. I am. It is our only copy. So we'll have to pass
13 it back and forth.
14 A. That's all right. I'm sorry. You were referring
15 specifically to what?
16 Q. The paragraph 3 definition of professional
17 engineering services, which states that registrants shall
18 undertake to perform architectural, professional
19 engineering and land surveying services only when they are
20 qualified by education, training and experience in the
21 specific technical areas involved.
22 And the question was: Do you believe the
23 provision of expert testimony before the Missouri Public
24 Service Commission would be included within that list?
25 A. Yes, I do. And I carefully made sure that the

5 (Pages 14 to 17)

Page 18

1 things I testified about were things that I had specific
2 technical expertise in.
3 Q. I'm going to let you keep that for a minute. With
4 regard to paragraph 7 of the code, do you believe the
5 submission of expert testimony in Aquila's application case
6 pending before the Commission is subject to paragraph 7 of
7 the code?
8 A. I certainly do.
9 Q. When did you first learn of Aquila's construction
10 of the South Harper facilities?
11 A. Shortly prior -- when I say "shortly," within I
12 believe less than a week prior to the October 11th, 2004,
13 public information meeting. So I would say somewhere
14 between October 4th and October 10th. I could not tell you
15 the date.
16 Q. How did you first learn of the facilities?
17 A. I first learned of it from a marker on a cardboard
18 sign stapled to a stop sign or a telephone pole in
19 Peculiar.
20 Q. So it was a public notice type of sign?
21 A. No. It was a hand-scribbled notice from somebody
22 who had found out about it before I did.
23 Q. To your knowledge, not someone with Aquila, just a
24 resident?
25 A. As far as I know, just a resident, yes.

Page 19

1 Q. When did you first learn of Aquila's application
2 that is pending before the Commission, specifically this
3 case in which you filed testimony, Case Number
4 EA-2006-0309?
5 A. I learned of it shortly after it was filed. But I
6 could not produce a date.
7 Q. You have been involved in a prior proceeding;
8 correct?
9 A. Yes. I was involved in a similar case about a
10 year ago.
11 Q. When did you first learn of the organization
12 StopAquil.org?
13 A. Shortly after the October 11th public information
14 meeting.
15 Q. How did you become familiar with StopAquil.org?
16 A. I actually learned of the organization by way of
17 the Missouri Public Service Commission, to whom I
18 strenuously objected when I first learned of the plant.
19 Q. Are you a member of StopAquil.org?
20 A. Yes, I am.
21 Q. What was involved with becoming a member of the
22 organization?
23 A. There was a membership form that was filled out
24 that just specified where you lived, to indicate whether
25 you were close to the plant or not.

Page 20

1 Q. Were you required to live within a certain
2 distance of the South Harper facilities?
3 A. There were two different application forms, one if
4 you lived within two miles and one if you did not. I
5 obviously filled out the one within two miles.
6 Q. Do you pay dues to be a member of the
7 organization?
8 A. No.
9 Q. Were you paid by StopAquil.org for submitting
10 testimony in this proceeding?
11 A. No.
12 Q. Were you paid by StopAquila for rendering any
13 engineering services?
14 A. No.
15 Q. Have you contributed funds to StopAquil.org?
16 A. Yes, I have.
17 Q. How much have you donated to StopAquila, if
18 "donated" would be a proper word?
19 A. I'm only recalling \$1,000.
20 Q. Was that for a specific purpose?
21 A. That was just for general legal counsel.
22 Q. Are you also, then, donating your services, for
23 example, in giving this deposition and filing testimony?
24 A. Yes, I am.
25 Q. When did you apply to Aquila for employment?

Page 21

1 A. I received a solicitation from Aquila by way of an
2 Internet-based job search company that I can't even find
3 the name of right this minute. But I received probably 40
4 or 50 such solicitations in the time frame 2004-2005. I
5 responded, I believe, to roughly a dozen of them. So
6 Aquila was one of about a dozen that I responded to in that
7 2003-2004 time frame.
8 Q. Just so we're clear, I'm assuming, then, you meant
9 40 or 50 solicitations from various companies, not --
10 A. Right, right. Thank you for clarifying that. 40
11 or 50 solicitations of various companies looking for people
12 with qualifications similar to mine.
13 Q. And Aquila was one of about 12 companies that you
14 submitted resumes or applications to?
15 A. That's the best I can remember. It's been a
16 couple of years ago.
17 Q. Was your application for employment with Aquila
18 connected to the construction of peaking facilities during
19 the 2004-2005 time frame?
20 A. I honestly don't remember that, whether it was or
21 not.
22 Q. Did you apply for a specific position or a
23 specific job with Aquila?
24 A. Whatever position it was the job search engine
25 lined me up with. I don't remember specifically.

Page 22

1 Q. You're currently self-employed. When you
2 responded to those approximately 12 companies, did you
3 receive any job offers?

4 A. No, I did not.

5 Q. Did the rejection of your application by Aquila
6 influence your opinion in any way regarding the
7 appropriateness of construction of the turbines in Cass
8 County?

9 A. No, it did not. In fact, I was pleased that they
10 had not pursued it when I learned about their
11 construction.

12 Q. I understand you also previously worked for Sega;
13 is that correct?

14 A. That is correct.

15 Q. When did you work for Sega?

16 A. From 1986, when I started the electrical
17 engineering department there, until early 1998.

18 Q. What was your reason for leaving Sega?

19 A. Well, I don't want to divulge anything
20 confidential about my employment relationship there other
21 than I decided it was best for all parties that I move on.

22 Q. Would you say you left on good terms?

23 A. As far as I know, I left on good terms. I still
24 visit occasionally with one or two people over there.

25 Q. You weren't asked to leave your employment with

Page 24

1 number of years and haven't seen a new one plopped in that
2 close to a residential area personally.

3 Q. You said it shouldn't be near any residences. Is
4 that accurate?

5 A. Certainly it shouldn't be near this much of a
6 concentration of residences, no.

7 Q. That's where I'm confused. You're saying, "this
8 much of a concentration," but when I look at your
9 testimony, you talk about large lots and houses not close
10 to each other. It sounds pretty spread out and not
11 concentrated.

12 A. Well, when I say "concentrated," we've had about
13 120 people recently sign up as adults living within a
14 two-mile radius. Now, at this power plant that you're
15 sitting in now, I don't think you could find a house within
16 two miles. And by contrast, this peaking station has way
17 over 120 adults living within two miles. So it's a starkly
18 different location than what I'm used to seeing power
19 plants placed in.

20 Q. I'm going to ask you a hypothetical question. If
21 the County had given Aquila a special use permit for the
22 facility, would you still be objecting to the facility and
23 its current location?

24 A. I would have objected to the granting of the
25 special use permit.

Page 23

1 Sega?

2 A. No, I was not. I was asked to stay.

3 Q. Returning to your testimony, on page 3, at lines 1
4 through 4, you indicate that you had an initial bias
5 towards supporting the South Harper Peaking Facility. Why
6 would you say you were originally bias in favor of the
7 plant?

8 A. Just because I'm a power plant engineer and I've
9 been doing it for 30 plus years.

10 Q. Were you familiar with Aquila?

11 A. Only in very general terms.

12 Q. You thought enough of them to submit an
13 application for employment; correct?

14 A. I knew one or two people that had worked for them
15 in the past, and they had not said any terrible things
16 about working for the former Missouri public service. So I
17 thought they were a viable employment opportunity.

18 Q. Did the fact that the plant was sited near your
19 residence impact your change in position?

20 A. The fact that it was sited that close to any group
21 of residences that large effected my opinion.

22 Q. But you don't think the fact that it was near your
23 house influenced your opinion in any way?

24 A. I'm sure it influenced my participation in the
25 StopAquila group. I've been installing power plants for a

Page 25

1 Q. If over your objection they had given them that
2 special use permit, would you still be objecting to the
3 plant?

4 A. Yes, I believe I would be.

5 Q. Are you aware that the Missouri Department of
6 Natural Resources must approve the siting of a power plant?

7 A. The Missouri Department of Natural Resources has
8 to allow a particular amount of emissions to be -- an
9 emission source to be placed in a particular location. I
10 don't -- that's only one piece of the siting equation.

11 Q. Well, taking that piece that you said, are you
12 aware that that took place in this case?

13 A. Yes. I reviewed the applications of the permits.

14 Q. Given that you make your living in the power
15 generation business, it's safe to say then that you're not
16 opposed to peaking plants like the South Harper one?

17 A. Not in appropriate locations.

18 Q. So then is it safe to say that you're opposed to
19 this particular one because it's a half mile from your
20 house?

21 A. It's in an inappropriate location, not just my
22 house, a lot of other people's houses.

23 Q. What are the reasons for you opposing a plant
24 other than personal impacts on neighboring residents?

25 A. Probably the chief thing would be that it was

7 (Pages 22 to 25)

Page 26

1 built unlawfully and without County approval.

2 Q. As you know, that would be a legal issue that we
3 could fight about all day. So if you could, just take that
4 one issue away for me and assume that Aquila thought they
5 had the proper authority from the Commission. If you take
6 that away, that Aquila thought they had that proper
7 authority, to take away the legal issue of whether or not
8 they needed zoning approval, what reasons do you have for
9 opposing the plant other than personal impacts on the
10 neighboring residents?

11 A. Well, let's clarify what you mean by "personal
12 impacts." We have the impacts of loss of property value,
13 is one very probable impact for people living close to the
14 facility. We do have a very large emission source that has
15 been added to the neighborhood equivalent to about 90,000
16 houses on a cold winter day. So I'd say the pollution and
17 the property values are probably the two big things if you
18 take out the legal issue.

19 Q. Do you have any problem with the way the plant was
20 constructed?

21 A. With the way it was constructed? Please specify
22 what you mean by that.

23 Q. With the design of the facilities? I'm sorry. I
24 understand that could be mean, yes, many things. Do you
25 have a problem with the design of the facilities and how

Page 27

1 the actual facilities were built pursuant to that design?

2 A. Well, that still could go into a lot of areas. I
3 mean we have -- beyond the pollution and the property value
4 problem, we have the problem of noise that has not been
5 addressed. You know, that's a pretty broad question, do I
6 have a problem with the way it was built. Other than
7 unlawfully and pollution and noise and property value, are
8 you asking me to judge on the -- what are you asking me to
9 offer an opinion on?

10 Q. My understanding of your testimony wasn't that the
11 facilities were out of line, for example, with regulations
12 on emissions or regulations on noise, but that you had a
13 problem with it because it was near residences. Do you
14 believe that they're violating regulations in terms of the
15 noise and the emissions?

16 A. I know that they're violating regulations in terms
17 of the noise.

18 Q. What regulation would that?

19 A. Cass County noise ordinance.

20 Q. How do you know they're violating?

21 A. Because the only sound measurements they've taken
22 so far at the property lines have been higher than the
23 nighttime noise ordinance in Cass County.

24 Q. I assume you're referring to a test that was done
25 by Aquila?

Page 28

1 A. It was a test that was done by Aquila's
2 consultant Burns & McDonnell.

3 Q. You're familiar with the reports of that study?

4 A. I have reviewed the report from that study, yes.

5 Q. You feel comfortable that you understood the
6 results of that study?

7 A. I believe I did.

8 Q. You believe that the results of that study show
9 that Aquila was in violation of the Cass County noise
10 ordinance?

11 A. It was inconclusive in proving compliance with the
12 noise study.

13 Q. If you could, explain for me how you get from
14 inconclusive to you know that it's in violation.

15 A. The results were inconclusive because I know from
16 the report that the dBA levels that they took were greater
17 than the Cass County noise ordinance. Now they suggested
18 that there may have been insect noises that were
19 contributing to the dBA level. But they've never repeated
20 the test since the insects would have not been in the area
21 last fall. So to me, it's inconclusive. If it does in
22 fact meet Cass County noise ordinances, they have not
23 proven it. The only tests they've taken so far have not
24 proven compliance with Cass County noise ordinance.

25 Q. Do you believe you have a conflict of interest

Page 29

1 problem in rendering professional engineering services in
2 this case since you live within a half mile of the plant?

3 A. I don't think there's a conflict of interest
4 problem there. I'm not allowing my personal situation to
5 effect my professional judgment. I believe I would behave
6 the same way if I was the project manager, director of
7 engineering, whatever, reviewing the reports for somebody
8 that was putting up the plant. I believe I would have the
9 same questions and the same criticisms.

10 Q. With regard to noise and emissions, did you
11 conduct any calculations or analyses regarding comparisons
12 between the South Harper Peaking Facility and the Southern
13 Star gas compressor station?

14 A. I don't know that I would call them calculations.
15 I took the permitted values from the Missouri Department of
16 Natural Resources from the air permits for the two
17 facilities and lined them up in a table. So if you want to
18 call that calculations, okay, I put them in a table. But I
19 just lined them up for comparison purposes.

20 Q. You didn't do any testing of your own?

21 A. No. I didn't do any independent testing.

22 Q. So you were just looking at maximums that were
23 allowed by the permits; correct?

24 A. That is correct.

25 Q. Not actual emissions?

Page 30

1 A. Well, I have actually seen the report for 2005 on
2 the South Harper Peaking Facility and have checked its
3 emissions as reported to Missouri Department of Natural
4 Resources divided by the hours of operation on each turbine
5 and added it up and still ended up with a little over 500
6 pounds per hour with the three units operating. So I have
7 looked at the report provided by Aquila to the Missouri
8 Department of Natural Resources to confirm that the actual
9 emissions are pretty close to, within just a little over 10
10 percent of, the maximum permitted.

11 Q. It was less than the amount allowed by the permit?

12 A. Yes, slightly less.

13 Q. With regard to noise or emissions, did you conduct
14 any calculations or analyses regarding comparing the South
15 Harper facilities with motor vehicle emissions?

16 A. I did perform a rudimentary calculation on a
17 diesel truck running at a load of 50 horsepower using the
18 emissions listed on the EPA website and compared that one
19 half pound per hour of emissions to the over 500 pounds per
20 hour coming from the South Harper Peaking Facility and
21 said, "That ratio is over 1000," and I did publish that on
22 the StopAquila website.

23 Q. Do you have work papers related to the
24 calculations that you just told us about?

25 A. The calculations are described in my written

Page 31

1 testimony. A college physics student should be able to
2 replicate the calculations. It's pretty rudimentary.

3 Q. Regarding the comparison in your testimony of the
4 gas compressor station to the South Harper Peaking
5 Facility, are you aware whether the compressor station has
6 high or low gas pressure use?

7 A. Am I aware whether the station has high or low gas
8 pressure use? Was that the question?

9 Q. That was the question.

10 A. I guess I'm not sure what you mean by that. The
11 compressor station is, as I understand it, to support gas
12 pressure in the area. It was put in specifically to
13 support -- or the latest upgrade in 1999 or 2000 was to
14 support the Aries plant so they would have adequate gas
15 pressure at that location. Uses high or low pressure gas?
16 I'm not positive still. It is bringing the gas to a higher
17 pressure to support load at another location.

18 Q. Are you aware whether the peaking facility has
19 high or low gas pressure use?

20 A. Where are you drawing that line? What pounds per
21 square inch? Are we talking high or low?

22 Q. You, as the engineer, I'll let you draw the line
23 for me as to what you consider high or low.

24 A. I don't have specific knowledge of the exact gas
25 inlet pressure at the turbine. Some turbines like this

Page 32

1 have an inlet pressure around 400 PSI. I don't honestly
2 know what this one is.

3 Q. Backing up just for a moment, what is your
4 understanding of the noise ordinances with Cass County?

5 A. My understanding of the noise ordinances is that
6 the noise level on adjoining property cannot exceed 60
7 decibels during the daytime hours nor 55 dBA at night.

8 Q. Could you describe the noise levels expected from
9 1000 trucks measured from a half mile away?

10 A. I don't have any idea what that noise level would
11 be.

12 Q. I believe in your testimony you compare the noise
13 coming from the South Harper facility to 1000 trucks?

14 A. I never compared the noise, I only compared the
15 total quantity of emissions, which was in response to
16 Aquila's assertion in Exhibit 1 to their previous year's
17 application to the Public Service Commission where they
18 said, "Similar facilities emit no more pollution than a
19 diesel powered pickup truck traveling 35 to 50 miles per
20 hour."

21 Q. Could you describe for us the expected ground
22 level concentrations from 1000 truck exhausts measured from
23 half mile a way?

24 A. I never pretended to talk about that. All I'm
25 talking about is the assertion made in Aquila's public

Page 33

1 notice -- excuse me. It was a news release, October 6th,
2 2004, that they attached to their application a year ago to
3 the Public Service Commission which says, "Similar
4 facilities emit no more pollution than a diesel powered
5 pickup truck traveling 35 to 50 miles per hour." That is
6 the only statement of Aquila's that I have discussed when I
7 have done the comparison.

8 Q. Perhaps I'm misunderstanding, but I thought you
9 were then comparing the facility to 1000 trucks.

10 A. I am comparing the total emissions as being
11 equivalent to more than 1000 diesel powered pickup trucks.

12 Q. Are you able to compare the noise and health
13 impacts from 1000 trucks to the South Harper facility?

14 A. I never pretended to compare noise or health.

15 Q. I'm asking you if you have done so previously.

16 A. I'm sorry. No. I have not attempted to compare
17 noise, ground level concentrations or any of those types of
18 things. All I'm talking about is, "no more pollution
19 than a diesel powered pickup truck." That is an inaccurate
20 statement.

21 Q. On page 11 of your testimony, you describe that
22 you plan to bring speakers to a Public Service Commission
23 hearing and play a sound clip from what I believe would be
24 a jet turbine; is that correct?

25 A. That's correct.

Page 34

1 MS. CARTER: Did someone just join us?
 2 THE WITNESS: Either they joined us, or
 3 someone fell off.
 4 Q. (By Ms. Carter) The heading on that page of your
 5 testimony notes that you are a professional engineer.
 6 THE WITNESS: Could we stop just one second?
 7 MS. CARTER: Sure.
 8 THE WITNESS: Let's make sure we didn't lose
 9 Mr. Eftink, since he's --
 10 MR. EFTINK: I'm still here. Is anybody else
 11 on the line?
 12 THE WITNESS: Is the Commission still there?
 13 When I hear a beep like that, I get suspicion.
 14 MR. WILLIAMS: Yes, the Commission is still
 15 here.
 16 MR. EFTINK: What about the Southwest Power
 17 Pool?
 18 MR. LINTON: David Linton is still here.
 19 MR. EFTINK: I guess everybody is still on
 20 board.
 21 THE WITNESS: I don't know what the beep was
 22 then.
 23 Q. (By Ms. Carter) Referring back to page 11 of your
 24 testimony where you talk about the sound clip of a jet
 25 turbine, the top of that page, the heading, indicates that

Page 36

1 A. No. In fact, I had expected that when Aquila's
 2 consultant performed their noise study that they would
 3 calculate the C-weighted levels at other locations as well
 4 as the A-weighted levels, but they chose not to calculate
 5 any C-weighted levels to the best of my knowledge. At
 6 least, I didn't see them in the report.
 7 Q. Page 17 of your testimony, lines 18 and 19, you
 8 state that the Commission will appear to condone a lack of
 9 planning if they were to approve Aquila's application. To
 10 what extent are you an expert in recognizing, approving or
 11 conducting utility resource planning?
 12 A. I don't believe that I was trying to address
 13 utility resource planning here. I was talking about
 14 project planning, which they had waited long enough on
 15 making their decision that they could not go through the --
 16 apparently could not -- according to the Schedule CR-2 in
 17 one of the documents that I reference, the fatal flaw in
 18 nearly all of the other situations was that they were going
 19 to have to go through either an approval or they were
 20 anticipating some litigation. Approvals are part of
 21 getting a project going. So if that was a fatal flaw in
 22 the project, then that indicates to me a lack of project
 23 planning.
 24 Q. I'm assuming that is just your personal opinion?
 25 A. Well, I think that is a fairly objective opinion.

Page 35

1 you're a professional engineer. Should the Commissioners
 2 infer that the simulation you proposed using the equipment
 3 you proposed meets the specifications of a professional
 4 engineer?
 5 A. I believe that I said -- well, in fact, right in
 6 the middle of the first paragraph, page 9, I said I was
 7 going to be approximating. I was not going to represent to
 8 the Commission that that was an exact replication of a
 9 stationary combustion turbine, but just that it was a
 10 similar noise, which if you played the two I think you
 11 would agree that it is a similar noise, but only similar.
 12 Q. On page 14, lines 3 to 5 of your testimony, you
 13 refer to an inexpensive sound pressure level indicator?
 14 A. Yes.
 15 Q. Was that equipment professionally calibrated
 16 within the past year to meet the national institute
 17 standards?
 18 A. No. I never represented that it was. I
 19 represented it as an inexpensive -- in fact, it was a Radio
 20 Shack sound level meter. I did not attempt to represent
 21 that as national standards traceable.
 22 Q. How would you describe the accuracy of that meter?
 23 A. I would not expect it to be terribly accurate.
 24 Q. I take it, then, you wouldn't be comfortable
 25 affixing your PE stamp to the results of your noise study?

Page 37

1 When you don't have time to go through approvals, then you
 2 haven't really planned a project adequately.
 3 Q. Which approvals do you think Aquila didn't have
 4 time to go through?
 5 A. Well, the Schedule CR-2 lists the approvals. The
 6 one I remember specifically was they considered there to be
 7 a fatal flaw at the Greenwood facility because they would
 8 have to get Jackson County approval for -- I believe the
 9 word was upgrading the transmission lines. I'd have to
 10 look at the schedule to see exactly what it said, but it
 11 was something along those lines, that they'd have to get
 12 approval from Jackson County to do that. And they
 13 identified that as a problem, that they'd have to go get
 14 approval for the transmission line.
 15 Q. With regard to the South Harper facility, what
 16 approvals do you believe they failed to get?
 17 A. Well, they did not get the approval of Cass County
 18 prior to constructing the unit.
 19 Q. And you're referring to zoning authority?
 20 A. Either zoning or a special use permit, whichever
 21 would be legally appropriate in this situation.
 22 Q. Are you aware of any other permits or authority
 23 that you feel Aquila did not get with regard to the South
 24 Harper facility?
 25 A. I'm not personally aware of one.

10 (Pages 34 to 37)

Page 38

1 Q. I'm going to ask you a question, and I apologize.
2 You might have to tell me if this isn't clear to you. Not
3 being an engineer, it's not clear to me. Have you
4 undertaken any projects or utilized computer planning
5 models or methods for load forecasting?

6 A. I have done some of that at industrial
7 facilities. I can't say that I've ever done one for a
8 county or a state. So I have done them on a small scale;
9 not on a massive scale, not like the Southwest Power Pool.

10 Q. Have you undertaken any projects or utilized
11 computer planning models or methods for resource screening?

12 A. Resource screening as it is used for the Missouri
13 Public Service Commission, I won't claim that. Again, I've
14 done smaller scale stuff for industrial and institutional
15 facilities.

16 Q. Have you done, then, single plant production
17 models?

18 A. Define "single plant production models."

19 Q. I'm going to have to let you do that.

20 A. Okay. Until I know exactly what is being asked,
21 I'm not sure if I know the answer.

22 Q. Would you be able to define single plant
23 production models within your understanding?

24 A. I've never done anything that I would personally
25 call a single plant production model.

Page 39

1 Q. Have you undertaken any projects or utilized
2 computer planning models or methods for utility portfolio
3 production models?

4 A. No, I would not claim that.

5 Q. The same question with regard to regional or
6 market production models.

7 A. No.

8 Q. Have you undertaken any projects or utilized
9 computer planning models or methods for production risk
10 performance models?

11 A. No.

12 Q. The same question for decision tree scenario
13 planning.

14 A. Again, we're still under the general topic of
15 resource planning?

16 Q. Yes.

17 A. No.

18 Q. Going back to the property designation of multiuse
19 tier for the facilities, do you have a problem with the
20 County, that they designated that property as a multiuse
21 tier designation?

22 A. I don't know that I'm prepared to comment on all
23 the ramifications of multiuse tier. I mean the fact that
24 something light might go in there is not a big concern to
25 me.

Page 40

1 Q. So you would be fine with light industrial uses
2 only?

3 A. Appropriate light industrial use would be okay.

4 Q. If you could, briefly describe the character of
5 the neighborhood. Again, I'm a little confused how many
6 houses are in the area from your perception.

7 A. Well, from my perception, discussions with
8 neighbors, looking at the plat of the area that I live in,
9 the area is predominantly three-acre lots. The one I live
10 on happens to be six acres. The one Frank Dillon lives on
11 happens to be -- I believe his is either 10 or 20 acres,
12 but predominantly acreage around 3 acres.

13 Q. So not what we would think of as a typical
14 residential neighborhood?

15 A. It's not a suburban neighborhood, but it is a
16 residential area of what some people would call estate-size
17 lots.

18 Q. You refer to the emissions coming from the
19 facility. And I apologize if you've already addressed this
20 in the deposition. Are you aware of the emissions amounts
21 violating any laws or regulations?

22 A. I'm not aware of any.

23 Q. Then with regard to noise, I believe you indicated
24 that the tests were inconclusive as to whether or not the
25 noise levels were in compliance with Cass County

Page 41

1 regulations; is that correct?

2 A. Yes. In fact, if you will give me just one
3 minute, I'll come up with the quotation from the study,
4 which I believe I quoted accurately.

5 In my Exhibit HRS-6, I took a quotation from the
6 Noise Compliance Test study's Executive Summary, and its
7 exact comments were, "Background measurements were higher
8 than expected due to insect noise in the area and other
9 non-Aquila generated noises in the area. Operational noise
10 measurements were also high." And then they say, "...due
11 to the extraneous noises from the insects and other
12 uncontrollable noise sources." Now, that is on page 13
13 that I quote that, lines 4 through 8 roughly.

14 Q. I just want to make sure I'm on the same page with
15 you. You feel that it's inconclusive to say whether or not
16 there is compliance with the Cass County regulations;
17 correct?

18 A. Yes. It says, "Operational noise measurements
19 were also high." That's what the Executive Summary says.

20 Q. I understand. I'm not asking you to read me your
21 testimony. I'm asking you just to answer the question
22 sitting here today what I'm asking you.

23 A. Okay.

24 Q. Do you believe, from what you've reviewed, it's
25 just inconclusive whether or not the Cass County noise

Page 42

1 regulations were being violated by Aquila?

2 A. Yes. It is inconclusive at this point.

3 Q. Do you have any facts or figures or have you
4 performed any testing to show whether or not the noise
5 levels are violating any other law, rule or regulation?

6 A. I'm not aware of any others.

7 Q. With regard to environmental impacts, be they
8 emissions or anything else, are you aware of any
9 environmental violations by Aquila with regard to the
10 facilities?

11 A. I'm not aware of any.

12 Q. One of your comparisons -- it's page 16 of your
13 testimony -- between the Southern Star facility and South
14 Harper facilities refers to physical space. You refer to
15 74 acres for the South Harper facilities. I am assuming
16 you're aware that the actual facilities use a very small
17 portion of the 74 acres?

18 A. I've seen different numbers. I believe they
19 actually own 74 acres. I believe the facility is
20 concentrated on the southern half of that. So something a
21 little under 40 acres is where the facility itself is
22 concentrated.

23 Q. I believe it's maybe around nine acres for the
24 plant and around five acres in use for the substation.
25 Does that sound about right?

Page 43

1 A. I have no way to confirm or deny that.

2 Q. I just need you to explain something for me, and
3 it's probably because I don't have particularly great
4 knowledge in this area. On page 8 of your testimony, you
5 talk about the conversions. I'll give you a minute to turn
6 to that page.

7 A. Okay.

8 Q. You seem to be complaining that there was not a
9 conversion to pounds per hour, when converted from parts
10 per million to pounds per hour? When you refer to tests,
11 my impression is that you're saying some test results were
12 inaccurate because it was not converted to pounds per
13 hour. Am I reading that properly?

14 A. No. That was not what I was insinuating. All I'm
15 saying is that it's hard for any of us to look at a
16 parts-per-million number and put that in terms we can
17 understand. So it's much easier to me to convert it into
18 pounds per hour. It's actually done in the study. It's
19 turned into actually tons per year, which you can turn back
20 into pounds per hour by doing the appropriate multiplying
21 and dividing.

22 Q. You might not be able to answer this question for
23 me because I think you said you're not particularly
24 familiar with what the multiuse tier designation means; is
25 that correct?

Page 44

1 A. I would not pretend to give you a legal definition
2 of what multiuse tier means.

3 Q. You state that the facility is totally out of
4 character for this, and then you say, "...residential
5 area." So I was wanting to ask you if you think it's
6 totally out of character for a multiuse tier designated
7 property. Would you be able to answer that?

8 A. Well, when you consider that there are residences
9 right across the street, then I think the appropriate
10 comparison is to the residences right across the street.
11 As far as comparing the multiuse tier, I have no opinion on
12 that.

13 Q. Referring to page 15 of your testimony, you say
14 that you'd like to see some information from the Southwest
15 Power Pool. I think you indicated earlier that certainly
16 you would nod to Southwest Power Pool as to planning and
17 resource needs?

18 A. My specific comment here was that the Southwest
19 Power Pool would probably have the most accurate
20 information regarding the total load in Cass County and how
21 the total load in Cass County would compare to the output
22 of the South Harper Peaking Facility.

23 Q. Do you believe Southwest Power Pool would be able
24 to give accurate testimony on whether or not there was a
25 need for this facility?

Page 45

1 MR. EFTINK: Object. That calls for
2 speculation. This is Gerry Eftink speaking.

3 Q. (By Ms. Carter) If you're able to answer subject
4 to the objection, please do so.

5 A. I'm sorry. Let's back up, and let's replay the
6 question. Then we'll replay the objection, and then I'll
7 decide whether I am able to answer.

8 Q. I'll try to break it down a little bit. What is
9 your understanding of the purpose of the Southwest Power
10 Pool?

11 A. All of the power pools exist to make sure that
12 there's adequate power supply for system stability.

13 Q. In your opinion, then, would Southwest Power Pool
14 be able to provide accurate testimony as to whether or not
15 there was a need for the South Harper Peaking Facility?

16 A. I don't know if they can provide that
17 information. I do know that we asked them for that type of
18 information. Whether they can provide it or not, I don't
19 know. That would be speculation on my part.

20 Q. I have a couple of follow-up questions to answers
21 you gave me earlier.

22 A. Okay.

23 Q. You referred to rudimentary calculations included
24 in your testimony. Would you consider those to, then, be
25 expert calculations, expert testimony?

12 (Pages 42 to 45)

Page 46

Page 48

1 A. When I referred to rudimentary calculations, I was
 2 talking about calculations that in a lot of cases are just
 3 unit conversions. For instance, the one we just talked
 4 about, tons per year to pounds per hour, that to me is a
 5 rudimentary calculation. You just have to apply the
 6 correct conversion factors to move from one to the other.
 7 Those were the types of things they normally teach us in
 8 engineering physics and chemistry in our first two years of
 9 college. That's why I refer to them as rudimentary.
 10 Q. Do you believe you're providing expert testimony
 11 in this proceeding as opposed to simply being a witness who
 12 lives a half mile from the facility?
 13 A. I certainly know a lot more about power plants,
 14 about emissions and about noise than the average resident
 15 living within two miles.
 16 Q. That being said, are you of the opinion that
 17 you're providing expert testimony to the commissioners?
 18 A. The statements I've made I believe are adequately
 19 supported by my professional experience.
 20 Q. What testing did you do on your own with regard to
 21 the South Harper facility, in other words, testing of your
 22 own as opposed to reviewing the results of another's
 23 testing?
 24 A. Other than the handheld meter that I've already
 25 qualified as not intended to be any kind of a precision

1 EXAMINATION
 2 BY MR. LINTON:
 3 Q. This is David Linton. I have just a few questions
 4 regarding your testimony on page 15. Are you aware that
 5 Southwest Power Pool doesn't own any generating facilities?
 6 A. Yes. Southwest Power Pool is merely a regulatory
 7 body.
 8 Q. Are you aware that they do not serve at retail any
 9 load?
 10 A. Yes, I'm aware of that.
 11 Q. Do you know what a control area is?
 12 A. General familiarity, matching generation to load.
 13 Beyond that, I don't pretend to know too much else.
 14 Q. Who are the control areas, or can you give
 15 examples of control areas?
 16 A. I'm afraid it has been too long since I looked at
 17 that. It used to pretty much coincide with the separate
 18 power pools. But I'm not sure that that is still the case
 19 anymore. I think there may be some -- if I remember right,
 20 at one time there were some smaller control areas, but I
 21 honestly don't have any real recent information on control
 22 areas.
 23 Q. Would you know whether or not Southwest Power Pool
 24 is a control area?
 25 A. I don't know if it's actually a control area or if

Page 47

Page 49

1 instrument, I don't pretend to have done any other
 2 testing.
 3 Q. You stated earlier that when you left Segal, you
 4 said that you were asked to stay with Segal; is that
 5 correct?
 6 A. That's correct.
 7 Q. Who specifically asked you to stay with your
 8 employment?
 9 A. Both the president and the founder expressed
 10 regret at my decision to depart.
 11 Q. Could you give us the name or names of who asked
 12 you to stay with your employment?
 13 A. The founder of the company, Gary Kavanaugh,
 14 expressed a great deal of regret at my decision. And the
 15 company president, Dick Sands, also expressed regret at my
 16 decision.
 17 MS. CARTER: Those are all the questions I
 18 have for now. Do other parties want to ask questions
 19 also? Lera, did you have questions?
 20 MR. SHEMWELL: PSC staff has no questions.
 21 MR. EFTINK: This is Gerry Eftink. Do you
 22 want me to go in? I know you had an order proposed.
 23 MS. CARTER: Mr. Linton, did you have any
 24 questions?
 25 MR. LINTON: Just a few questions.

1 it has sub-entities or if the control areas are actually
 2 now a separate organization. I honestly don't know, sir.
 3 Q. Do you understand the integrated resource planning
 4 process?
 5 A. I have some understanding of it. I won't pretend
 6 to be an expert in it.
 7 Q. Do you know who conducts the integrated resource
 8 planning process?
 9 A. As far as I know, the individual utilities provide
 10 input into it and collaborate with one another within the
 11 pool, is my general understanding. But again, I don't
 12 pretend to be an expert.
 13 Q. When you say a power pool, how are you defining a
 14 power pool?
 15 A. A power pool, as I understand it, is a
 16 geographical area served by various utilities that are
 17 members of the pool and that execute a power pool agreement
 18 to provide certain quantities of firm and emergency and et
 19 cetera levels of power generation consistent with the
 20 regulations associated with the pool, is my general
 21 understanding of it.
 22 Q. Can you name me an entity that would be a power
 23 pool?
 24 A. A power pool would be a combination of legal
 25 entities. In this particular case, my understanding is it

13 (Pages 46 to 49).

Page 50

Page 52

1 would include Aquila. There would be pieces of other
2 utilities that would be part of that power pool.

3 Q. Have you heard of the organization PJM?

4 A. I don't recognize it offhand.

5 Q. It would be an acronym for Pennsylvania, Jersey,
6 Maryland. You wouldn't know whether that is a power pool,
7 a true power pool, or not?

8 A. I wouldn't offhand.

9 Q. Have you heard of an organization called the
10 Midwest ISO?

11 A. No, I can't say that I have.

12 Q. You wouldn't know whether that would be a power
13 pool or not?

14 A. No, I don't.

15 Q. Do you know what a regional reliability counsel
16 is?

17 A. The dealings I've had with regional reliability
18 counsels have been pretty limited since I do more
19 generation than transmission. But the regulations I'm
20 familiar with have to do with things such as underfrequency
21 load shedding and agreements such as that to maintain
22 system stability and reliability.

23 Q. Would there be an equation in your mind or would
24 there be a quality in your mind as to a regional
25 reliability counsel in a power pool?

1 particular in that area when I think of a control area.

2 Q. Basically doing an energy balance, energy in
3 equals energy out and then therewith making sure the
4 frequency is at 60 hertz?

5 A. Yes. That would be my understanding of how a
6 control area operates.

7 Q. If I were to represent to you that Aquila is a
8 control area and Empire is a control area and Kansas City
9 Power & Light is a control area, would you say that that
10 responsibility lies in that control area to determine load
11 and supply?

12 A. If those two entities were in fact -- I'm having
13 trouble coming up with the word I want to use. If they in
14 fact are independent control areas, then yes, that would be
15 an accurate statement.

16 Q. If the Southwest Power Pool was not a control
17 area, that would not be their responsibility; would you
18 agree with that?

19 A. That's correct.

20 MR. LINTON: I have no further questions.

21 EXAMINATION

22 BY MR. EFTINK:

23 Q. May I proceed? This is Gerry Eftink. First let
24 me ask you if you have a full copy of the written testimony
25 that you prepared, Mr. Stanley, along with the exhibits.

Page 51

Page 53

1 A. Well, there certainly is a technical relationship
2 between the two. I don't know what the administrative
3 relationship is between the two organizations.

4 Q. What is the technical relationship?

5 A. Well, the technical relationship is that your
6 available generation has to equal the load in a particular
7 area or the system is not going to be stable. You're going
8 to have either frequency problems, voltage problems or
9 something along those lines. So the two are in a way
10 related, but administratively they may be handled
11 separately. I honestly don't know.

12 Q. Your answer confused me a bit. We were talking
13 about the technical relationship between a regional
14 reliability counsel and a power pool.

15 A. Excuse me. What I was trying to say was that the
16 match of generation and load is a part of reliability from
17 a technical standpoint because the grid will not sustain if
18 you don't have adequate generation. That was the technical
19 relationship that I was talking about between the concepts
20 of a power pool and a reliability counsel, is what I was
21 attempting to say.

22 Q. That would be function, then, of a control area?
23 Would you agree or disagree with that, or do you know?

24 A. I usually think of a control area as watching
25 input and output and watching out for the frequency in

1 A. I sure do.

2 Q. I'd like to have the whole thing marked as an
3 exhibit. So why don't you hand it to the court reporter?
4 And when she's done marking it, we'll go back on the
5 record.

6 A. This is the one that has the original notary seal
7 on it. Is that what you want her to have?

8 Q. Yes.

9 MS. CARTER: Just so we're clear, by marking
10 this as an exhibit, we're not consenting or agreeing to its
11 admission before the Commission.

12 MR. EFTINK: I understand.

13 (Exhibit 1 marked.)

14 Q. (By Mr. Eftink) You've got Exhibit 1 in front of
15 you. Is that a complete and accurate package of your
16 written testimony with exhibits that you had filed on
17 behalf of StopAquila.org in Case Number EA-2006-0309?

18 A. Yes, it is.

19 Q. Did you prepare this Exhibit 1?

20 A. Yes.

21 Q. At the end of it, does it have your resume?

22 A. Yes, it does.

23 Q. For how long have you been working in or around
24 power plants?

25 A. Since 1973.

Page 54

1 Q. You were working around power plants before you
2 became an engineer?
3 A. Yes. I was actually working at Black & Veatch as
4 a co-op student where you work a semester and go to school
5 a semester.
6 Q. What kind of engineer are you?
7 A. My degree is in electrical engineering.
8 Q. In your role as an engineer working with power
9 plants, have you managed projects?
10 A. Yes, I have.
11 Q. When you've managed these projects, have they
12 included supervising people over areas that included noise
13 and emissions?
14 A. Yes, I have.
15 Q. In your written statement, which is marked as
16 Exhibit 1, you start out on page 3 by saying that you
17 vehemently disagree with the location of this South Harper
18 power plant; is that correct?
19 A. That's correct.
20 Q. Can you tell us just briefly -- I'll get into
21 details later -- why you oppose the location of the South
22 Harper Peaking Facility?
23 MS. CARTER: I'm sorry to interrupt,
24 Mr. Eftink. I guess I'll need to object if your attempt
25 here is to get in more testimony that should have been

Page 55

1 prefled as opposed to simply rehabilitating the witness as
2 to any of the questions that have been asked today.
3 MR. EFTINK: Because of the time constraints
4 and the fact that he's in New Mexico, I'd like to ask these
5 questions. And you can make your objections, and we'll
6 just have to have the Commission sort it out later on.
7 MS. CARTER: Then I'll make that objection
8 quite clear for the record, in that you did not notice up a
9 preservation deposition. Instead I noticed up a
10 deposition, a general discovery deposition, where we were
11 going to ask some questions. And there was never an
12 agreement that this would serve as testimony that would be
13 admitted before the Commission.
14 MR. EFTINK: You can make your objection, and
15 I'll ask my questions.
16 MS. CARTER: At a certain point, I guess
17 we'll need to stop the deposition if you're going to go on
18 with things that should have been submitted as prefled
19 testimony in this matter.
20 MR. EFTINK: If you want to try to stop the
21 deposition, that is up to you.
22 Q. (By Mr. Eftink) Do you recall the question,
23 Mr. Stanley?
24 A. I believe you wanted me to comment on my reasons
25 for disagreeing with the assertions of consistency. Is

Page 56

1 that an accurate recap?
2 Q. Yes.
3 A. Well, the things that I've keyed in on have been
4 discussed already. The pollution that is much higher than
5 any use that I would conceive of for the surrounding area
6 and then the noise levels that have been unacceptable to
7 this point are probably the two main objections.
8 Q. Let me ask you to elaborate on the pollution.
9 MS. CARTER: I'm going to object as calling
10 for testimony that should have been prefled.
11 MR. EFTINK: Go ahead, Mr. Stanley.
12 A. Simply that over 500 pounds per hour of pollution
13 is equivalent to what would be generated by some 90,000
14 homes. If you can imagine 90,000 homes stacked onto a
15 74-acre property, I think that's 300 stories of homes on
16 quarter acre lots, if I remember my calculations
17 correctly. You know, you have that amount of natural gas
18 being burned and that amount of pollution being emitted on
19 that property, which to me is inconsistent.
20 You can make the same type of comparison when you
21 compare it to the thousand diesel pickup trucks. We would
22 not have 1000 diesel pickup trucks running around that
23 property eight hours a day in the summertime under any use
24 that I can conceive of that the County would permit in that
25 area or that the residents would put up with in that area.

Page 57

1 Plus, the noise levels being an industrial noise
2 level, that is, again, not something that any of us that
3 live in this area would have anticipated in the past.
4 Q. Can you explain what information and documents you
5 have reviewed to come up with your calculations for the
6 levels of emissions?
7 MS. CARTER: Same objection.
8 A. The emissions documents for the plan are based on
9 the permit granted by the Missouri Department of Natural
10 Resources, portions of which are included as my exhibits to
11 my written testimony. The truck calculations came from the
12 certified emissions levels off the EPA website for the
13 engine model number that is in my own diesel powered pickup
14 truck.
15 Q. (By Mr. Eftink) Did you look at records filed by
16 Aquila with the Missouri Department of Natural Resources to
17 report the actual emissions for 2005?
18 MS. CARTER: Same objection.
19 A. Yes, I do have a copy of what they filed with the
20 Missouri Department of Natural Resources listing their
21 total emissions and then their emissions on a per turbine
22 basis.
23 Q. (By Mr. Eftink) Can you tell us what Aquila
24 reported as the total emissions of these measured emissions
25 in terms of pounds per hour per turbine?

15 (Pages 54 to 57)

Page 58

1 MS. CARTER: Same objection.

2 A. When you take the tons per year, divide by the
3 hours per year and then multiply by the conversion factor
4 of 2000 pounds per ton, the first -- excuse me. I was on
5 the second turbine. The first turbine averages out to 161
6 pounds per hour; the second turbine, 173 pounds per hour;
7 and the third turbine, just under 170 pounds per hour. The
8 total is a little over 500 pounds per hour if all three
9 turbines are running.

10 Q. (By Mr. Eftink) What pollutants are included in
11 that weight measurement?

12 A. The pollutants include particulate matter 10,
13 sulfur -- it isn't just dioxides, but SOx, NOx, the nitrous
14 oxides, organic compounds and carbon monoxide.

15 Q. Did they even measure particulate matter 2.5?

16 MS. CARTER: Same objection.

17 Q. (By Mr. Eftink) According to the report that was
18 turned in by Aquila?

19 A. According to the report, that is not measured.

20 Q. Are you qualified to do these calculations based
21 on records submitted by Aquila to the Department of Natural
22 Resources?

23 MS. CARTER: Same objection.

24 A. I believe that I am.

25 Q. (By Mr. Eftink) Why is that?

Page 59

1 MS. CARTER: Same objection.

2 A. Based on the years of experience in power plants
3 and general familiarity with the combustion processes and
4 the pollutants emitted by the processes.

5 Q. (By Mr. Eftink) You're basing this on actual
6 reports filed by Aquila with the Missouri Department of
7 Natural Resources?

8 A. Yes, sir, I am.

9 Q. And you also are basing part of your calculations
10 on the permit issued by the State of Missouri Department of
11 Natural Resources?

12 A. That's correct.

13 Q. Now, on page 4 of your statement, which is marked
14 as Exhibit 1, you give us some information on the gas
15 compressor station. Where did you get that information?

16 A. That also came from their Intermediate Operating
17 Permit Application dated January 4th, 2005.

18 Q. Is that filed with the State of Missouri?

19 A. Yes, it is.

20 Q. On page 5, do you give us comparisons of the break
21 horsepower for the three turbines and the facilities known
22 as the gas compressor stations?

23 MS. CARTER: Mr. Eftink, is your plan to have
24 him reread his entire prefiled testimony?

25 MR. EFTINK: No, ma'am. I'm asking him

Page 60

1 questions.

2 MS. CARTER: So far you've asked him if what
3 is in his testimony is what is in his testimony.

4 MR. EFTINK: Could I proceed with my
5 questions?

6 MS. CARTER: Well, not if your plan is to
7 continue as you have so far, which is to take him through
8 his prefiled testimony. This is a discovery deposition.

9 MR. EFTINK: I never agreed that it was a
10 discovery deposition.

11 MS. CARTER: Aquila noticed up a deposition.
12 I'm sorry. Is there a different deposition that we're
13 attending that I'm not aware of?

14 MR. EFTINK: Diana, what time do you have to
15 leave?

16 MS. CARTER: We'd like to be able to fly out
17 of here at 6:00.

18 MR. EFTINK: What time do you have to leave
19 this facility?

20 MS. CARTER: The goal is for 3:00, but that
21 is not really the issue here. The issue is whether or not
22 you're trying to get him to read his prefiled testimony in
23 instead of properly testifying at the Commission when
24 subject to cross-examination.

25 MR. EFTINK: Let me ask my questions, and you

Page 61

1 can make your objections. Okay? Let's proceed.

2 Q. (by Mr. Eftink) Can you give us, based on the
3 actual documents filed with the Missouri Department of
4 Natural Resources and Aquila's documents, the break
5 horsepower for those different pieces of equipment?

6 A. Yes. The horsepowers for the gas compressor
7 station are directly out of the Department of Natural
8 Resources' application. The break horsepowers for the
9 South Harper Peaking Facility is based on the nominal
10 megawatt output divided by the conversion factor of 746
11 watts per horsepower.

12 Q. What is the total break horsepower if all three of
13 the turbines are operating?

14 A. It is in excess of 422,250.

15 Q. What is the break horsepower if the gas compressor
16 is fully operating?

17 A. 5,647.

18 Q. When you've compared the South Harper Peaking
19 Facility when it's fully operating with all three turbines
20 operating to pickup trucks, why were you doing that?

21 A. The comparison was made in response to Aquila's
22 Exhibit 1 filed with the case a year ago at the Public
23 Service Commission.

24 Q. That is where they compared the South Harper
25 Peaking Facility to a pickup truck?

Page 62

1 A. Yes, to a diesel powered pickup truck traveling 35
2 to 50 miles per hour.
3 Q. Are you qualified to do the calculations to come
4 up with your conclusion that it is similar to 1000 pickup
5 trucks?
6 A. I believe that I am.
7 Q. You also, in your statement starting on page 9,
8 talked about a statement made by Block Andrews comparing
9 this to dirt roads. Was that in response to prefiled
10 testimony of Block Andrews?
11 MS. CARTER: Mr. Eftink, I am sorry to do
12 this. This is certainly not something I would enjoy doing
13 with other counsel. But because the objections are not
14 being accepted by you apparently, we're going to need to
15 end our deposition. And if you'd like to notice up the
16 deposition of Mr. Stanley at a different time, then that
17 would be your choice. But I can't allow you to continue.
18 just having him read his prefiled testimony so it appears
19 in the deposition transcript.
20 MR. EFTINK: Let's please proceed. It won't
21 be very much longer. If you insist on trying this tactic,
22 I'm going to ask the court reporter to continue to take the
23 record, continue to take my questions and his answers.
24 MR. WILLIAMS: Diana, staff does have a
25 couple of questions we think are relevant that we would

Page 63

1 like to ask.
2 MR. EFTINK: Why don't we go ahead and
3 proceed.
4 MS. CARTER: Mr. Eftink, I'm going to go
5 about five more minutes.
6 MR. EFTINK: If you have to leave in 20
7 minutes, tell us you have to leave in 20 minutes.
8 MS. CARTER: No. As you know, the purpose of
9 a deposition is not so he can reread his prefiled
10 testimony.
11 MR. EFTINK: I'm trying to ask him questions,
12 and you're trying to stop me from asking the questions,
13 Diana. Let's proceed.
14 Q. (By Mr. Eftink) Mr. Stanley, in your review of
15 Block Andrews' written testimony, did Mr. Andrews have an
16 accurate comparison between the power plant and dirt roads?
17 A. He was comparing the particulate emissions of the
18 power plant, which is somewhere around 20 pounds per hour,
19 to the particulate emissions off of the previously graveled
20 roads in the vicinity of the power plant.
21 Q. What percentage of the total permitted emissions
22 are PM 10?
23 A. Something like 4 percent.
24 Q. You're saying Mr. Andrews is not comparing 96
25 percent of the emissions in his analogy?

Page 64

1 A. Right. He's focusing in on the 4 percent that is
2 particulate emissions.
3 Q. You have attached to your statement an Exhibit
4 HRS-5. I would like you to look at that, please.
5 A. All right.
6 Q. What is Exhibit HRS-5 to Exhibit 1?
7 A. Exhibit HRS-5 is the preconstruction noise
8 assessment study performed by Burns & McDonnell on behalf
9 of Aquila.
10 Q. What is the highest level that they found of
11 noise?
12 MS. CARTER: Same objection. And if we can
13 have an agreement that it is a running objection so I don't
14 have to keep saying, "Same objection."
15 MR. EFTINK: We have that agreement. Do you
16 remember the question, Mr. Stanley?
17 THE WITNESS: I believe you asked for the
18 highest level that is shown.
19 MR. EFTINK: Yes.
20 A. Well, the highest level that is shown at the
21 property line is well in excess of 65 -- let me make sure
22 I'm right here. Hold on just one second. I'm sorry.
23 Yeah, it is in excess of 65 decibels at Harper Road
24 according to the decibel map that is attached to the noise
25 assessment study.

Page 65

1 Q. (By Mr. Eftink) Mr. Stanley, about, oh, ten days
2 ago or so, we received a data request asking for more
3 information from you. Did you get those data requests?
4 A. Yes, I did.
5 Q. Have you tried to find documents that would be
6 responsive to those recent data requests?
7 A. I plan to prepare documents that respond to those
8 data requests.
9 Q. Are you willing to answer any questions of counsel
10 that relates to those documents that they are asking for?
11 A. Yes, I can, for those that I'm prepared to
12 answer. I don't know if I'm fully prepared on every one of
13 them, but I'll certainly say if I'm not yet prepared.
14 MR. EFTINK: I pass the witness.
15 EXAMINATION
16 BY MR. WILLIAMS:
17 Q. This is Nathan William for the staff. I have a
18 couple of questions for you. It's my understanding you
19 have issues with noise levels emanating from the South
20 Harper Plant; is that correct?
21 A. That is correct.
22 Q. Do you know if there are any bodies that regulate
23 noise levels that might emanate from that plant?
24 A. The only body I know of is the County of Cass
25 County, which does have a noise ordinance regarding the

17 (Pages 62 to 65)

Page 66

1 A-weighted sound pressure levels from any type of a
2 facility.

3 Q. Have you raised the issue of noise levels at the
4 South Harper facility to Cass County?

5 A. I don't recall a particular interchange with them
6 regarding the noise level. I think they're fully aware
7 that I've been objecting to the noise.

8 Q. Did you make a formal complaint to Cass County
9 regarding the noise level emanating from the South Harper
10 plant?

11 A. I did not file any legal document with the County,
12 if that's what you're asking.

13 MR. WILLIAMS: No further questions.

14 FURTHER EXAMINATION

15 BY MS. CARTER:

16 Q. I have just a couple more. Are you familiar with
17 the Greenwood Energy Center?

18 A. I know that it exists. I don't know very many
19 details about it.

20 Q. Are you familiar with the surrounding area?

21 A. I am familiar with the surrounding area a little
22 bit.

23 Q. To me, it sounds somewhat similar to the area
24 you've described around the South Harper facility. Would
25 you agree?

Page 67

1 A. Well, there are some acreage lots around there.
2 But the Greenwood facility is on a much larger piece of
3 property. I believe its property is at least 160 acres, is
4 the number that I recall. Also, when you look at an aerial
5 map of the property, the turbines are not as close to the
6 houses as what they've ended up with at South Harper, at
7 least according to the aerial maps I've seen.

8 MS. CARTER: If we could have these marked as
9 Exhibits 2 and 3.

10 (Exhibits 2 and 3 marked.)

11 Q. (By Ms. Carter) I'm going to hand you what has
12 been marked as Exhibit 2. Would you say that accurately
13 depicts the South Harper area?

14 A. I'm having a little trouble determining the
15 orientation and angle at which this photograph was taken.
16 Do you have that information?

17 Q. Can you look to see where you see the turbine
18 location, and coming out from that would be the north.

19 A. This is a photograph taken from the west and
20 looking east. Terry is nodding that that is accurate.
21 What I don't see on here is all of the development along
22 Lucille Lane. Lucille Lane is cut off in this particular
23 photograph. Lucille Lane, unless I've lost my orientation
24 here, it's on the left-hand side of the sheet just below
25 the page punch and continues off to the north and has,

Page 68

1 again, roughly two- to three-acre lots along both sides of
2 that road. You can see Harper Road beyond the plant with
3 houses on both sides of it. Then the area I live is off in
4 the distance.

5 Q. Do you believe that is an accurate depiction of
6 what is contained in that photo, which is Exhibit 2?

7 A. Well, I don't think it gives you the same sense of
8 concentration as if you were taking an aerial shot from
9 directly above the facility, which I think would more
10 accurately represent the number of homes within the radius,
11 because the way this is angled, it looks like my house
12 might be three or four miles away. In fact, it's less than
13 half a mile away. So in my opinion, this distorts the
14 neighborhood around South Harper from the angle that it's
15 taken at.

16 Q. Let me show you Exhibit 3. Do you think that
17 accurately depicts the area around the Greenwood Energy
18 Center?

19 A. Again, I don't know the date on this photograph.
20 It looks like it says that it was 2001. It was an aerial
21 photograph taken from above. I'm going to have to rely on
22 the accuracy of terraserver.com. I've never flown over the
23 Greenwood facility.

24 Q. From your knowledge of the Greenwood facility, do
25 you believe the picture that's been marked as Exhibit 3

Page 69

1 accurately depicts the homes located around the facility,
2 the concentration of homes?

3 A. As far as I know, it does.

4 Q. Can you hear the compressor station from your
5 house?

6 A. I'm not sure if I've ever heard the compressor
7 station from my house.

8 Q. Why are you not sure?

9 A. Occasionally I heard some kind of a rumble before
10 South Harper Peaking Facility went in, but was never able
11 to distinguish between the compressor station and a distant
12 train. So I don't know if I've ever heard a noise from the
13 gas compressor station.

14 Q. You're able to hear the peaking facility from your
15 house?

16 A. Quite clearly.

17 Q. Have you done any investigation to determine that
18 it is in fact the peaking facility that you're hearing?

19 A. I have, when it was running, driven over to it to
20 confirm that it was the peaking facility.

21 Q. You're able to distinguish the sound between the
22 peaking facility and the compressor station?

23 A. Definitely.

24 Q. It's my understanding they sound fairly similar in
25 terms of the equipment that is used. You're able to tell

18 (Pages 66 to 69)

Page 70

1 quite a difference?

2 MR. EFTINK: Objection to counsel
3 testifying. But you may go ahead, Mr. Stanley.

4 A. I believe I can tell the difference between the
5 two.

6 Q. (By Ms. Carter) When was the last time you
7 believe you heard the peaking facility operating?

8 A. It has been barred from operation since the first
9 of the year, roughly the first of the year. Then I was
10 gone most of last fall, most of September, October and
11 November on projects. So the last time I personally heard
12 the facility running would have been in August. But I
13 wasn't around to hear it when it was running. So that's
14 not a very accurate statement.

15 Q. Is it your understanding that the gas compressor
16 station would operate for a much more significant period of
17 time during the year as opposed to the peaking facility?

18 A. I have no idea, because it was put in to operate
19 Aries, and Aries has been sitting for most of the last
20 year. I have no idea what its operating schedule has been
21 like.

22 Q. Is it your understanding that Aquila plans to take
23 even more measures to reduce the noise level from the
24 facility?

25 A. There have been some promises made to reduce the

Page 72

1 know when the court reporter can get this to us, but we
2 need this right away.

3 MS. CARTER: Let's go off the record.
4 (Discussion held off the record.)
5 (Proceedings concluded.)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 71

1 noise level.

2 MS. CARTER: I think that is all I have. Do
3 any other parties have further follow-up questions?

4 MR. WILLIAMS: Nothing from PSC staff.

5 MR. LINTON: Nothing from SPP.

6 MR. EFTINK: Nothing from StopAquila.org.

7 MS. CARTER: For the court reporter's
8 benefit, Staff, if you could, say what you'd like in terms
9 of a transcript, if any.

10 MR. WOOD: Yeah. We'd like a copy. And if
11 it's available electronically, we could get it e-mailed.

12 THE COURT REPORTER: What is your e-mail
13 address?

14 MR. WILLIAMS: Nathan.williams@psc.mo.gov.

15 MR. LINTON: SPP would like a copy as well,
16 electronically would be good. My e-mail address is
17 djlinton@charter.net.

18 MR. EFTINK: This is Gerry Eftink. I would
19 like both a copy by e-mail and a paper copy. I'll give you
20 my addresses. The e-mail address is geftink@comcast.net.
21 The mailing address is 704 West Foxwood Drive, Post Office
22 Box 1280, Raymore, Missouri 64083.

23 Could we get the court reporter's contact
24 information in case we have a problem getting this?
25 Because we are starting a hearing in two days, and I don't

Page 73

REPORTER'S CERTIFICATE

1 I, KAREN M. RODRIGUEZ, a certified court
2 reporter, do hereby certify that I reported the foregoing
3 case in stenographic shorthand and transcribed, or had the
4 same transcribed under my supervision and direction, the
5 foregoing matter and that the same is a true and correct
6 record of the proceedings had at the time and place.
7
8 I FURTHER CERTIFY that I am neither employed by
9 nor related to any of the parties or attorneys in this
10 case, and that I have no interest whatsoever in the final
11 disposition of this case in any court.
12
13 WITNESS MY HAND this 25th day of April, 2006.
14
15
16
17
18
19

Karen Rodriguez, CCR #55
Expiration 12/06

1 In the Matter of the Application of Aquila,)
Inc. for Permission and Approval and a)
2 Certificate of Public Convenience and.)
Necessity Authorizing it to Aquire,)
3 Construct, Install, Own, Operate,)
Maintain, and Otherwise Control and)
4 Manage Electrical Production and)
Related Facilities in Unincorporated)
5 Areas of Cass County, Missouri near the)
Town of Peculiar.)
6
7
8
9

DEPOSITION OF HAROLD STANLEY

April 24, 2006

1:00 p.m.

10
11
12 At the Tri-State Escalante Station
294 County Road 19
13 Prewitt, New Mexico
14
15
16

17 TAKEN BY: DIANA C. CARTER
ATTORNEY FOR THE AQUILA, INC.
18
19
20

21 REPORTED BY: KAREN RODRIGUEZ, NM CCR #55
KMR Court Reporters, etc., LLC
22 Post Office Box 16346
Albuquerque, New Mexico 87191-6346
23
24
25

Page 2

APPEARANCES

For Aquila, Inc.:
 DIANA C. CARTER
 Brydon, Swearingen & England, P.C.
 312 East Capitol Avenue
 Jefferson City, Missouri 65102
 Also Present: Terry S. Hedrick
 For StopAquila.org:
 GERARD EFTINK (Telephonically)
 Van Hooser, Olsen & Eftink, P.C.
 704 W. Foxwood Drive
 Raymore, Missouri 64083

For Southwest Power Pool, Inc.:

DAVID LINTON (Telephonically)
 Attorney at Law
 424 Summer Top Lane
 Fenton, Missouri 63026
 For Missouri Public Service Commission:
 WARREN WOOD (Telephonically)
 LEON BENDER (Telephonically)
 NATHAN WILLIAMS (Telephonically)
 LERA SHERWELL (Telephonically)
 Staff Counsel
 P.O. Box 360
 Jefferson City, Missouri 65102

INDEX

PAGE

EXAMINATION OF HAROLD STANLEY
 By Ms. Carter 3, 66
 By Mr. Linton 48
 By Mr. Eftink 52
 By Mr. Williams 65
 CERTIFICATE OF COMPLETION OF DEPOSITION 75

EXHIBITS

FORMALLY MARKED/IDENTIFIED (Exhibits not submitted)

1. Written Testimony of Harold R. Stanley, P.E. 53
 2. Photograph 67
 3. Photograph 67

Page 4

A. No. That's in unincorporated Cass County.
 Q. How long have you resided at that address?
 A. Since June of 1999.
 Q. Who else resides at that address?
 A. My wife, Lorraine.
 Q. Have you ever been a plaintiff in a civil lawsuit where you were the one bringing a civil lawsuit against another party?
 A. I don't recall being one.
 Q. You can't think of any time you've brought a lawsuit against another party; for example, a divorce proceeding?
 A. I apologize. Yes. In the case of a divorce proceeding, yes, I did.
 Q. Is that the only time you've been a plaintiff in litigation?
 A. That's the only one that comes to mind.
 Q. It's my understanding that possibly as part of your divorce proceeding you brought a federal lawsuit; is that correct?
 A. That is correct.
 Q. What was the ending result of that lawsuit?
 A. I guess I'm trying to figure out the relevance of that to this proceeding.
 Q. Unless your attorney objects and instructs you not

Page 3

HAROLD STANLEY

After having been first duly sworn,
 testified as follows:

EXAMINATION

BY MS. CARTER:

Q. Would you please state your full name?
 A. My name is Harold Stanley.
 Q. Have you given your deposition before?
 A. I've given depositions before.
 Q. You're generally familiar with the process?
 A. I am.
 Q. There are just a couple of things. If you answer a question, I'm going to assume you understood the question. Is that fair?
 A. That's fine.
 Q. Also it's important that we not talk at the same time so that the court reporter is able to take everything down.
 A. Fine.
 Q. What is the address of your current primary residence?
 A. 10707 East 240th Street. That's in Peculiar, Missouri 64078.
 Q. Are you actually located within the city limits of Peculiar?

Page 5

to answer, you need to go ahead and answer the question.
 A. The removed case was dismissed.
 Q. Was any part of the lawsuit with regard to your professional license or your employment?
 A. None.
 Q. Have you ever been a defendant in a civil or a criminal lawsuit, civil or criminal proceeding?
 A. The only one I can think of is with reference to the divorce proceedings.
 Q. When you moved to Cass County, the address you gave us with the City of Peculiar, were you aware that that was near a gas compressor station?
 A. Yes, I was.
 Q. At the time, were you familiar with the station's operations in terms of generally when it operated and the types of emissions that would come from such a facility?
 A. Yes, I was.
 Q. You chose to move into that address knowing that the gas compressor station was nearby?
 A. Yes, I did.
 Q. What is the name of your current employer?
 A. I am self-employed.
 Q. Would you briefly describe your duties for us for your self-employment?
 A. I'm a registered professional engineer, and I

Page 6

1 continue to provide the engineering services to utility and
 2 industrial clients.
 3 Q. Would you say that you work full time still?
 4 A. Yes.
 5 Q. Do you have a company, your own company, or is it
 6 just you as an individual?
 7 A. Doing business as myself.
 8 Q. Are you registered by the Missouri Board of
 9 Architects, Professional Engineers and Professional Land
 10 Surveyors?
 11 A. Yes, I am.
 12 Q. What is your Missouri PE serial number, if you
 13 know it offhand?
 14 A. I don't know it exactly offhand.
 15 Q. Does this sound correct, 019372?
 16 A. That does sound correct.
 17 Q. What is the date of registration of your PE
 18 license in Missouri?
 19 A. It was originally issued either in late 1980 or
 20 early 1981. I'd have to look at the certificate.
 21 Q. Is your registration current in Missouri?
 22 A. It sure is.
 23 Q. Do you recall the expiration or renewal date for
 24 your license?
 25 A. It's in my home office, but I believe it's current

Page 7

1 through '07.
 2 Q. Are you registered or licensed in any other
 3 states?
 4 A. Not actively right now.
 5 Q. Where were you previously licensed in other
 6 states?
 7 A. I have been licensed in Texas, Arkansas, Iowa.
 8 Those are the three that come to mind just off the top of
 9 my head.
 10 Q. Has your license ever been subject to discipline,
 11 any PE license in any state?
 12 A. No.
 13 Q. Would you just describe briefly in your own words
 14 your educational background?
 15 A. Bachelor of science in electrical engineering,
 16 graduated in 1976.
 17 Q. Have you been working in electrical engineering
 18 since that time?
 19 A. Yes, I have.
 20 Q. Would you agree that the field of engineering is
 21 fairly broad, covering everything from civil engineering,
 22 to mechanical, to chemical, to nuclear, to a host of other
 23 specialties?
 24 A. It is broad.
 25 Q. Would you agree that a PE should refrain from

Page 8

1 affixing his or her stamp on a work product that is outside
 2 his or her area of expertise?
 3 A. That is correct.
 4 Q. What is your particular specialty? Is it just
 5 electrical engineering?
 6 A. With 30 years of experience in power plants, there
 7 is a lot of related experience that isn't necessarily
 8 classified as electrical that one develops a certain
 9 expertise in.
 10 Q. Do you have a copy of your direct testimony with
 11 you?
 12 A. I sure do.
 13 Q. I'm going to refer you to a few page numbers, and
 14 that will be easier.
 15 A. Okay.
 16 Q. On page 2, beginning at line 14 of your testimony,
 17 you make the statement that you have designed numerous
 18 power generation installations and upgrades over the past
 19 30 years. I want to make sure that you don't mean that
 20 literally, but that you've mean you designed elements of
 21 power generation facilities. Or do you mean you literally
 22 have designed the entire facility?
 23 A. Yeah, elements of it.
 24 Q. Would you agree that no single individual could
 25 design an entire utility power generation facility?

Page 9

1 A. I don't know of any.
 2 Q. Do you consider yourself professionally qualified
 3 to solicit and practice acoustical engineering services?
 4 A. I do not solicit such services, however my
 5 background and training includes significant education and
 6 experience in sound and noise qualities going clear back to
 7 first semester physics in college.
 8 Q. Do you consider yourself professionally qualified
 9 to practice acoustical engineering services?
 10 A. It depends on what you mean by acoustical
 11 engineering services.
 12 Q. Is there not a common definition within
 13 professional engineering?
 14 A. Acoustics ends up being involved in a lot of
 15 different areas. When I'm specifying a power transformer,
 16 I have to make sure that its emitted noise levels do not
 17 exceed certain levels to be compatible with the rest of the
 18 facility. When I'm specifying a motor, I have to make sure
 19 that its noise output is not excessive in the area where
 20 it's going to be installed, that it's not going to lead to
 21 an excessive problem.
 22 As part of my electrical engineering practice, I
 23 have to be familiar with acoustical terms. When you stay
 24 with things such as decibels of sound pressure and
 25 A-weighted sound pressures and so on and so forth, a

3 (Pages 6 to 9)

1 certain familiarity with that is required to practice
2 electrical engineering accurately.

3 Q. Certainly. And aside from being familiar with
4 terms and familiar with the general area, again, if you
5 can, try to answer for me if you feel you are
6 professionally qualified to practice acoustical engineering
7 services.

8 A. I would not take on an acoustic propagation study
9 like the ones performed by Burns & McDonnell for Aquila in
10 October of 2004. I'll answer it that way. Is that
11 sufficiently --

12 Q. It is.

13 A. -- definite? Okay.

14 Q. So I believe, then, it would be safe to say you
15 would not feel qualified to serve as an expert witness
16 regarding acoustical engineering?

17 A. If you're wanting to talk about propagation and
18 surfaces that the noise is going to bounce off of and so
19 on, I would not attempt that.

20 Q. I would say specifically propagation and
21 mitigation. You would not feel comfortable being an expert
22 in that area?

23 A. No. I would not try to do that in specific finite
24 terms.

25 Q. Would you be comfortable designing and affixing

1 Q. If you could, describe for us briefly what
2 expertise in terms of education, training, experience,
3 certification that you possess that would qualify you to be
4 in charge of or professionally seal investigations and
5 reports pertaining to air exhaust emissions. Or would you
6 be able to?

7 A. Again, it depends on the scope of what I would be
8 being asked to seal.

9 Q. Why don't you define for me what scope you would
10 be comfortable with?

11 A. I would be comfortable with being the project
12 manager on a project where I had specialists working in
13 that specific area and would not be uncomfortable sealing
14 over their work performed under my supervision to make sure
15 that I felt like they had followed the proper procedures on
16 it.

17 Q. Have you ever designed or been involved in the
18 design of power generation emission controls?

19 A. Yes, I have.

20 Q. Could you describe those times for me?

21 A. Well, my second project as a co-op student was the
22 electrical aspects of a precipitator installation for
23 Columbus & Southern Ohio Electric Company. Pollution
24 control is a part of power generation and has been for my
25 entire career. So the list would be quite long.

1 your PE stamp to an acoustic remediation plan for a power
2 generation facility?

3 A. No.

4 Q. Do you consider yourself professionally qualified
5 to solicit and practice services related to air exhaust
6 emissions, particularly air exhaust emissions from
7 combustion turbines or motor vehicles?

8 A. Well, that is a pretty broad question. If you
9 want to talk about performing elementary combustion
10 calculations on a mobile basis, that is the type of thing
11 normally done by combustion turbine manufacturers.

12 Now as far as understanding the general concepts
13 of emissions, that is something that virtually every power
14 plant engineer I know of has a familiarity with. As far as
15 pounds per hour of pollution emitted of various types, that
16 is fairly widely known in the power generation profession.

17 Q. Do you believe you would be qualified to serve as
18 an expert witness regarding air exhaust emissions?

19 A. Again, it depends on what types of numbers you're
20 asking me to generate. If you're asking me to do the
21 original calculations normally performed by a combustion
22 turbine manufacturer to guarantee the output, no, I
23 wouldn't do that. But to sit and look at exhaust
24 guarantees and say, "Okay, that number matches up with my
25 air quality permit," I would not be afraid to do that.

1 Q. Currently would you be comfortable designing or
2 affirming the design of power generation emission controls
3 and affixing your seals to those designs?

4 A. Are we talking about the process itself or a
5 control system to control the process?

6 Q. If those are two separate answers, you can give me
7 two separate answers.

8 A. If you want me to design a scrubber/absorber tank
9 with the appropriate concentrations of constituents to pull
10 the SO2 out of the gas flow, no, I would not attempt to do
11 that. If you want me to design the control systems, to
12 start and stop the pumps, to monitor the levels and that
13 type of thing, then that is something I've done more than
14 once.

15 Q. And that is something then, in that area that
16 you've just described, you'd be comfortable affixing your
17 seal to?

18 A. Yes.

19 Q. Do you consider yourself professionally qualified
20 to perform ground level air quality investigations?

21 A. No.

22 Q. Then I assume it would be safe to say you would
23 not believe you were qualified to be an expert witness
24 regarding ground level air quality?

25 A. No.

Page 14

Page 16

1 Q. Do you consider yourself professionally qualified
2 to provide land use planning services?

3 A. No. I don't profess to have any land use planning
4 expertise. I tried to limit my testimony to engineering
5 comparisons of various types of land use in the instant
6 case.

7 Q. Have you had any specific work experience dealing
8 with land use planning?

9 A. I can't say that I have.

10 Q. Your testimony at page 3 indicates that you
11 believe the South Harper facilities are inconsistent with
12 the character and use of the surrounding area. Are you
13 familiar with the multiuse tier designation for land use in
14 Cass County?

15 A. I don't pretend to be an expert on it.

16 Q. Are you generally familiar with that term,
17 multiuse tier?

18 A. I've heard the term used.

19 Q. Are you aware that the designation provides for
20 industrial uses?

21 A. It provides for some industry uses, yes.

22 Q. Are you aware that the subject location where the
23 South Harper facilities are located is within a multiuse
24 tier?

25 MR. EFTINK: Let me object to that just for

1 designation was?

2 A. I don't recall doing that.

3 Q. Were you notified when the County was changing the
4 area to a multiuse tier designation?

5 A. I don't recall that.

6 Q. I'm assuming, then, you didn't object in any way
7 to the change in the designation?

8 A. I don't recall being notified, was the question I
9 was answering.

10 Q. Since you don't recall being notified, then I
11 assume it's correct that you didn't object in any way to
12 the change in the designation?

13 A. No.

14 Q. Are you currently opposed to the designation for
15 that area?

16 A. I don't know if I'm opposed to the designation.
17 I'm opposed to this type of an industrial facility being
18 installed this close to residences.

19 Q. Do you believe other types of industrial
20 facilities should be installed in the area pursuant to the
21 multiuse tier designation?

22 A. There could have been some form of light
23 industrial installation put in there that would not have
24 been so wildly inconsistent with the surrounding area.

25 Q. I don't want to dwell in this area too long, but

Page 15

Page 17

1 the record because it depends on which plan or which
2 document you're looking at. But go ahead.

3 Q. (By Ms. Carter) Mr. Stanley, if you able to,
4 answer the question for me. Are you aware that currently
5 the South Harper facilities are located within a multiuse
6 tier designation?

7 A. I've heard people attest to that. I won't say
8 that I have independent knowledge of it, but I've heard
9 people attest to it.

10 Q. Including people from Cass County; correct?

11 A. I couldn't tell you who I've heard say that just
12 offhand.

13 Q. Were you aware that the property was designated as
14 a multiuse tier when you moved in?

15 MR. EFTINK: Objection. That is inaccurate,
16 Diana.

17 MS. CARTER: Oh, yes, and I'm sorry.

18 Q. (By Ms. Carter) I'll back up, Mr. Stanley. Were
19 you aware of how the area was zoned when you moved in?

20 A. I examined the area, and it was residential for a
21 significant distance in every direction. So I did not
22 expect this type of a facility to be installed there.

23 Q. When you say you examined it, what do you mean?

24 A. As in drove around the area.

25 Q. Did you actually look up what the zoning

1 I'd like to ask you a few questions. Are you familiar with
2 the Missouri Code of Professional Conduct for Professional
3 Engineers as embodied by 4 CSR 30.2.010?

4 A. Yes, I am.

5 Q. Do you believe the provision of expert testimony
6 in a proceeding before the Public Service Commission is
7 included in the paragraph 3 definition of professional
8 engineering services?

9 A. I don't know that I have that memorized line for
10 line. I see that you have a copy of it, and I'm assuming
11 you're going to allow me to look at it.

12 Q. I am. It is our only copy. So we'll have to pass
13 it back and forth.

14 A. That's all right. I'm sorry. You were referring
15 specifically to what?

16 Q. The paragraph 3 definition of professional
17 engineering services, which states that registrants shall
18 undertake to perform architectural, professional
19 engineering and land surveying services only when they are
20 qualified by education, training and experience in the
21 specific technical areas involved.

22 And the question was: Do you believe the
23 provision of expert testimony before the Missouri Public
24 Service Commission would be included within that list?

25 A. Yes, I do. And I carefully made sure that the

Page 18

1 things I testified about were things that I had specific
2 technical expertise in.
3 Q. I'm going to let you keep that for a minute. With
4 regard to paragraph 7 of the code, do you believe the
5 submission of expert testimony in Aquila's application case
6 pending before the Commission is subject to paragraph 7 of
7 the code?
8 A. I certainly do.
9 Q. When did you first learn of Aquila's construction
10 of the South Harper facilities?
11 A. Shortly prior -- when I say "shortly," within I
12 believe less than a week prior to the October 11th, 2004,
13 public information meeting. So I would say somewhere
14 between October 4th and October 10th. I could not tell you
15 the date.
16 Q. How did you first learn of the facilities?
17 A. I first learned of it from a marker on a cardboard
18 sign stapled to a stop sign or a telephone pole in
19 Peculiar.
20 Q. So it was a public notice type of sign?
21 A. No. It was a hand-scribbled notice from somebody
22 who had found out about it before I did.
23 Q. To your knowledge, not someone with Aquila, just a
24 resident?
25 A. As far as I know, just a resident, yes.

Page 19

1 Q. When did you first learn of Aquila's application
2 that is pending before the Commission, specifically this
3 case in which you filed testimony, Case Number
4 EA-2006-0309?
5 A. I learned of it shortly after it was filed. But I
6 could not produce a date.
7 Q. You have been involved in a prior proceeding;
8 correct?
9 A. Yes. I was involved in a similar case about a
10 year ago.
11 Q. When did you first learn of the organization
12 StopAquil.org?
13 A. Shortly after the October 11th public information
14 meeting.
15 Q. How did you become familiar with StopAquil.org?
16 A. I actually learned of the organization by way of
17 the Missouri Public Service Commission, to whom I
18 strenuously objected when I first learned of the plant.
19 Q. Are you a member of StopAquil.org?
20 A. Yes, I am.
21 Q. What was involved with becoming a member of the
22 organization?
23 A. There was a membership form that was filled out
24 that just specified where you lived, to indicate whether
25 you were close to the plant or not.

Page 20

1 Q. Were you required to live within a certain
2 distance of the South Harper facilities?
3 A. There were two different application forms, one if
4 you lived within two miles and one if you did not. I
5 obviously filled out the one within two miles.
6 Q. Do you pay dues to be a member of the
7 organization?
8 A. No.
9 Q. Were you paid by StopAquil.org for submitting
10 testimony in this proceeding?
11 A. No.
12 Q. Were you paid by StopAquila for rendering any
13 engineering services?
14 A. No.
15 Q. Have you contributed funds to StopAquil.org?
16 A. Yes, I have.
17 Q. How much have you donated to StopAquila, if
18 "donated" would be a proper word?
19 A. I'm only recalling \$1,000.
20 Q. Was that for a specific purpose?
21 A. That was just for general legal counsel.
22 Q. Are you also, then, donating your services, for
23 example, in giving this deposition and filing testimony?
24 A. Yes, I am.
25 Q. When did you apply to Aquila for employment?

Page 21

1 A. I received a solicitation from Aquila by way of an
2 Internet-based job search company that I can't even find
3 the name of right this minute. But I received probably 40
4 or 50 such solicitations in the time frame 2004-2005. I
5 responded, I believe, to roughly a dozen of them. So
6 Aquila was one of about a dozen that I responded to in that
7 2003-2004 time frame.
8 Q. Just so we're clear, I'm assuming, then, you meant
9 40 or 50 solicitations from various companies, not --
10 A. Right, right. Thank you for clarifying that. 40
11 or 50 solicitations of various companies looking for people
12 with qualifications similar to mine.
13 Q. And Aquila was one of about 12 companies that you
14 submitted resumes or applications to?
15 A. That's the best I can remember. It's been a
16 couple of years ago.
17 Q. Was your application for employment with Aquila
18 connected to the construction of peaking facilities during
19 the 2004-2005 time frame?
20 A. I honestly don't remember that, whether it was or
21 not.
22 Q. Did you apply for a specific position or a
23 specific job with Aquila?
24 A. Whatever position it was the job search engine
25 lined me up with. I don't remember specifically.

Page 22

Page 24

1 Q. You're currently self-employed. When you
2 responded to those approximately 12 companies, did you
3 receive any job offers?

4 A. No, I did not.

5 Q. Did the rejection of your application by Aquila
6 influence your opinion in any way regarding the
7 appropriateness of construction of the turbines in Cass
8 County?

9 A. No, it did not. In fact, I was pleased that they
10 had not pursued it when I learned about their
11 construction.

12 Q. I understand you also previously worked for Sega;
13 is that correct?

14 A. That is correct.

15 Q. When did you work for Sega?

16 A. From 1986, when I started the electrical
17 engineering department there, until early 1998.

18 Q. What was your reason for leaving Sega?

19 A. Well, I don't want to divulge anything
20 confidential about my employment relationship there other
21 than I decided it was best for all parties that I move on.

22 Q. Would you say you left on good terms?

23 A. As far as I know, I left on good terms. I still
24 visit occasionally with one or two people over there.

25 Q. You weren't asked to leave your employment with

1 number of years and haven't seen a new one plopped in that
2 close to a residential area personally.

3 Q. You said it shouldn't be near any residences. Is
4 that accurate?

5 A. Certainly it shouldn't be near this much of a
6 concentration of residences, no.

7 Q: That's where I'm confused. You're saying, "this
8 much of a concentration," but when I look at your
9 testimony, you talk about large lots and houses not close
10 to each other. It sounds pretty spread out and not
11 concentrated.

12 A. Well, when I say "concentrated," we've had about
13 120 people recently sign up as adults living within a
14 two-mile radius. Now, at this power plant that you're
15 sitting in now, I don't think you could find a house within
16 two miles. And by contrast, this peaking station has way
17 over 120 adults living within two miles. So it's a starkly
18 different location than what I'm used to seeing power
19 plants placed in.

20 Q. I'm going to ask you a hypothetical question. If
21 the County had given Aquila a special use permit for the
22 facility, would you still be objecting to the facility and
23 its current location?

24 A. I would have objected to the granting of the
25 special use permit.

Page 23

Page 25

1 Sega?

2 A. No, I was not. I was asked to stay.

3 Q. Returning to your testimony, on page 3, at lines 1
4 through 4, you indicate that you had an initial bias
5 towards supporting the South Harper Peaking Facility. Why
6 would you say you were originally bias in favor of the
7 plant?

8 A. Just because I'm a power plant engineer and I've
9 been doing it for 30 plus years.

10 Q. Were you familiar with Aquila?

11 A. Only in very general terms.

12 Q. You thought enough of them to submit an
13 application for employment; correct?

14 A. I knew one or two people that had worked for them
15 in the past, and they had not said any terrible things
16 about working for the former Missouri public service. So I
17 thought they were a viable employment opportunity.

18 Q. Did the fact that the plant was sited near your
19 residence impact your change in position?

20 A. The fact that it was sited that close to any group
21 of residences that large effected my opinion.

22 Q. But you don't think the fact that it was near your
23 house influenced your opinion in any way?

24 A. I'm sure it influenced my participation in the
25 StopAquila group. I've been installing power plants for a

1 Q. If over your objection they had given them that
2 special use permit, would you still be objecting to the
3 plant?

4 A. Yes, I believe I would be.

5 Q. Are you aware that the Missouri Department of
6 Natural Resources must approve the siting of a power plant?

7 A. The Missouri Department of Natural Resources has
8 to allow a particular amount of emissions to be -- an
9 emission source to be placed in a particular location. I
10 don't -- that's only one piece of the siting equation.

11 Q. Well, taking that piece that you said, are you
12 aware that that took place in this case?

13 A. Yes. I reviewed the applications of the permits.

14 Q. Given that you make your living in the power
15 generation business, it's safe to say then that you're not
16 opposed to peaking plants like the South Harper one?

17 A. Not in appropriate locations.

18 Q. So then is it safe to say that you're opposed to
19 this particular one because it's a half mile from your
20 house?

21 A. It's in an inappropriate location, not just my
22 house, a lot of other people's houses.

23 Q. What are the reasons for you opposing a plant
24 other than personal impacts on neighboring residents?

25 A. Probably the chief thing would be that it was

Page 26

1 built unlawfully and without County approval.
 2 Q. As you know, that would be a legal issue that we
 3 could fight about all day. So if you could, just take that
 4 one issue away for me and assume that Aquila thought they
 5 had the proper authority from the Commission. If you take
 6 that away, that Aquila thought they had that proper
 7 authority, to take away the legal issue of whether or not
 8 they needed zoning approval, what reasons do you have for
 9 opposing the plant other than personal impacts on the
 10 neighboring residents?
 11 A. Well, let's clarify what you mean by "personal
 12 impacts." We have the impacts of loss of property value,
 13 is one very probable impact for people living close to the
 14 facility. We do have a very large emission source that has
 15 been added to the neighborhood equivalent to about 90,000
 16 houses on a cold winter day. So I'd say the pollution and
 17 the property values are probably the two big things if you
 18 take out the legal issue.
 19 Q. Do you have any problem with the way the plant was
 20 constructed?
 21 A. With the way it was constructed? Please specify
 22 what you mean by that.
 23 Q. With the design of the facilities? I'm sorry. I
 24 understand that could be mean, yes, many things. Do you
 25 have a problem with the design of the facilities and how

Page 27

1 the actual facilities were built pursuant to that design?
 2 A. Well, that still could go into a lot of areas. I
 3 mean we have -- beyond the pollution and the property value
 4 problem, we have the problem of noise that has not been
 5 addressed. You know, that's a pretty broad question, do I
 6 have a problem with the way it was built. Other than
 7 unlawfully and pollution and noise and property value, are
 8 you asking me to judge on the -- what are you asking me to
 9 offer an opinion on?
 10 Q. My understanding of your testimony wasn't that the
 11 facilities were out of line, for example, with regulations
 12 on emissions or regulations on noise, but that you had a
 13 problem with it because it was near residences. Do you
 14 believe that they're violating regulations in terms of the
 15 noise and the emissions?
 16 A. I know that they're violating regulations in terms
 17 of the noise.
 18 Q. What regulation would that?
 19 A. Cass County noise ordinance.
 20 Q. How do you know they're violating?
 21 A. Because the only sound measurements they've taken
 22 so far at the property lines have been higher than the
 23 nighttime noise ordinance in Cass County.
 24 Q. I assume you're referring to a test that was done
 25 by Aquila?

Page 28

1 A. It was a test that was done by Aquila's
 2 consultant, Burns & McDonnell.
 3 Q. You're familiar with the reports of that study?
 4 A. I have reviewed the report from that study, yes.
 5 Q. You feel comfortable that you understood the
 6 results of that study?
 7 A. I believe I did.
 8 Q. You believe that the results of that study show
 9 that Aquila was in violation of the Cass County noise
 10 ordinance?
 11 A. It was inconclusive in proving compliance with the
 12 noise study.
 13 Q. If you could, explain for me how you get from
 14 inconclusive to you know that it's in violation.
 15 A. The results were inconclusive because I know from
 16 the report that the dBA levels that they took were greater
 17 than the Cass County noise ordinance. Now they suggested
 18 that there may have been insect noises that were
 19 contributing to the dBA level. But they've never repeated
 20 the test since the insects would have not been in the area
 21 last fall. So to me, it's inconclusive. If it does in
 22 fact meet Cass County noise ordinances, they have not
 23 proven it. The only tests they've taken so far have not
 24 proven compliance with Cass County noise ordinance.
 25 Q. Do you believe you have a conflict of interest

Page 29

1 problem in rendering professional engineering services in
 2 this case since you live within a half mile of the plant?
 3 A. I don't think there's a conflict of interest
 4 problem there. I'm not allowing my personal situation to
 5 effect my professional judgment. I believe I would behave
 6 the same way if I was the project manager, director of
 7 engineering, whatever, reviewing the reports for somebody
 8 that was putting up the plant. I believe I would have the
 9 same questions and the same criticisms.
 10 Q. With regard to noise and emissions, did you
 11 conduct any calculations or analyses regarding comparisons
 12 between the South Harper Peaking Facility and the Southern
 13 Star gas compressor station?
 14 A. I don't know that I would call them calculations.
 15 I took the permitted values from the Missouri Department of
 16 Natural Resources from the air permits for the two
 17 facilities and lined them up in a table. So if you want to
 18 call that calculations, okay, I put them in a table. But I
 19 just lined them up for comparison purposes.
 20 Q. You didn't do any testing of your own?
 21 A. No. I didn't do any independent testing.
 22 Q. So you were just looking at maximums that were
 23 allowed by the permits; correct?
 24 A. That is correct.
 25 Q. Not actual emissions?

8 (Pages 26 to 29)

Page 30

1 A. Well, I have actually seen the report for 2005 on
2 the South Harper Peaking Facility and have checked its
3 emissions as reported to Missouri Department of Natural
4 Resources divided by the hours of operation on each turbine
5 and added it up and still ended up with a little over 500
6 pounds per hour with the three units operating. So I have
7 looked at the report provided by Aquila to the Missouri
8 Department of Natural Resources to confirm that the actual
9 emissions are pretty close to, within just a little over 10
10 percent of, the maximum permitted.

11 Q. It was less than the amount allowed by the permit?

12 A. Yes, slightly less.

13 Q. With regard to noise or emissions, did you conduct
14 any calculations or analyses regarding comparing the South
15 Harper facilities with motor vehicle emissions?

16 A. I did perform a rudimentary calculation on a
17 diesel truck running at a load of 50 horsepower using the
18 emissions listed on the EPA website and compared that one
19 half pound per hour of emissions to the over 500 pounds per
20 hour coming from the South Harper Peaking Facility and
21 said, "That ratio is over 1000," and I did publish that on
22 the StopAquila website.

23 Q. Do you have work papers related to the
24 calculations that you just told us about?

25 A. The calculations are described in my written

Page 31

1 testimony. A college physics student should be able to
2 replicate the calculations. It's pretty rudimentary.

3 Q. Regarding the comparison in your testimony of the
4 gas compressor station to the South Harper Peaking
5 Facility, are you aware whether the compressor station has
6 high or low gas pressure use?

7 A. Am I aware whether the station has high or low gas
8 pressure use? Was that the question?

9 Q. That was the question.

10 A. I guess I'm not sure what you mean by that. The
11 compressor station is, as I understand it, to support gas
12 pressure in the area. It was put in specifically to
13 support -- or the latest upgrade in 1999 or 2000 was to
14 support the Aries plant so they would have adequate gas
15 pressure at that location. Uses high or low pressure gas?
16 I'm not positive still. It is bringing the gas to a higher
17 pressure to support load at another location.

18 Q. Are you aware whether the peaking facility has
19 high or low gas pressure use?

20 A. Where are you drawing that line? What pounds per
21 square inch? Are we talking high or low?

22 Q. You, as the engineer, I'll let you draw the line
23 for me as to what you consider high or low.

24 A. I don't have specific knowledge of the exact gas
25 inlet pressure at the turbine. Some turbines like this

Page 32

1 have an inlet pressure around 400 PSI. I don't honestly
2 know what this one is.

3 Q. Backing up just for a moment, what is your
4 understanding of the noise ordinances with Cass County?

5 A. My understanding of the noise ordinances is that
6 the noise level on adjoining property cannot exceed 60
7 decibels during the daytime hours nor 55 dBA at night.

8 Q. Could you describe the noise levels expected from
9 1000 trucks measured from a half mile away?

10 A. I don't have any idea what that noise level would
11 be.

12 Q. I believe in your testimony you compare the noise
13 coming from the South Harper facility to 1000 trucks?

14 A. I never compared the noise. I only compared the
15 total quantity of emissions, which was in response to
16 Aquila's assertion in Exhibit 1 to their previous year's
17 application to the Public Service Commission where they
18 said, "Similar facilities emit no more pollution than a
19 diesel powered pickup truck traveling 35 to 50 miles per
20 hour."

21 Q. Could you describe for us the expected ground
22 level concentrations from 1000 truck exhausts measured from
23 half mile a way?

24 A. I never pretended to talk about that. All I'm
25 talking about is the assertion made in Aquila's public

Page 33

1 notice -- excuse me. It was a news release, October 6th,
2 2004, that they attached to their application a year ago to
3 the Public Service Commission which says, "Similar
4 facilities emit no more pollution than a diesel powered
5 pickup truck traveling 35 to 50 miles per hour." That is
6 the only statement of Aquila's that I have discussed when I
7 have done the comparison.

8 Q. Perhaps I'm misunderstanding, but I thought you
9 were then comparing the facility to 1000 trucks.

10 A. I am comparing the total emissions as being
11 equivalent to more than 1000 diesel powered pickup trucks.

12 Q. Are you able to compare the noise and health
13 impacts from 1000 trucks to the South Harper facility?

14 A. I never pretended to compare noise or health.

15 Q. I'm asking you if you have done so previously.

16 A. I'm sorry. No. I have not attempted to compare
17 noise, ground level concentrations or any of those types of
18 things. All I'm talking about is, "...no more pollution
19 than a diesel powered pickup truck." That is an inaccurate
20 statement.

21 Q. On page 11 of your testimony, you describe that
22 you plan to bring speakers to a Public Service Commission
23 hearing and play a sound clip from what I believe would be
24 a jet turbine; is that correct?

25 A. That's correct.

Page 34

Page 36

1 MS. CARTER: Did someone just join us?
 2 THE WITNESS: Either they joined us, or
 3 someone fell off.
 4 Q. (By Ms. Carter) The heading on that page of your
 5 testimony notes that you are a professional engineer.
 6 THE WITNESS: Could we stop just one second?
 7 MS. CARTER: Sure.
 8 THE WITNESS: Let's make sure we didn't lose
 9 Mr. Eftink, since he's --
 10 MR. EFTINK: I'm still here. Is anybody else
 11 on the line?
 12 THE WITNESS: Is the Commission still there?
 13 When I hear a beep like that, I get suspicion.
 14 MR. WILLIAMS: Yes, the Commission is still
 15 here.
 16 MR. EFTINK: What about the Southwest Power
 17 Pool?
 18 MR. LINTON: David Linton is still here.
 19 MR. EFTINK: I guess everybody is still on
 20 board.
 21 THE WITNESS: I don't know what the beep was
 22 then.
 23 Q. (By Ms. Carter) Referring back to page 11 of your
 24 testimony where you talk about the sound clip of a jet
 25 turbine, the top of that page, the heading, indicates that

1 A. No. In fact, I had expected that when Aquila's
 2 consultant performed their noise study that they would
 3 calculate the C-weighted levels at other locations as well
 4 as the A-weighted levels, but they chose not to calculate
 5 any C-weighted levels to the best of my knowledge. At
 6 least, I didn't see them in the report.
 7 Q. Page 17 of your testimony, lines 18 and 19, you
 8 state that the Commission will appear to condone a lack of
 9 planning if they were to approve Aquila's application. To
 10 what extent are you an expert in recognizing, approving or
 11 conducting utility resource planning?
 12 A. I don't believe that I was trying to address
 13 utility resource planning here. I was talking about
 14 project planning, which they had waited long enough on
 15 making their decision that they could not go through the --
 16 apparently could not -- according to the Schedule CR-2 in
 17 one of the documents that I reference, the fatal flaw in
 18 nearly all of the other situations was that they were going
 19 to have to go through either an approval or they were
 20 anticipating some litigation. Approvals are part of
 21 getting a project going. So if that was a fatal flaw in
 22 the project, then that indicates to me a lack of project
 23 planning.
 24 Q. I'm assuming that is just your personal opinion?
 25 A. Well, I think that is a fairly objective opinion.

Page 35

Page 37

1 you're a professional engineer. Should the Commissioners
 2 infer that the simulation you proposed using the equipment
 3 you proposed meets the specifications of a professional
 4 engineer?
 5 A. I believe that I said -- well, in fact, right in
 6 the middle of the first paragraph, page 9, I said I was
 7 going to be approximating. I was not going to represent to
 8 the Commission that that was an exact replication of a
 9 stationary combustion turbine, but just that it was a
 10 similar noise, which if you played the two I think you
 11 would agree that it is a similar noise, but only similar.
 12 Q. On page 14, lines 3 to 5 of your testimony, you
 13 refer to an inexpensive sound pressure level indicator?
 14 A. Yes.
 15 Q. Was that equipment professionally calibrated
 16 within the past year to meet the national institute
 17 standards?
 18 A. No. I never represented that it was. I
 19 represented it as an inexpensive -- in fact, it was a Radio
 20 Shack sound level meter. I did not attempt to represent
 21 that as national standards traceable.
 22 Q. How would you describe the accuracy of that meter?
 23 A. I would not expect it to be terribly accurate.
 24 Q. I take it, then, you wouldn't be comfortable
 25 affixing your PE stamp to the results of your noise study?

1 When you don't have time to go through approvals, then you
 2 haven't really planned a project adequately.
 3 Q. Which approvals do you think Aquila didn't have
 4 time to go through?
 5 A. Well, the Schedule CR-2 lists the approvals. The
 6 one I remember specifically was they considered there to be
 7 a fatal flaw at the Greenwood facility because they would
 8 have to get Jackson County approval for -- I believe the
 9 word was upgrading the transmission lines. I'd have to
 10 look at the schedule to see exactly what it said, but it
 11 was something along those lines, that they'd have to get
 12 approval from Jackson County to do that. And they
 13 identified that as a problem, that they'd have to go get
 14 approval for the transmission line.
 15 Q. With regard to the South Harper facility, what
 16 approvals do you believe they failed to get?
 17 A. Well, they did not get the approval of Cass County
 18 prior to constructing the unit.
 19 Q. And you're referring to zoning authority?
 20 A. Either zoning or a special use permit, whichever
 21 would be legally appropriate in this situation.
 22 Q. Are you aware of any other permits or authority
 23 that you feel Aquila did not get with regard to the South
 24 Harper facility?
 25 A. I'm not personally aware of one.

Page 38

Page 40

1 Q. I'm going to ask you a question, and I apologize.
 2 You might have to tell me if this isn't clear to you. Not
 3 being an engineer, it's not clear to me. Have you
 4 undertaken any projects or utilized computer planning
 5 models or methods for load forecasting?
 6 A. I have done some of that at industrial
 7 facilities. I can't say that I've ever done one for a
 8 county or a state. So I have done them on a small scale,
 9 not on a massive scale, not like the Southwest Power Pool.
 10 Q. Have you undertaken any projects or utilized
 11 computer planning models or methods for resource screening?
 12 A. Resource screening as it is used for the Missouri
 13 Public Service Commission, I won't claim that. Again, I've
 14 done smaller scale stuff for industrial and institutional
 15 facilities.
 16 Q. Have you done, then, single plant production
 17 models?
 18 A. Define "single plant production models."
 19 Q. I'm going to have to let you do that.
 20 A. Okay. Until I know exactly what is being asked,
 21 I'm not sure if I know the answer.
 22 Q. Would you be able to define single plant
 23 production models within your understanding?
 24 A. I've never done anything that I would personally
 25 call a single plant production model.

1 Q. So you would be fine with light industrial uses
 2 only?
 3 A. Appropriate light industrial use would be okay.
 4 Q. If you could, briefly describe the character of
 5 the neighborhood. Again, I'm a little confused how many
 6 houses are in the area from your perception.
 7 A. Well, from my perception, discussions with
 8 neighbors, looking at the plat of the area that I live in,
 9 the area is predominantly three-acre lots. The one I live
 10 on happens to be six acres. The one Frank Dillon lives on
 11 happens to be -- I believe his is either 10 or 20 acres,
 12 but predominantly acreage around 3 acres.
 13 Q. So not what we would think of as a typical
 14 residential neighborhood?
 15 A. It's not a suburban neighborhood, but it is a
 16 residential area of what some people would call estate-size
 17 lots.
 18 Q. You refer to the emissions coming from the
 19 facility. And I apologize if you've already addressed this
 20 in the deposition. Are you aware of the emissions amounts
 21 violating any laws or regulations?
 22 A. I'm not aware of any.
 23 Q. Then with regard to noise, I believe you indicated
 24 that the tests were inconclusive as to whether or not the
 25 noise levels were in compliance with Cass County

Page 39

Page 41

1 Q. Have you undertaken any projects or utilized
 2 computer planning models or methods for utility portfolio
 3 production models?
 4 A. No. I would not claim that.
 5 Q. The same question with regard to regional or
 6 market production models.
 7 A. No.
 8 Q. Have you undertaken any projects or utilized
 9 computer planning models or methods for production risk
 10 performance models?
 11 A. No.
 12 Q. The same question for decision tree scenario
 13 planning.
 14 A. Again, we're still under the general topic of
 15 resource planning?
 16 Q. Yes.
 17 A. No.
 18 Q. Going back to the property designation of multiuse
 19 tier for the facilities, do you have a problem with the
 20 County, that they designated that property as a multiuse
 21 tier designation?
 22 A. I don't know that I'm prepared to comment on all
 23 the ramifications of multiuse tier. I mean the fact that
 24 something light might go in there is not a big concern to
 25 me.

1 regulations; is that correct?
 2 A. Yes. In fact, if you will give me just one
 3 minute, I'll come up with the quotation from the study,
 4 which I believe I quoted accurately.
 5 In my Exhibit HRS-6, I took a quotation from the
 6 Noise Compliance Test study's Executive Summary, and its
 7 exact comments were, "Background measurements were higher
 8 than expected due to insect noise in the area and other
 9 non-Aquila generated noises in the area. Operational noise
 10 measurements were also high." And then they say, "...due
 11 to the extraneous noises from the insects and other
 12 uncontrollable noise sources." Now, that is on page 13
 13 that I quote that, lines 4 through 8 roughly.
 14 Q. I just want to make sure I'm on the same page with
 15 you. You feel that it's inconclusive to say whether or not
 16 there is compliance with the Cass County regulations;
 17 correct?
 18 A. Yes. It says, "Operational noise measurements
 19 were also high." That's what the Executive Summary says.
 20 Q. I understand. I'm not asking you to read me your
 21 testimony. I'm asking you just to answer the question
 22 sitting here today what I'm asking you.
 23 A. Okay.
 24 Q. Do you believe, from what you've reviewed, it's
 25 just inconclusive whether or not the Cass County noise

Page 42

Page 44

1 regulations were being violated by Aquila?

2 A. Yes. It is inconclusive at this point.

3 Q. Do you have any facts or figures or have you
4 performed any testing to show whether or not the noise
5 levels are violating any other law, rule or regulation?

6 A. I'm not aware of any others.

7 Q. With regard to environmental impacts, be they
8 emissions or anything else, are you aware of any
9 environmental violations by Aquila with regard to the
10 facilities?

11 A. I'm not aware of any.

12 Q. One of your comparisons -- it's page 16 of your
13 testimony -- between the Southern Star facility and South
14 Harper facilities refers to physical space. You refer to
15 74 acres for the South Harper facilities. I am assuming
16 you're aware that the actual facilities use a very small
17 portion of the 74 acres?

18 A. I've seen different numbers. I believe they
19 actually own 74 acres. I believe the facility is
20 concentrated on the southern half of that. So something a
21 little under 40 acres is where the facility itself is
22 concentrated.

23 Q. I believe it's maybe around nine acres for the
24 plant and around five acres in use for the substation.
25 Does that sound about right?

1 A. I would not pretend to give you a legal definition
2 of what multiuse tier means.

3 Q. You state that the facility is totally out of
4 character for this, and then you say, "...residential
5 area." So I was wanting to ask you if you think it's
6 totally out of character for a multiuse tier designated
7 property. Would you be able to answer that?

8 A. Well, when you consider that there are residences
9 right across the street, then I think the appropriate
10 comparison is to the residences right across the street.
11 As far as comparing the multiuse tier, I have no opinion on
12 that.

13 Q. Referring to page 15 of your testimony, you say
14 that you'd like to see some information from the Southwest
15 Power Pool. I think you indicated earlier that certainly
16 you would nod to Southwest Power Pool as to planning and
17 resource needs?

18 A. My specific comment here was that the Southwest
19 Power Pool would probably have the most accurate
20 information regarding the total load in Cass County and how
21 the total load in Cass County would compare to the output
22 of the South Harper Peaking Facility.

23 Q. Do you believe Southwest Power Pool would be able
24 to give accurate testimony on whether or not there was a
25 need for this facility?

Page 43

Page 45

1 A. I have no way to confirm or deny that.

2 Q. I just need you to explain something for me, and
3 it's probably because I don't have particularly great
4 knowledge in this area. On page 8 of your testimony, you
5 talk about the conversions. I'll give you a minute to turn
6 to that page.

7 A. Okay.

8 Q. You seem to be complaining that there was not a
9 conversion to pounds per hour, when converted from parts
10 per million to pounds per hour? When you refer to tests,
11 my impression is that you're saying some test results were
12 inaccurate because it was not converted to pounds per
13 hour. Am I reading that properly?

14 A. No. That was not what I was insinuating. All I'm
15 saying is that it's hard for any of us to look at a
16 parts-per-million number and put that in terms we can
17 understand. So it's much easier to me to convert it into
18 pounds per hour. It's actually done in the study. It's
19 turned into actually tons per year, which you can turn back
20 into pounds per hour by doing the appropriate multiplying
21 and dividing.

22 Q. You might not be able to answer this question for
23 me because I think you said you're not particularly
24 familiar with what the multiuse tier designation means; is
25 that correct?

1 MR. EFTINK: Object. That calls for
2 speculation. This is Gerry Eftink speaking.

3 Q. (By Ms. Carter) If you're able to answer subject
4 to the objection, please do so.

5 A. I'm sorry. Let's back up, and let's replay the
6 question. Then we'll replay the objection, and then I'll
7 decide whether I am able to answer.

8 Q. I'll try to break it down a little bit. What is
9 your understanding of the purpose of the Southwest Power
10 Pool?

11 A. All of the power pools exist to make sure that
12 there's adequate power supply for system stability.

13 Q. In your opinion, then, would Southwest Power Pool
14 be able to provide accurate testimony as to whether or not
15 there was a need for the South Harper Peaking Facility?

16 A. I don't know if they can provide that
17 information. I do know that we asked them for that type of
18 information. Whether they can provide it or not, I don't
19 know. That would be speculation on my part.

20 Q. I have a couple of follow-up questions to answers
21 you gave me earlier.

22 A. Okay.

23 Q. You referred to rudimentary calculations included
24 in your testimony. Would you consider those to, then, be
25 expert calculations, expert testimony?

Page 46

1 A. When I referred to rudimentary calculations, I was
 2 talking about calculations that in a lot of cases are just
 3 unit conversions. For instance, the one we just talked
 4 about, tons per year to pounds per hour, that to me is a
 5 rudimentary calculation. You just have to apply the
 6 correct conversion factors to move from one to the other.
 7 Those were the types of things they normally teach us in
 8 engineering physics and chemistry in our first two years of
 9 college. That's why I refer to them as rudimentary.

10 Q. Do you believe you're providing expert testimony
 11 in this proceeding as opposed to simply being a witness who
 12 lives a half mile from the facility?

13 A. I certainly know a lot more about power plants,
 14 about emissions and about noise than the average resident
 15 living within two miles.

16 Q. That being said, are you of the opinion that
 17 you're providing expert testimony to the commissioners?

18 A. The statements I've made I believe are adequately
 19 supported by my professional experience.

20 Q. What testing did you do on your own with regard to
 21 the South Harper facility, in other words, testing of your
 22 own as opposed to reviewing the results of another's
 23 testing?

24 A. Other than the handheld meter that I've already
 25 qualified as not intended to be any kind of a precision

Page 47

1 instrument, I don't pretend to have done any other
 2 testing.

3 Q. You stated earlier that when you left Sega, you
 4 said that you were asked to stay with Sega; is that
 5 correct?

6 A. That's correct.

7 Q. Who specifically asked you to stay with your
 8 employment?

9 A. Both the president and the founder expressed
 10 regret at my decision to depart.

11 Q. Could you give us the name or names of who asked
 12 you to stay with your employment?

13 A. The founder of the company, Gary Kavanaugh,
 14 expressed a great deal of regret at my decision. And the
 15 company president, Dick Sands, also expressed regret at my
 16 decision.

17 MS. CARTER: Those are all the questions I
 18 have for now. Do other parties want to ask questions
 19 also? Lera, did you have questions?

20 MR. SHEMWELL: PSC staff has no questions.

21 MR. EFTINK: This is Gerry Eftink. Do you
 22 want me to go in? I know you had an order proposed.

23 MS. CARTER: Mr. Linton, did you have any
 24 questions?

25 MR. LINTON: Just a few questions.

Page 48

EXAMINATION

1 BY MR. LINTON:
 2 Q. This is David Linton. I have just a few questions
 3 regarding your testimony on page 15. Are you aware that
 4 Southwest Power Pool doesn't own any generating facilities?
 5 A. Yes. Southwest Power Pool is merely a regulatory
 6 body.
 7 Q. Are you aware that they do not serve at retail any
 8 load?
 9 A. Yes, I'm aware of that.
 10 Q. Do you know what a control area is?
 11 A. General familiarity, matching generation to load.
 12 Beyond that, I don't pretend to know too much else.
 13 Q. Who are the control areas, or can you give
 14 examples of control areas?
 15 A. I'm afraid it has been too long since I looked at
 16 that. It used to pretty much coincide with the separate
 17 power pools. But I'm not sure that that is still the case
 18 anymore. I think there may be some -- if I remember right,
 19 at one time there were some smaller control areas, but I
 20 honestly don't have any real recent information on control
 21 areas.
 22 Q. Would you know whether or not Southwest Power Pool
 23 is a control area?
 24 A. I don't know if it's actually a control area or if
 25

Page 49

1 it has sub-entities or if the control areas are actually
 2 now a separate organization. I honestly don't know, sir.

3 Q. Do you understand the integrated resource planning
 4 process?
 5 A. I have some understanding of it. I won't pretend
 6 to be an expert in it.

7 Q. Do you know who conducts the integrated resource
 8 planning process?
 9 A. As far as I know, the individual utilities provide
 10 input into it and collaborate with one another within the
 11 pool, is my general understanding. But again, I don't
 12 pretend to be an expert.

13 Q. When you say a power pool, how are you defining a
 14 power pool?
 15 A. A power pool, as I understand it, is a
 16 geographical area served by various utilities that are
 17 members of the pool and that execute a power pool agreement
 18 to provide certain quantities of firm and emergency and et
 19 cetera levels of power generation consistent with the
 20 regulations associated with the pool, is my general
 21 understanding of it.

22 Q. Can you name me an entity that would be a power
 23 pool?
 24 A. A power pool would be a combination of legal
 25 entities. In this particular case, my understanding is it

13 (Pages 46 to 49)

Page 50

1 would include Aquila. There would be pieces of other
 2 utilities that would be part of that power pool.
 3 Q. Have you heard of the organization PJM?
 4 A. I don't recognize it offhand.
 5 Q. It would be an acronym for Pennsylvania, Jersey,
 6 Maryland. You wouldn't know whether that is a power pool,
 7 a true power pool, or not?
 8 A. I wouldn't offhand.
 9 Q. Have you heard of an organization called the
 10 Midwest ISO?
 11 A. No, I can't say that I have.
 12 Q. You wouldn't know whether that would be a power
 13 pool or not?
 14 A. No, I don't.
 15 Q. Do you know what a regional reliability counsel
 16 is?
 17 A. The dealings I've had with regional reliability
 18 counsels have been pretty limited since I do more
 19 generation than transmission. But the regulations I'm
 20 familiar with have to do with things such as underfrequency
 21 load shedding and agreements such as that to maintain
 22 system stability and reliability.
 23 Q. Would there be an equation in your mind or would
 24 there be a quality in your mind as to a regional
 25 reliability counsel in a power pool?

Page 51

1 A. Well, there certainly is a technical relationship
 2 between the two. I don't know what the administrative
 3 relationship is between the two organizations.
 4 Q. What is the technical relationship?
 5 A. Well, the technical relationship is that your
 6 available generation has to equal the load in a particular
 7 area or the system is not going to be stable. You're going
 8 to have either frequency problems, voltage problems or
 9 something along those lines. So the two are in a way
 10 related, but administratively they may be handled
 11 separately. I honestly don't know.
 12 Q. Your answer confused me a bit. We were talking
 13 about the technical relationship between a regional
 14 reliability counsel and a power pool.
 15 A. Excuse me. What I was trying to say was that the
 16 match of generation and load is a part of reliability from
 17 a technical standpoint because the grid will not sustain if
 18 you don't have adequate generation. That was the technical
 19 relationship that I was talking about between the concepts
 20 of a power pool and a reliability counsel, is what I was
 21 attempting to say.
 22 Q. That would be function, then, of a control area?
 23 Would you agree or disagree with that, or do you know?
 24 A. I usually think of a control area as watching
 25 input and output and watching out for the frequency in

Page 52

1 particular in that area when I think of a control area.
 2 Q. Basically doing an energy balance, energy in
 3 equals energy out and then therewith making sure the
 4 frequency is at 60 hertz?
 5 A. Yes. That would be my understanding of how a
 6 control area operates.
 7 Q. If I were to represent to you that Aquila is a
 8 control area and Empire is a control area and Kansas City
 9 Power & Light is a control area, would you say that that
 10 responsibility lies in that control area to determine load
 11 and supply?
 12 A. If those two entities were in fact -- I'm having
 13 trouble coming up with the word I want to use. If they in
 14 fact are independent control areas, then yes, that would be
 15 an accurate statement.
 16 Q. If the Southwest Power Pool was not a control
 17 area, that would not be their responsibility; would you
 18 agree with that?
 19 A. That's correct.
 20 MR. LINTON: I have no further questions.
 21 EXAMINATION
 22 BY MR. EFTINK:
 23 Q. May I proceed? This is Gerry Eftink. First let
 24 me ask you if you have a full copy of the written testimony
 25 that you prepared, Mr. Stanley, along with the exhibits.

Page 53

1 A. I sure do.
 2 Q. I'd like to have the whole thing marked as an
 3 exhibit. So why don't you hand it to the court reporter?
 4 And when she's done marking it, we'll go back on the
 5 record.
 6 A. This is the one that has the original notary seal
 7 on it. Is that what you want her to have?
 8 Q. Yes.
 9 MS. CARTER: Just so we're clear, by marking
 10 this as an exhibit, we're not consenting or agreeing to its
 11 admission before the Commission.
 12 MR. EFTINK: I understand.
 13 (Exhibit 1 marked.)
 14 Q. (By Mr. Eftink) You've got Exhibit 1 in front of
 15 you. Is that a complete and accurate package of your
 16 written testimony with exhibits that you had filed on
 17 behalf of StopAquila.org in Case Number EA-2006-0309?
 18 A. Yes, it is.
 19 Q. Did you prepare this Exhibit 1?
 20 A. Yes.
 21 Q. At the end of it, does it have your resume?
 22 A. Yes, it does.
 23 Q. For how long have you been working in or around
 24 power plants?
 25 A. Since 1973.

Page 54

Page 56

1 Q. You were working around power plants before you
2 became an engineer?

3 A. Yes. I was actually working at Black & Veatch as
4 a co-op student where you work a semester and go to school
5 a semester.

6 Q. What kind of engineer are you?

7 A. My degree is in electrical engineering.

8 Q. In your role as an engineer working with power
9 plants, have you managed projects?

10 A. Yes, I have.

11 Q. When you've managed these projects, have they
12 included supervising people over areas that included noise
13 and emissions?

14 A. Yes, I have.

15 Q. In your written statement, which is marked as
16 Exhibit 1, you start out on page 3 by saying that you
17 vehemently disagree with the location of this South Harper
18 power plant; is that correct?

19 A. That's correct.

20 Q. Can you tell us just briefly -- I'll get into
21 details later -- why you oppose the location of the South
22 Harper Peaking Facility?

23 MS. CARTER: I'm sorry to interrupt,
24 Mr. Eftink. I guess I'll need to object if your attempt
25 here is to get in more testimony that should have been

1 that an accurate recap?

2 Q. Yes.

3 A. Well, the things that I've keyed in on have been
4 discussed already. The pollution that is much higher than
5 any use that I would conceive of for the surrounding area
6 and then the noise levels that have been unacceptable to
7 this point are probably the two main objections.

8 Q. Let me ask you to elaborate on the pollution.

9 MS. CARTER: I'm going to object as calling
10 for testimony that should have been prefiled.

11 MR. EFTINK: Go ahead, Mr. Stanley.

12 A. Simply that over 500 pounds per hour of pollution
13 is equivalent to what would be generated by some 90,000
14 homes. If you can imagine 90,000 homes stacked onto a
15 74-acre property, I think that's 300 stories of homes on
16 quarter acre lots, if I remember my calculations
17 correctly. You know, you have that amount of natural gas
18 being burned and that amount of pollution being emitted on
19 that property, which to me is inconsistent.

20 You can make the same type of comparison when you
21 compare it to the thousand diesel pickup trucks. We would
22 not have 1000 diesel pickup trucks running around that
23 property eight hours a day in the summertime under any use
24 that I can conceive of that the County would permit in that
25 area or that the residents would put up with in that area.

Page 55

Page 57

1 prefiled as opposed to simply rehabilitating the witness as
2 to any of the questions that have been asked today.

3 MR. EFTINK: Because of the time constraints
4 and the fact that he's in New Mexico, I'd like to ask these
5 questions. And you can make your objections, and we'll
6 just have to have the Commission sort it out later on.

7 MS. CARTER: Then I'll make that objection
8 quite clear for the record, in that you did not notice up a
9 preservation deposition. Instead I noticed up a
10 deposition, a general discovery deposition, where we were
11 going to ask some questions. And there was never an
12 agreement that this would serve as testimony that would be
13 admitted before the Commission.

14 MR. EFTINK: You can make your objection, and
15 I'll ask my questions.

16 MS. CARTER: At a certain point, I guess
17 we'll need to stop the deposition if you're going to go on
18 with things that should have been submitted as prefiled
19 testimony in this matter.

20 MR. EFTINK: If you want to try to stop the
21 deposition, that is up to you.

22 Q. (By Mr. Eftink) Do you recall the question,
23 Mr. Stanley?

24 A. I believe you wanted me to comment on my reasons
25 for disagreeing with the assertions of consistency. Is

1 Plus, the noise levels being an industrial noise
2 level, that is, again, not something that any of us that
3 live in this area would have anticipated in the past.

4 Q. Can you explain what information and documents you
5 have reviewed to come up with your calculations for the
6 levels of emissions?

7 MS. CARTER: Same objection.

8 A. The emissions documents for the plan are based on
9 the permit granted by the Missouri Department of Natural
10 Resources, portions of which are included as my exhibits to
11 my written testimony. The truck calculations came from the
12 certified emissions levels off the EPA website for the
13 engine model number that is in my own diesel powered pickup
14 truck.

15 Q. (By Mr. Eftink) Did you look at records filed by
16 Aquila with the Missouri Department of Natural Resources to
17 report the actual emissions for 2005?

18 MS. CARTER: Same objection.

19 A. Yes, I do have a copy of what they filed with the
20 Missouri Department of Natural Resources listing their
21 total emissions and then their emissions on a per turbine
22 basis.

23 Q. (By Mr. Eftink) Can you tell us what Aquila
24 reported as the total emissions of these measured emissions
25 in terms of pounds per hour per turbine?

Page 58

Page 60

1 MS. CARTER: Same objection.

2 A. When you take the tons per year, divide by the
3 hours per year and then multiply by the conversion factor
4 of 2000 pounds per ton, the first -- excuse me. I was on
5 the second turbine. The first turbine averages out to 161
6 pounds per hour; the second turbine, 173 pounds per hour;
7 and the third turbine, just under 170 pounds per hour. The
8 total is a little over 500 pounds per hour if all three
9 turbines are running.

10 Q. (By Mr. Eftink) What pollutants are included in
11 that weight measurement?

12 A. The pollutants include particulate matter 10,
13 sulfur -- it isn't just dioxides, but SOx, NOx, the nitrous
14 oxides, organic compounds and carbon monoxide.

15 Q. Did they even measure particulate matter 2.5?

16 MS. CARTER: Same objection.

17 Q. (By Mr. Eftink) According to the report that was
18 turned in by Aquila?

19 A. According to the report, that is not measured.

20 Q. Are you qualified to do these calculations based
21 on records submitted by Aquila to the Department of Natural
22 Resources?

23 MS. CARTER: Same objection.

24 A. I believe that I am.

25 Q. (By Mr. Eftink) Why is that?

1 questions.

2 MS. CARTER: So far you've asked him if what
3 is in his testimony is what is in his testimony.

4 MR. EFTINK: Could I proceed with my
5 questions?

6 MS. CARTER: Well, not if your plan is to
7 continue as you have so far, which is to take him through
8 his prefiled testimony. This is a discovery deposition.

9 MR. EFTINK: I never agreed that it was a
10 discovery deposition.

11 MS. CARTER: Aquila noticed up a deposition.
12 I'm sorry. Is there a different deposition that we're
13 attending that I'm not aware of?

14 MR. EFTINK: Diana, what time do you have to
15 leave?

16 MS. CARTER: We'd like to be able to fly out
17 of here at 6:00.

18 MR. EFTINK: What time do you have to leave
19 this facility?

20 MS. CARTER: The goal is for 3:00, but that
21 is not really the issue here. The issue is whether or not
22 you're trying to get him to read his prefiled testimony in
23 instead of properly testifying at the Commission when
24 subject to cross-examination.

25 MR. EFTINK: Let me ask my questions, and you

Page 59

Page 61

1 MS. CARTER: Same objection.

2 A. Based on the years of experience in power plants
3 and general familiarity with the combustion processes and
4 the pollutants emitted by the processes.

5 Q. (By Mr. Eftink) You're basing this on actual
6 reports filed by Aquila with the Missouri Department of
7 Natural Resources?

8 A. Yes, sir, I am.

9 Q. And you also are basing part of your calculations
10 on the permit issued by the State of Missouri Department of
11 Natural Resources?

12 A. That's correct.

13 Q. Now, on page 4 of your statement, which is marked
14 as Exhibit 1, you give us some information on the gas
15 compressor station. Where did you get that information?

16 A. That also came from their Intermediate Operating
17 Permit Application dated January 4th, 2005.

18 Q. Is that filed with the State of Missouri?

19 A. Yes, it is.

20 Q. On page 5, do you give us comparisons of the break
21 horsepower for the three turbines and the facilities known
22 as the gas compressor stations?

23 MS. CARTER: Mr. Eftink, is your plan to have
24 him reread his entire prefiled testimony?

25 MR. EFTINK: No, ma'am. I'm asking him

1 can make your objections. Okay? Let's proceed.

2 Q. (by Mr. Eftink) Can you give us, based on the
3 actual documents filed with the Missouri Department of
4 Natural Resources and Aquila's documents, the break
5 horsepower for those different pieces of equipment?

6 A. Yes. The horsepower for the gas compressor
7 station are directly out of the Department of Natural
8 Resources' application. The break horsepower for the
9 South Harper Peaking Facility is based on the nominal
10 megawatt output divided by the conversion factor of 746
11 watts per horsepower.

12 Q. What is the total break horsepower if all three of
13 the turbines are operating?

14 A. It is in excess of 422,250.

15 Q. What is the break horsepower if the gas compressor
16 is fully operating?

17 A. 5,647.

18 Q. When you've compared the South Harper Peaking
19 Facility when it's fully operating with all three turbines
20 operating to pickup trucks, why were you doing that?

21 A. The comparison was made in response to Aquila's
22 Exhibit 1 filed with the case a year ago at the Public
23 Service Commission.

24 Q. That is where they compared the South Harper
25 Peaking Facility to a pickup truck?

Page 62

1 A. Yes, to a diesel powered pickup truck traveling 35
2 to 50 miles per hour.
3 Q. Are you qualified to do the calculations to come
4 up with your conclusion that it is similar to 1000 pickup
5 trucks?
6 A. I believe that I am.
7 Q. You also, in your statement starting on page 9,
8 talked about a statement made by Block Andrews comparing
9 this to dirt roads. Was that in response to prefiled
10 testimony of Block Andrews?
11 MS. CARTER: Mr. Eftink, I am sorry to do
12 this. This is certainly not something I would enjoy doing
13 with other counsel. But because the objections are not
14 being accepted by you apparently, we're going to need to
15 end our deposition. And if you'd like to notice up the
16 deposition of Mr. Stanley at a different time, then that
17 would be your choice. But I can't allow you to continue
18 just having him read his prefiled testimony so it appears
19 in the deposition transcript.
20 MR. EFTINK: Let's please proceed. It won't
21 be very much longer. If you insist on trying this tactic,
22 I'm going to ask the court reporter to continue to take the
23 record, continue to take my questions and his answers.
24 MR. WILLIAMS: Diana, staff does have a
25 couple of questions we think are relevant that we would

Page 63

1 like to ask.
2 MR. EFTINK: Why don't we go ahead and
3 proceed.
4 MS. CARTER: Mr. Eftink, I'm going to go
5 about five more minutes.
6 MR. EFTINK: If you have to leave in 20
7 minutes, tell us you have to leave in 20 minutes.
8 MS. CARTER: No. As you know, the purpose of
9 a deposition is not so he can reread his prefiled
10 testimony.
11 MR. EFTINK: I'm trying to ask him questions,
12 and you're trying to stop me from asking the questions,
13 Diana. Let's proceed.
14 Q. (By Mr. Eftink) Mr. Stanley, in your review of
15 Block Andrews' written testimony, did Mr. Andrews have an
16 accurate comparison between the power plant and dirt roads?
17 A. He was comparing the particulate emissions of the
18 power plant, which is somewhere around 20 pounds per hour,
19 to the particulate emissions off of the previously graveled
20 roads in the vicinity of the power plant.
21 Q. What percentage of the total permitted emissions
22 are PM 10?
23 A. Something like 4 percent.
24 Q. You're saying Mr. Andrews is not comparing 96
25 percent of the emissions in his analogy?

Page 64

1 A. Right. He's focusing in on the 4 percent that is
2 particulate emissions.
3 Q. You have attached to your statement an Exhibit
4 HRS-5. I would like you to look at that, please.
5 A. All right.
6 Q. What is Exhibit HRS-5 to Exhibit 1?
7 A. Exhibit HRS-5 is the preconstruction noise
8 assessment study performed by Burns & McDonnell on behalf
9 of Aquila.
10 Q. What is the highest level that they found of
11 noise?
12 MS. CARTER: Same objection. And if we can
13 have an agreement that it is a running objection so I don't
14 have to keep saying, "Same objection."
15 MR. EFTINK: We have that agreement. Do you
16 remember the question, Mr. Stanley?
17 THE WITNESS: I believe you asked for the
18 highest level that is shown.
19 MR. EFTINK: Yes.
20 A. Well, the highest level that is shown at the
21 property line is well in excess of 65 -- let me make sure
22 I'm right here. Hold on just one second. I'm sorry.
23 Yeah, it is in excess of 65 decibels at Harper Road
24 according to the decibel map that is attached to the noise
25 assessment study.

Page 65

1 Q. (By Mr. Eftink) Mr. Stanley, about, oh, ten days
2 ago or so, we received a data request asking for more
3 information from you. Did you get those data requests?
4 A. Yes, I did.
5 Q. Have you tried to find documents that would be
6 responsive to those recent data requests?
7 A. I plan to prepare documents that respond to those
8 data requests.
9 Q. Are you willing to answer any questions of counsel
10 that relates to those documents that they are asking for?
11 A. Yes, I can, for those that I'm prepared to
12 answer. I don't know if I'm fully prepared on every one of
13 them, but I'll certainly say if I'm not yet prepared.
14 MR. EFTINK: I pass the witness.
15 EXAMINATION
16 BY MR. WILLIAMS:
17 Q. This is Nathan William for the staff. I have a
18 couple of questions for you. It's my understanding you
19 have issues with noise levels emanating from the South
20 Harper Plant; is that correct?
21 A. That is correct.
22 Q. Do you know if there are any bodies that regulate
23 noise levels that might emanate from that plant?
24 A. The only body I know of is the County of Cass
25 County, which does have a noise ordinance regarding the

17 (Pages 62 to 65)

Page 66

Page 68

1 A-weighted sound pressure levels from any type of a
2 facility.

3 Q. Have you raised the issue of noise levels at the
4 South Harper facility to Cass County?

5 A. I don't recall a particular interchange with them
6 regarding the noise level. I think they're fully aware
7 that I've been objecting to the noise.

8 Q. Did you make a formal complaint to Cass County
9 regarding the noise level emanating from the South Harper
10 plant?

11 A. I did not file any legal document with the County,
12 if that's what you're asking.

13 MR. WILLIAMS: No further questions.

14 FURTHER EXAMINATION

15 BY MS. CARTER:

16 Q. I have just a couple more. Are you familiar with
17 the Greenwood Energy Center?

18 A. I know that it exists. I don't know very many
19 details about it.

20 Q. Are you familiar with the surrounding area?

21 A. I am familiar with the surrounding area a little
22 bit.

23 Q. To me, it sounds somewhat similar to the area
24 you've described around the South Harper facility. Would
25 you agree?

1 again, roughly two- to three-acre lots along both sides of
2 that road. You can see Harper Road beyond the plant with
3 houses on both sides of it. Then the area I live is off in
4 the distance.

5 Q. Do you believe that is an accurate depiction of
6 what is contained in that photo, which is Exhibit 2?

7 A. Well, I don't think it gives you the same sense of
8 concentration as if you were taking an aerial shot from
9 directly above the facility, which I think would more
10 accurately represent the number of homes within the radius,
11 because the way this is angled, it looks like my house
12 might be three or four miles away. In fact, it's less than
13 half a mile away. So in my opinion, this distorts the
14 neighborhood around South Harper from the angle that it's
15 taken at.

16 Q. Let me show you Exhibit 3. Do you think that
17 accurately depicts the area around the Greenwood Energy
18 Center?

19 A. Again, I don't know the date on this photograph.
20 It looks like it says that it was 2001. It was an aerial
21 photograph taken from above. I'm going to have to rely on
22 the accuracy of terraserver.com. I've never flown over the
23 Greenwood facility.

24 Q. From your knowledge of the Greenwood facility, do
25 you believe the picture that's been marked as Exhibit 3

Page 67

Page 69

1 A. Well, there are some acreage lots around there.
2 But the Greenwood facility is on a much larger piece of
3 property. I believe its property is at least 160 acres, is
4 the number that I recall. Also, when you look at an aerial
5 map of the property, the turbines are not as close to the
6 houses as what they've ended up with at South Harper, at
7 least according to the aerial maps I've seen.

8 MS. CARTER: If we could have these marked as
9 Exhibits 2 and 3.

10 (Exhibits 2 and 3 marked.)

11 Q. (By Ms. Carter) I'm going to hand you what has
12 been marked as Exhibit 2. Would you say that accurately
13 depicts the South Harper area?

14 A. I'm having a little trouble determining the
15 orientation and angle at which this photograph was taken.
16 Do you have that information?

17 Q. Can you look to see where you see the turbine
18 location, and coming out from that would be the north.

19 A. This is a photograph taken from the west and
20 looking east. Terry is nodding that that is accurate.
21 What I don't see on here is all of the development along
22 Lucille Lane. Lucille Lane is cut off in this particular
23 photograph. Lucille Lane, unless I've lost my orientation
24 here, it's on the left-hand side of the sheet just below
25 the page punch and continues off to the north and has,

1 accurately depicts the homes located around the facility,
2 the concentration of homes?

3 A. As far as I know, it does.

4 Q. Can you hear the compressor station from your
5 house?

6 A. I'm not sure if I've ever heard the compressor
7 station from my house.

8 Q. Why are you not sure?

9 A. Occasionally I heard some kind of a rumble before
10 South Harper Peaking Facility went in, but was never able
11 to distinguish between the compressor station and a distant
12 train. So I don't know if I've ever heard a noise from the
13 gas compressor station.

14 Q. You're able to hear the peaking facility from your
15 house?

16 A. Quite clearly.

17 Q. Have you done any investigation to determine that
18 it is in fact the peaking facility that you're hearing?

19 A. I have, when it was running, driven over to it to
20 confirm that it was the peaking facility.

21 Q. You're able to distinguish the sound between the
22 peaking facility and the compressor station?

23 A. Definitely.

24 Q. It's my understanding they sound fairly similar in
25 terms of the equipment that is used. You're able to tell

Page 70

1 quite a difference?
 2 MR. EFTINK: Objection to counsel
 3 testifying. But you may go ahead, Mr. Stanley.
 4 A. I believe I can tell the difference between the
 5 two.
 6 Q. (By Ms. Carter) When was the last time you
 7 believe you heard the peaking facility operating?
 8 A. It has been barred from operation since the first
 9 of the year, roughly the first of the year. Then I was
 10 gone most of last fall, most of September, October and
 11 November on projects. So the last time I personally heard
 12 the facility running would have been in August. But I
 13 wasn't around to hear it when it was running. So that's
 14 not a very accurate statement.
 15 Q. Is it your understanding that the gas compressor
 16 station would operate for a much more significant period of
 17 time during the year as opposed to the peaking facility?
 18 A. I have no idea, because it was put in to operate
 19 Aries, and Aries has been sitting for most of the last
 20 year. I have no idea what its operating schedule has been
 21 like.
 22 Q. Is it your understanding that Aquila plans to take
 23 even more measures to reduce the noise level from the
 24 facility?
 25 A. There have been some promises made to reduce the

Page 72

1 know when the court reporter can get this to us, but we
 2 need this right away.
 3 MS. CARTER: Let's go off the record.
 4 (Discussion held off the record.)
 5 (Proceedings concluded.)
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 71

1 noise level.
 2 MS. CARTER: I think that is all I have. Do
 3 any other parties have further follow-up questions?
 4 MR. WILLIAMS: Nothing from PSC staff.
 5 MR. LINTON: Nothing from SPP.
 6 MR. EFTINK: Nothing from StopAquil.org.
 7 MS. CARTER: For the court reporter's
 8 benefit, Staff, if you could, say what you'd like in terms
 9 of a transcript, if any.
 10 MR. WOOD: Yeah. We'd like a copy. And if
 11 it's available electronically, we could get it e-mailed.
 12 THE COURT REPORTER: What is your e-mail
 13 address?
 14 MR. WILLIAMS: Nathan.williams@psc.mo.gov.
 15 MR. LINTON: SPP would like a copy as well,
 16 electronically would be good. My e-mail address is
 17 djlinton@charter.net.
 18 MR. EFTINK: This is Gerry Eftink. I would
 19 like both a copy by e-mail and a paper copy. I'll give you
 20 my addresses. The e-mail address is geftink@comcast.net.
 21 The mailing address is 704 West Foxwood Drive, Post Office
 22 Box 1280, Raymore, Missouri 64083.
 23 Could we get the court reporter's contact
 24 information in case we have a problem getting this?
 25 Because we are starting a hearing in two days, and I don't

Page 73

REPORTER'S CERTIFICATE

1
 2
 3 I, KAREN M. RODRIGUEZ, a certified court
 4 reporter, do hereby certify that I reported the foregoing
 5 case in stenographic shorthand and transcribed, or had the
 6 same transcribed under my supervision and direction, the
 7 foregoing matter and that the same is a true and correct
 8 record of the proceedings had at the time and place.

9 I FURTHER CERTIFY that I am neither employed by
 10 nor related to any of the parties or attorneys in this
 11 case, and that I have no interest whatsoever in the final
 12 disposition of this case in any court.

13 WITNESS MY HAND this 25th day of April, 2006.
 14
 15
 16
 17
 18
 19

20 Karen Rodriguez, CCR #55
 21 Expiration 12/06
 22
 23
 24
 25