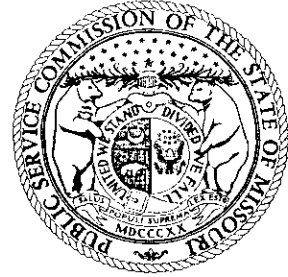


Notice of *Ex Parte* Contact

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

FROM: Chairman Jeff Davis
Commissioner Connie Murray
Commissioner Steve Gawronski
Commissioner Robert Clayton
Commissioner Lin Applig



DATE: May 26, 2006

On May 25, 2006 we received the attached document via electronic mail from Cindi Mayer regarding Aquila. The Commission is currently considering the issues discussed in this document in case EA-2006-0309, which is a contested cases. In contested cases, the Commission is bound by the same *ex parte* rule as a court of law.

Although communications from members of the public and members of the legislature are always welcome, those communications must be made known to all parties to a contested case so that those parties have the opportunity to respond. According to the Commission's rules (4 CSR 240-4.020(8)), when a communication (either oral or written) occurs outside the hearing process, any member of the Commission or Regulatory Law Judge who received the communication shall prepare a written report concerning the communication and submit it to each member of the Commission and the parties to the case. The report shall identify the person(s) who participated in the *ex parte* communication, the circumstances which resulted in the communication, the substance of the communication, and the relationship of the communication to a particular matter at issue before the Commission.

Therefore, we submit this report pursuant to the rules cited above. This will ensure that any party to this case will have notice of the attached information and a full and fair opportunity to respond to the comments contained therein.

cc: Commissioners
Executive Director
Secretary/Chief Regulatory Law Judge
General Counsel

Finnell, Kay

From: Davis, Jeff
Sent: Thursday, May 25, 2006 3:26 PM
To: Finnell, Kay
Subject: FW:
Attachments: Kansas City Star 05-25-2006 County shouldn't give up the fight.htm; "AVG
Ex-parte communication

From: Keith Mayer [mailto:kmayer@casstel.net]
Sent: Thursday, May 25, 2006 3:17 PM
To: Natalie Stephenson; Julie.L.Noonan@mail.sprint.com; Gerry Eftink; della.january@uug.com; Debra Moore-Settle;
Davis, Jeff; Murray, Connie; Appling, Linward (Lin); Clayton, Robert; Gaw, Steve
Subject:

PSC Commission,

Here is an editorial that came out in today's Kansas City Star. You really should read this. The can of worms you opened up is already starting to wiggle. Shame on you!

Cindi Mayer

Thursday, May 25, 2006

Aquila power plant

County shouldn't give up the fight

Cass County officials should continue their legal quest to determine whether Aquila has the right to operate a new power plant in the county.

In a disturbing 3-2 decision Tuesday, the Missouri Public Service Commission essentially said the utility didn't have to follow the county's rules in building a \$140 million natural gas-fired facility.

County officials and other opponents had contested Aquila's construction of a plant without approval from the county. A court had determined earlier this year that Aquila must begin tearing down the facility by next Wednesday.

The county wants the Public Service Commission to reconsider its decision from Tuesday. If that avenue fails, the county should pursue the issue in Circuit Court.

Local governments need a definitive answer on whether they can regulate power plant construction. Depending on what the courts rule, the Missouri General Assembly may need to make it clear that cities and counties deserve an important voice.

The Public Service Commission said Aquila's duty to provide power to customers trumped the concerns of nearby Cass County landowners who fear reduced property values as well as noise- and pollution-related problems.

"The rights of an individual resident are subservient to the rights of the public as whole," the majority of commissioners said.

But Aquila did not just go around the concerns of a few landowners. It also did not have zoning approval or a building permit from the Cass County Commission.

This blatant act of ignoring elected officials was one reason a Circuit Court judge had issued the tough and unusual order to tear down the new facility.

No matter how this case turns out, the Public Service Commission and courts must make sure ratepayers are not burdened with legal costs. That weight should fall on Aquila shareholders.