

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

In the Matter of the Application of Aquila,)
Inc. for Permission and Approval and a)
Certificate of Public Convenience and)
Necessity Authorizing it to Acquire,)
Construct, Install, Own, Operate, Maintain,)
and otherwise Control and Manage)
Electrical Production and Related Facilities)
in Unincorporated Areas of Cass County,)
Missouri Near the Town of Peculiar,)
Missouri)

Case No. EA-2006-0309

**PROCEDURAL SCHEDULE PROPOSED BY AQUILA, THE CITY OF
PECULIAR, THE SOUTHWEST POWER POOL AND THE STAFF**

COMES NOW the Staff of the Commission, on behalf of itself, Aquila, Inc., the City of Peculiar, Missouri and the Southwest Power Pool, Inc., and in response to the Commission's February 22, 2006 Order Setting Prehearing Conference in which the Commission, in addition to setting the prehearing conference on March 2, 2006, ordered the parties to file a proposed procedural schedule by March 7, 2006, states:

1. On January 25, 2006, Aquila, Inc. filed an application for a certificate of convenience and necessity for the South Harper generating facility and associated substation located near the City of Peculiar in Cass County, Missouri.
2. On January 25, 2006, the Commission established an intervention date in this case of February 27, 2006.
3. On January 27, 2006, conditioned on posting of a bond, the Cass County Circuit Court, the Honorable Judge Joseph Dandurand presiding, extended until May 31, 2006, the stay of its judgment that requires Aquila to dismantle the South Harper generating facility and associated substation.

4. On February 22, 2006, the Commission issued an Order Setting Prehearing Conference in which a prehearing conference was scheduled for 10:00 a.m., March 2, 2006, and which ordered the parties to file a proposed procedural schedule by March 7, 2006.

5. With that application, Aquila filed a motion in which it, among other things, requested the Commission to establish a procedural schedule. On February 15, 2006, Aquila filed another motion in which it, among other things, renewed its request that the Commission establish a procedural schedule, and in which Aquila proposed a procedural schedule.

6. The Staff, the Office of the Public Counsel, Cass County and StopAquila.org filed responses to Aquila's proposed procedural schedule.

7. On March 2, 2006, all parties, including those who had sought intervention, appeared at the prehearing conference. On that same date, the Commission granted the applications of all who had sought intervention—Sedalia Industrial Energy Users' Association; StopAquila.org; Cass County, Missouri; the City of Peculiar; Frank Dillon, Kimberly Miller, and James E. Doll; and Southwest Power Pool, Inc.

8. During the on-the-record portion of the prehearing, before the parties began discussions among themselves, the hearing officer noted, on the record, the differing viewpoints expressed in the filings as to whether the Commission should adopt a schedule that would allow it to issue a decision before the May 31, 2006 date when the Cass County Circuit Court's stay of its judgment requiring dismantling of the South Harper generating facility would end. The hearing officer then encouraged the parties, if they could not collectively agree on a single procedural schedule, to try to propose just

two schedules—one by those who advocate a schedule that would permit a Commission decision by May 31, 2006, and another by those who advocate a longer schedule is required.

9. Collectively, the parties were unable to agree on a procedural schedule; however, the Staff, Aquila, the City of Peculiar and the Southwest Power Pool have agreed to the procedural schedule below. The Staff, the party who typically files proposed procedural schedules in cases, is filing on behalf of itself, Aquila, the City of Peculiar, and the Southwest Power Pool. This schedule permits the Commission to issue an order in this case that addresses the merits of Aquila’s application *prior* to May 31, 2006.

10. The Staff, Aquila, the City of Peculiar and the Southwest Power Pool believe that the schedule they are proposing is appropriate and reasonable. The Staff, Aquila, the City of Peculiar and Southwest Power Pool propose the following schedule believing that the other parties may file motions to dismiss or seek the issuance of extraordinary writs from Missouri Courts:

PROPOSED SCHEDULE

Aquila Direct		January 25, 2006
Intervention Deadline		February 27, 2006
Early Prehearing Conference		March 2, 2006
Local Public Hearings		Two hearings on one day during week of March 20, 2006 ¹ - Noon to 3 p.m. and 6-9 p.m. - at the Cass County Justice Center, if available.
Rebuttal Testimony (all parties but Aquila)		March 31, 2006

¹ On-the-record hearings for comments from the public to be held on one day during the week of March 20, with one scheduled for noon until 3 pm and the other from 6-9 pm. Other hearings in earlier related cases have been held at the Cass County Justice Center. The Parties seem to be in agreement that this is a reasonable location.

Prehearing Conference / List of Issues		April 7, 2006
Surrebuttal & Cross-surrebuttal Testimony (all parties)		April 14, 2006
Prehearing briefs (all parties)		April 17, 2006
Marking Exhibits and Taking Up Pending Motions		April 18, 2006 at 1:00 p.m.
Opening Statements, Evidentiary Hearing and Closing Arguments		April 19-21 & 24-28, commencing at 8:30 a.m. each day ²
Commission Order		By May 30, 2006

11. The Staff, Aquila, the City of Peculiar and the Southwest Power Pool agree the following procedures are reasonable and the Commission should direct that these procedures be followed:

- a. Aquila shall provide to the parties logs identifying the data requests propounded to it in Commission Case No. EA-2005-0248 (“Order Clarifying Prior Certificates of Convenience and Necessity”), Case No. EO-2005-0156 (“Chapter 100 Financing Case”) and Case No. ER-2005-0436 (the “Electric Rate Case”), parties may request from Aquila copies of the Aquila responses in these cases and Aquila responses from these cases may be used in this case;
- b. Data requests propounded in this case shall be copied to all counsel of record, preferably electronically;
- c. Responses to data requests be due in seven (7) days rather than the twenty (20) days set by Commission Rule 4 CSR 240-2.090(2), with objections due within five (5) days rather than ten (10) days;
- d. Hearing transcripts be expedited.

WHEREFORE, the Staff, on behalf of itself, Aquila, the City of Peculiar and the Southwest Power Pool, respectfully requests the Commission to: (1) adopt the above proposed procedural schedule, and (2) direct the procedures suggested above.

² At this time, the parties do not know how many witnesses will be called, so it is difficult to estimate the number of hearing days required. In order to finish in the time reserved for this hearing, it may be necessary to extend the hearing into the evening.

Respectfully submitted,

/s/ Lera L. Shemwell

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 7th day of March 2006.

/s/ Lera L. Shemwell