

Aquila, Inc. operates in Cass County, Missouri, as well as other western Missouri counties pursuant to a number of Certificates of Convenience and Necessity and other orders issued to it and its predecessors. Prominent among these orders is the certificate which the Commission issued in Case No. 9470 to serve an area which included large portions of western and north central Missouri, including, but not limited to the majority of Cass County. In its 1938 Report and Order which issued the certificate, the Commission ordered:

That the Missouri Public Service Corporation be and is hereby authorized to construct, maintain and operate electric transmission lines and distribution systems over, along and across the highways of the Counties of ... Cass ... with the authority to furnish electric service to all persons in the area for which this certificate is granted.

In the decade previous to this Report and Order, the Commission granted permission to a predecessor of Aquila to increase its capitalization in a proceeding known as In re Green Light and Power Co., Case No. 3171. The Commission's Preliminary Order of December 6, 1921, authorized the reorganization of Green Light and Power Company as West Missouri Power Company, and specifically ordered:

... that the present and future public convenience and necessity require the exercise by the said New Company [West Missouri Power Co.] of all the rights, privileges and franchises to construct, operate and maintain electric plants and systems in the State of Missouri and respective counties and municipalities thereof, now acquired or controlled by the applicant, Green Light and Power Company.

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See Preliminary Order at 4-5, Case No. 3171 (Mo. P.S.C. Dec. 6, 1921).

Missouri Public
Service Commission

In that same proceeding, the Commission issued a subsequent Order on March 21, 1922, setting forth how West Missouri Power Co. was required to use the capital that the Commission permitted it to raise. The Commission specifically directed how those funds must be used:

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That the said West Missouri Power Company shall sell the set stock hereby authorized ... and that the proceeds thereof shall be applied to the following purpose:

For extensions and additions to distribution systems and street lighting systems now or hereafter used by the said Company in Jackson, Cass [and other] counties and for the reimbursement of monies heretofore or hereafter actually expended from the income of the company for the acquisition of property, the construction, completion, extension or improvement of the plants or distribution systems of said Company;

See Order at 2-3, Case No. 3171 (Mo. P.S.C. Mar. 21, 1922).

These three orders, taken together, authorized Aquila's predecessors to construct plants, substations, and other "electric plant," as defined in Section 386.020(14), within the service territory granted by the Commission.

More recently, in Case No. 11,892, the Commission granted to Missouri Public Service Company in 1950 a Certificate to:

... own, maintain and operate all properties and assets, and to acquire, hold and exercise all contracts, franchises, permits and rights now held and possessed by Missouri Public Service Corporation; including, without limitation, all rights to construct, own and maintain electric utility facilities in the areas of the State of Missouri described and designated in the order of this Commission entered in Case No. 9470 on January 18, 1938.

See Report and Order at 4, Case No. 11,892 Mo. P.S.C., April 28, 1950. The Commission finds that the words "electric utility facilities" were intended to encompass "electric plant," which is defined in Section 386.020(4), and which "includes all real estate, fixtures and personal property operated, controlled, owned, used, or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power" This also embraces plants, substations, wires, lines, poles and other fixtures or equipment

used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power.

A question has arisen whether Aquila has or must obtain specific authorization in its Certificate of Convenience and Necessity to build a power plant within its service territory from this Commission. Based upon a review of our prior orders, relevant decisions of Missouri appellate courts, as well as the facts that are not in dispute in this proceeding, the Commission hereby clarifies and confirms that the prior Certificates of Convenience and Necessity and other orders issued by this Commission specifically authorize and permit Aquila, as they authorized and permitted its predecessors, to build power plants, substations and other forms of electrical infrastructure, including the South Harper Facility and the Peculiar Substation in Cass County, Missouri, within the service territory that has been granted to Aquila and its predecessors by this Commission. Such prior Certificates of Convenience and Necessity and other orders apply fully to Aquila's current service territory, which includes the tracts where Aquila proposes to construct the South Harper Facility and the Peculiar Substation in Cass County.