

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

In the Matter of the Application of Aquila, Inc., for                   )  
Specific Confirmation or, in the Alternative, Issuance                   )  
of a Certificate of Convenience and Necessity                   )  
Authorizing It to Construct, Install, Own, Operate,                   )  
Control, Manage, and Maintain a Combustion Turbine                   )  
Electric Generating Station and Associated Electric                   )  
Transmission Substations in Unincorporated Areas                   )  
of Cass County, Missouri, Near the Town of Peculiar                   )

**Case No.EA-2005-0248**

**Concurring Opinion of Commissioner Jeff Davis**

As a matter of law, I concur with the Commission's Order clarifying prior Certificates of Convenience and Necessity that Aquila already possess. The prior Certificates give Aquila the authority to serve Cass County and to build plants as necessary to fulfill that obligation. However, there were numerous ex parte complaints filed in this case concerning Aquila's conduct that were not relevant to the legal disposition of this case but are deserving of further discussion.


In summary, many of the ex parte complaints filed in this case describe the feelings of Aquila's Cass County neighbors regarding their dissatisfaction with the company's approach in deciding to locate the plant and physically constructing it near their homes. It is apparent that a significant number of the people filing ex parte communications with the Commission view Aquila as being unresponsive to local feelings and opinions, as well as heavy handed. There were also questions as to whether the plant itself was a prudent decision.

Subsequent to the local hearing in Harrisonville, Missouri, Aquila filed a response to the numerous issues raised by its future neighbors at the local hearing. This Commissioner's impression from reading Aquila's filing is that Aquila tacitly acknowledged the security company it hired to patrol the site may have been overzealous in its patrolling of the area. Aquila further argued in its response that it made reasonable efforts to inform their neighbors of its plans to build a plant and the necessity thereof. Obviously, Aquila was not successful.


Based on my impression of the facts presented so far, I would admonish Aquila to be more considerate of the customers they serve and to treat their neighbors as Aquila would want to be treated. Aquila's customers may not have a choice right now, but it is conceivable they might have a choice at some point in the future. Further, Aquila's customers certainly have no incentive to cooperate with Aquila in any future proceeding that might require their consent or that of the Office of Public Counsel.

In conclusion, this case was not the proper venue for the questions raised in the ex parte pleadings and the testimony at the local public hearing, but the next rate case will be the proper venue for the parties to raise all the issues including, but not limited to, whether the construction of this plant was prudent and whether the company should be penalized for poor management. Many of the sentiments expressed in this case should be expressed at that time and the Commission will have the opportunity to make a decision after considering all the facts relevant to these questions.

Respectfully submitted,



Jeff Davis  
Commissioner



Dated at Jefferson City, Missouri,  
on this 19th day of May, 2005.