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February 24, 2006

**FILED<sup>4</sup>**

FEB 24 2006

Missouri Public  
Service Commission

The Honorable Colleen M. Dale  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Re: Case No. EA-2006-0309

Dear Judge Dale:

Enclosed for filing in the referenced matter please find the original and five copies of an Application to Intervene.

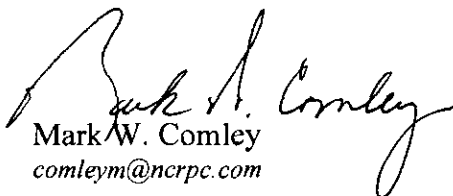
Would you please bring this filing to the attention of the appropriate Commission personnel.

Please contact me if you have any questions. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley  
comleym@ncrpc.com

MWC:ab

Enclosure

cc: Office of Public Counsel  
General Counsel's Office  
James C. Swearingen  
Cindy Reams Martin  
Debra L. Moore

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>4</sup>  
FEB 24 2006

Missouri Public  
Service Commission

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. )

Case No. EA-2006-0309

**APPLICATION TO INTERVENE**

COMES NOW the County of Cass, Missouri (hereinafter Cass County), pursuant to 4 CSR 240-2.075 of the Commission's Rules of Practice and Procedure, and for its Application to Intervene respectfully states:

1. Cass County is a First Class County of the State of Missouri under the county classification provisions of Chapter 48, RSMo 2000, and is a political subdivision of the state with powers, duties and obligations as provided by law. Its offices are located in Harrisonville, Missouri, the county seat.

2. Correspondence, communications, orders and the decision in this matter should be addressed to:

Debra L. Moore  
Cass County Counselor  
Cass County Courthouse  
102 E. Wall  
Harrisonville, MO 64701  
Telephone No.: 816/380-8206  
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3. This case is the second that arises upon Aquila's filing of an Application that seeks from the Commission, among other things, a certificate of convenience and necessity to construct, install, own, operate and maintain an electrical power production facility and associated electric transmission substations to be located on tracts of property in unincorporated Cass County, Missouri (the South Harper Facility and Peculiar Substation). Aquila has already erected the South Harper Facility and the Peculiar Substation. Each has been operated by the utility.

4. An application seeking relief identical to the present one was filed by Aquila at this Commission on January 28, 2005.<sup>1</sup> Cass County timely filed an application to intervene in that proceeding and it was granted. An order was issued by the Commission in that case on April 7, 2005 and was appealed by petition for writ of review in *State ex rel Cass County v. Public Service Commission* (the "Writ Case.")<sup>2</sup> Resolution of the Writ Case is underway.

5. As the Commission is quite aware, Cass County obtained an injunction against

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<sup>1</sup> Case No. EA-2005-0248.

<sup>2</sup> Circuit Court of Cass County, Missouri, Case No. CV105558CC. The parties have agreed to a Consent Judgment by which to conclude this case and approval by Judge Dandurand is expected shortly.

Aquila's construction of the South Harper Facility and the Peculiar Substation from the Circuit Court of Cass County. That decree was appealed by Aquila without success. *StopAquila.org v. Aquila, Inc.*, WD 64985.<sup>3</sup> Presently, Aquila is subject to a court order to demolish the South Harper Plant and the Peculiar Substation by May 31, 2006.

6. Construction of Aquila's South Harper plant has had, and continues to have, a direct impact on Cass County and those who reside there. The Commission's decision in this case will have an effect on Cass County and its constituency unlike that which might be experienced by the public. Cass County's interest in this proceeding is different from that of the general public. Its intervention would be in the public interest.

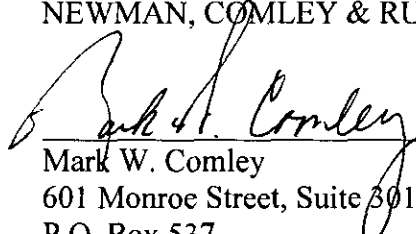
7. Cass County is opposed to the relief requested by Aquila in its Application.

WHEREFORE, for the foregoing reasons, Cass County, Missouri, respectfully requests that the Commission grant its Application to Intervene in this matter.

Respectfully submitted,

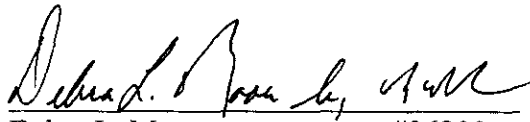
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By:

  
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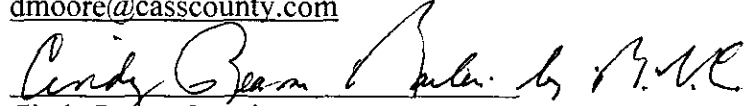
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<sup>3</sup> Aquila refers to the litigation and appeal in paragraphs 8-13 of its Application, and in those and other paragraphs its adds its own conclusions about the meaning and merit of the Court of Appeal's opinion and its effects. Cass County will not burden this application with its rebuttal. However, by filing this application to intervene, Cass County does not endorse or adopt in any fashion as its own any of Aquila's characterizations or arguments pertaining to the foundation or merit of the Circuit Court's judgment and the Court of Appeal's opinion, except to the extent they may coincide with Cass County's.



Debra L. Moore #36200

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102 E. Wall  
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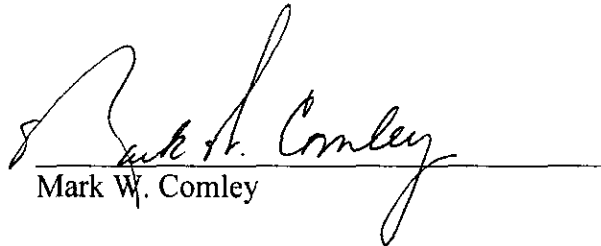


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ATTORNEYS FOR CASS COUNTY, MISSOURI

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 24th day of February, 2006 to the Office of General Counsel at [gencounsel@psc.mo.gov](mailto:gencounsel@psc.mo.gov); Office of Public Counsel at [opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov); and James C. Swearingen at [ltrackers@brydonlaw.com](mailto:ltrackers@brydonlaw.com).



Mark W. Comley