

StopAquila Resolutions Adopted on May 9, 2006

Resolution I

Let it be known by this resolution that StopAquila.org is an organization that was formed for the specific purpose of causing Aquila, Inc. and the City of Peculiar to submit to and remain in compliance with the Constitution of the State of Missouri, Revised Missouri Statutes, and other rules and obligations as they pursued and subsequently completed activities to Annex Property, and Finance, 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.

Resolution II

Let it be known by this resolution that StopAquila.org has two cases in Missouri courts related to Aquila and City of Peculiar failure to comply with the laws of the State of Missouri which represent the defendants' flagrant disregard for the law and for Constitutional rights of citizen members of StopAquila.org. Reference: StopAquila v. City of Peculiar Circuit Court Case CV104-1355CC-Western District Court of Appeals Case WD65000 and StopAquila v. Aquila, Inc. CV104-1380CC, which was stayed as the county pursued Cass County v. Aquila, Inc. in CV104-114433CC, now Cass County, MO, Res v Aquila, Inc. WD64985.

Resolution III

Let it be known by this resolution that StopAquila.org remains committed to successful outcomes for all cases. StopAquila has participated in two Missouri Public Service Commission cases (EA-2005-0248 And EA-2006-0309) surrounding this matter, however, StopAquila remains adamant that the PSC had no authority to grant a Special Certificate of Need and Necessity for Aquila's all ready built South Harper plant and related substations in 2005, nor does the PSC have the authority to grant the Special Certificate of Need and Necessity for the facilities in 2006. StopAquila.org recognizes that the only legal and just disposition for South Harper is that the facilities be dismantled beginning May 31, 2006 as ordered by Judge Dandurand of Cass County Circuit Court.

Resolution IV

Let it be known by this resolution that StopAquila.org believes that according to RSMO, Cass County is the only entity that is allowed to consider zoning and land use regulation in unincorporated Cass. The MPSC does not possess the legal authority to disregard land use regulation in Cass County. MPSC also lacks process and expertise to consider land use and zoning in Cass County.

Resolution V

Let it be known by this resolution that StopAquila.org specifically requests the following immediate orders from the PSC:

- Aquila's request for a Special Certificate of Need and Necessity for the South Harper plant and related sub-stations is denied.
- Aquila is to submit to the injunction issued by the Circuit Court, confirmed by the Western District Court of Appeals to begin dismantling the facilities no later than June 1, 2006 and begin returning the property to a state consistent with Agricultural use. Additionally, Aquila is to complete the aforementioned activities to Cass County's satisfaction no later than May 31, 2007. Aquila is strongly encouraged to complete the activities within 6 months, since Aquila was capable of building the facilities within a 6 month period.
- Aquila is denied the request for Authority to Acquire, Sell and Lease Back Three Natural Gas-Fired Combustion Turbine Power Generation Units and Related Improvements to be Installed and Operated in the City of Peculiar, Missouri.EA-2005-0156. RSMO and 4 CSR 240-20.15 require that permission must be sought and granted prior to entering into such agreements. Aquila's actions of Installing and Operating the turbines without PSC authorization is illegal. Further, note that the request is for turbines installed and operated in the City of Peculiar, Missouri. There are currently no turbines related to the South Harper plant in the City of Peculiar, Missouri.

- Aquila is denied the request to enter into an agreement with the City of Peculiar for 100 Bond Financing associated with EA-2005-0156 for reasons outlined in the Motion for Rehearing submitted by the Office of the Public Counsel on 12/29/2005 and for failure to comply with RSMO 393.190.
- Aquila is to immediately pay all legal fees and litigation related expenses incurred by StopAquila.org and Cass County associated with Aquila's actions to Finance, 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.
- The Missouri Public Service Commission directs the MPSC staff to convene a committee for the express purpose of drafting new rules to ensure that no utility ever attempts to Finance, Acquire, Construct, Install, Own, Operate, Maintain, and Otherwise Control and Manage Electrical Production and Related Facilities in the State of Missouri without adhering to laws, rules, and regulations that honor the rights of all citizens and serve the best interests of rate payers. The committee will be lead by an outside consultant and will be comprised of MPSC staff, interested citizens of the State of Missouri, members or representatives of local governments, and the Office of the Public Counsel. The committee will meet at times and in places convenient for the citizens and is authorized to utilize technology in conducting remote meetings. The PSC will further request that the rules be submitted for PSC adoption no later than October 31, 2006. The committee will also be required to create documentation and processes associated with the recommended rules that will aid citizens interested in learning about the process and/or participating in the process to do so easily once the rules are adopted.
- Missouri Public Service Commission serves notice to all companies and municipalities that would seek to Acquire, Construct, Install, Own, Operate, Maintain, and Otherwise Control and Manage Electrical Production and Related Facilities in the State of Missouri that until new rules are adopted, the MPSC is immediately re-instituting practices in place prior to 1980 requiring that any entity pursuing such authorization must request and be granted a Special Certificate of Need and Necessity from the MPSC prior to proceeding with such activities. Requesting and obtaining verified local authority as evidenced by appropriate zoning and/or a Special Use Permit and adherence to any other requirements outlined in the laws of local authorities is required prior to seeking a Special Certificate of Need and Necessity. Both local authority AND the Special Certificate of Need and Necessity must be requested and granted prior to turning a spade of soil.

Resolution VI

Let it be known by this resolution that StopAquila.org stands firm in Resolutions I-V and, if necessary, will immediately pursue legal remedy if the PSC takes action to grant Aquila a Special Certificate of Need and Necessity for the all ready built South Harper facilities.

Resolution VII

Let it be known by this resolution that StopAquila.org believes that damages resulting from Aquila and The City of Peculiar's actions associated with South Harper are not yet fully known. StopAquila.org reserves the right to seek compensatory and punitive damages at a later date.

Resolution VIII

Let it be known by this resolution that StopAquila.org will pursue review of matters related to South Harper by Missouri Attorney General Jay Nixon, Governor Matt Blunt, and possibly the FBI. It is widely known that Governor Blunt recently implemented a new policy for his staff that prohibits receiving gifts from lobbyists in order to fulfill his campaign promise, "to provide more trust and accountability to state government." The lead article in The Kansas City Star on May 5, 2006 attributes the following statement to Blunt, "The professional conduct required by this code and lobbyist gift ban will help strengthen the confidence that must exist between the people and their government and sends a clear signal that the business of Missourians is the highest priority of this office."

While the situation with South Harper is not specifically related to lobbyist gifts, the issues do speak to Missouri government accountability and trustworthiness. StopAquila.org acknowledges that the MPSC is a critical part of state government that is accountable to citizens and must conduct business and make decisions in ways that ensure public trust in their duties to uphold the Missouri Constitution and provide oversight of regulated utilities. Throughout 2005 and 2006 proceedings related to South Harper and rate making, PSC Staff has consistently offered information and recommendations that appear to be directed by Aquila for Aquila. Time after time, PSC Staff and PSC Counsel appear to have no personally researched and/or grounded opinions or recommendations. They fail to answer simple questions that delve deeper into reasoning behind positions and have even attempted to quote positions in 2006 that were overturned by the Western District Court of Appeals in 2005. Given the obvious failure of PSC Staff to serve the citizens in this matter, StopAquila.org appeals to the MPSC to disregard the PSC Staff recommendation offered in testimony by Warren Woods suggesting that the PSC consider both local land use issues associated with siting of the plant and consider need, ultimately granting Aquila the certificate.