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February 3, 2005

FILED

FEB 3 2005

**Missouri Public
Service Commission**

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

Re: Case No. EA-2005-0248

Dear Judge Roberts:

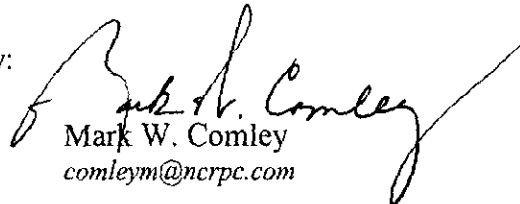
Please find enclosed for filing in the referenced matter the original and five copies of an Application to Intervene and Motion to Dismiss Aquila, Inc.'s Application.

Please contact me if you have any questions regarding this filing. 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
Paul A. Boudreau
Gerard Eftink
Debra L. Moore

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FEB 3 2005

Missouri Public
Service Commission

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

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:

Gary L. Mallory
Presiding Commissioner
Cass County Commission
Cass County Courthouse
102 E. Wall
Harrisonville, MO 64701
Telephone No.: 816/380-8155
Fax No.: 816/380-8156

Mark W. Comley
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3. This case arose upon Aquila's filing of an Application that seeks from the Commission, among other things, a certificate of convenience and necessity to construct, own, operate and manage an electrical power production facility and associated electric transmission substations to be located on tracts of property near the City of Peculiar in Cass County, Missouri (the South Harbor Facility and Peculiar Substation).

4. As the Commission is already aware,¹ and as Aquila reports in part in the body of its Application, on January 11, 2005, Cass County acquired in the Circuit Court of Cass County a permanent injunction against Aquila restraining its construction of the South Harbor Facility and the Peculiar Substation.² Cass County is also a Respondent in the ensuing appeal of that judgment filed by Aquila in the Western District Court of Appeals.³ Aquila continues its construction of the South Harbor Facility.

5. Construction of Aquila's South Harbor plant has a direct impact on Cass County and those who reside there. The relief requested in Aquila's Application may also affect Cass County's position in the pending appeal of its judgment obtained against Aquila. The

¹ See Cass County's Motion to Suspend Proceedings filed on January 13, 2005 in *In the Matter of the Application of Aquila, Inc., 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*, Case No. EO-2005-0156.

² Circuit Court of Cass County, Case No. CV104-1443CC.

³ Aquila references the litigation and appeal in paragraphs 13-16 of its Application, and in those and other paragraphs it adds its own conclusions about the meaning and merit of the judgment entered against it. Cass County will not burden this application with its rebuttal. However, by filing this application to intervene, Cass

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.

6. By its Application, Aquila additionally asks the Commission to either confirm specifically that its existing certificate of convenience and necessity authorizes it to construct and operate the South Harper Facility and Peculiar Substation or in the alternative, grant Aquila a site-specific certificate of convenience and necessity for the same purpose.

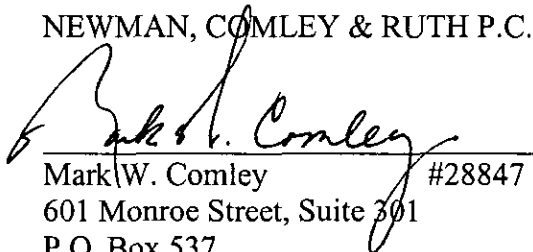
7. For the reasons set forth in Cass County's Motion to Dismiss the Application, which is incorporated by reference herein, Cass County is opposed to the relief requested by Aquila in its Application.

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

Respectfully submitted,

NEWMAN, COMLEY & RUTH P.C.

By:



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County does not tacitly endorse or adopt as its own any of Aquila's characterizations or arguments pertaining to the foundation or merit of the Court's judgment, except to the extent they may coincide with Cass County's.

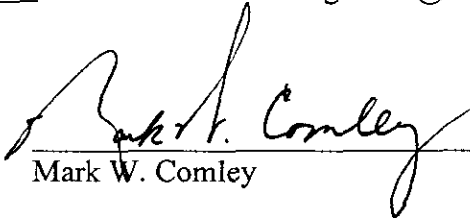
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Cass County Courthouse
102 E. Wall
Harrisonville, MO 64701

(816) 380-8206
(816) 380-8156 (FAX)
dmoore@casscounty.com

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 3rd day of February, 2005 to the Office of General Counsel at gencounsel@psc.state.mo.us; Office of Public Counsel at opcservice@ded.state.mo.us; and Paul A. Boudreau at paulb@brydonloaw.com. and Gerard Eftink at geftink@kc.rr.com and geftink@comcast.net.


Mark W. Comley