

Dear Cass County Residents,

The Aquila South Harper Peaking Facility is necessary for the residents of Cass County and all customers who need a reliable power source during peak usage periods, such as hot summer days. As the communities within the county continue to grow, the need for a reliable energy source will only increase.

For nearly 100 years, Aquila has been an integral part of Cass County. We currently provide approximately 90 percent of its electrical needs (either directly or indirectly). It is because of our commitment to the betterment of Cass County — in fact, any community in which Aquila does business — that we are committed to an open, honest and, most of all, fact-based dialog related to the facility.

When construction began in 2005, Aquila believed it had the necessary authority from the Missouri Public Service Commission (MPSC) to construct the facility. During that process, Aquila diligently pursued and obtained all the necessary construction approvals.

Since completion, we have been entirely sincere in our efforts to work hand-in-hand with the residents of the county to address their concerns and work with the community at large to enhance our long-term commitment to the area. While we respect the concerns of the Cass County residents who oppose the presence of the facility, we feel it is unfortunate that misperceptions and emotions, though related to very valid concerns, have consistently overshadowed and prolonged the public debate over the fate of the facility.

Although it was Aquila's interpretation of previous MPSC decisions that our general authorization (from the MPSC) to provide electric service in Cass County was sufficient to allow construction and future operations, the Court of Appeals disagreed with our interpretation.

The Court of Appeals has given us two alternate paths to pursue: (1) either obtain zoning approval from Cass County, or (2) work with the MPSC for specific authorization for this plant. Though we chose to work with the county first, our zoning application was refused. Therefore, we have placed the fate of the South Harper Peaking Facility in the hands of the MPSC, which, after giving due process to the rights of all to be heard, will hopefully render a decision soon.

To better understand all the emotion and media attention surrounding this issue, it is beneficial to take a step back and review how we all came to this point. As such, it is very important to note certain dates and events since 2004.

Summer 2004

After a series of meetings with Cass County officials, Aquila filed for a special use permit to build a generating facility near Harrisonville called Camp Branch. The zoning board denied the filing for the Camp Branch location.

Aquila received an invitation from the City of Peculiar to construct a facility at a site in an unincorporated area two miles from the city limits. Aquila chose the Peculiar location with a commitment from Peculiar to annex the plant site.

October 2004

The Peculiar Board of Aldermen withdrew its annexation resolution before final vote when it was determined its legal authority to annex was unclear. Given the need to have power available by the summer of 2005, Aquila made the decision to proceed with construction under its existing Certificate of Public Convenience and Necessity (issued by the MPSC in 1938) in order to meet its legal obligation to serve the public.

December 2004

Cass County sued Aquila claiming county approval was required to build the facility. The suit claimed that, even if county approval was not required, Aquila lacked MPSC authority to continue construction.

January 2005

In a trial in the Circuit Court of Cass County, the court agreed that Aquila was exempt from county land use regulations if it had MPSC authority. The court agreed with Cass County that Aquila lacked MPSC

authority (which Aquila appealed). However, the company was allowed to proceed with construction pending appeal of the decision.

February 2005

Aquila appealed the Circuit Court decision to the Missouri Court of Appeals. Aquila also filed an application for specific authority from the MPSC or, alternatively, confirmation that it already had specific authority.

April 2005

The MPSC issued an order confirming by a four to one vote that Aquila's existing authority was sufficient.

May 2005

Cass County sued the MPSC in the Circuit Court of Cass County claiming the MPSC acted illegally, without due process, and lacked the authority to interpret its prior orders. Aquila intervened in support of the MPSC's order. The circuit court judge stayed the lawsuit pending a Court of Appeals ruling on the underlying case between Cass County and Aquila.

June 2005

The Court of Appeals issued an opinion, which was subsequently withdrawn, holding that the MPSC lacked the authority to allow Aquila to construct the facility unless the right to construct power plants had been previously approved through a "county franchise." By statute, a county may grant a utility a franchise to place poles and wires wherever necessary to provide electricity. However, unlike cities, counties do not have statutory authority to grant franchises for the construction of power plants or substations.

This ruling from the Court of Appeals created industry-wide concern because it meant that all utility construction would have been in jeopardy, as county franchises throughout the industry addressed only "poles and wires" (as provided by statute) and not specifically power plants.

Aquila completed construction of the South Harper plant and put it into service. It has since been started 57 times, run 429 hours and generated 74,000 megawatts of energy for Aquila's customers.

July 2005

Aquila's General Counsel met with Cass County attorneys to explore a settlement. In a subsequent letter, Cass County attorneys said the county would accept and process a special use permit from Aquila. At that time, in an effort to get the community up to date on the issues, we began meeting with individual land owners to listen to their concerns.

August 2005

To foster better understanding with Peculiar and Cass County residents, Aquila began a series of community meetings and plant tours at the South Harper Peaking Facility. The goal of these meetings is to provide local residents with the most current information and create an open forum to hear dissenting opinions.

Additionally, Aquila undertook a program to pave local roads, plant trees, conduct emissions testing and construct additional sound protection for residents whose homes were located closest to the facility. At the same time, Aquila purchased the homes of some persons living adjacent to the plant (residents who chose not to stay in the area, despite property improvements).

The County's attorneys sent Aquila a letter stating that Cass County would not accept a special use permit application until litigation ceased. The letter also pointed out that Aquila could not remedy its zoning violation by filing a special use permit application.

October 2005

The Court of Appeals withdrew its June opinion and granted Aquila's request for a re-hearing.

December 2005

The Court of Appeals issued a new opinion that supported Aquila's contention that the facility was exempt from county land use regulations if it had the necessary MPSC authorization (but found that Aquila's existing certificates were not sufficient).

Of note, the court also stated that Aquila could retroactively obtain zoning approval from the county or specific MPSC authorization for the facility.

January 2006

In a letter from the presiding Cass County commissioner, we were advised that the county would only process Aquila's zoning application if the plant was removed.

At that time, Aquila's General Counsel had a phone call with Cass County attorneys in which they continued to assert:

• The MPSC may not authorize any utility construction unless Cass County first provides its authority.

• They would not allow the county planning and zoning office to consider Aquila's special use permit unless the plant was torn down.

Aquila's general counsel later sent Cass County attorneys a letter advising them of a filing with the Circuit Court requesting a stay of the injunction and noting significant long-term benefits to the county — including consent to further county approval over utility construction, if the zoning application were processed and approved.

Aquila filed an application to the MPSC for specific authority for the South Harper Peaking Facility and Peculiar substation.

The Cass County Circuit Court extended the stay of the permanent injunction against South Harper until May 31, 2006, and ordered Aquila to commence dismantling the facility if it did not receive specific authority from the MPSC.

February 2006

Cass County attorneys sent Aquila a letter in which they indicated the county would accept and process a special use zoning permit.

The Cass County Circuit Court entered a consent judgment in the lawsuit in which the County accused the MPSC of acting illegally, without due process, and in excess of its authority. This judgment remanded the matter to the MPSC and instructed the MPSC to set aside and vacate its April 2005 order which had clarified that Aquila's existing authority was sufficient for the construction of the South Harper facility.

March 2006

The MPSC vacates its April 2005 clarifying order.

Aquila files a joint motion (with the MPSC staff and other case interveners) to the MPSC, requesting a procedural schedule for its application for specific authority. This proposed schedule addresses due process considerations, and includes a late March public hearing in Cass County, followed by a hearing and closing arguments before the MPSC in April, with a MPSC order in May. Cass County, StopAquila.Org, and certain landowners file a joint motion requesting a procedural schedule that would not have a hearing and arguments with the MPSC until July.

Cass County lawyers continue to assert that the MPSC does not have the authority to retroactively approve the facility; the MPSC cannot approve construction of a plant unless the county first grants zoning; and, removal of the plant is the only remedy to this issue.

Aquila is continuing its efforts to ensure an open, honest fact-based dialog on this issue. Hopefully the above chronology helps illustrate that. I encourage anyone interested in learning more about the issues surrounding the South Harper Peaking Facility to visit http://networks.aquila.com/south_harper/.

For all parties concerned, especially the citizens of Peculiar and Cass County, we hope to resolve this issue expeditiously, with due regard for the MPSC's process and the right of all interested parties to be heard. Most importantly, we look forward to continuing our relationship with Cass County to provide its residents with reliable, accessible electricity.

Thank You.

Norma F. Dunn
Senior Vice President
Communications and Stakeholder Outreach
Aquila, Inc.

Public Hearing Exhibit No. 18

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Reporter

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