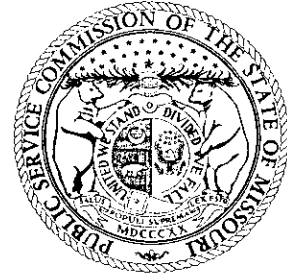


Notice of *Ex Parte* Contact

TO: Data Center
All Parties in Case No. **ER-2007-0004**
EO-2005-0156

FROM: Chairman Jeff Davis *JMD*
Commissioner Connie Murray *cm*
Commissioner Steve Gaw *SG*
Commissioner Robert Clayton *RC*
Commissioner Lin Appling *LA*

DATE: April 4, 2007



On April 3, 2007 we received the attached e-mails from Ms. Julie Noonan regarding Aquila. The Commission is currently considering the issues discussed in these documents in cases **ER-2007-0004 and EO-2005-0156** which are contested cases. In contested cases, the Commission is bound by the same *ex parte* rule as a court of law.

Although communications from members of the public and members of the legislature are always welcome, those communications must be made known to all parties to a contested case so that those parties have the opportunity to respond. According to the Commission's rules (4 CSR 240-4.020(8)), when a communication (either oral or written) occurs outside the hearing process, any member of the Commission or Regulatory Law Judge who received the communication shall prepare a written report concerning the communication and submit it to each member of the Commission and the parties to the case. The report shall identify the person(s) who participated in the *ex parte* communication, the circumstances which resulted in the communication, the substance of the communication, and the relationship of the communication to a particular matter at issue before the Commission.

Therefore, we submit these reports pursuant to the rules cited above. This will ensure that any party to this case will have notice of the attached information and a full and fair opportunity to respond to the comments contained therein.

cc: Commissioners
Executive Director
Secretary/Chief Regulatory Law Judge
General Counsel

Murray, Connie

From: PeculiarForce [peculiarforce@yahoo.com]
Sent: Tuesday, April 03, 2007 3:40 PM
To: Murray, Connie
Cc: Gaw, Steve; Clayton, Robert; Appling, Linward (Lin); Davis, Jeff; PSC Info (Public Info Email Address) - PSC; info@psc.mo.gov; stop_aquila@yahoo.com
Subject: ER-2007-0004 Murray Exparte

Commissioner Murray:

I am writing to ask that you immediately and permanently recuse yourself from ER-2007-0004. After reading the Mission Statement posted on the MPSC web site and suffering through numerous cases during the past two years, it appears to me that you have failed to uphold your duties in regards to cases related to Aquila.

PSC mission statement:

We will:

- ensure that Missourians receive safe and reliable utility services at just, reasonable and affordable rates;
- support economic development through either traditional rate of return regulation or competition, as required by law;
- establish standards so that competition will maintain or improve the quality of services provided to Missourians;
- provide the public the information they need to make educated utility choices;
- provide an efficient regulatory process that is responsive to all parties, and perform our duties ethically and professionally.

You are on record in EA-2006-0309 making comments and asking questions that demonstrate your prejudice against a subset of rate payers and Missouri citizens. Why should you be allowed to vote on an Aquila rate case when you asked if citizens of Cass County would be willing to go without power first and/or pay more for electric service than others?

And these disrespectful, vindictive comments and questions came after you specifically chose to attend hardly ANY of the sessions devoted to the case. South Harper was the subject of EO-2005-0156, EA-2005-0248, EA-2006-0309, and now a large part of the requested rate increase of ER-2007-0004. Whether you know it or not from your lack of participation, everyone else knows that Aquila did not need peaking power, did not select a least cost option for providing power, and they purposefully initiated a "do now, ask permission later" approach that included trampling the law and the rights and lives of citizens.

Since you saw fit to serve as Aquila champion and attack those who were trampled in the rush to build and justify South Harper during the few moments you gave to EA-2006-0309, it is clear to me that you have a conflict that would preclude you from fulfilling your legal obligations and your departments expectations in ER-2007-0004.

I was going to address the various bullets within the Mission and compare/contrast your behavior, but I've all ready put so many more hours into justice regarding South Harper than you have that it sickens me. Please take the responsible action of recusing yourself from this case.

Sincerely,

Julie L. Noonan

8:00? 8:25? 8:40? Find a flick in no time
 with the Yahoo! Search movie showtime shortcut.

4/4/2007

Appling, Linward (Lin)

From: PeculiarForce [peculiarforce@yahoo.com]
Sent: Tuesday, April 03, 2007 5:25 PM
To: Appling, Linward (Lin)
Cc: Davis, Jeff; Murray, Connie; Clayton, Robert; Gaw, Steve; info@psc.mo.gov; stop_Aquila@yahoo.com
Subject: ER-2007-0004 Appling Ex Parte

Commissioner Appling:

It's a good thing I haven't been sitting around waiting for my phone to ring since you let me know at the Lee's Summit public hearing that you'd be contacting me! In addition to the standard "I hear you" and "I understand and appreciate your comments", why do you often lead people to believe that you will reach out to them personally?

I can understand why you **don't** reach out to folks that have provided testimony. If you did, you'd be required to provide self-reporting via ex parte documentation for every such contact.

Speaking of which, I'd like to ask you to recuse yourself from the Aquila rate case for the following reasons:

- You met with Aquila at South Harper after the Circuit Court injunction against construction was ordered and you failed to disclose the ex parte contact. Similar to the situation with Aquila and taxes on turbines, we only found out when Aquila evidence/testimony disclosed your visit.
- Your concurring opinion demonstrated that rather than requiring Aquila to demonstrate need, necessity, etc, you put the burden on Cass County and StopAquila.org to say why you shouldn't give the certificate.

If you were willing to have ex parte contact that you didn't report and you reversed responsibility in the Aquila CNN case, then I'm afraid of what you'll do in the rate case. I could see you taking Commissioner Murray's suggestion from 0309 and tweaking it to charge Cass County and StopAquila for Aquila's mess rather than putting it in the rate base OR doing what is just and making Aquila pay for Aquila's mess!

Perhaps after today's brash e-mails, I might actually deserve the way you addressed me when I took the podium in Lee's Summit - telling me you wouldn't like what I was going to say. Whether you like it or not, sometimes it is your job to listen to me and others in the public. Whether we agree or not on many issues, you have demonstrated behavior and have penned comments that cause me to question your integrity and your understanding of your responsibilities. Please recuse yourself from the rate case.

Thanks,

4/4/2007

Julie Noonan

Looking for earth-friendly autos?

Browse Top Cars by "Green Rating" at Yahoo! Autos' Green Center.

Finnell, Kay

From: Davis, Jeff
Sent: Tuesday, April 03, 2007 4:49 PM
To: Finnell, Kay
Subject: FW: ER-2007-0004 Davis Ex Parte

From: PeculiarForce [mailto:peculiarforce@yahoo.com]
Sent: Tuesday, April 03, 2007 4:34 PM
To: Davis, Jeff
Cc: Gaw, Steve; Clayton, Robert; Appling, Linward (Lin); Murray, Connie; PSC Info (Public Info Email Address) - PSC; info@psc.mo.gov
Subject: ER-2007-0004 Davis Ex Parte

Commissioner Davis:

There continue to be articles in The Kansas City Star and The Kansas City Business Journal about the outrageous pay and bonuses for Aquila executives. The following appeared as an editorial in the Star on 3/28:

Aquila severance

Regarding Aquila, (3/23, Business, "Aquila hire gets lavish severance"):

They're at it again
Aquila's fine board
They're lavishing millions
On Richard Green's hoard.
They give him more loot
If he stays or goes,
They pay him obscenely
To put on his clothes.
They pay if he sells;
They pay if he buys;
They pay if he loses;
They pay if he ties.
Though he's Enroned Aquila
He suffers no onus,
Whatever transpires
Dick gets a huge bonus.

Judith Fanning

4/4/2007

Kansas City

From my perspective (and allegedly yours from grandstand comments you made early in 0309 or a predecessor case), I agree wholeheartedly with the sentiment expressed in Judith Fanning's poem.

I wish I were as witty as Ms. Fanning. If so, I'd make up a companion poem, but I'm afraid my wit and my humor has taken a beating during the last 21/2 years that we've struggled to hold Aquila and YOU, head Commissioner of the PSC, accountable to the law. If I were to make up a companion poem, it would include the following points:

As the head PSC Commissioner that regulates the monopoly that rewards Rick Green, Norma, and cronies, while lining Dale Youngs' pockets, it appears to me that YOU are responsible to:

- Keep Aquila from raping and pillaging their company and customers
- Refrain from rewarding and incenting poor decisions
- Hold Aquila accountable to make SOUND business decisions
- Hold them accountable to pursue the TYPE of power generation they actually NEED
- Refrain from awarding them compensation for building the TYPE power facilities they DO NOT NEED
- Refrain from awarding them compensation for building power facilities built ILLEGALLY
- FINE THEM for FAILURE to pursue and WILLINGLY misrepresenting the LEAST COST OPTION.
- FINE THEM for FAILING to comply with LOCAL LAWS when contemplating, planning, and executing the building and operation of power generation facilities
- FINE THEM for LYING to you. (Presenting bond deal as if it were in the future when it had all ready happened)
- FINE THEM for LYING to other Government entities and the Public. (Signing contracts, permits, and other documents with City of Peculiar and Cass County stating that they would abide by all laws, saying that they proactively reached out to all neighbors, showing renderings that had no overhead lines and low stacks, least cost option, etc.....)
- FINE THEM for avoiding millions of dollars in taxes on the turbines for 2+ years. Cass County wouldn't have even known that taxes were due/that they were in the County at Aries if not for Aquila's testimony in Cass County v. Aquila cases in front of you.
- FINE THEM for short paying the PILOT payment
- Consider additional serious, behavioral altering consequences that would deter Aquila from similar future behavior
- Use your authority to accomplish the objectives set forth by the law rather than to cater to rogue companies, help them fleece rate payers, trample rights, ignore laws, and then issue sound byte statements that position you as someone who is disgusted by "their" behavior and paychecks.

Commissioner Davis, I challenge you to hold YOURSELF accountable to do YOUR job as set forth in RSMO, Cass County v. Aquila 2005, and now Cass County v. PSC. This nightmare would probably be over if you had done your job the first time. Instead, you short circuited the process and refused to even allow interveners to participate.

Just because there is verbiage in the law that says your proceedings are "quasi" judicial doesn't mean that you should hold and dismiss kangaroo court at will. As with some of your actions and decisions in 0309, you effectively made up process/standards on the fly during the original CNN case. I would have been embarrassed and changed my ways if two courts of law had to tell me that I wasn't doing my job. Actually, I'm certain that I would have been fired! But what did you do? More of the same!

If I recall correctly, you were the one that told us during the original CNN case that we shouldn't be participating in that case, but in the rate case. Well pardon us for having limited resources. The reason we are not interveners in this case isn't because we don't care and isn't because it doesn't impact us. The reason we are not interveners in this case is because we can't pay for all of the cases that Aquila and your actions have all ready caused us to be involved in.

I implore you to break with your own established tradition in regards to Aquila and this rate case. Do not

award Aquila any compensation in the rate base for any expenses related to South Harper. Furthermore, do not enable them additional authority to adjust rates without a full rate case. They have failed to demonstrate ANY type of trustworthiness while their rates are FULLY regulated, why would they behave any better with less regulation? Finally, give serious consideration to fining and otherwise penalizing Aquila rather than rewarding them.

Sincerely,
Julie L. Noonan

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