

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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,)	Case No. EA-2006-0309
Maintain, and otherwise Control and)	
Manage Electrical Production and)	
Related Facilities in Unincorporated)	
Areas of Cass County, Missouri Near the)	
Town of Peculiar.)	

**REPLY OF STOPAQUILA.ORG TO
AQUILA'S OBJECTION TO AFFIDAVITS**

Aquila has objected to the Affidavit of Harold Stanley, P.E., that was filed by StopAquila.org. On April 4, 2006, a copy of this affidavit was electronically delivered to Aquila's counsel. There were problems with electronic filing with the PSC. The undersigned contacted the PSC on April 4, 2006, and arrangements were made to deliver the affidavit to the office of the PSC on April 5, at which time the affidavit would be scanned and entered into EFIS. The undersigned received an e-mail communication from counsel for Aquila which indicated that Aquila had no objection to filing this as long as it was filed by 3:00 on April 5. The affidavit of Harold Stanley P.E. was in fact filed before that time.

Aquila's objection states as grounds that the Affidavit of Harold Stanley, P.E., "is an affidavit, that it constitutes and contains hearsay evidence, and that it contains matters which are not the best evidence."

As to the objection that this is an affidavit, StopAquila responds by pointing out that 4 CSR 240-2.130 allows the filing of affidavits. StopAquila has complied with the

rules. Aquila has likewise filed affidavits under this rule. Under the logic of Aquila, its own affidavits would not be allowed.

Further, the Regulatory Law Judge invited the filing of statements of people who wished to file regarding the plant. This invitation was made at the public hearing.

Harold Stanley, P.E., files both as a resident who lives near the plant and as an engineer who has many years experience working with power plants. At minimum, his statement should be permitted as a resident who lives near the plant.

As to the allegations of hearsay and best evidence, this objection lacks specificity. The objection appears to address the entire affidavit. If Aquila wishes to object, the burden is on Aquila to state specifically what it is that is objectionable as hearsay and what it is that is objectionable as falling under the best evidence rule. In the affidavit of Mr. Stanley, he discusses many items, including a.) his review of Aquila's statements and documents presented by Aquila and some points about problems with their statements and reports, b.) facts about the Southern Star gas compressor, c.) facts about emissions, referring to reports filed by Aquila and facts reported by government agencies and using other knowledge he has acquired, d.) facts about noise (including both his own observations as a nearby resident and his review of reports filed with governmental bodies by Aquila), e.) a discussion about the intensity of use of the plant, comparing it to the neighborhood, and f.) his perspective as an engineer who has worked on and around power plants for over 30 years. Aquila does not bear its burden of pointing out specifically what it contends is objectionable. StopAquila cannot be expected to respond to this overly broad objection, other than to state that Mr. Stanley is qualified as an expert, he speaks from a knowledge base that includes review of some of Aquila's own

documents and own statements, he speaks from personal experience, he speaks in some instances about matters already the record of these various cases or already presented by Aquila in this instant case, and he refers in some instances to government records.

As is indicated by a motion being filed today by StopAquila, we are proposing a way to make Mr. Stanley available either at the hearing by telephone or otherwise by deposition, as he is working at a power plant in New Mexico during a five week outage. We believe that Aquila will be taking the deposition of Mr. Stanley on April 24 in New Mexico. At minimum, a ruling on this objection should be stayed until the deposition transcript is filed with the PSC.

Latitude should be given due to the extremely unusual nature of this proceeding and the expedited schedule. The parties have been forced to compress their schedules to accommodate Aquila.

StopAquila requests that the PSC deny the objection filed by Aquila to the statement of Harold Stanley.

Submitted by:

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I hereby certify that a true and correct copy of the above and foregoing document was delivered by electronic mail on this 14th day of April, 2006 to the following:

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