

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

**APPLICATION TO INTERVENE**

COMES NOW STOPAQUILA.ORG, and its various members, 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. STOPAQUILA.ORG and certain individual members file this application to intervene. STOPAQUILA.ORG is an unincorporated association. Currently, one hundred and seventy (170) adults have become members of STOPAQUILA.ORG. Of that total, ninety three (93) adults who have become members live within a two mile radius of the South Harper site. In this action, members who join in this motion to intervene are the ninety three (93) adult members who live within a two mile radius of the site. The members of STOPAQUILA.ORG who join in this application represent households within that two mile radius that are home to one hundred sixty nine (169) people (including children). STOPAQUILA.ORG opposes the building of the power

plant at the site where Aquila has constructed its power plant (the “South Harper” site), and the substations and b.) oppose the actions of Aquila in ignoring county zoning requirements and other county requirements. Attached hereto are the names of the individual adult members who seek to intervene in this action.

2. Correspondence, communications, orders and the decision in this matter should be addressed to:

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3. This case involves Aquila’s filing of an application to obtain from the Commission a certificate of convenience and necessity to build a power plant and substations in unincorporated Cass County that have already been built.

4. The PSC set a deadline of February 27, 2005, for interested parties to intervene.

5. This application to intervene is therefore timely filed.

6. Aquila has already constructed the plant that it refers to in its application in an area outside Peculiar, Missouri, which is an unincorporated area within Cass County. The site is the “South Harper” site. Substations are also constructed.

7. STOPAQUILA.ORG is a plaintiff in a suit now pending against Aquila, Inc. in the Circuit Court of Cass County, Case No. CV104-1380CC. In this case, STOPAQUILA.ORG filed a Petition against Aquila for Declaratory Judgment, for Temporary Injunction, Preliminary and Permanent Injunctive Relief. Among other things,

STOPAQUILA.ORG asked that the Court rule that all improvements constructed in an area in unincorporated Cass County be first approved by the County. The Circuit Court in a companion case brought by Cass County issued a permanent injunction, which was upheld on appeal, that enjoined Aquila from building the power plant. Aquila nonetheless built the plant. Aquila has not acquired Cass County approval for construction of this plant.

8. STOPAQUILA.ORG is also a party to a separate suit brought by it against the City of Peculiar, Cass County case number CV104-1355CC. The decision of the Court of Appeals in that case deals with the question of whether the action of the City of Peculiar's Board of Aldermen in deciding to issue revenue bonds to aid Aquila was valid. The Court of Appeals voided the issuance of those bonds. As of today, the Supreme Court of Missouri is still deliberating on the question of whether to take transfer of this case.

9. This power plant has a direct impact on those who reside nearby, that is, the members of STOPAQUILA.ORG. Due to the building and the operation of the plant and substations (the "plant"), property values have decreased, people have been unable to sell houses or have sold houses at a lower price, the plant is noisy, the plant is unsightly, there is increased traffic, there is damage to the roads and neighborhood, and there is increased harm to the people who live nearby due to pollution and the dangers posed by the plant. The statutes and regulations require that the applicant, Aquila, demonstrate to the PSC that it has secured the permission of the county to build the plant before it seeks permission to build its plant, and it has not done so. The Commission's decision in this case will have an effect on the members of STOPAQUILA.ORG unlike that which might

be experienced by the public at large throughout the state of Missouri and unlike the public at large in Cass County, due to the fact that the members of STOPAQUILA.ORG live near to the site. Their interests cannot be adequately protected by others. The county represent the interest of the populace of the entire county. If the Public Counsel intervenes, it represent the rights of citizens of the entire state. The interest of the entire county or the entire state are different than the interests of the people who live immediately adjacent to the site. Intervention would be in the public interest. While we may assume that other intervenors may be interested in precedence value or rates or the good of the entire larger community, by comparison STOPAQUILA.ORG's members definitely want the power plant and the substations to be removed. Simply as an example of the differences between the interests of STOPAQUILA.ORG and the interests of other people, we point out that there may be some residents of Cass County who live twenty five miles away, but who do not care about the location of the power plant and who may be more concerned about the fear that rates may possibly go up if the power plant is dismantled. Obviously, the position of STOPAQUILA.ORG is quite different than the position of such hypothetical persons, but those persons and members of STOPAQUILA.ORG both may reside in the same county. The interests of members of STOPAQUILA.ORG are different than the interests of some others and it is important that intervention be allowed.

10. STOPAQUILA.ORG was permitted by the PSC to intervene in the previous filing in which Aquila sought a clarification of its prior certificate(s). If anything, the need for intervention is even more important today.

11. Intervenors desire to participate in this proceeding including hearing and the briefing of the issues.

12. Intervenors are strongly opposed to the relief requested by Aquila in its application.

WHEREFORE, for the foregoing reasons, STOPAQUILA.ORG and its individual named members respectfully request that the Commission grant them leave to intervene in this matter, and thereby entitle them to have notice and to appear at the taking of testimony, to produce and cross-examine witnesses and to be heard on the argument, to request relief, and in all other respects fully participate in this proceeding.

Respectfully submitted,

/s/ Gerard Eftink

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ATTORNEYS FOR STOPAQUILA.ORG AND  
INDIVIDUAL MEMBERS

I hereby certify that a true and correct copy of the above and foregoing document was delivered by electronic mail or mailed, on this 24th of February, 2006 to the following:

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