
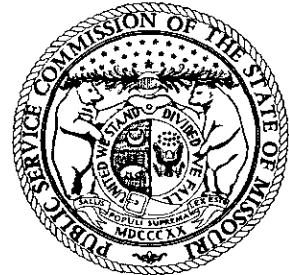


## Notice of *Ex Parte* Contact

TO: Data Center  
All Parties in Case No. EA-2006-0309

FROM: Commissioner Lin Appling 

DATE: May 10, 2006



On May 4, 2006 I received the attached e-mail from Julie Noonan regarding Aquila's South Harper power plant. The Commission is currently considering the issues discussed in this document in case EA-2006-0309 which is a contested case. 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, I submit this report 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

## Appling, Linward (Lin)

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**From:** Neuner, Joyce  
**Sent:** Thursday, May 04, 2006 7:49 AM  
**To:** Appling, Linward (Lin)  
**Subject:** FW: EA-2006-0309 Appling Comments  
**Attachments:** Appling-Julie Noonan Ex Parte

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**From:** Noonan, Julie L [DEV] [mailto:Julie.L.Noonan@sprint.com]  
**Sent:** Thursday, May 04, 2006 5:44 AM  
**To:** PSC Info (Public Info Email Address) - PSC  
**Subject:** FW: EA-2006-0309 Appling Comments

I'm assuming that this will make it into Commissioner Appling's hands, but wanted to follow up to request that he does receive a copy since I received an "undeliverable" message from the e-mail address listed for him on the web site.

Thanks,

Julie Noonan  
Office: 913.794.2823 PCS: 816.695.4434

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**From:** Noonan, Julie L [DEV]  
**Sent:** Thursday, May 04, 2006 1:43 AM  
**To:** 'lin.appling@psc.mo'  
**Cc:** 'pscinfo@psc.mo.gov'  
**Subject:** EA-2006-0309 Appling Comments

Commissioner Appling:

I would have submitted this to you for your consideration via the web site, but it was probably down for maintenance since it didn't recognize the case number.

<<Appling-Julie Noonan Ex Parte 050406.doc>>

Thanks,

**Julie Noonan**  
Development Support Services Organization  
Billing Product Management  
Sprint|6300 Sprint Parkway|KSOPHB0314 - 3A318|Overland Park, KS 66251-6103|Office: (913)794-2823|Wireless: (816)695-4434|Julie.L.Noonan@sprint.com

May 4, 2006

RE: EA-2006-0309

Commissioner Appling:

I was upset at the conclusion of the public hearing last year when you told me that we (neighbors/StopAquila.org) should have gotten involved earlier in the process. It still upsets me to think of that statement. I hope that during the recent testimony, you've come to understand that we mobilized IMMEDIATELY upon hearing of the plan to build a power plant in our neighborhood. That awareness came by way of the Kansas City Star article announcing a meeting that Aquila hosted at the Lyon's Club a week later – in October 2004.

One of the more frustrating aspects of this entire ordeal is the fact that no person, government, or organization could or would explain the process to us or tell us how we could participate in/influence the decision. Likewise, no person, government, or organization could tell us how our due process rights would be supported.

We began attending every City of Peculiar council meeting and closely monitoring their web site. Although we attended and attempted to influence, the Mayor and the execution of their processes made it abundantly clear that our interests, rights, and concerns were not the concerns of the city government. Even so, we spent hundreds of hours collecting signatures on a petition to present to them.

We sought support from one of our elected officials, Rex Rector. It quickly became clear to us where his allegiance lies. He could care less about his constituents and doesn't even respond to correspondence now. He's too busy watching out for utility interests and accepting awards from the industry.

We thought that surely the MPSC would be the place we could turn for guidance and support. After all, the PSC motto is, "Informed Consumers, Quality Utility Services, and a Dedicated Organization for Missourians in the 21<sup>st</sup> Century". And what did I get with my plea for help, support, and understanding of the process? I was told by Warren Wood that the PSC doesn't have anything to do with power plants until after they are built, and then only to determine whether the expenses are justified and allowed into the rate base. Was he able to help inform me? No. Did I feel he, representing the PSC, demonstrated an organization dedicated to Missourians? No. I felt then as I feel now that he sees himself primarily aligned with supporting Aquila.

Next stop, MDNR. Again, we spent hundreds of hours on a petition. We exhausted ourselves preparing several hundred pages of testimony. Unfortunately, much of our efforts were wasted as we learned that the scope of concerns within the MDNR permitting process is strictly limited. We were incredulous. Surely something as significant as approving the siting and building of a power plant required more than an MDNR permit which is authorized using standards that are the same for an industrial area as any other area.

At one of the city meetings, one of the many times and venues we asked, "How can we participate in and influence the process?", George Lewis sniped, "Get a lawyer!!!" Obviously, we did. Can we afford it? No. Should we have to? No.

I know that you are aware that we've participated in the court cases, the Clarification/Certificate case and rate case before the PSC last year, and again in 0309 this year. I sincerely hope that you understand now that we did become highly involved as early as we possibly could. You can't be involved if you don't know about something, can you? Wouldn't it have been more appropriate if we could have been involved in the process that is specifically designed to ensure our right to due process prior to deprivation of property?

We now have folks that scour all papers and multiple internet sites in order that we remain alert. Yes, I agree that folks should seek to become informed citizens, but how sad is it that we feel obliged to monitor so closely?

As submitted into the record, you are also aware that we now have an actual membership form and have documented members of StopAquila.org. Again, spending valuable time to document our concerns and attempt to request consideration.

We have to keep our lawyer's time down since we can't really afford this incredibly long ordeal. So rather than spend our free time with family, friends, and leisure pursuits, we research and report findings in order to help supplement true legal work.

Did you honestly believe that support for South Harper/Aquila was about even with support for justice being served with the execution of Judge Dandurand's order? Do you seriously give equal weight to testimony of individuals who present themselves as members of the public, yet have financial ties to or have received some form of compensation from Aquila? Some might even link that type of support with words like bribery. You know, anyone can waltz into a public hearing and provide testimony. That is their right, but should all testimony be weighed equally? A few Aquila "supporters" testified that they couldn't hear the plant with it running standing right in front of it. Not even Aquila or the noise study Aquila funded would say that under oath.

I know that this isn't pleasant or easy, but please don't bow to pressure to support an illegally built plant by an unscrupulous company who trampled rights, laws, and PSC rules and regulations. I'm hoping that you'll also remember that this isn't really a \$155 million dollar facility. It's really more like an \$70-80 million dollar facility since Aquila already had the turbines rusting at Aries and not in the rate base. It appears to me that truth be told, that was the real driver for this mess. Aquila's rush to transfer turbines bought on the unregulated side to the regulated and turn up the plant in time to get rate payers to subsidize past poor management decisions and enable them to start taking depreciation. That sounds more like greed than need to me.

Regards,  
Julie Noonan