

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

In the Matter of the Application of Aquila,)	
Inc. for Authority to Assign, Transfer,)	
Mortgage or Encumber its Utility Franchise,)	Case No. EF-2003-0465
Works or System in Order to Secure)	
Revised Bank Financing Arrangements)	

**MOTION FOR CONTINUANCE OF MOTION FOR SUMMARY DETERMINATION AND
FOR EXPEDITED CONSIDERATION**

Comes now Applicant, Aquila, Inc. ("Aquila"), pursuant to Commission rules 4 CSR 240-2.117(1)(D) and 4 CSR 240-2.080(16) and for its Motion that Joint Movant's Motion for Summary Determination be continued and for expedited consideration, states as follows:

1. Late in the afternoon of Friday, August 15, 2003, the Office of the Public Counsel, the State of Missouri, Sedalia Industrial Energy Users Association and AG Processing, Inc. (hereinafter "Joint Movants") filed a Joint Motion for Summary Disposition and Request for Oral Argument (the "Motion") in the captioned proceeding. The undersigned counsel for Aquila was served with the Motion by delivery on the morning of Monday, August 18, 2003.

2. Commission rule 4 CSR 240-2.117(1)(C) provides that a responding party has thirty (30) days after a motion is served to file a response in opposition to a motion for summary determination. Among other things, the Commission's rule provides that a responding party "shall set out each additional material fact that remains in dispute . . ."

3. Aquila intends to prepare a response in opposition to Joint Movants' Motion. Currently under the rule, Aquila's response must be filed on or before Wednesday, September 17, 2003.

4. In order to have adequate time to prepare a complete response to the Motion and, more specifically, to identify each additional material fact that remains in dispute for the benefit of the Commission, Aquila will need additional time to respond. As of this date, the only party that has filed any testimony in this case is Aquila, which filed the verified prepared direct testimony of company witnesses Rick Dobson and Jon R. Empson on April 30, 2003 in conjunction with the filing of its Application. Joint Movants have filed no testimony in this case and are not obligated to file rebuttal testimony until Wednesday, September 10, 2003, twenty-six (26) days after the filing of the Motion. See, Order Adopting Jointly Proposed Procedural Schedule dated July 21, 2003. Consequently, there is no testimony of record opposing the relief requested in the Application.

5. Since the Joint Movants have not yet put their recommendations as to the subject matter of the Application on record, Aquila has no reasonable means to determine which, if any, material facts may be in dispute in this case. Aquila will not be in a position to make such a determination until after it has had an opportunity to review rebuttal testimony filed by all parties (including testimony from the Commission's staff which is not a party to the Motion).

6. Additionally, Aquila has served data requests and requests for admissions on all other parties to this case (including Joint Movants) the purpose of which is to elicit facts necessary to permit a response to the Motion. Unless otherwise ordered by the

Commission, responses to Aquila's requests for admissions are not due until September 25, 2003, eight (8) days after Aquila's response to the Motion is due. The continuance being requested by Aquila in paragraph 7, *infra*, will permit it to review and refer to those discovery responses as necessary to fully respond to the Motion.

7. In order to be able to fully respond to Joint Movants' Motion for Summary Determination, Aquila requests that the time for responding thereto be extended until Monday, September 29, 2003, in order to be permitted to determine which material facts are in dispute, if any, and to fully respond to the Motion as contemplated by the Commission's rule setting forth the required form of a response.

8. Given that this request will extend the time for Aquila to file its response by only twelve (12) days and will not impede the performance of any other obligation, no party to this proceeding will be prejudiced by the grant of the relief requested herein.

9. As noted in paragraph 3, *supra*, Aquila's response to the Motion is due on September 17, 2003, unless continued by order of the Commission. Given the short time remaining, Aquila requests expedited consideration of Aquila's Motion for Continuance of Motion for Summary Determination and for an order with regard to same by no later than Tuesday, September, 2, 2003. There will be no negative effect for Aquila's customers or the general public with regard to this action because the request is for procedural relief only. This pleading was filed as soon as was possible in the circumstances given the need to review the Motion, the applicable law, the record and to determine the need for additional facts to permit a response.

WHEREFORE, for good cause shown, Aquila requests that the time for responding to Joint Movants' Motion for Summary Determination be extended to Monday, September 29, 2003.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. A. Boudreau', written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail or by hand delivery, on this 28th day of August 2003 to the following:

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