

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

In The Matter of the Application of Aquila,)
Inc. for Specific Confirmation or, in the)
Alternative, Issuance of a Certificate of)
Convenience and Necessity Authorizing)
it to Construct, Install, Own, Operate,)
Control, Manage, and Maintain a)
Combustion Turbine Electric Generating)
Station and Associated Electric)
Transmission Substations in)
Unincorporated Areas of Cass County,)
Missouri Near the Town of Peculiar.)

Case No. EA-2005-0248

MOTION TO ESTABLISH PROCEDURAL SCHEDULE

COMES NOW Aquila, Inc., ("Aquila"), and for its Motion to Establish Procedural Schedule in the captioned matter, states as follows to the Missouri Public Service Commission ("Commission"):

1. On January 28, 2005, Aquila filed with the Commission an Application for specific confirmation or issuance of a certificate of convenience and necessity to construct, own, operate and manage an electrical power production facility and associated electric transmission substations on two (2) described tracts of property in an unincorporated portion of Cass County, Missouri, near the City of Peculiar.

2. Aquila desires that the Application be processed as expeditiously as possible while at the same time affording interested persons an opportunity to be heard with respect to the issues presented. Accordingly, Aquila proposes the following procedural schedule to this case:

<u>Event</u>	<u>Date</u>
Application of Aquila	Friday, January 28, 2005 (done)

Intervention Deadline	Tuesday, February 8, 2005
Public Hearing	Wednesday, February 16, 2005
On-the-Record Hearing	Thursday/Friday, February 24-25, 2005
Simultaneous Post-Hearing Briefs	Friday, March 4, 2005
Issuance of Report and Order	Tuesday, March 15, 2005

*Schedule assumes a ten (10) day turn-around for responses to data requests for all parties and expedited preparation of hearing transcripts.

3. The proposed schedule contemplates two (2) public hearings. The first would be a public hearing to be held at a location chosen by the Commission. The second would be an on-the-record hearing for the taking of evidence at which time Aquila proposes that witnesses take the stand to present live direct testimony and stand cross-examination. This will obviate the need for filing prepared testimony. One round of simultaneous post-hearing briefs would be filed sufficiently in advance of March 15, 2005, to allow for deliberations by the Commission and the preparation of a report and order.

4. The proposed procedural schedule, though ambitious, is reasonable as it provides a fair opportunity for interested parties to have meaningful input about the project with respect to which certification is sought. This proposal is not unreasonable in light of the fact that the probable parties in interest already have had a full opportunity to develop and examine the underlying facts associated with the project in the context of litigation initiated by them in the Circuit Court of Cass County, Missouri and from which a Judgment already has issued after hearing. As such, only minimal discovery, if any, is

required because much is already known about the electric power station being constructed along South Harper Road. The proposed intervention deadline is reasonable because Aquila served attorneys for Cass County, Missouri and local landowners in Cass County with an electronic version of the Application and all appendices on January 28, 2005, so they have had actual notice of the filing for eight (8) days prior to the filing of this Motion. In fact, both STOPAQUILA.ORG and the County of Cass, Missouri already have filed applications to intervene in this case.

5. An ambitious schedule such as that being proposed is also reasonable given what is at stake if the matter is handled any more slowly than proposed. As noted in Aquila's Motion for Expedited Treatment filed in this case, significant additional capital commitments on the part of Aquila are imminent and Aquila may not be able to commission the combustion turbines in time for the upcoming Summer cooling season. Finally, the procedural schedule proposed in paragraph 2, *supra*, is appropriate given the narrow issue that has been presented to the Commission in this case, that is, whether Aquila needs the 318 MW of capacity the combustion turbines will provide. Other issues such as the meaning of §64.235 RSMo, the affiliate transfer and the tax-advantaged Chapter 100 financing will be addressed adequately in other pending cases (i.e., EO-2002-0156) and appeals (WD64985). There is no purpose to be served by re-litigating those tangential matters in this case.

WHEREFORE, Aquila respectfully requests that the Commission issue an order approving the procedural schedule set out above in paragraph 2 and for such other orders and relief as are appropriate under the circumstances.

Respectfully submitted,

/s/ Paul A. Boudreau
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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 4th day of February, 2005 to the following:

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