

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

In the Matter of the Application of Aquila, Inc.)
for an Accounting Authority Order Concerning) Case No. EU-2005-0041
Fuel Purchases.)

**REPLY CONCERNING
PROCEDURAL SCHEDULE**

COMES NOW Aquila, Inc. (“Aquila” or the “Company”), and, in reply to the pleadings concerning Aquila’s Motion to Establish Procedural Schedule, states as follows to the Missouri Public Service Commission (“Commission”):

1. On August 4, 2004, Aquila filed its Application in this matter. On September 3, 2004, Aquila filed its Motion to Establish Procedural Schedule and also filed the Direct Testimony of Dennis R. Williams.
2. Since that time, pleadings have been filed in response to the Motion to Establish Procedural Schedule by the Office of the Public Counsel (“Public Counsel”), the Sedalia Industrial Energy Users’ Association (“SIEUA”) and the Staff of the Commission (“Staff”). All three of these pleadings generally opine that it is too early in this matter to establish a procedural schedule.
3. As indicated in its Motion, Aquila’s primary interest in a procedural schedule is not the specific form it takes or when it is established. Aquila’s interest is based on the fact that “[t]o have any import as to the 2004 books, a Commission order would need to be issued prior to the date when Aquila’s 2004 books will be closed. An order issued by approximately January 15, 2005, would satisfy that need.” (Motion, para. 2).
4. A Commission procedural schedule certainly may take many different forms and

Aquila is not wed to any one form. In fact, Aquila would expect that if a procedural schedule is not established at this time, shorter intervals or fewer elements would be necessary when the schedule is ultimately established.

5. The Public Counsel, however, does not seem to have shorter intervals in mind, having suggested that no responsive testimony should be required any sooner than sixty (60) days subsequent to a Commission ruling on the pending motions to dismiss. The Public Counsel indicates that this would be necessary because it would “permit opposing parties to conduct at least two rounds of data request discovery” and “provide Public Counsel with the due process necessary to adequately develop its case.” (OPC Response, para. 3b).

6. Aquila would point out that the procedural schedule it has proposed provides fifty-eight (58) days from the filing of the Application until Public Counsel’s responsive testimony would be due. Additionally, Aquila does not know of any prohibition against conducting discovery that has been in place since the Application was filed forty-three (43) days ago. A party’s failure to take advantage of process should not be confused with a deprivation of due process.

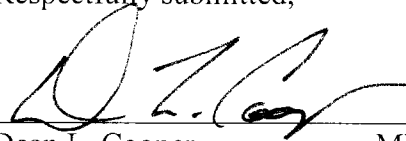
7. Again, Aquila’s Application was filed on August 4, 2004. A decision sometime around January 15, 2005, would result in a period of 164 days from filing until decision, or approximately five and one-half months. This is a reasonable time frame for a case of this type. Aquila asks the Commission to adopt the schedule proposed in Aquila’s Motion.

8. In the alternative, if the Commission does not believe that the schedule proposed by Aquila is appropriate, Aquila asks that the Commission adopt its own schedule, as long as that schedule provides the opportunity for the Commission to issue an order by January 15, 2005,

should it choose to do so.

WHEREFORE, Aquila respectfully requests that the Commission issue its order adopting Aquila's proposed procedural schedule or, in the alternative, adopt a schedule providing the Commission with the opportunity to issue an order by January 15, 2005, should it choose to do so.

Respectfully submitted,



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ATTORNEYS FOR AQUILA, INC.

CERTIFICATE OF SERVICE

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