

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Application of Aquila,)
Inc., d/b/a Aquila Networks - MPS and Aquila) Case No. EO-2008-0046
Networks - L&P for Authority to Transfer)
Operational Control of Certain Transmission)
Assets to the Midwest Independent Transmission)
System Operator, Inc.)

**DOGWOOD ENERGY, LLC'S OPPOSITION TO MIDWEST ISO'S MOTION
FOR LEAVE TO FILE SUPPLEMENTAL REBUTTAL TESTIMONY**

COMES NOW Dogwood Energy, LLC ("Dogwood") pursuant to 4 CSR 240-2.080 and for its Opposition to Midwest ISO's Motion for Leave to File Supplemental Rebuttal Testimony states to the Commission:

1. On October 30, 2007 the Commission issued its Order Adopting Procedural Schedule in this matter, which approved the schedule jointly proposed by all the parties. According to that schedule, Rebuttal Testimony was due November 30, 2007.
2. On November 30, 2007 Dogwood and other parties, including Midwest ISO, filed rebuttal testimony in accordance with the approved case schedule.
3. As provided in the approved case schedule, surrebuttal testimony is due January 18, 2008 and the hearings are set to begin March 3, 2008.
4. On December 28, 2007, Midwest ISO filed its Motion for Leave to File Supplemental Rebuttal Testimony, together with a copy of the proposed supplemental testimony.
5. Absent a change in the current remaining schedule in this case, Dogwood opposes Midwest ISO's Motion for Leave. The proposed "supplemental rebuttal" testimony was not provided until a month after the due date for rebuttal testimony under

the approved schedule, and only 20 days before surrebuttal testimony is due. Such a submittal would deprive Dogwood and other parties from having the full 60 days in which to address rebuttal testimony through discovery and surrebuttal testimony – indeed they would not even have half the time that was agreed upon by the parties and approved by the Commission. Contrary to Midwest ISO’s assertions, Dogwood and the other parties would in fact be prejudiced by such a significant reduction in discovery and response time, unless the remaining schedule in the case is appropriately adjusted.

6. The proposed “supplemental rebuttal” is not simple information. It proposes to submit new study information that is quite complex. Further, in at least some respects it provides information that could have been included in the original rebuttal testimony. To the extent it also includes a correction to the rebuttal, such corrections are routinely submitted from the witness stand at hearing and supplemental testimony is not required.

7. The parties agreed upon a schedule and the Commission approved it. Midwest ISO did not seek to postpone the rebuttal date or otherwise work in advance with the parties to reach any accommodation to the needs of other parties relative to any change in the schedule. The fact that the witness mentioned the possibility of needing to supplement his testimony when he filed his rebuttal is of no moment, as the parties were not provided any detailed information at the time and again no effort has yet been made by Midwest ISO to adjust the schedule.

8. If the Commission is inclined to allow the filing of the proposed “supplemental rebuttal”, then the Commission should immediately suspend the remainder of the current schedule (including the due date of January 18, 2008 for surrebuttal) and direct the

parties to hold a telephonic prehearing conference to develop a new proposal for the remainder of the schedule and submit same for approval by the Commission.

WHEREFORE, Dogwood respectfully requests the Commission to condition any granting of Midwest ISO's Motion for Leave to File Supplemental Rebuttal Testimony upon an immediate suspension and revision of the remaining case schedule and to grant such other and further relief to Dogwood as the Commission deems meet and proper in the premises.

CURTIS, HEINZ,
GARRETT & O'KEEFE, P.C.

/s/ Carl J. Lumley

Carl J. Lumley, #32869
Leland B. Curtis, #20550
130 S. Bemiston, Suite 200
St. Louis, Missouri 63105
(314) 725-8788
(314) 725-8789 (FAX)
Email: clumley@lawfirmemail.com
lcurtis@lawfirmemail.com

Attorneys for Dogwood Energy, LLC

Certificate of Service

A true and correct copy of the foregoing was served upon the parties identified on the attached service list on this 7th day of January, 2008, by either placing same in the U.S. Mail, postage paid, by fax or email transmission.

/s/ Carl J. Lumley

**General Counsel Office
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
gencounsel@psc.mo.gov**

**Lewis Mills
Office of Public Counsel
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov**

**Nathan Williams
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Nathan.Williams@psc.mo.gov**

**Renee Parsons
Aquila, Inc.
20 West 9th Street
Kansas City, MO64105
renee.parsons@aquila.com**

**Paul A. Boudreau
Aquila, Inc.
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102
PaulB@brydonlaw.com**

**Dayla Bishop Schwartz
Allen B. Garner
City of Independence, Missouri
111 E. Maple Street
Independence, MO 64050
dschwartz@indepmo.org
agarner@indepmo.org**

**Alan Robbins
Debra Roby
Elizabeth Teuwen
City of Independence, Missouri
1700 Pennsylvania Ave., NW, Suite
500
Washington, D.C. 20006
arobbins@jsslaw.com
droby@jsslaw.com
eteuwen@jsslaw.com**

**Curtis Blanc
1201 Walnut, 20th Floor
Kansas City, MO64106
Curtis.Blanc@kcpl.com**

**Mark Comley
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO65102
comleym@ncrpc.com**

**David Linton
424 Summer Top Lane
Fenton, MO 63026
djlinton@charter.net**

**Heather Starnes
415 North McKinley, Suite 140
Little Rock, AR 72205-3020
hstarnes@spp.org**

**William Powell
James Lowery
Union Electric Company
111 South Ninth Street, Suite 200
City Centre Building
Columbia, MO 65205-0918
powell@smithlewis.com
lowery@smithlewis.com**

Steven Sullivan
Thomas Byrne
Beth Burns
1901 Chouteau Avenue
P.O. Box 66149 (MC 1300)
St. Louis, MO 63166-6149
srsullivan@ameren.com
tbyrne@ameren.com
bburns@ameren.com