

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

In the Matter of the Tariff Filing of Aquila, )  
Inc., to Implement a General Rate )  
Increase for Retail Electric Service )  
Provided to Customers in its MPS and )  
L&P Missouri Service Areas. )

Case No. ER-2005-0436

**REPLY OF AQUILA TO PUBLIC COUNSEL'S RESPONSE  
TO AQUILA'S TEST YEAR PROPOSAL AND REQUEST FOR TRUE-UP**

COMES NOW Aquila, Inc. ("Aquila"), by counsel, and for its Reply to Public Counsel's Response to Aquila's Test Year Proposal and Request for True-Up respectfully states to the Missouri Public Service Commission (the "Commission") as follows:

1. In opposing Aquila's request for a true-up in this case, in paragraph 4 of its Response the Public Counsel states:

"The true-up is designed to capture in rate base the gas-fired generation station currently under construction near Peculiar, Missouri. On June 21, 2005, the Missouri Court of Appeals, Western District, in Case No. WD 64985, affirmed a permanent injunction against Aquila from constructing the plant. Absent a showing from Aquila that it plans to seek inclusion of the plant in rate base despite the Western District Court's ruling, or that it expects significant post-test-year changes in the other items it proposes to true up, Public Counsel opposes Aquila's true-up proposal."

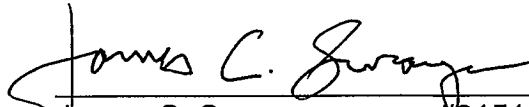
2. Aquila does intend to seek inclusion of the subject plant (South Harper) in rate base. The plant is set to begin commercial operation very shortly. Combustion turbine units 2 and 3 of the plant have been synchronized into the power grid and unit 1 is scheduled to be synchronized into the grid in early July, 2005. The units will supply megawatts to the grid to meet the summer 2005 peak requirements of Aquila's customers for electric power.

3. Furthermore, the opinion of the Western District Court of Appeals should not be the basis of a Commission decision to deny a true-up in this case. The decision is not final and is still subject to customary post-hand down motions, including motions to transfer the matter to the Missouri Supreme Court. Moreover, the Circuit Court of Cass County has stayed the enforcement of the injunction pending Aquila's appeal after Aquila filed a \$350,000 appeal bond. In this regard, Aquila intends to pursue its legal remedies so it can continue to meet the needs of its customers for safe, reliable and affordable electric power.

4. If at the time of the true-up in this case the decision of the Court of Appeals has become final and no longer subject to appeal, Aquila's need for power will still exist. Under those circumstances, there will continue to be "significant post-test-year changes" which will require a true-up. Stated another way, if the South Harper plant is not included in rate base, the costs associated with a replacement source of power must be recognized in rates. In either event, a true-up is necessary.

WHEREFORE, for the reasons aforesaid, Aquila renews its request for a true-up.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James C. Swearngen", is written over a horizontal line.

James C. Swearngen #21510

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ATTORNEYS FOR AQUILA, INC.

## 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 5<sup>th</sup> day of July, 2005 to the following:

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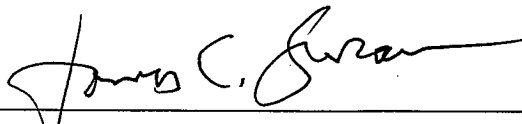
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