

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

In the Matter of the Resource Plan of Aquila, Inc.,)
d/b/a Aquila Networks-MPS and Aquila) Case No. EO-2007-0298
Networks-L&P Pursuant to 4 CSR 240-22)

**REPLY TO RESPONSE TO AQUILA, INC.'S OPPOSITION TO
INTERVENTION**

On March 19, 2007, Dogwood Energy, LLC ("Dogwood") filed its response to Aquila, Inc.'s Opposition to Intervention ("Response"). Aquila replies as follows:

1. Dogwood's Application to Intervene fails to meet the Commission's criteria for intervention. The standard for intervention in Commission proceedings is set forth at 4 CSR 240-2.075. The Commission may authorize intervention on a showing that (a) the proposed intervener has an interest different than that of the general public that may be adversely affected by a final order in the case; or (b) granting the proposed intervention would serve the public interest. (emphasis added) Dogwood's proposed intervention does not meet either of these tests and, consequently, the Application should be denied.

2. As to the first standard, Dogwood does not explain how any interest that it may have in the case would be "adversely affected" by a final order in this case. Dogwood, in its Application to Intervene, simply offers this claim as a conclusory statement. This is insufficient to justify its participation.

3. Additionally, Dogwood offers no fact-based rationale that would cause the Commission to conclude that authorizing its intervention would "serve the public interest". As pointed out in Aquila's original opposition to Dogwood's

intervention, Dogwood's participation in Aquila's Integrated Resource Plan ("IRP") review likely would adversely affect the public interest. (Aquila Opposition ¶ 4) As pointed out in that filing, Dogwood is an independent power producer and merchant of electric power. As such, it is likely to be a potential bidder to meet Aquila's future power needs through a purchase power contract.¹ Not only does its intervention create the risk of giving Dogwood an unfair advantage in the purchased power bidding process with respect to Aquila, but simply allowing it to intervene could create the perception that Dogwood is being given favored treatment or an unfair advantage. Dogwood's mere participation in this case and access to information, even if limited, could chill the interest of other potential bidders for Aquila's purchased power needs resulting in higher costs for Aquila and increased rates for its customers.

4. These risks clearly outweigh any alleged "expertise" that Dogwood would be in a position to offer. Ignoring the fact that Dogwood's claim of special insight is nothing more than another unsubstantiated, conclusory statement, the fact of the matter is several of the existing parties to this proceeding, such as Aquila and Staff, and are well-versed in the Missouri energy markets and will provide the Commission with sufficient information to make a well-informed decision on the topic. Dogwood is a relative newcomer by comparison.

5. Dogwood's intervention will not add factually to this case, and its intervention will not serve the public interest. Dogwood has no interest that would be "adversely affected" by its inability to participate in this docket other

¹ Importantly, Aquila issued a RFP on March 19, 2007, for future supply needs. Information in the IRP could aid Dogwood in structuring its bid.

than losing its opportunity to influence Aquila's IRP to favor its bid in the current RFP. More importantly and as indicated, Dogwood's intervention has the high likelihood to the detriment of the public interest.

6. As to paragraph 3 of the Response, the Commission's rule governing confidential information at 4 CSR 240-2.135 is not adequate protection against the potential harm inherent with Dogwood's rights as a party and certainly is no guarantee that higher purchased power costs for Aquila will not result. Aquila does not question the integrity of counsel for Dogwood. Rather, the question is the legitimacy of his client's participation in a proceeding of this nature. It is not a valid defense against the danger that a fox is trying to get into the henhouse to assert that the fox's attorney is a member of the bar in good standing.

7. Dogwood's reference to Calpine's intervention in Aquila's last rate case (ER-2005-0436) is not pertinent to the question at hand. (Response ¶ 4) This case is not a rate case but, rather, an entirely different type of proceeding with fundamentally different purposes and implications.

8. Dogwood's allegation that it is a customer of Aquila is not relevant to the question of intervention. (Response ¶ 6) That status does not confer any independent grounds for being permitted to participate as a party in this case. As noted above, this is not a rate case and, as such, the rates Dogwood is charged for service provided by Aquila are not at issue.

WHEREFORE, for the reasons aforesaid and for those set forth in Aquila's initial Opposition to Dogwood's Application to Intervene, Dogwood's proposed intervention should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was electronically transmitted, sent by U.S. Mail, postage prepaid, or hand-delivered, on this 21st day of March, 2007, to:

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