

**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

RESPONSE TO AQUILA, INC.'S MOTION

COMES NOW Calpine Central, L.P. ("Calpine") and submits its Response to Aquila, Inc.'s ("Aquila") Motion and states as follows:

1. On August 10, 2005, Aquila filed its Motion requesting the Commission to issue its Order imposing certain conditions with respect to Calpine's participation in this proceeding and limiting access to information concerning Aquila's business and operations. Aquila's Motion is wholly without merit and should be denied.

2. Aquila's Motion is based upon the premise that Calpine will breach the Commission's protective order and that counsel and outside experts will disclose and use classified information improperly. There is absolutely no reason to believe Aquila's premise has any validity and presents no facts to support its unfounded assumption.

3. Outside counsel for Calpine has appeared and represented a broad spectrum of clients in innumerable Commission proceedings over approximately twenty (20) years and there has never been a single incident where classified information has been disclosed or used in an inappropriate manner. There is no basis upon which this case can be distinguished.

4. Aquila also alleges without factual foundation that data requests propounded by various parties contain privileged and highly confidential information.

Such allegations assume that the parties are violating the Commission's protective order by disseminating such material without marking or otherwise properly protecting such disclosures. If data requests are sent to all parties without properly marking, classifying or redacting privileged or highly confidential information, such behavior should be immediately brought to the Commission's attention. Aquila has failed to identify a single incident where such disclosure has occurred.

5. Aquila has made these very arguments in prior filings including, but not limited to, its objection to Calpine's intervention. This Commission has already reached the conclusion that Calpine's intervention is, in fact, valid. Aquila is simply attempting a second bite at the same apple using unsupported allegations.

6. Pursuant to 4 CSR 240-2.116, the Commission has the authority to dismiss any party who is in violation of any order, including protective orders. This Commission should not preemptively sanction Calpine by granting this Motion when the rules contemplate a proper remedy should any such violation in fact occur.

7. The Commission's standard protective order has been effectively utilized for many years and has successfully protected the interest of the parties in cases where even direct competitors exchanged highly confidential financial and customer information. By no stretch can Calpine's participation in this case be compared to that scenario.

8. Restricting Calpine's ability to conduct discovery on parties other than Aquila makes absolutely no sense. It is difficult, if not impossible, to imagine what information other intervenors could disclose to Calpine that would adversely affect any party's interest. Even if parties were in possession of privileged or highly confidential

Aquila data, they could not disclose such information without Aquila's prior approval and even then disclosure would be done subject to the terms of the protective order.

9. Finally, Calpine's behavior in this case conclusively demonstrates that it is not participating to gain any undue advantage but instead is interested in helping to develop a full factual record upon which the Commission can base its decision. In fact, to date, Calpine has not served a single data request upon Aquila or any other party to this proceeding. Rather, Calpine has fully and timely answered all data requests served upon it.

WHEREFORE, Calpine moves the Commission to deny Aquila's motion in its entirety.

Respectfully submitted,

LATHROP & GAGE, L.C.

Dated: August 22, 2005

/s/ Paul S. DeFord

Paul S. DeFord Mo. #29509
Suite 2800
2345 Grand Boulevard
Kansas City, MO 64108-2612
Telephone: (816) 292-2000
Facsimile: (816) 292-2001

Attorneys for Calpine Central, L.P.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered by U.S. Mail, hand delivery or electronic transmittal on this 22nd day of August, 2005, to all parties of record:

<u>Name of Company Name of Party</u>	<u>Email Phone Fax</u>	<u>Mailing Address</u>	<u>Street Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
Missouri Public Service Commission Joyce K Dana	GenCounsel@psc.mo.gov	200 Madison Street, Suite 800	P.O. Box 360	Jefferson City	MO	65102
Office Of The Public Counsel Mills R Lewis	opcservice@ded.mo.gov	200 Madison Street, Suite 650	P.O. Box 2230	Jefferson City	MO	65102
AARP Coffman John	john@johncoffman.net 573-424-6779		1623 University Ave.	Columbia	MO	65201
AG Processing, Inc Conrad Stu	stucon@fcplaw.com 816-753-1122 816-756-0373	Suite 1209	3100 Broadway	Kansas City	MO	64111
Aquila Networks Swearingen James	LRackers@brydonlaw.com 573-635-7166 573-634-7431	P.O. Box 456	312 East Capitol Avenue	Jefferson City	MO	65102
City of Kansas City, Missouri Comley W Mark	comleym@ncrpc.com 573-634-2266 573-636-3306	P.O. Box 537	601 Monroe Street, Suite 301	Jefferson City	MO	65102-0537
City of St. Joseph, Missouri Steinmeier William	wds@wdspsc.com 573-659-8672 573-636-2305	P. O. Box 104595	2031 Tower Drive	Jefferson City	MO	65110-4595
Empire District Electric Company, The Keevil A Jeffrey	per594@aol.com 573-499-0635-Ext: 16 573-499-0638		4603 John Garry Drive, Suite 11	Columbia	MO	65203
Federal Executive Agencies Paulson Major Craig	craig.paulson@tyndall.af.mil 850-283-6348 850-283-6219		139 Barnes Drive	Tyndall Air Force Base	FL	32403
Missouri Public Service Commission Dottheim Steve	Steve.Dottheim@psc.mo.gov	200 Madison Street, Suite 800	P.O. Box 360	Jefferson City	MO	65102
Sedalia Industrial Energy Users Association Conrad Stu	stucon@fcplaw.com 816-753-1122 816-756-0373	Suite 1209	3100 Broadway	Kansas City	MO	64111

/s/ Paul S. DeFord

An Attorney for Calpine Central, L.P.