

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

In the Matter of the Tariffs of Aquila, Inc.,     )  
d/b/a Aquila Networks - MPS and Aquila     )  
Networks - L&P Increasing Electric Rates for     ) Case No. ER-2007-0004  
the Services Provided to Customers in the     )  
Aquila Networks - MPS and Aquila Networks     )  
- L&P Service Areas     )

**REPLY OF AQUILA, INC., TO THE RESPONSE OF  
THE COMMERCIAL GROUP**

Aquila, Inc., ("Aquila"), by its undersigned counsel and pursuant to 4 CSR 240-2.080 of the Rules of Practice and Procedure ("Rules") of the Missouri Public Service Commission ("Commission"), hereby replies to August 31, 2006, response filed by The Commercial Group to Aquila's opposition to that party's Application for Leave to Intervene Out of Time. In reply to the arguments made by The Commercial Group in its pleading, Aquila states as follows:

1. As stated in its initial opposition to the Commercial Group's late-filed application, the application merely states that the delay in filing was caused by a need to review Aquila's filing and to assess the business interests of the members of the group. But this is the same process undertaken by each of the parties who intervened on a timely basis. As such, it provides no special circumstances or excuse for filing nearly a month after the intervention deadline. The claimed need of The Commercial Group to sort out the terms of representation with its consultants/attorneys also provides no legitimate excuse for filing its motion to intervene out of time. All other parties to this case have confronted the very same issues, yet they were able to timely file their applications to intervene.

2. While the reasons given for its late-filed application also have been stated in applications for leave to intervene out of time that were filed by The Commercial Group and one other party in Case No. ER-2007-0002, the fact that those applications

were granted is of no value in evaluating the merits of the Commercial Group's late-filed application for intervention in this case or Aquila's opposition to it. Neither of the late-filed applications to intervene in Case No. ER-2007-0002 was opposed, so the Commission was not required to decide whether the parties' reasons for filing late satisfied the "good cause" standard.

3. In its opposition, Aquila noted that a number of parties timely filed applications to intervene that subsequently were granted by the Commission. The Commercial Group has yet to explain what special reasons or circumstances prevented it from doing what other parties were able to do – file their applications to intervene on time. Absent such a showing, the "good cause" standard in the Commission's rules has not been satisfied.

4. The Commercial Group concedes that it was on notice that Aquila had filed this action, yet it failed to file its motion to intervene by the July 25<sup>th</sup> deadline established by the Commission or file a request under the Rules for an extension of that deadline. Either of these actions would have obviated The Commercial Group's pending request for special treatment.

5. Intervention deadlines should have some real meaning and effect. Otherwise, no incentive exists for parties claiming to have an interest in proceedings before the Commission to comply with the Commission's Rules. Otherwise, filing deadlines and the Rules themselves will be relegated to the status of suggestions.

WHEREFORE, Aquila requests that the Commission deny The Commercial Group's application and for such other orders and relief that may be appropriate in the circumstances.

Respectfully submitted,

BRYDON, SWEARENGEN & ENGLAND, P.C.

By:

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, electronic mail or hand delivery, on the 7th day of September, 2006, to the following:

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