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May 2, 2005

FILED⁴

MAY 02 2005

**Missouri Public
Service Commission**

HAND DELIVERY

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

Re: In the Matter of the Application of Aquila, Inc. for Approval of its Experimental Regulatory Plan and for a Certificate of Convenience and Necessity Authorizing it to Participate in the Construction, Ownership, Operation, Maintenance, Removal, Replacement, Control and Management for a Steam Electric Generating Station in Platte County, Missouri or alternatively, for an Order Specifically Confirming that Aquila, Inc. has the Requisite Authority Under its Existing Certificate(s), Case No. EO-2005-0293

Dear Mr. Roberts:

Enclosed for filing in the above case is an original and eight copies of Response to Aquila's Objection to Calpine Central, L.P.'s Application to Intervene Out of Time.

If you have any questions concerning this filing, please contact Paul DeFord in our Kansas City office.

Thank you for your attention to this matter.

Sincerely,

LATHROP & GAGE L.C.

By: 
Susan C. Kliethermes
Paralegal

enclosures

cc: All parties of record

JCDOCS 21463v1

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*LATHROP & GAGE DC PLLC-AFFILIATE

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED⁴

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**Missouri Public
Service Commission**

In the Matter of the Application of)
Aquila, Inc., for Approval of its)
Experimental Regulatory Plan and for)
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Necessity Authorizing it to)
Participate in the Construction,)
Ownership, Operation, Maintenance,)
Removal, Replacement, Control and)
Management of a Steam Electric)
Generating Station in Platte County,)
Missouri, or alternatively, for an)
Order Specifically Confirming that)
Aquila, Inc., Has the Requisite)
Authority Under its Existing)
Certificate(s).)
)

Case No. EO-2005-0293

RESPONSE TO AQUILA'S OBJECTION TO
CALPINE CENTRAL, L.P.'S APPLICATION TO INTERVENE OUT OF TIME

COMES NOW CALPINE CENTRAL, L.P. ("Calpine") and respectfully submits its Response to Aquila's Objection to Calpine's Application to Intervene Out of Time in the above-captioned matter.

1. Calpine's Application to Intervene (the "Application") was filed after the intervention deadline because Calpine is not intimately familiar with the Commission's practice and procedure. Calpine was unaware of the intervention deadline until it retained local counsel. Upon retaining local counsel Calpine acted as expeditiously as possible to intervene in this matter. As previously indicated in Calpine's Application, Calpine's inexperience with Commission procedure and lack of local

counsel at the intervention deadline constitute good cause for allowing the late intervention.

2. Calpine will not seek to unduly delay this proceeding. While the parties have apparently agreed to a series of informal meetings, no procedural schedule has been suggested by the parties or adopted by the Commission. It is therefore impossible for Calpine's intervention to delay a schedule that does not yet exist.

3. Calpine's intervention will serve, not harm, the public's interest. Aquila's assertion that Calpine's intervention could "chill the interest of other potential bidders" is baseless. In fact, because Aquila and Calpine were former partners, and currently have a contractual relationship under which Aquila receives capacity from Calpine's plant, Calpine is in a unique position to inform the Commission of relevant facts. Further, Calpine, with operations in more than twenty states in the U.S. has been, or is currently involved in several similar dockets in other states. By participating in this proceeding, Calpine will be able to provide a historical and multi-state perspective that no other party could provide. Denial of Calpine's Application and the resultant suppression of facts and perspectives would have a much greater adverse affect on the Missouri energy market.

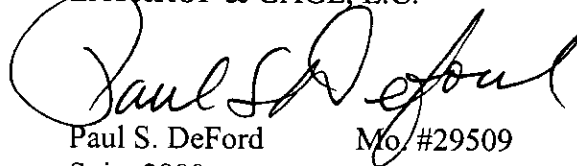
4. Calpine is not seeking intervention to uncover commercial data. Even if such material is disclosed through the course of this case the Commission has entered a Protective Order which ensures that such material will not be inappropriately

disseminated or used either during or after the conclusion of the case. For the most sensitive material ("Highly Confidential"), it is Calpine's understanding that only counsel and outside expert consultants may possess or review the information. Calpine will abide by the terms of the Protective Order as all parties are required.

WHEREFORE, for the reasons stated above, Aquila's Objection to Calpine's Application to Intervene Out of Time should be denied.

Respectfully submitted,

LATHROP & GAGE, L.C.



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Telephone: 816.292.2000
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Attorneys for Calpine Central, L.P.

Dated: ~~April~~ ^{May} 2, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by electronic transmission, first class mail or by hand delivery, on this 2nd day of May, 2005 to the following:

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Paul S. DeFord
Attorney for Calpine Central, L.P.